

1 2:03 p.m.

2 Q. Thank you, My Lord. Mr. Urquhart, I just reiterate my
3 comment of this morning. If you start to feel unnecessarily
4 or unduly tired during your testimony, I think you were
5 feeling tired at lunch, just, again, please say so and we'll take
6 a break.

7 A. Thank you.

8 Q. I'd like to move to Thursday, June the 17th. You mentioned
9 earlier when you took a statement from Mr. Doucette, I think
10 on Monday of that week, that you believed you were working
11 evenings. Would you then be still on an evening shift on the
12 Thursday of that week?

13 A. Yes, I believe I would be if I was...

14 Q. When you did your evening shift, would that be Monday
15 through Friday, inclusive?

16 A. Monday through to Friday.

17 Q. Now could the witness be shown Exhibit 55, please? That's
18 the original of a statement contained in Volume 16 at page
19 64. Is that your writing on that statement?

20 A. Yes, sir, it is.

21 Q. Okay. And I gather from that that on the evening of June
22 17th you met with Patricia Harriss.

23 A. Yes, at 8:15 in the evening.

24 Q. Why were you interested in talking to Patricia Harriss?

25 A. Her name likely come up from other witnesses. And we were

1 trying to get everybody that was in the Park or anybody that
2 would know anything.

3 Q. Did you know her prior to speaking with her?

4 A. No.

5 Q. Did you know her family?

6 A. No, I didn't know Patricia Harriss and I didn't know the
7 family.

8 Q. And do you, today, remember having that interview with
9 Patricia Harriss?

10 A. I remember something about it but I'm not very clear on it.

11 Q. Okay. Do you remember where it took place?

12 A. I'd imagine, and I would say it was at the police station in
13 Sydney.

14 Q. Do you have any memory of sending somebody out to get
15 her?

16 A. No, sir, I do not.

17 Q. Are you able to tell us who was present at the interview?

18 A. No.

19 Q. Her testimony before the inquiry was, or, and particularly her
20 mother's testimony, Eunice Harriss, was to the effect that her
21 mother, Eunice Harriss, was at the police station and was
22 present for at least some of the interview. Do you have any
23 memory of her mother being present?

24 A. I remember and it's dimly that I remember Mrs. Harriss
25 coming in to the police station. But whether she was in on an

1 interview or with whom, I cannot recall.

2 Q. Okay. Do you know if there were any other police officers
3 present?

4 A. No, I don't.

5 Q. You don't remember?

6 A. No.

7 Q. On an evening shift would there be other detectives available
8 to bring in?

9 A. Yes. Possibly, we used to work in teams on the evening shift.
10 There'd be either of the Mike MacDonalds working with me or
11 I'd be working with them on different shifts. On day shift
12 and on the evening shift.

13 Q. So am I to understand that it would be the practice that on an
14 evening shift there would be two detectives on duty?

15 A. If it at all possible, yes. The manpower would, other than
16 vacation times or something else that would happen that
17 they'd be taken for other work.

18 Q. There's been some suggestion at least that M.R. MacDonald
19 may have been present with you during this interview. Do
20 you have any memory of that?

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

22 Q. Do you know if Chief MacIntyre was present with you when
23 this interview was taken?

24 A. No.

25 Q. He was not or you don't remember.

1 A. I don't know if he was or not, sir.

2 Q. If he had been present, who would have taken the statement?

3 A. John MacIntyre.

4 Q. Does the fact that you took this statement suggest that he was
5 not there?

6 A. Not at this particular time because the statement isn't signed
7 by...

8 Q. No, I appreciate that.

9 A. By myself or by John MacIntyre.

10 Q. No, but the statement is in your handwriting.

11 A. It's in my handwriting, yes.

12 Q. Yes. And you just told us that if John MacIntyre were there
13 he would have taken the statement.

14 A. Yes, I'd im-, he would have, yes.

15 Q. And he would have written it down.

16 A. He would have written it down in his handwriting.

17 Q. So my point is the fact that this is in your handwriting, does
18 that indicate that he was not present while you were writing
19 this out?

20 A. I would say so, yes.

21 Q. That's all there is...

22 COMMISSIONER EVANS

23 ...[inaudible] complete statement?

24 Q. Yeah. That's all we have, My Lord. I'll come to that with the
25 witness but with respect to an 8:15 statement that is it. Do

1 | you have any memory now of this interview with Patricia
2 | Harriss?

3 | A. No, sir, I do not.

4 | Q. None at all?

5 | A. None.

6 | Q. And, so I take it that in the absence of this piece of paper you
7 | wouldn't even be able to confirm that you met her?

8 | A. No, I could not.

9 | Q. Okay. The statement is not signed either by Patricia Harriss
10 | or by yourself.

11 | A. That's correct.

12 | Q. Can you give us any indication why that would be the case?

13 | A. No, there's possibilities that she might have asked to leave,
14 | she might have asked to go to see her mother, if her mother
15 | was in the building. She might have asked to go out to the
16 | bathroom, I have really no idea.

17 | Q. If she had asked to leave and she hadn't come back, would
18 | you have noted that fact on the statement?

19 | A. Yes. And, I'd a noted it on the statement, yeah.

20 | Q. The fact that there is nothing noted on the statement, does
21 | that suggest any kind of unusual circumstance to you?

22 | A. Not that I can recall, no.

23 | Q. Have you ever had a situation before where you've had a, at
24 | least a part of a statement and there's nothing on the bottom
25 | of it?

1 A. No, no, I haven't.

2 Q. Is there any reason why you, yourself, would have not made
3 some notation on that as to why it was not signed?

4 A. No, and I don't know why it wasn't signed.

5 Q. We have had evidence, both from Eunice Harriss and from
6 Patricia Harriss, that during her time at the police station
7 when she was talking to you you have had occasion to
8 commence taking statements from her on note paper and
9 then when Patricia Harriss started talking about two men the
10 note paper would be crumpled up by yourself and thrown on
11 the floor.

12 A. Not by me it wasn't. I never can remember of tearing up
13 statements from anybody.

14 Q. Don't misunderstand me. I didn't use the word "tearing up",
15 but crumpling up and throwing them on the...

16 A. Or crumpling up either and throwing them on the floor.

17 Q. And is it your evidence that you did not do that?

18 A. That's my evidence, sir.

19 Q. And would it then follow that if that, in fact, happened, let me
20 ask you this. Did that activity ever happen in your presence?

21 A. No, sir.

22 Q. With respect to Patricia Harriss.

23 A. No, sir.

24 Q. Do I take it, then, that if that, in fact, did happen that it was
25 not in your presence.

1 A. It wasn't in my presence, no.

2 Q. There's a typed version of that statement at page 63 of
3 Volume 16, Mr. Urquhart.

4 A. 63?

5 Q. 63, yes, Volume 16.

6 A. Yes, sir.

7 Q. Now that statement, as I read it, speaks about two men in the
8 question and answer section and then it goes on, the question
9 is asked: "Was there anyone else in the Park?" And there's a
10 three-line answer on that. Were you prepared to listen to a
11 story from her which involved two men?

12 A. Yes, sir.

13 Q. Were you aware, or did you understand that her story about
14 two men was inconsistent with the story related by Mr.
15 Pratico and Mr. Chant?

16 A. No, you take, when you take a statement you take all the
17 facts, whether they be helpful to you or helpful to the accused
18 or to anybody else. And you put them on paper and you
19 don't try to cover up or hide anything in a statement.

20 Q. Her evidence, and I believe the evidence of Eunice Harriss,
21 was to the effect that when she would speak of two men that
22 the police officer taking the statement would get very upset
23 and say, "No, Patricia, there wasn't two men there." Did you
24 do that?

25 A. No, it wasn't me that did that, if it was done.

1 Q. And to be fair to you, this statement does go beyond a
2 statement of two men. You talk about other people being in
3 the Park.

4 A. Yes.

5 Q. You don't just cut it off when you hear about two men.

6 A. Her answer was, "Yes, there was boys and girls walking
7 through the Park."

8 Q. Yes. Is there anything in your mind at all that might help us
9 know how long you spoke to her that night?

10 A. No, and I've thought it over many times and I...

11 Q. Sure.

12 A. Can't come up with anything but what I told you here today,
13 sir.

14 Q. Right. And you have nothing that you can tell us to assist us
15 in understanding why this statement stops where it stopped?

16 A. No, I...

17 Q. Why it wasn't signed by her?

18 A. No, sir, I cannot tell you.

19 Q. Why it wasn't signed by you.

20 A. No.

21 Q. She has also testified, Patricia has also testified that during
22 her time in the police station she became upset and she was
23 crying. Was she upset and crying in your presence?

24 A. Not in my presence. If she'd a been upset and crying I'd a
25 likely have asked her what was the matter...

1 Q. Yes.

2 A. And if she had said she wanted to get her mother or some
3 other member of her family, that request would have been
4 granted.

5 Q. Did she cry, get upset, in your presence?

6 A. Not to me she didn't, no.

7 Q. The typed version of the statement that we have there at
8 page 63, it's our understanding that that was not typed up in
9 the Sydney Police Department and we believe it to be, to have
10 been later typed up at the RCMP. Can you suggest any reason
11 why the apparently incomplete statement that you took from
12 Patricia Harriss was not typed?

13 A. No, sir, I...

14 Q. If it were not signed by her would you regard it as a
15 statement?

16 A. Yes, because it starts out the same way that I would start any
17 statement.

18 Q. Yes, I understand that.

19 A. And it states a "Statement of Patricia Harriss, 5 Kings Road,
20 Sydney."

21 Q. I'm just wondering whether or not the fact it was not signed
22 meant that you, perhaps, would not give it out for typing.

23 A. No. It would be in the file and I'd expect it to be typed along
24 with all the rest.

25 Q. If the witness could be shown Exhibit 54, please. This is the

1 typed version of, I'm sorry, the original of the statement
2 found at page 72, of this same volume. Do you have before
3 you, Mr. Urquhart, a two-page statement of Terrence Gushue.

4 A. Yeah.

5 Q. June 17th, '71, 11:40 p.m.

6 A. Yes.

7 Q. Is that statement in your handwriting?

8 A. No, sir.

9 Q. And were you present during the taking of that statement?

10 A. I wouldn't say I was because my name is not affixed to the
11 statement where I was a witness. I would...

12 Q. Your name is not there.

13 A. No.

14 Q. Okay. Thank you. Do you know Mr. Gushue?

15 A. I don't know if I'd know him now, I might have known him
16 then, but not very well I don't imagine.

17 Q. Do you have any recollection of seeing him at the station that
18 night?

19 A. Dimly but I can't remember.

20 Q. Did you see Chief MacIntyre at the station that night?

21 A. Yes. I can remember John MacIntyre being at the station that
22 night.

23 Q. And what do you remember of that?

24 A. Well, he was working. Likely taking statements. But outside
25 of that I can't remember what other work he was doing, if

1 any.

2 Q. I get the impression that you just sort of saw him around.

3 A. Yes.

4 Q. Were you working with him, with witnesses?

5 A. I don't know what role I was playing that night. I can't
6 remember exactly what I was doing or, you know, or if I was
7 taking statements or if I wasn't. I just can't remember that.

8 Q. Did you ask him to come to the station that night?

9 A. Again, I cannot tell you because I'd be only guessing if I said
10 yes.

11 Q. If the witness could be shown Exhibit 56, please. This is the
12 original of the statement shown at pages 67 and 68. Is that
13 statement in your handwriting, sir?

14 A. No, sir.

15 Q. Do you know, is that Chief MacIntyre's handwriting?

16 A. Yes.

17 Q. And that shows a statement of Patricia Harriss at 12:07 a.m.
18 on the early morning of the 18th. Were you present for the
19 taking of that statement?

20 A. Again, I would have to say, no, because my name is not here
21 as a witness to the taking of the statement.

22 Q. On neither page.

23 A. On neither page, no.

24 Q. And correct me if I'm wrong, but you told us earlier it was
25 your invariable practice to put your name at the end of the...

1 A. Right.

2 Q. Statement, when the statement was taken.

3 A. When the statement was finished.

4 Q. Now that's a statement of Patricia Harriss being taken at
5 around midnight. You have a statement that you started to
6 take from her around 8:15. Can you tell me, number one, was
7 Patricia Harriss at the police station all that time between 8
8 o'clock and 12 o'clock?

9 A. I can't recollect whether she was or she wasn't but I would
10 say that she wasn't.

11 Q. I'm sorry, you would say that she wasn't?

12 A. That she wasn't.

13 Q. Why would you say that?

14 A. Well, why would she stay around the station for that length of
15 time. She wasn't under arrest or, I just can't, I can't imagine
16 her being around the station that length of time.

17 Q. Why would she come back at midnight?

18 A. Unless she was sent for and that, again, I don't know if she
19 was or she wasn't.

20 Q. Can you suggest any reason why there would be two
21 statements taken from her in the space of four hours?

22 A. Unless there was something come up in one of the other
23 statements that would indicate that she was there or around
24 the Park or the band shell or whatever the case may be at
25 that time. If there was something come up in one of the other

1 statements then you would naturally want to clear it up as
2 quickly as possible and possibly call her or send for her.

3 Q. Well the only other statement that she gave was the one at 8
4 o'clock.

5 A. Right.

6 Q. And in that statement...

7 A. As far as my knowledge, it's to the best of the my
8 knowledge.

9 Q. Well I can indicate that that's as far as our knowledge is
10 what...

11 A. Right.

12 Q. The reference in that 8 o'clock statement, then, to the two
13 men, given the statements that you already had from Chant
14 and Pratico, would this be the type of thing that you'd want to
15 go back and question?

16 A. I don't follow you on that.

17 Q. Her insistence or her, I'm sorry, her reference in the 8 o'clock
18 statement that you took, her reference to the two men did not
19 fit with the statements already taken from Chant and Pratico,
20 is that correct?

21 A. Correct. One was taken on the 4th of June and the other on
22 the 18th.

23 Q. Yes. But her reference to seeing these two men in the Park
24 did not fit with the picture that had been painted by Chant
25 and Pratico.

1 A. No, but you would still want to check it out.

2 Q I understand. But her reference to the two men that you took
3 at 8 o'clock, would this be the type of reference that would
4 make you want to go back and check it again with her and
5 confirm it?

6 A. It could very well be, yes.

7 COMMISSIONER EVANS

8 Sorry to interrupt you but was there not also a statement
9 taken by Gushue at 11:40 that same night and he was the one who
10 was with her...

11 MR. ORSBORN

12 Yes, he was with her.

13 COMMISSIONER EVANS

14 So that that's, might be one reason why she was called back
15 or came back. Called back.

16 MR. ORSBORN

17 Q Were you aware of a statement taken from Mr. Gushue? I
18 think we showed it to you and you said you weren't present.

19 A. I wasn't present but likely Sergeant MacIntyre did inform me
20 about it.

21 Q I see. Do you know if you advised Sergeant MacIntyre that
22 night of the statement that you had from Patricia Harriss in
23 which she said there were two men there?

24 A. I would imagine he'd know, sure. I'd tell him about it and I'd
25 likely show him the statement that I took.

1 Q. Yes. And given her reference to the two men, given Mr.
2 Gushue's reference to one man, I believe, and the earlier
3 statements of Chant and Pratico, is, would that difference in
4 the statements be a reason for wanting to get a second
5 statement from Patricia Harriss?

6 A. I would say it would be, yes.

7 Q. Why would you not simply let her statement stand?

8 A. Because you want to try and get all the information you can
9 and any points that's to be cleared up you try to get them
10 cleared up.

11 Q. Did you have any reason to believe when she was speaking
12 with you that she was not telling the truth?

13 A. No.

14 Q. She has testified that during that course of the evening at the
15 police station when she was being interviewed that she said
16 over again that she was adamant that there were two men
17 there and that the police officer banged his fist on the table
18 and said, "No, there was not two men there, Patricia." Did you
19 do that?

20 A. No, sir, I did not.

21 Q. If her testimony is to be believed, let me ask you this. Was
22 that done in your presence?

23 A. No, sir.

24 Q. Was Patricia Harriss spoken to, to your knowledge, by another
25 police officer without your being there?

- 1 A. She could have been, yes.
- 2 Q. So if her testimony is to be believed about her being adamant
3 about the two men and a police officer banging his fist on the
4 table, this was not in your presence.
- 5 A. No, and it wasn't me that did it either.
- 6 Q. (Do you know if you?) stayed around to the end of that?
- 7 A. I could have very well gone home or I could have stayed
8 around if I was, my work was cleared up for the evening. Or
9 there could have been a call come in that I had to respond on
10 that outside.
- 11 Q. But would you stick around simply because Patricia Harriss
12 was in being interviewed?
- 13 A. No, I, if I wasn't in on the interview, or on the taking of the
14 statement I would have no reason to stay.
- 15 2:25 p.m. *
- 16 Q. When, if at all, did you learn that she had given a second
17 statement which conflicted with the statement you had
18 taken?
- 19 A. I have no recollection of that, sir.
- 20 Q. Well, let me ask you this. Would you have found out that
21 night?
- 22 A. Possibly if I was still around the station or if not I would have
23 the next morning or the following day I should say.
- 24 Q. So, either that night or the following day, you say the
25 following day, would you have come to work the next

1 morning?

2 A. Well, I'd have been on night shift again, be in the evening
3 shift.

4 Q. So, you wouldn't come to work the next morning.

5 A. No, not until...

6 Q. When would you come to work?

7 A. Four o'clock.

8 Q. Okay.

9 A. Half past three, four o'clock.

10 Q. So, it's likely you would have found out then that she had
11 given a statement which conflicted with yours.

12 A. Right.

13 Q. Did you ever wonder why that happened?

14 A. I wondered, yes, but I have no answer for it, sir.

15 Q. Did you ever ask her about it?

16 A. No, sir, I did not.

17 Q. Did you ever ask Chief MacIntyre about it?

18 A. That I can't recall if I did or not.

19 Q. Now, both Mr. Gushue and Miss Harriss, I believe, mentioned
20 Bobby Patterson in their statements. Do you recall of any
21 further efforts or any extra efforts were made to locate Mr.
22 Patterson given the additional references in these
23 statements?

24 A. Yes, but according...according to what you said this morning
25 he was in the County Jail at that time.

1 Q. Not until September.

2 A. Not...September. No, well, we likely looked for him and
3 couldn't find him.

4 Q. Uh-hum.

5 A. He might have left town for a day or two. I have no answer
6 for that, sir.

7 Q. I wonder if the witness could be shown Exhibit 61, please.
8 Just turning for a moment to Friday, June the 18th. I think
9 you just told us that given your schedule you would come to
10 work at three-thirty, four o'clock in the afternoon.

11 A. I can't tell you exactly what shift I was on.

12 Q. Right . You testified reasonably consistently that this week
13 you were on an evening shift.

14 A. Could, yeah.

15 Q. And the statement from Mr. Doucette and from Miss Harriss
16 would support that.

17 A. Right.

18 Q. This is a...the original of a statement found at page 76 and 77.
19 Do you know whose handwriting that...I'm sorry, you have the
20 original there.

21 A. Yes, I have. That's...

22 Q. I'd just ask you to refer, that's the only copy.

23 A. That's John MacIntyre's writing.

24 Q. Yeah. And, that's a statement taken at 9:30 a.m. on June 18th.
25 Were you present for that interview, interview with Mary

1 O'Reilley?

2 A. My name isn't on the witness...that I witnessed the statement
3 so I couldn't have been.

4 Q. So, you couldn't have been present.

5 A. Pardon?

6 Q. You couldn't have been present.

7 A. No, I couldn't have been.

8 Q. Is it fair to say also that it's unlikely that you would have
9 been around there given your shift schedule, 9:30 in the
10 morning?

11 A. No, I wouldn't be. If I was working the night shift, I wouldn't
12 be around when this statement was taken.

13 Q. Okay.

14 MR. MURRAY

15 Perhaps in fairness to the witness you might indicate that
16 there is other evidence that indicates he was, in fact, involved in
17 police work that morning.

18 MR. ORSBORN

19 I'm coming to that.

20 Q. Now, Mary O'Reilley has testified that during the course of her
21 interview, and I'm referring, I'll read the transcript, Volume
22 18, page 3297, testimony by Mary Czernick, her married
23 name.

24 A. What page are you on there?

25 Q. I'm just reading from an earlier transcript, I'm sorry. And,

1 she's speaking of Detective MacIntyre, and she answers at
2 page 3297:

3
4 Q. Do you remember his tone of voice or his
attitude towards you?

5
6 A. Well, I started telling him the answers
7 and then like either in the middle of it or
8 close to the end of the statement my
9 sister, [that's her sister Catherine],
10 walked in and started to talk to me. So
11 he had...as far as I can remember it was a
12 piece of paper with a big heavy board
and he pounded that down on the desk
and he said, 'You'll have ample time to
tell your statement.' He said that to my
sister. 'Just hold on.' Then I got scared.

13 Q. Are you able to say whether or not anything like that
14 happened in your presence?

15 A. Not in my presence it didn't, no.

16 Q. And if it happened it was not in your presence then.

17 A. Uh-hum.

18 Q. And her sister Catherine gave similar evidence. In the
19 statement that's taken from Mary O'Reilley there is a
20 reference to her discussing the matter with Patricia Harriss.
21 It might be easier to read it at page 75 of Volume 16 which is
22 the typed copy. And the question is,

23 Q. Did you discuss this matter with Patricia
24 Harriss?
25

1 A. Yes.

2 Q. Did you tell her about the gray-haired
3 man?

4 A. I told her there was supposed to be a
5 gray-haired man there. I told her if she
6 was questioned by the police she should
7 tell about the gray-haired man that
8 Junior told me about.

9 Q. Do you have any knowledge at all of any linkage between
10 Patricia Harriss and Mary O'Reilley?

11 A. What do you mean by that now? Any linkage between them?

12 Q. Do you have any knowledge of any influence that Mary
13 O'Reilley had on Patricia Harris' statement?

14 A. No.

15 Q. I wonder if the witness could be shown Exhibit 62, please, is
16 the original of a statement found at pages 80 and 81. The
17 statement of Catherine O'Reilley taken, I believe, on June the
18 18th at 10:15 a.m.. Were you present for that interview, sir?

19 A. Yes, I...

20 Q. Do you have... I'm sorry.

21 A. I've signed it for the witness.

22 Q. Yes. On both pages.

23 A. Yes, sir, both pages.

24 Q. And does that signature indicate to you your presence?

25 A. Yes, sir, it does.

Q. Do you have any memory now of an interview with Catherine

1 O'Reilley?

2 A. No.

3 Q. That statement is not in your handwriting there.

4 A. No, it's not, sir.

5 Q. It's Chief MacIntyre's.

6 A. Chief MacIntyre's, yeah.

7 Q. Have you ever signed an original statement some time after
8 the statement has been taken?

9 A. No.

10 Q. Given the fact that you're on an evening shift, and you've
11 already testified you would not be around there in the
12 morning, can you suggest any reason why you would be at
13 the station at 10:50?

14 A. Yes, unless I was told to report back in the morning that there
15 was a lot of work to do and possibly the other people that
16 were on day shift...what day was that, do you...?

17 Q. The 18th, it was a Friday.

18 A. A Friday, possibly one of the other boys were off on a long
19 weekend or something.

20 Q. Uh-hum.

21 A. And I dropped down to fill in.

22 Q. Uh-hum. The...what is the date of that statement?

23 A. June 18th.

24 Q. Has it been changed?

25 A. No, I wouldn't say it has been because on the last page of the

1 date it's marked the 18th of June.

2 Q. Uh-hum.

3 A. 10:50 a.m..

4 Q. Right. Would you mind looking at pages 78 and 79, please,
5 which is the typed version of that statement? Has that date
6 been changed on that statement?

7 A. The eight looks like it has been put in with pen or pencil.

8 Q. Yes. And similarly on the bottom of page 79.

9 A. Yes.

10 Q. Which would suggest that a change was made after the
11 statement had, in fact, been typed.

12 A. Yes, but it shows here the 18th on the bottom of the page 1
13 and it shows the 18th on the bottom of page 2.

14 Q. Well, I guess it would be a matter of argument as to whether
15 or not those figures appear to have been changed. Looking at
16 the top of the handwritten copy on page 80 or...

17 A. Yeah.

18 Q. ...the first page that you have there's certainly been a change
19 there.

20 A. Yeah, it looks like a nine was there and then changed to an
21 eight.

22 Q. And certainly looking at both dates on the typed copy it is
23 apparent there were changes made.

24 A. Yes, I would have to say that.

25 Q. Um. In that this appears to be, if it were taken on the 18th, a

1 second statement taken on the morning of the 18th there
2 having been one earlier from Mary O'Reilley. Can you suggest
3 any reason why there would be a problem with the date?

4 A. No.

5 Q. Had already taken a statement on the 18th, a half an hour
6 before. Can you suggest any...

7 A. No.

8 Q. ...reason for that? Now, I wonder, Mr. Urquhart, if you'd look
9 at pages 69 and...or particularly page 70, 69 and 70 of this
10 volume.

11 A. 69 and 70.

12 Q. Yes. This is a typed version of Mr. Gushue's statement.

13 A. Yes.

14 Q. And turning to page 70 you see your name on that statement.

15 A. Typed in on the bottom right-hand corner.

16 Q. Yes. Now, you've already told us that you weren't there. Is
17 that so?

18 A. Correct.

19 Q. Can you indicate to us, suggest any possible reason for your
20 name appearing on this statement?

21 A. No, I cannot, sir.

22 Q. If you'd turn to pages 65 and 66, please, and in particular
23 page 66. This is the later statement of Patricia Harriss. And,
24 do you see your name on page 66?

25 A. Yes, typed in on the right-hand corner.

- 1 Q. Yes. And, again, correct me if I'm wrong, but you've already
2 told us that you weren't there.
- 3 A. That's right.
- 4 Q. Can you suggest any reason why your name would appear on
5 the typed copy?
- 6 A. No, I have no particular reason for it, but I was working with
7 John on the case and perhaps Kay just put my name down as
8 one of the ones that was in on the statement, but that's the
9 only answer I could give you for it.
- 10 Q. But you were not there.
- 11 A. I was not there.
- 12 Q. Did you tell her to type the name in?
- 13 A. No, sir, I didn't.
- 14 Q. And would you turn, please, to pages 76 and 77, oh, I'm sorry,
15 74 and 75?
- 16 A. Yes, sir.
- 17 Q. This is a typed version of the statement from Mary O'Reilley
18 taken...the first statement taken on the morning of the 18th,
19 the following morning, and again I see your name on page 75.
- 20 A. Yeah, but am I on the original?
- 21 Q. No.
- 22 A. No, well.
- 23 Q. No, you're on the original of the Catherine O'Reilley statement.
- 24 A. Uh-hum.
- 25 Q. But you testified earlier that if your name was on the original

MR. URQUHART, EXAM. BY MR. ORSBORN

1 then you weren't there.

2 A. That's correct.

3 Q. And is it your evidence that you were not present when this
4 statement was taken?

5 A. No, or I would have signed the statement.

6 Q. Okay. Can you suggest, again, any reason why your name
7 would appear on here?

8 A. No, sir, I have no reason.

9 COMMISSIONER EVANS

10 May I ask you whether, and I've forgotten the evidence, but
11 were not the two O'Reilleys present in the...at the police station at
12 the same time?

13 MR. ORSBORN

14 There is some...my recollection is there some slight difference
15 between them, but they were certainly there on the same
16 morning.

17 COMMISSIONER EVANS

18 The same morning.

19 MR. ORSBORN

20 They believe they were there on the same morning.

21 COMMISSIONER EVANS

22 Well, when you look at the first statement taken at the 9:15
23 or whatever, well, 9:30, that clearly is on the 18th.

24 MR. ORSBORN

25 Yes.

COMMISSIONER EVANS

1
2 And if the sister was there the same day then any confusion
3 about 17, 18 or 19 should be cleared up. I would think the 18th
4 would be the proper date then.

MR. ORSBORN

5
6 One would think.

7 Q. Could I ask you, Mr. Urquhart, to look at page 129 of this
8 volume? That's, I believe, Chief MacIntyre's writing.

9 A. Yes.

10 Q. Have you ever seen that note before?

11 A. I saw it with my solicitor, yes.

12 Q. Yes. And, you understand that it contains a reference to Mary
13 O'Reilley's conversation with the Harriss girl and Sandy Seale
14 going to Pollett's Drug Store.

15 A. Yes.

16 Q. Okay. Does that note in any way refresh your memory of
17 your dealings with Patricia Harriss?

18 A. No, sir, it doesn't.

19 Q. Sorry.

20 A. No, sir.

21 Q. I'm in the position now of quoting your counsel, and I'm
22 reading from Volume 35 of that transcript, page 6,579, and
23 your counsel, Mr. Murray, is questioning John MacIntyre, and
24 it's in connection with this note. And his question to Mr.
25 MacIntyre is,

1
2 My instructions are that you would have
3 received a message to that effect...a
4 message to the effect of this note, the
5 evening that Patricia Harriss was first
6 interviewed and that is the reason that you
7 came out to the office after noting that
8 down at home.

9 Did that happen?

10 A. It could, yes, but I have no knowledge of it.

11 Q. Did you call Mr. MacIntyre and said...and say, "Patricia Harriss
12 has told me this about the O'Reilleys"?

13 A. I could have, yes, but I don't recall...I don't recall calling
14 Sergeant MacIntyre.

15 Q. I see.

16 A. But it could very well have been.

17 Q. You earlier told us a number of times that you don't know
18 what happened to make Patricia Harriss change her mind.
19 You don't know what happened to cause that first statement
20 to stop.

21 A. No.

22 Q. Are you simply saying this is just a possibility, this could
23 have happened?

24 A. Just a possibility it could have happened or somebody else
25 could have called him either.

Q. Uh-hum. Now, if, in fact, she had given you that information
when you were taking the eight o'clock statement, would you

1 not have written that down in the statement you were
2 taking?

3 A. This here.

4 Q. Yes, if Patricia Harriss had said to you, "The only reason I'm
5 telling you this is because the O'Reilleys told me to say it."

6 A. Of course I would have written it down, yes.

7 Q. I'm sorry.

8 A. Yes, I would have written it down. I'd have had it in her
9 statement.

10 Q. Yes.

11 A. If she had told me that.

12 Q. You would have.

13 A. I...yes.

14 Q. But it does not appear in her statement.

15 A. No, it don't.

16 Q. Now, well the fact that it does not appear in her statement
17 does that indicate that she did not tell you about the
18 O'Reilleys?

19 A. I can't remember her telling me about the O'Reilleys.

20 Q. No, I appreciate that.

21 A. Just...

22 Q. I'm trying to understand that if she had told you, your
23 evidence is that you would have written it down.

24 A. I would have written it down in the statement here if she told
25 me.

MR. URQUHART, EXAM. BY MR. ORSBORN

1 Q. And it's not there in the statement.

2 A. No, it's not, sir.

3 Q. So, does that...does it then follow that she didn't tell you.

4 A. I would say, yes.

5 Q. Well, then can you give us any assistance as to where this
6 information came from?

7 A. No, sir, I cannot.

8 Q. And can you give us any assistance about Mr. MacIntyre
9 receiving a message to this effect that evening?

10 A. No.

11 COMMISSIONER EVANS

12 Isn't it the evidence of this witness that whenever he took a
13 statement that he witnessed the statement?

14 MR. ORSBORN

15 That's my understanding, My Lord, yes.

16 COMMISSIONER EVANS

17 Well, what's bothering me about that statement of Patricia
18 Harriss, I have the feeling that that is not the complete statement
19 because he did not sign it. So, whether she signed it or not is not
20 important because he says he signed it any time he took a
21 statement.

22 MR. ORSBORN

23 He has indicated, My Lord, it is his handwriting.

24 COMMISSIONER EVANS

25 Yes, but he didn't sign it.

MR. UROUHART, EXAM. BY MR. ORSBORN

1 MR. ORSBORN

2 No, I appreciate that, and neither did Patricia Harriss.

3 COMMISSIONER EVANS

4 I'm left with the uneasy feeling that there's another page to
5 that statement some place.

6 MR. ORSBORN

7 The only thing I can say that is if there is...

8 COMMISSIONER EVANS

9 You don't have it.

10 MR. ORSBORN

11 We don't have it and...

12 COMMISSIONER EVANS

13 All right.

14 MR. ORSBORN

15 I'm not sure anybody has ever seen it.

16 Q. Do you have any knowledge of a further page?

17 A. No, sir, I have not.

18 COMMISSIONER EVANS

19 Well, if you had taken, as you did, you wrote out the
20 statement and if it were a completed statement by the witness
21 would you not sign at the bottom?

22 MR. UROUHART

23 Yes, I would.

24 COMMISSIONER EVANS

25 And this one is not signed at the bottom.

MR. UROUHART, EXAM. BY MR. ORSBORN

1 MR. UROUHART

2 No, it's only the one page, and it's not even finished at the
3 bottom. There is a line vacant there where more writing could be
4 and I...I just don't know what happened. I can't recall what
5 happened.

6 COMMISSIONER EVANS

7 And do you know whether or not there might have been
8 another page to that?

9 MR. UROUHART

10 No, I can't...I can't speculate on another page, sir, no.

11 COMMISSIONER EVANS

12 Well, thank-you.

13 MR. ORSBORN

14 Q. Reading again from our transcript, and it's pages 8346 and
15 8347, I believe Volume 45, but it might be one way or the
16 other, and again a question by your counsel, Mr. Murray, to
17 Staff Sergeant Wheaton, and I'm reading from the bottom of
18 page 8346.

19
20 Now, if on the 17th of June he, [Meaning
21 yourself] had suddenly been confronted
22 with information after speaking with
23 Patricia Harriss, that Harriss had spoken to
24 the O'Reilley girls, it would be perfectly
25 consistent for Mr. Urquhart to have rushed
out at that time and try to find the
O'Reilley girls.

It would give you the opportunity again to indicate whether

1 or not you received information from Miss Harriss regarding
2 the O'Reilley girls.

3 A. I have nothing documented or nothing in writing to state that
4 I did of anything from...of that matter.

5 Q. Yes. And if you had received information of that nature
6 would you have documented it?

7 A. Oh, yes, I would have.

8 2:47 p.m.

9 Q. I believe you testified during the examination for discovery
10 and I'm reading at Volume 14, Page 211. And a question was
11 asked:

12 Q. Do you remember the O'Reilley sisters?
13 And your answer was no.

14 Q. You don't remember them, ay?

15 A. No.

16 Q. Do you remember giving that testimony?

17 A. The testimony I give, that's in the discovery?

18 Q. Yes.

19 A. I was subpoenaed to the discovery. I had no chance to look
20 over any other documents before I appeared and anything I
21 gave in the discovery, I gave to the best of my ability and
22 memory.

23 Q. Today, do you remember the O'Reilley sisters?

24 A. No.

25 Q. The next indication of any involvement by yourself, Mr.

1 Urquhart, I can find is on June 23 and there's a statement
2 taken, I believe by yourself shown at Page 23 of this...I'm
3 sorry, at Page 83 of Volume 16. That what's taken there of
4 Barbara Ellen Vigneau. Is that your handwriting?

5 A. Yes, sir, it is.

6 Q. And that was taken on June 23, which I believe to be a
7 Wednesday at 10:40 in the morning?

8 A. Yes, sir.

9 Q. Would that suggest you're back on day shift?

10 A. It would.

11 Q. Between the 18th which we just talked about and Wednesday
12 the 23rd, do you have any memory of any other activities
13 involving the Marshall matter?

14 A. No, I don't recall any.

15 Q. How are you feeling?

16 A. Not too badly, thanks.

17 Q. Did you attend the preliminary inquiry in July?

18 A. I don't believe I did, but I wouldn't be positive.

19 Q. Do you remember participating in any discussions with the
20 Crown leading up to the preliminary inquiry?

21 A. The Crown at that time would be Don MacNeil?

22 Q. Yes, sir.

23 A. No, I can't remember any conversation I had with him.

24 Q. Who would be responsible for the dealings with the Crown?

25 A. Sergeant MacIntyre.

- 1 Q Did you at any time visit Wentworth Park, any time prior to
2 trial with Mr. Pratico?
- 3 A. No, I didn't.
- 4 Q With Mr. Chant?
- 5 A. No.
- 6 Q To your knowledge did any member of the police force go to
7 the park with Mr. Chant?
- 8 A. Not to my knowledge.
- 9 Q The same with Mr. Pratico?
- 10 A. Same.
- 11 Q Prior to the trial, were you aware that John Pratico was in the
12 Nova Scotia Hospital?
- 13 A. Prior to the trial?
- 14 Q Yes, were you aware that he was in the Nova Scotia Hospital
15 prior to the trial?
- 16 A. No, sir, I wasn't.
- 17 Q Did you attend the trial?
- 18 A. No, I don't believe I did.
- 19 Q Were you aware at the time of the trial that Mr. Pratico made
20 some effort to recant during the trial?
- 21 A. I heard about it, yes, but whether it was during the trial
22 period or after, I can't recall.
- 23 Q If it were after, would it have been shortly after?
- 24 A. It would have been shortly after, yes.
- 25 Q Did you ever discuss this case with either Mr. Rosenblum or

1 Mr. Khattar?

2 A. No.

3 Q. Following the trial and conviction of Mr. Marshall in
4 November of '71, some people came forward and said "You've
5 got the wrong man." Do you remember that happening?

6 A. Yes, I do and I took a statement from one of them that came
7 into the office, I believe, and there were other statements
8 taken too that night, I believe.

9 Q. Perhaps we can turn to that. If I could ask you to look at
10 Page 172 and 173 of Volume 16.

11 A. 172, yes.

12 Q. Is that your handwriting?

13 A. Yes, sir.

14 Q. And there is a witness indicated on that statement. Can you
15 tell us who that is?

16 A. Detective M.J. MacDonald.

17 Q. I believe that was the first statement taken that night. Do
18 you remember taking that statement from John MacNeil?

19 A. Yes, I remember the night that he came into the office and I
20 took the statement from him.

21 Q. Had you ever had anybody else come in, in your experience,
22 and say "I've got something to tell you about this murder that
23 a fellow has just been convicted for"?

24 A. Yes, there was one other person came into my office and told
25 me something about it.

1 Q No, I'm sorry, had it happened in any other case, any other
2 murder case?

3 A. No.

4 Q Had you ever in any of your criminal work, had anybody
5 come to you and say "You've got the wrong man" after
6 somebody being convicted?

7 A. No.

8 Q So this was the first time?

9 A. This was the first time.

10 Q Did it stick in your mind?

11 A. Which, the first time?

12 Q Yeah.

13 A. Yes.

14 Q Tell us what you remember about Mr. MacNeil coming in to
15 you.

16 A. All I can remember he come in and he was talking that his
17 brother couldn't sleep and that he had a story to tell me and
18 that his mother was worried and he wasn't sleeping and he
19 wasn't eating. This was his brother that he was talking about
20 so I got a statement from him and it was witnessed by
21 Detective M. J. MacDonald.

22 Q What did you do with the statement once you had it?

23 A. I took the statement from him and after we took the
24 statement, I believe that I got him to sit down and wait for a
25 few minutes and I immediately called John MacIntyre. He

1 was at home and I called him and told him what I had and he
2 came down to the office.

3 Q Yes. What happened then?

4 A. And I believe he went over what I had and I'm not sure now
5 whether he took statements from somebody else that was
6 there that night or not.

7 Q Perhaps we can just look quickly at the other statements that
8 were taken and I'd ask you to turn to Page 175 of that
9 volume. The statement of David MacNeil, Page 175.

10 A. Statement of James William MacNeil?

11 Q No, David MacNeil, I'm sorry, a statement taken at 7:10.

12 A. Oh, yes.

13 Q Page 175. Would I understand that to be Chief MacIntyre's
14 writing?

15 A. Yes, that is his writing.

16 Q And there is no other...it's not signed by Chief MacIntyre nor
17 is it signed by any other police officer?

18 A. No.

19 Q And at page 178 to 180.

20 A. 178, yes.

21 Q Would I understand that to be a statement of James MacNeil
22 in Sgt. MacIntyre's handwriting?

23 A. Statement of James William MacNeil, yes.

24 Q And witnessed by Corporal Taylor?

25 A. Yes, Corporal G.A. Taylor.

1 Q. And at pages 183, 185...

2 A. 183?

3 Q. Yes, the statement of Mary Ebsary?

4 A. Right.

5 Q. In Sgt. MacIntyre's handwriting?

6 A. Yes, and signed by me.

7 Q. Witnessed by yourself?

8 A. Witnessed by me, yes.

9 Q. And at 188 through 190...

10 A. 188?

11 Q. Through 190.

12 A. Yes.

13 Q. A statement of Roy Ebsary taken by Sgt. MacIntyre?

14 A. And witnessed by Detective M.J. MacDonald.

15 Q. And the final one, 193 through 194, statement of Greg
16 Ebsary?

17 A. Yes.

18 Q. Again taken by Sgt. MacIntyre and witnessed by Constable
19 Taylor?

20 A. Corporal G.A. Taylor.

21 Q. Corporal Taylor?

22 A. Right.

23 Q. I think all except one of those statements are witnessed by
24 two police officers, all except David MacNeil's.

25 A. Yes.

1 Q And I understand from your evidence that this would reflect
2 the normal practice of your department.

3 A. Yes.

4 Q Given what you've told us about the Marshall statements and
5 your not being present where your name does not appear on
6 the handwritten statement, according to my looking at the
7 statements, only four out of twenty-two statements have the
8 names of two police officers on it. And those four statements
9 are the statements of Mr. Chant and Mr. Pratico on June 4, the
10 statement of Catherine O'Reilley on the 18th and the
11 statement that you took from Barbara Vigneau on the 23rd.
12 If your evidence is that the normal practice is for two police
13 officers to be present, is it fair to suggest that the number of
14 statements taken by one person in the Marshall case
15 represents a significant departure from your practice?

16 A. It would...there's a possibility that there was nobody there at
17 the time available. And I have no idea why they were taken
18 alone for...

19 Q O.K. did you discuss on November 15, '71 with Chief
20 MacIntyre what should be done as a result of these people
21 coming forward?

22 A. He...I don't know whether I discussed it with him or not, but I
23 imagine we talked it over and I believe that night that he did
24 do something about it by calling the Crown Prosecutor or
25 Assistant Crown Prosecutor, Mr. Lou Matheson and I

1 remember him coming to the police office. But what was
2 done from there on, I don't recall.

3 Q. Did you participate in any discussions with Mr. Matheson?

4 A. No, I did not.

5 Q. Were you party to any discussions concerning bringing the
6 RCMP in?

7 A. No, sir.

8 Q. Did you see Roy Ebsary that night in the police station?

9 A. No, I wouldn't remember if...you know, I wouldn't know him
10 if I did see him in the...

11 Q. I think you indicate in your affidavit filed in connection with
12 the reference and also in your discovery that you did not
13 know Roy Ebsary?

14 A. No, I didn't.

15 Q. I'd like you to look, if you would, at a new exhibit that's being
16 distributed. It's a one-page record of Mr. Ebsary's
17 fingerprints.

18 EXHIBIT 121 - ONE PAGES RECORD OF MR. EBSARY'S

19 FINGERPRINTS FROM SYDNEY POLICE DEPARTMENT APRIL 9, 1970

20 Am I correct that this would be a record of the Sydney Police
21 Department indicating the fingerprinting of Roy Ebsary on
22 April 9, 1970?

23 A. Yes, that is correct.

24 Q. And is that your signature that's shown as the official taking
25 the prints?

1 A. Yes, sir, it is.

2 Q. How many people would you get to fingerprint in the run of a
3 month, say?

4 A. It all depends on the amount of crime you have really, I
5 suppose. You'd try to fingerprint everyone that come in so
6 you'd have a record.

7 Q. Would you remember the people that you fingerprinted?

8 A. We didn't...at that time we did the fingerprinting, but I don't
9 believe we had cameras in those days to take photographs of
10 them too.

11 Q. And this fingerprint was taken in 1970 when Mr. Ebsary was
12 convicted of particularly offence No. 2 there for possession of
13 a concealed weapon being a knife?

14 A. Yes.

15 Q. And the description of Mr. Ebsary there, five foot, two, weight
16 150, build small blue eyes and grey hair. Is that correct?

17 A. That's right.

18 Q. And this would be a record retained in the Sydney Police
19 Department?

20 A. Yes, there'd be one record retained. The other would be sent
21 on to Ottawa to the Department of Justice or wherever the
22 fingerprint files go.

23 Q. Where would this be kept in your department?

24 A. Before we had an Ident. Section, it would be kept in the...we
25 had a fingerprint room. It was the old type then. We had a

1 glass and ink in a roller. You took the prints and they'd be
2 kept in a separate compartment.

3 Q. How would they be filed?

4 A. I don't know how...I imagine they would be just filed
5 alphabetically, but I see here there's numbers on them and
6 these numbers, I don't know what they mean. That's done by
7 the Ident. Section, likely Gerard MacNeil and they had a
8 different way of categorizing the way they were...

9 Q. But if you wanted to go look for a fingerprint record of Roy
10 Ebsary, could you find it?

11 A. Oh, yes.

12 Q. The description that you've got here 5' 2" and build small and
13 grey hair is...granted it could fit a number of people but this
14 fit the description that, for example, Patricia Harriss gave to
15 you?

16 A. Yes.

17 Q. And is it fair to say if we were to conclude that at the time
18 Roy Ebsary came into your department in November of '71,
19 you had within that department a record for the description
20 of Mr. Ebsary that matched descriptions provided by Patricia
21 Harriss and which indicated conviction on a knife offence?

22 A. Yes.

23 Q. Do you know what, if any, steps were taken to look for Mr.
24 Ebsary's either criminal or fingerprint records records, if any,
25 the night he came in on November 15, '71?

MR. UROUHART, EXAM. BY MR. ORSBORN

1 A. No, sir, I do not.

2 Q. Were you aware that the RCMP were called in to take a look
3 at this?

4 A. Yes, I knew they were called in, yes.

5 Q. And did you meet with either of the RCMP investigators?

6 A. Do you know the names of the ones that come in?

7 Q. Yes, Marshall, Al Marshall and Eugene Smith.

8 A. No, I don't believe I met with them, sir.

9 Q. Were you aware that polygraph tests were conducted?

10 A. I knew there was a polygraph test going to be conducted, yes,
11 on MacNeil and on Ebsary.

12 Q. And were you advised as to the results of those tests?

13 A. Some times afterwards Sgt. MacIntyre, I believe it was, told
14 me that they couldn't get a reading on MacNeil and that
15 Ebsary passed the test.

16 Q. You say "some time after"?

17 A. Well, it might have been a few days after. I can't recall how
18 much time went by from the time it happened until I was
19 told about it.

20 Q. How are you feeling?

21 A. Pardon?

22 Q. How are you feeling?

23 MR. MURRAY

24 I wonder if counsel is intending to move into a new area now?
25

1 MR. ORSBORN

2 Yeah.

3 MR. MURRAY

4 Perhaps it would be best if we...

5 BREAK 3:07 p.m.

6 3:27 p.m. *

7 Q Just one final question, Mr. Urquhart, on the R.C.M.P. review
8 in 1971. Did you see the R.C.M.P. report in 1971?

9 A. No, sir, I didn't. Are you asking if I saw the 1971 report or
10 did I see it in 1971?

11 Q Did you see it in 1971 at the time?

12 A. No, sir, I didn't.

13 Q No. Now, in November, 1971, November 29th, did you have
14 occasion to escort John Pratico to the Nova Scotia Hospital?

15 A. I understand I did.

16 Q You understand you did. If I could direct your attention to
17 Exhibit 47, the big gray volume.

18 A. What was the date?

19 Q Exhibit 47, unfortunately the pages are not numbered but
20 there is tab in the materials marked "Nova Scotia Hospital"
21 and it is the forty-seventh page following that, if you have it
22 turn it up in front of you. It's a Nova Scotia Hospital
23 admission form, John Pratico, and it indicates there "Escort,
24 William Urquhart, Sgt., Sydney," do you see that in the top
25 left-hand...

1 A. Yes, sir.

2 Q. Does that in any way refresh your...refresh your memory?

3 A. That I took him up, no.

4 Q. Would that be something that you did periodically?

5 A. Yes. At that time the Cape Breton Hospital or one of the
6 doctors would call the police office and we'd escort them up to
7 the Nova Scotia Hospital.

8 Q. Would you go by car?

9 A. Yes.

10 Q. A police car.

11 A. No, private car.

12 Q. How long a drive is that?

13 A. Well, it would be about ten hours return trip to Sydney.

14 Q. Five hours one way.

15 A. Right.

16 Q. Now, I notice the time of admission is ten-thirty in the
17 morning. Does that sound right that you'd leave Sydney at
18 five o'clock in the morning?

19 A. Yes, sir, it would.

20 Q. You wouldn't leave in the afternoon and stay overnight in
21 Halifax.

22 A. No, no.

23 Q. Do you today have any recollection of taking Mr. Pratico to
24 the Nova Scotia Hospital?

25 A. No, sir, I do not.

1 Q Would the fact that you were taking to the Nova Scotia
2 Hospital one of your eyewitnesses, within two weeks of
3 the....two or three weeks of trial, give you any concern about
4 his reliability?

5 A. No, because at that time they were sending people to the
6 Nova Scotia Hospital for numerous things, alcohol, drug abuse,
7 really there was nothing in Sydney in that time or in those
8 days for all...there was no place, like today there is a detox.
9 centre in Sydney and there was none of that then. They were
10 all sent...the family doctor would send them on to the Nova
11 Scotia Hospital to dry out or whatever the case may be.

12 Q Uh-hum.

13 A. And you'd go in the morning and you'd pick up whoever was
14 going and the papers would be all in a sealed envelope for the
15 hospital and you'd deliver the patient plus the envelope to
16 the hospital.

17 Q Do you know Mr. David Ratchford?

18 A. No, I can't say that I know him personally, no.

19 Q Uh-hum. Did Mr. Ratchford in approximately 1974 bring Roy
20 Ebsary's name to your attention?

21 A. No, sir, he did not.

22 Q Mr. Ratchford has testified that he brought Roy Ebsary's name
23 to your attention through his daughter Donna.

24 A. Through.

25 Q Through his daughter Donna, Donna Ebsary.

1 A. I don't know her either.

2 Q. Did you ever meet her?

3 A. No, not to my knowledge.

4 Q. He has testified that he, in fact, approached the Sydney Police
5 Department, and you in particular, and his evidence was that
6 he spoke to you sort of inside a cubicle and said "This girl has
7 got a story to tell about her father" and he related the
8 Marshall and Seale matter. Is it your evidence that that did
9 not happen?

10 A. It never happened to my knowledge because if it did I'd have
11 documented that.

12 Q. Uh-hum.

13 A. And I'd have immediately taken it to Sergeant MacIntyre,
14 and if he wasn't available, I'd have taken it to the Crown.

15 Q. Do you know Gary Green of the R.C.M.P.?

16 A. Yes, I knew Gary when he was in Sydney stationed there. I
17 didn't know him that well, but I had seen him around the
18 office on more than one occasion.

19 Q. Did you at any occasion have any discussions with Mr. Green
20 concerning the Marshall matter?

21 A. Not to my personal knowledge I can't remember ever
22 discussing that case with Gary Green.

23 Q. Uh-hum. You did testify in your examination for discovery,
24 Volume 14 pages 210, 211, the question was, "Does the name
25 Constable Gary Green ring a bell?" and you say, "I knew Gary

1 when he was here, yes."

2
3 Q. He approached you at one time about the
4 fact that Roy Ebsary was the stabber of
5 Sandy Seale.

6
7 A. Not to my knowledge, Gary Green didn't.

8
9 Q. You're denying that Gary Green ever
10 came to you and said that.

11
12 A. Yes.

13
14 Q. Okay. How sure are you?

15
16 A. I'm positive because I knew Gary, I knew
17 Gary Green and he was stationed here for
18 quite awhile and he was back and forth
19 to the station numerous time and to my
20 opinion or to my knowledge he has never
21 mentioned that case to me.

22
23 Q. Oh, hold it, what are you saying? Are you
24 saying to your knowledge or you're
25 positive he didn't?

A. I'm positive he didn't.

Do you remember giving that testimony, Mr. Urquhart?

A. Yes.

Q. And was that testimony true?

A. That testimony is true and it's true today, that Gary Green
never came to me.

Q. Gary Green has testified before this Inquiry that following
discussions with Mr. Ratchford he, in fact, went to the Sydney

1 Police Department and he met with you and he related
2 Donna's story about seeing her father wash blood off a knife.
3 Is it your testimony that did not happen?

4 A. I can't recall that ever happening.

5 Q. Again, there's a difference between saying it didn't happen
6 and saying, "I can't remember."

7 A. No, I'm saying it didn't happen.

8 Q. He testified that your response was, "Donna Ebsary is a
9 disturbed and disgruntled young lady who has left home."

10 A. I didn't even know Donna Ebsary and I wouldn't know if she
11 left home or if she was living with her parents at that time or
12 anything about the girl.

13 Q. To your knowledge did Gary Green approach anybody else on
14 the Sydney Police force?

15 A. Not to my knowledge that I know about, no. Anything that
16 was reported to me I documented it and I did what I thought
17 was right with it. There was somebody else came into the
18 office and reported it, and you'll likely get to that, and I did
19 the best I could with it.

20 Q. And your evidence is you did not know Donna Ebsary?

21 A. No, sir, I did not.

22 Q. Did you have, and prior to 1982, did you have any contact
23 with the R.C.M.P. at all involving the Marshall and Ebsary file?

24 A. No, I don't know.

25 Q. Do you know Eugene Cole?

1 A. I know Eugene Cole, yes.

2 Q. Do you have knowledge of his visiting the department in
3 September of 1975?

4 A. No, but I did hear about it later.

5 Q. Yes.

6 A. But I have no personal knowledge of it.

7 Q. Did you have any on-going involvement with the Marshall
8 matter insofar as his applications for leave and for temporary
9 releases were concerned?

10 A. Through National Parole?

11 Q. Yes.

12 A. I'd imagine they'd come in for an assessment if they were
13 doing it and they would ask questions.

14 Q. I'm sorry. You imagine that they would.

15 A. Yes, I imagine that Bernie MacNeil or MacDougall would come
16 in.

17 Q. Were you the person designated by the Department to field
18 enquiries from the parole people?

19 A. No, but they always did come to the detective office.

20 Q. Uh-hum.

21 A. I don't think that I was designated in that sense of the word.

22 Q. Do you know Kevin Lynk?

23 A. Yes.

24 Q. Mr. Lynk testified, and it was in connection with a community
25 assessment that he did in June of 1978, that he approached

1 you about the Marshall matter for an opinion on Mr. Marshall
2 and that your response was, "Well, if you want to talk about
3 Mr. Marshall we got to go in and see the Chief."

4 A. I likely told him that, yes. He handled the case and he had
5 the file on it and any information he wanted I thought the
6 best place and the fairest place to get it would be from John.

7 Q. And was that simply because it was Mr. MacIntyre's case?

8 A. Pardon?

9 Q. Was that simply because it Mr. MacIntyre had...Chief
10 MacIntyre had handled the case?

11 A. Well, yes, of his involvement in it.

12 Q. And was it your practise with respect to other cases which he
13 had handled to funnel the parole people through to him?

14 A. No, the ones that you are well acquainted with you would
15 handle. You would give your assessment. And those that you
16 weren't sure of you'd try to contact the officers that
17 were...that had involvement in the case.

18 Q. Did you know Mr. MacDougall, Robert MacDougall?

19 A. Yes, I knew Robert.

20 Q. If I could direct your attention to Exhibit 112, which is
21 Volume 35, red volume 35, and in particular, sir, page 149
22 through 151.

23 A. Yes.

24 Q. I believe this to be a community assessment completed by
25 Robert MacDougall in September of 1980. Do you remember

1 being contacted by Mr. MacDougall around that time?

2 A. No, I don't.

3 Q. Was it...do you remember on occasion being contacted by
4 Mr. MacDougall? You knew the man.

5 A. Yes. Many times they'd be back and forth in the office, yes.

6 Q. I'd just ask you to look at the paragraph on the third page of
7 that, page 151 of the Exhibit where he speaks of his
8 contacting you.

9 MR. CHAIRMAN

10 Where?

11 MR. ORSBORN

12 151.

13 Q. And in the middle he says there,

14
15 The Police reaction in this case is quite
16 negative as they are very concerned about
17 the risk the subject presents should he
18 return to the area. Inspector Urquhart
19 feels that the subject is a high risk for re-
20 offending and should not be given that
21 opportunity to do so. As earlier stated, the
22 reaction of the Sydney Police to the
23 subject's return to the Membertou Reserve
24 is negative.

21 Does that in any way help your memory about talking to Mr.
22 MacDougall?

23 A. I remember talking to Mr. MacDougall about many cases, but
24 I can't remember me saying exactly that to Robert
25

1 MacDougall.

2 Q. The opinion he expresses there that you said that Marshall
3 was a high risk for re-offending. Would that be consistent
4 with your opinion at the time?

5 A. No, I don't see why it would be. I...I can't see how anybody
6 would be a high risk. I don't know where he got his
7 information. He must have...he says he got it from me, he
8 signed it. But I'm very doubtful if I used those words.

9 Q. I see. To your knowledge what was the opinion of the police
10 department about Mr. Marshall's return to Membertou?

11 A. I never went around and polled the police department or any
12 of the members, you know, what risk there would be with Mr.
13 Marshall coming back or staying in the area.

14 Q. Uh-hum. He indicates here, "The reaction of the Sydney
15 Police to the subject's return to Membertou Reserve is
16 negative." Would that be consistent with the feeling of the
17 police to your knowledge?

18 A. I have no idea how he came to that assessment, sir.

19 Q. Well, at this time in 1980, some nine years after the event,
20 did you yourself hold any concerns about Mr. Marshall's
21 return to Membertou?

22 A. No. I...parole is granted, there's temporary leave of absence,
23 there is day passes. It wouldn't be unusual for anybody to be
24 out.

25 Q. Did you have any concern that blacks might be out to get

1 him?

2 A. No, I don't think there was any black or Indian or white
3 involvement that anybody was going to get anybody else or
4 somebody was going to get me or somebody was going to get
5 somebody else.

6 Q. Did Chief MacIntyre at any time discuss with you his feelings
7 about Mr. Marshall's return to the community?

8 A. We might have talked about it but I can't remember now
9 what his assessment or what his thoughts were on it at that
10 time.

11 Q. So, your evidence is that you personally were not negative
12 and do you not know where this information came from in
13 here, am I reading you correctly?

14 A. You're reading me correctly, yes.

15 Q. Yes. Move to August of 1981, and I'll refer you, Mr. Urquhart,
16 to Volume 16 to pages 215 and 216.

17 A. 215 and 16.

18 Q. 215 to 16, yes. And these are photocopies of an envelope and
19 a note inside the envelope. The writing on the bottom half of
20 215, is that your writing?

21 A. 27th of August, '81, time 11:20 a.m.

22 Q. Yes. And the paragraph above that, is that your writing?

23 A. August 26th, '81, yes, 4:30 p.m.

24 Q. Yeah. Perhaps you would just read that for us. It appears
25 that the first word is turned, "Turned over to me." Is that

1 correct?

2 A.

3 Turned over to me, Inspector William, W.
4 A. Urquhart, Sydney Police office, by Dan
5 Paul, August 26, 1981, time 4:30 p.m.. I
6 notified Crown Prosecutor Brian Willison,
7 as Dan Paul told me that Roy Ebsary is the
8 one that stabbed Sandy Seale in the park.
9 This information came from Junior
10 Marshall. I told Paul that I was not...that
11 was not enough information. He is going to
12 try and get the name of the person who
13 gave the name of Ebsary to Junior
14 Marshall.

15 And I signed it, "And the above information given to Deputy
16 Chief M. J. MacDonald, above date and time," and I signed it.

17 Q. And the...do I understand the information to be what was
18 written on top there, "Roy Ebsary"?

19 A. The name of "Roy Newman Ebsary, age 62, at 68 Falmouth
20 Street, Sydney, N.S., re Junior Marshall."

21 Q. Is that your writing?

22 A. No, that's not my writing.

23 Q. And, would I understand that to be writing from perhaps Mr.
24 Paul?

25 A. Well, from whoever gave it to Mr. Paul.

Q. And on the following...following page, the 216, is that your
writing, Mr. Urquhart?

A. Yes, it's addressed to Chief John MacIntyre, April 26, 1982,
"Document containing the name of Roy Ebsary received from

1 Dan Paul or Membertou August 26, 1981." and I signed it.

2 Q. Do you remember Mr. Paul coming to see you?

3 A. Yes, I remember Dan Paul coming in.

4 Q. What can you tell us about that?

5 A. He came into the office and he said he had the name of a
6 person that stabbed Sandy Seale in the park. I took that
7 name and I told him that I'd like to get more information on
8 it and for him to try and get more and come back to me. And,
9 I waited and he didn't get back and neither did I contact him
10 again.

11 Q. Why not?

12 A. I just...I was waiting for him to get back to me.

13 Q. Did you treat his coming to you seriously?

14 A. Yes, I did.

15 Q. Did you know Mr. Paul?

16 A. No. I knew he was either a court worker or worked for the
17 Department of Indian Affairs.

18 Q. Uh-hum.

19 A. I kept this document under lock and key so I'd have
20 continuity of possession of it and when the documents were
21 called for by the R.C.M.P. on their investigation I turned that
22 over so it would go in the file with the rest of the documents
23 that was turned over by Sergeant or Chief John MacIntyre.

24 Q. And that explains the April 26th, 1982, date.

25 A. That's right.

1 Q. On it. Why would you not have put it in the file?

2 A. I had a locker in my officer and like all information that I got
3 I kept it in a file there, so that it wouldn't get lost or
4 something would happen to it.

5 Q. Did you have any other information in that locker involving
6 the Marshall matter?

7 A. No, I did not. That was the only part...piece of information I
8 had concerning it.

9 3:45 p.m.

10 Q. Why would you not investigate Mr. Paul's information
11 yourself rather than send him up to do it?

12 A. He was the fellow that got the information and I didn't know
13 who he got it from, he didn't tell me who he got it from. I
14 took it up with the Crown and I believe there's an affidavit
15 there by Brian Williston some place of what transpired with
16 him.

17 Q. Now this was at least the second time that Mr. Ebsary's name
18 had come up...

19 A. Yes.

20 Q. It come up in '71 and it came up again in '81.

21 A. That's right.

22 Q. Did you, when it came up in 1981 did you check and see if
23 you had any record on Mr. Ebsary?

24 A. Yes. The record card was pulled, I believe, at that time. And
25 when I talked to, I believe it was the Chief about it, he said

1 that he was the same fellow that was on the polygraph by the
2 RCMP and he was given a clear bill of health at that time or a
3 clear bill.

4 Q. Who was the chief?

5 A. John MacIntyre.

6 Q. You indicate here that you turned it over to the deputy chief,
7 M.J. MacDonald?

8 A. Yes, because Chief MacIntyre was on vacation at the time.
9 And Deputy Chief M.J. MacDonald was acting chief in his
10 position, or in his absence, rather.

11 Q. Now you say Mr. Ebsary's record card was pulled?

12 A. I'd imagine it would be, yes.

13 Q. You'd imagine it would be.

14 A. Yes, I'm ...

15 Q. Did you pull it?

16 A. Positive I did, yes.

17 Q. By you?

18 A. No, I would go to Records which, since '71 we had a new
19 system, a new records system set up and the restructuring
20 took place and all the records were in a central room and
21 you'd go there and ask them for a record of whoever you
22 wanted. And they'd pull the record for you. You'd sign for it
23 and then you'd give it back...

24 Q. And was there, I'm sorry?

25 A. You'd give it back once you were through with it and your

1 name would be deleted from it. From the signing book.

2 Q. And did you look at the record?

3 A. I can't recall now whether I did or not but I likely did. I'm...

4 Q. And that record would have shown you that Mr. Ebsary was
5 convicted of a weapons offence in 1970?

6 A. That's right.

7 Q. And would that suggest that there just possibly might be
8 something to his name being linked with Mr. Seale?

9 A. That's correct and that's the reason I asked Dan Paul to try
10 and get any more information on it if we could.

11 Q. You left it with Mr. Paul.

12 A. Yes.

13 Q. Can I ask why you did that? Why you would not have taken
14 the ball and run with it yourself if you have this name coming
15 up for the second time and you then go and check the record
16 and you find a weapons offence, a knife offence in 1970?

17 A. I suppose I went by the report that was done where he was
18 cleared and the original time that he was in. That's the only
19 answer I can give to that.

20 Q. But at that time had you seen that RCMP report?

21 A. The polygraph?

22 Q. Yes.

23 A. No, sir, I didn't.

24 Q. You discussed it with, I guess, Chief MacIntyre?

25 A. Yes. It's likely him that told me.

1 Q. When did you first become aware that the matter was again
2 being looked at in 1982 by the RCMP?

3 A. I believe it was Chief MacIntyre, again, that told me that
4 there was a reinvestigation taking place and the RCMP were
5 conducting the investigation.

6 Q. Did Chief MacIntyre review with you a letter from Mr.
7 Aronson in which Mr. Ebsary's name, again, came up?

8 A. I can't recall if he did or not.

9 Q. Did you discuss with Chief MacIntyre the possibility of
10 bringing in the RCMP to look at it?

11 A. Pardon?

12 Q. Did you discuss with Chief MacIntyre the possibility of
13 bringing in the RCMP to look at it?

14 A. Did I discuss it?

15 Q. Yes.

16 A. No.

17 Q. Did you play any part in the decision to bring in the RCMP?

18 A. No, sir, I didn't.

19 Q. At the time you were in this position of Inspector...

20 A. Yes.

21 Q. Of Criminal Investigations?

22 A. Yes. In 1982 I was.

23 Q. Did you attend a meeting with Chief MacIntyre and Inspector
24 Scott during which the case was outlined to Inspector Scott?

25 A. No, sir, I was not at that meeting.

- 1 Q. I believe Inspector Scott testified that you were present with
2 Chief MacIntyre but you didn't say very much.
- 3 A. I can't remember being at that meeting with Inspector Scott.
- 4 Q. When this RCMP investigation started up, were you of the
5 view that Mr. Marshall was guilty?
- 6 A. Yes.
- 7 Q. During the course of the investigation by the RCMP did you
8 review the file that was held by the department with Chief
9 MacIntyre?
- 10 A. No, the file was turned over the RCMP and when it was
11 requested to be turned over that's when I took the slip of
12 paper I had, that Dan Paul had given me, and turned it over
13 to him so he could it turn it over with the complete file.
- 14 Q. Prior to its being turned over did you review the file held by
15 the department?
- 16 A. What do you mean? How do you mean "review it"?
- 17 Q. Did you take it and look over it and say, "What did we do
18 back 11 years ago?"
- 19 A. No. I don't believe I did. No.
- 20 Q. Did you have any concern about your own involvement in the
21 investigation? Were you curious as to what statements you'd
22 taken or hadn't taken?
- 23 A. Well of course you're worried about your involvement, if
24 there was anything wrong, you know. And there must have
25 been something to have a new investigation.

1 Q. Did you, but did you go back and pick out the statements that
2 you, yourself, had written and look at them?

3 A. No, I don't believe I did, no.

4 Q. When the investigation started up did you remember having
5 taken a statement from Patricia Harriss in which she
6 described a man looking like Ebsary?

7 A. I can't recall if I did or not.

8 Q. Did you have any discussions with Chief MacIntyre as to what
9 should or should not be provided to the RCMP?

10 A. All, everything that was in the file was supposed to be
11 provided to the RCMP.

12 Q. Yes, but I'm thinking prior to April of '82. Did you have any
13 discussions with him as to what should or should not be
14 provided to the RCMP?

15 A. No. All, the whole, complete file. If they called for the
16 complete file they were supposed to get the complete file and
17 as far as I know they did.

18 Q. Did you have occasion during the reinvestigation to approach
19 Frank Edwards to inquire about the status of the
20 investigation?

21 A. I talked to Frank Edwards many times because I was still
22 working. I had cases before the courts. I'd see Frank at the
23 court house, or in his office when I'd go there with cases. And
24 I was involved in the investigation in '71 and I thought it was
25 only natural for me to ask how the investigation was coming.

1 I don't deny that at all, sir.

2 Q. Were you aware that the Attorney General made an order
3 directing you to, or the Sydney Police Department to turn
4 over the file?

5 A. Yes.

6 Q. Were you surprised about that order being given?

7 A. Well I don't know whether I was surprised or not but it was
8 an order that was given and I thought it was the proper way
9 or, at that time, to do it. I had no feeling one way or the
10 other.

11 Q. Were you, yourself, ever interviewed by members of the
12 RCMP conducting the reinvestigation?

13 A. Concerning this '71 case of Marshall?

14 Q. Yes.

15 A. No, sir.

16 Q. Did that surprise you?

17 A. No, not really. You know, he was down, there was somebody,
18 I believe, and they used our office for a few days, I believe,
19 taking statements from some of our police and I wasn't
20 interviewed by any of the officers there, Harry Wheaton or
21 Jim Carroll.

22 Q. Were you aware of the allegations being made by people like
23 Chant and Pratico and Harriss?

24 A. After, yes.

25 Q. After what?

1 A. Well, after hearing it in the press.

2 Q. During the course of the RCMP investigation were you aware
3 that they were making allegations about being induced to
4 give statements?

5 A. No, I'd have no way to know that until the appeal or
6 whenever it came out because I wasn't, when I asked Frank
7 about it he never told me anything that was going on about it
8 and I didn't go to Wheaton or I didn't go to Carroll and ask
9 them what they were doing.

10 Q. Did Chief MacIntyre come to you and say, "Look, Bill, what
11 Maynard Chant was saying about that interview we did with
12 him in Louisbourg."

13 A. I don't know if he did or not, sir. I can't tell you that. I
14 don't...

15 Q. If I could refer you to Volume 17 at page 13.

16 A. What page, sir?

17 Q. At page 13. These are a typed copy of notes made by Mr.
18 Frank Edwards. And on pages 12 and 13 he appears to be
19 referring to a meeting held on July 12, 1982, to consider some
20 of the documentation before the Court of Appeal in connection
21 with the reference. Do you remember meeting with Mr.
22 Edwards to discuss the evidence of Mr. Chant, Mr. Pratico and
23 Miss Harriss?

24 A. Is that the day the affidavit was taken?

25 Q. No, the affidavit was taken on the 26th. This was prior to the

MR. URQUHART, EXAM. BY MR. ORSBORN

1 affidavit being taken or being sworn anyway. There may
2 have been information being collected at this time.

3 A. No, I don't recall that.

4 Q. He refers to you on page 13 there about a third of the way
5 down the page and he indicates that you didn't recall the
6 interview with Harriss and didn't recall the O'Reilley and
7 didn't recall the mother being there at the time and no
8 banging and hollering. Does that, in any way, refresh your
9 memory that you spoke to Mr. Edwards about that?

10 A. He might have asked me about that and I can't remember if
11 he did or he didn't, sir.

12 Q. On page 14...

13 COMMISSIONER EVANS

14 Are you suggesting that Urquhart was at that meeting?

15 MR. ORSBORN

16 It's indicated from the use of his name, My Lord, on page 13,
17 although I appreciate that he's not listed at the beginning.

18 COMMISSIONER EVANS

19 On page 12 he is not listed as being present.

20 MR. ORSBORN

21 Yes.

22 COMMISSIONER EVANS

23 And I was just wondering why you assume that he was there.
24 I take it that's what you are assuming.

25 MR. ORSBORN

MR. URQUHART, EXAM. BY MR. ORSBORN

1 An assumption simply, My Lord, from the use of the, Mr.
2 Urquhart's name on page 13...

3 COMMISSIONER EVANS

4 13.

5 MR. ORSBORN

6 And comments that appear to be attributed to him.

7 COMMISSIONER EVANS

8 That may have been at some other prior...

9 MR. ORSBORN

10 It may be.

11 COMMISSIONER EVANS

12 At some other time.

13 CHAIRMAN

14 Page 14.

15 MR. ORSBORN

16 Q At page 14, Mr. Urquhart, under the date there, Thursday,
17 July 22nd, Mr. Edwards notes, "That Mr. Whalley, Chief
18 MacIntyre and yourself come to office with affidavits I had
19 previously drafted." And that affidavit, the resulting affidavit
20 is found in Volume 14 at pages 237 and 238. Do you
21 remember discussing with Mr. Edwards, on or about this date,
22 an affidavit that he had drafted for you?

23 A. For me?

24 Q. Yes.

25 A. Yes.

1 Q. He says there,
2 Urquhart and MacIntyre want to delete
3 paragraph regarding their lack of
4 knowledge of John Pratico in 1971. The
5 Chief says it's possible that Pratico's
6 mother would have told him her son was
7 on pills at the time.

8 Do you remember asking Mr. Edwards to delete any reference
9 in your affidavit?

10 A. Yes, but I can't remember what it was at the time. But there
11 was, I forget what was in there that I didn't think was correct
12 and without any hesitation he deleted it.

13 Q. Yes. Now Mr. Edwards suggests that this relates to a lack of
14 knowledge concerning John Pratico. If Mr. Edwards testifies
15 to that effect, is it your evidence that he would be correct?

16 A. If he testifies concerning John Pratico's...

17 Q. No, if he testifies along the lines of this note that you told him
18 to delete the paragraph about John Pratico's
19 medical...mental...just lack of knowledge regarding John
20 Pratico, if he testifies to that effect.

21 A. That would, I would say, would be correct.

22 Q. And that would then lead to the conclusion that both yourself
23 and...at least yourself had some knowledge about John
24 Pratico's medical condition in 1971?

25 MR. MURRAY

Well, in fairness to the witness, perhaps if the commission has the
paragraph that was deleted in the rough draft of the affidavit, we

1 | could look at that and then have an answer to that question.

2 | You're asking the witness to speculate about something.

3 | MR. ORSBORN

4 | I appreciate that.

5 | Q In any event, if you were asked to delete a paragraph
6 | concerning Mr. Pratico, you would want to delete it for a
7 | reason?

8 | A. Yes, because it would be a paragraph that I would know
9 | nothing about or words that I didn't know anything about.

10 | Q Perhaps we could turn to the affidavit itself found in Volume
11 | 14 at Page 237.

12 | A. 237.

13 | Q Yes, thank you. And I'd just like to review that affidavit with
14 | you. I understand that in the process of preparing this
15 | affidavit, you, I gather, looked at it carefully and wanted
16 | certain information taken out, that it wasn't accurate.

17 | A. Right.

18 | Q Now you say in that paragraph 3, on the 4th of June, 1971,

19 | I witnessed the taking of this statement, a
20 | typed copy of which is annexed hereto as
21 | Exhibit A at Louisbourg from one Maynard
22 | Chant.

22 | And I do have a copy of the affidavit here with the
23 | attachments and Maynard Chant's statement, Exhibit A, is
24 | found in Volume 16 at Page 42. But I can advise you it's the
25 | 4th of June statement. So your statement that you witnessed

1 that taking of that statement would be accurate?

2 A. Right.

3 Q. And paragraph 5, about nobody making any threats or
4 promises or offer any inducements to Mr. Chant would be
5 consistent with the other testimony that you have given us
6 today about the manner in which that interview was
7 conducted?

8 A. Yes.

9 Q. And similarly with Mr. Pratico, Paragraph 6, you witnessed
10 the statement taken from him on June 4?

11 A. Yes.

12 Q. And paragraph 7 would be consistent with your evidence
13 here today?

14 A. Correct.

15 Q. And you then refer to the statement taken from Patricia
16 Harriss saying that you took a statement?

17 A. Yes.

18 Q. That's the statement that we looked at here?

19 A. Yes.

20 Q. And you then say in paragraph 9:

21

22 On the 18th day of June at approximately
23 1:20 a.m. I took a second written statement,
24 a copy of which is annexed hereto as
25 Exhibit D from the aforementioned Patricia
Harriss in the presence of Detective
Sergeant John F. MacIntyre as he then was.

1 And I can advise that Exhibit D is the typed version found at
2 Page 66 of Volume 16. Based on what you told us today, that
3 paragraph must be incorrect?

4 A. I would say it is after reading the statements, the written
5 statements, although my name appears on the typewritten
6 copy, I couldn't have been present when that statement was
7 taken.

8 Q. Yes. How did the information get into this affidavit?

9 A. I have no idea, sir, how it got in there.

10 Q. Could it arise simply from the reference to your name on the
11 typed copy of the statement?

12 A. That would be a logical explanation for it.

13 Q. Now in Paragraph 11, you say that:

14
15 I do not recall whether anyone
16 accompanied Patricia Harriss to the police
17 station nor whether any of her relatives
18 were present during the times when
19 Exhibits C and D were taken.

20 Would I be correct in saying that insofar as that paragraph
21 refers to Exhibit D, it would not be correct because you were
22 not present when Exhibit D was taken?

23 A. That's right.

24 Q. And similarly with respect to Paragraph 11, you say that:

25 At no time did anyone in my presence
make any threats et cetera to Patricia
Harriss to help her give either Exhibit C or

MR. URQUHART, EXAM. BY MR. ORSBORN

D.

1 Et cetera. And would I be correct in saying that that
2 paragraph is not correct insofar as it relates to Exhibit D?

3 A. No, because Exhibit D is the exhibit...is that the one that I...
4

5 Q. Exhibit D is the one you weren't there.

6 A. That's the one I wasn't there.

7 Q. So this paragraph, you could not make an affidavit with
8 respect to how Exhibit D was taken, could you?

9 A. No, that's correct.

10 Q. And you say in Paragraph 12 that you had no knowledge of a
11 person named Roy Newman Ebsary. Would I take that that
12 must be subject to the proviso that you'd taken fingerprints
13 from him in April and you'd forgotten about it?

14 A. That's right.

15 MR. MURRAY

16 April, 1970.

17 MR. ORSBORN

18 April, '70?

19 MR. MURRAY

20 Yeah.

21 MR. ORSBORN

22 Is that not what I said?

23 MR. MURRAY

24 You didn't.

25 MR. ORSBORN

1 Oh, I'm sorry.

2 Q Do you today believe that Roy Ebsary killed Sandy Seale?

3 A Repeat, please?

4 Q Do you today believe that Roy Ebsary killed Sandy Seale?

5 A Yes.

6 Q Why was Junior Marshall charged?

7 A The evidence of two eyewitnesses pointed to him.

8 Q And you believe that those eyewitnesses were telling you the
9 truth at the time?

10 A Yes.

11 Q And I take it that you would now agree that they were not
12 telling you the truth?

13 A I would have to agree because I heard during the inquiry Roy
14 Newman Ebsary on the stand and admitting to slashing at
15 them in the park with a knife.

16 Q You've got the two eyewitnesses then on June 4, 31 miles
17 apart. They both tell you stories which you agree are untrue.
18 They speak of an argument between Mr. Seale and Mr.
19 Marshall and they speak of Mr. Marshall stabbing Mr. Seale.
20 Is it just coincidence that they both came up with the same
21 untrue story?

22 A I do not know how they came up with the same story.

23 Q Well, what are the possible common denominators? One
24 would be that the truth would be a common denominator?

25 A Yes.

MR. URQUHART, EXAM. BY MR. ORSBORN

1 Q. And they were not telling the truth?

2 A. Then they weren't telling the truth.

3 Q. They were not telling the truth. You've agreed to that. Is it
4 possible they were both given the same story by Mr.
5 Marshall?

6 A. I cannot answer that question. I don't know.

7 Q. Unlikely?

8 A. Unlikely.

9 Q. Unlikely that they were both told by Mr. Ebsary?

10 A. Again, I don't know because if they knew Mr. Ebsary...

11 Q. The common denominator that appears on the record, just on
12 the face of the statements is the presence of yourself and Sgt.
13 MacIntyre. Does that presence account for the similarity in
14 those statements?

15 A. Pratico and Chant were never told in my presence by John
16 MacIntyre or myself what to put in their statement. In any
17 of the statements that I took, that I was involved in, John
18 MacIntyre never suggested to tell one side of the story or the
19 other side. He took it down in the form of a question and
20 answer and he asked them the questions and they gave the
21 answers and it was written down.

22 Q. Given that you have agreed that they gave untrue statements
23 on June 4, can you suggest any other reason for the
24 similarities in those untrue statements other than
25 coincidence?

MR. URQUHART, EXAM. BY MR. ORSBORN

1 A. No, I cannot, sir.

2 Q. Going back a couple of hours, one question I omitted to ask
3 you with respect to Catherine O'Reilley when she was
4 interviewed by you on the 18th of June and your name in fact
5 shows up on a statement, when she testified she remembered
6 Sgt. MacIntyre being there and she didn't know the name of
7 the other person. But she said "He was tall and thin, like me."
8 Were you ever tall and thin?

9 A. I was many years ago...not any taller than I am now, but I
10 was thinner.

11 MR. ORSBORN

12 Thank you very much, Mr. Urquhart.

13 CHAIRMAN

14 It's quarter after four. I think you'll be more than a quarter of an
15 hour.

16 MS. DERRICK

17 Yes, we will, My Lord. I'll be examining Sgt. Urquhart. It will last
18 a little more than a quarter of an hour.

19 MR. CHAIRMAN

20 Now, tomorrow we have another witness?

21 MR. ORSBORN

22 Mr. Rutherford would start the first thing in the morning, My
23 Lord, and at the completion of his testimony, we would resume
24 with Mr. Urquhart.

25 MR. CHAIRMAN

MR. URQUHART, EXAM. BY MR. ORSBORN

1 How long is he likely to be, Rutherford?

2 MR. ORSBORN

3 Well...

4 MR. CHAIRMAN

5 So maybe we should release Mr. Urquhart until tomorrow
6 afternoon. I don't want him sitting around.

7 MR. ORSBORN

8 I think I indicated to him earlier today, he could sleep in
9 tomorrow morning if he wished.

10 MR. CHAIRMAN

11 Fine.

12 MR. URQUHART

13 What time tomorrow afternoon?

14 MR. ORSBORN

15 We start at two. If it appears that it will be longer than that, we'll
16 let you know.

17 ADJOURNED TO 9:30 MARCH 8, 1988

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REPORTER'S CERTIFICATE

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 7 day of March

1988 at Dartmouth, Nova Scotia