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**ROYAL COMMISSION ON THE
DONALD MARSHALL, JR., PROSECUTION**

Volume 52

- Held: March 7, 1988, in the Imperial Room, Lord Nelson Hotel,
Halifax, Nova Scotia
- Before: Chief Justice T.A. Hickman, Chairman
Assoc. Chief Justice L.A. Poitras and
Hon. G. T. Evans, Commissioners
- Counsel: Messrs. George MacDonald, Q.C., Wylie Spicer, and David
Orsborn: Commission counsel
- Mr. Clayton Ruby, Ms. Marlys Edwardh, and Ms. A. Derrick:
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- Mr. Michael G. Whalley, Q.C.: Counsel for City of Sydney
- Mr. Ronald N. Pugsley, Q.C.: Counsel for Mr. John F. MacIntyre
- Mr. Donald C. Murray: Counsel for Mr. William Urquhart
- Messrs. Frank L. Elman, Q.C., and David G. Barrett: Counsel for
Donald MacNeil estate
- Messrs. Jamie W.S. Saunders and Darrel I. Pink: Counsel for the
Attorney General of Nova Scotia
- Mr. James D. Bissell & Mr. A. Pringle: Counsel for the R.C.M.P.
and Counsel for the Correctional Services of Canada
- Mr. William L. Ryan, Q.C.: Counsel for Officers Evers, Green and
MacAlpine
- Mr. Charles Broderick: Counsel for Sgt. J. Carroll
- Messrs. S. Bruce Outhouse, Q.C. and Thomas M. Macdonald: Counsel
for Staff Sgt. Wheaton and Insp. Scott
- Mr. Guy LaFosse: Counsel for Sgt. H. Davies
- Messrs. Bruce H. Wildsmith and Graydon Nicholas: Counsel for
the Union of Nova Scotia Indians
- Mr. E. Anthony Ross: Counsel for Oscar N. Seale
- Mr. E. Anthony Ross and Jeremy Gay: Counsel for the Black
United Front

Court Reporting: Margaret E. Graham, OCR, RPR

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9474 MARCH 8, 1988 - 9:30 a.m.

2 MR. CHAIRMAN

3 Good Morning. It's certainly nice to see everybody back,
4 tanned, refreshed, happy. It just makes those of us who have to
5 work for a living so envious. Are you ready, Mr. Orsborn?

6 MR. ORSBORN

7 Yes, Mr. Chairman. Before the next witness takes the stand,
8 who will be Mr. William Urquhart, I would consider it unlikely
9 that Mr. Urquhart's testimony would be completed by the end of
10 the day and we have agreed with the next witness, Mr. Douglas
11 Rutherford, that he would testify tomorrow morning, in any event.
12 So it may be necessary then to break Mr. Urquhart's testimony at
13 the end of today and resume him probably tomorrow when Mr.
14 Rutherford is finished. Secondly, Mr. Urquhart was scheduled in
15 Sydney last fall and, for health reasons, was unable to do so. He
16 may be still convalescing to some extent and I have given my
17 assurance to Mr. Urquhart that if he should require a more
18 frequent adjournment than otherwise would be the case, we
19 would oblige him and he has simply to indicate that he feels tired
20 or anything at any given point and we will take adjournment.

21 MR. CHAIRMAN

22 All right, that's certainly no problem to the Commission, and
23 we're pleased to see Mr. Urquhart has recovered, at least to the
24 degree of being able to come before us. So if you or Mr.
25 Urquhart's counsel will indicate at any time when you feel a break

1 is required, we will be happy to comply.
2

3 WILLIAM URQUHART, duly called and sworn, testified as follows:
4

5 EXAMINATION BY MR. ORSBORN
6

7 Q Mr. Urquhart, your name is William Alexander Urquhart?

8 A. Yes, sir.

9 Q That's spelled U-R-Q-U-H-A-R-T?

10 A. Right, sir.

11 Q You, with the assistance, I guess, of your counsel, Mr.

12 Urquhart, have prepared for us a summary sheet of your
13 background, your date of birth, schooling, employment, and
14 community involvement, and these have been distributed this
15 morning. I would ask you first before we admit it, is this
16 record that you have prepared an accurate reflection of your
17 personal history relating to schooling and employment?

18 A. Yes, sir.

19 Q If I could ask if this one typewritten sheet be admitted as an
20 exhibit which should have been distributed this morning.

21 MR. CHAIRMAN

22 We'll get one, I take it, shortly?

23 MR. ORSBORN

24 I had assumed they were up there, My Lord.
25

1 EXHIBIT 119 - ONE-PAGE RESUME OF WILLIAM ALEXANDER

2 URQUHART.*

3 Q. I'll just review it briefly then, Mr. Urquhart. It indicates your
4 date of birth as February 23rd, 1919?

5 A. Correct, yes.

6 Q. Your schooling of Grade Ten, West Bay School?

7 A. Yes, sir.

8 Q. And it indicates that you served with the Canadian Armed
9 Forces from 1939 to '45?

10 A. Yes, sir, I have.

11 Q. And that you were involved in farming activity from 1945 to
12 '49?

13 A. Yes.

14 Q. And with the Canadian National Railways for a year and that
15 you then joined the Sydney City Police in February, 1949?

16 A. Correct.

17 Q. And you remained with the police force until your retirement
18 in June of 1983.

19 A. That's correct, sir.

20 Q. And your work with the police force is set out here. I note
21 that you were on patrol until approximately 1960?

22 A. Correct.

23 Q. And that for five years prior to becoming a detective, this is
24 between '60 and '65, you worked in by-law enforcement?

25 A. Yes, sir. Yes, I did, sir.

1 Q. What does that mean?

2 A. Well, it was the system that the City had at that time that
3 people would go around in uniform in the police department
4 and collect delinquent taxes, look after licenses, any license
5 that was expired or any new business starting coming up,
6 shows coming in, and any of that type of thing for the City.

7 Q. And in 1965, you then joined the detective department?

8 A. Yes, I did, sir.

9 Q. Did you apply for a position with the detective department?

10 A. Not, I was asked by the then Chief of Police Gordon MacLeod
11 if I would like to move into the detective department and I
12 said that I would.

13 Q. You didn't have to write any exams or...

14 A. No, sir.

15 Q. And you were in the detective department from 1965 until
16 1983?

17 A. Yes, sir, I was.

18 Q. During your time on the police force, Mr. Urquhart, do you
19 remember if you took any courses or exams relating to police
20 work?

21 A. We had in-service training from lawyers and crown
22 prosecutors of the day and I attended a two-week police
23 refresher course in Halifax run by the Halifax Police
24 Department. That dealt with criminal investigation, scenes of
25 crime, and a general refresher course in police work.

1 Q. Do you know when you took that, sir?

2 A. In 1966.

3 Q. Just shortly after you joined the detective division.

4 A. That's correct, yes.

5 Q. This also indicates that you became sergeant of detectives in
6 1973.

7 A. Yes, roughly. I'm not sure of the date but I believe it was in
8 '73.

9 Q. And that was a position in charge of the other detectives?

10 A. Right.

11 Q. Did you apply for that position or write an exam for it?

12 A. Not at that time, but I did later when I was promoted to the
13 rank of Inspector of Criminal Investigation. We wrote then
14 for that exam. I wrote an exam then.

15 Q. In 1980.

16 A. Yes.

17 Q. What is the difference between Sergeant of Detectives and the
18 Inspector of Criminal Investigation?

19 A. Well, it was a new rank that was created on the restructuring.
20 Restructuring was done by the Chief of Police of that day,
21 John F. MacIntyre. The department was restructured and
22 there was three inspectors appointed at that time; one for
23 criminal investigation, one for administration, and one for
24 patrols.

25 Q. Did your job change much from Sergeant of Detectives to

1 Inspector?

2 A. No, it was still really the same. You were in charge of the
3 investigation for the department and you answered to the
4 deputy chief, who was directly the boss over the detective
5 department as laid out in the Charter for the City and then
6 again to the Chief of Police, who had the day-to-day
7 operations of the Sydney Police Department.

8 Q. And you then retired in June of 1983.

9 A. Yes, I did, sir.

10 Q. During your time in the detective division, Mr. Urquhart, did
11 you have occasion to participate in murder investigations?

12 A. Yes, sir, I did.

13 Q. Can you tell us roughly how many that you participated in
14 over, I guess about 18 years in that division?

15 A. I suppose six to seven. I had direct involvement in four of
16 my own or four murders. The others I was under the
17 direction of Norman MacCaskill, who was in the detective
18 department then and Sergeant John MacIntyre.

19 Q. When you say "four of your own," do you mean that these are
20 investigations that you were in charge of?

21 A. Yes.

22 Q. And were these investigations successfully completed?

23 A. Yes, they were, sir.

24 Q. Who decides whether or not, or who decided in your case
25 whether or not you were on your own with a murder

1 investigation or whether or not you were helping somebody
2 else?

3 A. Would you mind repeating that?

4 Q. You said you did four investigations on your own and two
5 where you were sort of assisting.

6 A. Yes, well, I was working under somebody else that was in
7 charge of the Detective Division at that time. But when I
8 became in charge of the Detective Division, those four
9 murders came up and I was in charge of the department so,
10 therefore, I would be in charge of the investigation.

11 Q. I see. Do I understand then that the, whoever was in charge
12 of the Detective Division would be in charge of a murder
13 investigation?

14 A. Yes.

15 Q. That would be the practice in the department while you were
16 there.

17 A. Yes.

18 Q. I'd like to talk to you a little bit, Mr. Urquhart, about your
19 practice during an investigation, and particularly a murder
20 investigation regarding the taking of statements. And I'm
21 thinking in particular of statements from people who are
22 witnesses, not statements from people who are necessarily
23 accused or suspects. Let's start with the taking of a statement
24 from a juvenile, somebody under the age of 16. In your
25 experience, did you have occasion to take statements from

1 people who were under 16?

2 A. Yes, sir, I did.

3 Q. Did you follow any particular practice as to whether or not
4 there would be somebody else present, a parent or a guardian
5 with a young person?

6 A. We always tried to get the mother or the father or the
7 guardian with the juvenile when a statement was taken. But
8 sometimes they requested that they didn't want their parents
9 involved.

10 Q. You're saying it was your practice, then, that you would make
11 some attempt to have a parent or a guardian with them?

12 A. Yes, if at all possible.

13 Q. I see. Was that a practice within the department itself, do
14 you know, or was that just your practice?

15 A. No, I would say it was a practice within the department. The
16 only reason it would change is, as I said before, if the person
17 involved didn't want, they'd come in and say, "Look, I'll tell
18 you what's going on but I don't want my parents to be
19 involved or I don't want anybody else to know about it."

20 Q. Did you follow any particular practice in taking statements
21 from female witnesses, not necessarily juvenile witnesses but
22 female witnesses?

23 A. You would always try to have somebody with you, if at all
24 possible. And then, again, it could change by them saying,
25 "Look, I don't want anybody involved in this but myself," and

1 | that has happened.

2 | Q. And would there be occasions when you just couldn't get
3 | somebody to sit in?

4 | A. Yes, there would be, and you'd try to get another officer, if
5 | possible, with you or if we could our secretary, who was a
6 | matron at that time, if we could get her to sit in with us. We
7 | took many statements with the matron with us.

8 | Q. With a female witness?

9 | A. Yes.

10 | Q. And that matron, was that Kay O'Handley?

11 | A. Yes, it was, sir.

12 | Q. In taking statements generally, did you have any practice
13 | with respect to having one or more police officers present?

14 | A. If you were taking the statements, you would never have any
15 | more than another officer in the room with you.

16 | Q. You'd never have any more than another officer?

17 | A. No, yourself and one other person.

18 | Q. Why would you not have any more?

19 | A. Well, because they might be intimidated or something. It was
20 | just the, there was generally the two people plus the witness.

21 | Q. Was that a practice in your department?

22 | A. Yes, and it was a practice that I followed.

23 | Q. Would you always try to have the two police officers though?

24 | A. If at all possible, yes.

25 | Q. Why would you want to have two?

1 A. So as that there'd be no recourse later that you said
2 something that you didn't say.

3 Q. Can you indicate whether or not it was the practice more
4 often than not to have two police officers present?

5 A. Yes, it would be the practice more often than not, yes.
6 Sometimes, if it was late at night or sometime that you
7 couldn't get somebody else, you would have to go alone.

8 Q. I don't want to be unfair, but would that be the exception
9 then rather than the rule, that you would only have one
10 police officer?

11 A. No, you'd try and possibly have, you'd always try and have
12 two.

13 Q. Yes, so if you had one only, would that then be the exception
14 rather than the rule?

15 A. Yes, I would say it would be, yeah.

16 Q. If you had two police officers present when a statement was
17 being taken, did each police officer have a defined role to play
18 in the taking of that statement?

19 A. Now when you say "two police officers," do you mean two
20 besides myself or whoever else was taking the statement or
21 just two?

22 Q. No, I'm sorry. I understood you to say that you would not
23 have more than two police officers present.

24 A. Myself and one other.

25 Q. Yes, that's what I understood.

1 A. Right.

2 Q. Okay. Let's assume, then, that you and one other are present.
3 Was there any defined roles for you and the one other to play
4 in the taking of that statement?

5 A. Whoever was taking the statement asked the questions, wrote
6 down the answers, and the other person was the witness.
7 They didn't ask any questions. If there was, that was the role
8 of the second person.

9 Q. And if it were a statement in an investigation that was, to use
10 your words "your investigation," say one of your murder
11 cases that you did, and you were present with another police
12 officer, who would take the statement as between the two of
13 you?

14 A. I generally took the statements.

15 Q. So would the person in charge of the investigation, if he or
16 she was present, would take the statement?

17 A. Normally, yes.

18 Q. And the other person would be the witness.

19 A. The witness.

20 Q. Have you had occasion to act yourself as a witness in the
21 taking of statements?

22 A. Yes, many times, sir.

23 Q. What are you looking for when you're there as a witness?
24 What are you doing there?

25 A. You're there to, first of all, you're there to see that the

1 statement is taken properly. To see that everything that's
2 said is put in the statement, the answers are there that's
3 given by the person that's giving the statement. And
4 generally you're there to make sure that everything is done
5 up and above board.

6 Q. So do you follow what's being said, the content of the
7 statement?

8 A. Yes.

9 Q. Did you have any practice when you were taking statements
10 with respect to reading the statement over to the witness or
11 asking them to read it?

12 A. Yes, you'd pass the, when the statement would be finished,
13 you'd ask them to read it, if they'd like to sign it, and if they'd
14 say, well, "I can't read," or "Will you read it back?" The
15 person that witnessed the statement would generally read the
16 statement back to the accused or to the person that you were
17 taking the statement from.

18 Q. And was that a practice that you yourself followed?

19 A. Yes, and it was a practice that was followed throughout with
20 the detective department.

21 Q. Did you get situations when a witness would not sign a
22 statement?

23 A. Yes.

24 Q. What would you do then?

25 A. You would write on the bottom of it that the person you were

1 taking the statement did not wish to sign, you dated it and
2 timed it.

3 Q. What about a witness saying, "I don't want to read the
4 statement but I'll sign it."

5 A. No, well, you'd say, "You'd better look it over. It's your
6 statement. Make sure that there's nothing there in it that
7 wasn't asked or said."

8 Q. Was that a practice that you followed?

9 A. Yes, I did, sir.

10 Q. If you're the person that's taking the statement, doing the
11 writing, would you sign the statement?

12 A. Yes.

13 Q. And if you were the person who was witnessing, sitting back
14 witnessing, would you sign the statement?

15 A. Yes.

16 Q. When would you do that?

17 A. When would I do that? On the completion of the statement.

18 Q. Was that your practice?

19 A. Yes.

20 Q. If you signed as a witness to a statement, what does that
21 signature indicate?

22 A. It indicates that everything that was asked and the answers
23 given in that statement were true, to the best of your
24 knowledge.

25 Q. It indicates that you were there?

1 A. That I was there, too.

2 Q. Would it indicate that you were there just at the end for the
3 signing?

4 A. No, you'd have to be there, you'd have to be there for the
5 whole statement before I would sign it.

6 Q. With respect to getting the statements typed in the police
7 department, I understand that if you're taking a statement,
8 it's all done in handwriting first, is that right?

9 A. [No audible response.]

10 Q. What can you tell us as to the practice of getting statements
11 typed?

12 A. They were left in the file and whoever was in charge of the
13 investigation in the morning or whenever it was, possibly in
14 the afternoon when you were through with all your
15 statements, you would give them to Kay O'Handley, who was
16 the matron and who was the stenographer, dual role, and
17 she'd type them all up and put them back in the file.

18 Q. So she would then get a number of statements from other
19 detectives?

20 A. Yes.

21 Q. On various cases?

22 A. No, it would be concerning that particular case. No, she
23 wouldn't have them mixed up with other cases that was going
24 on at that particular time.

25 Q. But there would be other detectives giving her work,

1 presumably?

2 A. Yes, sir.

3 Q. And how long after a statement was taken would you get
4 back a typed version?

5 A. Well, as soon as that you, a reasonable time that you had all
6 your statements that you thought you were going to get or
7 had at that particular time and if there were five statements
8 in the file and you still had more to do, you got to type them
9 up and put them in the files so they wouldn't be that
10 backlogged to be typed up on another time.

11 Q. So do I understand that you would not necessarily do this on
12 a daily basis?

13 A. If necessary, yes. If you were finished, if you had 15
14 statements that was taken overnight, you'd have them typed
15 up in the morning.

16 Q. I'd like to move to 1971, Mr. Urquhart, and I understand that
17 you've testified at least on one occasion in respect to the
18 matters arising out of this, and this was at the CBC discovery
19 case in 1986?

20 A. Yes, sir, I did.

21 Q. Have you testified on any other occasion?

22 A. No.

23 Q. In May of 1971, you were in the detective division.

24 A. Yes.

25 Q. You weren't in charge of it.

1 A. No.

2 Q. Can you tell us something about your shift pattern at the
3 time? What days, evenings, nights would you work?

4 A. Well, we had different shift patterns in that we had a 4-12, 5-
5 1, or 6-2 shift, plus 9-5. Nine in the morning until five in the
6 evening. And then there was one or possibly two men, if we
7 could spare, to come out on the evening shift.

8 Q. Thinking specifically of detectives now, I'm sorry. There
9 were what, I think four detectives, were there?

10 A. There was four, when I went in there was five. There was
11 myself, two MacDonalds, Sergeant MacIntyre, who was in
12 charge, and Norman MacCaskill.

13 Q. Thinking specifically of May of 1971, correct me if I'm wrong,
14 but I don't believe that Mr. MacCaskill was in the detective
15 division at the time...

16 A. No, he was...

17 Q. He was deputy chief?

18 A. He was deputy chief then.

19 Q. So can you tell us with four detectives what shift
20 arrangements there were for your working?

21 A. Well, as I said, some would be working day shift.

22 Q. And day shift would be nine to five?

23 A. Nine to five, and one or possibly two, if they could be spared,
24 would be working the night shift.

25 Q. And night shift being what?

1 A. 4-12 or 5-1.

2 Q. 4-12 or 5-1.

3 A. Yeah.

4 Q. Now if you, tell me what your rotation, shift rotation would be
5 for a month or for a three or four-week period?

6 A. Well, I would work day shift one week and the following
7 week, if I was involved in something that wasn't finished up,
8 I would have to pick it up on day shift again, if there was
9 other witnesses or people to interview. Or if, or I'd be on
10 night shift, either one. And it would be like two men plus the
11 sergeant on day shift and one on night shift.

12 Q. But would you have a system whereby you worked two
13 weeks of day shift and then a week of evening shift and then
14 two more weeks of days and a week of evenings?

15 A. Well, it would all depend, again, sir, on the work load that you
16 had.

17 Q. It wasn't fixed in advance.

18 A. No.

19 Q. Okay. If you were working the day shift, would you have
20 occasion even then to work in the evenings or the nights?

21 A. Yes, you would, sir.

22 Q. Would that be common?

23 A. Well, if you got involved in something, it could be late in the
24 afternoon, like a robbery or some other break and enters, and
25 you would normally stay with it as late as you could to

1 interview witnesses. Some you couldn't get in the day time
2 and others you could get in the evening.

3 Q. Do you remember what your first knowledge was of the
4 stabbing of Sandy Seale?

5 A. I was off on the weekend, I was at the cottage I had a West
6 Bay and I had no phone at that time and when I came back to
7 Sydney on Sunday, Sunday evening, Ambrose MacDonald and
8 Richard Walsh, they told me that they had a stabbing in the
9 Park and the next morning when I went to work, Sergeant
10 MacIntyre filled me in on it. He was working on the case.

11 Q. Do you remember if Ambrose MacDonald and Richard Walsh
12 told you any more than there was a stabbing in the Park?

13 A. I can't recall at this time.

14 Q. Did they tell you this at the police station?

15 A. No, I believe I met them, they were in the patrol car or
16 something and I might have met them on the street and
17 stopped and talked to them.

18 Q. And; you then went to work on Monday morning?

19 A. Monday morning, yeah.

20 Q. Is it then reasonable that you were working a day shift?

21 A. I'd be working day shift.

22 Q. That week.

23 A. Coming back to work day shift.

24 Q. And you were briefed by Mr. MacIntyre?

25 A. Yes.

1 Q Chief MacIntyre?

2 A Yeah.

3 Q Do you recall what the briefing consisted of?

4 A Well, he told me that there was a stabbing in the Park. There
5 was a lot of witnesses interviewed by himself and Mike
6 MacDonald. That there was a lot of work to be done and that
7 was just the general idea of the briefing.

8 Q Was it your practice at the time to keep notebooks of matters
9 that you were working on?

10 A I had notebooks, yes.

11 Q Do you have any now?

12 A No, sir, I haven't. When I retired and left Sydney, I had a
13 number of notebooks and scraps of paper with names and
14 everything on and I didn't think they were of any value to
15 me because I don't believe, and I'm absolutely sure that I
16 didn't have any notes concerning this case.

17 Q Somewhere along the way I think somebody suggested to me
18 that you might have had some tape recordings of memoirs.
19 Do you have any tape recordings of memoirs?

20 A I had a whole bunch of stuff and I was, there was names on it
21 and different investigations. Some people's names there that
22 had nothing to do with any investigations and I said the best
23 thing for me to do was to get rid of them and that's what I
24 did.

25 Q So you now have no notes, tapes, any other...

1 10:00 a.m.

2 Q. At the time you were briefed did the name Donald Marshall
3 come up?

4 A. I imagine, yes, it would certainly come up.

5 Q. At the time did you know or know of Mr. Marshall?

6 A. No, I didn't know Donald Marshall.

7 Q. I wonder if the witness could be shown Volume 22 which is
8 Exhibit 48, please. Mr. Urquhart, if I could just direct your
9 attention to the first page of that volume and following that to
10 the third page of this volume, and I understand these to be
11 informations and complaints sworn against Donald Marshall.
12 One dated June 10, 1970, and one dated October 1, 1970, and
13 in both cases you are the...you are the informant.

14 A. Not in both cases.

15 Q. I'm sorry. Page 1 and page 3.

16 A. Oh, pardon me, I was looking at page 5.

17 Q. No, that's...that one I know is...

18 A. That is correct.

19 Q. When you swore an information such as this what, if
20 anything, were you told about the accused?

21 A. What's happens there is are the charges were made up at our
22 department, there might have been twenty charges going to
23 the courthouse that particular day.

24 Q. Uh-hum.

25 A. Or ten. And, whoever would be on duty going to the

1 courthouse would take them up, have them sworn to and
2 signed.

3 Q. So, it would not follow from your signature on two
4 informations, then, that you would know who the accused
5 was.

6 A. No.

7 Q. And, would you do a large number of these in the course of a
8 month?

9 A. Yes, it would...it would be...all depends on who was taking
10 them up from the police department to the courthouse, they
11 would be all signed and sworn to at the...by Bill Bungay
12 generally.

13 Q. Uh-hum.

14 A. Or Sandra Muggah.

15 Q. Right.

16 A. And they would be signed there and they'd be turned over to
17 whoever was in charge for handing them out to the different
18 judges who the cases were given to.

19 Q. Uh-hum. And the reasonable and probable grounds that you
20 would swear to in these informations would be information
21 given to you by investigating officers.

22 A. Right. And if there was a not guilty plea there would be an
23 adjournment asked for and you'd go back then to find out
24 who the officer was that was conducting that investigation
25 and he'd be summonsed to give information on the trial.

1 Q. Okay. So, at least when the name Donald Marshall came up on
2 May 31st, I guess it was, '71, these informations didn't spring
3 to mind.

4 A. No.

5 Q. At the time of this first briefing from Chief MacIntyre did you
6 understand that he had not gone to the scene of the stabbing
7 the night that it happened?

8 A. As I understand then.

9 Q. Yes.

10 A. Pardon me. No, I didn't.

11 Q. We have had some evidence from Staff Sergeant Wheaton
12 that there was some concern expressed by the Chief of the
13 day, I understand that to be Chief Gordon MacLeod.

14 A. Chief Gordon MacLeod.

15 Q. That he was concerned that Sergeant MacIntyre had not come
16 out to the scene of the stabbing that night. Do you have any
17 knowledge of any concern of Chief MacLeod?

18 A. Chief Gordon MacLeod never told me anything about
19 MacIntyre not coming out the night of the stabbing.

20 Q. I believe, I think it was in your discovery proceedings you
21 said something to the effect that you probably knew Chief
22 MacLeod better than any man in Sydney.

23 A. I knew him as well.

24 Q. As well as.

25 A. Uh-hum.

1 Q. Did you spend time with him socially?

2 A. Yes, I did.

3 Q. And at any time did he suggest to you any concern about
4 Chief MacIntyre not coming out on the night of the stabbing?

5 A. Not to me personally he didn't, no.

6 Q. Did M. R. MacDonald ever suggest to you that he was aware of
7 a similar concern?

8 A. No, not until I...no. Mickey R. never came to me and said,
9 "Look, John MacIntyre didn't come out or he did come out."

10 Q. You were just going to say "Not until I..." something...

11 A. Not until I heard something on the inquiry about it.

12 Q. Oh, okay. The testimony from Staff Wheaton was to the effect
13 that Chief MacLeod was mad enough to fire John MacIntyre.
14 Did you ever hear anything like that?

15 A. No.

16 Q. Now, were you given particular assignments or instructions
17 by Chief MacIntyre with respect to the Seale stabbing?

18 A. My job was to do anything I was asked to do to...and I'd have
19 a list of witnesses or he'd give them to me and I'd write them
20 down on a piece of paper, and those were the ones that I
21 would try and contact, try to get...

22 Q. Do you know if you got a list...I'm sorry.

23 A. And try and take statements.

24 Q. Do you know if you got a list of witnesses that morning?

25 A. I...they showed up in...there's a list there in my handwriting.

1 Q Yes, I'll come to that.

2 A. And it was shown to me and that was the list that I...

3 Q I just wondered if you can tell us whether or not you got a list
4 that first morning?

5 A. I'm not sure if it was that first morning or later on.

6 Q Could the witness be shown Exhibit 38, please? Now, Mr.
7 Urquhart, these are notes that were taken by Detective M. R.
8 MacDonald from his activities at the scene and at the hospital
9 in the...in the night in question. Do you remember seeing
10 those notes before?

11 A. I saw them the other day when my solicitor showed me a
12 copy of them.

13 Q I see. Do you have any memory at all of M. R. MacDonald
14 referring to these during any briefings in May of '71?

15 A. Not to my knowledge, no.

16 Q Perhaps I could direct your attention to ...I think it's probably
17 about the sixth page, I'm not sure, but it's the sixth page in
18 our photocopy. And it simply is a description and has a figure
19 "1" and then "heavy set" up at the top of the page.

20 A. Heavy set, yes.

21 Q Yes. This is a description that M. R. MacDonald took and
22 indicated that he, when he testified, that he reviewed these
23 notes. His first description there is "Heavy set, short, dark
24 blue coat to knees, hair gray, black laced shoes, " et cetera. Do
25 you remember any such description being discussed during

1 your first briefing with Chief MacIntyre?

2 A. I can't remember at this time if that description had been
3 given to me or not, sir.

4 Q. Did you have other files that you were working on at the
5 same time in May '71?

6 A. Yes.

7 Q. When you had your briefing from Chief MacIntyre did you
8 review at that time any documentation that had already been
9 collected, statements or occurrence reports, continuation
10 reports?

11 A. I would like have read over the file, yes, but I can't say
12 specifically today whether I did. But I'm reasonably sure that
13 I would have.

14 Q. I see. The reason I ask is that in your discovery, and I can
15 point you to the references if needs be, but you do indicate
16 that it was not until some perhaps years later that you
17 became aware of the first statements, the May 30th
18 statements of Mr. Chant and Mr. Pratico.

19 A. Of the complete file.

20 Q. I'm sorry.

21 A. Is that what you're saying, sir?

22 Q. No, I'm asking you what you...what you...if you had read
23 anything on the 31st of May, Monday, and you say that you
24 probably...you may have read the file.

25 A. I'd likely had read the report of how it happened and who

1 was there, the police report. But as far as the rest of it I can't
2 remember whether I did or I didn't.

3 Q. But when you say "the file" would the file include the
4 statements that had been taken to date?

5 A. I don't really remember that.

6 Q. Did you talk to any of the constables that had been involved
7 at the scene of the stabbing?

8 A. No doubt I did but what conversation I had with them then I
9 can't relate to today, sir.

10 Q. Uh-hum. At the time of this first briefing...was this early in
11 the morning, first thing when you came in?

12 A. I suppose it would be nine, half past nine in the morning.

13 Q. And, at that time were there any suspects that were brought
14 to your attention?

15 A. No, I'd imagine and I would say that everybody that was in
16 the part that night that was...that they had names for would
17 be suspects.

18 Q. And you say you "would imagine" is this an assumption on
19 your part?

20 A. No, I would say that would be it. Everybody that was in the
21 park that night, that anybody had a record of, would be a
22 suspect.

23 Q. And at that time did you know who was in the park that
24 night?

25 A. There was...not the complete list of whoever was there.

1 Q. Uh-hum. Do you remember any names that you were given?

2 A. Well, I know the name of Chant came up. Marshall was with
3 Seale. There was other people too, names now that I can't
4 really remember.

5 Q. Uh-hum.

6 A. And all those would be suspects at that particular time.

7 Q. Okay. If the witness can be shown Volume 16, please, and
8 I'm referring to page 90 of Volume 16.

9 A. Page 90, yes.

10 Q. And I believe you've seen that before.

11 A. I heard about it at the Commission hearings.

12 Q. Uh-hum.

13 A. And I've seen the...from my solicitor.

14 Q. Yes. This is a telex that apparently was sent by the Sydney
15 Detachment of the R.C.M.P. early on the Sunday morning,
16 early on May 30th, and it indicates that "Investigation to date
17 reveals Marshall possibly the person responsible," and that's
18 attributed to the Sydney Police Department. At the time of
19 your briefing on Monday morning was there anything said to
20 you that would indicate that Marshall was the person thought
21 to be responsible?

22 A. Not to my...
23
24
25

1 10:15 a.m.

2 MR. MURRAY

3 That's not what the document says. It says, "Possibly
4 responsible," perhaps if you're asking...

5 MR. ORSBORN

6 Q. Was there anything said to you that indicated that Marshall
7 was possibly the person responsible?

8 A. No.

9 Q. Staff Sergeant or Sergeant Murray Wood of the R.C.M.P.
10 testified at the Inquiry and referred to his notes, and I'll just
11 read out a section of his notes to you. I'm reading from the
12 second page of Exhibit 40. And Sergeant Wood is referring to
13 a conversation with Edward MacNeil and John MacIntyre,
14 apparently on the 29th of May, which would be the Saturday.
15 And he says, "Conversation with Edward MacNeil and
16 Detective MacIntyre, feeling at this time Marshall was
17 responsible and incident happened as a result of argument
18 between both Seale and Marshall." Do you have any memory,
19 Mr. Urquhart, of there being discussion at your briefing of an
20 argument between Seale and Marshall?

21 A. No.

22 Q. Is it possible that there was that discussion and you just don't
23 remember it or are you saying it didn't happen?

24 A. No, I'd think I'd remember that if had happened, but I can't
25 remember if it ever happened.

1 Q. How would you describe your role in this investigation?

2 A. I was helpful and did what I could.

3 Q. Oh, okay, I'm sorry. I didn't mean to suggest that you
4 weren't helpful. Were you in charge of it? Were you second
5 in charge? Were you just doing whatever you were told?

6 A. No, John MacIntyre...John MacIntyre was the sole officer in
7 charge of the investigation and he told us what he wanted
8 done and we would go and do it. I would pick up witnesses to
9 get statements to do a lot of the legwork.

10 Q. I think I heard you described this morning as "Chief
11 MacIntyre's right-hand man", would that be an accurate
12 description?

13 A. Who described me as that?

14 Q. Oh, I think I'd have to invoke journalistic privilege, it was on
15 CBC radio anyway.

16 A. Well, I worked very closely with Sergeant MacIntyre.

17 Q. I guess my point is were you more closely involved in this
18 investigation than, say, M. R. MacDonald?

19 A. I was at that stage, yes.

20 Q. Were you John MacIntyre's assistant in the investigation?

21 A. I was assisting John in the investigation, yes.

22 Q. Were you kept informed by Chief MacIntyre as to the
23 progress of the investigation?

24 A. Yes.

25 Q. Did he discuss ideas and opinions with you?

1 A. Yes, we would discuss what was going on, who next... who to
2 see. Possibly he'd know where they lived and I didn't, a
3 name would come and he'd say to me, "Well, they live the
4 second house on Victoria Road," or some place, and I'd say we
5 worked closely on it.

6 Q. Okay. So can I take it from that you were aware of what was
7 happening in the investigation as it progressed?

8 A. Yes.

9 Q. Would your role be such that you could take initiatives in the
10 investigation? Could you do something without checking with
11 the Chief?

12 A. Well, if something come up and he wasn't around I'd certainly
13 go, try to carry it out to the best of my ability, yes.

14 Q. Uh-hum. But would you have ideas of your own and go off
15 and chase them down?

16 A. No, I'd consult him first before I would do it.

17 Q. Okay. Do you recall what, if anything, you did in connection
18 with the investigation on the Monday after you were briefed?

19 A. I don't think I did too much on Monday. I can't remember of
20 getting involved in it on Monday outside of the briefing.

21 Q. Okay. And you had other work you were doing at the time.

22 A. I had other work to do too.

23 Q. What about the following day? Do you have any memory of
24 doing anything in connection with the case? It would be
25 Tuesday, June the 1st.

1 A. Not really any memory today about it, no.

2 Q. Would you have been on a day shift on that Tuesday?

3 A. I would...I likely would have been, yes.

4 Q. Okay.

5 A. And I'm not sure of the shift, but I would say that I was on
6 day shift.

7 Q. I believe Ambrose MacDonald testified that he thought it was
8 on that Tuesday you and Richard Walsh and Ambrose
9 MacDonald visited the park, Wentworth Park. Do you have
10 any memory of that?

11 A. No, I have no memory of visiting the park Tuesday with
12 them, but I very well could have.

13 Q. You could have.

14 A. I could have.

15 Q. Were you aware, at the time, of the availability of ident.
16 services from the R.C.M.P.?

17 A. We had occasion to use ident. from the R.C.M.P. many times.

18 Q. Uh-hum.

19 A. And I have used them many times.

20 Q. Did you have any discussions with John Ryan of the R.C.M.P.
21 regarding use of the ident. services in this case?

22 A. I believe that John Ryan and I, and this is not clear, but I
23 believe that John Ryan and I went to the Park at a later date.

24 Q. Yes.

25 A. And took photos for the Crown at the request of the Crown.

1 Q. Yes, I think he testified that that perhaps took place
2 sometime in August.

3 A. I'm not sure of the date, sir.

4 Q. Okay. Do you have any memory of talking about ident.
5 services immediately following the stabbing?

6 A. No.

7 Q. Did you discuss use of ident. services with Chief MacIntyre
8 immediately following the stabbing?

9 A. Well, you say "immediately following" now, is that the night it
10 happened or...

11 Q. No, when you first became involved on the Monday.

12 A. No, I didn't ask him about ident..

13 Q. In the murder cases that you investigated, I think four cases
14 after you became Sergeant of Detectives did...what use, if any,
15 did you make of ident. services?

16 A. That was the first thing that I would do when I would get the
17 initial call, when I'd be home sometime, I would be home and
18 I would immediately call my ident. section, have them ready
19 to meet me at the station to go to the scene of the crime,
20 wherever it would be. And their role would be to take
21 pictures, do measurements, and a plan of the room, and the
22 area that was involved.

23 Q. Why would you do that immediately?

24 A. Well, it's fresh in your mind then and all the...any evidence
25 that you might miss visually the camera would be there to

1 record everything that was there.

2 Q Uh-hum.

3 A. The position of the body if the body was still there, the
4 condition of the room, the weapon, if any.

5 Q Did you have ident. services available in your department,
6 then, at the time that you used them?

7 A. In 1971, no, we did not.

8 Q No, I'm sorry, in '73.

9 A. Oh, yes, we had...Gerard MacNeil was sent to the Police College
10 in Ottawa where he took a fingerprint and ident. course,
11 photography and we had our own section set up.

12 Q Had you had occasion to use the R.C.M.P. ident. services?

13 A. Yes, I did.

14 Q On murder cases.

15 A. Not on murder, no.

16 Q What kind of cases?

17 A. Break and enter and rape cases, many cases.

18 Q In a situation such as presented on the night of May 28th
19 where you have a stabbing, which is not yet a murder, the
20 victim has been removed to the hospital, is there, in your
21 opinion, still a need for ident. services?

22 A. Yes, I would say so because it would be nice to have the
23 photos after.

24 Q Photos of what?

25 A. Of where the body was. In this particular case it was a

1 | stabbing, the body was bleeding, and the first...the first officer
2 | on the scene would be to protect life and to remove the body
3 | to the hospital as soon as possible by ambulance.

4 | Q. Uh-hum.

5 | A. But then the crime...the scene should be protected and
6 | photographs taken and if you didn't have...you'd secure the
7 | area and chalk mark where the body was laying from the
8 | memory of the police that was first on the call.

9 | Q. Was that done in this case?

10 | A. No, sir, I don't believe it was.

11 | Q. And when you were briefed on Monday the 31st, did you
12 | know that that had not been done?

13 | A. No, I didn't, sir.

14 | Q. Did you ask?

15 | A. No, and I didn't ask.

16 | BREAK - 10:24 a.m. - 10:41 a.m.

17 | MR. CHAIRMAN

18 | Mr. Orsborn.

19 | MR. ORSBORN

20 | Q. Mr. Urquhart, I'd like to move on to Wednesday, June the
21 | 2nd. Do you know whether or not you were working a day
22 | shift on that day?

23 | A. I would imagine that I was, sir, yes.

24 | Q. I'd ask you to look at Volume 16, pages 29 and 30. The
25 | numbers are at the top of the page.

1 A. 29, yes.

2 Q. 29 and 30. This is a photocopy of handwritten statements of
3 Francis Joseph French. Is that your handwriting, Sergeant
4 Urquhart?

5 A. Yes.

6 Q. And does your signature appear on the bottom of page 30?

7 A. On the bottom of page 30, yes, 4:30 p.m.

8 Q. Of.

9 A. June 2nd, '71.

10 Q. And the statements starts at 3:55, so would that suggest to
11 you that you were, in fact, working a day shift on that day?

12 A. Yes, it would.

13 Q. Was there anyone else present during the taking of that
14 statement?

15 A. This...no other name appears on the statement but mine and
16 Frank French.

17 Q. Yes. But was there anybody else present?

18 A. No.

19 Q. And does the absence of a witnesses name on the...on this
20 statement does that mean that you were there by yourself?

21 A. Yes.

22 Q. Are you able to tell us where that statement would have been
23 taken?

24 A. It would have been taken likely at the police station in
25 Sydney.

1 Q Was that your normal practise to take statements at the
2 police station?

3 A. Yes, in the statement room. There would be a room
4 there...you'd be free from any of the other officers coming
5 back and forth.

6 Q Uh-hum.

7 A. It would be a private room where you could talk to a person
8 without being interrupted.

9 Q And at the police station, though, would there not be other
10 officers around that you could pull in and say, "I need you for
11 a witness."

12 A. I suppose there could be, at 3:55 that would be about a
13 change of shift time anyway.

14 Q Uh-hum. Can you suggest any reason why you would not
15 have a witness?

16 A. It...no. It would be...it was just an information statement from
17 a witness.

18 Q Assume that you were working a day shift on this
19 Wednesday, what would be your normal time of finishing
20 your shift?

21 A. Five o'clock.

22 Q Okay. Do you know Scott MacKay?

23 A. I don't know him personally, no.

24 Q Okay. I'd ask you to look at pages 32 and 33 of the same
25 volume, Mr. Urquhart. That is a statement of Robert Scott

1 MacKay and am I correct in saying that that is not your
2 handwriting?

3 A. No, that's not my handwriting.

4 Q. And do you know whose handwriting it is?

5 A. Yes, it's Sergeant John MacIntyre's.

6 Q. Okay. When Mr. MacKay testified he remembered giving the
7 statement but he said he was questioned by Sergeant
8 MacIntyre and yourself. And I believe he described you as
9 being, you know, somewhat helpful and friendly. Do you
10 remember if you were present for an interview with Scott
11 MacKay?

12 A. No, I don't remember if I was or not, sir.

13 Q. Does your name appear on the statement anywhere?

14 A. On the handwritten statement, no, it doesn't.

15 Q. And, does that suggest that you were there or not there?

16 A. It would suggest that I wasn't there.

17 Q. So, if Mr. MacKay suggests or testified that he was
18 interviewed by both you and John MacIntyre is he mistaken?

19 A. I would have to say that he would be because if I was there
20 my name would be affixed to the statement.

21 Q. Okay. And when he suggests you were helpful and friendly
22 he's mistaken as well, is he, because you weren't there?
23 Assuming that you...your regular time of getting of was five
24 o'clock, would you..would it be usual for you to be hanging
25 around at six-thirty at night?

1 A. Well, if there was work to be done, yes, and if I was asked to
2 stay I would.

3 Q. Okay. But your...your evidence today is that if Mr. MacKay
4 said he was interviewed by yourself he was mistaken.

5 A. Yes, because my name doesn't appear on the statement.

6 Q. Okay. Turn now to the next day, Thursday, June the 3rd.

7 A. What page, sir?

8 Q. Just turning to the day, I'm sorry, there are no statements
9 that have your name indicated on them that day at least. Do
10 you have any memory of that day and what you did in
11 connection with this investigation, if anything?

12 A. No.

13 Q. Can you tell us if any particular leads or theories were being
14 pursued or actively investigated?

15 A. No, I have no idea.

16 Q. Can you tell us if you were participating in an investigation
17 looking for two men answering the description that M. R.
18 MacDonald had? Do you remember anything about that?

19 A. No, I don't.

20 Q. Do you know if there was a neighbourhood canvass on
21 residents in the area of the stabbing?

22 A. No, I can't answer that because I don't know, sir.

23 Q. Were you under...you and John MacIntyre, I guess, were you
24 under any pressure to get results in this case from the Chief
25 of the day?

1 A. No.

2 Q. Were you under any pressure from the community to get
3 results?

4 A. Not to my knowledge, nobody has ever come up to me and
5 said, "Hurry up and clean it up."

6 Q. Staff Wheaton, I think, put in a memo that John MacIntyre
7 was under pressure from the chief of the day to get the thing
8 solved. Do you have any knowledge of any such pressure?

9 A. No, I have no knowledge of any pressure put on Sergeant
10 MacIntyre.

11 Q. Staff Wheaton also indicated that...in his memo that the town
12 was in an uproar over the racial overtones arising out of
13 the...out of the slaying. Do you have any knowledge of any
14 such racial uproar?

15 A. No.

16 Q. Was there any?

17 A. Not to my knowledge there wasn't.

18 Q. The department received at that time, and I can show you the
19 letter in Volume 16, Page 98, it's a letter from the Black
20 United Front and simply expressing their concern and
21 saying...asking for information. Do you remember any, or do
22 you have any knowledge of that letter?

23 A. No. I've seen it since that.

24 Q. Yes.

25 A. But I had no direct knowledge of it at that time because that

1 would go to the administration officer who was the chief of
2 police of the day.

3 Q. Yes. Now, the Deputy Chief MacCaskill replied to that letter
4 and he said, and you don't have that in front of you, it's
5 Exhibit 59. I'll simply read it to you. He replied on June 7th.
6 He said, "I'm sorry I didn't reply immediately but the case
7 was under intensive investigation and we were momentarily
8 expecting a break in the case." Now, I would assume that one
9 would expect a break before someone was arrested. So,
10 particularly, and thinking of June 3rd, can you tell us whether
11 or not you were expecting a break in the case on June 3rd?

12 A. I suppose...I don't know if we were expecting a break at that
13 particular time. The investigation was ongoing.

14 Q. Uh-hum.

15 A. And there was no hard and fast suspect at that time to my
16 knowledge.

17 Q. So, on the Thursday, June 3rd, there was no hard and fast
18 suspect to your knowledge.

19 A. No.

20 Q. And you were being kept informed of the investigation by
21 Chief MacIntyre?

22 A. Yes, sir, I was.

23 Q. Do you remember having any discussions with Chief
24 MacIntyre regarding Donald Marshall's yellow jacket?

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

1 Q. Did you ever see the jacket?

2 A. I can't answer that because I don't know.

3 Q. Did you have any discussions with Chief MacIntyre about the
4 possibility of Mr. Marshall's wound on his arm being self-
5 inflicted?

6 A. Yes, because it was on the inside of the arm.

7 Q. Can you tell us about those discussions?

8 A. Well, the only thing is that if somebody was going to come at
9 you with a knife that you would, you know, cover your
10 stomach or whatever part they were aiming for and the...it
11 could very well be on the outer side of the arm not inside on
12 the underside. So, that's the discussions and from there I had
13 no further discussion with Chief MacIntyre, Sergeant
14 MacIntyre at that time, no.

15 Q. When did those discussions take place?

16 A. Oh, when we would be talking about the case and going over
17 it.

18 Q. In the early going?

19 A. Yes, in the early going.

20 Q. Before Marshall's arrest.

21 A. Oh, yes.

22 Q. And, because the wound was on the inside of the arm did you
23 reach a conclusion that the wound must have been self-
24 inflicted?

25 A. No, I didn't, sir, no.

1 Q Well, how did the matter of it being self-inflicted come up?

2 A Well, wondering how, you know, there was one boy stabbed
3 in the stomach or the abdomen and the other one was
4 underneath...and of course there would be a concern of how it
5 got there and, you know, and how it was inflicted.

6 Q Uh-hum. Did that raise a suspicion in your mind?

7 A Not really, no.

8 Q To your knowledge did it raise a suspicion in Chief
9 MacIntyre's mind?

10 A I wouldn't...I couldn't speak for Sergeant MacIntyre on that.

11 Q I realize you couldn't speak for him, but I asked the question
12 to your knowledge, I mean did he tell you that "That looked
13 suspicious to me."?

14 A No.

15 Q But if it didn't look suspicious how could the suggestion arise
16 that it was self-inflicted?

17 A I don't know where that arose from later on. I have no idea.

18 Q Did the possibility of it being self-inflicted arise before Mr.
19 Marshall was arrested?

20 A I don't recall if that discussion took place or not, sir.

21 Q Are you able to tell us at this time, June 3rd, if you were
22 aware of the statements that had been taken from Mr.
23 Marshall, Mr. Chant and Mr. Pratico?

24 A I can't recall if I was aware of them at that time or not, sir.

25 Q Is it likely that you would have been aware of them?

1 A. I'd be only guessing if I said "yes" to that, sir.

2 Q. I see. I'd like to turn now to Friday, June the 4th, and are you
3 able to tell us if you were working a day shift or an evening
4 shift on that day?

5 A. I'd imagine I'd still be working day shift.

6 Q. If you look at page 43 of Volume 16, Mr. Urquhart.

7 A. Yes.

8 Q. I believe that to be a three-page handwritten statement of
9 John Pratico. And, is this statement taken in your
10 handwriting?

11 A. No.

12 Q. That's Chief MacIntyre's handwriting?

13 A. Yes, sir.

14 Q. And does your signature appear on that statement?

15 A. On the...yes, it does, sir.

16 Q. At the bottom of page 43.

17 A. Yes.

18 Q. And page 44.

19 A. And 45.

20 Q. And 45. And does that signature indicate that you were
21 present as a witness for that statement?

22 A. Yes, sir, it would.

23 Q. And would it indicate you were present throughout the taking
24 of the statement?

25 A. Yes.

1 Q Do you have any memory today of being present when that
2 statement was taken on June 4th from John Pratico?

3 A. I remember John Pratico being in the police office and giving
4 us a statement, yes.

5 Q Uh-hum. And, can you tell us what you remember about the
6 taking of the statement?

7 A. This...he was...the statement was there and he was asked...I
8 believe it's in question and answer form.

9 Q Uh-hum.

10 A. And he was asked questions by Sergeant MacIntyre and as
11 he'd give his answers they were recorded.

12 Q Uh-hum. Did you know John Pratico at the time?

13 A. Not personally, no.

14 Q Okay. Did you know of him?

15 A. I remember him being around Bentinck Street with his
16 mother, at least I assumed it was him, and he'd be a young
17 man at that time or years before and they'd be walking up
18 and down the street.

19 Q Uh-hum. Did you know anything about his mental capacity or
20 mental condition?

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

22 Q Did you have any reason at all from your knowledge of him to
23 be concerned about his ability to give a statement?

24 A. No, I did not, sir, because I didn't know him.

25 Q Do you know why he came to give a statement on June 4th?

1 A. No, unless he was sent for by the...by Sergeant MacIntyre.

2 Q. Did you have any discussions with Chief MacIntyre about
3 "Let's bring Pratico back because there is a problem with his
4 first statement."?

5 A. No, I don't believe that entered into the conversation.

6 Q. During the taking of this statement are you able to tell us
7 whether or not you were sitting down or standing?

8 A. Oh, I'd be sitting down, sir.

9 Q. What about Mr. Pratico?

10 A. Mr. Pratico would be sitting.

11 Q. What about Chief MacIntyre?

12 A. He'd be sitting.

13 Q. Mr. Pratico indicated to us that in the course of the taking of
14 the statement he was told something to the effect "We've got
15 a witness that said you were in the park." Was anything like
16 that said to John Pratico?

17 A. No, if that was...no, there would be nothing like that said
18 because if it was said it would be in the body of the statement
19 and the answer would be what answer he'd give. But it was
20 never suggested to anybody in my presence that one person
21 was used against another to give a statement or that there
22 was any...that you said, "We have a statement we want you to
23 do this or do that." It was never mentioned in my presence to
24 any witness that I ever interviewed for Sergeant MacIntyre.

25 Q. Was the possibility of going to jail if you give us an untrue

1 statement mentioned?

2 A. No, sir.

3 Q. Now, in this statement, and I'm looking at the typed copy now
4 because it's a little easier to read, at page 41 of that volume,
5 well, just before I get to that. You've indicated to us that if
6 there were any such comment about "We got a witness that
7 will say you were in the park," that would be included in the
8 statement.

9 A. It should be, yes.

10 Q. Yes. So, can I then the statement to be an accurate reflection
11 of what was said between the person taking the statement
12 and the person giving the statement?

13 A. This particular statement that we're looking at now.

14 Q. Any statement.

15 A. Any statement, yes.

16 Q. Yes. Which would include this particular statement?

17 A. Include this particular statement.

18 Q. Okay. Mr. Pratico says and about the middle of page 41, "I
19 did not pay much attention to them..." referring to Sandy and
20 Donald, "I kept walking for the tracks. On the tracks I
21 stopped where I showed you." This is Mr. Pratico speaking.
22 Do you have that, Mr. Urquhart?

23 A. Uh-hum.

24 Q. You just said that the statement accurately reflects the
25 conversation. Is Mr. Pratico then saying that you, meaning

1 the police, showed Mr. Pratico the park prior to the taking of
2 this statement?

3 A. I was never in the park with John Pratico prior to the taking
4 of this statement.

5 Q. No, but this is what Mr. Pratico is saying.

6 A. Yeah.

7 Q. And did you have any knowledge of a visit to the park by the
8 police and Mr. Pratico?

9 A. No, I did not, sir.

10 Q. And you didn't take him to the park you just told us.

11 A. No, I didn't take him.

12 Q. But you would agree, then, that this is nonetheless an
13 accurate statement of what Mr. Pratico said at the time of this
14 statement?

15 A. Yes, if that's what he said and it was copied down by Sergeant
16 MacIntyre, I would say it was accurate.

17 Q. And he follows by saying, "Then Donald Marshall and Sandy
18 Seale were up where the incident happened. I heard Sandy
19 say to Junior, 'You crazy Indian,' and then Junior called him a
20 'black bastard'." Do you remember Mr. Pratico talking about
21 that argument between Sandy and Mr. Marshall?

22 A. No, I was there while the statement was taken but I can't
23 remember the exact words.

24 Q. Uh-hum.

25 A. It was a long time ago.

1 11:00 a.m.

2 Q. Sure, sure. Other than the note from Murray Wood on the
3 29th of May, back on the Saturday where he refers to an
4 argument, can you tell us if there was any other evidence or
5 indication of an argument between Mr. Seale and Mr.
6 Marshall until Mr. Pratico referred to it?

7 A. No, I cannot answer that.

8 Q. Is it possible that in the course of discussions with Mr.
9 Pratico, discussions to the effect, "Well, Mr. Seale was black,
10 Mr. Marshall was an Indian, you know they're going to
11 fight."?

12 A. No, I never heard any of that discussions take place.

13 Q. Mr. Pratico then goes on in his statement to say that he saw
14 Donald Marshall stab Sandy Seale. So he's then saying I was
15 an eyewitness to the murder, is that correct?

16 A. Correct.

17 Q. Do you remember him saying that?

18 A. No, I can't personally remember back then.

19 Q. No, the question for the question is that you are going along
20 with this investigation and then all of a sudden a guy drops
21 out of the sky and says "I'm an eyewitness to the murder."
22 That would seem to me to be a significant event in any
23 murder investigation.

24 A. Very significant.

25 Q. But you have no memory of it.

1 A. I have no direct memory of that being said that particular
2 day, no.

3 Q. Would you have regarded that as a break in the case?

4 A. Yes, I would.

5 Q. Did you believe that Mr. Pratico was telling you the truth at
6 the time?

7 A. Yes, I had no reason to disbelieve him.

8 Q. Do you know if there was any discussion with Mr. Pratico as
9 to why he had given you an earlier statement on May 30th
10 which conflicted with this?

11 A. Not in my presence it wasn't, no.

12 Q. Following the taking of this statement from Mr. Pratico, did
13 you and Chief MacIntyre say, "Yeah, we've got an eyewitness.
14 Let's figure out what we do from here." Did you discuss the
15 next step?

16 A. Yes, no doubt we talked about the statement and then
17 decided what we would do next.

18 Q. What was that?

19 A. Sergeant MacIntyre wanted to interview Maynard Chant at
20 Louisbourg.

21 Q. Why was that?

22 A. To go over what he had because the police had picked him up
23 on George Street the night of the stabbing. He was taken into
24 the police station, I believe, where he called his father and
25 they came, or mother, and they came to pick up in

1 Louisbourg. He had a blood-stained shirt with him and
2 naturally we wanted to find out if he had any more
3 information he could give us.

4 Q. Did you know that Mr. Chant had given an earlier statement
5 which conflicted with Mr. Pratico's statement?

6 A. I knew that he had given a statement and that he had talked
7 to Sergeant MacIntyre and M. R. MacDonald, yes, but I don't
8 know when that was taken, whether it was Saturday night or
9 Sunday.

10 Q. Did you know that his story didn't coincide with Mr. Pratico?

11 A. No, I can't answer that because I really don't remember the
12 conversation on that.

13 Q. I'm curious with respect to the Pratico statement insofar as it
14 involves both yourself and Chief MacIntyre, and it may be
15 nothing but coincidence. You've told us earlier that it's the
16 exception rather than the rule to have one police officer
17 present for a statement. If my summary is correct, this is the,
18 I think, the eleventh statement taken in this case and this is
19 the first one where two police officers are present. Can you
20 suggest any reason why that would be so?

21 A. Availability of personnel at the time could be a factor in it.
22 You know, if there was people available. I think there's other
23 statements there that there was other than detectives used
24 for statements, too.

25 Q. Well, at least reviewing the statements that we've had, this is

1 the first one where two names appear on either the typed
2 copy or the handwritten copy.

3 A. No, I have no answer for that.

4 Q. And did you then accompany Chief MacIntyre to Louisbourg?

5 A. Yes, sir, I did.

6 Q. Do you recall if there was discussion on the way about Mr.
7 Chant?

8 A. I can't recall if there was a discussion or not, and word for
9 word, I wouldn't be able to tell you what it was at that time,
10 if there was.

11 Q. Were you and Chief MacIntyre satisfied with Mr. Pratico's
12 statement that you just had?

13 A. Yes.

14 Q. Did you believe that was the truth?

15 A. Yes.

16 Q. What was your intention with respect to Mr. Chant?

17 A. To find out if he could give us any more evidence on what
18 took place that night or any of the events that he
19 remembered.

20 Q. At the time you went to see Mr. Chant, is it fair to say that the
21 truth, as you believed it, was the truth as related by Mr.
22 Pratico?

23 A. Yes, I would believe that.

24 Q. I won't go through with you how Mr. Chant got to the court
25 house and Mr. Magee going to the house and whatnot. I think

1 we've had a fair bit of evidence on that already. The
2 statement, I believe, was taken in the town hall?

3 A. Town hall.

4 Q. In Louisbourg. Do you, today, remember that?

5 A. Yes, I do.

6 Q. Do you remember it well?

7 A. Yes.

8 Q. Tell us about it?

9 A. Well, we went to Louisbourg. We went to see Chief of the
10 day, who was Wayne Magee and Sergeant MacIntyre asked
11 him if he knew where Maynard Chant lived and he said he
12 did. And he asked him if he'd mind going and picking him up
13 for us and he said he would, and he did and he took Maynard
14 and his mother back to the room in the old town hall in
15 Louisbourg, and I believe it's been burnt since then. And
16 there was a long table there and we were sitting down and I
17 believe Magee, I know that he took in Maynard Chant and his
18 mother. And Sergeant MacIntyre was sitting at one end of
19 the table, long table. I was sitting, Maynard was across the
20 table from me and his mother. And Larry Burke or Lawrence
21 Burke from the Juvenile Court was there and Wayne Magee.

22 Q. Were you present throughout the taking of the statement?

23 A. Yes, I was, sir.

24 Q. Have you since discussed how this statement was taken with
25 Mr. Magee?

1 A. Yes, I have no doubt talked to him about it since that.

2 Q. And have you talked with Chief MacIntyre about how the
3 statement was taken?

4 A. Yes.

5 Q. Have you compared recollections?

6 A. It was taken very fairly.

7 Q. No, that wasn't my question.

8 A. Oh.

9 Q. Have you compared with Wayne Magee your respective
10 recollections of how this statement was taken?

11 A. No.

12 Q. Have you compared with Chief MacIntyre your respective
13 recollections of how the statement was taken?

14 A. I can't say that we did, no.

15 Q. So with all the confusion and kerfuffle that surrounds the
16 taking of this statement, you're telling us that you haven't sat
17 down and talked to Wayne Magee and John MacIntyre about
18 it?

19 A. I haven't talked, I've talked to John MacIntyre but not about
20 how it was taken. I talked to him about the statement and
21 what we had in it.

22 Q. Now was Mr. Magee present throughout?

23 A. Yes, he was.

24 Q. Was Mr. Burke present throughout?

25 A. Yes.

1 MR. CHAIRMAN

2 Were there any discussions, Mr. Urquhart, between you and
3 Mr. MacIntyre and Mr. Magee as to who was present when the
4 statement was taken?

5 MR. URQUHART

6 No, because... I don't believe there was, sir, because Sergeant
7 MacIntyre recorded on a separate piece of paper those that was
8 present.

9 MR. ORSBORN

10 Q. Have you discussed since 1971 with either Mr. Magee or Chief
11 MacIntyre who was or was not present for the whole taking
12 of the statement?

13 A. No doubt I've discussed it with Chief MacIntyre, but I haven't
14 with Chief Magee. I met Chief Magee at a party one night, I
15 don't know what kind of a banquet it was, and after the case
16 was reopened and he said as far as he was concerned it was a
17 very fine statement and there was no pressure or anything
18 put on anybody to tell anything. That was the words that he
19 told me.

20 Q. Did you discuss with Wayne Magee whether or not Mrs. Chant
21 was present throughout the entire taking of the statement?

22 A. No, sir, I did not.

23 Q. Have you discussed with Chief MacIntyre whether or not Mrs.
24 Chant was present throughout the entire statement?

25 A. No, because if she was there and we say she was there, I

1 would say that that's accurate, sir.

2 Q. So your evidence is that you have not, to this day, discussed
3 with Chief MacIntyre whether or not Mrs. Chant stayed for
4 the entire statement?

5 A. No, I'd have to say no.

6 Q. That you have not discussed it.

7 A. That I have not discussed it.

8 Q. Was anybody standing during the taking of this statement?

9 A. Not to my knowledge, no. There was plenty of chairs there
10 and there was a long table. I can't remember anybody
11 standing.

12 Q. Mr. Chant testified, I think, that Chief MacIntyre would be
13 standing up for a good part of the statement and walking
14 around or standing over him.

15 A. No.

16 Q. That did not happen?

17 A. No, it did not happen.

18 Q. Can you tell us how the taking of the statement proceeded?

19 A. When they came in the room, I believe, and I'm not
20 absolutely sure of this, that Wayne Magee introduced
21 Sergeant MacIntyre and myself to Maynard Chant and his
22 mother. And John MacIntyre said words to this effect, "Mrs.
23 Chant, we're out here on a very serious matter. There's a boy
24 dead. We're out here to get the truth of the matter and that's
25 all we want and that's not too much to ask." And John looked

1 at Mrs. Chant and she said, "No, it's not." And she turned to
2 Maynard and she said, "Maynard, if you know anything, you
3 tell the Sergeant." And that's words to that effect and I can't,
4 but that, be much clearer than that, sir.

5 Q. But you remember the statement by Chief MacIntyre, "We're
6 out here to get the truth of the matter."

7 A. That's right.

8 Q. And you've testified a few minutes ago that your
9 understanding of the truth of the matter was the truth
10 according to John Pratico.

11 A. That's right, and the truth according to Maynard Chant what
12 he was going to tell us.

13 Q. And once these preliminaries were dispensed with, do you
14 remember how the taking of the statement proceeded?

15 A. His name and address and date of birth would be written
16 down and it would be then in a question and answer form.

17 Q. Perhaps the witness could be shown Exhibit 31, please? This
18 is the original of Maynard Chant's statement. It's in Volume
19 16 at pages 53 and 54. That statement is not in your
20 handwriting, is it, Mr. Urquhart?

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

22 Q. Does your signature appear at the bottom of the first three
23 pages?

24 A. Yes, it does, sir.

25 Q. And at the bottom of, and the writing on the fourth page?

1 A. Yes.

2 Q. And the last page, the last words seem to be "Urquhart and
3 myself." That is not your writing, I take it?

4 A. No, that's John MacIntyre's writing.

5 Q. Okay. Again, your signature, as you've testified, would
6 indicate that you were present for the taking of this
7 statement?

8 A. Yes, because my signature is on the bottom of it.

9 Q. And that you were present throughout?

10 A. That I was present throughout.

11 Q. When would you have signed that?

12 A. I would sign it immediately after the statement was taken.

13 Q. Was that your practice?

14 A. Yes.

15 Q. Invariably?

16 A. Oh, yes.

17 Q. The statement as we have it here, does that, to your
18 knowledge, reflect the total discussion that took place
19 between Maynard Chant and the police?

20 A. The statement, everything that was said is in here. Is that
21 what you're...

22 Q. Yes.

23 A. Yes.

24 Q. Who was doing the talking?

25 A. John MacIntyre.

1 Q. Did you do any yourself?

2 A. No, sir.

3 Q. Now Mr. Chant has testified that he kept insisting that "I
4 didn't see anything," and that he was told by Chief MacIntyre,
5 "You must have seen something." Did that happen?

6 A. Not in my presence, it didn't, and it didn't happen when this
7 statement was taken.

8 Q. When you say "not in your presence," were you there
9 throughout?

10 A. I was there throughout and that was never suggested.

11 Q. Was Chief MacIntyre alone or was he with Mr. Chant at any
12 time during June 4th when you were not there?

13 A. No.

14 Q. Mr. Chant has also testified that there was mention of his
15 "being on probation and that if he didn't tell the truth he'd go
16 to jail for two to five years." Was there any mention of that?

17 A. No.

18 Q. Mr. Chant has also testified that during the taking of this
19 statement, he started to cry because he was upset. Did that
20 happen?

21 A. No.

22 Q. Both Mr. Chant and his mother testified that at one point Mrs.
23 Chant was asked to leave and that Mr. MacIntyre said to her
24 that "we sometimes find it better this way. It might be better
25 if you left." Did Mrs. Chant leave during the taking of this

1 statement?

2 A. No, she didn't leave and she wasn't asked to leave, sir.

3 Q. Can you suggest any reason why she would testify to that
4 effect?

5 A. No, I have no reason.

6 Q. During the taking of this statement, was there any records
7 made to the fact that, "Look we've got a statement from
8 another witness and this other witness says this, this, and
9 this."

10 A. No, sir.

11 Q. When Sheriff Magee testified, he testified that he was there.
12 He also testified, as you have, that Mrs. Chant was present
13 throughout. But he said, testified that the circumstances of
14 the stabbing were outlined to Mr. Chant, that Mr. Chant was
15 given some advice and assistance. Did that happen?

16 A. Not to my knowledge it didn't, no, sir, and I was there.

17 Q. Can you suggest any reason why Sheriff Magee would testify
18 to that effect?

19 A. No, I have no reason.

20 Q. Was Mr. Chant given any assistance at all with respect to the
21 geography of the park? Crescent Street is here, the band shell
22 is here, the bridge is here, the tracks are here, anything of
23 that nature?

24 A. No.

25 Q. Was there any suggestion made to Mr. Chant that there was

1 an argument going on between Mr. Seale and Mr. Marshall?

2 A. By the police to Mr. Chant?

3 Q. Yes.

4 A. No.

5 Q. Was anybody else talking in the room other than Chief
6 MacIntyre and Mr. Chant?

7 A. That's who would be doing the talking, sir.

8 Q. Anybody else talking at all?

9 A. No.

10 Q. Was there any suggestion given that we have a statement
11 from Mr. Pratico saying, or we have a statement from a
12 witness saying that Mr. Marshall stabbed Seale?

13 A. No, sir.

14 Q. So is it your evidence that this statement from Mr. Chant is
15 totally voluntary and that no advice, assistance, or prompting
16 was provided to him?

17 A. That's correct, sir.

18 Q. And you have a good recollection or you have a recollection of
19 the taking of this statement?

20 A. Yes, I have.

21 Q. You have a good recollection of it?

22 A. Well, I have a recollection of it because it was an eyewitness
23 account of a murder that took place.

24 Q. Are you able to suggest why your recollection of this
25 particular statement appears to be somewhat clearer than,

1 say, your recollection of Mr. Pratico's statement, who was also
2 an eyewitness and your first one?

3 A. This is the second eyewitness in the same day that you get on
4 a murder and I, that would be the main reason why I would
5 remember it so vividly. It's a second eyewitness account of a
6 murder that took place.

7 Q. So because it was a second, it would register a greater
8 impression than if it was the first?

9 A. Well, along with the first one it would and then you don't
10 often get two eyewitnesses to a murder on the same day.

11 Q. The Commissioners I'm sure will, you'll appreciate, are
12 presented with two opposed versions of the taking of this
13 statement. Are you able to give us any assistance at all why
14 Mr. Chant would testify that he was assisted in the taking of
15 his statement and why Mr. Magee would testify that he was
16 assisted in the taking of the statement, that that did not
17 happen?

18 A. No, I have no idea why they would say that, sir.

19 Q. Have you discussed it with Sheriff Magee since and said,
20 "Look here, Wayne, nobody helped Chant when he gave that
21 statement."

22 A. No, I haven't talked to Wayne Magee since the day that he
23 gave evidence before the Inquiry in Sydney, sir.

24 Q. Did you believe Mr. Chant?

25 A. Yes.

1 Q And did you believe him because his statement coincided
2 with Mr. Pratico's?

3 A. Well, I believed him because he said that it happened and I
4 had no reason to doubt that it didn't and that I understood,
5 and still do, that he was telling the truth at that time. I have
6 no reason to doubt it.

7 Q And you understood, and still do, that he was telling the truth
8 at that time.

9 A. At that time, yes.

10 Q Do you believe now that he was telling the truth?

11 A. I have reason to believe that he wasn't now, after hearing
12 other evidence at the Inquiry.

13 Q Do you remember anything being discussed with Mr. Chant as
14 to why he had given an earlier statement which conflicted
15 with this one?

16 A. No.

17 Q If you're taking a second statement from a witness and he
18 gives you now Story "B" and he's earlier given you Story "A",
19 would it be your practice to inquire as to why he gave you
20 Story "A"?

21 A. I suppose it would cross your mind and you would ask why,
22 you know, but I can't speak for why he would give the other
23 statement.

24 Q I understand. Once the statement was completed, yourself
25 and Chief MacIntyre returned to Sydney?

1 A. Yes, sir, we did.

2 Q. Were you happy with the turn of events?

3 A. Well, I don't know if you would say we were happy, but we
4 were pleased that we had got a breakthrough on the case and
5 we drove to Sydney and we went to the Crown Prosecutor
6 with it.

7 Q. Do you remember talking to the Crown Prosecutor?

8 A. I remember talking to Donnie MacNeil who was Crown
9 Prosecutor at the time, yes.

10 Q. What was the substance of that discussion?

11 A. Donnie looked over the statements and...

12 Q. When you say "the statements," which statements would you
13 be referring to?

14 A. Pratico and...

15 Q. Those two.

16 A. Chant statements, and words to this effect, and I don't know
17 how accurate they are today but he said, "You fellows are the
18 two luckiest policemen in Canada," or words to that effect
19 about being lucky, and he turned to John and said, "Get your
20 information laid and your warrant."

21 Q. To your knowledge, was Mr. MacNeil aware of the earlier
22 statements of Mr. Chant and Mr. Pratico?

23 A. I can't answer that because I don't know, but if Sergeant
24 MacIntyre, if he had access to the file, I don't know what he
25 and Sergeant MacIntyre had discussed.

1 Q. Would the Crown Prosecutor have access to the file in the
2 course of the investigation?

3 A. I would say yes, that whoever was in charge of the
4 investigation would keep the Crown up to date on what was
5 going on.

6 Q. What was your practice?

7 A. My practice was to keep the Crown up to date.

8 Q. And...

9 A. Either by a telephone call or go personally to see him in his
10 office.

11 Q. And in preparing for trial, what was your practice in terms of
12 the documentation you would give the Crown Prosecutor?

13 A. Take the whole file up, put it on his desk, and say, "There it is,
14 sir." He might want to call some witnesses. He might not
15 want to call others. He'd have to review the whole file to see
16 what he wanted to do and who to call and who not to.

17 Q. Was that your practice?

18 A. Yes.

19 Q. And do you have any knowledge of what John MacIntyre's
20 practice was?

21 A. Well, no, I haven't but I imagine it would be the same line.

22 Q. But you have no knowledge on it.

23 A. No, I have no particular knowledge.

24 Q. Do you know when you were going back to Sydney with John
25 MacIntyre, do you remember if you had any discussion at

1 that point, because it's what, about a half an hour drive from
2 Louisbourg to Sydney, roughly?

3 A. Roughly, half an hour.

4 Q. If one observes the speed limits.

5 A. It's a crooked road, too.

6 Q. Do you remember if there was any discussion between the
7 two of you as to why you now had statements that had
8 changed from the earlier ones?

9 A. I can't answer that because I had, I can't remember that part
10 of it if there was a discussion, and I imagine there would
11 have been.

12 Q. I would think so.

13 A. But I can't answer that, sir.

14 Q. When you discussed the laying of the charge with Mr.
15 MacNeil, was there any discussion about possible weaknesses
16 in the case?

17 A. Not to my knowledge, there wasn't, no sir.

18 Q. Did you think you had a good case?

19 A. Yes.

20 Q. Did you believe there was any further work required?

21 A. There was other work done on that. There was other
22 statements taken after that and there would be a lot of loose
23 ends perhaps that you didn't tie up before that you would
24 want to get before the case would go to court and you'd try to
25 get all the information and get it sort of in one file so you

1 would have everything there for the Crown to go into.

2 Q. Did you take part in the arrest of Mr. Marshall that day?

3 A. Yes.

4 Q. Do you today remember that?

5 A. I remember going to Baddeck, yes.

6 Q. What do you remember of that?

7 A. Well, I remember that we left the court house, we went down
8 to our own police station and we got another car and we
9 drove to Baddeck and we went in to see the officer in charge
10 of the R.C.M.P. there and I believe his name was Clarke, I'm
11 not sure at this date, and we asked him if he knew where the
12 Marshall boy was staying and he said, yes, he knew the house
13 well and he was asked if he would accompany us to the house
14 and that's what he did.

15 Q. And you then went to Mr. Marshall's house where he was
16 staying at the time?

17 A. Yes.

18 Q. And then what happened?

19 A. He was taken to the police car. He was warned by Sergeant
20 MacIntyre. He was placed in the backseat. I was in the
21 backseat with him and I handcuffed him and transported him
22 back to Baddeck to the R.C.M.P. quarters, headquarters, where
23 he was transferred to our car and taken to Sydney.

24 Q. Did Mr. Marshall say anything during the trip to Baddeck?

25 A. No, not to my knowledge, he did not.

1 Q. Did he show any emotion?

2 A. No.

3 Q. Cpl. Clarke testified at the Inquiry and he introduced his
4 notes that he took in 1971 and I'm reading from Exhibit 87.
5 You won't need to see it, but he wrote to the effect that:

6
7 About halfway to Baddeck, Mr. Marshall
8 had been sobbing and put his handcuffed
9 hands over his head.

9 Do you remember him doing that?

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

11 Q. Are you saying it didn't happen or you just don't remember
12 it?

13 A. I don't remember if it happened or not, sir, I'm not...

14 Q. And Cpl. Clarke's notes then say that Detective MacIntyre told
15 him to sit up and at this time he said, Marshall said, "I did not
16 do it." Did Mr. Marshall say, "I did not do it." on the trip to
17 Baddeck?

18 A. I can't recollect that, sir, no.

19 Q. I'd like to turn now, Mr. Urquhart, to some handwritten notes
20 in Volume 16 and referring particularly to pages 135 and
21 following. If we look right now at pages 135 and 136, are you
22 able to identify the handwriting on those notes, sir?

23 A. Yes.

24 Q. Whose is it?

25 A. Mine.

1 Q. So those two pages are in your handwriting.

2 A. The first page is and the second page is, 136.

3 Q. Are you able to tell us when those notes would have been
4 made? They appear to run in sequence one through eight.

5 A. There's no date...

6 Q. No.

7 A. On them, so therefore I wouldn't know what date they were
8 made.

9 Q. Maybe I'll help you just a little bit. If you look at the first
10 two names there, "Margaret[sic] MacDonald" and "Patricia
11 Wall", if you turn back to page 124 of these notes, and I
12 appreciate that the handwriting is not yours, but there is a
13 date on that page 124 of June 5th, 1971.

14 A. Uh-huh.

15 Q. And there appears to be a notation on the bottom right-hand
16 corner of the names "Marguerite MacDonald" and "Patricia
17 Wall" and essentially the same information is transcribed in
18 your own notes. Is it a reasonable conclusion that your notes
19 were perhaps made at least some time on or after June 5th?

20 A. I would say so and by looking at page 124 and for the two
21 names "Marguerite MacDonald" and "Patricia Wall" that are
22 written down, they appear here.

23 Q. Yes.

24 A. And it's more than likely that Sergeant MacIntyre gave me
25 those names and I wrote them down on paper so as I

1 | wouldn't forget them.

2 | Q. Right.

3 | A. Possibly for statements or for some other...

4 | Q. And I can indicate to you that the third and fourth names
5 | there, "Maria (Sophocleas?)", is it?

6 | A. Sophocleas.

7 | Q. Sophocleas, okay. My Greek is not great. And "Debbie
8 | MacPherson," their names appear in statements that were
9 | taken on the 2nd of June. So, again, these notes were
10 | probably written some time in June. They weren't written on
11 | the first Monday you came back.

12 | A. No, I wouldn't say they were.

13 | Q. And is it then more than likely that they were written after
14 | Junior Marshall was charged and arrested, particularly given
15 | the reference to June 5th?

16 | A. Yes, but then again I wouldn't be accurate if I said they were.

17 | Q. I understand. And would it be fair to say that these are
18 | people that you were being asked to follow up?

19 | A. Yes, and possibly to get statements from, I don't know. I'd
20 | have to see if there is statements from them.

21 | Q. I understand, yes. If you saw a person but did not take a
22 | statement from them, would you have notes of that
23 | interview?

24 |

25 |

1 11:30 a.m.

2 A. Yes, but I believe that it...in a case...any case that's serious I
3 think there would be a statement taken.

4 Q. I see. With respect, for example, to name number 4, Debbie
5 MacPherson, she has testified that she thought she gave a
6 statement but we've never seen a statement from her. Do
7 you remember talking to Debbie MacPherson?

8 A. No, I do not, sir.

9 Q. She was the girl who accompanied Scott MacKay and came
10 upon Mr. Seale first in the park.

11 A. Did she give evidence at the Inquiry?

12 Q. Yes.

13 A. Well, that's the only...

14 Q. Her name is now Timmins.

15 A. No, that's the only time I remember hearing.

16 Q. I see. She also testified that when she came upon Mr. Seale,
17 Mr. Seale whispered something to her to the effect that, "I
18 don't want any cops, no cops around." Now, if you had, in fact,
19 seen Debbie MacPherson and if she had indicated something
20 like that to you is that the type of information that would
21 lead you to produce a statement?

22 A. Yes. If Debbie MacPherson had told me that I'd have taken a
23 statement from her and that would have been included in the
24 statement.

25 Q. Just turning over to the next page for a moment. Name

1 number 5, it says Doucette, and it says "7:45 p.m." Now,
2 would I take that to be a time that you've set up to see Mr.
3 Doucette?

4 A. That very well could be.

5 Q. Okay. And if I could direct your attention back to page 60.

6 A. 60.

7 Q. 60, yes, of this volume.

8 A. Yes.

9 Q. Or better still 61. A statement of Mr. Doucette June 14th, '71.
10 Is that in your handwriting, that statement?

11 A. Yes, it is.

12 Q. And the time is indicated as 7:55 p.m. which is close to the
13 time you've got indicated there.

14 A. Yeah.

15 Q. Would that suggest to you that the notes were, in fact, made
16 some time closer to June 14th? The fact that you've got a
17 notation by Doucette's name of 7:45 p.m, there's no date, that
18 you, in fact, did see him on the 14th at 7:55 p.m.?

19 A. Perhaps that would be the only time he was available. The
20 notes might have been made before that.

21 Q. Right.

22 A. And we set up times for them to come in.

23 Q. Right.

24 A. And he might have been...I don't know what he was doing
25 then. He might have been in school or something and he'd

1 say, "Look, I'll come in the next evening at such and such a
2 time."

3 Q. All right. The notes indicate, these two pages all indicate
4 times of 7:30 p.m., 7:00 p.m., 7:45 p.m., 8:00 p.m.. Would that
5 suggest to you that this was during an evening shift that you
6 were working?

7 A. That would, yes, sir.

8 Q. And June 14 was, I believe, a Monday, and that would have
9 meant that you came back on the...

10 A. On the evening shift.

11 Q. On the evening shift on that Monday.

12 A. Very well could be, sir.

13 Q. Okay. And you would have...you worked your two weeks of
14 days before that.

15 A. Uh-hum.

16 Q. Okay. With respect to Mr. Doucette's statement, and you can
17 look at page 60 at the typed copy, he is the chap that came
18 down and helped Mr. Seale into the ambulance and actually
19 went to the hospital in the ambulance with him. Can you
20 suggest any reason why he would not have been interviewed
21 until a little over two weeks after the event?

22 A. I cannot answer that, sir.

23 Q. Uh-hum. He states in the middle of the statement he says,
24 "One of the fellows that was at the door who showed me a cut
25 on his left arm from which there was no blood." Do you

1 remember at the time having any concern about the nature of
2 Mr. Marshall's wound?

3 A. What do you mean by "concern", sir?

4 Q. Well, any thought that was unusual because it either didn't
5 bleed or perhaps didn't bleed as much as you thought it
6 should have. Was there a discussion between yourself and
7 the other police officers about the extent of Mr. Marshall's
8 wound?

9 A. I can't recall if there was or not, sir.

10 Q. Can you tell us whether or not this information provided by
11 Mr. Doucette was volunteered by him with respect to Mr.
12 Marshall's cut?

13 A. It must have been because the question was asked and then
14 he...he...on his answer he included that in the answer, I guess.

15 Q. Okay. And would this statement represent the...your whole
16 discussion with Mr. Doucette?

17 A. Yes, it would.

18 Q. Uh-hum. Do I take it from this that you did then not ask him
19 whether or not Mr. Seale's said anything during the trip to the
20 hospital?

21 A. No, apparently I didn't.

22 Q. Can you suggest any reason why?

23 A. No, I can't.

24 Q. Is there the name of another police officer on that statement
25 on page 61 or 62?

1 A. No, just mine.

2 Q. And again, would that be an indication that there was only
3 yourself present?

4 A. That's correct.

5 Q. And, you told us earlier that would be the exception rather
6 than the rule?

7 A. Yes, you'd try to have somebody with you if at all possible.

8 Q. Going back then to your...to your notes, page 135 and 136,
9 there is a notation at the top of page 135 which simply says
10 in quotes, "Patterson wanted". What does that mean?

11 A. Well, we were looking for Bobby Patterson because he came
12 in some of the statements that he was in the park that
13 particular night and he was laying on the grass or...

14 Q. Uh-hum. The statement...your note simply says, "Patterson",
15 do you take that to mean Bobby Patterson?

16 A. I would say it was Bobby Patterson because I believe in some
17 of the statements, I don't know if it's in any of these here,
18 but...or some of the list of witnesses that we had, that the
19 name of Bobby Patterson did appear where he was in the
20 park that night, and we were likely trying to get ahold of him
21 to interview him too.

22 Q. Sure. Why would his first name not appear on the note?

23 A. Pardon?

24 Q. Why would his first name not appear on the note?

25 A. I can't answer that. I don't know.

1 Q. It could have been Jack Patterson, couldn't it?

2 A. Yes, it could have been.

3 Q. Is Patterson a common name in Sydney?

4 A. No, there's numerous Pattersons there.

5 Q. There are numerous Pattersons there.

6 A. I would believe so, but I'd have to check the telephone book
7 to be absolutely sure. But there is more than one family of
8 Pattersons, I believe.

9 Q. Okay. A police officer reading that note, "Patterson wanted,"
10 would they know what was meant?

11 A. I'm not sure if they would or not, sir.

12 Q. Would you know?

13 A. I would.

14 Q. Would Chief MacIntyre know?

15 A. I don't know if John would know or not, but it was in my
16 handwriting and I would know who I was looking for.

17 Q. And did you know who you were looking for simply because
18 the name was referred to in other statements?

19 A. Right.

20 Q. Did you know Bobby Patterson?

21 A. Yes.

22 Q. What did you...what contact had you had with him?

23 A. I had some contacts with him on some criminal charges.

24 Q. Uh-hum. And you were instructed to find him, were you?

25 A. I was instructed to try and find him to give his side of the

1 story, if he had any to give.

2 Q Uh-hum. What steps did you take to find him?

3 A Well, no doubt I went to his home and...

4 Q Did you know where he lived?

5 A I believe it was on George Street at that time, I'm not
6 absolutely sure. I'd have to check the records to make sure of
7 that.

8 Q Sure. Did you know his family?

9 A I knew his mother, yes.

10 Q Uh-hum. What's her name?

11 A Geraldine.

12 Q Okay. And you say no doubt you went to his home.

13 A I likely did and I likely enquired around from other people if
14 Bob was around or, you know, where he was.

15 Q Would you use the assistance of other police officers to try
16 and find him?

17 A Yes, I likely would have said to any of the fellows in the car if
18 you see Bobby Patterson, you know, pick him up and take
19 him in I want to talk to him.

20 Q Yeah, but...

21 A Or ask him to come in I want to talk to him.

22 Q Yeah. He was mentioned by two or three people as being in
23 the park that night, wasn't he?

24 A Yes, he was.

25 Q Did you find him?

1 A. Not to my knowledge, no, I didn't...I don't...I'm sure that I
2 didn't interview Bobby Patterson.

3 Q. Over how long a period were you looking for him?

4 A. I cannot answer that, sir, because I don't know.

5 Q. I'd just like to introduce an exhibit at this time, My Lord. It
6 has been distributed to counsel, and it consists of some eleven
7 pages and it is a compilation both of the criminal record of
8 Robert Patterson, and he has consented to its use here at the
9 Inquiry, together with other documentation from the police
10 court of Sydney and fingerprint records of Mr. Patterson. As
11 I say eleven pages has been distributed and I would ask that
12 it be entered please.

13 EXHIBIT 120 - CRIMINAL RECORD AND FINGERPRINT RECORDS OF
14 ROBERT PATTERSON

15 Q. Looking at the first page of this, Mr. Urquhart. Looking at
16 the first page, Mr. Urquhart, do I understand that to be a
17 record maintained by the Sydney Police Department?

18 A. Yes, it is.

19 Q. And the name is not easy to read but it is Robert Bruce
20 Patterson. And this indicates a number of convictions up to
21 and including 1971.

22 A. Yes.

23 Q. And the following two pages are extracts from R.C.M.P.
24 records. But I would direct your attention, if you would, sir,
25 to page number 4 and...

1 A. Yes.

2 Q. Do I understand this to be a record of the police court in
3 Sydney where Mr. Patterson was charged on August 12th,
4 1970, with offences under 292 of the Code?

5 A. Yes.

6 Q. And you are shown as the prosecutor.

7 A. Yes.

8 Q. When you're shown as a prosecutor is that different from
9 being shown as the informant on the information?

10 A. Well, I think it's the same. I was the informant that laid the
11 information.

12 Q. The fact that you were prosecutor, does that mean you went
13 to Court and laid out the evidence...

14 A. Yes, and gave evidence if there was evidence required.

15 Q. Okay. And on page number 5 I understand it to be a
16 fingerprint record of the Sydney City Police Department dated
17 August 13th, 1970, and is that your signature shown there as
18 the person taking the prints?

19 A. Yes, sir, it is.

20 Q. The information that's typed on that form there, Mr.
21 Urquhart, is that typed on or originated by yourself when you
22 take prints?

23 A. When the prints are done and he signs the prints in this...and
24 he signed here, Robert Bruce Patterson, 13 Glebe Avenue, he's
25 then taken out and Kay O'Handley, who was the stenographer,

1 puts it and types up all the information that's on it there.

2 Q. Where does she get that from?

3 A. From him.

4 Q. I see. You don't give it to her.

5 A. No, she gets it from him. Gets the charges from us but the
6 other information, where he lived, his height and his birth
7 date and everything that would come from him.

8 Q. Okay. Page number 6, a similar court record for February 1st,
9 1971, involving Mr. Patterson and this indicates John
10 MacIntyre was the prosecutor on a theft charge.

11 A. Right.

12 Q. And again, following that a fingerprint record taken by
13 yourself on February the 1st, page number 7.

14 A. Yes, another set of fingerprints taken by me.

15 Q. And, following that on page number 8, and I can advise you
16 that this is an extract from a memorandum book which we've
17 recently reviewed, maintained by the Sydney Police
18 Department, and just looking at the entry for March 17th, '71,
19 is that entry in your handwriting, all or any of it?

20 A. Yes.

21 Q. All of it, the whole item number 68?

22 A. The top portion is.

23 Q. The top portion, and that reads, "Arrested and charged the
24 following with B & E, theft, Robert Patterson and Barry
25 Cameron."

1 A. Right.

2 Q. And...

3 A. The following.

4 Q. The following is not your handwriting?

5 A. No, the following is mine too.

6 Q. Is yours.

7 A. Yeah.

8 Q. Okay. And that deals with other individuals.

9 A. Right.

10 Q. And at the bottom of that the names of John MacIntyre,
11 yourself and M. J. MacDonald.

12 A. Yes, who worked on the case.

13 Q. Thank you. That was in March of '71. And then following
14 that on page 9 we have a police court record dated March 18,
15 '71, charged under 292 as showing MacIntyre, M.J. MacDonald
16 and Urquhart as prosecutors.

17 A. Yes.

18 Q. Right. And again, following that a fingerprint record on the
19 18th of March taken by yourself.

20 A. Right.

21 Q. And then a later charge, page 11, in September of 1971,
22 Section 388 charge and it appears to be the prosecutors
23 Detective M. J. MacDonald and then C. MacDonald and A.
24 Joseph.

25 A. Yeah, that would be two beat that was in the car.

1 Q. Right.

2 A. Like Carl MacDonald and Arnie Joseph.

3 Q. And the sentence for that was four months in jail according to
4 this.

5 A. Uh-hum. Four months county jail, yes.

6 Q. This is not really apropos to anything, Mr. Urquhart, but I'm
7 curious about the fingerprint records. If you look at page 5,
8 the first one, what's the eye colour as shown there?

9 A. Pardon?

10 Q. What's the eye colour on page 5? What's shown as the eye
11 colour?

12 A. Light blue, is it?

13 Q. On page 5. The number, top right-hand corner, number 5.

14 A. Top right-hand corner.

15 Q. Do you have page 5?

16 A. Yes.

17 Q. It says eyes.

18 A. Gray.

19 Q. Okay. What about on page 7?

20 A. Eyes blue.

21 Q. What about page 10?

22 A. Green.

23 Q. Can I take it we are talking nonetheless about the same
24 person?

25 A. Well, I would...yes.

9556 MR. URQUHART, EXAM. BY MR. ORSBORN

1 MR. MURRAY

2 Well, with respect he's already testified that he didn't fill out
3 those portions of the form.

4 MR. ORSBORN

5 No, I didn't ask if he did.

6 MR. CHAIRMAN

7 Problem, Mr. Murray.

8 MR. MURRAY

9 I understand that Mr. Urquhart had testified that he didn't
10 even fill out those portions of the form.

11 MR. ORSBORN

12 Yeah, no, I understand.

13 COMMISSIONER EVANS

14 There's quite a weight difference too, Mr. Orsborn.

15 MR. ORSBORN

16 I'm sorry. His weight went up but I thought that might be
17 with passage of time whereas eye colour I wasn't so sure. One
18 never knows.

19 Q. Can I take from that, Mr. Urquhart, that Robert Patterson was
20 well known to the Sydney Police?

21 A. Yes.

22 Q. And if he was well known to the Sydney Police to your
23 knowledge would he be well known to John MacIntyre?

24 A. I would believe that he'd be well known to John MacIntyre.

25 Q. Okay. Now, John MacIntyre earlier testified before this

1 Inquiry that he did not know Robert Patterson.

2 A. That could very well be.

3 Q. But you just said that you would believe he would be well
4 known.

5 A. I, you know, from seeing him on the street or something, I
6 wouldn't know.

7 Q. I'm sorry.

8 A. I wouldn't know, you know, from John seeing him on the
9 street he might know who he was, but I couldn't say that he
10 knew him well or didn't know him.

11 Q. If ones name appears as a prosecutor on these forms, as, for
12 example, Chief MacIntyre's did on page 6 and page 9, on two
13 occasions, one in February and one in March, about six weeks
14 apart, does that not suggest some familiarity with the
15 accused?

16 A. Not necessarily. If he was the informant on the case and he
17 took...he went to Court that day and took up ten or twelve
18 cases that was to be signed and not necessarily that he'd
19 know anybody that was on the docket that particular date.

20 Q. Have you discussed Mr. Patterson with Chief MacIntyre?

21 A. No.

22 Q. Within the last month.

23 A. No.

24 Q. I understand your evidence is that you did not locate Mr.
25 Patterson.

1 A. If...

2 Q. Is that correct?

3 A. That's correct as far as I can remember.

4 Q. You didn't take a statement from him.

5 A. No, I don't...

6 Q. You didn't interview him.

7 A. No, if there's documentation that says I did, well I did, but I
8 can't remember interviewing Bobby Patterson.

9 Q. You can't remember.

10 A. No, and...

11 Q. But if there is documentation that said you did you would...

12 A. Then I must have, yes.

13 Q. Okay.

14 A. But to the best of my knowledge here today I don't remember
15 of interviewing Bobby Patterson.

16 Q. But are you able to say that you did not interview him?

17 A. I'm reasonably sure and I'm positive that I didn't interview
18 him.

19 Q. Sorry, you're reasonably sure and you're positive.

20 A. Well, I am positive that I didn't interview him. I can't
21 remember interviewing Bobby Patterson.

22 Q. I'm sorry to go over this, Mr. Urquhart.

23 A. I know, but I'm not really clear on it either.

24 Q. Okay. You're saying on one hand "I don't remember," and on
25 the other hand, "I'm positive," but there...for our purposes

1 there is a difference.

2 A. Yeah. But, no, I can't remember of ever interviewing Bobby
3 Patterson.

4 Q. Okay. Now, that...so, I'm clear, that...

5 A. Unless there is documents to prove that I did.

6 Q. Yeah, okay. But if you're saying you can't remember that
7 admits the possibility that perhaps you did and have just
8 forgotten.

9 A. Yes, that could very well be but...

10 Q. Okay. Now, I must advise you that we anticipate that Mr.
11 Patterson will give evidence before the Inquiry and we
12 anticipate that his evidence will be that he was interviewed
13 both by yourself and John MacIntyre. Are you in a position
14 to say whether his anticipated evidence would then be correct
15 or incorrect?

16 A. I would say now that it would be incorrect.

17 Q. Why would you say that?

18 A. Because I don't ever remember of interviewing him in...on
19 this particular case.

20 Q. But if Mr. Patterson remembers being interviewed are you
21 able to contradict him?

22 MR. PUGSLEY

23 Mr. Patterson says he remembers or...

24 MR. ORSBORN

25 Yes.

1 MR. PUGSLEY

2 If he says he remembers.

3 MR. ORSBORN

4 Oh, we anticipate and I think the notation provided to counsel
5 was framed in that manner. We do not have a statement but that
6 is the anticipation.

7 Q. Sorry. Are...if that is the anticipated testimony are
8 you...would you contradict him?

9 A. I don't know because I can't remember of interviewing him.

10 Q. Okay.

11 COMMISSIONER EVANS

12 Who fills in the bottom part of that form? This fellow has
13 gray eyes one time, green eyes one time, blue eyes. He changed
14 from Irish to Scotch.

15 MR. ORSBORN

16 My understanding, My Lord, from the earlier testimony was,
17 and correct me, Mr. Urquhart, if I'm wrong, is that this
18 information, with the exception of the information relating to the
19 charge, but the...this sort of personal information is related by the
20 accused or the convicted person, I guess, at the time, to the
21 secretary typing up the statement.

22 MR. URQUHART

23 A. Correct.

24 Q. Is that your evidence?

25 A. Yes.

1 Q So, it would be, I believe, to Kay O'Handley, I think you said,
2 that the accused would go out, sit down and the convicted
3 person would sit down and provide this information. So, this
4 may well be information provided by the accused rather than
5 on visual sighting.

6 COMMISSIONER EVANS

7 Put on a lot of weight in a month, I notice that too, 117 to
8 132.

9 MR. ORSBORN

10 Q Well, if you can't remember interviewing Mr. Patterson and is
11 your evidence that you believe that you didn't, I won't go
12 into the details of the...of his testimony on the interview
13 because obviously you're not able to comment on them. So,
14 we'll have to wait for Mr. Patterson.

15 MR. MURRAY

16 Well, in fairness, My Lord, I understand that the specific
17 allegations that Mr. Patterson is going to make and perhaps those
18 specific allegations should be put to Mr. Urquhart so he can deal
19 with them.

20 MR. ORSBORN

21 I'm quite prepared to do that. I just didn't think there was
22 any point seeing he said he wasn't there, but I'm quite prepared
23 to do that.

24 MR. G. MacDONALD

25 It doesn't make any sense.

1 MR. ORSBORN

2 That's my point.

3 MR. MURRAY

4 Just from the point of view, My Lord, that in view of the
5 nature of the allegations he may be able to comment as to
6 whether that's the kind of thing he would remember and whether,
7 in fact, that...therefore, that took place.

8 MR. ORSBORN

9 Fine.

10 MR. CHAIRMAN

11 What you're asking Mr. Orsborn to do is to try and refresh Mr.
12 Urquhart's memory.

13 MR. PUGSLEY

14 Well, in fairness to the witness what he should be asked to do
15 is to put to this witness what Patterson is apparently going to
16 testify to. I think he...this witness has an opportunity of rebutting
17 that, if Patterson is going to make allegations.

18 MR. ORSBORN

19 Yeah, that's what I have been endeavouring to do, but given
20 that Mr. Urquhart said he wasn't there and didn't remember being
21 there it seemed not much point in pursuing the details of the
22 interview in any event.

23 Q Mr. Patterson, as I have said, is anticipated and that's all I can
24 do is anticipate, that he was picked up at his house by two
25 uniformed policemen and was taken to the police station and

1 that he was interviewed by yourself and Chief MacIntyre.

2 Are you able to...repeating somewhat, but do you have any
3 comment or contradiction you wish to make about that?

4 A. No, I can't remember of ever interviewing Bobby Patterson on
5 this particular case.

6 Q. Okay. Mr. Patterson will say that he was interviewed by
7 yourself and Chief MacIntyre and that during the course of
8 the interview you left the interview room and returned some
9 ten minutes later with a typed statement which was then
10 presented to Mr. Patterson. Mr. Patterson is anticipated to
11 testify that he was not allowed to read the statement, but that
12 he was told by Chief MacIntyre that this statement is about
13 Junior and what Junior did in the park, and that he was then
14 asked to sign the statement. Does that in any way help your
15 memory?

16 A. No, sir.

17 Q. If Mr. Patterson testifies to that effect are you in any position
18 to either confirm or contradict his testimony?

19 A. I would say it was wrong because you never write out a
20 statement and give it to somebody to sign or leave the room
21 and make up a statement and ask somebody to sign it. It's
22 just not done by me and I'm absolutely positive it wasn't
23 done in this case because it's not done, it's not good ethics in
24 the first place to type up a statement and ask somebody to
25 sign it or write it up and ask somebody to sign it without

1 going over it, without being in their words.

2 12:00

3 Q Is your contradiction based on what you believe to be
4 accepted practise rather than knowledge of what actually
5 happened in this case?

6 A. I have no knowledge of interviewing Bobby Patterson as I
7 said before, and that's the practise that we would follow. You
8 just don't make up statements and hand them to people and
9 say, "Don't read it, just sign it."

10 Q Mr. Patterson is also anticipated to testify that during the
11 interview he was handcuffed to the chair on which he was
12 sitting. Are you able to make any comment either confirming
13 or contradicting that?

14 A. Highly unlikely.

15 Q Highly unlikely.

16 A. Yes.

17 Q Possible.

18 A. No, I don't believe it would be.

19 Q Have you ever seen a witness handcuffed to a chair?

20 A. No.

21 Q In your experience?

22 A. Never.

23 Q Mr. Patterson has also anticipated, testified that during the
24 interview, he was pushed around somewhat on his chair by
25 Chief MacIntyre, the chair having wheels on it. On that

1 occasion, he was man-handled somewhat with a hand being
2 placed on his head and his head being pushed onto the table.
3 Are you able to either confirm or contradict any aspect of
4 that?

5 A. I've taken a lot of statements with John MacIntyre and I've
6 never seen him man-handle or try to or attempt to man-
7 handle any witness.

8 Q. So is it your evidence, then, based on your experience, that if
9 Mr. Patterson testifies to that effect, it will be incorrect?

10 A. I would say it would be very incorrect.

11 Q. From your knowledge of Mr. Patterson, are you able to
12 suggest any reason why he might be inclined to give
13 testimony of that nature?

14 A. No, sir, I haven't.

15 Q. Chief MacIntyre testified at this Inquiry on a number of
16 occasions in answers to questions from Mr. MacDonald that,
17 yes, we would have liked to have found Mr. Patterson, we
18 tried, we sent our men out. We just couldn't find him. I don't
19 know, I don't think you were here for that...

20 A. No.

21 Q. For that testimony but that is the essence of his testimony on
22 a number of occasions. Given the size of Sydney, it's not a
23 particularly large town, given the nature of the record that
24 Mr. Patterson has, can you suggest any reason why Mr.
25 Patterson could not have been located?

1 A. No, unless you go to his home and somebody would tell you
2 that he wasn't in.

3 Q. But you just wouldn't make one attempt, surely.

4 A. No, no, you'd make more than one attempt and you'd have,
5 the fellows in the patrol cars are watching for him, too,
6 because some of them they would likely know.

7 Q. Sure. Do you then consider it likely that over a period of days
8 or weeks Mr. Patterson could not have been found?

9 A. I don't know. We didn't come up with him so I have no more,
10 I can't answer to why we didn't.

11 Q. Your evidence is you did not find him.

12 A. No, my evidence is that we didn't find him, to my knowledge.

13 Q. The records indicate that in September before Mr. Marshall's
14 trial, Mr. Patterson was in jail.

15 A. At the county jail? I imagine, yeah.

16 Q. I presume. It's indicated on, I believe, County Jail, page 11,
17 Mr. Urquhart. It appears to be "Co. Jail", County Jail.

18 A. That was the first of September.

19 Q. Yes.

20 A. Yeah.

21 Q. Before Mr. Marshall's trial. Where is the county jail located?

22 A. At that time, it was on Welton Street.

23 Q. In Sydney?

24 A. Yes, on the way you go out to the K-Mart now and to Glace
25 Bay.

1 Q. Would you have still been interested in speaking to Mr.
2 Patterson in September?

3 A. Well, I imagine we would have, sure, if we could have got to
4 him, and I don't know why we didn't, but I had of spoke to
5 him then and I'm quite sure Sgt. MacIntyre would have.

6 Q. Right, but he was certainly accessible in September.

7 A. Yes, according to that, for four months.

8 Q. Were there other people that you looked for and couldn't
9 find?

10 A. I don't recall if there was or not, sir.

11 Q. Just continuing on with your notes, Mr. Urquhart, and perhaps
12 we could just finish these notes up before we let you go again
13 for a little while. On page 137, is that page in your
14 handwriting?

15 A. Yes, sir, it is.

16 Q. And there's a notation there about Dr. Virick and some
17 details. Do I take from that note that you met with Dr. Virick
18 and this would be the comments arising out of your
19 interview?

20 A. Could have been or I could have spoke to him on the
21 telephone.

22 Q. And the last two or three lines there reads: "Continuous cut
23 not bleeding." You've underlined "not"?

24 A. Yeah.

25 Q. You have "Ten stitches. Type of cut..." I believe the word to

1 be "that", "That does not bleed."

2 A. "That does not bleed," yeah.

3 Q. And then in brackets, "Did not cut jacket sleeve." Is that
4 indicating that Dr. Virick told you that he didn't cut the jacket
5 sleeve?

6 A. Right, that's what it would indicate.

7 Q. And does it also indicate that Dr. Virick's advice to you was
8 this was the type of cut that doesn't bleed?

9 A. Well, it must be because it goes on further, Meryl Davis says
10 the same thing, the nurse that was on duty that night.

11 Q. Yes, not about the fact that it wasn't bleeding but it says here,
12 "Type of cut that does not bleed." Does that mean that Dr.
13 Virick said to you, "This is the type of cut that doesn't bleed."

14 A. Likely because if it was a deep cut, where there was arteries
15 or veins or something cut, it would likely bleed a lot. But in
16 this case it was just a skin-deep cut, I suppose, that don't
17 bleed. But I can't give medical advice on that part of it.

18 Q. There's nothing in that note to suggest that Dr. Virick was of
19 the opinion it was self-inflicted?

20 A. No.

21 Q. Page 138. Is that, again, your note?

22 A. This is my handwriting, sir, yes.

23 Q. And you have a notation there of "George and Wallace
24 MacNeil 9 pm".

25 A. Yeah, (Brun?) Road, Coxheath."

1 Q. Do you remember taking or interviewing George and Wallace
2 MacNeil...George and Roderick MacNeil, I'm sorry?

3 A. I don't really know if I interviewed them or not. I would
4 have to see if there was, I can't remember now whether I
5 interviewed them or not, sir.

6 Q. All right. Now are you able to give us any assistance of when
7 these notes would have been on page 138?

8 A. No, I have no date on them again, sir.

9 Q. If you could look back to page 27 in that same volume.

10 A. Yes.

11 Q. Is that in your handwriting?

12 A. No, sir.

13 Q. Do you know whose handwriting that is?

14 A. John MacIntyre's, I believe.

15 Q. And that indicates a statement on May 31st at 6:30 p.m.?

16 A. 6:30 p.m., right.

17 Q. I think that was the Monday, I believe. Do you have any
18 recollection of being asked to go back and talk to the
19 MacNeils? I'm wondering why these names would show up in
20 your notes after we already have a statement from them.

21 A. Unless they were given to me as all the ones that statements
22 had been taken from, I don't really, I can't answer that
23 because I don't know.

24 Q. Do you know if you were asked to go back and reinterview
25 people that had already given statements?

1 A. It could have been in some cases but in this particular case, I
2 don't know.

3 Q. The May 31st statements of the MacNeils refers to two men,
4 "A gray-haired man and a tall man." That two-man story was
5 not consistent with the statements taken from Pratico and
6 Chant, the second statements, was it?

7 A. No.

8 Q. Is it possible that you were asked to see the MacNeils to see
9 whether or not their first statement was actually true?

10 A. I don't know if there was a second statement taken from
11 George and Sandy MacNeil.

12 Q. No, we haven't seen one.

13 A. Pardon?

14 Q. We haven't seen one.

15 A. No, well, I wouldn't think there was, but I don't know for
16 sure.

17 Q. If, in fact, these notes were made after the 31st of May, and
18 to be fair we don't know that they were.

19 A. No.

20 Q. But if, in fact, they were, can you give me any reason why
21 they would need to be seen again?

22 A. Not unless that I took down the list of all the ones that we did
23 interview and all the ones that statements were taken from
24 just so I'd have a list.

25 Q. Okay. But the time of 9 pm there, does that indicate an

1 intention on your part to see them? It's at the right-hand
2 side of the page.

3 A. Which page?

4 Q. I'm sorry, 138.

5 A. No, there's no...Oh, yeah, 9 pm. I have no idea what that
6 means right now.

7 Q. That 9 pm, is that in your writing?

8 A. Yes.

9 Q. Can it mean anything else other than you anticipated seeing
10 the MacNeils at 9 pm on some evening?

11 A. No, I can't answer that because I don't know.

12 Q. At the bottom of that page they refer to "Police statement of 3
13 stab wounds." And I can advise that that does show up in one
14 of the first occurrence reports.

15 A. Right.

16 Q. That was taken. Do you have any memory of pursuing that
17 statement about the three stab wounds?

18 A. I don't know where that "3 stab wounds" came from but it
19 showed up some place.

20 Q. It shows up in one of the occurrence reports written by one of
21 the constables on the scene that night.

22 A. Leo Mroz, was it?

23 Q. Well, we haven't been able to...

24 A. I don't know.

25 Q. No, I believe it's his handwriting.

1 A. Yeah, I don't know.

2 Q. But did you talk to Leo Mroz about it?

3 A. Again, I cant answer that because I don't know. I don't recall
4 if I did or not.

5 Q. Other than that statement in the occurrence report and other
6 than this note that you have here, do you have any memory
7 at all of there being more than one stab wound on Mr. Seale?

8 A. No, I don't.

9 Q. The notes on page 139, is that your writing?

10 A. Yes.

11 Q. And on page 140?

12 A. Yes.

13 Q. There's a reference on page 140 to Terry Gushue and Patricia
14 Harriss. Are you able to tell us how that note, that reference
15 came to be written?

16 A. No, I can't, sir.

17 Q. The other name on the left-hand side there, third line down
18 on the left-hand side appears to be Valerie, is it "Hewitt"?

19 A. Hewitt.

20 Q. Okay, and underneath that, is it "Convent"? Or "comment"?
21 I'm not sure what that word is.

22 A. It must have been where she was going to the Convent at that
23 time, school.

24 Q. I'm sorry?

25 A. It might have been where she was going to the Convent to

1 school.

2 Q If it was "Convent", it would refer to a school?

3 A. Yeah.

4 Q Okay, and the notation there to the right, "Lawrence Paul Jr.

5 and I went to park for about 20 minutes. Didn't see Seale.

6 Walked home. Was in park and sitting on bench about 11:50

7 p.m. and saw nothing."

8 A. That must have been from Valerie Hewitt.

9 Q Told you.

10 A. Told me.

11 Q And that would not be required to be put in statement form.

12 A. No.

13 Q On page 141, is that your handwriting, Mr. Urquhart?

14 A. 141, no.

15 Q Do you know whose it is?

16 A. Wait now, just a second, that could be mine, yeah. "Kate

17 O'Reilley."

18 Q But just looking at the writing, are you able to identify it as

19 yours or not?

20 A. Yes, I would say that was mine.

21 Q Page 142?

22 A. Yeah, "Barbara Vigneau."

23 Q Is that yours?

24 A. Yes.

25 12:15 p.m. INQUIRY ADJOURNS UNTIL 2:00 p.m.

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

MR. URQUHART, EXAM. BY MR. ORSBORN

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

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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

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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

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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

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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.

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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?

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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

18

19

20

21

22

23

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25

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