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MR. BRODERICK

No, no, My Lord.

VOICE

Mr. Boudreau, I believe.

MR. BOUDREAU

If everyone has passed, no questions, My Lord.

MR. BRODERICK

I understand the confusion, My Lord, I'm representing
Sergeant Carroll and not...

CHAIRMAN

All right. Fine. Mr. MacDonald?

MR. MacDONALD

No, no further questions.

WITNESS WITHDREW

3:06 p.m.

JAMES CARROLL, duly called and sworn, testified as follows:

EXAMINATION BY MR. MacDONALD

Q. Your name, sir, is James Carroll?

A. That's correct.

Q. And you're a member of the RCMP?

A. Yes.

Q. Present time your rank is sergeant, is it?

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A. That's correct.

Q. And your present posting?

A. Sydney detachment, Sydney, Cape Breton, Nova Scotia.

Q. And you're in charge of that detachment?

A. No, I'm second in charge.

Q. Just briefly if you would for us, Sergeant, tell us what your career has been in the Force.

A. I joined the Royal Canadian Mounted Police 26 years ago, on the 26th of this month actually, here in Halifax. I was posted to Ottawa for training. My first posting was Fredericton, New Brunswick and after a short time I was transferred to Minto, New Brunswick for four and a half years. Returned to Fredericton for four years and then on to Newcastle, New Brunswick for three years and back to Fredericton for three more years and I came to Sydney in 1975, pardon me, '79.

Q. And have been there since?

A. Yes. Oh, one further posting to Baddeck since that time and I returned to Sydney on the 1st of April of this year, of...

Q. And you're in the detachment as opposed to the GIS Division?

A. That was the 1st of April of '87.

Q. You're in Detachment as opposed to...

A. Yes, I am.

Q. GIS?

1 A. Yes, I am.

2 Q. You took your training in Ottawa?

3 A. That's correct.

4 Q. What was your training or, with respect to keeping notebooks
5 and notes of what you do?

6 A. That was part of our initial training to record important
7 details in your notebook on a daily basis or as soon as
8 practical.

9 Q. And to retain those notebooks?

10 A. Yes.

11 Q. Have you followed that practice?

12 A. I have. I lost many of my notebooks in 1972 in a home fire
13 which destroyed all my belongings but since that time I have
14 retained everything.

15 Q. You have produced to us, Sergeant Carroll, copies of your
16 notebook and it's Exhibit 104. You have the original
17 document with you, I believe?

18 A. Yes, I have.

19 Q. I'll just have the registrar show you Exhibit 104 and you can
20 just confirm that that is a copy of notes taken from your
21 notebook, is that correct?

22 A. Yes, it is.

23 Q. You may be more comfortable referring to your original one.

24 A. Yes.

25 Q. Just some more general questions, if I can. What is

1 your...what practice do you follow in taking statements from
2 individuals in an investigation?

3 A. It depends on a lot of circumstances, mainly how much time
4 you have to prepare for that interview. You may have
5 someone that you has, that you have no time to do any
6 background on at all and you're faced with a different set of
7 circumstances. The ideal situation is to be able to do some
8 background and to know the person you're dealing with.
9 Certainly it's an advantage to be able to do that.

10 Q. With respect to the actual interview, is it your practice to take
11 down verbatim everything that is said?

12 A. Yes, after the narrative, after the initial interview of the
13 person.

14 Q. What does the initial interview consist of?

15 A. Well, again you'd have to break that down into a witness or
16 suspect. If it was a suspect, I would keep very careful notes
17 of the first words said, the circumstances surrounding the
18 interview, where it took place, times, witnesses present.

19 Q. And if it's a witness, what difference is it?

20 A. If it was a witness, I would probably spend considerable time
21 finding out what he actually knew before I would reduce it to
22 writing.

23 Q. You've been present during the evidence given by Staff
24 Sergeant Wheaton?

25 A. Yes, I have.

1 Q. And you've heard his explanation of his practice? I
2 understood, to sit down with the witness, to have a discussion
3 and then say "We're now going to start the statement and
4 take everything down."

5 A. Yes, I heard that.

6 Q. Is that consistent with your experience with him?

7 A. Yes, at times when I was with him when we did interviews, I
8 sometimes took notes, depending on the circumstances. There
9 were many interviews where I was not present.

10 Q. During the time you were, was that the practice followed?

11 A. Yes.

12 Q. Discussion and then "Let's go with the statement"?

13 A. Yes, that's correct.

14 Q. Did you ever have the experience before in investigating the
15 work carried out by another police force?

16 A. Never. No, I'm sorry. On one occasion in New Brunswick. It
17 was a murder case and instead of investigating the
18 department we were assisting them. It happened as a
19 murder in their own cell-block area.

20 Q. But to be called in after the event to look at what was done.
21 Have you ever had to do that before?

22 A. No.

23 Q. Have you had any discussions in the past, and since this
24 Commission was constituted, with Sergeant Wheaton?

25 A. Yes, many.

1 Q. And have you discussed the events of what you did in 1982
2 with him?

3 A. Yes.

4 Q. And you say "many", Sergeant, can you give me a better feel
5 for that?

6 A. Well, before you said concerning this Inquiry, we've had
7 many discussions since '82 and we've had many discussions
8 recently on many different topics, but, yes, we have discussed
9 this case at length.

10 Q. And when is the most recent time you've done that with him?

11 A. I would believe Sunday before he gave his evidence, the first
12 Sunday that we came here.

13 Q. And did you discuss it at length at that time?

14 A. No, no, it was very brief because his wife was with him and it
15 was very...was a very short conversation in my hotel room in
16 this building with my solicitor, Mr. Broderick, and
17 Mr. Wheaton, Staff Wheaton, very brief.

18 Q. When did you discuss it with him at length?

19 A. When?

20 Q. Yes.

21 A. In the last year, various times.

22 Q. And what sort of topics would you be discussing with him?
23 What was the nature of your discussion?

24 A. Basically the interviews that we conducted together and
25 evidence that was done mutually.

1 Q. Was it for the purpose of refreshing your memory or getting
2 your stories together or what was it?

3 A. It was refreshing memory plus the fact it was a...a most
4 unusual case.

5 Q. When did you first have contact with this case, and refer to
6 your diary if you like to assist you if you need to.

7 A. On the 4th day of February, 1982.

8 Q. Do you recall what you were being asked to do?

9 A. Yes. I met with Staff Sergeant Wheaton in our office in
10 Sydney. I was working in plainclothes at that time and so
11 was he. I was advised by him that we were going to review
12 the transcript of evidence from the Marshall case and we did
13 that. That was the first effort.

14 Q. Reviewed the transcript of evidence.

15 A. Transcript of the trial.

16 Q. Of the trial. So, that...you had that, did you?

17 A. That was the first thing that I recall we did was to review the
18 court proceedings and I suppose that would also include the
19 preliminary hearing.

20 Q. Do you have any recollection today, Sergeant, of what you
21 actually did look at?

22 A. I recall reading the transcript of the evidence at great length,
23 yes.

24 Q. Would that be trial and...

25 A. I think it would probably start out with the preliminary

1 hearing and then go into a trial and also the appeal process if
2 that was made available to us, and I think it was.

3 Q. What would be made available for the appeal process, other
4 than perhaps the decision?

5 A. The decision mainly I guess.

6 Q. In your note which is in Exhibit 104... By the way have you
7 ever made available copies of these notes to Sergeant
8 Wheaton?

9 A. Sergeant Wheaton. In Sydney on one occasion, I think it was
10 the first week or the week of Chief MacIntyre's evidence. He
11 examined this book and made some notations from it.

12 Q. You mean in December of 1987 and Chief MacIntyre's
13 evidence before this Commission?

14 A. Yes, the last week in Sydney.

15 Q. Yes. And at that time Staff Sergeant Wheaton took your
16 diary...

17 A. No, no...he...we went into the back room and we checked the
18 various dates. He made notations from my book. That's all.

19 Q. But you kept it in your...

20 A. Yes.

21 Q. He didn't take it away with him.

22 A. No.

23 Q. How long would that have taken him? How long were you
24 meeting there to do that?

25 A. Ten minutes.

1 Q. I see. Okay. Your note for February the 4th in Exhibit 104,
2 there are notes throughout your diary that you've made
3 available to us that refer to cases other than the Marshall
4 case, isn't that correct?

5 A. Yes, many, many different cases.

6 Q. So, I'll have to rely on you somewhat to tell us what is what.
7 But it seems to start out February the 4th "9 to 5".

8 A. That's my daily shift, yes.

9 Q. And your first entry is, "Office, Seale murder file, review with
10 Staff Sergeant Wheaton."

11 A. That's correct.

12 Q. Do I take it that would have been the first thing you would
13 have done that day?

14 A. Yes. But it wasn't...

15 Q. "Seale murder file", would there have been a file in the RCMP
16 detachment at that time?

17 A. Not as such, no. A transcript is what I'm referring to there.

18 Q. The same reference is made later on that day, "Review
19 Marshall file". What you're talking about is the transcript of
20 evidence.

21 A. Yes, one in the same.

22 Q. Did you have a discussion with Staff Sergeant Wheaton before
23 you started reading the transcript?

24 A. I don't recall the content but I'm sure we did, yes.

25 Q. You wouldn't just start reading it for...

1 A. This would have been following...this would have been
2 following the meeting between Inspector Scott, Staff Wheaton
3 and I believe Chief MacIntyre.

4 Q. And were you told what you were expected to do?

5 A. I believe that...I believe that was the previous day.

6 Q. Yes. Were you told what was being expected of you?

7 A. Not in so many words other than to review the thing and see
8 if everything looked proper and...

9 Q. To review the transcript and see if everything was proper.

10 A. Well, the general procedure that was carried out and the
11 evidence that was given.

12 Q. Were you given anything other than the transcript that you
13 can recall?

14 A. The statements came indirectly but at what stage I can't say.

15 Q. Came indirectly.

16 A. The statements came to us in due course.

17 Q. My understanding of the evidence of Staff Sergeant Wheaton
18 is that he was given statements by Scott. Scott was given
19 statements the day before and everything was passed along
20 to Wheaton. Your recollection is it was a transcript only.

21 A. No, I'm not saying that. I'm saying the transcript sticks out in
22 my mind more so than any other attachments.

23 Q. Okay. The notes for February the 5th in your notebook, again
24 "9 to 5" and then there's a number "308" that goes throughout
25 your notes. What does that mean?

1 A. 308 is the number of the police car that I often drove and I
2 found it necessary and valuable to record that information
3 because of...for various reasons. If I had the car that day then
4 I wanted to have a record of it, so that's the police car I drove
5 on those particular days.

6 Q. Was there any file in the RCMP office in Sydney that you
7 recall dealing with either Donald Marshall or Roy Ebsary
8 when you took on this assignment?

9 A. No. I'm not aware of any.

10 Q. Were you at that time with the detachment or were you with
11 the GIS section?

12 A. The GIS.

13 Q. And would you have reviewed the files at GIS to see if there
14 were such documents?

15 A. Not myself, no.

16 Q. Tell me again what you understood the assignment was?

17 A. To review the transcript of the evidence and the statements
18 as they became available to us, basically to just see what the
19 evidence was against Marshall in 1971.

20 Q. Were you aware of the letter from Steve Aronson?

21 A. Yes.

22 Q. And that the suggestion was being made that Roy Ebsary had,
23 in fact, committed this murder.

24 A. I was aware of Aronson's letter. I'm not sure of what the
25 contents are now.

1 Q. Look at Volume 34. I think that's on the desk there with you.
2 I think it's in here. Yes, it's on page 22.

3 A. Yes, I can recall seeing that before.

4 Q. And would you have seen that at the time you were drawn
5 into this investigation?

6 A. I feel quite likely I did.

7 Q. Did you have any discussions...or who was giving you your
8 instructions?

9 A. Staff Wheaton.

10 Q. Did you have any discussion with Inspector Scott?

11 A. On the first day, no. I can't recall any discussion with
12 Inspector Scott in the first instance at all.

13 Q. How long did it take you to review the documentation that
14 was given to you?

15 A. As my notebook indicates other things were going on and
16 other investigations by myself from the 4th, I spent part of
17 that day with Staff Wheaton reviewing the file or I mean
18 transcript. I also worked on another case that day which was
19 a fraud. And, on the following day I was working on the
20 same fraud. The next two days were the weekend "RTO" is
21 regular time off as indicated on the...in the notes. On the 8th
22 of February I was still working on another case, a missing girl
23 in Moncton which was believed to be a murder victim. It
24 wasn't until the 9th that I got back on the Marshall inquiry
25 with Staff Wheaton when we departed for Pictou to interview

1 Mitchell Bayne Sarson.

2 Q. Did Staff Wheaton tell you about the discussion he had with
3 Chief MacIntyre?

4 A. In what regard, sir?

5 Q. Did he tell you that he had met with Chief MacIntyre?

6 A. I was aware that there was a meeting between Inspector
7 Scott and Chief MacIntyre and Staff Wheaton. I believe that
8 to be the date...the date prior to our first review of the file
9 which would be on the 3rd of February.

10 Q. Were you told by Wheaton anything that had taken place
11 during that meeting?

12 A. Generally that there was going to be a handing over of the file
13 to our office.

14 Q. That there was going to be a handing over. Did you
15 understand that documents had been, in fact, handed over?

16 A. Some, yes.

17 Q. Did you understand then that there was still more documents
18 to come?

19 A. I believe so, yes.

20 Q. And when did you believe they were coming?

21 A. In the near future. I couldn't really say exactly when.

22 Q. Were you...why did you understand only part of the
23 documents were handed over?

24 A. At this date I can't say, but in the beginning I felt sure there
25 were more, there was more material to come to us.

1 Q. Now, you had the...you were under the distinct impression
2 that other documents would be coming.

3 A. That's correct, yes.

4 Q. Now, the procedure to be followed, would you have created
5 a...some sort of a central file at this time to deal with this case
6 in your GIS section?

7 A. This would have caused the file to be created at our office, a
8 file folder and given a number and a caption and a
9 subsequent report to Halifax through our channels, through
10 Inspector Scott's office.

11 Q. And what would be kept in the file?

12 A. Basically a copy of everything we had. We'd have the
13 transcript, statements.

14 Q. Would there be a listing of all the documents in the file?

15 A. Not necessarily, no.

16 Q. Would that be normally done?

17 A. Not really. When the first report would be drafted for
18 Halifax, those statements would be attached, those that were
19 pertinent, others that were immaterial would not be sent
20 forward.

21 Q. This file that's created, as you go out then and gather more
22 information it's put in that central file, is it?

23 A. Yes.

24 Q. Similarly any other member of the force that gets information
25 would go in that central file?

1 A. The same file?

2 Q. Yeah.

3 A. Not really. The main investigator would be made aware of it
4 and if it was information or statements of any value, certainly
5 they would go in the file.

6 Q. If you went out and interviewed somebody on this case,
7 Wheaton isn't with you, would the original statement you
8 take go into the file?

9 A. Yes.

10 Q. And if Staff Wheaton is interviewing someone, the same
11 procedure?

12 A. Yes.

13 Q. Would you review that file from time to time?

14 A. Yes, I would, but he was the senior man and he was the
15 author of the reports that were going to Halifax from our
16 office so I'm sure I was kept up on the file as it proceeded
17 although I was doing other investigations at the same time.

18 Q. Did you meet from time to time with Wheaton to discuss what
19 was happening on this case?

20 A. Almost on a daily basis, we shared the same office floor and
21 his office was only about ten feet from mine, so it would be
22 almost a daily discussion.

23 Q. Was there a discussion with Wheaton early on as to the
24 procedure you were going to follow, what you were going to
25 do?

1 A. Yes, our main plan was to review the evidence as per the
2 transcript and then we would start to interview some
3 witnesses.

4 Q. With what aim in mind? What were you trying to do?

5 A. I believe we were trying to determine whether any improper
6 procedures or anything improper, period, came to the surface
7 as a result of interviewing the witnesses and...

8 Q. Was it the intention from the beginning then to interview
9 witnesses?

10 A. No, that was just a...I guess, we assumed that would be the
11 second part of the...the second stage of the investigation.

12 Q. I don't understand what you would expect to get from
13 reading the transcript other than to perhaps become familiar
14 with the evidence.

15 A. That's correct. I had no knowledge of the case whatsoever at
16 that time and I don't believe Staff Wheaton did either, so we
17 wanted to know what the evidence was in 1971 that convicted
18 Marshall, so we read that.

19 Q. And having read the evidence, were you surprised that he
20 was convicted?

21 A. Not really.

22 Q. There was two witnesses who said they had seen Marshall
23 stab Seale?

24 A. That's correct.

25 Q. So there was no surprise that a jury convicted?

1 A. No, and as mentioned earlier by Staff Wheaton, Marshall's, for
2 lack of a better term, "performance" on the witness stand,
3 being very low spoken and being constantly reminded by the
4 trial judge to remove his hand from his mouth and speak up
5 and he seemed...on paper, he seemed to be a very poor
6 witness on his own behalf.

7 Q. Having read the evidence then, not being surprised by the
8 verdict, what were you planning to do then?

9 A. Interview some witnesses.

10 Q. What witnesses in particular were you planning to interview?

11 A. Well, the first one that we decided on was Sarson in Pictou.
12 And Chant was, I believe, the second one. Hariss came into
13 the picture after that and then Pratico.

14 Q. That was the game plan, if you will, "We'll see Sarson..." and
15 then these eyewitnesses?

16 A. Yes.

17 Q. Turn to Document 34, please, on Page 5. That's a form, I take
18 it, Document...what is that? It's an occurrence report.

19 A. This would be the first page, normally, of any occurrence that
20 is reported to our office. The form has changed a little bit
21 since 1982 but it 's basically the same layout as the present
22 one we use. It shows the complainant or the person who was
23 making a call to our office complaining about some offence.
24 In this case it's the officer commanding the Sydney
25 Subdivision and it actually is the first document open in this

1 file in which he mentions having attended a meeting with
2 Chief MacIntyre and the Crown Prosecutor Frank Edwards
3 and the letter from Aronson being discussed at that point.

4 Q. Is that...

5 A. That's dated on the 3rd of February, 1982.

6 Q. Is that document prepared on the date that would be shown
7 on the left-hand column?

8 A. Normally it is, yes.

9 Q. What is it done, on a daily basis, Sergeant, do you dictate to a
10 secretary or someone saying "This is what's happened"?

11 A. These are often written in longhand, sometimes even printed.
12 The date that's shown there is supposed to indicate the date
13 the call came in and the time, as a matter of fact. Of course,
14 the person's name, address, phone number.

15 Q. Does it tell us, can we take from anything on here when the
16 document was actually prepared? Would it have been
17 prepared...I take it Staff Sergeant Wheaton prepared this, did
18 he? That's his initials down at the bottom?

19 A. Yes, he may have typed it himself or he might have given it
20 in longhand to the secretary to prepare.

21 Q. And would it have been prepared on or about the 3rd of
22 February?

23 A. I would say so.

24 Q. And would it be kept in this central file we've talked about?

25 A. Yes, it would actually be page 1 probably.

1 Q So it would be available to you to read?

2 A Yes.

3 Q And had you in fact read this document?

4 A Well, having read the file many times, I'm sure I did, yes.

5 Q Everything that's recorded under the date February 3, can I
6 assume that that's information that was available at least in
7 the Central file on or about the 3rd of February?

8 A I believe so.

9 Q There's a reference on Page 2 of that report which is Page 6 of
10 Volume 34, about halfway down, it starts "On reviewing this
11 file, it was found that on the night of 28, 29 May, 1971, Roy
12 Ebsary was in Wentworth Park." Do you see that?

13 A Yes, I do.

14 Q
15 Roy Ebsary was in Wentworth Park
16 accompanied by one James MacNeil.
17 MacNeil and Ebsary were apparently
18 approached by Seale and Marshall and an
19 attempt was made to rob them.

20 You wouldn't get that out of the transcript of the trial?

21 A No.

22 Q You can only get that out of statements of some kind?

23 A Possibly Aronson's letter, is that not...

24 Q Well, that was on Page 22.

25 A The matter of Ebsary telling Mr. Sarson in Pictou that he had
in fact stabbed Seale and Marshall is mentioned in Aronson's
letter.

1 Q. There's no reference in that letter, Sergeant, to any attempt
2 by Seale and Marshall to rob someone and I don't believe
3 there's any reference to James MacNeil in that letter from
4 Sarson. I suggest that information can only come from the
5 statements of James MacNeil and Ebsary that were taken in
6 November of '71.

7 A. Yes, quite likely.

8 Q. You must have had that information?

9 A. I daresay, yes.

10 Q. And then down at the bottom of that Page 6, it says

11 The original investigation was conducted
12 into these new facts by Chief MacIntyre
13 and he requested the assistance of this
14 force to further look into the matter. To
15 this end, Subinspector E.A. Marshall and
16 polygraph operator E.C. Smith conducted
17 interviews of both MacNeil and Ebsary.
18 The results of this interview was that
19 Ebsary came out as truthful and not
20 involved in the murder and MacNeil came
21 out as uncertain due to his low mental
22 capabilities.

23 I take it from that that you must have had available to you
24 the report of Inspector Marshall that was done in 1971 and
25 that you had that available on February 3, 1982.

26 A. Well, either the report was present or the contents made
27 known to us.

28 Q. Did you know of Roy Ebsary?

29 A. No.

1 Q. At that time?

2 A. No, definitely not.

3 Q. Do you recall being told in early February, '82 that Ebsary
4 was a very violent individual, capable of stabbing a person?
5 That's in that report on Page 7, about halfway through the
6 page.

7 A. I think that that's also linked with the case before the courts
8 where Ebsary was charged with a stabbing incident in the city
9 of Sydney at that time. So those facts were being reported
10 daily by the local news media.

11 Q. You see the reference though, I'm sorry, it says that "Ebsary's
12 wife, Mrs. Mary Ebsary, was interviewed." Have you got
13 that?

14 A. Yes, I have.

15 Q. Were you advised by Staff Wheaton that he interviewed
16 Mary Ebsary in early February?

17 A. Yes, I would have knowledge of that.

18 Q. And what were you advised about that?

19 A. Oh, just basically what he states there, that she considered
20 her former common-law husband to be of a violent nature.

21 Q. There was no statement taken from her though, certainly not
22 at this time?

23 A. Not in my presence, no.

24 Q. Did you interview Mrs. Ebsary at any time?

25 A. Yes.

1 Q. That's later...

2 A. I don't know whether I'd confuse that with interview or just a
3 statement or interview or just a casual meeting. There had
4 been several over the years.

5 Q. Did you have occasion in 1982 in the early part of the year to
6 meet with Mrs. Ebsary just to discuss matters but not to take
7 statements from her?

8 A. It's possible. I don't recall any particular meeting, but I
9 know the Ebsarys quite well since this case has happened.

10 Q. Did you used to join her for tea?

11 A. No.

12 Q. Your first note is that you went to Pictou on the 9th of
13 February, is that correct?

14 A. That's correct, yes.

15 Q. Tell me what you recall about them.

16 A. The meeting took place at the RCMP detachment in Pictou.
17 Staff Wheaton and myself, Mitchell Bayne Sarson came to the
18 office. I don't know by what means, possibly he walked, I'm
19 not sure. The interview started at 2:22 p.m. in the afternoon
20 and most of the conversation was between Staff Wheaton and
21 Mr. Sarson. A statement was taken in Staff Wheaton's
22 handwriting. It was completed and signed at 3:23 p.m. At
23 that time he agreed to a polygraph test, if it was felt
24 necessary in the future. And my notes indicate that he made
25 a motion to his left thigh regarding a knife and a right wrist

1 regarding a knife wound to Marshall as described to him by
2 Ebsary when he was living with the Ebsarys in Sydney. He
3 was uncertain which arm had been described by Ebsary as
4 being wounded as relating to Marshall. The statement was
5 read to Sarson at 3:23 and we departed for Sydney.

6 Q. What does that mean that "he made motion to his left thigh"?

7 A. He was describing, trying to describe what Ebsary told him in
8 this interview on one particular date in Sydney, making a
9 motion to his thigh and speaking about a knife at the time.
10 He also made mention of a knife wound to the arm. He didn't
11 know which arm it was. This was relating to Ebsary's
12 comments to him concerning a meeting in the park on one
13 night where he defended himself.

14 Q. A motion to the thigh, to the thigh? Heading toward the
15 thigh?

16 A. The way my notes indicate, he made motion to his left thigh.
17 In my presence, he made a motion with his hand toward his
18 left thigh.

19 Q. To get a knife?

20 A. I would say so.

21 Q. What was your impression of Sarson?

22 A. He related to us some problems he had with the law
23 concerning drug involvement and I wasn't impressed that he
24 would make a strong witness.

25 Q. Do you think he was believable?

1 A. Yes, I put considerable stock in his comments.

2 Q. That he had been told this by Ebsary?

3 A. Yes.

4 Q. He indicated agreement or willingness to undergo a polygraph
5 test?

6 A. That's right.

7 Q. Was any consideration given to having such a test
8 administered?

9 A. I don't believe so. As the investigation proceeded, I think
10 that we cast that by the wayside.

11 Q. You only saw Sarson once, isn't that correct?

12 A. Yes, I believe so.

13 Q. Prior to going to Pictou, Staff Wheaton had interviewed James
14 MacNeil. Were you aware of that?

15 A. I believe so, yes.

16 Q. If you look at Page 42 of that Volume 34, had you seen that
17 statement before you went to Pictou?

18 A. I would say yes, I probably did.

19 Q. And you were aware at this time that MacNeil was of limited
20 mental capability, to quote from at least low mental
21 capability?

22 A. I knew he had some problems.

23 Q. Did you know him?

24 A. No.

25 Q. Was it ever suggested that maybe a further polygraph should

SGT. CARROLL, EXAM. BY MR. MacDONALD

1 be conducted of Mr. MacNeil?

2 A. I can't recall that being discussed.

3 MR. MacDONALD

4 My Lord, did you indicate you wanted to leave at 3:45?

5 MR. CHAIRMAN

6 4:00 o'clock.

7 MR. MacDONALD

8 Oh, you're going to four o'clock, thank you.

9 3:44 p.m. *

10 Q. When you left Pictou then on the 9th of February or the 10th,
11 whatever it was, what was your opinion then?

12 A. Well, we certainly were more enthused about interviewing
13 further witnesses, trial witnesses.

14 Q. You then thought that there was...there may be some truth in
15 what is being said here.

16 A. Exactly.

17 Q. Even though a polygraph examination had been conducted of
18 Ebsary by the RCMP in 1971 and he had passed.

19 A. Yes.

20 Q. Did you have any experience yourself with the use of the
21 polygraphs?

22 A. Yes, I have.

23 Q. Would you consider them to be a useful tool?

24 A. Yes, when used properly and with a good operator, somebody
25 who puts some effort into the facts surrounding the case, the

1 background and I've had some good experiences with them,
2 some which I was possibly a little dubious about the results
3 or I thought there might have been room for error, but I took
4 the decision of the operator as being the final line.

5 Q. Okay. Did you ever use it as an exclusive tool?

6 A. Yes.

7 Q. That it's the only thing you used.

8 A. Sorry.

9 Q. Exclusively. It's the...you rely on it to the exclusion of
10 everything else, do nothing else.

11 A. If I...perhaps I'm misunderstanding you, but I have used it
12 where a suspect was eliminated if that's what you're getting
13 at. I've also had people confess to the crime following their
14 failure to pass the test on several occasions.

15 Q. Okay. Let me take you now to your notes on February the
16 11th, I think it's the 11th. You'll note that there's an
17 interview with Aronson.

18 A. Yes.

19 Q. Why would you be meeting with Mr. Aronson?

20 A. That was the first meeting with Aronson that I can recall, as I
21 remember he came to the office and met with us briefly, "us"
22 being Staff Wheaton and myself.

23 Q. For what purpose? Why would you meet with him?

24 A. We had already conducted this interview with Sarson in
25 Pictou. I don't recall the contents of the meeting, but I feel

1 certain we would have likely updated him as to our interview
2 with Sarson and our impressions of him.

3 Q. Is that normal practise, Sergeant, to reveal that type of
4 information to...

5 A. I think under the circumstances it was proper.

6 Q. Okay. So, you would have had no hesitation to keep Mr.
7 Aronson updated on what was going on?

8 A. Within reason, yes.

9 Q. What's that mean, "within reason"?

10 A. Well, I don't really know anything that we would keep from
11 him as the investigation proceeded since he was representing
12 Marshall and things were starting to indicate that Marshall
13 may have been wrongly imprisoned.

14 Q. So, your understanding is that he would be entitled to be kept
15 aware of what was happening, what evidence was being
16 ascertained?

17 A. Yes, I don't know of anything that we would have held back
18 from him at that stage.

19 Q. Would you follow the same practise with other people
20 involved, or potentially involved in this investigation, for
21 example, Chief MacIntyre?

22 A. No, I wouldn't say so. I would...first of all, I was the junior
23 man on the two-man team. What Staff Wheaton would have
24 chosen to give to Inspector Scott to be relayed back to Chief
25 MacIntyre was beyond my control and sometimes without my

1 knowledge possibly.

2 Q. It's also noted on that day that there was a "patrol to
3 Louisbourg to interview Chant, accompanied Staff Sergeant
4 Wheaton". That's on the 11th.

5 A. Yes.

6 Q. Do you recall that patrol?

7 A. I recall the first meeting of Maynard Chant with Staff
8 Wheaton at the fish plant where he was employed, and he
9 was on an assembly line, he was a cutter, I guess you would
10 call him.

11 Q. What time of day would that be?

12 A. It was mid-afternoon and he would...as I say he was on
13 assembly line, the fish were coming out of the ship and
14 coming on his belt and he had to make certain slashes with
15 his knife and pass it on to someone else and we got him off
16 the line for just a couple of minutes and the foreman...it was
17 obvious that we were holding up the procedure so we agreed
18 to meet him at his home that evening.

19 Q. That evening.

20 A. I'm quite sure that was the case.

21 Q. And is it your recollection that you met him the same evening
22 that you had seen him in the afternoon on the line?

23 A. I believe so. The statement that was taken that evening in
24 Staff Wheaton's handwriting should show the same date. I
25 believe it will. I haven't seen it for some time.

1 Q. Well, if you go to your own notes on the 15th, 16th, I'm sorry.
2 You see at that day "12:30 to 8:30" and that is a day that you
3 are patrolling to Louisbourg to interview Chant.

4 A. Yes. Okay. I'm not saying that we did take the statement on
5 the 11th. The statement should speak for itself. The only
6 thing I could offer on the 11th it's possible we may have gone
7 out there to make some preliminary inquiries to find out
8 where he worked and where he lived and that sort of thing. I
9 recall we worked in the evening of the night that we took the
10 statement at his home and that would be on the 16th. I have
11 an entry I worked from 12:30 noontime until 8:30 p.m. that
12 night and we did go to Louisbourg to interview Chant.

13 Q. Do you have Volume 17 up there in the group?

14 A. Yes, I have.

15 Q. Page 1 of that document, Sergeant. These are...these have
16 been identified as typewritten copies of notes prepared by
17 Frank Edwards. On your diary for the 16th it does say, I
18 think, "Crown prosecutor re Marshall", do you see that note?

19 A. Yes.

20 Q. Do I take it from that you did, indeed, meet with Mr. Edwards
21 on that day?

22 A. I have the time 3:10 p.m. noted there, I would say that it's
23 either a phone call or a visit to his office, it's one or the other.

24 Q. But if you look at Mr. Edwards' typewritten copies, he's just
25 saying that he met at his office with you, February 16th,

1 1982, you and Harry Wheaton.

2 A. Yes.

3 Q. "Were advised the following: Mitchell Bayne Sarson not
4 impressed by him. Drug trafficker and friend of Marshall."
5 Would that be an accurate reflection of what you would have
6 told Edwards at that time?

7 A. I would daresay, yes.

8 Q. Do I take it from what you said earlier that you were
9 believing what Sarson told you in Pictou but you still have, I
10 take it from this, some reservations about him, you're not
11 impressed by him.

12 A. Well, again, these are Frank Edwards' notes, not my own. His
13 interpretation of what Wheaton and I told him. I was not
14 impressed by Sarson's drug involvement, however, I did put
15 some considerable belief in what he was saying about Ebsary.

16 Q. You also indicate there...it's indicated that "Ebsary's wife had
17 been interviewed, that you learned that Pratico had severe
18 psychological problems. " I think the record would show
19 Pratico had not been interviewed as yet. How would you
20 have learned that he had severe psychological problems?

21 A. If it was not in the transcript, it obviously came from the
22 Cape Breton Hospital records.

23 Q. Would you have had access to those records?

24 A. At some time through the investigation, yes.

25 Q. Okay.

SGT. CARROLL, EXAM. BY MR. MacDONALD

- 1 A. The fact that he had been a patient there and the nature of
2 his...I'm not sure when Pratico became a patient there, but I
3 would say Staff Wheaton had made those inquiries.
- 4 Q Did you know Pratico?
- 5 A. No, sir.
- 6 Q And then it says finally you're going to interview Chant that
7 evening. And that, indeed, is what happened, isn't it?
- 8 A. I believe so, yes. The earlier trip was no doubt to try and
9 pinpoint where he worked and where he lives.
- 10 Q That interview with Chant, the typewritten copy of it is
11 contained on page 47 of Volume 34, Sergeant. Do you
12 remember that...
- 13 A. I'm sorry, I have Volume 17. What was that volume...
- 14 Q 34, page 47. Do you remember that meeting?
- 15 A. Yes, I do, very well.
- 16 Q You don't need any notes to...you at least recall some of that
17 do you?
- 18 A. Yes, it was quite a surprise to hear his opening comments.
- 19 Q What was his opening comment to you?
- 20 A. He said he was "Glad to see us" and that he had been holding
21 a burden in his heart or his mind for some time and he was
22 glad to have this opportunity to get it off his...of his mind.
- 23 Q Who was present?
- 24 A. Staff Wheaton, myself, Chant, his father and mother from
25 time to time, and I believe his wife with a new...I think a

1 small child.

2 Q. Where was the meeting held?

3 A. Held in the front room of their...what I would call a living
4 room, front room of their home, small country home, which is
5 also an undertaking parlour in the community of Louisbourg.

6 Q. That's the father's home then.

7 A. Yes. As described by Staff Wheaton, I believe, yesterday,
8 there was a wake going on in an adjoining room, not in sight,
9 but you could hear voices very clearly. It was very poor
10 surroundings for the taking of a statement of that nature.

11 Q. Was Chant's mother present all the time?

12 A. I don't believe so. I think people were coming and going and
13 sometimes they'd come to the back door by mistake and
14 they'd have to be led in through the hallway to the other
15 room where the wake was in progress.

16 Q. What investigation of Chant did you do before you went out
17 to take this statement?

18 A. I'm not aware of any by myself.

19 Q. Do you know if Wheaton took any?

20 A. I feel he probably did, but I don't know that.

21 Q. Did you review or had you reviewed by this time the
22 statements that Chant had given to the Sydney Police in
23 1971?

24 A. Either the statements, if he had given them...given them at
25 that time we would have reviewed them. We certainly would

SGT. CARROLL, EXAM. BY MR. MacDONALD

1 have been aware of his evidence at the trial.

2 Q. So, did he start out that night by saying "I'm so glad to see
3 you I've got something to tell you."?

4 A. Yes, almost in those words. He mentioned he was a born-
5 again Christian and that he had mentioned this to his pastor,
6 he referred to him as his pastor, some time ago and I believe
7 approximately two years prior to this conversation on this
8 night. I think he also mentioned he had discussed it with his
9 mother. I believe the conversation went as I have just
10 quoted, that he was glad that we were there. We fully
11 expected that he was going to say that the evidence he gave
12 in 1971 at the trial was still the same and he had nothing to
13 change or nothing more to say, but that wasn't the case.

14 Q. Was the practise followed, that we've already described, there
15 was a discussion with him, a narrative, and then the taking of
16 a statement?

17 A. It was, but it was extremely brief. For instance, it would be
18 something along the line, "Mr. Chant or Maynard, we're here
19 tonight to discuss with you an old case in 1971 the Marshall
20 murder trial and to see what you might have to say about
21 that." And that's as far as we got, he came out with this
22 outburst of details.

23 MR. CHAIRMAN

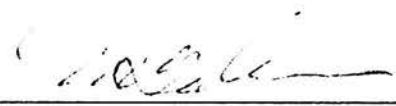
24 This would be an appropriate time to adjourn.

25 INQUIRY ADJOURNED - 3:58 p.m. TO FEB. 1, 1988

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.



Margaret E. Graham

DATED THIS 28th day of January , 1988, at Dartmouth,
Nova Scotia