

1 MR. MURRAY

2 I have no further questions, My Lord.

3 COMMISSIONER EVANS

4 That involved a guilty plea to first degree of murder?

5 MR. MURRAY

6 It was, My Lord.

7 12:35 p.m. COMMISSION RECESSED UNTIL 2:00 p.m.

8 INQUIRY RESUMES - 2:05 p.m.

9 MR. CHAIRMAN

10 Mr. Barrett.

11 EXAMINATION BY MR. BARRETT

12 Q. Yes, Sergeant Carroll, my name is David Barrett and I  
13 represent the Estate of Donald C. MacNeil. You've testified  
14 you were transferred to Sydney in 1979.

15 A. Yes, sir.

16 Q. And that since Donald C. MacNeil had died in '78 you've  
17 indicated you had no direct involvement with him.

18 A. None.

19 Q. Sergeant Carroll you've testified that you and Staff Wheaton  
20 were the principal investigators reinvestigating this case.

21 A. Yes, sir.

22 Q. And you took direction from Staff Wheaton?

23 A. Yes, sir.

24 Q. And I presume since you've conducted many interviews on  
25 your own you would consult with Wheaton frequently.

SGT. CARROLL, EXAM. BY MR. BARRETT

1 A. Yes.

2 Q. And did Staff Wheaton consult with you for input prior to his  
3 submitting reports?

4 A. Occasionally.

5 Q. And did you feel free to make recommendations or  
6 suggestions, particularly pertaining to information you had  
7 gathered from your own interviews with witnesses?

8 A. Yes.

9 Q. And you've testified you were present with Staff Wheaton  
10 when a statement was obtained on the 16th of February from  
11 Maynard Chant.

12 A. Yes.

13 Q. And you also made notes of that meeting and I believe those  
14 are found at Exhibit 104 page 3 of your notes.

15 A. Could I have the date again, please?

16 Q. Well, it would be the meeting of the 16th of February with  
17 Maynard Chant, but it would be Exhibit 104, page 3, I'm sorry  
18 that was the 16th of February that meeting with, that  
19 interview with Chant.

20 A. Yes.

21 Q. And these are all the recorded notes you have of that  
22 meeting.

23 A. Yes, sir.

24 Q. And in his report dated the 25th of February, 1982, that's  
25 found in Volume 19.

SGT. CARROLL, EXAM. BY MR. BARRETT

1 A. I don't have that one, sir.

2 Q. Page 26.

3 A. Yes.

4 Q. Staff Wheaton writes in paragraph 18, about halfway through  
5 the paragraph, "He," meaning Chant,

6 ..emphasized that he was fourteen turning  
7 fifteen years of age at the time and felt  
8 pressured into helping the police and the  
9 Prosecutor. He advised the Prosecutor  
10 threatened him with a charge of perjury if  
11 he changed his story after the lower court  
12 hearing.

13 You're familiar with that comment in Staff Wheaton's report.

14 A. Yes.

15 Q. And in Mr. Chant's statement of the 16th of February he  
16 makes no reference to the Prosecutor threatening him with  
17 perjury.

18 A. That's correct.

19 Q. And you make no note of that in your notes that you made on  
20 that date.

21 A. No, sir.

22 Q. And do you not agree that if that allegation was made it was a  
23 serious allegation against the late Donald C. MacNeil?

24 A. Yes, sir.

25 Q. You've testified that statement of Chant's on the 16th of  
February, 1982, was not taken under the most ideal

SGT. CARROLL, EXAM. BY MR. BARRETT

1           circumstances.

2           A.   Correct.

3           Q.   And I'm just wondering why did you not take Chant out to  
4           your car?

5           A.   I think I've already answered that once or twice.  We were  
6           shocked to hear Chant's expressions of lying under oath and  
7           lying at Marshall's trial and it was my feeling, and I think  
8           shared...one shared by Wheaton to get out of that atmosphere  
9           and discuss things between the two of us and find out what  
10          our next step would be.

11          Q.   But I note the time of that statement, and I believe Mr.  
12          Pugsley pointed out, at 6:16 p.m..

13          A.   Correct.

14          Q.   The statement was taken.  So, in other words it was certainly  
15          open to you to have taken Chant either out to the car or back  
16          to the office.

17          A.   Yes.

18          Q.   And Wheaton...

19          A.   Back to the office would mean approximately a twenty  
20          minute or half hour drive.

21          Q.   Okay.  But Wheaton has testified this was the most significant  
22          development in the case.  Would you agree with that?

23          A.   Basically, yes.

24          Q.   And do you not agree that it's good police practise to get all  
25          the details on the...on a first encounter, particularly where

SGT. CARROLL, EXAM. BY MR. BARRETT

1 this person wanted to unburden himself after eleven years?

2 A. Yes, it's important.

3 Q. And I suggest to you that this is even more important in the  
4 case where you're dealing with a person who admits he gave  
5 earlier perjured testimony.

6 A. I would admit that it's important to get as much detail as  
7 possible in the first meeting, depending on circumstances, yes.

8 Q. Would you not agree that had Staff Wheaton, while taking  
9 that statement, gone into what I describe as a more direct  
10 approach, i.e. a question and answer, that it would have given  
11 Chant an opportunity to clarify many points?

12 A. Yes.

13 Q. And yesterday when asked by Commission counsel about  
14 Wheaton's report, and particularly paragraph 18, that the  
15 Prosecutor had threatened Chant with perjury, you  
16 testified...and I want to refer you to your testimony of  
17 yesterday because there's one point of particular interest. Do  
18 you have in front of you Volume 48?

19 A. No, sir. [Registrar provides Volume 48.]

20 Q. And if I could refer you to page 8820 of that transcript.  
21 You're answering questions here as to the evidence of Chant,  
22 "in particular that of the Prosecutor," and I believe that you're  
23 referring here to the second statement taken by...from Chant  
24 that you took on the 20th of April, since you say "I recall  
25 Chant telling us about a visit by the Prosecutor, Mr. MacNeil,

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1 to his home and they went for a drive." Further down at the  
2 bottom of that page Commission counsel is asking you there,  
3 you indicate that it's...your evidence is that you felt the  
4 Prosecutor had pressured him. But at the bottom of that page  
5 the question is, "When did Chant say to you or in your  
6 presence that he was pressured by the Crown Prosecutor?"  
7 And at the following page your evidence is, "It would be  
8 somewhere in the range of the first week or ten days after we  
9 first met Chant." Now, my question would be did you go back  
10 and interview Chant after the 16th of February and prior to  
11 the 20th?

12 A. No, not that I can recall.

13 Q. Okay. Your notes, and you can look at them if you wish, but  
14 my perusal of your notes indicate that there is no  
15 communication with Chant in your notes the first week after  
16 the initial interview or ten days after that interview, and  
17 Staff Sergeant Wheaton has testified that he...that he never  
18 spoke or interviewed Chant during this period. Can you  
19 enlighten us why you would say that this information came to  
20 you about MacNeil one week to ten days after you met Chant?

21 A. No, I cannot. I recall vaguely the conversation with Chant in  
22 that regard and I can't elaborate on it further.

23 Q. Now, you've testified yesterday that after interviewing Chant  
24 the first time you and "Wheaton agreed on the trip back to  
25 Sydney that you would need to further interview crucial

SGT. CARROLL, EXAM. BY MR. BARRETT

1 witnesses to support Chant's evidence. " That's found at page  
2 8762, line 4. And my question to you, Sergeant Carroll, is  
3 who did you interview to substantiate Chant's claim if made  
4 that MacNeil threatened him with perjury?

5 A. I'm sorry, I don't get the thrust of your question there.

6 Q. Okay. Well, the question is at page 8762, line 4, you're  
7 describing your return trip from Louisbourg in which you're  
8 discussing with Staff Wheaton the revelations that have been  
9 made by Chant to you. And at the last part of that line is you  
10 indicate, "That much more investigation will be necessary,  
11 certainly Pratico would be the next person to be interviewed  
12 and the other crucial witnesses to see if they supported  
13 Chant's comments." And my question to you is who did you  
14 interview to substantiate Chant's comments that he was...that  
15 MacNeil had threatened him with perjury or pressured him.

16 A. Well, I disagree that you're reading that interpretation or that  
17 I'm talking about MacNeil's...I'm referring to my comments  
18 there, "More investigation will be necessary and certainly  
19 Pratico would be the next person to be interviewed, and the  
20 other crucial witnesses to see if they supported Chant's  
21 comments."

22 Q. Oh, obviously.

23 A. Period.

24 Q. One of Chant's comments was obviously that you felt that he  
25 was threatened by...that MacNeil had threatened him with

SGT. CARROLL, EXAM. BY MR. BARRETT

1 perjury.

2 A. But there were also other comments.

3 Q. Well, my question is a very simple one to you, Sergeant  
4 Carroll, and it's who did you interview to substantiate Chant's  
5 comment that MacNeil had threatened him?

6 A. I don't read that into the...into my remarks there.

7 Q. Well, perhaps more directly then, did you interview anyone  
8 to substantiate Chant's claim that MacNeil had threatened him  
9 with perjury?

10 A. No, sir.

11 Q. Did you ask Wheaton if he interviewed anyone?

12 A. I don't recall that I did, no.

13 Q. Okay. He's testified that it wasn't until the 12th of March that  
14 he briefly spoke to Judge Matheson, the assistant prosecutor  
15 in this case, and he never asked Matheson to comment on  
16 Chant's allegation as to whether MacNeil had threatened him  
17 or whether Matheson had any information on that. You're  
18 aware of that. You heard Wheaton's testimony.

19 A. I believe I did hear him say that, yes.

20 Q. Wheaton also reported and this report is found at page 14,  
21 actually the letter is found at page 14, Volume 19, and this is a  
22 letter written by Superintendent Christen to Gordon Gale and  
23 I believe...

24 A. I don't have that volume, sir.

25 Q. That would be Volume 19.



SGT. CARROLL, EXAM. BY MR. BARRETT

1 A. Yes, I do have it up there in the corner, sorry. Page again,  
2 please?

3 Q. Well, the letter I'm referring you to of Superintendent  
4 Christen's is found at page 14. But what I'm interested in is if  
5 you flip over to page 19 there is a resumé prepared and  
6 signed by Staff Wheaton. It would be page 19. The letter, as I  
7 understand that correspondence that letter, the letter of  
8 Superintendent Christen indicates that he's writing that letter  
9 to Gordon Gale, and he's providing Gordon Gale of the  
10 Attorney General's Department with a resumé of Wheaton's  
11 evidence prior to a more detailed report being prepared.  
12 And, if you note on page 19 of that document, Wheaton  
13 writes, "He," meaning Chant, "...felt that he was browbeaten by  
14 the Crown Prosecutor and states that once he gave evidence  
15 at the preliminary he was threatened with being charged  
16 with perjury." Do you see that comment?

17 A. No, sir. Is that...what paragraph are you referring to? Yes, I  
18 see it in the first paragraph now.

19 Q. And my question to you, Corporal Carroll, is would not agree  
20 that this report being sent to the Attorney General's  
21 Department that the...is an even more serious allegation  
22 against Donald C. MacNeil than the report dated the 25th,  
23 which I'd had referred to earlier. He now says that Chant is  
24 browbeaten by the prosecutor.

25 A. Yes.

SGT. CARROLL, EXAM. BY MR. BARRETT

1 Q. And you've testified you never saw Wheaton's report of the  
2 25th of February after he prepared it. He didn't bring it to  
3 you for your comments.

4 A. No, sir.

5 Q. You stated you "Never felt it was your job to point out any  
6 discrepancies because it was his report, not yours." Now,  
7 those comments...that's found at page 8816 of Volume 48 of  
8 your transcript. Now, my question did you see the resumé  
9 that Wheaton forwarded earlier to the A.G.'s Department?

10 A. The second part of your question was, did I...

11 Q. Well, the second part of my question is to you did you see the  
12 resumé of Wheaton that he forwarded earlier to the A.G.'s  
13 Department, that's the one I've referred you to in which  
14 browbeaten is used? Did you see that report before it was  
15 sent?

16 A. I suspect this was probably sent from Halifax. I wouldn't  
17 have seen it. If I could see a date on it I would be able to  
18 confirm that.

19 Q. Well, it's written by Staff Sergeant Wheaton, Sydney Sub  
20 Division, GIS.

21 A. Yes, okay. He was still in Sydney at the time then. No, I don't  
22 recall seeing this report.

23 Q. Do you share a similar view that it wasn't your responsibility  
24 to make suggestions as to details in that report?

25 A. I'm saying I don't recall seeing this report.

SGT. CARROLL, EXAM. BY MR. BARRETT

1 Q. But my point is is if and when if you had of seen the report  
2 do you think it was your responsibility to make suggestions to  
3 Wheaton as to those comments that were made?

4 A. I would not be correcting Staff Wheaton in his choice of words  
5 as to browbeaten, pressured or threatened. I would...I would  
6 not be challenging his choice of words in his report.

7 Q. I take it then you never felt that you could say to Staff  
8 Wheaton, "Did you substantiate that allegation about MacNeil  
9 which was made by Chant?" You didn't feel that you ask Staff  
10 Wheaton those questions?

11 A. I could ask him, but he did not depend upon me to censor his  
12 reports, nor did I feel obligated to.

13 Q. Okay. But you've indicated you were his partner, is that  
14 correct, or you worked with him in close liaison on this file?

15 A. I worked with him when he chose to ask me to do certain bits  
16 of footwork, groundwork, interviews at his discretion.

17 Q. Okay. Now, you testified yesterday about some of the  
18 problems created because the Sydney Police Force were not  
19 accountable through reporting. Do you recall that testimony  
20 yesterday?

21 A. I do.

22 Q. And would you not agree that as for reporting and  
23 accountability that a competent senior investigator should  
24 first ask for input and review from his partner who  
25 conducted interviews, not only with him, but more

SGT. CARROLL, EXAM. BY MR. BARRETT

1           importantly that conducted some of those interviews alone?

2           Do you not think that that would be...that would be prudent  
3           reporting?

4           A. Yes, sir.

5           Q. Now, you took a second statement from Maynard Chant on the  
6           20th of April. That statement I'm sure you're familiar with it,  
7           but it's found at page 81 of Volume 34. And you testified  
8           yesterday "That statements contains everything which I  
9           presume the first statement didn't."

10          A. It contains details that were not included in the first  
11          statement, yes.

12          Q. Okay. But you indicated that that statement contained  
13          everything that the first one didn't. Now, you testified you  
14          returned to Louisbourg on instructions of Staff Wheaton, and  
15          you've testified that the purpose was clarification and more  
16          details. That was your purpose for going back to see Maynard  
17          Chant. And that statement makes no reference to Donald C.  
18          MacNeil threatening Chant with perjury. You're aware of  
19          that?

20          MR. BRODERICK

21          My Lord, if I may at this time. I was going to wait for cross-  
22          examination but I think it's getting a little far afield. I don't  
23          think...the witness is being cross-examined on a statement that is  
24          not even attributable to him. The only question that he was  
25          asked, and I think my learned friend in all fairness to the witness,

SGT. CARROLL, EXAM. BY MR. BARRETT

1 should have referred him to the original Chant statement on page  
2 47 and the last line on that page as to any dealings with or any  
3 reference to the Prosecutor at that time. Now, he's getting further  
4 and further afield on a statement that was not made by this  
5 witness. And when he comes to questioning perhaps...

6 MR. CHAIRMAN

7 You mean a statement not taken by this witness?

8 MR. BRODERICK

9 No, the question of perjury, the threat of perjury by Donald C.  
10 MacNeil.

11 MR. CHAIRMAN

12 Right.

13 MR. BRODERICK

14 This witness had testified that he did not hear that and it was  
15 not part of his evidence, but yet the last fifteen minutes have  
16 been seemingly a justification of that comment being made by this  
17 witness. And I would point out that he was also asked, without  
18 being referred to the first statement of Chant, of why there was  
19 no indication of any pressure or browbeating anywhere by Donnie  
20 C. MacNeil. And before going on to the second statement I think it  
21 fair that the witness be referred to the first statement.

22 MR. BARRETT

23 Oh, I certainly have no objection to that. He can look at the  
24 statements. I'm simply trying to...I know he's been shown the  
25 statement so many times that...

SGT. CARROLL, EXAM. BY MR. BARRETT

1 MR. CHAIRMAN

2 The line of questioning, most of it, and I've been following it  
3 carefully to ensure that we're not doing...becoming to repetitive,  
4 was to ascertain, and that is an appropriate line of questioning, as  
5 to what efforts were made by the RCMP during their  
6 reinvestigation to find corroboration for the allegation allegedly  
7 made by Donald [ sic] Chant, that a Crown Prosecutor, presumably  
8 the late Donald MacNeil, threatened him with perjury. It's a  
9 statement that leaves a lot of unanswered questions, Mr. Barrett,  
10 because as I recall it there was some evidence of discussions  
11 with...there may have been discussions with the Crown Prosecutor  
12 and Mr. Chant between the preliminary inquiry and...

13 MR. BARRETT

14 That's where I expect it to lead to and...

15 MR. CHAIRMAN

16 And that has nothing to do with the original statements. But  
17 in any event, lest there's any doubt in this witness' mind, you are  
18 referring to the first statement given to the RCMP by Donald Chant  
19 wherein he makes reference to pressure being brought to bear  
20 upon him by a Crown Prosecutor.

21 MR. BARRETT

22 Well, my point being is that I've...he can look at the first  
23 statement if he wishes. I thought that he had agreed that that  
24 first statement contained no reference to any threat of perjury by  
25 Donald C. MacNeil.

SGT. CARROLL, EXAM. BY MR. BARRETT

1 MR. CHAIRMAN

2 All right.

3 MR. BARRETT

4 The point being that I'm putting to him is Wheaton wrote in  
5 his report that Chant threatened, was threatened by Donald C.  
6 MacNeil, and I'm trying to follow it through as to...as to what  
7 efforts were made to substantiate that and, more importantly,  
8 when he went back on the instructions of Staff Wheaton to get a  
9 second more detailed report from Maynard Chant why at that  
10 point in time, if that allegation was, in fact, made by Chant, is that  
11 not contained in the second statement?

12 MR. CHAIRMAN

13 True. That's fine.

14 MR. BARRETT

15 That's my line of questioning.

16 MR. CHAIRMAN

17 We've lost the question and...

18 MR. BARRETT

19 Well, I can put it...I can't put it to him.

20 MR. CHAIRMAN

21 You had me so confused there I was referring to Maynard  
22 Chant as Donald Chant, but anyway, wherever I've used the word  
23 Donald I meant Maynard.

24 MR. BARRETT

25 Q. If you will refer then, Sergeant Wheaton, to that second Chant

1 statement and that's found at page 81, Volume 34.

2 COMMISSIONER POITRAS

3 What page are we on?

4 MR. BARRETT

5 81, Volume 34.

6 MR. CHAIRMAN

7 I better make sure I have it, yeah, okay.

8 MR. BARRETT

9 Q. And I'm asking you if that statement makes any reference to  
10 Donald C. MacNeil threatening Chant with perjury? Perhaps I  
11 can refer you to the last line where...the last line or second-  
12 last line of that statement is, "I was totally afraid of Marshall  
13 and the police at the time and scared because I broke my  
14 probation." There is no mention of perjury from Donald C.  
15 MacNeil or pressure from Donald C. MacNeil in that statement.

16 2:27 p.m.

17 A. I disagree, sir. I'm looking at page 82 where it starts off,

18  
19 The Crown Prosecutor, I believe his name  
20 first was Danny..." (that might be a typing  
21 error), Danny came to my home and drove  
22 me to his office which , at that time, was in  
23 the new courthouse on the ground floor.  
24 John Pratico and two plainclothes  
25 policemen were with us in the same room.  
The Prosecutor kept repeating our stories  
until they were fresh in our minds.

Q. Do you not feel that it's the Prosecutor's job to review the



1 statement prior to a trial?

2 A. I don't think that's what the statement states. I think it's  
3 more than just refreshing your memory by reading it. He  
4 goes on, or he goes to say, "The Prosecutor kept repeating our  
5 stories..." and to me that means he was saying them aloud, or  
6 by some means, "He was repeating our stories until they  
7 were fresh in our minds."

8 Q. But you will agree that nowhere in that statement is the  
9 allegation there that Donald C. MacNeil threatened Maynard  
10 Chant with perjury.

11 A. Yes, sir, I agree.

12 Q. Did you believe him when he stated that the Prosecutor drove  
13 out to Louisbourg and picked him up?

14 A. Yes.

15 Q. Did you not feel that was odd? Did you think that, did you  
16 not think to confirm with Judge Matheson or one of the other  
17 prosecutors, whether it was MacNeil's practice to drive a 50-  
18 mile return trip just to pick up a witness?

19 A. No, I don't find that unusual. I think, you're using the word  
20 "odd". It would be not a common practice but in my  
21 experience, working with Crown Prosecutors, it's not  
22 uncommon to have, say, a prosecutor go to the scene of a  
23 crime with the investigator to make himself familiar with the  
24 evidence that's about to come or the surroundings and so that  
25 he's more comfortable with that evidence in court when it's

1 given.

2 Q. Well that's fine but what you're stating here is that he drove  
3 out of Louisbourg and picked up the witness and brought him  
4 back to the courthouse to interview.

5 A. It's unusual but I wouldn't refer to it as being odd.

6 Q. So in your 26 years that's, you don't feel that's an odd  
7 practice.

8 A. No, I don't like the word "odd". It's unusual, but I wouldn't be  
9 totally amazed that it would happen at that time or even now.

10 Q. But you've testified, you didn't speak or you're uncertain as to  
11 whether you spoke with Lou Matheson at all.

12 A. I made some reference to wanting to see any files that might  
13 remain at the Crown Prosecutor's office in Sydney and I may  
14 have asked him if he had any knowledge of those still  
15 existing.

16 Q. But you certainly didn't ask him whether that was Donnie  
17 MacNeil's practice to drive out to pick up witnesses to bring  
18 them into the courthouse.

19 A. No, sir.

20 Q. I'm wondering, you've indicated you have not reviewed the  
21 evidence of Maynard Chant that he gave before this  
22 Commission on the 15th and 16th of September last year.

23 A. No, sir.

24 Q. Are you aware that when asked by Mr. Orsborn whether he  
25 ever met with MacNeil, after the preliminary and before the

1 trial, he replied no.

2 A. No, sir, I'm not aware of that.

3 Q. And when Mr. Orsborn asked Chant about paragraph 12 of his  
4 affidavit, that's the affidavit that was sworn on the 14th of  
5 July 1982, and that's found at Volume 12, page 52. I can  
6 refer you to the paragraph in that which is paragraph 12 it  
7 says,

8  
9                   Subsequent to the preliminary hearing in  
10                   this matter in July 1971, I spoke with the  
11                   Crown Prosecutor, Donald C. MacNeil, who  
12                   informed me that if I changed my  
13                   statement that I had seen Donald Marshall,  
14                   Jr., stab Sandy Seale I would be charged  
15                   with perjury.

16 Are you familiar with that paragraph in the affidavit?

17 A. I have the volume here, sir, if you tell me the page again?

18 Q. Well it would be Volume 12, page 52.

19 A. Okay, I'm looking at it. What paragraph?

20 Q. Paragraph 12.

21 A. Yes, I've read this.

22 Q. Now Mr. Orsborn asked him, read that paragraph to him and  
23 asked him if he recalled that discussion with Donnie MacNeil  
24 and he replied, "I'd have to say no. I can't remember." Chant,  
25 as well, in his testimony never said that he was browbeaten  
by MacNeil, he testified he met with MacNeil prior to the  
preliminary and MacNeil went over and over his statement.

1 He testified he was told by MacNeil he could say "shiny  
2 object" not "knife." And I would point out that in his  
3 statement that he made on the 4th of June '71 he said shiny  
4 object, not knife, in that statement. Are you aware of that?

5 A. I believe so, vaguely.

6 Q. And are you aware that are the preliminary, and that would  
7 be found at Volume 1, page 38, he testified it was a knife and  
8 never said shiny object. So, in other words, what I'm  
9 suggesting to you is that if Mr. MacNeil went over and over  
10 the evidence with him, particularly the point that he could  
11 say shiny object, that was in his statement and not knife,  
12 Maynard Chant said knife at the preliminary hearing.

13 CHAIRMAN

14 What do you expect this witness to...

15 MR. BARRETT

16 Well all I'm pointing that out, and if you'd just let me  
17 continue, is the discrepancies as to his evidence that he was  
18 browbeaten. His evidence that he was threatened with  
19 perjury. That evidence.

20 Q. I'm wondering, are you aware as well, that he testified at this  
21 Commission that two policemen drove out and picked him up  
22 and drove him into Mr. MacNeil's office, not that Donnie  
23 MacNeil had driven out to pick him up.

24 A. I'm not aware of that, no.

25 Q. Now you've testified you met Stephen Aronson on the 11th of

1 February 1982 and on the 14th of July 1982.

2 A. On the 11th of February, yes. And the other date was?

3 Q. The 14th of July '82.

4 A. Yes.

5 Q. And I'm just wondering whether you had any telephone  
6 conversations between those dates with Mr. Aronson.

7 A. None that I recall. Staff Wheaton may have but I don't recall  
8 any.

9 Q. So you feel Staff, you testified you drove Aronson around to  
10 Chant and Pratico's to assist him and I presume this was to  
11 expediate[sic] matters and assist in freeing Donald Marshall.  
12 That was your purpose for driving Aronson around.

13 A. Is that a question, sir?

14 Q. Yes.

15 A. I must say that's a fair statement, yes.

16 Q. Did you or Staff Wheaton provide Mr. Aronson with any  
17 materials, particularly information and reports pertaining to  
18 Pratico and Chant?

19 A. I did not.

20 Q. Do you have any information as to whether Mr. Aronson had  
21 Staff Wheaton's report of February 25th, 1982?

22 A. I was aware of one of Staff Wheaton's reports being, I don't  
23 know if it was given to Aronson or by what means Aronson  
24 obtained it but I think the contents of that report were  
25 eventually leaked to someone in Truro which I believe

1 became publicized.

2 Q. Would that be the report that contained the paragraph that  
3 MacNeil threatened Chant with perjury after the preliminary?

4 A. I can't say, sir. I don't recall which report it was. But I do  
5 remember some discussion of the report that Aronson had  
6 knowledge of the contents of that report being leaked out to, I  
7 believe, a lady in Truro.

8 Q. Now you've indicated that Aronson was not aware where  
9 Chant or Pratico lived?

10 A. That's to the best of my memory. I don't think he knew  
11 exactly.

12 Q. Did you, when you met with Aronson and Chant did you have  
13 the feeling that he had spoken with Chant before this  
14 meeting?

15 A. I think so, yes. It may have been telephone or person-to-  
16 person, I don't know.

17 Q. Now you took a statement from John Pratico, actually before I  
18 finish that. You haven't answered me whether Chant ever  
19 told you that Donald C. MacNeil threatened him with perjury.

20 A. No, sir, I don't recall but he said that.

21 Q. So your recollection is now that that statement was never  
22 made by Mr. Chant.

23 CHAIRMAN

24 My recollection is that he'd said he doesn't recall Chant  
25 making that statement. That's somewhat different from saying it

1 was never made. He just doesn't know is what he's saying, I  
2 think.

3 MR. BARRETT

4 Q You took a statement from John Pratico on the 25th of  
5 February 1982.

6 A. Do you have a reference there, sir, on the manual?

7 Q Yes, I do. That statement would be found at Volume 34, page  
8 50.

9 A. Yes, I have that.

10 Q And you took this statement alone, I believe?

11 A. Yes.

12 Q And you've testified that this statement accurately reflects  
13 everything that Pratico had said?

14 A. I believe so.

15 Q Okay. Staff Wheaton testified you told him John Pratico  
16 stated he was threatened with perjury by Donald C. MacNeil  
17 and John MacIntyre alone after he had informed Marshall's  
18 lawyers he did not see Junior Marshall stab Seale. Did you  
19 tell Staff Wheaton that?

20 A. I don't understand what you're saying. Possibly if you could  
21 break it down into shorter questions...

22 Q Well, you indicated that you took the statement from Pratico.

23 A. I did.

24 Q Staff Wheaton did not interview Pratico, is that correct?

25 A. Not to my knowledge.

1 Q. Okay. Staff Wheaton testified last week that you told him  
2 that John Pratico stated he was threatened with perjury by  
3 Donald C. MacNeil and John MacIntyre alone after he had  
4 informed Marshall's lawyers he did not see Junior Marshall  
5 stab Seale.

6 A. I'm losing that about halfway through your...

7 Q. When I mention the word...

8 A. Pardon me. Let me clarify something. When you say  
9 "alone", I get the impression you're talking about the  
10 courtroom scene where, do I misunderstand you?

11 Q. You don't misunderstand me at all. John Pratico went out in  
12 the hallway...

13 A. During a trial.

14 Q. I beg your pardon?

15 A. During a trial.

16 Q. During the trial.

17 A. Yes.

18 Q. And what I'm asking you is whether you informed Staff  
19 Wheaton that John Pratico had told you that Donald C. MacNeil  
20 and John MacIntyre had taken him, Pratico, alone into the  
21 Crown counsel office and threatened him with perjury.

22 A. If it's not in the statement I don't recall Pratico saying that.  
23 If it's not there then I would say that he didn't tell me that.

24 Q. Can we assume, then, that if he didn't have it in the statement  
25 and he didn't tell you that that you didn't tell Staff Wheaton



1 that?

2 A. That's correct.

3 Q. And I'm wondering whether you're aware that John Pratico,  
4 in his testimony before this Commission, indicated that Mr.  
5 MacNeil had told him, "Look, John, all we want is the truth"  
6 and he did not testify to being threatened with perjury.

7 That's not a question. I'm asking if you know that.

8 A. No, sir.

9 Q. And if Pratico...do you not think if Wheaton believed that  
10 Pratico was threatened by MacNeil with perjury that he  
11 should attempt to substantiate that allegation?

12 A. It would be a normal thing to do, yes.

13 Q. And I take it that Staff Wheaton knew that Pratico was  
14 unreliable as you did.

15 A. Yes.

16 Q. Would you, as an experienced police officer, put that  
17 allegation, and I'm referring to the Pratico statement that  
18 Wheaton indicated that Pratico had threatened, was  
19 threatened by MacNeil and MacIntyre with perjury, would  
20 you put that allegation in a report to your superiors which  
21 you knew was being forwarded to the Attorney General's  
22 Department without investigating it further?

23 A. No, I don't think so.

24 Q. All right. Staff Wheaton was testified as to the qualities of a  
25 good police investigator. Would you agree with him that he

1 should be thorough, would you agree with that?

2 A. Yes.

3 Q. That he should pay close attention to detail?

4 A. Yes.

5 Q. That he should investigate to the best of his abilities?

6 A. Of course.

7 Q. Staff Wheaton wrote that comment in a report which is found  
8 at page 76, Volume 20.

9 CHAIRMAN

10 Wrote what in the report?

11 MR. BARRETT

12 I beg your pardon? Wrote in the report that John Pratico had  
13 been threatened with, by MacNeil and MacIntyre alone.

14 COMMISSIONER EVANS

15 You mean that Pratico was alone when he was threatened.

16 MR. BARRETT

17 That's correct. He was alone with MacNeil and MacIntyre.

18 COMMISSIONER EVANS

19 What page?

20 MR. BARRETT

21 Well, it's found at page 77, Volume 20, the specific allegation  
22 by, or the statement to that effect, by Staff Wheaton.

23 COMMISSIONER EVANS

24 Was Wheaton asked these questions?

25

1 MR. BARRETT

2 Yes, he was.

3 COMMISSIONER EVANS

4 What did he say?

5 MR. BARRETT

6 Well, Staff Wheaton testified that he took the word of Staff, or  
7 Sergeant Carroll that Pratico had told Carroll that. And he also  
8 indicated that the only other person he interviewed as to that was  
9 Mr. Rosenblum and if, he indicated that he had spoke briefly with  
10 Mr. Rosenblum eleven years after the fact and Rosenblum had  
11 told him that he wasn't there when Pratico recanted but that he  
12 had got the story secondhand from Simon Khattar.

13 Q. And the question I'm putting to Sergeant Carroll, is do you not  
14 feel it would have been a thorough police practice to have  
15 interviewed Simon Khattar, meaning Staff Wheaton.

16 A. Yes.

17 Q. And Staff Wheaton has indicated, never interviewed Simon  
18 Khattar.

19 A. Not to my knowledge.

20 Q. Staff Wheaton was uncertain in his interview with Judge  
21 Matheson whether he asked if Donnie MacNeil took Pratico  
22 alone into the room with MacIntyre and threatened him with  
23 perjury, and I'm wondering, Judge Matheson had testified he  
24 was there with Simon Khattar and like Pratico, he testified all  
25 Donnie did was to tell Pratico to forget about your earlier

1 testimony, just tell the truth. And my question is, shouldn't a  
2 prudent, thorough investigator, working to the best of his  
3 abilities not check with reliable witness who had firsthand  
4 knowledge of that event.

5 MR. BRODERICK

6 Perhaps if I may before the witness answers, My Lord, I have  
7 an objection. I think that the question is a little broad and it  
8 comes from a long scenario of facts. It's certainly not my place to  
9 put the question but I think it would be much fairer if the witness  
10 was asked whether, if he was investigating a particular aspect,  
11 would it be thoroughness, not whether thoroughness covers the  
12 general gambit[sic] of every comment, every statement that's  
13 made in the course of another investigation altogether. And I  
14 think the witness is answering these questions as if the  
15 investigation was directed directly towards Donnie C. MacNeil  
16 rather than the Marshall incident.

17 MR. BARRETT

18 Well, if I could answer to that. My point is is that he was the  
19 partner with Staff Wheaton. Wheaton put certain things in the  
20 reports. He had input into those reports, he's testified. He also  
21 had the opportunity to review those reports. Those reports  
22 followed to the evidence of Chant of Pratico before it was clear  
23 that all of those reports as to the threatening with perjury and, as  
24 well, that Pratico, the threats by MacNeil to perjury, were placed  
25 in RCMP reports to which if this gentleman here was not the

1 author of those reports he certainly had some input into those  
2 reports. Those reports were not clarified until Chant and Pratico  
3 came before the Commission and testified and testified that those  
4 allegations had never happened. And I'm simply asking him how  
5 those details would have got into those reports.

6 CHAIRMAN

7 He says he doesn't know.

8 MR. BARRETT

9 Very well.

10 Q. You've testified you met Michael Harris on two occasions, is  
11 that correct?

12 A. Yes, it is.

13 Q. And once for an hour in which you discussed your  
14 involvement in the case. Now Harry Wheaton has testified he  
15 met Harris six or seven times and discussed his involvement  
16 with the case at length. He testified he would have discussed  
17 Donald C. MacNeil's involvement in the case with Harris  
18 candidly and openly. Would have you discussed Donald C.  
19 MacNeil's role in this case with the same openness?

20 A. No, sir.

21 CHAIRMAN

22 Your answer was?

23 A. No, sir.

24 Q. I'm wondering if you read Mr. Harris' book.

25 A. Very recently, yes.

SGT. CARROLL, EXAM. BY MR. BARRETT

1 Q. And would you not agree that to understate it, that book was  
2 very critical of Mr. MacNeil?

3 A. Yes.

4 Q. And I suggest many of those criticisms relate to the false  
5 unsubstantiated comments contained in Wheaton's reports.

6 CHAIRMAN

7 How can that witness comment on that? The question you  
8 put, just put a simple question to him. Was there any, did he  
9 discuss with Michael Harris Donald MacNeil's prosecution of this  
10 case? We don't know if Donnie MacNeil's name's even mentioned  
11 during their one or two meetings. And I don't think I can accept  
12 his evidence as that of a book reviewer. Leave that to the more  
13 skilled journalists. Why don't you ask him the question, Mr.  
14 Barrett?

15 MR. BARRETT

16 I beg you pardon?

17 CHAIRMAN

18 Why don't you ask the witness whether or not there was any  
19 discussion between he and Michael Harris concerning your client?

20 2:48 p.m. \*

21 MR. CHAIRMAN

22 Why don't you ask him the question, Mr. Barrett?

23 MR. BARRETT

24 I beg your pardon?

25 MR. CHAIRMAN

SGT. CARROLL, EXAM. BY MR. BARRETT

1           Why don't you ask the witness whether or not there was any  
2 discussion between he and Michael Harris concerning your client?

3 MR. BARRETT

4           Well, I did and he's indicated that he didn't. He didn't.

5 MR. CHAIRMAN

6           Well, that's the end of it.

7 MR. BARRETT

8           Those will be all my questions then. Thank you.

9 MR. CHAIRMAN

10          Mr. Pink?

11

12

EXAMINATION MR. PINK

13 Q. Sgt. Carroll, I just have three areas and brief areas to address  
14 with you. Exhibit 104, which are your notes, on the very top  
15 of them there's a reference to what I presume is the date  
16 prior to the date that the notes start; namely, February 3rd.  
17 Could you just look at your notes for February 3rd, 1982?

18 A. Yes, sir.

19 Q. February 3rd is the date on which Inspector Scott, Mr.  
20 Edwards, and Chief MacIntyre met and there's a reference in  
21 your notes to attending at the Crown prosecutor's office.  
22 Correct?

23 A. That's correct.

24 Q. And does the time there of 2:30 p.m., does that indicate the  
25 time that you were at the Crown prosecutor's office, or does

SGT. CARROLL, EXAM. BY MR. PINK

1 that indicate the time that you returned to your own office?

2 A. That would be my time of arrival at the prosecutor's office.

3 Q. So I can take it then that on the 3rd of February at 2:30 p.m.,  
4 you were at the Crown prosecutor's office.

5 A. That's what my notes would indicate.

6 MR. CHAIRMAN

7 Being Mr. Edwards'.

8 SGT. CARROLL

9 Yes, My Lord, but on a totally different case.

10 MR. PINK

11 Q. Yeah, I appreciate that, and just so that you understand the  
12 reason for my asking, Mr. Edwards' notes indicate that he met  
13 with Chief MacIntyre and Inspector Scott at 1:30 p.m. And  
14 from your notes, I take it that you met with him at 2:30 p.m.  
15 and that gives some indication of the length of the meeting  
16 between Inspector Scott...

17 A. That may be so. For the benefit of the Commission, the total  
18 notation for that day was office, my office routine, again the  
19 fraud case I mentioned earlier, BCA, documents to Motor  
20 Vehicle Branch re registration certificates, copy of file to  
21 Crown prosecutor Edwards, 2:30 p.m. and then the word  
22 "office," which means I returned to the office after dropping  
23 off those documents. I might have been two minutes, I might  
24 have been there a half an hour.

25 Q. Mr. Edwards will add some evidence regarding this, but the



1 point is that you were at his office at 2:30 p.m.

2 A. Yes, and again that doesn't even mean he was there.

3 Q. I accept that. You've been asked questions by Mr. Pugsley  
4 and by Mr. Orsborn yesterday regarding Wayne Magee and I  
5 don't wish to review the entire matter with you. As I  
6 understand your evidence, you simply don't believe that  
7 Sheriff Magee was present at the Louisbourg Town Hall  
8 statement-taking of Maynard Chant.

9 A. No, sir.

10 Q. And you're not accusing or suggesting that Mr. Magee is not  
11 telling the truth.

12 A. No, I'm not doing that. That's my opinion that he was not  
13 present for the signing of that statement.

14 Q. So it's just you don't believe him.

15 A. I think he's mistaken.

16 Q. The final item I'd just like to address with you and it stems  
17 from your evidence yesterday afternoon. You were asked  
18 some questions by Commission counsel regarding  
19 consultations or instructions from the Crown regarding the  
20 laying of charges. Can you tell the Commissioners what your  
21 view is of the respective roles of the police office and the  
22 Crown prosecutor when charges are to be laid?

23 A. I don't think you can generalize on that point. The  
24 seriousness of the offence has to be considered. If you could  
25 give me an example, some type of an offence, say, impaired

1 driving or...

2 Q. Well, your evidence was that for routine matters, no  
3 consultation with the Crown is required.

4 A. Yes.

5 Q. What would you consider to be a more serious case in which  
6 consultation would be required?

7 A. Child abuse.

8 Q. Okay, I'll take your example. What type of consultation do  
9 you require with the Crown and for what purpose?

10 A. After the investigation was completed, I would prepare a  
11 Crown sheet or a court brief, if you like, for the prosecutor,  
12 determine which prosecutor would be looking after the case if  
13 and when it went to court, arrange for an interview with the,  
14 very likely the victim and/or witnesses, if they were young,  
15 possibly all witnesses but especially the younger ones, to let  
16 him assess what type of witness they would be in a  
17 courtroom. I have seen that develop into a situation where  
18 the prosecutor would take the victim and/or very nervous  
19 immature witnesses to the vacant courtroom...

20 Q. Excuse me, Sergeant, I don't mean to interrupt, but are we  
21 now talking prior to the laying of the charge? I don't, I'm not  
22 interested in procedures in preparation for trial. I'm  
23 interested in consultation prior to the laying of the charge.

24 A. Yes, I would say even prior to laying the charge and certainly  
25 prior to the trial, to make a young person familiar with the

1 courtroom scene, a vacant courtroom. I've seen that done by  
2 Mr. Edwards and his associate, Brian Williston, which aids in  
3 the prosecution of the case tremendously. That's basically  
4 what I would do up to the laying of the charge and getting  
5 ready for a court trial.

6 Q. Can you separate it out in terms of getting ready for a trial  
7 and deciding whether or not the charge is to be laid?

8 A. Yes.

9 Q. What type of consultation do you have with the Crown prior  
10 to the laying of the charge?

11 A. There may be several charges that might apply and it's  
12 common to ask the prosecutor which one he feels would be  
13 appropriate, even though you may have one in your own  
14 mind that you feel is the right one. I would be guided by his  
15 choice.

16 Q. And is it a consultation where you review whether there's  
17 sufficient evidence, the legal aspects, that type of matter with  
18 the Crown prosecutor?

19 A. Yes, and there's also the possibility of recent case law in that  
20 type of offence which we may not be aware of. Something  
21 that would drastically interfere with the case. So it would be  
22 his duty to know most recent cases and to guide us in that  
23 regard.

24 Q. Certainly. And what you are looking for from the Crown  
25 prosecutor is guidance, is that correct?

SGT. CARROLL, EXAM. BY MR. PINK

1 A. Yes.

2 Q. And ultimately the decision to lay the charge is that of you as  
3 the police officer.

4 A. Yes, but with the full knowledge that if you decided to  
5 overrule the prosecutor and lay a charge he doesn't agree  
6 with, he may not prosecute it for you.

7 Q. Are you aware that it is the policy within the RCMP, and I  
8 don't mean to misstate it and I don't have a copy in front of  
9 me, but a policy with the RCMP that the decision to lay a  
10 charge is that of the police officer.

11 A. Yes, sir.

12 Q. And if there is any dispute between the police officer and the  
13 local Crown, then you're to consult with your superiors.

14 A. Yes.

15 Q. And a decision is to be made at higher levels within the  
16 department, within the force.

17 A. Correct.

18 MR. PINK

19 Those are all my questions. Thank you.

20 MR. CHAIRMAN

21 Now have you sorted out between counsel as to who comes  
22 next? I know Mr. Broderick goes last.

23 MR. BRODERICK

24 My Lord, I have no questions of the witness.  
25

1 MR. CHAIRMAN

2 Fine. Mr. Ross?

3  
4 EXAMINATION BY MR. ROSS

5 Q. Sgt. Carroll, my name is Anthony Ross and there are one or  
6 two questions I'd like to ask you. I take it that quite early in  
7 the investigation, you had doubts about the propriety of the  
8 conviction of Donald Marshall, Jr. back in 1971?

9 A. Yes.

10 Q. And I take it that this was set in motion by your interview  
11 with Maynard Chant.

12 A. Yes, sir.

13 Q. Were you here for the evidence of Staff Sgt. Wheaton?

14 A. Yes, sir.

15 Q. He also indicated that even prior to interviewing Junior  
16 Marshall in February of 1982 that he was satisfied of his  
17 innocence. Do you recall that?

18 A. Yes, sir.

19 Q. Or words to that effect?

20 A. Yes.

21 Q. Let's talk about that. Did you also share that opinion?

22 A. Generally, yes.

23 Q. You shared the opinion by February, 1982 that Junior  
24 Marshall was innocent.

25 A. The date of the interview in Dorchester, yes, I was reasonably

1           certain.

2       Q.   That he was innocent.  What did you understand by  
3           "innocent"?  Let's see if we are understanding the same thing.  
4           Innocent of what?

5       A.   Innocent of the charge he was convicted for.

6       Q.   I see.  To the extent that he was just an innocent by-stander  
7           and was railroaded, to that extent?

8       A.   No, sir.

9       Q.   To what extent?

10      A.   I don't think it's my place to be the judge or judge and jury in  
11           this case but it would appear that Marshall was guilty of  
12           attempted robbery and not murder.

13      Q.   Okay, fine.  We'll deal with the attempted robbery in a  
14           minute.  Wouldn't you agree with me though that all you had  
15           to go on was the fact that Maynard Chant had changed his  
16           story?

17      A.   No, sir.

18      Q.   What else did you have by February 18th, 1982?

19      A.   I believe Sarson had been interviewed at that stage.

20      Q.   Yes, so you had Sarson and you had Maynard Chant.  Am I  
21           correct?

22      A.   Yes.

23      Q.   Now Sarson wasn't anywhere around the park in 1971, was  
24           he?

25      A.   I'm not sure what years he lived, or what stage he lived at

1 the Ebsary residence in Sydney.

2 Q. So at best you're not sure if he was there in 1971.

3 A. No, I'm not certain.

4 Q. Did you check it?

5 A. Did I? No.

6 Q. Am I to understand that you just accepted what Sarson said  
7 to you?

8 A. Not totally, no.

9 Q. Which parts did you reject?

10 A. I can't really say, sir, at this stage.

11 Q. Fine. Well, then tell me which parts did you accept?

12 A. I'm sure I speak for Wheaton as well, that we accepted the  
13 fact he did reside with Ebsary and his account of Ebsary's  
14 lifestyle, Ebsary's rambling about his wanderings in the park  
15 and on one particular occasion where he had been forced to  
16 defend himself. I believe he also discussed his background in  
17 drugs, which we had reason to believe, that's Mr. Sarson I'm  
18 speaking of. That's basically what he said.

19 Q. So in a nutshell, is it fair to say that a man, Sarson, indicated  
20 to you that he had a cloudy background with respect to drugs  
21 and that he had a strange kind of relationship with a strange  
22 kind of individual in Sydney, and that would have been  
23 enough for you to take the position that Marshall is innocent?

24 A. No, sir, you're leaving out the point where he described  
25 Ebsary having to defend himself in the park with some more

1 details, whatever is accounted for in his statement, and that,  
2 with other things taken in consideration, we believed that he  
3 was a potential witness, if there was a trial to come up.

4 Q. Has he ever given testimony to your recollection?

5 A. No, sir.

6 Q. So the potential witness who really set this in motion was  
7 never called.

8 A. No.

9 Q. I see. And then speaking about Maynard Chant, would you  
10 agree with me that as far as Chant is concerned, the most he  
11 could say is that he knew nothing?

12 A. No, that's not true.

13 Q. What could he say?

14 A. Chant could place Marshall in the park on the night in  
15 question.

16 Q. But Marshall placed him there. That wasn't adding anything.

17 A. I'm sorry?

18 Q. But Marshall placed himself in the park. Chant was not  
19 adding anything.

20 A. He was adding some evidence concerning the wound to  
21 Marshall's arm, which of course Marshall also had admitted  
22 to.

23 Q. Sure.

24 A. I have no further comment on that.

25 Q. Would it be fair then to say that after you had interviewed



1        Maynard Chant and the conviction of Marshall appeared to be  
2        in doubt, it would have been more appropriate to go back to  
3        your superiors and try to get terms of reference for a full  
4        investigation rather than just emphasizing Marshall's  
5        innocence as you've indicated to this Commission was your  
6        instruction?

7        A. No, I don't believe so. I think we carried on as we were  
8        expected.

9        Q. I see. Well, then let me ask you, would you agree with me  
10       that the City Police so directed its investigation back in 1971  
11       to the conviction of Marshall after the stabbing and  
12       subsequent death of Sandy Seale, that after May of 1971 until  
13       now, the death of Sandy Seale has just been incidental to this  
14       whole problem that led to this Inquiry?

15       A. Not incidental, no, I don't care for that term. It has been  
16       certainly a secondary aspect of the investigation, not  
17       incidental.

18       Q. A secondary aspect. Well, let me ask you something. What  
19       consideration was given by yourself and Staff Sgt. Carroll to  
20       determine whether or not Sandy Seale was, in fact, involved  
21       in a robbery or attempted robbery?

22       A. Could you repeat that again, please? I think there were  
23       names mixed up slightly. I'm Carroll. Were you referring to  
24       Wheaton and myself?

25       Q. Yes.

- 1 A. What consideration did Wheaton and I have to do what?
- 2 Q. What did...I'll just ask another question. What did you and  
3 Wheaton do in an effort to establish whether or not there  
4 was, in fact, an attempted robbery?
- 5 A. I think that's obvious through interviews with Jimmy  
6 MacNeil, the Ebsary family that were interviewed in due  
7 course, Ebsary himself. There were other people that were  
8 interviewed that were in the park that evening, people from  
9 the dance.
- 10 Q. Like whom?
- 11 A. Names that come to mind are Andrew MacDonald, presently  
12 stationed at Baddeck Detachment, a constable there; Keith  
13 Beaver, another member of the force who was a high school  
14 student at that time. Those people were all interviewed to  
15 see what input they might have concerning Marshall's  
16 activities in the park that evening and with or without Seale.
- 17 Q. Did you speak to Beaver yourself?
- 18 A. No, sir. I know him but I did not speak to him in this regard.
- 19 Q. I would suggest to you that the most you got was to look at a  
20 report which Beaver gave to the police back in 1971. Did you  
21 see anything other than that report?
- 22 A. I feel reasonably certain that a follow-up statement has been  
23 taken since he has joined the RCMP and I think that  
24 statement probably was taken while he was stationed at  
25 Inverness Detachment. I could be wrong but I feel that there

1 was certainly a second statement taken from him.

2 Q I see. As far as Marshall is concerned, I take it that your  
3 main interest was the conviction of Junior Marshall.

4 A. Yes.

5 Q And...

6 A. As set out by Mr. Aronson in his letter.

7 Q Yes, well, then let's deal with Mr. Aronson and his letter. In  
8 Mr. Aronson's letter, he made reference to Roy Ebsary.

9 A. Yes.

10 Q And as I recall, he actually identified Roy Ebsary as the man  
11 behind the knife.

12 A. I believe so, yes.

13 Q In the letter. Would you agree with me that as far as the  
14 investigation is concerned, the proof of innocence of Junior  
15 Marshall carried with it the proof of guilt of Roy Ebsary?

16 A. Not necessarily, no.

17 Q But as far as your investigation is concerned, didn't you tie  
18 both of them together to demonstrate it was not Junior, it was  
19 Roy, that form of investigation?

20 A. It followed that course eventually, yes.

21 Q It followed that course eventually. What was it when it  
22 started?

23 A. The allegation was there by Aronson in his letter which  
24 started our investigation in 1982. But there had to be much  
25 more to link Ebsary to the case to the point where he could be

1 prosecuted.

2 Q And that would be a matter of investigation.

3 A. Yes.

4 Q But I'm suggesting to you, sir, and I think that I've gotten the  
5 answer, that as far as the thrust of the investigation was  
6 concerned which started in February of 1982, it was to  
7 accomplish two things at the same time. Number one, the  
8 innocence of Marshall and, number two, the guilt of Ebsary.  
9 Am I correct with that?

10 A. No, sir, I don't agree with that totally. You're right on the first  
11 part. The allegation made by Aronson concerning Ebsary, we  
12 had no idea whether that would hold up or was it just false  
13 information, unfounded information.

14 Q Sure. And as a matter of fact, is it fair to say that you really  
15 thought it would turn out to be unfounded information when  
16 you started?

17 A. No, I don't think that's fair either.

18 Q Did you hear Sergeant Wheaton?

19 A. I heard his evidence, yes.

20 Q As I recall, he was of the view that they would just wind up  
21 visiting Maynard Chant, finding out that his statements were  
22 the same, and pretty well closing the file quite quickly. Do  
23 you recall that to be the thrust of his evidence?

24 A. Yes, but I think he also made some comment about Sarson's,  
25 what we expected to hear from Sarson in Pictou as well, that

1           it would be, when he was directed to go there or planned to  
2           go there, he anticipated it was more or less a wasted trip.  
3           That was his first thought, I believe.

4       Q.    Sure.

5       A.    Not in those words.

6       Q.    And, as a matter of fact, he even suspected collusion between  
7           Sarson and Marshall.

8       A.    Yes.

9       Q.    At any time, did you interview Shelly Sarson?

10      A.    No.

11      Q.    Do you know if Wheaton interviewed Shelly Sarson?

12      A.    I can't say, sir.

13      Q.    I see. But you worked fairly close to this file.

14      A.    From time to time, yes.

15      Q.    And you took it over after Wheaton was transferred?

16      A.    Correct.

17      Q.    And to take it over, you would have to inform yourself on the  
18           full file.

19      A.    Yes.

20      Q.    And did you find anything in the file to suggest an interview  
21           with Shelly Sarson?

22      A.    No, sir.

23      Q.    I see. Now did you spend any time discussing Junior Marshall  
24           and his problems with Donald Marshall, Senior?

25

SGT. CARROLL, EXAM. BY MR. ROSS

1 COMMISSIONER EVANS

2 I didn't get the question, please?

3 MR. ROSS

4 I asked him if he spent any time discussing the problems of  
5 Donald Marshall, Junior with Donald Marshall, Senior? And there  
6 is a point that I am heading for.

7 BY MR. ROSS

8 Q. Did you speak with Donald Marshall, Senior?

9 A. I have met the Marshall family on many occasions since the  
10 beginning of this case. I have had many discussions with him  
11 concerning his son, yes.

12 Q. Is it fair to say you would have quite a few discussions with  
13 him between February and June of 1982?

14 A. No, that's not fair.

15 Q. Did you have any discussions with him?

16 A. The main discussion was with the arrangement of the meeting  
17 between he and his wife and Roy Ebsary at our office.

18 Q. And that was in March of 1982?

19 A. I can't recall the date, sir. I'd have to go back through my  
20 notes.

21 Q. February or March, 1982, quite early in the investigation.

22 A. I believe so.

23 Q. And did you meet him subsequent to that date?

24 A. Yes, I believe I went to the home the previous day after  
25 Ebsary had requested the meeting and arranged to pick them

1 up and transport them to the office and be part of the  
2 meeting.

3 Q. At this meeting, were you discussing Donald Marshall, Junior,  
4 the type of individual that he was with his parents?

5 A. I don't believe so, no.

6 Q. What about with any of his friends, did you speak to Arty  
7 Paul?

8 A. I'm sorry, the first name was?

9 Q. Arty Paul, Arthur Paul?

10 A. I don't recall that name.

11 Q. What about Tom Christmas?

12 A. I recall Tom Christmas from Membertou Reserve on one or  
13 two occasions, not necessarily connected with this case.

14 Q. And as far as Sandy is concerned, did you speak to Sandy's  
15 father about him, the kind of person that he was, anything?

16 A. The first time I met Oscar Seale and his wife, and I believe his  
17 son was also present, I'm not sure about the son but certainly  
18 the parents, was when Staff Wheaton and I went to the  
19 family home in Westmount as a result of a request by them to  
20 come to the home and update them as to what direction our  
21 investigation was going and at the same time, we were not at  
22 liberty to release a great deal of detail to them because of the  
23 ongoing investigation. We found Mr. Seale very, very  
24 distraught. He was almost impossible to get a word in. He  
25 would ask maybe two or three questions in a row and he

1 would not wait for an answer and the volume of his voice was  
2 almost to a shouting level. He was very exasperated and I  
3 actually thought the thing would get physical before we left.

4 Q. Get physical between you and him?

5 A. Between the three of us. I thought that he was going to lose  
6 total control of his temper or lose control, period.

7 Q. But he didn't lose control, did he?

8 A. No, we left.

9 Q. So that was a thought wasted.

10 A. I'm sorry?

11 Q. Anyway, and you say you were unable to update him?

12 A. Staff Wheaton did most of the talking there.

13 Q. But you were present.

14 A. I was present, yes.

15 Q. Yes?

16 A. It was difficult to carry on the conversation. It was very  
17 much one-sided. Staff Wheaton was not prepared to release  
18 many of the details as to what direction our investigation was  
19 going and, of course, that seemed to upset Mr. Seale further.

20 Q. Tell me, did you record the date when you had such a  
21 meeting with Oscar Seale?

22 A. I have it in my notes.

23 Q. Could you perhaps just quickly identify it for me?

24 A. 31st of March '82.

25 Q. The 31st of March '82.



SGT. CARROLL, EXAM. BY MR. ROSS

1 A. Page nine of Exhibit 104.

2 Q. And by that time, I take it Sergeant Wheaton would have  
3 been disclosing the results of his investigation to Crown  
4 Prosecutor Edwards, wouldn't he?

5 A. He would...

6 Q. He was keeping him updated?

7 A. He would be advising, yes.

8 Q. Sure.

9 A. He would be advising Mr. Edwards.

10 Q. And he was keeping Aronson updated.

11 A. To a certain point, yes.

12 Q. And did you recognize that Aronson was being updated as  
13 the investigation went along?

14 A. I had some knowledge of that, not as much update, of course,  
15 as Edwards, but since Marshall was his client, I think  
16 Wheaton felt it necessary to let him know anything that was  
17 developing of an important nature.

18 Q. I see. Is that a general practice of the RCMP to keep the  
19 lawyer for the accused fully updated?

20 A. To a certain extent.

21 Q. I see.

22 MS. DERRICK

23 Excuse me, My Lords, if I can just interrupt Mr. Ross, at this point  
24 Mr. Marshall was not the accused, so that's perhaps inappropriate  
25 to put that to the witness.

1 MR. CHAIRMAN

2 Sustained.

3 MR. ROSS

4 I will withdraw the word "accused," and I'll rephrase the question.

5 Q. Did you recognize that by giving information to Aronson, you  
6 were in fact giving the same information to Marshall?

7 A. I personally was not giving information to Aronson that  
8 would be passed on to Marshall and I would question  
9 whether Staff Wheaton was telling Aronson anything that  
10 would hinder our investigation of Marshall or his statement.  
11 Now again I'm not sure whether this was before or after our  
12 trip to Moncton. I think it's after. I can't see Wheaton giving  
13 any information to Aronson that would obstruct our further  
14 inquiries.

15 Q. Sure. Staff Sergeant Wheaton gave his own testimony. I just  
16 want to know about you, your personal knowledge, not your  
17 opinion of Wheaton, if you don't mind. As far as this  
18 investigation is concerned, did you yourself update Aronson  
19 from time to time?

20 A. No, sir.

21 Q. As far as your first meeting is concerned, you had a meeting  
22 early in February with Aronson, do you recall that?

23 A. I recall him coming to the office and meeting with Staff  
24 Wheaton and myself.

25 Q. Was it a short or a long meeting, to the best of your

1           recollection?

2       A. Reasonably short.

3       Q. Do you recall what was discussed?

4       A. No, sir. I can only say the case in general, people that may  
5       have been interviewed at that time, possibly our plans of who  
6       to interview in the future.

7       Q. I see and did you take any notes at that meeting, any  
8       extensive notes?

9       A. No, sir.

10      Q. Did Aronson leave any information with you?

11      A. Any information? Such as?

12      Q. Any information whatsoever, I don't know.

13      A. Not that I can recall.

14      Q. Did Aronson pose the theory to you that the incident of May  
15      28, 1971 might have been precipitated by an attempted  
16      robbery?

17      A. I don't believe so, but I think that would have been already  
18      been in our mind from talking with Sarson and, well, at least  
19      by Sarson that would have planted a seed.

20      Q. Sarson would have planted the seed?

21      A. Yes, in Aronson's first letter.

22      Q. I see and what about the report of Al Marshall? Did you have  
23      that at that time?

24      A. I can't recall at what stage I saw the Marshall police report.

25      Q. Didn't it appear to you that everybody was quite quick to

1 | accept the robbery theory involving Sandy Seale?

2 | A. Quite quick to accept that?

3 | Q. Yes.

4 | A. It wasn't unusual to me.

5 | Q. It was not unusual? Did you...

6 | A. It was a theory that surfaced and...

7 | Q. Did you know Sandy Seale?

8 | A. No, sir.

9 | Q. Did you know anything about him?

10 | A. Not until the reinvestigation started and I heard most of that  
11 | from the Seale family.

12 | Q. At the time of the acceptance of the robbery theory, I take it  
13 | you knew nothing about Sandy Seale?

14 | A. No, very little.

15 | Q. And you did not look into his background?

16 | A. I personally?

17 | Q. Yes.

18 | A. No.

19 | Q. And as a matter of fact, you never had a good look at the  
20 | transcript of the 1971 trial of Junior Marshall?

21 | A. Are you asking me a question?

22 | Q. Yes, did you?

23 | A. I read it.

24 | Q. You reviewed the transcript?

25 | A. Yes.

1 Q. Did you make any notes from it or just read it through?

2 A. Read it through.

3 Q. Did you also look at the statements, the police statements,  
4 that were on hand?

5 A. When they became available, yes.

6 Q. Do you know what statements were available prior to your  
7 going to see Marshall in Dorchester?

8 A. No, sir, I couldn't accurately describe what statements were  
9 on the file then.

10 Q. Did you recognize at that point this was going to be a fairly  
11 important reinvestigation matter?

12 A. Yes.

13 Q. And yet there were no records. There's nobody who can, at  
14 this point, look back over the work that was done by yourself  
15 and Wheaton with any real degree of scrutiny because of a  
16 lack of documentation?

17 A. What is your question again, sir? I lost you.

18 Q. I'm asking you that recognizing that this was going to be quite  
19 an important investigation, why didn't you document your  
20 activities more fully?

21 MR. PRINGLE

22 My Lord, I think I'll object to that. It touches two RCM Police  
23 witnesses, so perhaps we have a right to object. He's making a  
24 statement, my learned friend is, and it's not borne out by the total  
25 evidence. That's for Your Lordships, with respect, to determine

SGT. CARROLL, EXAM. BY MR. ROSS

1 | what the various investigators did and how well they documented  
2 | and so on.

3 | MR. CHAIRMAN

4 | There is documentation. I guess...

5 | MR. ROSS

6 | It's a matter of degree, documentation.

7 | MR. CHAIRMAN

8 | I know it's a matter of degree and I guess it's a matter for this  
9 | commission to decide.

10 | MR. ROSS

11 | Sure, well, then I'll leave it up to this commission on that point,  
12 | My Lord.

13 | MR. CHAIRMAN

14 | Overall.

15 | MR. ROSS

16 | Q. And as far as these statements are concerned, I take it that  
17 | we have no record of what statements you received on which  
18 | date. Am I correct with that?

19 | A. You're correct, yes.

20 | Q. And as a matter of fact, would you agree with me that it  
21 | would have been quite simple to note the date when the  
22 | different statements were received?

23 | A. Yes, sir.

24 | Q. Now tell me, did you look at this statement of Keith Beaver  
25 | closely?

- 1 A. At some time in the investigation, yes.
- 2 Q. Do you recall when you might have? Would it be early or late  
3 in the investigation?
- 4 A. No, sir.
- 5 Q. You don't recall? It could have been any time?
- 6 A. If you're referring to the first statement given to the City  
7 Police?
- 8 Q. Yes.
- 9 A. When those statements became available, I would have seen  
10 them probably in the first day or two after they arrived at  
11 our office.
- 12 Q. Do you recall whether that was before you went to Dorchester  
13 to see Marshall or after?
- 14 A. No, I don't recall.
- 15 Q. Do you recognize that in Keith Beaver's statement, he fixed  
16 the time that he was with Junior Marshall at the corner of  
17 Argyle and George at 11:45 p.m.?
- 18 A. No, sir.
- 19 Q. You don't recall that?
- 20 A. No.
- 21 Q. Is it...do you agree that timing would be quite important in  
22 any major investigation?
- 23 A. Yes.
- 24 Q. And perhaps I could refer you...I will in a minute try to find  
25 the statement itself, but the record will show that Keith

1 Beaver's statement put Marshall with himself, Alanna Dixon  
2 and Karen MacDonald at quarter to twelve at the corner of  
3 Argyle and George. Do you take issue with that?

4 A. No, sir.

5 Q. Did you speak to Alanna Dixon?

6 A. I don't recall speaking to the lady.

7 Q. Did you try to speak to her?

8 A. I don't think I was directed to.

9 Q. But if you looked at Beaver's statement, I'm suggesting to you  
10 that the names Alanna Dixon and Karen MacDonald would  
11 show up. Did you do any cross-checking?

12 A. Sir, I'd like to remind you that I had many other  
13 investigations going on at the same time this one was and I  
14 worked at it when directed to by Staff Wheaton. I had many  
15 other concerns. This was not the only case I worked on. Had  
16 that been the case, I would have had more opportunity to  
17 make more notes, more details, that would be available here  
18 today, but it was not within my scope to work totally on this  
19 case from start to finish.

20 Q. You said then that there was a shortage of manpower and as  
21 such this case didn't get the documentation that it should  
22 have?

23 A. No, I'm not saying that at all. I'm saying when I wasn't there,  
24 someone else was chosen to accompany Staff Wheaton for a  
25 search, a statement, an interview or whatever.



1 Q. What about Marvel Mattson, did you ever speak with him?

2 A. No, sir.

3 Q. Did you know him?

4 A. No, sir.

5 Q. Did you ever read his statement?

6 A. I believe I did.

7 Q. His statement puts Marshall and Chant outside of his window  
8 on Byng Avenue around ten minutes to twelve. Did you have  
9 any reason to check those times?

10 A. I did not.

11 Q. You did not. Do you think it would have been a good idea to  
12 check those times?

13 A. Yes.

14 Q. Do you think it would have been a good idea to check and  
15 cross-check the times as given by Keith Beaver in his  
16 statement?

17 A. Yes, sir.

18 Q. Have you got anything, any information which this  
19 commission could entertain which would tend to discredit the  
20 times as given by Keith Beaver and by Marvel Mattson?

21 A. No, sir.

22 Q. Would you agree with me that those times Sandy Seale  
23 leaving Keith Beaver, Alanna Dixon and Karen MacDonald at  
24 quarter to twelve and to be lying having been stabbed and  
25 Marshall away from the general area and across to Byng

1 Avenue just five minutes later, it leaves quite a lot to happen  
2 in a very short time. Would you agree with that?

3 A. If those times are exact, yes, a lot to happen in a short time.

4 Q. Sure, if those times are exact. And I take it that it is for an  
5 investigator to determine how very exact those times are?

6 A. Yes.

7 Q. And to the best of your knowledge, they were never, ever  
8 done?

9 A. I personally did not.

10 Q. And you do not know that anybody ever did?

11 A. I do not know that it was done.

12 Q. Is it fair to say that this was because the emphasis was on the  
13 conviction of Junior Marshall rather than a full investigation  
14 of the circumstances of the death of Sandy Seale?

15 A. Would you repeat that one more time, please?

16 Q. Perhaps I could rephrase the question. Would you agree that  
17 if your terms of reference was to go in and start from the  
18 beginning to investigate the terms and circumstances of the  
19 death of Sandy Seale and the conviction of Marshall and what  
20 happened after, you would have addressed those times?

21 A. Yes.

22 Q. And is it then fair to conclude that they were not addressed  
23 because it was not part of your primary terms of reference?

24 A. No, I wouldn't agree with that.

25 Q. Then why weren't they addressed?

1 A. I think what you're saying is which had the priority, the  
2 conviction of Marshall or the death of Seale and I would have  
3 to say that the Marshall conviction was the priority, if that  
4 answers your question.

5 Q. Sure, and after the Marshall conviction became the priority, is  
6 it fair to say that when there was good reason to suspect that  
7 there might have been a problem, the next priority was to  
8 undo whatever harm had been done to Marshall?

9 A. Yes, sir.

10 Q. And is it fair to say that in undoing such harm, it brought  
11 Ebsary right in the focus?

12 A. That's correct.

13 Q. And is it fair to say that in all of this, Sandy Seale remained in  
14 the shadow, on the periphery?

15 A. Unfortunately so, yes.

16 Q. And up to this point, have you spoken to anybody with  
17 respect to the background and character of Sandy Seale, apart  
18 from his parents?

19 A. I personally had not. I should make some explanation as to  
20 my conversation with Constable Leo Mroz of the Sydney City  
21 Police who had a lot of praise for young Seale, but at what  
22 stage those comments came from Constable Mroz, I can't say.

23 Q. I see, but was it general conversation that you were having  
24 with Constable Mroz rather than a specific inquiry into the  
25 background of Seale?

1 A. Page nine of Exhibit 104.

2 Q. And by that time, I take it Sergeant Wheaton would have  
3 been disclosing the results of his investigation to Crown  
4 Prosecutor Edwards, wouldn't he?

5 A. He would...

6 Q. He was keeping him updated?

7 A. He would be advising, yes.

8 Q. Sure.

9 A. He would be advising Mr. Edwards.

10 Q. And he was keeping Aronson updated.

11 A. To a certain point, yes.

12 Q. And did you recognize that Aronson was being updated as  
13 the investigation went along?

14 A. I had some knowledge of that, not as much update, of course,  
15 as Edwards, but since Marshall was his client, I think  
16 Wheaton felt it necessary to let him know anything that was  
17 developing of an important nature.

18 Q. I see. Is that a general practice of the RCMP to keep the  
19 lawyer for the accused fully updated?

20 A. To a certain extent.

21 3:31 p.m.

22 Q. Do you know whether or not this was done?

23 A. I feel that Staff Wheaton did.

24 Q. And is it fair to say that you have got no information  
25 whatsoever which would reflect adversely on Sandy Seale.

1 A. That's correct.

2 Q. And would you agree with me that, sorry, I must ask another  
3 question first. Did you do any checking into the background  
4 of Donald Marshall, Jr.?

5 A. I was aware of inquiries being made by Staff Wheaton as to  
6 Marshall's involvement with the City Police. Liquor offences  
7 and general run-ins he was having with them from time to  
8 time.

9 Q. And is it fair to say that somebody with a spotted  
10 background that is sitting in a penitentiary, if that person  
11 gives you an exculpatory statement that it would be  
12 necessary to cross-check that statement to some degree at  
13 least?

14 A. Referring to Marshall, yes.

15 Q. Could you tell me what, if any, cross-checking did you do with  
16 respect to the statements received from Marshall?

17 A. That would be pertaining to the robbery?

18 Q. Pertaining to the entire incident.

19 A. I would have to say that my main effort was to pursue Mr.  
20 Ebsary in an effort to glean the truth from him if it could be  
21 had. And I feel I eventually did.

22 Q. I see. Did you read Mr. Ebsary's testimony before this  
23 Commission?

24 A. No, sir, I saw bits and pieces on television in Sydney. Again, I  
25 was involved in other type of work. I couldn't, I did not

1 attend court, or the inquiry when he was giving evidence and  
2 I read briefly what he said in the newspaper.

3 Q. I see. Let's take it back for a minute to 1982. Around the  
4 time that you got a statement from Donald Marshall, Jr., is  
5 there any good reason why you didn't check into the  
6 background to see what, if any, other conflicting statements  
7 had been given by Donald Marshall, Jr.?

8 A. To whom?

9 Q. To anybody. Did you do any checking at all?

10 A. I did not.

11 Q. You didn't cross-reference it with his testimony given at trial?

12 A. Well we knew that, we had read that in the initial stage of  
13 reading the transcript in the preliminary.

14 Q. I appreciate that. But did you cross-check his statement  
15 given to you in March of 1982 with his evidence given in  
16 1971.

17 A. Well we knew there was a conflict.

18 Q. I see. Did you try, did you check with the, did you check with  
19 Corrections Canada to see what other statements might have  
20 been given to him, given by Marshall with respect to the  
21 circumstances of the night of May 28th, 1971.

22 A. I did not.

23 Q. You were referred to something in Mr. Edwards' notes, give  
24 me a half a second, please. I refer you to Exhibit 17, page 19.

25 A. Yes, sir.

1 Q. On February the 8th, 1983, there is reference in Mr. Edwards'  
2 notes to perhaps a discussion with Brooks McGuire. Did you  
3 ever speak to Brooks McGuire?

4 A. Sir, I was questioned on that this morning. I can't add any  
5 comment to that page, at all. There's nothing there that rings  
6 a bell other than the fact that I interviewed someone at the  
7 Correction Centre in Sydney as a result of a rumor or a bit of  
8 information that was passed on to our office and the name  
9 here suggests that was a Cameron, Irving Cameron, and I  
10 have no knowledge of that interview other than that  
11 obviously it petered out. It was nothing worthy of a  
12 statement that I'm aware of and the rest of the page I have, it  
13 doesn't remind me of anything.

14 Q. I see. And you did not check in with Corrections Canada as to  
15 statements given by Marshall.

16 A. I did not.

17 Q. I see. Were you here during the examination of, the cross-  
18 examination by me of Staff Sergeant Wheaton?

19 A. Yes, sir.

20 Q. I referred him to many statements which appear in Volume  
21 35 that I do not propose to take you through one by one, to  
22 the effect that Marshall had given a substantial number of  
23 different accounts of the events of May the 28th, 1971,  
24 between when he was first picked up in June of 1971 and  
25 June of 1982. Were you...

1 MS. DERRICK

2 If I may rise, My Lords, excuse me for interrupting Mr. Ross.  
3 But I believe that the statements or the information that Mr. Ross  
4 is referring to in Volume 35, what we have in there are, is  
5 information provided by various social workers or officials with  
6 Correctional Services. We have no evidence before this  
7 Commission that they were provided by Mr. Marshall and I think  
8 that's a bit misleading suggesting to the witness that that's, in fact,  
9 what they are.

10 CHAIRMAN

11 As of now we have no evidence before us to indicate whether  
12 or not these statements were made and how factual they were or  
13 for what reason. But the simple thing fact is that this witness says  
14 that he didn't check so he has no way, I don't see how he can help  
15 us on that.

16 MR. ROSS

17 I haven't gone any further with it. He said that and my  
18 learned friend objected. While we're on this question, My Lord,  
19 I'd just like to point out that as far as Volume 35 is concerned it  
20 contains information that was handed out by the Commission...

21 CHAIRMAN

22 Right.

23 MR. ROSS

24 And it is my expectation that...  
25



1 CHAIRMAN

2 Oh I'm sure we'll hear something about it.

3 MR. ROSS

4 There must be [inaudible] we'll hear something about it in  
5 due course. And recognizing that I am not going to be able recall  
6 this witness I would like to find out if it's okay if I cover anything  
7 in the information handed out that I find appropriate.

8 CHAIRMAN

9 Except you did that. You asked him, you asked this witness if  
10 he had checked with the Correctional officials...

11 MR. ROSS

12 Yes.

13 CHAIRMAN

14 With respect to any statements which may have been made  
15 by Donald Marshall, Jr. to them from the time, I think you said, he  
16 was first picked up until he was released and he said no.

17 MR. ROSS

18 And I accept that, My Lord.

19 CHAIRMAN

20 So that means he can't help you on any of this.

21 MR. ROSS

22 Thank you, My Lord.

23 Q. Sergeant Carroll, did you attend a reference back in 1982?

24 A. Yes. The first stage of it. I think one day.

25 Q. Were you there for the evidence of Donald Marshall, Jr.?

1 A. If it was completed in the first day, yes. As I recall, I  
2 returned to Sydney on the following day.

3 Q. Did you hear him give evidence to the effect that he was a  
4 friend of Sandy Seale's and had known him for three years?

5 A. I'm not sure about the time period but I believe I did hear  
6 him say he was a friend of Seale's, acquaintance, whatever  
7 the term used.

8 Q. No, friend. I'm thinking about "friend".

9 A. Yeah.

10 Q. Was it your understanding from your discussions with Junior  
11 Marshall that he was a friend of Sandy Seale's?

12 A. From the investigation or from what he said in court that  
13 day?

14 Q. From what he said to you, from his statement when he was in  
15 Dorchester about Sandy Seale. Was this supposed to be a  
16 friend?

17 A. I would say so.

18 Q. And did you check it?

19 A. I did not. I can recall Staff Wheaton asking various people. I  
20 may have asked Junior's father, and I'm just guessing  
21 whether I did or not. I believe I did.

22 Q. Well no, I don't want you to guess. I don't want you to guess  
23 at all. But as far as the investigation is concerned, you didn't  
24 investigate whether or not there were any people who can tie  
25 these, Seale and Marshall together as friends.

1 A. I think the way that came about was that Junior and his  
2 father were doing some drywall work at the Seale residence  
3 in Westmount on one occasion at which time I believe  
4 information came to us that Seale, Sandy Seale and Junior  
5 Marshall became acquainted. The fact that they went around  
6 socially together, I was not made aware of that.

7 Q. I see. Did you check that?

8 A. I did not.

9 Q. Wouldn't it be prudent if two people are going to be involved  
10 in a robbery to check to find out the relationship that existed  
11 between these two if you're not going to accept the robbery  
12 carte blanche?

13 A. It would be unusual that two total strangers would be  
14 involved in such an incident, yes.

15 Q. Yes. It would unusual that it would be total strangers would  
16 be involved. Wouldn't it also be unusual that casual  
17 acquaintances would be involved in such an activity when  
18 one has no history whatsoever of such conduct?

19 A. It would be unusual, yes.

20 Q. Yes. And with the unusual circumstances I take it that no  
21 further checking was done.

22 A. Not by me.

23 Q. By anybody to your knowledge?

24 A. I believe Staff Wheaton looked into that aspect of...

25 Q. I see. Do you know what was the result of his looking into

1 that aspect?

2 A. I think he confirmed that they were acquaintances, not close  
3 friends. Beyond that, I can't say.

4 Q. I see. And I take it that this would have been prior to Staff  
5 Sergeant Wheaton leaving Sydney and turning the file over to  
6 you he would have done that checking.

7 A. Yes.

8 Q. So that when Junior Marshall took the stand in December of  
9 1972 and gave evidence to the Supreme Court, Appeal  
10 Division that they were friends for three years, that was  
11 inconsistent with what you understood the facts to be, wasn't  
12 it.

13 A. Not necessarily.

14 Q. Not necessarily.

15 A. No.

16 Q. Partially?

17 A. Are you saying '82 or '72?

18 Q. 1982.

19 A. '82.

20 Q. Yes.

21 A. His interpretation of his friendship with Seale was not for me  
22 to criticize.

23 Q. I see.

24 A. Whether he called him friend, acquaintance, companion, those  
25 are his words, not mine.

1 Q. I see. And what about, did you attend the third Ebsary trial?

2 A. I attended them all.

3 Q. And that Ebsary trial, do you recall Junior Marshall recanting  
4 in full the statement that he had given to you about the  
5 robbery theory?

6 A. To a certain extent, yes. It was very difficult for him to  
7 admit, even then, that there was an attempt to rob.

8 Q. Very difficult for him to admit. Doesn't it go a little further  
9 than that? Or you don't recall.

10 A. No, I know what you're speaking of. I don't recall the words  
11 he used but I agree with you, yes. He was reluctant, to say  
12 the least, to come out with the actual words.

13 Q. I don't want to be argumentative but perhaps I can help you  
14 here. Did you look at the reasons for judgement given by the  
15 Supreme Court, Appeal Division on the Marshall reference?  
16 Did you read that?

17 A. I was aware of them as they came out. Today it's a little  
18 foggy in my mind.

19 Q. Well, if necessary, I will refer you back to the transcript. It's  
20 there. But my recollection is that the Supreme Court, Appeal  
21 Division concluded that Marshall was reluctant to admit the  
22 robbery. Is that consistent with your recollection?

23 A. Yes.

24 Q. Yes. That's at the Appeal level. But at the Ebsary trial, not a  
25 matter of reluctance. He recanted and he said there was no

1 robbery. Do you recall that?

2 A. I believe that's accurate, yes.

3 Q. And that's inconsistent with what he told you back in  
4 Dorchester in 1982, isn't it?

5 A. Yes.

6 Q. Now without going through the statements and the reports  
7 that were filed with your superiors, is it fair to say that quite  
8 often there is reference in those reports to an attempted  
9 robbery which involved Sandy Seale?

10 A. Yes.

11 Q. In fairness to Sandy Seale, and with the benefit of hindsight,  
12 would you agree to this point that there is really not enough  
13 to support the attempted robbery theory recognizing that  
14 Junior Marshall himself recanted the entire story?

15 A. No, sir, I disagree.

16 Q. Would you suggest that there was enough to take, enough to  
17 take before a court, if Sandy Seale had survived, with a  
18 charge of attempted robbery?

19 A. I feel there would be, yes.

20 Q. Based on what?

21 A. On Jimmy MacNeil. Ebsary's evidence, if it was such, and it is  
22 now. It's been recorded on paper and other ways. So there  
23 would be Ebsary and MacNeil. Seale would be a potential  
24 witness.

25 Q. I see. Let's talk about MacNeil for a minute. Would you agree

SGT. CARROLL, EXAM. BY MR. ROSS

1 that MacNeil changed his story very many times as far as this  
2 so-called robbery's concerned? Or have you got any  
3 knowledge of that?

4 A. Certain details changed. I think if you look at the overall  
5 evidence, the overall story, it hasn't changed very much at all.  
6 But to, Mr. MacNeil was confused as to where he was grabbed,  
7 from which side, any conversation he, he's a very excitable  
8 gentleman. He's under medication. He wouldn't have been a  
9 strong witness, nor was he a strong witness at the appeal  
10 hearing here in Halifax in '82, the reference, I guess, you refer  
11 to it as. I don't think his story overall altered that much. He  
12 was slack in some details and easily confused. Anyone could  
13 confuse him, I believe, if they took a certain procedure in  
14 interrogation.

15 3:46 p.m. \*

16 Q. Well, then can you comment on Al Marshall's conclusion that  
17 Ebsary was somebody with a weak mind and would respond  
18 to anything that was sort of planted by somebody else and  
19 the suggestion that the robbery theory is planted by Ebsary.

20 A. Now you just said, I believe, if I heard properly, you said that  
21 Ebsary was of a weak...

22 Q. Oh, very sorry.

23 A. Ebsary was a weak mind and so on?

24 Q. No, very sorry. Al Marshall's statement indicated that  
25 Marshall...that MacNeil had a weak mind and would adopt

SGT. CARROLL, EXAM. BY MR. ROSS

1           somebody else's story and was of the view that the robbery  
2           theory was planted by Ebsary.

3       A. I would not say that MacNeil had a weak mind in that he  
4           didn't know what was right from wrong and the basic facts of  
5           life, but he was at such a mental state at that time and I  
6           doubt if it's changed that much now, that he could be very  
7           easily intimidated, swayed, for lack of a better word,  
8           pressured. He would not stay hard and fast to something if  
9           he was pressured to the point where he thought he had better  
10          change his story or that he should change some small detail.  
11          He was a very confused young man.

12       Q. I see. And as far as Ebsary is concerned, do you agree that  
13           Ebsary gave many different stories to account for the  
14           activities of the 28th of May, 1971?

15       A. Many?

16       Q. Many.

17       A. Well, he gave one account to the City Police in 1971. He gave  
18           one final account to myself on a tape recording interview. He  
19           gave a written account with lesser detail one or two days  
20           before that interview with the tape recording. I think back  
21           to the interview, the first interview with Wheaton and myself  
22           which was basically a denial of stabbing anyone. So I don't  
23           really think that he gave that many different stories. The one  
24           to the City Police was a denial. The first one to the RCMP in  
25           '82 was a denial. The second one to us, which would be prior



SGT. CARROLL, EXAM. BY MR. ROSS

1 to the tape recording, was a partial admission and the last one  
2 to myself was, in my mind, an admission. So I don't see that  
3 he changed his story that much overall.

4 Q. Would you say that the story was worked along the way to an  
5 admission?

6 A. Worked along?

7 Q. Yes, it just kept crawling closer and closer to an admission.

8 A. I think that the end result was a combination of many things,  
9 one of which was Mr. Doyle, a close friend, companion of  
10 Ebsary's that caused him considerable concern, which I think  
11 probably weakened him to the point that he gave the final  
12 story.

13 Q. I see. But this was after both yourself and Staff Sgt. Wheaton  
14 had pretty well dared Ebsary to admit, wasn't it correct?

15 A. Dared him to admit?

16 Q. Yes, he had indicated some time that he wanted to see Mr.  
17 and Mrs. Marshall, am I correct?

18 A. That's correct, yes.

19 Q. And he also indicated that he had the key.

20 A. Yes.

21 Q. And wasn't it correct also that somebody told, and further he  
22 indicated that he could get Junior Marshall out single-  
23 handedly, or words to that effect.

24 A. Not in those exact words. He kept using the expression, "I  
25 hole the key to the Marshall case." I remember that often

SGT. CARROLL, EXAM. BY MR. ROSS

1 being said.

2 Q. Do you recall either yourself or Staff Sgt. Wheaton telling him  
3 that he could not get Marshall out alone and he is responding  
4 that he'd work with you?

5 A. I don't recall those words being used.

6 Q. You don't recall that.

7 A. I'm not saying he didn't but I don't recall hearing those said  
8 by Wheaton here.

9 Q. Just to wind up on something very slightly different, did you  
10 speak to Det. MacDonald, the person who went to MacIntyre's  
11 house after the stabbing?

12 A. First name, sir?

13 Q. I think he's called Mike MacDonald?

14 A. "Red Mike?"

15 Q. Yes, one of them.

16 A. I was referred to one statement by Staff Sgt. Michael  
17 MacDonald.

18 Q. I see.

19 A. I've spoken to him at the station, not often, possibly once or  
20 twice. I can't recall covering that topic, no, I can't, of going to  
21 the chief's home.

22 Q. Perhaps I'll just lead you and you can respond. Does it help  
23 you to recollect if I said to you that when MacDonald went to  
24 MacIntyre's house the only information he could give him  
25 was that two people had been stabbed. One was a black and

SGT. CARROLL, EXAM. BY MR. ROSS

1 the other one was an Indian.

2 A. I think you're confusing the Chief as being the present Chief  
3 and not MacIntyre.

4 Q. Sorry, I meant MacIntyre, when he went to MacIntyre's  
5 house. Information...

6 MR. MURRAY

7 With respect to this question and this Counsel, to what  
8 interest is he pushing this question about what Red Mike may  
9 have said to somebody, certainly not this witness, about what he  
10 said to John MacIntyre or somebody in 1971?

11 MR. ROSS

12 Perhaps I could respond to my learned friend quite quickly,  
13 My Lord. I am just trying to ask whether or not this witness's  
14 understanding when the report had been given to MacIntyre  
15 whether it was in the frame of that two people had been stabbed,  
16 a black and an Indian. And the next question is whether...

17 MR. CHAIRMAN

18 Is there any evidence to suggest that?

19 MR. ROSS

20 The information that had been given, as I...

21 MR. CHAIRMAN

22 I know there's, I recall evidence that a police officer went to,  
23 contacted Det. Sgt. MacIntyre and told him of the incident in the  
24 park and that someone had been stabbed.

25

SGT. CARROLL, EXAM. BY MR. ROSS

1 MR. ROSS

2 Yes, and that's exactly what I'm trying to develop. I'm trying  
3 to understand whether this person has any information that can  
4 be brought to bear.

5 MR. CHAIRMAN

6 No, but I'm concerned about the words that you used. I don't,  
7 I'm, it may have slipped my mind, but I don't recall any  
8 suggestion...

9 MR. ROSS

10 I could rephrase it in a more appropriate way, My Lord.

11 BY MR. ROSS

12 Q. Do you recall speaking to MacDonald, the individual who had  
13 gone to see MacIntyre the night of the stabbing?

14 MR. PUGSLEY

15 There's no evidence that he went to see MacIntyre. The  
16 evidence is that there was a telephone call to MacIntyre, but  
17 there's no evidence that anyone went to see him.

18 BY MR. ROSS

19 Q. Who contacted MacIntyre the night of the stabbing?

20 A. I have heard that information either from the Inquiry or  
21 from the statement of MacDonald and as counsel suggests, I'm  
22 of the opinion it was a phone call to Det. MacIntyre and that  
23 he was not the present, he was not the chief at the time.

24 Q. Sure.

25 A. I think there's some confusion there. So I believe that there

SGT. CARROLL, EXAM. BY MR. ROSS

1 was a phone call to Det. MacIntyre advising him of the  
2 stabbing, plural, stabbings, and that he did not respond to the  
3 call and as I remember, there was a further patrol the next  
4 morning by MacDonald to the present chief's home, the chief  
5 at that time to pick him up and to update him. That's what I  
6 remember from the evidence.

7 Q. Now there's one other thing. Staff Sgt. Wheaton was asked a  
8 very direct question about whether or not he thought that  
9 what happened in the Seale/Marshall matter could happen  
10 again, and he was of the view that it could. And he went on  
11 to discuss it, elaborate on it. What's your view?

12 MR. PUGSLEY

13 I missed the question, Mr. Ross. Would you mind repeating it,  
14 please?

15 MR. CHAIRMAN

16 The question, as I understand it, is whether Mr., is whether  
17 this witness has an opinion as to whether the events that we have  
18 been labouring over for the last several months is likely to  
19 happen again.

20 MR. PUGSLEY

21 Thank you. I'm sorry, My Lord.

22 SGT. CARROLL

23 A. I would like to hope that it wouldn't, but I'm not so certain it  
24 couldn't.

25 Q. What, if anything, as an investigator could you tell this

SGT. CARROLL, EXAM. BY MR. ROSS

1 Inquiry should be put in place in an effort to insure that it  
2 doesn't happen again?

3 A. If police forces such as Sydney, and smaller places such as,  
4 say, Truro, Glace Bay, New Waterford, they all have much  
5 smaller police forces, if they did not presently account for  
6 investigations on major crimes to the Attorney General's  
7 office in Halifax or to someone beyond their own immediate  
8 staff, I think there is a great chance of something like this  
9 being not reported and not being known about in time to  
10 possibly prevent some similar injustice. If they don't report  
11 now, I think they should be. If they're not obligated to report  
12 their actions and their investigative procedures, then I think  
13 that is important.

14 Q. As an RCMP investigator and somebody who has been  
15 involved in this matter, I must ask you, could you perhaps  
16 give me your view as to whether or not you think the fact  
17 that the victim, the primary victim was black had anything to  
18 do with the course which the investigation followed?

19 A. I don't really think that is the case. The Seale family were  
20 well known in the City of Sydney. The father was equally  
21 well known for sports, I believe, in his younger days. I  
22 believe he also ran a club in the Sydney area, very well  
23 known. Until recently, I believe he was involved as Motor  
24 Vehicle Branch Inspector, well known through those circles.  
25 We're not talking about a slum family. We're not talking

SGT. CARROLL, EXAM. BY MR. ROSS

1 about poor people. They have a very nice home. I don' really  
2 think that that is, that has a large bearing on this case.

3 Q. The next question, the fact that the accused was an Indian, do  
4 you think that had anything to do with it?

COMMISSIONER EVANS

6 You're not going to leave anything for Mr. Wildsmith.

MR. ROSS

8 No, I'm going to leave a lot for him. There's just one other  
9 question on this.

SGT. CARROLL

11 A. Well, I think a lot of the same facts apply here. Donald  
12 Marshall's father is the, as I understand it, the religious chief  
13 of the Micmac nation in Eastern Canada, Maritime provinces,  
14 his drywall business, I think, made him very well known in  
15 the general area of Sydney. Unfortunately, his son was well  
16 known to the City Police as well and I think that was a strike  
17 against him.

18 Q. Well, then do you think that there was any accumulative  
19 effect a black victim and an Indian accused, do you think that  
20 in itself, those two parameters had anything to do with,  
21 contributed to the problems that we are looking at today?

22 A. There may have been a slight influence there. I can't be as  
23 strong as Staff Wheaton was in his comments in that regard.

24 Q. Is it fair to say that you're not without concern in any event?

25 A. Yes, that would be fair.

SGT. CARROLL, EXAM. BY MR. ROSS

1 Q Thank you very kind. Those are my questions.

2 MR. CHAIRMAN

3 Well, at least there aren't any questions left for Mr. Wildsmith.

4 MR. ROSS

5 No questions from Mr. Wildsmith.

6 COMMISSIONER EVANS

7 That will be the first time.

8 MR. WILDSMITH

9 No such luck, but I'm sure I will be brief.

10 MR. CHAIRMAN

11 Well, I heard Mr. Ross start off by saying, I have one or two  
12 questions to ask.

13 MR. ROSS

14 But I was very brief.

15 MR. WILDSMITH

16 Mr. Ross is also well known for his euphemisms.

17 EXAMINATION BY MR. WILDSMITH

18

19 Q I'd like to direct your attention, Sergeant Carroll, to the  
20 statement which you took from Mitchell Sarson, you and  
21 Sergeant Wheaton, at Volume 34, page 45.

22 A. Yes, I have that.

23 Q If you might take a moment to look at the language that is  
24 contained in that statement, particularly starting halfway  
25 through the third paragraph where it starts out, "I asked him



SGT. CARROLL, EXAM. BY MR. WILDSMITH

1 what happened and he..." and I take that to be Roy Ebsary  
2 "...said," and I won't go through it all, but if you look at the  
3 texture of that language, it doesn't refer, you'll agree, to Mr.  
4 Seale by the name "Seale" or "Sandy." It doesn't refer to Mr.  
5 Marshall by the name "Marshall" or "Junior." Marshall is  
6 always referred to as an Indian.

7 A. That's correct.

8 Q. Mr. Seale is always referred to as a "nigger"?

9 A. That's true.

10 Q. And indeed, down in the fourth paragraph, the statement  
11 appears "I felt the Indian had killed the coon." Do you see  
12 that language?

13 A. Yes, I do.

14 Q. Is that language given to you by Mitchell Sarson?

15 A. Yes, sir.

16 Q. That's his language. That's Mitchell Sarson's language given to  
17 you, correct?

18 A. Exactly.

19 Q. In the context in which I read this, I'm reading this as  
20 language that Mitchell Sarson is giving to you out of the  
21 mouth of Roy Ebsary.

22 A. Yes.

23 Q. So if I understand it correctly, this is Sarson's paraphrasing of  
24 the way that he believed Mr. Ebsary spoke?

25 A. That's true.

SGT. CARROLL, EXAM. BY MR. WILDSMITH

1 Q And I guess you'll have no trouble agreeing that that is  
2 racially offensive?

3 A. Yes.

4 Q That it portrays an image of someone who holds minority  
5 races in low respect?

6 A. Yes.

7 Q Now you, perhaps more than other people involved in this  
8 investigation, got to know Roy Ebsary, certainly better than  
9 Staff Sergeant Wheaton?

10 A. Yes.

11 Q Am I correct in thinking that Roy Ebsary was somebody who  
12 held blacks and Indians in low regard?

13 A. I would say so.

14 Q You've given evidence and it appears in your notes and  
15 various other places about how Roy Ebsary wanted to visit  
16 the Marshalls in their home, meet Junior's parents, look into  
17 Mrs. Marshall's eyes, I believe?

18 A. That's true.

19 Q To judge them in some way.

20 A. Yes.

21 Q Even to give them his dog.

22 A. That's true.

23 Q Am I correct in thinking that the reason he wanted to do that  
24 had something to do with the fact that they were Indians?

25 A. Yes, I believe so. I believe he wanted to see their lifestyle,

1           what kind of a home they had, whether it was decent or  
2           otherwise. And possibly even the way they dressed and that  
3           sort of thing.

4       Q. And not to cooperate unless you approved?

5       A. Basically, yes.

6       Q. Let me direct you to the statement of Dr. Virick which you  
7           took at Page 75 in the same volume.

8       A. Yes.

9       Q. Now part of the evidence which we received at the  
10           Commission, at least as I understood it, is that John MacIntyre  
11           was supposed to have requested Dr. Virick to secure the  
12           stitches or the bandages or something from Junior Marshall.

13      A. Yes.

14      Q. Now when I see the statement that you took from Dr. Virick,  
15           the second last sentence, after referring to Marshall removed  
16           the stitches himself. It is not uncommon. I see the sentence  
17           "I did not talk to the City police before or after my  
18           testimony." Can you...

19      A. Yes, I see that statement there.

20      Q. Can you help me out as to whether that is as reference to him  
21           not talking to the City police about this question of removing  
22           the stitches or getting the bandages for blood samples?

23      A. Well, I take it just as it is word for word. "I did not talk to  
24           the City police before or after my testimony." And I think it  
25           speaks for itself.

SGT. CARROLL, EXAM. BY MR. WILDSMITH

1 Q. Well, can you recall, you took this statement, whether it was  
2 Dr. Virick's position that he had not been requested by the  
3 City police to...

4 A. I would suggest that remark is likely in response to a  
5 question by me such as "Did you discuss your evidence, or  
6 potential evidence, with the City police prior to going to trial?"  
7 I'm guessing again, but it may have been a direct quote  
8 without any question from me.

9 Q. Yes, well, this is what I'm trying to get at, and you may have  
10 to reflect back with your own meeting with Dr. Virick rather  
11 than through the statement is whether he indicated to you  
12 that he had or had not dealt with the police on the question of  
13 getting the stitches or getting the bandages from the wound.

14 A. I'm not certain at that stage, on the 22nd of April, 1982, that I  
15 was aware that Deputy...not Deputy but Detective MacIntyre  
16 was trying to get the stitches and bandages to identify a blood  
17 type. I'm not certain I was aware of that at the time the  
18 statement was taken.

19 Q. So you may not have asked that question?

20 A. No, sir, I may not have.

21 Q. Let me turn you back to Page 52 now in that volume. This is  
22 part of the statement of Donald Marshall. And I want to  
23 direct your attention to the first paragraph, the second last  
24 sentence says "I was questioned a lot by John MacIntyre for  
25 things like knocking over gravestones, dynamite caps and was

SGT. CARROLL, EXAM. BY MR. WILD SMITH

1 kicked out of Wentworth Park." Do you see that portion?

2 A. Yes, sir.

3 Q. I wanted to focus on this phrase "...was kicked out of  
4 Wentworth Park." Is that an expression that Mr. Marshall  
5 would have volunteered to you? This reference to  
6 Wentworth Park?

7 A. Yes, I would say so.

8 Q. And I take it the thrust of that is that either John MacIntyre  
9 or the Sydney Police were in the habit of kicking him out of  
10 Wentworth Park?

11 A. I would say so.

12 Q. We've heard some evidence to the effect that the Indian  
13 youth hung around in Wentworth Park and were harassed  
14 and/or kicked out of the park by the police.

15 A. Yes.

16 Q. Is that consistent with your understanding of the events  
17 around 1971?

18 A. I believe Wentworth Park was a trouble area of the City. I  
19 don't think it was well lighted at the time. I mean electric  
20 lights, flood lights, that sort of thing. I don't think it was well  
21 illuminated for the people that would be going through there.  
22 I think that you're right in saying that the police probably put  
23 the run to certain people that were loitering there, whether it  
24 be winos, troublesome groups of young people or whatever.

25 Q. And this was something that Junior brought up of his own

SGT. CARROLL, EXAM. BY MR. WILDSMITH

1 accord and volunteered to you?

2 A. Yes.

3 Q. I'd like to turn now to the statement of Maynard Chant that  
4 appears on Page 47 in that volume. This is his February  
5 16/82 statement and you were there at that time, I take it?

6 A. Yes, sir.

7 Q. You witnessed it. Down in the third last line on the first page  
8 there, on Page 47, in the context of talking about "I really felt  
9 Marshall did it" and he talks about a friend saying Marshall  
10 was gloating about killing Seale in jail and then the next  
11 sentence "I also felt that the Indians were all out to get me."  
12 I'd like to ask you about that sentence and before I do, I'd  
13 like to draw your attention to...you can look this up if you'd  
14 like or take my word for it, that in the resumé prepared by  
15 Staff Sergeant Wheaton at Volume 19, Page 19, my learned  
16 friend, Mr. Barrett, drew your attention to that. And at the  
17 subsequent report prepared by Staff Sergeant Wheaton on  
18 February 25, there's nothing in his resumé or summary of  
19 Chant's statement that refers to Indians?

20 A. That was rather lengthy. You lost me halfway through.

21 Q. Yes.

22 A. Referring to Chant?

23 Q. I wanted to ask you about that sentence, but before doing so,  
24 I wanted to put it to you that Staff Sergeant Wheaton in his  
25 resumé appearing at Volume 19, page 19, where he

SGT. CARROLL, EXAM. BY MR. WILDSMITH

1 summarizes this statement from Chant, and similarly in his  
2 more formal written report of February 25 found at Volume  
3 34 at Page 14, when he summarizes this statement, makes no  
4 reference to Indians.

5 A. Referring to page 19 of Transcript 19?

6 Q. O.K. if you look at Volume 19.

7 MR. CHAIRMAN

8 Refer him to the report.

9 MR. WILDSMITH

10 Yes, I'm talking about reports that were prepared...

11 MR. CHAIRMAN

12 I think that what Mr. Wildsmith is saying, Sergeant, is correct,  
13 that in the two reports, there's no reference to Indians  
14 furthermore. If I'm wrong, correct me, but rather than look it up.

15 MR. WILDSMITH

16 Thank you.

17 Q. And when I look at the second statement taken from  
18 Maynard Chant of April 20, 1982, found at Volume 34, Page  
19 81, I don't see any reference in there to Indians. And indeed  
20 when I look at Mrs. Chant's statement also I don't see any  
21 reference in Mrs. Chant's statement to Indians. So putting the  
22 question to you in this context, it appears to me that Staff  
23 Sergeant Wheaton and you, when you took your subsequent  
24 statement from Chant to get more details, did not feel that  
25 this reference to Indians was significant?

1 A. I don't recall any description of any incidents by Chant that  
2 would support that at this date. I don't recall. It was a  
3 different story with Pratico.

4 Q. Yes, my question to you is about Chant and I think you were  
5 confirming to me that when you went back to Chant to take  
6 the second statement, this was not again something that was  
7 discussed or something of sufficient importance that you put  
8 it into his statement?

9 A. No, that may have been just in Chant's imagination that the  
10 native people were out to even the score or to cause him  
11 some problems.

12 Q. And that's really what I wanted to put to you, that there  
13 wasn't any evidence to support contact between the native  
14 population and the Indian population and Chant?

15 A. Not that I'm aware of.

16 Q. And this statement where it says "I also felt..." that is  
17 consistent with the idea that it was all in Chant's head?

18 A. I would suggest so, yes.

19 Q. Another small point, on page 113 in Volume 34, there is some  
20 kind of...this is page 113, a handwritten note. I don't see your  
21 name on it, but then I don't know...there are a lot of initials  
22 and various things. Do you know what this page is?

23 A. I haven't seen it before, but I can tell you what it is. It's an  
24 interoffice communication between Corporal Stutt.

25 Q. Who's he?



- 1 A. Corporal Darrel Stutt, S T U T T.
- 2 Q. Yes, who would he be?
- 3 A. I would suggest he was probably our reader, reader of crime  
4 reports for the RCMP.
- 5 Q. In Halifax?
- 6 A. In Halifax and that was going to the assistant CIB officer in  
7 the same building here in Halifax, an interoffice memo if you  
8 like. I haven't seen it before.
- 9 Q. Do you recognize any of the other initials further down on the  
10 page?
- 11 A. No, sir.
- 12 Q. There's some brief and varied reference in Sergeant  
13 Wheaton's testimony to the possibility of difficulties he  
14 and/or you encountered in convincing superiors of the  
15 innocence of Marshall. Can you comment at all as to whether  
16 you senses any such difficulty?
- 17 A. No, I can't.
- 18 Q. You cannot comment or you did...
- 19 A. I'm thinking of my immediate superior, Inspector Scott, at the  
20 time the investigation was commencing in '82. I always  
21 found him receptive to our work at that time. We had no  
22 problem communicating with him.
- 23 Q. I see and you're not...
- 24 A. Beyond that level, I had no communication at all.
- 25 Q. And no word that trickled down to you one way or the other?

1 A. Nothing that I can recall.

2 4:15 p.m.

3 A. Nothing that I can recall.

4 Q. Okay. The last area I wanted to deal with, you indicated, I  
5 believe, that Marshall made a poor witness on his own behalf.

6 A. From the transcript and as I later saw him in Halifax at the  
7 reference and also in Sydney. He had not changed that much  
8 in his courtroom manner in that he spoke in a low tone and  
9 he was not volunteering very much.

10 Q. And I guess it's fair to say that when somebody judges a  
11 person giving evidence in that manner that may well be that  
12 it affects their credibility.

13 A. I think it did in the first trial and...

14 Q. You mean in his trial?

15 A. In his own trial. Reading it from the paper, from the  
16 transcript, it appeared that the judge was constantly  
17 reminding him to get his knuckles out of his mouth and to  
18 speak up and raise his voice.

19 Q. And if a person isn't a believable witness on their own behalf  
20 it may very well affect the verdict.

21 A. I think it takes away from the strength of the evidence, yes.

22 Q. Yes. Would it be fair to say that that impression that  
23 Marshall conveyed through his personal mannerisms and lack  
24 of experience, you might say, whether that would be typical  
25 of what you would expect from other Indian witnesses?

1 A. Unfortunately, that is the case in many cases.

2 Q. And you've had enough occasion to observe Indian people in  
3 the courtrooms to know that they are often passive and not  
4 very articulate?

5 A. The communication problem is usually there, which I suppose  
6 goes back to education.

7 Q. Yes.

8 A. It goes back to education. The, sometimes the enthusiasm is  
9 not there to speak up for themselves either.

10 Q. What do you mean by that?

11 A. Well I think you probably said it better, passive.

12 MR. WILDSMITH

13 Okay. Thank you then, those are my questions.

14 CHAIRMAN

15 Mr. ...

16 4:17 p.m.

17 EXAMINATION BY MR. PRINGLE

18  
19 Q. Thank you, My Lord. I think I'll just use this. Five areas, I  
20 don't expect them to expand into many questions. Five minor  
21 areas. I'll try and move quickly through them. Sergeant,  
22 you've been asked twice about Brooks McGuire and I refer  
23 you to Volume 17 at page 19, Frank Edwards' notes.

24 A. Yes, sir.

25 Q. Under date of February 9th, 1983, there's a comment by Mr.

1 Edwards. Could you read that, please?

2 A. "Told him I didn't think there was anything worth following  
3 up at this point."

4 Q. Is that what Mr. Edwards said to you with respect to Mr.  
5 McGuire?

6 A. I'm sorry, sir, I cannot put Brooks McGuire into this picture at  
7 all.

8 Q. No, that's not my question. Did Mr. Edwards say anything like  
9 that to you about Mr. McGuire? Do you recall anything that  
10 Mr. Edwards may have said to you?

11 A. The name means nothing to me at all.

12 Q. Okay.

13 A. I cannot relate to it.

14 Q. Perhaps one other reference to see if we can assist you in that  
15 regard. In your notes which is Exhibit 104 at page 6.

16 A. What date, sir.

17 Q. March the 3rd, 1983. There is a reference in your notes of  
18 that date to inquiries on Campbell Road. And the only reason  
19 I ask you that, sir, is if you look back at Volume 17, page 19,  
20 Frank Edwards' notes, the reference to Brooks McGuire refers  
21 to Campbell Street. And reading those together, do you have  
22 any recollection of this McGuire thing?

23 A. It does nothing to refresh my memory.

24 Q. Thank you very much. While you have Volume 17, Frank  
25 Edwards' notes close to you there, I want to ask you a few

1 questions about the radio interview that my friend, Mr.  
2 Pugsley, referred to that Mr. Pratico was supposed to have  
3 been on.

4 A. Yes.

5 Q. Did you ever hear that radio story yourself?

6 A. No, sir.

7 Q. You interviewed, took a statement from Pratico on February  
8 the 25th, 1982, correct?

9 A. I'll take your word for the date, yes.

10 Q. I think everyone agrees with that date. It's in your notes, in  
11 any event, and it's also in the exhibits. Would you look at  
12 Frank Edwards' notes, Volume 17, at page 6, please? And  
13 there's a reference in Mr. ...Have you got that?

14 A. Yes, I have.

15 Q. There's a reference in Mr. Edwards' notes at the bottom of the  
16 page, "Notes made Sunday, March 28th, '82" and he starts,  
17 "First learned that story broke while en route to Halifax on  
18 Wednesday, March 24th..." and then goes on in the second  
19 paragraph, "Also learned that Pratico had been interviewed  
20 on the radio and denied changing his story." Mr. Edwards, at  
21 least, in his notes, puts that date as March 25th. Does that  
22 assist you in any way with respect to hearing anything about  
23 the radio story and the timing on it?

24 A. No, sir, not at all.

25 Q. Okay. Did you ever know that Pratico had been on a radio

1 show before testifying here?

2 A. Yes.

3 Q. When did you learn that?

4 A. I would say probably the same day, following day that it  
5 occurred.

6 Q. You do recall hearing something about it.

7 A. I recall hearing someone discuss Pratico had been on the local  
8 radio station and had been interviewed.

9 Q. But you can't fix a date to that yourself.

10 A. No, sir.

11 Q. All right. Thank you. You were asked many questions, sir,  
12 about the work that yourself and Staff Sergeant Wheaton did  
13 in 1982. You were reviewing, to put it in context, the facts of  
14 a murder that was 11 years stale, is that not correct?

15 A. That's true, yes.

16 Q. And you had other tasks and other jobs that you were  
17 working on.

18 A. Many.

19 Q. And you brought it to a conclusion, correct? And do you  
20 think it was a correct conclusion?

21 A. I do, sir.

22 Q. Besides the statements and everything that you had in that  
23 regard, you had some knives that were sent to the lab, is that  
24 correct?

25 A. That's correct.

1 Q. Do you know the results of those lab tests, Sergeant?

2 A. I know the conclusion drawn by the Court. I think the  
3 comment that sticks out in mind, one of the Justices said they  
4 were, the word escapes me but they were of very little  
5 material evidence.

6 Q. Yes. But as per the lab results, the conclusions that the lab  
7 people passed on to yourself Staff Sergeant Wheaton, do you  
8 know what that was?

9 A. That the fibres found on the adhesive side of the black  
10 electrical tape used by Ebsary to hold the copper pipe handle  
11 in place on the end of the blade, fibres found there were  
12 consistent with fibres taken from Seale's outer sweater or  
13 jacket and also consistent, some of them were consistent with  
14 Marshall's inner lining of his jacket, not positively proven but  
15 consistent with the same type of materials found on both.

16 Q. That's the conclusion that the lab passed on as you  
17 understood it.

18 A. Yes.

19 Q. Thank you. You were asked a question as to whether yourself  
20 or Staff Sergeant Wheaton had passed any reports on to Mr.  
21 Aronson, is that correct? You were asked that question.

22 A. That's correct, yes.

23 Q. You did not.

24 A. I did not.

25 Q. I wish to refer you to Volume 20 at page 50.

1 A. Page 50?

2 Q. Yes.

3 A. 5-0?

4 Q. Yes. There is a reference in Volume 20, page 50 which is a  
5 report dated the 19th of October 1984. There's a reference in  
6 Item 5 on page 50 to Crown Prosecutor Frank Edwards  
7 perhaps having released a copy of the report, or given a copy  
8 of the report to Stephen Aronson on or about June 23rd,  
9 1982. Do you see that?

10 A. Yes, I do.

11 Q. Do you have any personal knowledge of that?

12 A. No, sir.

13 Q. Thank you. You were asked this morning whether you  
14 thought you had any bias in your investigation with respect  
15 to Chief MacIntyre. I'm not sure that you had a chance to  
16 respond to that. I'll ask you directly. Do you think you held  
17 any bias with respect to your investigation of the Chief?

18 A. No, sir, I don't believe I have. I would like to see the, all the  
19 facts brought to the surface and let someone else judge them.  
20 I'm not in that position.

21 MR. PRINGLE

22 Thank you.

23 CHAIRMAN

24 All right. Mr. Broderick.  
25



1 4:25 p.m.  
2  
3

4 EXAMINATION BY MR. BRODERICK

5 Q. Two questions, My Lord.

6 CHAIRMAN

7 Please don't use that numeral two.

8 Q. You were questioned this morning, Sergeant, on the trip to  
9 Halifax that Mr. Pratico took and you had mentioned that you  
10 were vaguely aware, I believe, that he was transported there  
11 by members of the Sydney Police Department, is that correct?

12 A. I did say that, yes.

13 Q. I suppose, Volume 12 of the testimony that was given before  
14 the Commission...

15 A. Yes, I have that here.

16 Q. No, the transcript itself is what we want.

17 A. Page, sir?

18 Q. Page 2088, first.

19 A. Yes.

20 Q. If you will follow with me you'll see line 14. Question, this is  
21 John L. Pratico by Mr. Spicer.

22  
23 After the preliminary and I think the  
24 hospital records and other records will  
25 show that he was taken to the Nova  
Scotia Hospital in August. Can you, before  
you went to the Nova Scotia Hospital, did

you have occasion to speak to your  
doctors after the preliminary hearing?

Now that was a question put and he said I met with my  
doctors. But that question, tying in the timeframe, if you'll  
turn to page 2090 of that volume...

A. Yes.

Q. And I would direct your attention to Question 7. Now would  
you read, well, Question 7, you'll see it says,

You were taken off, taken to the Nova  
Scotia Hospital?

A. Yes, sir.

Q. Before trial?

A. Yes, sir.

Q. Do you remember who took you?

And what's the answer on Line 12.

A. His reply to the question is, "My mum and one of the Sydney  
Detectives..." in brackets it states it was Mr. MacDonald, "and  
my kid sister came up with us."

Q. Now you'll see Line 16, answer to that. You'll see that it's  
repeated on that page a number of times. Mr. Pratico makes  
references to Mr. MacDonald, does he not...

A. Yeah.

Q. As having driven him.

A. Yes, he does.

Q. The only other question, you will recall the first statement  
that you took from Mr. Chant. Do you recall him stating at  
that time that the Crown Prosecutor was really mad at him at

1 some point?

2 A. I recall that comment, yes.

3 MR. BRODERICK

4 My Lord, I have no further questions except to say that if it's  
5 all right with Mr. Pugsley, on behalf of Mr. Carroll and myself,  
6 we will not be appearing hopefully before the Commission  
7 again and that just to thank you for the consideration and so  
8 on. I preface that by saying Mr. Pugsley because of the...

9 CHAIRMAN

10 [inaudible] that's all right.

11 MR. PUGSLEY

12 I don't expect that I have any jurisdiction over attendance of  
13 witnesses.

14 CHAIRMAN

15 Do you have any questions...

16 4:28 p.m.

17 EXAMINATION BY COMMISSIONER EVANS

18  
19 Q. Sergeant Carroll, there was one, a couple of questions, I don't  
20 count any better than lawyers so maybe three, but as I  
21 understand the sequence on the 9th of February you saw  
22 Sarson.

23 A. Yes, My Lord.

24 Q. And then on the 16th, when you saw Sarson you were not too  
25 impressed with his evidence, I take it.

1 A. Not overly.

2 Q. And then on the 16th you saw Chant and you had a short  
3 interview with him in which he admitted he lied and you say  
4 that you were shocked, both you and Wheaton were shocked  
5 by his comments.

6 A. Yes.

7 Q. Then you went to Dorchester and you saw Marshall on the  
8 18th, two days later, in February.

9 A. Yes, My Lord.

10 Q. And at that time, both you and Wheaton were of the view  
11 that Marshall was innocent or...

12 A. Wheaton moreso than myself but...

13 Q. You were leaning that way...

14 A. Yes.

15 Q. He had fallen that way or gone that way, I should say.

16 A. That's correct.

17 Q. So that all you really had was the evidence of two people.

18 A. One impressive and one not so impressive.

19 Q. Well, you were impressed by Chant.

20 A. Yes, sir.

21 Q. Although he admitted that he had lied and had committed  
22 perjury on two or three occasions.

23 A. That's correct.

24 Q. And that shock that you sustained didn't cause you to go back  
25 immediately and interview him, you didn't go back until April

1 the 20th...

2 A. That's correct, sir. But in the meantime I was involved in  
3 many other matters.

4 Q. Yes, yes. I'm not criticizing you. I just say that Wheaton  
5 didn't go back either, did he, to see Chant?

6 A. Not to my knowledge, sir.

7 Q. No. And all I was suggesting to you, that maybe there was a  
8 premature conclusion arrived at by Wheaton at that time as  
9 to the innocence of Marshall.

10 A. Well I guess you would have to be there to appreciate the  
11 atmosphere and Chant's outburst or his, the way the  
12 conversation actually place. He was most convincing.

13 COMMISSIONER EVANS

14 Okay. Fine. Thank you.

15 CHAIRMAN

16 Thank you very much, Sergeant. We'll adjourn until 9:30.

17 WITNESS WITHDREW

18

19 ADJOURN TO 3 FEBRUARY 1988 - 9:30 a.m.

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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.

  
Margaret E. Graham

DATED THIS 2nd day of February, 1988, at Dartmouth,  
Nova Scotia