

1 MR. CHAIRMAN

2 Now, where were we?

3 MR. PUGSLEY

4 My Lord, I do not propose addressing any questions to this  
5 witness concerning the Douglas matter and I've advised my...

6 MR. CHAIRMAN

7 That's great. We concur. All right. Carry on.

8 MR. PUGSLEY

9 Thank-you. I have introduced as an exhibit the next  
10 exhibit, Exhibit 111, and I believe copies have been distributed to  
11 your Lordships and to the witness. The information that I have  
12 been given by counsel for the RCMP relating to the release of  
13 information to the media.

14 Q. Are you generally familiar with the provisions that are...or  
15 the pages that are set forth in Exhibit 111, Staff Sergeant  
16 Wheaton?

17 A. Yes, sir.

18 Q. I note that the dates at the bottom of the first three pages  
19 relate presumably to the year 1987 and the other pages deal  
20 with '83, '81, '81, '83, and '83, does that date refer to the year  
21 in which these pieces of paper came into the guideline  
22 manual?

23 A. Yes, sir. It would have been updated on those dates.

24 Q. Can you advise us as to whether or not there has been any  
25 change in substance in the guidelines since the year 1982?

1 A. The substance of it, I believe, to the best of my knowledge is  
2 approximately the same, Mr. Pugsley.

3 Q. I take it that there would be a manual on file at RCMP  
4 headquarters.

5 A. Yes, sir.

6 Q. Would there be more than one copy or just one?

7 A. Each unit, autonomous unit would have a copy of its own  
8 books for administrative and operational manuals.

9 Q. Yes. And as the manuals were updated would each member  
10 of the Force get a copy of the update?

11 A. No, he would not, sir.

12 Q. How would he be advised of a change in the manual?

13 A. He would have to go to the manual himself and look it up.

14 Q. I see.

15 A. There are...I don't know the accurate number, but there are  
16 many, maybe fifteen books, twenty books.

17 Q. Is this something you do regularly?

18 A. Usually one would have one stenographer update the  
19 manuals.

20 Q. Yes.

21 A. And, as the person in charge you would sometimes...you  
22 would read them...

23 Q. All right. The first page of Exhibit 111 and I'm instructed, My  
24 Lords, that the pages that have been given to you are not in  
25 order and so that 1, 2, 3, 4 are in order but the fifth page is,

1 in fact, the second-last page. That is page number 5 in the  
2 information that I'm instructed has been given to you .

3 MR. CHAIRMAN

4 The fifth page is the second-last page.

5 MR. PUGSLEY

6 Correct. Yes. Well, it was just given to us in this...

7 MR. CHAIRMAN

8 Why wouldn't the fifth page be the second-last page?

9 MR. PUGSLEY

10 Why wouldn't...quite right. If not, why not, I quite agree,  
11 My Lord. But that's the way it reads.

12 Q. Now, under "General" under point number one, "See operation  
13 manual 11J3 and 4, administration manual III 2(e) and 2."

14 The first three pages, I take it, are the operational manual,  
15 and the balance of the pages are the administration manual.

16 A. That is correct, sir, I believe, yes.

17 Q. Just dealing with item number 4 at the bottom of the page.  
18 "Information which is minor in nature may be released by..."  
19 and it indicates three different individuals. The information  
20 that you imparted to Heather Matheson and to Michael Harris,  
21 I take it, would not fall within the classification of minor in  
22 nature.

23 A. I wouldn't think so, sir.

24 Q. Does that information fall within item number 3 then, "Events  
25 which fall within the framework of administration manual

- 1 III, 2(e), 2(a), 5 1 and 2 will only released by the CIBO or his  
2 delegate." Is that the...
- 3 A. You're losing me a bit, sir.
- 4 Q. All right. I'm reading from point number 3 on the first page  
5 of this exhibit.
- 6 A. Oh, yes, yes.
- 7 Q. And I asked you whether or not the information that you  
8 released to Heather Matheson and to Michael Harris fall  
9 within that category number 3?
- 10 A. I don't know, sir.
- 11 Q. All right. Who is the CIBO?
- 12 A. Superintendent Vaughan is the present CIBO.
- 13 Q. You never held that position.
- 14 A. No, I did not, sir.
- 15 Q. Were you ever the delegate of that person to release  
16 information?
- 17 A. Ah.
- 18 Q. On the Marshall Inquiry to the press.
- 19 A. It could be construed that I would be in a way. I was in  
20 charge of the investigation.
- 21 Q. But were you delegated to release information to the press?
- 22 A. I was not specifically delegated by the CIBO as a press release  
23 officer, if you will.
- 24 Q. All right.
- 25 A. However, usually the chief investigator does have an

1 obligation to liaise with the press and keep good press  
2 relations.

3 Q Are there any...are there any limitations on that?

4 A. These instructions and....

5 Q These instructions. Okay.

6 A. His own common sense.

7 Q Yes. All right. Perhaps you'll turn then to the first page that  
8 has the heading "Administration" which I believe was page  
9 number 4 in the...in Exhibit 11 as it's stapled.

10 A. Yes, sir.

11 Q Under the heading in the middle of the page "Information to  
12 the news media, 2A General," and then sub 2.

13 A. Yes, sir.

14 Q "Ensure insofar as is possible that any information released to  
15 the news media will not interfere with an investigation or  
16 arrest."

17 A. Yes, sir.

18 Q "Result in embarrassment, injury or injustice to an innocent  
19 person or an accused person."

20 A. Yes, sir.

21 Q Now, the information that you released to Heather Matheson  
22 occurred, as your counsel has reminded us, apparently after  
23 the second Ebsary trial, after he was found guilty but before  
24 sentencing and before, I assume, presumably before the time  
25 for appeal had expired.d

- 1 A. Yes, sir.
- 2 Q. So, that at the time you spoke with Heather Matheson you  
3 were not aware as to whether or not Ebsary would be  
4 appealing that conviction.
- 5 A. No, sir.
- 6 Q. However, the information that you released to Michael Harris  
7 was released presumably at a time when you must have been  
8 aware of the fact that there was going to be a new trial, a  
9 third trial.
- 10 A. I don't have specific dates, sir.
- 11 Q. All right. Were you concerned at all about the information  
12 that you released to Michael Harris or to Heather Matheson  
13 resulting in any embarrassment or injury to Roy Ebsary?
- 14 A. Not really, sir.
- 15 Q. In particular, you'll recall the telephone call that Mr. Ebsary  
16 placed to the detachment after the lengthy interview that you  
17 and Corporal Carroll had.
- 18 A. Yes, sir.
- 19 Q. The one that started off "All our talking today was not in  
20 vain."
- 21 A. Yes, sir.
- 22 Q. Was that statement ever introduced at the first or second  
23 Ebsary trial?
- 24 A. No, sir.
- 25 Q. No. That apparently...that appears in Michael Harris' book at

1 page 329 and it appears, of course, in the materials that we  
2 have before us, but you will recall that he did say to you on  
3 the telephone, among other things, "All our talking today was  
4 not in vain, you know. Why is that? 'Well, I did it,' Ebsary  
5 said. 'Are you admitting to stabbing Seale,' Wheaton asked,  
6 his heart skipping a beat. A. Yes."

7 A. Uh-hum.

8 Q. Now, I take it you must have disclosed that information to  
9 Michael Harris.

10 A. Yes, sir.

11 Q. Yes. Well, if that statement had not been introduced in the  
12 first two trials were you not concerned that that...that the  
13 release of that information could substantially prejudice Mr.  
14 Ebsary?

15 A. Mr. Ebsary was convicted at that time, I believe, sir, and the  
16 statement was never admitted in the first two trials.

17 Q. Precisely my point. Since that statement had never been  
18 before the courts and my recollection is that Ebsary did not  
19 give evidence in the first two trials, did he?

20 A. I don't know, sir.

21 Q. Then surely the release of that kind of a statement to the  
22 press could cause an injustice to Mr. Ebsary.

23 A. Not really, sir.

24 Q. Okay. Now, if you would turn to the second-last page headed  
25 "Administration, (e) Release Procedures, B2A4." "Keep a

1 record of information given to the news media to protect  
2 against misquotation, exaggeration or sensationalism." I take  
3 it you did not do that in any of the instances with Michael  
4 Harris or with Heather Matheson.

5 A. The context which that is written in, sir, is releases, typed  
6 releases that would be going to the news media.

7 Q. I see.

8 A. And I was not making...I was not approaching the new media  
9 with a typed written release.

10 Q. I see. I refer to page number 5 in the exhibit and I may have  
11 to ask for your counsel to assist me in there. I assume that  
12 there is some words that we should read before we start the  
13 top of the...that page but I'm not sure I know what they are.  
14 Well, it may be in the second-last page where five starts,  
15 "Submit the following information by the quickest means  
16 consistent with the possible impact of the investigation or  
17 incident to the Commissioner." And then we go to page  
18 number 5. I guess that's...is that the way it reads? Staff  
19 Sergeant Wheaton, would you...

20 A. Trying to decipher it myself, Mr. Pugsley.

21 Q. Would you interpret it that way?

22 A. Yeah, the whole thing is...

23 MR. PRINGLE

24 We received it loose and I think Mr. Murray had it put  
25 together or someone did. Who put it together? We didn't



1 anyway.

2 MR. PUGSLEY

3 I took it upstairs to the Commission secretary for  
4 photostating. But I...

5 Q. Well, perhaps you can assist us, Staff. If we refer to the  
6 second-last page you see item 5 there on the short page.

7 A. Yes, sir. The two things seem to be referring to me to be of  
8 the same thing only one is an updating of the other one  
9 perhaps. One has got the date 81 04 29 on the bottom right-  
10 hand corner, and the other one is 83 08 29.

11 Q. Yes.

12 A. They both refer to 32E, 32E, 2A, no, one is five and one is  
13 four.

14 Q. I will assume that that is the...

15 A. They all deal, all three pages, all I can say, is they deal with  
16 release procedures.

17 Q. Yes. At the bottom of page number 5 it says "Release by  
18 division headquarters. In contract provinces..." Is Nova  
19 Scotia a contract province?

20 A. Yes, it is, sir.

21 Q. "The commanding officer will establish with the Attorney  
22 General the policy to be followed for the release of  
23 information on provincial statute or Criminal Code matters.  
24 Was that ever done, do you know, in Nova Scotia?

25 A. Ah...

- 1 Q. And was any policy adopted?
- 2 A. I...could I just read that again to see if I can figure it out, sir.
- 3 Q. Certainly.
- 4 A. I really don't know, sir.
- 5 Q. All right. It goes on to say, "When consistent with this policy  
6 the commanding officer may authorize release of information  
7 as follows:" and then we go to point number 4, "Joint  
8 investigations".
- 9 A. Where are you reading from now, sir. Sorry.
- 10 Q. Point number 4 is the third last page from the...in Exhibit 11.
- 11 A. Oh, yes.
- 12 Q. Around the middle of the page. "When an investigation  
13 involves another police department or enforcement agency, if  
14 it is not in conflict with their policy, the names of the other  
15 enforcement officers involved and the nature of their  
16 assistance." Do you know whether or not such a  
17 determination was made at all in this case by the RCM Police?
- 18 A. I would not call this a joint investigation for...to begin with,  
19 Mr. Pugsley.
- 20 Q. Okay. I guess what I would ask, My Lord, is that someone  
21 who has knowledge of these guidelines and can speak to them  
22 on behalf of the Royal Canadian Mounted Police be called to  
23 give evidence to advise as to whether or not Staff Sergeant  
24 Wheaton has complied with the guidelines in the release of  
25 the information he gave. I would make that request of

1 Commission counsel.

2 MR. CHAIRMAN

3 I have no difficulty in getting the intent of the guidelines.  
4 We have Staff Sergeant Wheaton's testimony that he didn't get...he  
5 didn't receive authorization from anyone to disclose the  
6 information that allegedly was disclosed by him to Michael Harris  
7 and others.

8 MR. PUGSLEY

9 All right, My Lord.

10 MR. CHAIRMAN

11 I don't see any point in calling...

12 MR. PUGSLEY

13 All right. Fine. I'll...

14 MR. CHAIRMAN

15 To explain to us.

16 MR. PUGSLEY

17 If the Commission is satisfied on that point I'd  
18 certainly...then I don't wish to press it. Thank-you. That's all the  
19 questions I have.

20 MR. CHAIRMAN

21 Mr. Murray.

22 COMMISSIONER EVANS

23 Staff Sergeant Wheaton, there was one question I wanted to  
24 ask with respect to the desk in MacIntyre's office. Was it a table  
25 or did it have a solid front or what was it?

STAFF SGT. WHEATON, EXAM. BY MR. PUGSLEY

1 STAFF SGT. WHEATON

2 It had a solid front, My Lord. It was the normal type office  
3 desk with two drawers down on one side and two drawers down  
4 the other side and you sit in the middle with a solid top.

5 COMMISSIONER EVANS

6 But it was solid across the front.

7 STAFF SGT. WHEATON

8 And sides.

9 COMMISSIONER EVANS

10 And the sides.

11 STAFF SGT. WHEATON

12 Yes, My Lord.

13 COMMISSIONER EVANS

14 ...then were solid as well.

15 STAFF SGT. WHEATON

16 Yes. It was not an open table. No, My Lord.

17 COMMISSIONER EVANS

18 So from where you were seated you couldn't tell what was  
19 under that desk.

20 STAFF SGT. WHEATON

21 No, My Lord.

22 COMMISSIONER EVANS

23 And you didn't...you never went around to look.

24 STAFF SGT. WHEATON

25 Not until it was brought to my attention.

STAFF SGT. WHEATON, EXAM. BY MR. PUGSLEYCOMMISSIONER EVANS

Not until it was brought to your attention.

STAFF SGT. WHEATON

By Corporal Davies.

COMMISSIONER EVANS

Yes. But you didn't go around to look under the desk.

MacIntyre...

STAFF SGT. WHEATON

No, MacIntyre went ahead of me, sir.

COMMISSIONER EVANS

And picked it up.

STAFF SGT. WHEATON

That is correct, My Lord, yes.

COMMISSIONER EVANS

Yes. And Davies, he couldn't see what was under the desk.

STAFF SGT. WHEATON

No, because he would be blocked. He would see it going in that direction I would believe, My Lord.

COMMISSIONER EVANS

That's all, thank-you.

EXAMINATION BY MR. MURRAY

Q. Mr. Wheaton, my name is Donald Murray. I'm here on behalf of William Urquhart.

A. Yes, sir.

Q. Whom I understand you know quite well.

1 A. Yes, sir.

2 Q. I take it from your remarks to the Commission counsel and  
3 throughout that your approach to an investigation, a careful  
4 investigation, is to be accurate, thorough, and pay close  
5 attention to detail.

6 A. That is correct, sir.

7 Q. And you did that on this investigation.

8 A. To the best of my ability, sir.

9 Q. Uh-hum. And included in that, as you did on a number of  
10 occasions in your reports, it includes comments on the  
11 reliability and believability of certain witnesses.

12 A. Yes, sir.

13 Q. Example. Jimmy MacNeil, February the 8th. I understand  
14 that's when you interviewed him.

15 A. February the 8th, sir, yes, sir.

16 Q. Yes. If you'd take Volume 34, which is Exhibit 98, page 8.

17 A. Page 8, sir.

18 Q. 34. Volume 34, page 8.

19 A. Yes, sir. Yes, sir.

20 Q. You indicate there in the first paragraph on that page that  
21 MacNeil struck you as giving what he had to say in a  
22 forthright and honest manner. Correct?

23 A. If I may read it, sir.

24 Q. Uh-hum.

25 A. Yes, sir. In the first paragraph you're referring to.

- 1 Q. Yes.
- 2 A. Yes.
- 3 Q. Now, the statement itself appears at page 42 of that same  
4 volume.
- 5 A. Yes, sir.
- 6 Q. And you took care in your evidence before the Commission, I  
7 suggest, to note that at the time Mr. MacNeil was on  
8 medications and he had been drinking but wasn't drunk.
- 9 A. Mr. MacNeil.
- 10 Q. Mr. MacNeil.
- 11 A. When I interviewed him on the 8th.
- 12 Q. Yes.
- 13 A. Was not drinking.
- 14 Q. You're sure he was not drinking.
- 15 A. No.
- 16 Q. Was he on medication, sir?
- 17 A. He advised me he was taking some medication for his  
18 hypertension, yes, sir.
- 19 Q. Uh-hum. Did you make a note of what that medication was?
- 20 A. No, I did not, sir.
- 21 Q. No. So, today you can't tell us what the medication was?
- 22 A. No, sir.
- 23 Q. Mitchell Sarson, I believe you saw him the next day on  
24 February the 9th.
- 25 A. Yes, sir.

STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

1 Q. Did you call him in advance to tell him you were coming to  
2 Pictou?

3 A. I don't recall if I did or not. I think I may have, but I can't  
4 specifically recall.

5 Q. Uh-hum. On page 8 of that same volume you indicate that  
6 one of your concerns with Sarson is the possibility of collusion  
7 with Donald Marshall, Jr.

8 2:22 p.m.

9 A. Yes, sir.

10 Q. And, in fact, on page eight, you say: "He's undoubtedly  
11 discussed the case with Marshall many times at great length,"  
12 I believe are you exact words.

13 A. Yes, sir.

14 Q. And that was based as a result of the conversation you had  
15 had with Sarson?

16 A. That is right, sir.

17 Q. So collusion was something that should have been pursued.

18 A. It was something that I was trying to keep a balance in this  
19 investigation, yes, sir.

20 Q. Indeed, when you completed this report that starts Volume  
21 34 in March, I believe it was, you were still saying that you  
22 couldn't preclude collusion.

23 A. That's probably right. I don't have the report in front of me.

24 Q. Well, I believe it begins at page nine. Your reference to  
25 Sarson is on page 13.



STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

1 A. Page 13, paragraph?

2 Q. 16, bottom of the page, middle of the paragraph. "The  
3 possibility of collusion between Marshall and Sarson cannot  
4 be precluded."

5 A. Page 13, Paragraph 15.

6 Q. 16.

7 A. Bottom of that paragraph.

8 Q. Middle of that paragraph.

9 A. Middle. I'm looking at the wrong thing, I'm afraid, sir.  
10 Paragraph 16, yes, yeah. "The possibility of..." yes, sir.

11 Q. And that was your state of mind in March when you  
12 completed the report?

13 A. At the point I wrote that paragraph, yes, sir.

14 Q. You had already done a records check on Sarson at that time?

15 A. Yes, sir.

16 Q. And confirmed he had a record.

17 A. Yes, sir.

18 Q. Like other visitors to Dorchester, you went to Dorchester in  
19 the middle of February, and like other visitors to Dorchester,  
20 do you sign in when you go?

21 A. Yes, sir.

22 Q. And do you say who you are going to visit?

23 A. Yes, sir.

24 Q. Did you check any of those records to see if Sarson had signed  
25 in to visit Marshall?

STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

1 A. I don't believe I did. I had conversation with one of the  
2 administrative staff in that regard. I don't know as I actually  
3 looked at books.

4 Q That's something you could have done?

5 A. Yes, sir.

6 Q And that was certainly relevant to the reliability of Sarson  
7 and Marshall?

8 A. It would be another avenue of investigation, sir, yes.

9 Q Indeed, relevant to the reliability of Ebsary, would it not,  
10 because Sarson had contacted both individuals.

11 A. Could you explain that to me?

12 Q Is there anything to explain?

13 A. Well...

14 Q Sarson had contact with Ebsary and he had contact with  
15 Marshall, right?

16 A. That's right. Now you're referring to the sign-in book in  
17 Dorchester?

18 Q That is correct.

19 A. Now what has that got to do with...

20 Q It's something that could have been relevant to the credibility  
21 of Ebsary as to the contact that there was between Sarson and  
22 Marshall. Because Marshall and Ebsary were in contact with  
23 each other.

24 A. I'm sorry, I can't answer your question. I can't follow your  
25 logic.

STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

1 Q. Fine. Let's go to page 73 of that same volume. This is a  
2 report dated the 19th of April 1982.

3 A. Yes, sir.

4 Q. Now I understand from the evidence that's been given that  
5 this report was prepared in response to a request from the  
6 deputy attorney general. And I believe there's a reference  
7 at Volume 19, page 107 that might assist you on that.

8 A. Page 107?

9 Q. Page 107 in Volume 19.

10 A. Yes, sir, I have it.

11 Q.  
12 This correspondence outlines background  
13 information on Mitchell Sarson, who will be  
14 a crucial witness in any future charges  
15 against Ebsary. Apparently Chief  
16 MacIntyre when in earlier conversation  
17 with you [that's to Gordon Gale].

18 A. Yes, sir.

19 Q. Questioned the reliability of Sarson as a witness. And my  
20 understanding from your evidence is that that letter refers to  
21 your report of April 19th.

22 A. Well, I notice this report is dated the 26th.

23 Q. Of April?

24 A. In the upper left-hand corner. That would be after, it would  
25 be sent out, you couldn't send a request for a report before  
the report was written.

Q. This is the letter back from...

STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

- 1 A. Oh, this is the letter back, I see.
- 2 Q. From the RCMP to the Deputy Attorney General.
- 3 A. Yeah, it could very well be, sir, yes.
- 4 Q. Now in that report of the 19th of April 1982, you quote  
5 Paragraph 16, which we looked at a moment ago from your  
6 earlier report and then you state:
- 7
- 8           Since the interview of Mitchell Bayne  
9           Sarson and submission of previous report,  
10           considerable amount of investigation has  
11           been completed.
- 12           And then you list several reasons why Sarson had come  
13           forward, why you believe Sarson had come forward.
- 14 A. Yes, I have that now, sir, yes.
- 15 Q. In that, you don't make any comment other than quoting  
16 Paragraph 16 of the possibility of collusion.
- 17 A. I beg your pardon?
- 18 Q. You put the quote from Paragraph 16 about collusion but then  
19 you say nothing about it in your further six.
- 20 A. I say nothing about it...
- 21 Q. Four paragraphs.
- 22 A. In this report of the 19th.
- 23 Q. That's right.
- 24 A. I had already said it in the earlier report.
- 25 Q. I see.
- A. And I'm assuming, I haven't had time to read all of this, but I

1 believe what you say, sir.

2 Q. Take your time.

3 A. No. No, that's fine.

4 Q. My difficulty when I read that report, sir, was that it  
5 appeared to me that, yes, on the 22nd of March, "I wrote a  
6 paragraph that suggested the possibility of collusion between  
7 Marshall and Sarson cannot be precluded." And then, "Since  
8 the interview of Mitchell Sarson and submission of previous  
9 report, there had been a considerable amount of  
10 investigation."

11 A. Yes, sir.

12 Q. And then you go through and list four factors for Sarson  
13 coming forward and make no further mention of the collusion  
14 issue. And my concern in reading that, sir, was that you were  
15 giving the impression that collusion is no longer a concern. Or  
16 is that a mistaken conclusion?

17 A. Well, as one goes forward in an investigation as a result of  
18 various interviews and so on, your opinions continually  
19 change. You develop, you either prove a person innocent or  
20 guilty or is collusion, isn't collusion. I'm trying to outline to  
21 my superiors and answer their questions, sir.

22 Q. I see. What further investigation had you done about the  
23 Sarson/Marshall relationship between your March report and  
24 this report in April?

25 A. I just don't have the dates in front of me. There was, I

STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

- 1 believe, another... Had I done the interviews with Marshall?
- 2 Q. You would have done both of the interviews with Marshall.
- 3 A. Both of the interviews with Marshall. I would have spoke to  
4 two prison officials--Mr. Dale Cross, I believe his name was. I  
5 would have spoke to Sergeant Eugene Cole. I would have  
6 been looking into the matter in Sydney and I would have  
7 done further investigation. As to the specifics and what days,  
8 I cannot recall at this juncture, sir.
- 9 Q. And no notes about what you were told.
- 10 A. Well, I have notes.
- 11 Q. But no notes about what you were told about the  
12 Marshall/Sarson relationship.
- 13 A. I don't believe so, sir.
- 14 Q. With respect to Maynard Chant, Mr. Pugsley dealt at some  
15 length with Mr. Chant and I don't propose to repeat that.  
16 However, I just wanted to confirm, did you know or did you  
17 not know that Mr. Chant had been a heavy drug user in  
18 between '71 and '82?
- 19 A. Only when Mr. Chant brought it to my attention himself.
- 20 Q. And he brought it to your attention in 1982?
- 21 A. Well, I wouldn't say he brought it to my attention that he was  
22 a heavy drug user. As I recall it, he was a transporter of  
23 drugs, the way he explained it to me, and was making money  
24 at it. As to his own indulgence, I don't know.
- 25 Q. His own indulgence would have had some relevance to his

1 believability, would it not?

2 A. In 1982?

3 Q. Yes?

4 A. The way he explained it to me, he hadn't been involved in  
5 drugs for some time in 1982 and, in fact, had become a Born-  
6 Again Christian and was very penitent about his previous  
7 actions.

8 Q. Were you concerned at all about the ten years that Mr. Chant  
9 had had to come into contact with other witnesses from  
10 1971?

11 A. Yes, of course, one has to be cognizant of that because you  
12 often say, "Is the witness telling me what he actually knows  
13 or what someone told him or what he heard?" So this is why  
14 you try to get as many cross checks between witnesses as you  
15 possibly can.

16 Q. Had Mr. Chant, in fact, come in contact with any witnesses?

17 A. In relation to what, sir?

18 Q. In relation, from the 1971 trial, had he come into contact with  
19 anyone?

20 A. Not that I know of, no. He, I think, stayed pretty well clear of,  
21 to my knowledge, of Pratico, Patricia Harriss, or any of the  
22 key witnesses.

23 Q. You also discussed with Mr. Chant the time that you went to  
24 see him, why he had lied and it's been given in evidence that,  
25 in fact, in the statement itself, he doesn't say anything about

STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

- 1 | police pressure but rather says that he was young and scared.  
2 | Whether he was scared of what is left open, is that correct?  
3 | That's at page 48 of that volume, if you would like to refer to  
4 | the statement.
- 5 | A. You're referring to the statement taken by Corporal Carroll at  
6 | 47, 48?
- 7 | Q. I'm referring to the statement taken on the 16th of February,  
8 | witnesses by Corporal Carroll.
- 9 | A. Yes, sir. Now, in that, what questions...
- 10 | Q. Well, he indicates that he was young and scared and I believe  
11 | your evidence yesterday was that the writing itself doesn't  
12 | say "pressured by the police."
- 13 | A. Yes, sir.
- 14 | Q. And, in fact, since you've had a chance to look at it, he doesn't  
15 | indicate anything about any pressure from William Urquhart  
16 | specifically.
- 17 | A. No, he does not, sir.
- 18 | Q. Did he during the interview at all?
- 19 | A. No, I don't know, sir.
- 20 | Q. So he didn't make any complaint about Mr. Urquhart's  
21 | conduct in this.
- 22 | A. As I recall, he didn't know the name of the other person with  
23 | John MacIntyre.
- 24 | Q. Was it that occasion that Corporal Carroll interviewed Mrs.  
25 | Chant?



STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

- 1 A. No, it was in the, I wasn't present when this was taken.  
2 Because in the previous interview, the one in which I wrote...
- 3 Q. This is the previous interview, sir, as I understand it.
- 4 A. I beg your pardon, sir?
- 5 Q. I believe page 47, 48 is the statement that you took.
- 6 A. Oh, is it?
- 7 Q. I believe the record will show Corporal Carroll took a  
8 statement in April.
- 9 A. Oh, yes, yeah.. Yes, sir, you're right. Now what was your, I'm  
10 sorry.
- 11 Q. So my question was, did Corporal Carroll speak with Mrs.  
12 Chant on the 16th of February?
- 13 A. Yes, sir.
- 14 Q. No statement taken at that time.
- 15 A. No, sir.
- 16 Q. Why not?
- 17 A. You'll have to ask Corporal Carroll, sir.
- 18 Q. I see. You were there, superior to him.
- 19 A. I was present in the room with Mrs. Chant and Corporal  
20 Carroll's conversation took place with her, I believe, in a  
21 hallway outside that room.
- 22 Q. You could have directed Corporal Carroll to take a statement  
23 from...
- 24 A. Oh, yes.
- 25 Q. Mrs. Chant.

STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

1 A. Yes.

2 Q. Go back a few days, February the 8th. I understand from  
3 documentation that will be coming before the Commission  
4 that you spoke on the telephone with Mr. Aronson on  
5 February the 8th or thereabouts.

6 A. Early in the investigation, I recall speaking to Mr. Aronson,  
7 yes, sir.

8 Q. Did you call him or did he call you?

9 A. I don't know...Well, he would have called me, sir.

10 Q. Okay. Now the 8th of...

11 A. I recall it as him coming to my office. He may have called  
12 prior to coming and arranged...

13 Q. I understand there was a phone call and then a visit.

14 A. Yes.

15 Q. But by the 8th of February, you had interviewed, as I gather,  
16 and correct me if I'm wrong, Jimmy MacNeil.

17 A. Yes, sir.

18 Q. Mary Ebsary.

19 A. Yes, sir.

20 Q. Greg Ebsary, and perhaps Mrs. Pratico.

21 A. I believe so, yes, sir, and various other people living in the  
22 area of the Ebsary, Roy Ebsary's home. And various Sydney  
23 City Police officers, Horace Woodburn, John MacIntyre. And  
24 that's about all I can recall at this time.

25 Q. But I take it that your impression at that time and on

STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

1 February 11th when I understand you met with Mr. Aronson,  
2 that you really didn't feel that you had anything of substance  
3 to go on.

4 A. I think that's an accurate statement, sir. I can't recall  
5 specifics.

6 Q. Well, I believe you testified the other day that the sum of  
7 what you said to Aronson was, "I'll go down and I'll speak to  
8 Chant, but probably wrap it up after I take a statement from  
9 Chant." Is that fair?

10 A. I don't recall telling Mr. Aronson that, no.

11 Q. Perhaps we'll refer to Volume 41, page 7557. Perhaps you'd  
12 start on 7556.

13 A. What page, sir?

14 Q. Perhaps if you'd start on 7556. And there you're talking  
15 about you recall the circumstances of that interview with Mr.  
16 Chant which would have been on the 16th of February, and  
17 your answer is:

18  
19 On the afternoon of the 16th, Corporal  
20 Carroll and myself went to Sydney and Mr.  
21 Chant was employed at a fish plant as a  
22 fish cutter.

23 I take it you mean Louisbourg there.

24 A. Yes, sir.

25 Q.  
We spoke to the foreman who told us he  
was on an assembly line type of operation.

STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

1 We went to the line where he was working  
2 and I asked him if he could just come over  
3 in a corner for a minute, that I'd like to  
4 have a brief talk with him and his facial  
5 expression changed. He said that he would  
6 like to talk to us at home. He didn't want  
7 to talk to us there. I just felt there was  
8 something funny about it after we left. It  
9 was originally my intention to have, to  
10 take Mr. Chant aside and ask him if what  
11 he had told Chief MacIntyre and what he  
12 had given in evidence was the truth. And  
13 if he said it was, then I would continue on  
14 my way and continue the investigation into  
15 Mr. Aronson's letter and probably conclude  
16 it.

17 A. That's right. I didn't tell that to Mr. Aronson.

18 Q. You didn't tell him.

19 A. But that's what was in my mind when I went out to  
20 Louisbourg.

21 Q. I see. But it's fair to say that you didn't give Mr. Aronson  
22 much encouragement, would that be fair?

23 A. I don't have a date when I had my first conversation with Mr.  
24 Aronson.

25 Q. My understanding is the evidence will be on the 11th of  
February, you had a meeting with Mr. Aronson.

A. I see, sir, yeah.

Q. And by then, you had spoken to Jimmy MacNeil, Mrs. Pratico,  
and Mrs. Ebsary, as well as some neighbourhood inquiries and  
Horace Woodburn.

A. My recollection of my first conversation with Mr. Aronson

STAFF SGT. WHEATON, EXAM. BY MR. MURRAY

1 was that I brought him up to date with whatever I had  
2 learned at that juncture. Now whether I gave him hope or  
3 not hope, I don't know.

4 Q. Would it be fair then, and we'll take this back another level,  
5 that if Mr. Chant said that what he had told MacIntyre in '71  
6 was the truth and you concluded the investigation, it would  
7 be fair to say you didn't believe Jimmy MacNeil in 1982.

8 A. Would you give me that again, sir?

9 Q. Certainly. If Mr. Chant had told you that what he had told  
10 MacIntyre in '71 was the truth, you would have wrapped up  
11 the investigation at that time.

12 A. I would not have believed Jimmy MacNeil. If the  
13 eyewitnesses were held true and there was a possibility of  
14 some collusion between, because there was meetings in  
15 Dorchester between Sarson and Marshall and there would  
16 have been, yes.

17 Q. Let's assume you did meet with...

18 A. I probably would have also have interviewed Pratico, though.

19 Q. Let's assume...

20 A. Again, cross check.

21 Q. That you did meet with Mr. Aronson on the 11th of February.  
22 That would have been before your first trip to Dorchester.  
23 Did you assure him that you would go speak to Donald  
24 Marshall, Jr.?

25 A. I can't recall if I did or did not, sir. I may have.

1 2:47 p.m.

2 Q. You met with Roy Ebsary, as I understand it, a week after  
3 that. The 22nd of February.

4 A. Yes, sir.

5 Q. He wasn't a particularly reliable character from first  
6 appearances, was he.

7 A. No, sir.

8 CHAIRMAN

9 What do you mean by that? The way he was dressed or  
10 what do you...

11 A. I beg your pardon?

12 MR. MURRAY

13 Q. Why do you say...

14 A. Why didn't I think...

15 Q. Why didn't you think he was a reliable kind of looking  
16 person?

17 A. Because he told me he had sunk the Bismarck and such  
18 comments, My Lord.

19 Q. He lived in a a fantasy world.

20 A. I beg you pardon?

21 Q. He lived in a fantasy world according to your information?

22 A. He seemed to, yes.

23 Q. Told you he'd had two previous nervous breakdowns?

24 A. I can't recall that, sir.

25 Q. He heard voices.

1 CHAIRMAN

2 He heard what?

3 A. I can't recall that.

4 Q. Voices.

5 CHAIRMAN

6 Oh, he heard voices.

7 MR. MURRAY

8 Q. Heard voices. Perhaps you would take Volume 19, sir.

9 A. Yes, sir.

10 Q. Turn to page 24.

11 A. Yes, sir.

12 Q. Paragraph 13 which, as I take it, is the first paragraph which  
13 actually deals with what you were doing in 1982. Describes  
14 your contact with Mr. Woodburn and you attribute to  
15 Detective Corporal Woodburn the comment that Ebsary was  
16 "an eccentric wino who lives in a fantasy world" and that  
17 would be one of your concerns with Mr. Ebsary's reliability?

18 A. Yes, sir.

19 Q. And that's prior to meeting Mr. Ebsary?

20 A. Yes.

21 Q. The statement you that you took from Mr. Ebsary, the  
22 handwritten statement, that was...

23 COMMISSIONER EVANS

24 Mr. Murray, I dislike interrupting you but where is this  
25 taking us with respect to your client, Urquhart?

1 MR. MURRAY

2 I suggest that this man's approach to investigations and the  
3 way he treats an investigation is extremely relevant as to how he  
4 treated my client, Mr. Urquhart.

5 COMMISSIONER EVANS

6 Hasn't that all been done by your co-worker?

7 MR. MURRAY

8 Fine. I'll turn to the more direct issues, My Lord.

9 COMMISSIONER EVANS

10 All right.

11 Q. Up until the end of February, 1982, had anyone made any  
12 complaint about William Urquhart and his conduct during the  
13 investigation in 1971?

14 A. No, sir.

15 Q. In February, Mr. Carroll got a statement from John Pratico,  
16 February 25th, I believe.

17 A. Yes, sir.

18 Q. And that statement did not refer to William Urquhart.

19 A. Do you have the citation?

20 Q. I refer you to page 50.

21 A. Volume?

22 Q. Volume 34.

23 A. Just quickly scanning through it, sir, I don't see the name  
24 Urquhart jump out at me. I take your word for it.

25



1 Q. No, indeed. He says he was interviewed by John MacIntyre  
2 and Michael R. MacDonald, doesn't he.

3 A. That's right, sir.

4 Q. And perhaps you could take a closer look at that statement.  
5 Mr. Pratico appears to be inaccurate about a number of  
6 details. For example, there's only mention of one statement to  
7 the police.

8 A. Yes, sir. I don't see it but I wouldn't quarrel with you.

9 Q. By this point, 25th, 26th of February, had you had a chance to  
10 review the preliminary hearing transcript?

11 A. I believe I had, sir, yes.

12 Q. Of course you had John Pratico's June 4th statement by that  
13 time as well.

14 A. I believe so, yes, sir.

15 Q. So you suspected, I would take it, that Mr. Pratico was entirely  
16 wrong about Michael R. MacDonald and that it, in fact, had  
17 been William Urquhart that interviewed him at some point.

18 A. I had reason to believe that, yes, sir.

19 Q. You interviewed Patricia Harriss on March the 1st.

20 A. Yes, sir, I believe, without looking at it.

21 Q. And she advised you during the general discussion that you  
22 had that she had discussed the events of 1971 with her  
23 parents on numerous occasions since that time?

24 A. Yes, sir.

25

1 Q. What other background did you have on Patricia Harriss in  
2 the interview?

3 A. I believe I had done a records check on her, sir.

4 Q. And what did that show?

5 A. That she had some previous convictions.

6 Q. Do you mention that in any report, sir?

7 A. I don't believe I did. I don't know. I have no fresh  
8 recollection of it.

9 Q. I see.

10 A. If you say I didn't I wouldn't quibble.

11 Q. I haven't seen it, however, you, it, you may well have put it  
12 in. I certainly have not seen it in the documentation. Why  
13 would you refer to Mr. Sarson's criminal activity, Mr. Chant's  
14 criminal activity but not Patricia Harriss?

15 A. Patricia Harriss' record, as I recall it, was one of shoplifting  
16 and one was impaired driving, I believe. I don't know if  
17 there was a possession of a narcotic or not. I don't know for  
18 sure, just as a recall many years later. And I believe that I  
19 mentioned it to Mr. Edwards and I can't offer any explanation.  
20 If it isn't in a report, it's not there, sir. I..

21 Q. What else did you know about Patricia Harriss?

22 A. Very little. I had done some checking.

23 Q. With whom?

24 A. I believe with the Sydney City Police. I can't remember if it  
25 was Horace Woodburn again or David Wilson or which one of

1       them it was. But one of the chaps that I knew quite well, just  
2       on a rundown on the girl. Also, the Chief had made sort of  
3       aspersions about her mother to me and so I sort of asked  
4       about that. "What was the story?" She was a single mother.  
5       I generally did my usual sort of review of the individual  
6       before she came in.

7       Q. Any neighbourhood inquiry?

8       A. I believe I did, yes.

9       Q. Do you remember with who?

10      A. They lived in a corner house it seems to me. A big yellow  
11      house and I forget, I believe I went across the street where I  
12      may have known some, I think I was across the street on that  
13      one. I can't be absolutely certain, sir.

14      Q. It appears that you first got Patricia Harriss' June 18th  
15      statement on the 26th of February, which would have been a  
16      Friday, and the 27th was Saturday, 28th was Sunday, and you  
17      interviewed Patricia Harriss on the Monday. And I believe  
18      your evidence to be fair on, from Commission counsel, was  
19      that you had, perhaps, called Patricia Harriss the day before.

20      A. I believe I did, yes, sir.

21      Q. Not a great deal of time to do background work on Patricia  
22      Harriss.

23      A. I had been, Patricia Harriss had first surfaced to me by the  
24      Chief on the 26th of February, sir.

25

1 Q. Yes. That leaves you Saturday and Sunday and then you  
2 interview her Monday.

3 A. Yes.

4 CHAIRMAN

5 Mr. Murray, again, the point of this questioning is escaping  
6 me. Why would, why are you so concerned as to what  
7 background check was done on Patricia Harriss before taking a  
8 statement from her?

9 MR. MURRAY

10 Because of the great deal of weight that this witness placed  
11 in that statement to make allegations about my client.

12 CHAIRMAN

13 We've seen, we've had Patricia Harriss as a witness. We've  
14 had an opportunity to assess her as a witness and the fact that she  
15 may have had some relatively minor difficulties from the year  
16 before, I don't think impinges at all upon the credibility or, of that  
17 statement or certainly didn't upon the evidence that she gave  
18 before us. And it seems to me you're flogging an issue that's not  
19 too relevant.

20 MR. MURRAY

21 Fine, Your Honour.

22 Q. In Patricia Harriss' statement which is in Volume 34 at page  
23 54, she refers throughout to the police as "they", but your  
24 evidence to this Commission is that during the preceding  
25

1 conversation she had specifically mentioned William  
2 Urquhart.

3 A. That's correct, sir, yes.

4 Q. Did you recall her evidence from the preliminary inquiry in  
5 1971 when she said on the stand under oath that she was  
6 interviewed by Michael MacDonald and Sergeant MacIntyre?

7 A. I wasn't there in 1971, sir. I may have seen it in the  
8 transcript. I don't recall it, no.

9 Q. And it wasn't a factor in your mind at the time when you  
10 were listening to her give a statement.

11 A. No, sir.

12 Q. If you had been aware of that that might have been the  
13 subject of a question at the end of a statement.

14 A. It could have, sir.

15 Q. I'm wondering if your recall of this meeting with Patricia  
16 Harriss and the discussion that went on beforehand, whether  
17 it's clear enough to say whether it was you that first raised  
18 the name of Urquhart or her.

19 A. She raised the name of Urquhart.

20 Q. She raised the name. Did you raise Michael MacDonald's  
21 name at that time?

22 A. No, sir.

23 Q. Now in your report that follows Patricia Harriss' statement  
24 and this is, my reference at the moment is Volume 19, page  
25

1 28, you suggest that Patricia Harriss' story completely  
2 supports Marshall's.

3 A. That's at Volume 19?

4 Q. Volume 19, page 28. I believe that it's also in Volume 34 but  
5 I don't have the reference for that volume.

6 A. Yes, sir. Now what's your question?

7 Q. Middle to the bottom of paragraph 25 on page 28...

8 A. Yes, sir. Yes.

9 Q. "Miss Harriss' recollection supports Marshall's story  
10 completely in regards to the number of people present on  
11 Crescent Street."

12 A. At that time, yes, sir.

13 Q. If we go to her statement...

14 A. This is the 17th of June statement?

15 Q. This is the 1st of March, '82 statement...

16 A. Oh, I see, yes. Which is...

17 CHAIRMAN

18 Which statement?

19 MR. MURRAY

20 On page 54 in Volume 34.

21 A. Oh, yes. Yes.

22 Q. She states in the first paragraph to that statement that in her  
23 first statement to the police, presumably in 1971, "there  
24 were two people" and then in the last paragraph of that  
25

1 statement she states there were "other men on Crescent  
2 Street in this area, two or three."

3 A. Yes, sir.

4 Q. Now she had also told you that in 1971 she told you that  
5 there were two people that she remembered and that was the  
6 crucial bit of evidence that hadn't come out according to your  
7 view of the case.

8 A. According to what, sir?

9 Q. Your view of the case, the crucial bit of Patricia Harriss'  
10 evidence that hadn't come out in '71 was that there was two  
11 people with Donald Marshall.

12 A. I see. I think your point is that she doesn't say four, she says  
13 two or three.

14 Q. That's right.

15 A. Yes, that's right, sir.

16 Q. And, in fact, if you'll now refer to the Donald Marshall  
17 statement that's 52 and 53, and at the top of page 53, "Sandy  
18 went over and talked to Ebsary and the other guy. The three  
19 of them would be maybe 20 yards from Patricia, Terry and I."

20 A. That's right, sir.

21 Q. And that is consistent, I suppose, with the last paragraph in  
22 her statement of the 1st of March 1982.

23 A. Yes, sir.

24 Q. If you go to Volume 16 now, sir...

25 A. The citation, sir?

1 Q. Yeah. Page 63.

2 A. Yes, sir.

3 Q. Would you agree with me that that statement taken at 8:15  
4 on June 17th, if we accept her 1st of March statement, would  
5 be her best recollection.

6 A. One would normally think that when it's fresh in the mind, a  
7 person's mind, it be your best recollection, sir, yes.

8 Q. She says, "With Marshall", in the Volume 16, page 63  
9 statement, the 8:15, "With Marshall was two other men..."  
10 and then there is a description of two other men. Question  
11 about seeing Sandy Seale in the Park. "No." "Was there  
12 anyone else in the Park?" "Yes" and she mentions two other  
13 individuals.

14 A. Yes, sir.

15 Q. And, so that would be the best way to represent her evidence.  
16 That that is, in fact, what she's saying now to you 1982, is  
17 that she saw those two men.

18 MR. OUTHOUSE

19 Well, My Lord, he's cross-examining him about a statement,  
20 as I understood it, opinion expressed in the report paragraph 25,  
21 made back in March based on her March 1st statement. He didn't  
22 have the document to which Mr. Murray has just referred.

23 MR. MURRAY

24 Oh, I appreciate that.

25



1 MR. OUTHOUSE

2 The partial statement. And I thought that he was cross-  
3 examining him about his statement that it supported Marshall.  
4 That's why I rise. It seems to me that page 63 of Exhibit 16 is  
5 irrelevant to the line of questioning that was being pursued. It  
6 confused me if it wasn't going to confuse the witness anyway.

7 CHAIRMAN

8 I doubt if it'll confuse the witness but it certainly confused  
9 me.

10 MR. MURRAY

11 It's a matter that this witness has, the view that he takes of  
12 her evidence that persists through many later reports that, in fact,  
13 Harriss supports Marshall completely. And even when he is in  
14 possession of the June 17th statement, whenever he got that, he  
15 persists by saying that she supports Marshall completely when, in  
16 fact, there's discrepancy between the two.

17 CHAIRMAN

18 I suppose, I guess we have to decide how, number one, if  
19 they were, indeed, major discrepancies and, secondly, whether  
20 they go to the issues that we have to resolve.

21 MR. MURRAY

22 Q. Perhaps, Mr. Wheaton, you'd refer to the transcript of  
23 evidence, Volume 42, pages 7754.

24 A. 7764, sir?

25 Q. 54.

1 A. 54. Yes, sir.

2 Q. Even before this Commission you testified under examination  
3 by Mr. Orsborn, and this is at line 14, as to the significance of  
4 the 17th statement.

5  
6 Q. Did you attach any significance  
7 to that information?

8 A. Yes, sir, I did. And the  
9 significance being that in her  
10 statement of the 18th she saw  
11 only two people on the street,  
12 Marshall and Seale. And on the  
13 17th when she was, earlier in  
14 the evening, she saw four people  
15 on the street.

16 A. Yes, sir.

17 Q. Now if we refer back to Volume 16 at page 63, in the June  
18 17th statement at 8:15 p.m.

19 A. Page what, sir?

20 Q. 63.

21 A. Yes, sir.

22 Q. She doesn't put four people on the street in that statement.

23 A. I think the significance of the June 17th statement, she  
24 describes a short man with a long coat, gray or white hair,  
25 with a long coat. That is a relative description of Roy Ebsary,  
or would be to me as a police officer...

Q. I appreciate that. But you went on claiming that another  
significant point was, in the 17th statement, she put four

1 people on the street which has to be. Because there's got to  
2 be Marshall, Seale, Ebsary and MacNeil for the theory to hold.

3 A. In the 17th, do you want to take the total number of people  
4 on the street on the 17th?

5 Q. Um-hmm.

6 A. Well there would be Terry Gushue, Patricia Harriss, she  
7 describes Junior Marshall, three, and a man who was short  
8 with a long coat, gray or what hair, with a long coat.

9 Q. Um-hmm.

10 A. So that would be four people in that statement of the 17th.

11 Q. Well let's count them again, sir. There's Patricia Harriss,  
12 Terry Gushue...

13 A. Yes, sir.

14 Q. Junior Marshall...

15 A. Yes, sir.

16 Q. With Marshall was two other men, that's five...

17 A. Oh, yes, I see what you mean. Yes. Yeah.

18 Q. Now you take Gushue and Harriss out of the equation you're  
19 still short a man.

20 A. Yes, sir.

21 Q. So, in fact, if Marshall talks about four people, MacNeil,  
22 Ebsary, Seale and himself up on Crescent Street, that 8:15  
23 statement doesn't help.

24 A. Well I think we would have six people counting Patricia  
25 Harriss and Terrance Gushue.

1 Q We should.

2 A Yes, if you took the total number.

3 Q Let's move on to Mr. Ratchford. He initiated contact with you  
4 in late March of 1982.

5 A I don't recall the specific date, sir, but yes, he was in contact  
6 with me.

7 Q And his statement is at page 68

8 A Of Volume?

9 Q 34.

10 A Yes, sir.

11 Q Third paragraph, or I guess it's the fourth paragraph...

12 A Yes, sir.

13 Q "I felt that this should be reported to the police immediately.  
14 I phoned the City police and talked to Bill Urquhart, I  
15 believe."

16 A Page 68?

17 Q Page 68.

18 A Of Volume 34.

19 Q Um-hmm.

20 A One, two, three, I see, four paragraphs, I see. I understood,  
21 in my copy here. "Donna hated her father."

22 Q That's a single sentence.

23 A Oh, yes. I see. Okay. Yes, I have that.

24 Q "Talked to Bill Urquhart, I believe." He was not certain at that  
25 time that it was Bill Urquhart he had spoken to?

1 A. What was your question now, sir?

2 Q. Was he certain that it had been Bill Urquhart that he had  
3 spoken to?

4 A. That's what he told me, sir.

5 Q. But if that's what he was certain about he wouldn't have  
6 needed to add the words, "I believe". Do you agree with that?

7 A. He added the words "I believe", sir.

8 Q. Pardon?

9 A. Yes, sir. He added the words "I believe".

10 Q. Did you take that as an indication of some uncertainty?

11 A. I don't know as it triggered any great suspicion in my mind. I  
12 believe I checked into it and phoned Corporal Green after  
13 talking to Mr. Ratchford.

14 Q. I appreciate that. But with respect to whether Mr Ratchford  
15 was certain or not, you can't say.

16 A. No, sir.

17 Q. By the way, when you took that statement from Mr.  
18 Ratchford, did he have a chance to read it over?

19 A. That would be my normal procedure, sir.

20 Q. Do you have any independent recollection?

21 A. No, sir.

22 Q. Were you under any rush when you took that statement?

23 A. Was I under any what?

24 Q. Any rush when you took that statement?

25 A. Rush?

1 Q. Rush.

2 A. Not that I can recall, sir.

3 Q. No. So it's likely something you would have done. Given him  
4 the opportunity to read it over.

5 A. That would be my normal procedure, yes, sir.

6 Q. You contacted Gary Green and he told you he'd been in  
7 contact with Mr. Urquhart about Donna Ebsary.

8 A. I believe so, yes, sir.

9 Q. And you told this Commission some days ago that Mr.  
10 Urquhart as much as told Mr. Green it was none of his  
11 business and Mr. Green left.

12 A. Yes, sir.

13 Q. Did Mr. Green advise you, as he advised this Commission, that  
14 Mr. Urquhart offered him the file?

15 A. I don't recall that. He may have.

16 Q. And Mr. Green declined the opportunity to look at the file?

17 A. I don't know, sir.

18 Q. Did he not advise you of that or...

19 A. He may have, I don't recall and I have no independent  
20 recollection.

21 Q. That's inconsistent with saying "It's none of your business"  
22 and then to offer the file.

23 A. I don't know, sir.

24

25

1 Q. You don't know. Now the same day you met Ratchford, a  
2 Debbie Couture came up. She's on the next page of Volume  
3 34. Page 69 of Volume 34.

4 A. Yes, sir.

5 Q. And among other things in that statement, the second  
6 paragraph, she says that, "Donna Ebsary and Greg Ebsary  
7 went to see William Urquhart the day after the stabbing."

8 A. I see, sir.

9 Q. Now you had a rapport with Mary and Greg Ebsary developed  
10 over a number of months.

11 A. Yes, sir.

12 Q. Did you ever confirm that with Greg Ebsary?

13 A. I believe I did ask and he had no knowledge of going to see  
14 Bill Urquhart.

15 Q. No. Did you come across any evidence at all to suggest that  
16 Donna Ebsary went down the day after the stabbing and  
17 spoke to Bill Urquhart about it?

18 A. Not that I can recall unless you can refresh my memory. I...

19 Q. I'm certainly not aware of any. Let's go to page 88 of Volume  
20 34.

21 A. Yes, sir.

22 Q. Paragraph 4 you say,

23  
24  
25

Discussions were held with Crown  
Prosecutor Frank Edwards in regards to  
interviewing Chief MacIntyre and

Inspector Urquhart in regards to the allegations of Chant, Pratico and Harriss, that they were induced to fabricate evidence in the original trial in this matter.

A. Yes, sir.

Q. What are you pointing to when you say that Urquhart participated, or may have participated in "inducing the fabrication of evidence" with respect to Chant?

A. Inspector Urquhart's name on the original statement appears at the bottom of each page. He signed the last statement of the 4th of June.

Q. Is that it?

A. And I felt that he should have the opportunity to speak to it, yes.

Q. Um-hmm. What evidence of any acts or words or gestures on the part of William Urquhart do you have now to support that he participated in the fabrication of evidence with Chant?

A. Chant? I think the thing about Inspector Urquhart was that he was present there.

Q. That's it?

A. Yes, sir.

Q. With respect to Pratico, same questions.

A. I didn't interview Pratico so I, Corporal Carroll could speak to that better than I.

Q. You had no independent knowledge of any facts, any words, any gestures....



1 A. No, sir, I don't.

2 Q. On the part of Urquhart?

3 A. No, sir.

4 Q. Simply presence again?

5 A. Yes, sir.

6 Q. We'll deal with Miss Harriss in a moment. Now in that same  
7 report, in paragraph 3, you make the comment,

8 It would appear at this juncture that all  
9 interviewing, compiling of the case and  
10 interviews with Crown Prosecutor, Donald  
11 C. MacNeil, were handled by Chief  
12 MacIntyre and Detective Inspector William  
13 Urquhart.

14 Now this is a report you're making on the 20th of May, 1982,  
15 and that was your view at that time?

16 A. Yes, sir.

17 Q. Now you knew when you wrote that that Michael R.  
18 MacDonald had had responsibility for continuity. Is that  
19 correct?

20 A. Responsibilities for what, sir?

21 Q. Continuity of exhibits?

22 A. Well he was with Chief MacIntyre when they went together  
23 to Sackville, New Brunswick.

24 Q. And, in fact, Mr. MacDonald refers to that in his statement,  
25 page 96, of the same volume. "The only other thing I did was  
drive a box of exhibits up to Sackville with John."

1 A. That's right.

2 Q. And, in fact, he gave evidence at trial, you recall, with respect  
3 to continuity?

4 A. Vaguely. I don't have an independent recollection of it.

5 Q. But you would have read the transcript, had you not?

6 A. Yes, I did, sir.

7 Q. You were aware that Red Mike, as he's called, had done some  
8 interviewing of witnesses by that point? 20th of May, 1982.

9 A. As Red Mike says here, the only thing that he did was drive a  
10 box of exhibits up to Sackville. Now I knew that he was at  
11 the scene that night. I knew that he had spoken to Maynard  
12 Chant that night. But he hadn't taken a statement from  
13 Maynard Chant and unless you can refresh my memory to  
14 something I didn't see any statements.

15 Q. If you'd check the statement of Barbara Vigneau which  
16 appears at page 82 of Volume 16.

17 A. Yes, sir.

18 Q. He was involved in the taking of that statement it appears.

19 A. Page 80-, oh, of Volume 16.

20 Q. Yes.

21 A. Page 82 of Volume 16. Yes, it's witnessed, taken by Sergeant  
22 William Urquhart and witnesses by M.R. MacDonald.

23 Q. And on page 83 you can see that he, indeed, signed that as a  
24 witness?

25 A. Yes, sir.

1 Q. Now I'd like you to refer to Volume 1 at page 26.

2 A. Volume 1?

3 Q. Volume 1. 26.

4 A. Yes, sir.

5 Q. You testified to us a moment ago that you, in fact, had looked  
6 at the preliminary inquiry in this matter.

7 A. Yes, sir.

8 Q. And if you had recalled that at the time of your May 20th  
9 report I take it you would have advised in that report that  
10 MacDonald was perhaps involved in interviews with Patricia  
11 Harriss. And I say that because on page 26 is an extract from  
12 Patricia Harriss' evidence, she states at line 10,

13  
14 Q. He wasn't the first. Was it Sergeant  
MacDonald sitting in the corner.

15 A. Yes.

16 Q. He was the first one you told it to.

17 A. Yes.

18 And later on he is identified as Sergeant Michael R.  
MacDonald.

19 A. Yes, sir.

20 Q. So by saying on page 88 that all interviewing, compiling of  
21 the case and interviews were done by MacIntyre and  
22 Urquhart isn't entirely correct.

23 A. Well if Patricia Harriss was correct in her evidence here that  
24 she did talk to Michael R. MacDonald...

25 Q. Um-hmm. Then that comment in yours would not be correct.

1 A. Yes, sir.

2 Q. Now what information do you have that I don't have again  
3 that Mr. Urquhart ever met with Donald C. MacNeil except on  
4 the afternoon that the charge was laid?

5 A. I have no information you don't have, sir.

6 Q. I see. So with respect to that comment, "Interviews with  
7 Crown Prosecutor, Donald C. MacNeil", you're not including Mr.  
8 Urquhart in that.

9 A. Which volume are we back to now?

10 Q. 88, Volume 34.

11 A. Page 88, Volume 34?

12 Q. Paragraph three.

13 A. Paragraph three, yes sir.

14 Q. And that sentence that we were just discussing. It would  
15 appear at this juncture that all interviewing, compiling of the  
16 case and interviews with Crown Prosecutor, Donald C. MacNeil,  
17 were handled by Chief MacIntyre and Detective Inspector  
18 William Urquhart. With respect to the interviewing with  
19 Donald C. MacNeil, you would eliminate William Urquhart  
20 from that?

21 A. Can I just have a moment to read that complete paragraph to  
22 see where I'm at?

23 Q. Certainly.

24 A. I think I've, this is the 20th of May, by this time I would have  
25 had the notes of Donald MacNeil. I really, and various pieces

1 of paper from the Court. I don't know if they'd support or  
2 negate whether or not William Urquhart was preset. I can't  
3 really speak to it.

4 Q. I see. Well will you release him from that part of your  
5 remark...

6 A. I can't be definite one way or the other.

7 Q. You made the comment the other day that the July 12th 1982  
8 meeting in Frank Edwards' office that Mr. Urquhart was not  
9 there.

10 A. That's correct, sir.

11 Q. In Volume 20, at page 10, you make the comment and I  
12 presume it's directed at my client...

13 A. Yes, sir...

14 Q. In actually page 11.

15 A. Page 11?

16 Q. Mmm. Ah, page 12. The end of the first paragraph you  
17 comment that the use of the police of Patricia Harriss as a  
18 witness was unethical and you'd include Mr. Urquhart in that.

19 A. You're referring to paragraph 17, page 12...

20 Q. Paragraph 15. Top of the page. The top of page 12.

21 A. Ah, yes. Oh, this was in answer to Superintendent Christen's  
22 memo to me reference proper and improper police  
23 procedures.

24 Q. That is correct.

25 A. Yes. Now what was your question?

1 Q. You're including, or blaming Mr. Urquhart for being unethical  
2 with respect to Patricia Harriss.

3 A. Yes, sir.

4 Q. And you're including in that allegation because it was he who  
5 interviewed Patricia Harriss continuously for five hours.

6 A. No, he was the first person as I recall it, from Patricia Harriss  
7 told me, to have interviewed her and was taking these partial  
8 statements, crumpling them up, throwing them on the floor  
9 and putting some pressures on her causing her to be nervous  
10 and cry, et cetera.

11 Q. I see. The other day you mentioned that he was alone with  
12 her for about an hour or so before Mr. MacIntyre became  
13 involved.

14 A. I don't have any specific times of how long...

15 Q. So if you made that comment in evidence, Volume 43, page  
16 7914, we shouldn't rely on that as based on any information  
17 received?

18 A. I believe I received that information from Patricia Harriss.

19 Q. I see, bear with me for a moment. If you are wrong about  
20 Mr. Urquhart having involvement with Patricia Harriss after  
21 that 8...8:15 statement but before the final statement, then  
22 any criticism you have about Mr. Urquhart would disappear,  
23 would it not?

24 A. No, sir.

25 Q. Well, assume with me this, Mr. Urquhart takes the 8:15

1 statement.

2 A. Yes, sir.

3 Q. It continues to exist until this very day.

4 A. This is the 17th statement, yes, sir.

5 Q. It wasn't torn up, it wasn't crumpled up.

6 A. No, sir.

7 Q. Mr. Urquhart receives information and goes out of the  
8 presence of Patricia Harriss while Mr. MacDonald remains,  
9 Michael MacDonald.

10 A. Michael MacDonald.

11 Q. Yes. Red Mike.

12 A. I don't follow that scenario, sir.

13 Q. Assume that.

14 A. Oh, assuming that.

15 Q. Assume that. Mr. Urquhart does not see Patricia Harriss again  
16 until she gives her final statement 12:07.

17 A. Yes, sir.

18 Q. If those facts exist, is there any reason to criticize Mr.  
19 Urquhart?

20 A. If Michael R. MacDonald was in the middle there somewhere I  
21 would still think...

22 Q. That is correct.

23 A. ...based on Patricia Harriss' comments to me and I don't know  
24 what her evidence was to this Commission, that William  
25 Urquhart was the first officer she met with and who wanted

1 her to say that there was only two people on that street,  
2 which she eventually did say so.

3 Q. Uh-hum. Your complaints about Mr. Urquhart then hang  
4 entirely on the word of Patricia Harriss.

5 A. Patricia Harriss and Maynard Chant basically.

6 Q. Well, what's Maynard Chant got to do with the taking of  
7 Patricia Harriss' statement?

8 A. Well, you say my complaints. My complaints would also  
9 include the manner in which the Maynard Chant statement  
10 was taken and it was signed on each page by William  
11 Urquhart and the back page was signed by him and I would  
12 think he was present at that time too.

13 Q. Well, let's not get ahead of ourselves. As I understood your  
14 evidence some moments ago, you know of no word or act or  
15 gesture on the part of Mr. Urquhart which would justify a  
16 complaint in relation to the Chant statement, just that he was  
17 present.

18 A. He was present, yes, sir.

19 Q. If we don't even have him being present with Patricia Harriss,  
20 is there any basis on which to complain about Mr. Urquhart's  
21 conduct?

22 A. You're assuming that Patricia Harriss is entirely wrong about  
23 the 17th/18th.

24 Q. Uh-hum.

25 A. No, sir.



1 Q. Are you aware of any evidence of any kind that Mr. Urquhart  
2 withheld anything from Donald MacNeil?

3 A. No, sir.

4 Q. I'd like you to turn page 22 in Volume 20 for a moment. Do  
5 you have page 22?

6 A. Yes, sir.

7 Q. That's a letter from T. E. Barlow who was the coordinator for  
8 Sydney Subdivision and I believe it was your evidence that  
9 he would not really have had much involvement in your  
10 reinvestigation.

11 A. Not back in 1982. He replaced me in Sydney.

12 Q. Uh-hum.

13 A. When I left.

14 Q. Given the investigation that you carried out, there is a  
15 comment in the first paragraph on page 22 that states, "In  
16 August 1971 Detective Urquhart received information Ebsary  
17 was responsible for the murder."

18 A. Which page are you at now, sir?

19 Q. 22.

20 A. 22, third paragraph.

21 Q. First paragraph.

22 A. First paragraph. I'm sorry.

23 MR OUTHOUSE

24 My Lord, it's a matter of record. The witness has already  
25 said that he has no knowledge whatever about a statement like

1 that. As far as he's concerned it would have no foundation. It  
2 would seem to me the question has already been answered.

3 MR. MURRAY

4 I'd be happy to have him say that.

5 STAFF SGT. WHEATON

6 What is your question again, sir?

7 MR. CHAIRMAN

8 Well, he already answered it, but I suppose prudence and  
9 patience dictates that we make absolutely certain. Would you  
10 answer the question.

11 MR. MURRAY

12 Q. Do you have any evidence of any kind, did you come across  
13 any evidence of any kind that there's any substance of truth  
14 to that remark in that letter?

15 A. "In August of 1971 Detective Urquhart received information  
16 Ebsary was responsible for the murder." No, not that I can  
17 think of unless my memory could be refreshed.

18 Q. Have you ever recommended that charges be laid against  
19 William Urquhart?

20 A. I don't think the case against William Urquhart is as strong as  
21 the case against John MacIntyre.

22 Q. Uh-hum. You've made a comment from time to time that you  
23 had a prima facie case against one or another individual.

24 What about William Urquhart?

25 A. Well, my comments have always been, sir, that there should

1 be an investigation into the matter and when my personal  
2 opinion was asked I felt that charges would be there and  
3 there is probably a prima facie case. It would be a matter of  
4 investigation and taking it to the Crown and deciding that.

5 Q. You mentioned that during the course of your investigation  
6 you specifically approached Mr. Urquhart on more than one  
7 occasion, for example, talked about the Green matter.

8 A. Yes, sir.

9 Q. And to ask him other questions, no doubt Patricia Harriss and  
10 others, as that information came to you.

11 A. I talked to William Urquhart. I don't have a record of the  
12 dates I talked to him.

13 Q. Uh-hum. I believe your evidence indicated that it would  
14 have been the time probably that you interviewed the other  
15 police officers.

16 A. I believe so, sir.

17 Q. And as I understand that that's May 11th, May 19th and May  
18 20th, 1982.

19 A. Yes. I may have talked to him prior to that. I do recall talking  
20 to Billy a couple of times.

21 Q. Wouldn't it have been fairer, given that you suspected Mr.  
22 Urquhart of being involved in counseling perjury, to have  
23 made notes of what his replies were?

24 A. It would be nice to have notes of it, sir.

25 Q. Nice for you and nice for Mr. Urquhart.

- 1 A. Yes, sir.
- 2 Q. One final area. You advised the Commission the other day  
3 that Mr. Urquhart had an aggressive approach to  
4 sentence...statement taking.
- 5 A. Yes, sir.
- 6 Q. And, did you ever witness a statement taken by Mr.  
7 Urquhart?
- 8 A. No, I did not, sir.
- 9 Q. And did you mean to suggest that he was aggressive in the  
10 sense that you were aggressive with Roy Ebsary?
- 11 A. No, I ...
- 12 Q. Calling the witness names.
- 13 A. No, I could tell you what I based that on, if you wish.
- 14 Q. What do you base that on, sir?
- 15 A. I base it on, as I believe it was in response to a question by  
16 Mr. Orsborn, I'm not sure, William Urquhart and I had  
17 occasion to go to Halifax and come back and we had occasion  
18 to talk from time to time and he was a gentleman who was  
19 very interested in police work and so on, and we talked about  
20 statement taking. I told him of my approach to it, of doing  
21 background, et cetera, et cetera, and if you will more flies are  
22 obtained by honey than vinegar. Shortly after this  
23 conversation, which lasted for some time and William  
24 Urquhart seemed quite interested in it, I recall there was a  
25 murder in Sydney. I believe the name of it was the

1 Weatherbee case.

2 Q. Uh-hum.

3 A. And after that the following day or two days later I recall  
4 having a conversation with William Urquhart, and he said,  
5 "Boy, I got that statement in fifteen minutes," or eighteen  
6 minutes or something of that nature. I can't remember the  
7 exact time. It was relatively short. It struck me that he  
8 didn't pay much attention to what I was saying, Billy.

9 Q. Uh-hum.

10 COMMISSIONER EVANS

11 In other words he didn't take the honey with him, is that it?

12 STAFF SGT. WHEATON

13 That's right.

14 MR. MURRAY

15 Q. It was speed rather than honey that interested Mr. Urquhart.

16 A. That's right.

17 Q. But there was nothing improper about that.

18 A. No. The man may have confessed quite properly.

19 Q. Uh-hum. Now, if Mr. Urquhart is the kind to act quickly on  
20 information, would you agree with that?

21 A. Mr. Urquhart from my experience with him is a intuitive  
22 type. He is a hard worker and would follow up leads and be a  
23 type to...he's a very good worker.

24 Q. Uh-hum. Now, if on the 17th of June he had suddenly been  
25 confronted with information after speaking with Patricia

1           Harriss that Harriss had spoken to the O'Reilley girls, it would  
2           be perfectly consistent for Mr. Urquhart to have rushed out at  
3           that time and try to find the O'Reilley girls.

4           A. Yes, sir.

5           MR. MURRAY

6           I have no more questions, thank-you.

7           BREAK - 3:37 p.m. \*

8           3:52 p.m.\*

9           MR. CHAIRMAN

10          Mr. Barrett?

11          MR. BARRETT

12          Thank you, My Lord.

13  
14   EXAMINATION BY MR. BARRETT

15  
16          Q. Staff Wheaton, my name is David Barrett. I represent the  
17          estate of Donald C. MacNeil, and we've met before.

18          A. Yes, sir.

19          Q. You've testified you were stationed at Sydney between 1973  
20          and 1975?

21          A. Yes, sir.

22          Q. And Donald C. MacNeil prosecuted cases you were involved in  
23          at that time?

24          A. Yes, sir.

25

1 Q. During that period, did you observe Mr. MacNeil to prosecute  
2 cases involving whites?

3 A. Yes, sir.

4 Q. Indians?

5 A. Yes, sir.

6 Q. Were there any black cases?

7 A. Yes, I believe there was one.

8 Q. Okay. Did you feel he prosecuted these cases any differently?

9 A. No, sir.

10 Q. And you've described Donald C. MacNeil as being a gregarious  
11 person.

12 A. Very outward person, yes.

13 Q. And you've also described him as an aggressive prosecutor.

14 A. Yes, sir.

15 Q. And I'm wondering, would you also describe him as being an  
16 experienced prosecutor?

17 A. Yes, sir.

18 Q. Competent?

19 A. Yes, sir.

20 Q. Fair?

21 A. Yes, sir.

22 Q. Interested in his work?

23 A. Very interested in his work, sir.

24 Q. Was he concerned about putting the crown's case forward?

25 A. Yes, sir.

1 Q. Would you describe him as having a good rapport with police  
2 officers?

3 A. Excellent, sir.

4 Q. And you've indicated he liked to talk man to man with  
5 policemen?

6 A. Yes, sir.

7 Q. Did he respect your opinion as a police officer?

8 A. Yes, he did.

9 Q. Did he ever direct you how to conduct an investigation?

10 A. He would tell you, I think we should do, take a statement  
11 from this one or go see that one or, he was a very  
12 experienced man and I know I listened to his directions.

13 Q. Did he ever pressure you during an investigation?

14 A. No, sir.

15 Q. Do you feel in 1971 that John MacIntyre was a respected  
16 member of the Sydney Police Force?

17 A. Yes, sir.

18 Q. Did you ever have reason to complain to your superiors in the  
19 RCMP or to the Attorney General's Department about the  
20 manner in which Donald C. MacNeil prosecuted a case?

21 A. No, sir.

22 Q. And you've testified that your procedure was to bring the  
23 crown sheet and statements to Donnie MacNeil on the day of  
24 the preliminary or the trial?

25 A. Quite often we'd do that, yes, sir.



1 Q. And you stated he would meet with you and prepare from  
2 your account, presumably asking you questions.

3 A. Yes, sir.

4 Q. Have you ever provided the crown with statements, including  
5 a crown sheet, after laying information and before the trial or  
6 prelim?

7 A. It's very hard, so many years later, but I think probably I  
8 could have, yes, on a routine matter.

9 Q. And has this practice changed in the last 26 years or 26 years  
10 that you've been with the RCMP?

11 A. To lay a charge and then go to your prosecutor?

12 Q. What I'm suggesting is that you would provide the crown  
13 with a crown sheet and statements prior to the day of the  
14 trial.

15 A. Yes, sir. That's always been the way of it.

16 Q. And you've indicated in your testimony that you were  
17 uncertain as to Mr. MacNeil's practices in disclosing  
18 statements?

19 A. Yes, sir.

20 Q. Would you expect Mr. MacNeil or any other prosecutor to  
21 consult with you prior to discussing the case with the  
22 crown...with the defence or disclosing statements?

23 A. Not really, no. He would do that. He might tell me prior to  
24 but he would not be under any obligation to discuss it with  
25

1 me. He probably would bring me up to date on what had  
2 happened prior to going to court.

3 Q. Okay, and I presume that if he discussed the case with  
4 defence counsel, you would not be present.

5 A. Probably not.

6 Q. You've indicated in your testimony, and I can refer you  
7 specifically to it, but you indicated that if asked, Mr. MacNeil  
8 would not refuse to give Mr. Rosenblum statements,  
9 particularly in a murder case, and you also indicated that  
10 you'd be very shocked to think he wouldn't, if Mr. Rosenblum  
11 had asked him.

12 A. That's correct, sir.

13 Q. Now you've testified in March of 1982 that you spoke with  
14 Judge Matheson, and I believe this was in Port Hawkesbury?

15 A. Yes, sir.

16 Q. Did you ask him if the defence were provided with copies of  
17 the Pratico and Chant statements?

18 A. I believe I did. We talked about that and either I asked him  
19 or he told me. I left with the impression and I hold the  
20 impression now that they were given to the defence.

21 Q. They were given to the defence?

22 A. That's my impression.

23 Q. And I take it that this was not a planned meeting with Judge  
24 Matheson?

25 A. No, it wasn't.

- 1 Q. And how long would that meeting have been in its entirety?
- 2 A. Not a long meeting, maybe 10 minutes, 15 minutes.
- 3 Q. And you indicated, I believe, that you didn't take a statement
- 4 nor you have no notes of that meeting.
- 5 A. No, sir.
- 6 Q. And your evidence was he was going to, "He wasn't going to
- 7 run away, he would always be there for me to interview at a
- 8 later date should the need arise."
- 9 A. That is correct, sir, yes.
- 10 Q. And I take it you've indicated you never reinterviewed Judge
- 11 Matheson, so I take it from that you felt that the need never
- 12 arose.
- 13 A. No, sir.
- 14 Q. Did you ever hear Donald C. MacNeil make any racial
- 15 remarks?
- 16 A. In casual conversation with Donald C. MacNeil, I got the
- 17 impression, and I can't give you specific remarks, that he did
- 18 not like Indians.
- 19 Q. You have no specifics of that.
- 20 A. No, sir.
- 21 Q. So I take it you're un...Are you certain as to whether he was
- 22 serious of these remarks or whether, you know, you've
- 23 indicated that he was a gregarious character with a sense of
- 24 humour.
- 25 A. Yes, he was, sir.

1 Q. Did you ever have reason to complain to your superiors of  
2 this?

3 A. No, sir.

4 Q. Did you ever complain to the Attorney General's Department?

5 A. No, sir.

6 Q. Now I'm wondering if, you've indicated that with these racial  
7 remarks, did you ever hear him make comments about Cape  
8 Bretoners?

9 A. Yes.

10 Q. And Newfoundlanders?

11 A. I don't know, sir.

12 Q. Well, I'm just wondering if these jokes of Cape Bretoners and  
13 such would be taken in the same tone as...

14 A. No, I felt his remarks in regards to native Indian people to be  
15 different than if he was telling me a Newfoundland joke.

16 Q. I'm wondering if you know a Staff Sgt. Murray Wood?

17 A. Yes, I do, sir.

18 Q. I understand he was stationed in Sydney from 1964 to 1972?

19 A. That is correct, sir.

20 Q. Are you aware that...

21 A. I don't know the exact dates but it would be in that time.

22 Q. And you're aware he's testified that he prosecuted or Donald  
23 C. MacNeil prosecuted cases in which he was involved  
24 between 1968 and '72?

25

- 1 A. I was not aware of his specific testimony but I wouldn't  
2 doubt that at all.
- 3 Q. Would you suggest that if he was there during that period of  
4 time that he might have a better working knowledge of  
5 Donald C. MacNeil?
- 6 A. Yes, I would think that he might know him better than I  
7 because he would be involved strictly in criminal work where  
8 I was involved in drug work and some criminal work. I was  
9 also only there three years. I believe your time span is  
10 longer there.
- 11 Q. He gave evidence before this Commission describing MacNeil  
12 and in his description, one of the comments was that he was  
13 one of the better prosecutors that he had come across. He  
14 described him as being fair and extremely competent and he  
15 made no mention of racism. His only comment on MacNeil in  
16 that regard was that he felt that MacNeil liked to win his  
17 cases.
- 18 A. Yes, I agree with what Murray Wood says in regards to his  
19 competency, et cetera. But in regards to... As I say, I can't  
20 give you comments that he made to me or anything. It's just  
21 an impression. Perhaps I have the wrong impression.
- 22 Q. During the course of your 1982 reinvestigation, did you feel it  
23 was part of your instructions from Inspector Scott to  
24 investigate the manner in which the prosecution of the case  
25 was handled by Donald C. MacNeil?

1 A. No, sir.

2 Q. And I presume that this is why you never reinterviewed  
3 Judge Matheson.

4 A. That's right, sir.

5 Q. And you've indicated that you had a discussion with Mr.  
6 Rosenblum and I believe you ended that or your testimony  
7 was that you always you would have liked to have gone back  
8 but didn't go back.

9 A. That's right, sir.

10 Q. And I suggest that's because you didn't feel you were  
11 investigating Donald C. MacNeil.

12 A. That's right, sir.

13 Q. I wonder if I could refer you, Staff, to Volume 34. I'm  
14 referring there to page 14 and Paragraph 18. This was your  
15 first report dated the 25th of February, 1982. And in that,  
16 about the middle of the paragraph and referring to Chant, the  
17 line reads: "He advised," he being Chant, "that the prosecutor  
18 threatened him with a charge of perjury if he changed his  
19 story after the lower court hearing."

20 A. Yes, sir.

21 Q. I would suggest that that's a serious allegation against Donald  
22 C. MacNeil?

23 A. Yes, sir.

24 Q. Where did that information come from?

25 A. Mr. Chant.

1 Q. And I can refer you to the statement of Mr. Chant, and that's  
2 at page 47.

3 A. Yes, sir.

4 Q. And there's no reference in there to a threat of perjury.

5 A. I would take your word for it, sir, yes.

6 Q. Did you inquire about this allegation when you met with Mr.  
7 Matheson in March?

8 A. Our conversation was not a long one, sir. I have no  
9 independent recollection if I did or did not. I may have, I  
10 don't know.

11 Q. But as an investigator, did you not think it appropriate to  
12 attempt to substantiate this allegation by Mr. Chant?

13 A. Basically, sort of the main thrust of that, and it's not a long  
14 conversation, was to find out what Judge Matheson knew  
15 about as acting as assistant crown prosecutor, what he knew  
16 about the case, what happened, what statements were turned  
17 over, who said what, you know. Did he knew about Pratico  
18 recanting in the hallway, things of that nature. And I say that  
19 in a general sense because I cannot, didn't make specific notes  
20 and I don't know exactly what I did put to him. But that  
21 would be the thrust of my conversation with him, sir.

22 Q. But I presume, though, that you could have asked him that  
23 question.

24 A. I could have, sir.

25

1 Q. In the likelihood that Matheson may have been present  
2 when....

3 A. Yes.

4 Q. Donald C. MacNeil interviewed Chant.

5 A. That's right, sir.

6 Q. And I presume you knew that that report of the 25th of  
7 February 1982 would be forwarded to your superiors in  
8 Halifax.

9 A. Yes, sir.

10 Q. And presumably that report as well would go to the AG's  
11 Department?

12 A. Yes, sir.

13 Q. Did you review the evidence that Chant gave or have you had  
14 an opportunity to review the evidence that Mr. Chant gave  
15 before this Commission?

16 A. No, I have not, sir.

17 Q. And are you aware that he testified, and that's at Volume 5,  
18 but I can tell you that he testified that he was never  
19 threatened by perjury by Mr. MacNeil, though he had, in fact,  
20 sworn evidence before this Commission that he wasn't  
21 threatened.

22 A. That's his sworn evidence, yes.

23 Q. And you've testified that you've received a copy of a letter  
24 from Mr. Gordon Gale, dated the 13th of May 1983 and at  
25 Volume 20....Do you have Volume 20 in front of you, Staff?



1 A. Yes, I do, sir.

2 Q. That letter dated the 13th of May...

3 A. What page?

4 Q. 1983, can be found at page 4 of Volume 20. And I believed  
5 you've testified that this, you received this letter as it was  
6 attached to a memorandum which was dated the 19th of May  
7 1983 from Superintendent Christen, and that letter can be  
8 found at page 6 of the same volume in front of you there.  
9 And the bottom of it says: "NCO IC Internal Investigation  
10 Section." That's where you were.

11 A. Yes, that's what I was doing. I recall the memo. Like I say, I  
12 vaguely, I may have received this, whether it says it was  
13 attached. It looked new to me when it was first shown to me  
14 by Mr. Orsborn, but I probably did. I don't know.

15 Q. Reviewing that letter then from Gordon Gale, did you now feel  
16 that part of your mandate was for you to comment on the  
17 crown prosecutor's handling of the case, and I refer you  
18 specifically to Paragraph 3 and in that letter, the third  
19 paragraph:

20  
21 There remains the question as to whether  
22 there should be an inquiry into the  
23 handling of the original investigation and  
24 the prosecution of it.

25 And the last line of that paragraph reads:

STAFF SGT. WHEATON, EXAM. BY MR. BARRETT

1 The purpose of this is to use as a  
2 background material to enable us to  
3 provide the Attorney General and come to  
4 a conclusion as to whether or not the  
5 matter warrants any type of inquiry into  
6 the actions of the Sydney Police  
7 Department in regard to the case or in  
8 regard to the actions of the prosecutor.

9 4:05 a.m. \*

10 Q. Did you then feel that the comments that you were to make  
11 your next report, you felt that an investigation of the  
12 prosecutor was warranted?

13 A. I'm just missing that part, sir, where you say the prosecutor.  
14 I see...

15 Q. That would be the last word, but it's the total last sentence in  
16 that letter in its entirety.

17 A. Oh, down below. Yes, that's...I see what you mean.

18 Q. The reason I point that out is that in Superintendent  
19 Christen's letter that would be found at page 6.

20 A. Yes, sir.

21 Q. He says, "We do not expect any investigation to be  
22 undertaken but restrict our examination to all materials on  
23 hand."

24 A. Uh-hum.

25 Q. And I take it you were the principal investigator of this  
investigation.

A. That's correct.

Q. Although you were stationed in Halifax at that time. You

1        were the principal investigator.

2        A. Yes, sir.

3        Q. Did you at this time indicate to Superintendent Christen,  
4        Inspector Scott or Staff Barlow that you had not completed  
5        your investigation in respect to Donnie MacNeil? Specifically  
6        that...

7        A. Well, I never started an investigation.

8        Q. No. I realize that. But I'm wondering at that point whether  
9        you approached any of those individuals and said, "I haven't  
10       looked at Donald C. MacNeil."

11       A. No, not really, sir.

12       Q. So, you wouldn't have advised them that you hadn't  
13       interviewed...you never interviewed Simon Khattar.

14       A. No, sir.

15       Q. And as indicated, you hadn't reinterviewed Matheson or  
16       Rosenblum.

17       A. No, sir.

18       Q. But you submitted your report on the 30th of May, 1983, and  
19       that report was forwarded to Superintendent Christen and  
20       that report can be found at page 8 of the volume in front of  
21       you.

22       A. Yes, sir.

23       Q. Now, paragraph 1 of that report, in fairness to you, would  
24       lead me to believe that you weren't interviewing...

25       A. No.

- 1 Q. ...or you weren't making any suggestions as to Donald C.  
2 MacNeil's handling of the prosecution and in that you say, the  
3 second line of that is "To review this investigation in relation  
4 to any instances of improper police practises or procedures."  
5 A. I would be following the instructions there of the CIB officer.  
6 Q. And not the instructions of Gordon Gale.  
7 A. I don't believe so, sir.  
8 Q. Okay. I just want to point out that paragraph 18 of that  
9 may...it appears you must have...it must have come to your  
10 attention as to what was being required or asked of you  
11 because you state there "in regards to the ethics of the  
12 prosecutor..."  
13 A. Oh, yes.  
14 Q. "...one cannot comment." That's found on page 13. "One  
15 cannot comment on same as Crown Prosecutor, Donald C.  
16 MacNeil is deceased and it is impossible to say how many of  
17 the various statements and backgrounds of the witnesses  
18 were made known to him."  
19 A. Yes, sir.  
20 Q. All right. One other area I'm interested in, though, is  
21 paragraph 17 of that same report. You indicate some of the  
22 pressures that were placed on MacIntyre and you say  
23 "Sixthly, the Crown Prosecutor Donald C. MacNeil was pressing  
24 for a successful conclusion." And I'm wondering upon what  
25 you base that information.

1 A. I really have no independent recollection, sir.

2 Q. You didn't...

3 A. Other than I know that Donnie MacNeil was an aggressive  
4 prosecutor who liked to win.

5 Q. But you've indicated that...

6 A. But I have no independent recollection.

7 Q. He didn't pressure you in the course of any...

8 A. No, sir.

9 Q. ...investigation...

10 A. No.

11 Q. ...you had at that time. And, you didn't ask Judge Matheson if  
12 MacNeil was pressuring MacIntyre.

13 A. No.

14 Q. And, I can indicate to you that there is no evidence from Chief  
15 MacIntyre that he was pressured by Donald C. MacNeil.

16 A. Fine, sir.

17 Q. To your knowledge did Inspector Scott conduct any further  
18 investigation as a result of the receipt of the letter of Gordon  
19 Gale of the 13th of May?

20 A. I was stationed in Halifax then and I really wouldn't know.

21 Q. Did Inspector Scott discuss the file with you?

22 A. No, sir.

23 Q. There seems to be some indication in some of those memos,  
24 and the one particular to Inspector Scott, where he indicates  
25 that he thinks it might be appropriate if it's discussed

1 between you and Inspector Scott and possibly Barlow before  
2 each one of them submit a report. I'm wondering did that  
3 discussion take place?

4 A. It never took place, sir. Other than I phoned Barlow, I think,  
5 once.

6 Q. Do you know if Inspector Scott received a copy of your report  
7 prior to filing of his report?

8 A. I don't know, sir.

9 Q. The reason I say that is his report is dated the 17th of June,  
10 1983, and that's found at page 23, Volume 20. At page 20...at  
11 page 25, the second full paragraph, he says, "From all  
12 accounts tremendous amount of pressure was being placed on  
13 the police and the Crown to bring this matter to a successful  
14 conclusion." And I'm wondering if you had any input into  
15 that statement that he would have made?

16 A. No, sir, not to the best of my knowledge and I find it strange  
17 that he would receive a copy of my report. I did not receive a  
18 copy of his for instance.

19 Q. Well, your report would have been prepared three weeks or  
20 two or three weeks prior to that and I'm wondering...

21 A. Oh, I see.

22 Q. ...he may have read your report then.

23 A. I don't honestly know.

24 Q. Now, your final report was written on the 14th of July, 1986,  
25 and that report is found at page 63 of Volume 20.

- 1 A. Yes, sir.
- 2 Q. And that report you've testified this was in response to a  
3 letter you received from a Mr. Bill of the CBC requesting an  
4 interview.
- 5 A. Yes, sir.
- 6 Q. And in your report page 64 you write in regard to John  
7 Pratico that "He was taken to Crown Prosecutor's office and  
8 again threatened with perjury by the Crown and former Chief  
9 MacIntyre."
- 10 A. Yes, sir.
- 11 Q. Now, you would...I would suggest to you that that's a serious  
12 allegation.
- 13 A. Yes, sir.
- 14 Q. Particularly against Donald C. MacNeil.
- 15 A. Yes, sir.
- 16 Q. And although not written in response to the letter from the  
17 A.G.'s Department, and I'm referring to that, Gordon Gale's  
18 letter, you're aware from that earlier letter of Mr. Gale that  
19 the A.G.'s Department was interested in the role of the  
20 prosecutor.
- 21 A. Yes, sir.
- 22 Q. And whether...that letter indicates that the actions of the  
23 prosecutor warrant any type of inquiry.
- 24 A. Yes, sir.
- 25 Q. From that letter. And you're aware your report, that being

1 your final report, was forwarded to Mr. Gordon Gale and I'll  
2 refer you to page 82 of that same volume.

3 A. Yes, sir.

4 Q. And in that letter it indicates it is to Gordon Gale from  
5 Superintendent Vaughan, I believe. And in there he  
6 indicates that your reports of...this last report you wrote was  
7 attached.

8 A. This report.

9 Q. This report.

10 A. Yes, sir.

11 Q. And I believe when...you testified that when you wrote that  
12 report you had access to the Division file.

13 A. Yes, sir.

14 Q. And in that file would have been contained all the statements.

15 A. I believe so.

16 Q. All right. And in your testimony before this Commission  
17 you've indicated on several occasions that...about this  
18 comment about Donald C. MacNeil and Chief MacIntyre taking  
19 Pratico into a room alone.

20 A. Yes, sir.

21 Q. And you've indicated from your notes that you inquired of  
22 the Chief as to exactly ...wanted the Chief to clarify this point  
23 with you and you've indicated there was no comment on the  
24 part of the Chief or he wasn't willing to clarify that matter  
25 with you.



- 1 A. I believe so, sir, yes.
- 2 Q. And you've testified that this information was given to you  
3 by Corporal Carroll, since you never interviewed Pratico.
- 4 A. That's right, sir.
- 5 Q. And I can refer you to the Pratico statement that's found in  
6 Vol...at page 50 of Volume 34, but that statement contains no  
7 reference to a threat of perjury by Donald C. MacNeil.
- 8 A. Fine, sir.
- 9 Q. Pratico. And you've indicated you held the opinion that  
10 Pratico was not reliable due to his mental condition.
- 11 A. That's right, sir.
- 12 Q. And you've testified Rosenblum, Moe Rosenblum...
- 13 A. Reliable as a witness in court.
- 14 Q. That's correct. You've testified that Rose...Moe Rosenblum  
15 advised you that Mr. Khattar told him that MacNeil and  
16 MacIntyre had taken Pratico into a room alone. That's the  
17 testimony you gave here earlier in the week.
- 18 A. Fine, sir.
- 19 Q. I can refer you to it.
- 20 A. No, no, that's fine, sir.
- 21 Q. So what I'm suggesting to you is that did you not feel it was  
22 good police practise considering that the unreliability of  
23 Pratico and that Rosenblum was giving you that information  
24 secondhand some eleven years after the fact, did you not feel  
25 that it was appropriate to perhaps confirm with Simon

1 Khattar or Judge Matheson as to what occurred on that date?

2 A. Yeah. I think if I had been given a mandate to investigate it  
3 back in '82 I would have done a number of things. One of  
4 them would have been to interview Simon Khattar, which I  
5 never did. I was in Halifax in '83 when I was writing these  
6 memorandums. Tom Bar...Staff Sergeant Barlow would be the  
7 one who would investigate at that time.

8 Q. I understand that but...

9 A. I was writing a memorandum based on what I knew at that  
10 time.

11 Q. I understand that, but you've still indicated that you knew  
12 that Mr. Gale would receive a copy of this report.

13 A. Yes, sir.

14 Q. And that he had earlier indicated to you that he was  
15 interested in any improprieties or possible improprieties in  
16 the prosecution by Donald C. MacNeil.

17 A. Yeah.

18 Q. And I'm just suggesting to you at that point you've still  
19 included this comment based on the unreliable witness  
20 Pratico.

21 A. Uh-hum.

22 Q. And second-hand information which you received from Moe  
23 Rosenblum.

24 A. Yeah.

25 Q. And I believe it's now been pointed out to you that Mr.

1 Khattar was present at the time of the meeting.

2 A. Yes, it has been pointed out to me, yes, sir.

3 Q. And he testified that there was no threat of perjury from  
4 either MacNeil or MacIntyre.

5 A. That's correct.

6 Q. And that Judge Matheson, as well, testified that he was there  
7 and Pratico was told by Mr. MacNeil he was to take the stand  
8 and tell the truth and not to worry about earlier testimony.

9 A. Fine.

10 Q. There was no suggestion of perjury or threat of perjury.

11 A. I would have been incorrect then, sir.

12 Q. In fact, Pratico has testified here himself and he stated that  
13 he was not threatened but told by Donald C. MacNeil to tell  
14 the truth.

15 A. Yes, sir.

16 Q. And you testified in your...earlier here that you had  
17 numerous discussions with Mr. Michael Harris and you've  
18 described those discussions that you had with him as being  
19 frank and open.

20 A. Yes, sir.

21 Q. And similarly you've testified about discussions you had with  
22 Miss Matheson and Mr. Pugsley, I believe, referred you to  
23 comments that were made during that interview about  
24 Donald C. MacNeil.

25 A. Miss Matheson or...

1 Q. Yes. In the testimony...now, I could be corrected on this, and  
2 I don't have it in front of me. But I understood that Mr.  
3 Pugsley put to you some comments that...in the discovery that  
4 he conducted of Miss Matheson that she had made mention of  
5 Donald C. MacNeil in discussions she had had with you at that  
6 interview that she conducted here in Halifax.

7 A. Could you refresh me with what they were? I don't...

8 Q. Well, I'm just wondering if in your frank and open discussions  
9 with either Michael Harris or with Heather Matheson whether  
10 you discussed Donald C. MacNeil's role as a prosecutor.

11 A. I don't recall with Heather Matheson so much. I may have,  
12 sir. I'm not saying I didn't. Michael Harris I did discuss  
13 Donald C. MacNeil and my discussions with him was along the  
14 lines that you just reviewed with myself, and with Murray  
15 Wood's comments. They would fall more in line of that type  
16 of viewpoint of Donald C. MacNeil as being a good, aggressive  
17 prosecutor and outgoing man.

18 Q. But you held the view at that time, or if not later, that Donald  
19 C. MacNeil, his actions weren't appropriate by taking Pratico  
20 into a room and threatened with perjury.

21 A. That's right. Based on what I had been told.

22 Q. Did you discuss that? Did you discuss that with Michael  
23 Harris?

24 A. I can't recall, sir.

25 Q. But you very well could have discussed it with him.

1 A. I could have. That would be consistent with my thoughts.

2 Q. And you could have discussed with him as well the fact that  
3 Maynard Chant had advised you or you believed that he had  
4 been threatened with a charge of perjury by Donald C.  
5 MacNeil?

6 A. Yes, sir.

7 Q. Did you, at any time, advise either of these parties of the  
8 media that you hadn't completely investigated these  
9 allegations against Donald C. MacNeil?

10 4:18 p.m. \*

11 A. I don't know about Miss Matheson. Like I say, I don't recall it  
12 as being a long interview. With Michael Harris? He certainly,  
13 I believe that I would have told him that I had not received a  
14 mandate to conduct an investigation, and I had not  
15 investigated Donald C. MacNeil.

16 Q. No, I understand that fully but you're writing reports about  
17 Donald C. MacNeil.

18 A. Yes, sir.

19 Q. And it's a small point but I think it's an important point, I'm  
20 just wondering whether you would have told those people in  
21 your discussions with them that you hadn't gone back and  
22 interviewed Moe Rosenblum...

23 A. Simon Khattar.

24 Q. Well, you never interviewed Simon Khattar.

25 A. No.

- 1 Q. And that you hadn't gone back and discussed it in more detail  
2 with Lou Matheson.
- 3 A. I believe I would have, yes, sir. I haven't an independent  
4 recollection but I believe I would have. That was the fact of  
5 the matter and...
- 6 Q. So you feel now you would have told them frankly that,  
7 "Look, I've made these allegations in these reports but I  
8 really haven't interviewed the parties that can substantiate  
9 them."
- 10 A. I can't say that I did or didn't, sir, at this juncture.
- 11 Q. But I'm going to suggest to you that bearing in mind that  
12 Donald C. MacNeil is deceased and couldn't answer any of  
13 these allegations that, if you were to make those comments  
14 without proper investigations, that it's most inappropriate.
- 15 A. That's right, and that's why I put that into my memorandum  
16 that Mr. MacNeil was no longer with us and couldn't answer  
17 to them.
- 18 Q. I'm suggesting to you that these allegations that you did  
19 contain in your reports have proved to be totally false.
- 20 A. It would appear, based on what you tell me and the evidence  
21 that's gone before this Commission that perjury was not  
22 mentioned by Chant or Pratico.
- 23 Q. That's right, and my suggestion to you, I guess, would be that  
24 they weren't properly investigated by you.
- 25 A. In what way, sir?

STAFF SGT. WHEATON, EXAM. BY MR. BARRETT

1 Q. Well, in the fact that you didn't go to Simon Khattar and say,  
2 "What happened? Were you in that room?"

3 A. No, I did not.

4 Q. Simon Khattar could have told you who was in that room.

5 A. No, I could have done that and I did not.

6 MR. BARRETT

7 Those will be all my questions.

8 MR. CHAIRMAN

9 Am I entitled to assume that you can conclude in five  
10 minutes, Mr. Saunders?

11 MR. SAUNDERS

12 No, My Lord, I can't give you that assurance at all.

13 MR. CHAIRMAN

14 In that case, we'll adjourn until 9:30 tomorrow.

15 4:22 p.m. INQUIRY ADJOURNED UNTIL JANUARY 27, 1988.

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REPORTER'S CERTIFICATE

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I, Margaret E. Graham Court Reporter, certify that the foregoing is a true and accurate transcript of all the evidence taken by way of recording and reduced to typewritten copy.



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Margaret E. Graham

DATED THIS 26th day of January , 1988, at Dartmouth,  
Nova Scotia