

1 MR. CHAIRMAN

2 Mr. Spicer?

3 MR. SPICER

4 Thank you, My Lord. The next witness is Diahann
5 McConkey.

6
7 DIAHANN MARGARET McCONKEY, duly called and sworn,
8 testified as follows:

9
10 EXAMINATION BY MR. SPICER

11 Q. Could you tell us your full name, please, Ms. McConkey?

12 A. Diahann Margaret McConkey.

13 Q. By whom are you currently employed?

14 A. The National Parole Board.

15 Q. And you've been employed by the Parole Board since when?

16 A. July of 1985.

17 Q. July of 1985, and previous to that employment in 1985, were
18 you employed in the federal correctional system?

19 A. Yes, I was employed with Corrections Service Canada.

20 Q. Starting when?

21 A. August of 1973.

22 Q. And that was in Toronto as a parole officer?

23 A. Initially, yes.

24 Q. You came to Nova Scotia and to Truro, specifically, in 1976?

25 A. Yes, that's right.

1 Q Again, as a parole officer.

2 A. Yes.

3 Q For how long did you work out of Truro as a parole officer?

4 A. Until I went to the Parole Board in 1985.

5 Q For nine years then.

6 A. Yes.

7 Q Now if I understand correctly, you're hear to speak really to
8 two issues. One is your direct involvement with Junior
9 Marshall as his parole officer from '76 to '79 at Springhill.

10 A. Right.

11 Q And, secondly, to speak to the Parole Board policy contained
12 in Exhibit 150, which is in front of you there, relating to
13 claims of innocence and Parole Board policy, correct?

14 A. Yes, sir.

15 Q Could you outline for us in general terms the responsibility of
16 parole officers. What sort of work do they do?

17 A. Parole officers have a dual responsibility. On the one hand,
18 they prepare the cases of individuals in federal and provincial
19 institutions who are applying for parole. They prepare their
20 cases for presentation to the Parole Board.

21 Q Are they doing that on behalf of the prisoner?

22 A. More accurately probably on behalf of the Parole Board or of
23 Corrections Service.

24 Q But is it the parole officer's responsibility to, in that function,
25 to gather everything that they consider to be relevant to the

1 prisoner's application?

2 A. Yes, sir.

3 Q. Does the prisoner have any input into any of the material
4 that's presented to the Board?

5 A. A great deal. A large amount of the information that is
6 presented to the Board initially comes from the prisoner
7 himself and then the parole officer request that various
8 investigations be completed to confirm the information that
9 the inmate himself has provided.

10 Q. And these would be the community assessments that we see
11 in various places in Volume 35.

12 A. Yes, sir.

13 Q. And you were saying that parole officers have a dual role?

14 A. Yes, their other responsibility is to supervise on the street
15 individuals who are released on parole by the Parole Board or
16 who, or federal inmates who are released on mandatory
17 supervision.

18 Q. During the time that you were operating out of the Truro
19 office, were you performing both those functions or just one
20 of them?

21 A. Primarily, I was performing the case preparation function.

22 Q. And in respect of that function, did you have contact, then,
23 with Junior Marshall for three odd years or so?

24 A. Yes, sir.

25 Q. Before we get to talking specifically about Mr. Marshall, if I

MS. McCONKEY, EXAM. BY MR. SPICER

1 could ask you to have a look at Exhibit 150, which is sitting on
2 that pile of paper there in front of you. Do you recognize that,
3 those two sheets?

4 A. Yes, sir, I do.

5 Q. Can you advise us what those two sheets represent, what they
6 are?

EXHIBIT 150 - 1978 and 1986 POLICIE - NATIONAL PAROLEBOARD - re CLAIMS OF INNOCENCE

9 A. The top sheet is the Board, the policy of the National Parole
10 Board relating to claims of innocence as it existed in 1978.
11 And the bottom sheet is a copy of the same policy as it
12 existed in 1986 and as it exists today.

13 Q. Okay, and was the '78 policy then superseded by the '86
14 policy?

15 A. Yes, sir.

16 Q. Do you know for what period of time prior to 1978 the first
17 page was in effect?

18 A. No, I'm sorry, I don't.

19 Q. But it would have been in effect at the time that Junior
20 Marshall was in Springhill.

21 A. There is no question it was.

22 Q. If I could just take you through that.

COMMISSIONER EVANS

24 Mr. Spicer, what is the exhibit number?

1 MR. SPICER

2 150, My Lord.

3 Q. You're familiar, I know, Ms. McConkey, with what seems to be
4 the popular view and has been expressed here by a couple of
5 witnesses, that in order to get parole, it's necessary for a
6 prisoner to admit his guilt. Looking for a moment at the first
7 page of Exhibit 150, what do you say as to that assertion?

8 A. I agree with you that it's a popular assertion.

9 Q. Yes.

10 A. It is not an accurate assertion.

11 Q. And what would...

12 A. And it never has been an accurate assertion to the best of my
13 knowledge.

14 Q. And in what respects is it inaccurate?

15 A. As the policy itself states, the Parole Board will review a case
16 whether an individual claims he is innocent or whether or
17 not, you know, he admits that he's guilty. A claim of
18 innocence does not preclude a decision to grant parole and, in
19 fact, there have been a number of cases over the years where
20 individuals who've claimed that they are innocent were, in
21 fact, granted parole.

22 Q. The first part of that policy period, 5.7.1: "The Board reviews
23 a case even if the inmate claims to be innocent." Now that's
24 really the first matter you just spoke of.

25 A. Yes, sir.

1 Q. That is, that it's not a, it doesn't wipe you out altogether if you
2 claim to be innocent.

3 A. No.

4 Q. Secondly, in 5.7.2:

5
6 Inmates sometimes state their innocence at the
7 panel hearing but the Board's policy is to advise
8 them that the Board must accept the verdict of
9 the court and that their guilty or innocence is not
10 a factor to be considered at the hearing.
11 Therefore, a claim of innocence does not rule out
12 a favourable decision.

13 A. Right.

14 Q. Is a claim of innocence a factor in deciding whether or not a
15 person will be let out on parole?

16 A. It is not a direct factor. It can, however, in the cases of very
17 serious offences, be somewhat of an indirect factor.

18 Q. Well, let's take murder.

19 A. Okay, what you're getting into is what is, somewhat of a fine
20 distinction. In a serious offence like murder, certainly while
21 it's not necessary to admit that you were involved, the Parole
22 Board, as it states here, must accept the verdict of the court.
23 And thus, they must, to a certain extent, accept that you have
24 been found guilty of the offence and treat you accordingly. In
25 the case of a serious offence like murder, it's very important
that you demonstrate an appreciation and an understanding
of the factors that led to the offence in order to be considered

1 a good and safe risk for parole.

2 Q. If I can just stop you there for a minute. In what way can
3 you come to an appreciation of the factors that lead to the
4 offence if you're denying that you committed the offence?

5 A. Admittedly, it's difficult. I can't really give you an answer to
6 that. All I can tell you is that in the case of Donald Marshall,
7 which is the case we're considering, it was not a factor. He
8 was, in fact, granted day parole as soon as he became eligible
9 for it, regardless of his claim of innocence.

10 Q. If I can come back to the general question for a moment,
11 though. If, as you say, if I understand you correctly, it's
12 difficult to understand how you could come to terms with the
13 matters that gave rise to the offence if you deny admitting
14 the... deny that you, in fact, committed the offence.

15 A. Uh-huh.

16 Q. How is that then only in, I believe your phrase, was "an
17 indirect factor" in deciding whether or not somebody ought to
18 get parole?

19 2:30 p.m.

20 A. If you are looking... Let me backtrack a bit then.

21 If, again in, say, in the case of Mr. Marshall, if the Board are
22 operating on the assumption that he has been convicted of the
23 offence and, therefore, he is to be treated as if he is guilty of
24 the offence, then they take a look at the various factors that
25 were going on in Mr. Marshall's life at that time. Any

1 particular problem areas he might have had, any particular
2 problem behaviour he might have been engaging in at that
3 time. And take a look at whether or not he has dealt with
4 those aspects of his personality or his behaviour and proceed
5 on from there.

6 Q. So to take your example, for instance, if the Board were to
7 decide that Mr. Marshall was impulsive, would it be the
8 Board's concern that to be satisfied that he had learned how
9 to deal with his impulsiveness.

10 A. Yes, sir, exactly.

11 Q. Whether or not that impulsiveness, in his mind, had led to the
12 commission of murder.

13 A. Right.

14 Q. What about offences where one might suggest that there
15 would be a greater degree of premeditation in most instances,
16 robbery, for instance, and that sort of thing. How do you fit
17 that criteria into that problem in the sense that if, again,
18 you're dealing with the sorts of things that give rise to the
19 offence but, at the same time, deny you committed the
20 offence. If there's a greater degree of premeditation in a
21 robbery, for instance, how do you get back to those elements
22 of the premeditation without having to admit that you did it?

23 A. I'm not sure I can answer that question. I have never
24 encountered someone who was claiming innocence in an
25 offence where there was believed to be any particular degree

1 of premeditation.

2 Q. Had you encountered persons, other than Mr. Marshall, who
3 were maintaining their innocence while they were in the
4 institution?

5 A. Oh, yes, quite a number.

6 Q. Would you say that the maintaining of innocence by a
7 prisoner is usual or unusual?

8 A. It depends on how serious the offence is. The more serious
9 the offence, the more common the claim of innocence.

10 Q. Would it then be common for a person who is convicted of
11 murder to maintain their innocence for a long period of time
12 in an institution?

13 A. It depends on your definition of "a long period of time".
14 People who are convicted of murder generally, with the
15 exception of the domestic dispute type, generally will either
16 maintain their innocence or maintain that it was an accident
17 for a number of years.

18 Q. When you say "a number of years," what kind of time-
19 frame?

20 A. Three, four.

21 Q. Three to four years?

22 A. Normally, yes.

23 Q. So would Mr. Marshall's maintaining of his innocence
24 throughout the period of time that he was in the institution
25 be unusual?

1 A. Yes.

2 Q. With respect to the admission of guilt again for a minute, is
3 that something then that is not important for the parole
4 officers to focus on in dealing with a prisoner?

5 A. It is a factor. It is by no means the most important factor.

6 Q. Is it something that you would bring up from time to time
7 with a prisoner?

8 A. Yes, sir.

9 Q. For what reason?

10 A. In the case of a serious offence, right back to the original
11 statement I made that you have to come to grips with the
12 factors in your life that led to that offence. So in connection
13 with that, in connection with trying to understand what was
14 going on in an individual's life at that time.

15 Q. So that it, would it then be usual for you to, over a period of
16 time, to discuss with a prisoner the incident itself and
17 whether or not he, in fact, did it.

18 A. No, that would be a very common occurrence.

19 Q. Very common occurrence. And the reason for that would be
20 so that the person could come to grips with the factors in his
21 or her personality that led to the commission of the offence.

22 A. Yes, and so that I, as the parole officer preparing his or her
23 case, could come to an understanding of what was going on at
24 that time.

25 Q. Is a person who does not admit their guilt a security risk on

1 parole?

2 A. No, I would not say so, no.

3 Q. Is he a risk or is that person a risk to the community?

4 A. I would not think so, no. I would not consider them to be, no.

5 Q. So would you say that if somebody who does not admit their
6 guilt is let out on parole, that that fact; that is, their failure to
7 admit guilt, wouldn't give you any concern at all?

8 A. I wouldn't say it wouldn't give me any concern. It wouldn't
9 of itself give me concern. It might be of concern depending
10 upon what area of the country, for example, that individual
11 was going to on parole and how they felt about or how they
12 were talking about the offence that they claim innocence of
13 and what they were saying they would like to do about it.

14 Q. If somebody had committed a murder, for instance, or
15 allegedly committed a murder in Sydney and they were
16 applying for parole and wanted to go back to Sydney, but
17 they weren't prepared to admit their guilt, would that give
18 you some concern?

19 A. Yes.

20 Q. Why would that be?

21 A. In the specific case that we are talking about, had Donald
22 Marshall been applying for parole to go back to Sydney,
23 which he was not and never did, but if he had, that would
24 have given us some concern because of his determination that
25 if he could go back to Sydney, that he could prove that he was

1 innocent and he could find the people who were guilty.

2 Q. Why would that give you some concern if he wanted, to use
3 the example, wanted to go back to Sydney to, in fact, prove
4 that he was innocent. Why would you be concerned about
5 releasing him on parole to effect that purpose?

6 A. Because it was not our impression from talking to Mr.
7 Marshall that he had any faith in the system itself and so it
8 was our impression that if he were to find the person who he
9 felt was responsible for him to be wrongly incarcerated, that
10 he would not simply then go to the police and say, "Here, this
11 is the person who did it."

12 Q. So you think the person... What you re suggesting, if I
13 understand you correctly, is that perhaps the person whom
14 he thought to be responsible would be at risk themselves if
15 you put him back in that community?

16 A. Yes, sir, that was our feeling.

17 Q. Can you explain to me in general terms, for a person who was
18 incarcerated on a murder charge at the time that Mr. Marshall
19 was what the scheme of eligibility is for parole? How long it
20 takes him to get to the first stage, the second stage, the third
21 stage?

22 A. At the time... It changes all the time, but at the time that Mr.
23 Marshall was incarcerated, he would have had to serve three
24 years from the date he began his incarceration.

25 Q. And the date he began his incarceration is what? The day

1 he's arrested or the day he's convicted?

2 A. The date he was convicted, I'm sorry.

3 Q Okay.

4 A. From the date he was convicted, he would have had to serve
5 three years before he would become eligible for what was
6 called "an unescorted temporary absence."

7 Q Prior to his eligibility for unescorted temporary absence,
8 would he have been eligible for escorted temporary
9 absences?

10 A. Yes, sir. He would have been eligible for those from the date
11 he came into the institution.

12 Q Do you know from your experience with Mr. Marshall
13 whether or not he, in fact, went out on escorted temporary
14 absences prior to his eligibility for unescorted temporary
15 absences?

16 A. I'm sorry, I don't remember. I did not know him then and I
17 was not involved in his case.

18 Q What criteria are applied in deciding whether or not, or would
19 have been applied at the time, in deciding whether or not a
20 prisoner ought to be permitted to leave on an escorted
21 temporary absence?

22 A. Primarily their behaviour in the institution and the purpose
23 of the escorted temporary absence. If it was what was called
24 "a humanitarian one," their behaviour in the institution would
25 have been of less importance than if it...

1 Q. "Humanitarian", if somebody in the family dies or something.

2 A. Yes.

3 Q. Okay. For what period of time would somebody normally be
4 let out on an escorted temporary absence?

5 A. By policy, it's got to be less than 24 hours. Usually escorted
6 temporary absences were in the area of eight, ten hours.

7 Q. For what sorts of purposes, generally? Can you give us an
8 idea?

9 A. A lot of them had to do with sports. A lot of the ones that
10 Donald Marshall received were in connection with sports.

11 Q. These are escorted now?

12 A. Escorted, yes. To play in a hockey game, to play in a baseball
13 tournament.

14 Q. And they're escorted in what sense? Who goes along?

15 A. One of the staff from the institution and they're generally,
16 there are a group of inmates that go with one or two staff
17 members.

18 Q. Baseball team, hockey team, something like that.

19 A. Yes, that sort of thing.

20 Q. Is one's behaviour on these escorted temporary absences a
21 factor in determining whether or not later on somebody can
22 go on unescorted temporary absence?

23 A. Yes.

24 Q. And you indicated to me that temporary absence eligibility is
25 three years from conviction.

- 1 A. Yes, at that time.
- 2 Q. At that stage of the game, is the Parole Board involved?
- 3 A. No.
- 4 Q. No? So who...
- 5 A. They are now. They were not then.
- 6 Q. Okay. At that time then, who would have made the decision
7 as to whether or not an inmate could go on an unescorted
8 temporary absence?
- 9 A. The warden of the institution.
- 10 Q. Based upon what information?
- 11 A. The purposes of the unescorted temporary absence, the
12 community investigation that was done in connection with it
13 and the individual's behaviour in the institution.
- 14 Q. And these periods of time, three years from the date of
15 conviction, would make no difference whether or not
16 somebody was serving a life sentence or a ten-year sentence,
17 or would it?
- 18 A. The three years from date of conviction was the eligibility
19 period in terms of a life sentence.
- 20 Q. Okay.
- 21 A. It varied. A ten-year sentence would be different.
- 22 Q. In terms of a life sentence you had to wait three years before
23 you were even eligible for an unescorted temporary absence.
- 24 A. Yes, sir.
- 25 Q. For what sorts of purposes were unescorted temporary

1 absences used?

2 A. Primarily resocialization.

3 Q. What does that mean?

4 A. To help re-acclimatize the individual to the society that he,
5 hopefully, will eventually be going back to. Visits to family,
6 visits to halfway houses the individual hopes to be released to
7 eventually.

8 Q. Would these be made upon application by the inmate
9 himself?

10 A. Always and only upon application.

11 Q. And for what periods of time, generally, would somebody be
12 permitted out on an unescorted temporary absence?

13 A. It depend... It varied depending on the level of security of
14 the institution you were incarcerated in. However, in Mr.
15 Marshall's case, when I was working with him, he was in
16 medium security, which means that the unescorted
17 temporary absences would have been 48 hours.

18 Q. When you say "medium security," your responsibility for Mr.
19 Marshall was only during the time he was at Springhill, not at
20 Dorchester.

21 A. Yes, that's right.

22 Q. Is the next stage along the way to release day parole?

23 A. Yes, but unescorted temporary absences don't necessarily
24 lead to day parole, but, yes...

25 Q. All right, but can you get day parole without having had

1 unescorted temporary absences?

2 A. Oh, yes.

3 Q. You can.

4 A. Oh, yes.

5 Q. What is the eligibility time that you have to serve prior to
6 being eligible for day parole?

7 A. For individuals serving a life sentence?

8 Q. Yes.

9 A. Seven years from the date of incarceration. And in that case,
10 it means from the date you were arrested for the offence,
11 assuming that you remained incarcerated from that date on.

12 Q. So assuming you didn't get out on bail.

13 A. Yes, that's right.

14 Q. So in Mr. Marshall's case, it would have been 1978?

15 A. Yes, that's right.

16 Q. And was Mr. Marshall, in fact, at some stage of the game
17 granted day parole?

18 A. Yes, sir.

19 Q. Again, for what purpose were day paroles used?

20 A. Day paroles were generally a testing period prior to an
21 eventual consideration for full parole. Once you were granted
22 day parole, it was assumed that you would keep continuing to
23 be granted day paroles until such time as you were granted
24 full parole.

25 Q. Or until such time as you committed some sort of breach of

1 the parole and you'd be back in again.

2 A. Yes.

3 Q. Were there periods of time for which day paroles were
4 granted?

5 A. Talking in terms of somebody doing a life sentence...

6 Q. Right.

7 A. You become eligible for day parole three years before you
8 become eligible for full parole.

9 Q. Which is ten years.

10 A. Which is ten years at that time.

11 Q. Right.

12 A. And by policy, the first year of your eligibility for day parole,
13 the first of those three years, was to be used for short-term
14 day parole-type projects.

15 Q. What is "short-term" mean?

16 A. Ten days, two weeks, three weeks, but not a continuous
17 ongoing everyday-type of day parole.

18 Q. Right, and those seven, ten, two-week periods, you would be
19 out during the day and back at night and out again and back
20 and forth?

21 A. It would depend upon the project you were considered for.
22 And, in some cases, it might not even be that kind of a seven,
23 ten-day project. It might be a one day a week project that
24 you would go out, you know, every week for six, eight months
25 one day a week.

1 Q. All right, but if you had a specific project that was to last a
2 week week, would you stay out for that entire week or would
3 you have to return every night?

4 A. It would depend on the location of the project. If it was in
5 the area of the institution, you would return at night. If it
6 was not, you would stay out for that length of time.

7 Q. And you're unescorted, are you?

8 A. When you're on day parole?

9 Q. Yes.

10 A. Usually when you're on day parole, you're at some sort of a
11 day parole facility or a halfway house. If you're out on a day
12 parole project and not returning to the institution at night,
13 then there are generally some sort of project leaders who are
14 with you. They are not correctional officers. They are not
15 institutional staff. So, in that case, yes, you're unescorted.
16 You are, however, supervised.

17 Q. Is the Parole Board involved at that stage?

18 A. Yes.

19 Q. And that's the first stage at which they do get involved?

20 A. At that time, yes.

21 Q. Full parole is granted, you're eligible for full parole after ten
22 years?

23 A. Yes.

24 Q. Ten years from which date?

25 A. From the date that you were first incarcerated on the offence.

- 1 Q. So in Mr. Marshall's case, June of '71; so June '81.
- 2 A. June of '81, yes.
- 3 Q. Of '81. When a lifer or somebody serving a life sentence get
4 out on full parole, what sorts of supervision or what sorts of
5 contact does the institution keep or the parole officer keep
6 with that inmate?
- 7 A. The institution maintains no contact.
- 8 Q. Okay.
- 9 A. The parole officer will maintain varying degrees of contact
10 with that individual for the rest of that individual's life.
- 11 Q. Is it fair to say that the only difference between somebody
12 who is out on parole and a life sentence and somebody who is
13 out on parole on a definite term sentence is that parole in a
14 life sentence never ends.
- 15 A. Yes, that's right.
- 16 Q. Other than that, are there any differences?
- 17 A. No.
- 18 Q. Are you entitled to carry a passport if you're out on parole on
19 a life sentence?
- 20 A. Yes.
- 21 Q. Do you have to apply for that privilege?
- 22 A. Just like you or I would, yes.
- 23 Q. But it is just like you or I.
- 24 A. Yes, you have all of the rights of any other citizen.
- 25 Q. What is that you would intend to accomplish, if anything, with

1 somebody who is on parole for a life sentence when they're
2 back out in the community? What is it that you're looking for
3 them to become?

4 A. Essentially what you're looking for in that case is
5 readjustment to the community. Any problems that the
6 individual might have or might have had at the time they
7 came in have long since been dealt with. The problems that
8 you, as a parole officer, are dealing with with a lifer on parole
9 is the problems intendant on having spent a long period of
10 time away from society incarcerated.

11 Q. Okay, let's take Junior Marshall as an example.

12 A. Okay.

13 Q. In his case, what sorts of problems would you anticipate that
14 he would have had coming out of an institution after ten
15 years and ten months?

16 A. He would have had probably more adjustment problems than
17 your average lifer, because he had had fewer releases prior to
18 that point than your average lifer.

19 Q. Why had he had fewer releases?

20 A. He had never received, to the best of my knowledge, he had
21 never received any unescorted temporary absences.

22 Q. Do you know the reason for that?

23 A. He applied for very few and the only ones he ever applied for
24 were to Sydney and it was highly unlikely that he would ever
25 be granted a temporary absence by the institution to Sydney.

1 Q. And that's for the reasons you spoke of earlier in general
2 terms.

3 A. Yes.

4 Q. You'd be concerned that he would go back and find the person
5 you felt was responsible.

6 A. Yes, and because the community assessments from the
7 Sydney area were very negative. There was a lot of
8 opposition there.

9 Q. We'll get the specifics of those later.

10 A. Okay.

11 Q. You say that he would have had more problems than the
12 average lifer.

13 A. Yes, he had received only two short day parole periods prior
14 to that.

15 Q. What effect would that have had on him, his lack of having
16 had any, having had as much parole as others?

17 A. I think he would have experienced a very high level of what
18 is called "street shock".

19 Q. What does that mean?

20 A. Not knowing how to go into a restaurant and order a meal.
21 Not being up to date on what things cost in stores, what
22 cigarettes cost, what clothes cost. The language, the street
23 language, the language of the man on the street changes a lot
24 in ten or eleven years.

25 Q. Are you able to tell us from your experience then, if you

1 can't make a generalization, don't, but is there a period of
2 time that one expects that it will take a lifer to get
3 reintegrated into the community after their release?

4 A. Normally, once a lifer is released on a regular day parole,
5 meaning that they are living in a day parole facility such as
6 Carlton Centre here in Halifax, they generally will spend about
7 a year there before they then move on to a next stage
8 whereby they'll go out of there maybe five days a week and
9 back to the halfway house for two days on the weekend.
10 They'll spend maybe another six months to a year doing that.

11 Q. Would that be the normal process that you would expect.
12 They would be, first of all, released to a day parole facility.

13 A. Yes.

14 Q. Stay there for a period of time and then at some stage beyond
15 that, full parole?

16 A. Yes, normally they would spend about two years, either in a
17 day parole facility on a full-time basis or a part-time basis
18 before ending up on full parole.

19 Q. And your eligibility to spend a fair amount of time in a day
20 parole facility, would that occur between year seven and year
21 ten, or could?

22 A. It could. It could occur between year eight and year ten. It
23 usually doesn't. Normally, you are not released on full parole,
24 particularly on life sentence, as soon as you're eligible for it.
25 It would be very, very rare.

1 Q. Would a life, a person who is in on a life sentence then
2 normally expect to get that type of day parole, perhaps not
3 until year ten?

4 A. Normally, it would come around year ten, yes.

5 Q. Okay. And then that person, you would expect, will be
6 spending what, a year and a half to two years in a day parole
7 facility of some sort?

8 A. Yes.

9 Q. At that point in time, is that person still conceived by the
10 Parole Board, at least, to be on day parole as opposed to full
11 parole?

12 A. Yes.

13 Q. Then what happens? Assuming they're doing okay.

14 A. Assuming they're doing okay, the Parole Board begins making
15 decisions of less and less restrictive types of day parole. So
16 they have less and less involvement with the day parole
17 facility until eventually the individual is granted full parole
18 by the Parole Board, at which point they have no more
19 involvement with the day parole facility.

20 Q. What are you looking at in coming to the decision, okay, this
21 person is now ready for full parole?

22 A. From the point of view of a parole officer making the
23 recommendation to the Board, what the parole officer is
24 looking at is the person's degree of adjustment to the street.

25 2:52 p.m.

1 Q. And in what res...and what respect, or what criteria do you
2 use to judge that adjustment?

3 A. Whether or not they are encountering any problems in such
4 things as looking for jobs, making friends, developing social
5 contacts.

6 Q. So, we're now two years, really two years down the pipe
7 after somebody has gone into a day parole facility.

8 A. Yes, sir.

9 Q. Once they're granted full parole what then is the nature of
10 the involvement of the parole officer with that person?

11 A. It varies with the parole officers, but normally the parole
12 officer would maintain quite close contact, perhaps on a
13 weekly basis, maybe more often, for six months to a year
14 and then it would be gradually cut back more and more, and
15 assuming the individual was doing well.

16 Q. So, that in...so generally in the hypothetical, a person could
17 expect to have pretty regular contact with the parole officer
18 either in the day parole facility or on full parole for about
19 three years, is that fair to say?

20 A. Yes.

21 Q. What happens after the three-year period then?

22 A. The parole officer would begin to cut back on the level of
23 contacts to maybe once every three weeks for a couple of
24 months, then maybe once a month, eventually once every
25 couple of months. After about five years on full parole, not

1 day parole.

2 Q. This is now eight...

3 A. Which is eight...

4 Q. Seven or eight altogether.

5 A. Seven or eight altogether since the individual got out.

6 Q. Right.

7 A. The parole officer could, and if everything was going well
8 would, go back to the Parole Board requesting what's called
9 "parole reduced."

10 Q. Uh-hum.

11 A. If parole reduced is granted, and usually it is granted if the
12 parole officer is requesting it, then the...all of the conditions
13 of parole are removed with the exception of the
14 requirement to keep the parole officer informed of your
15 address and to report once a year. That continues forever.

16 Q. During that eight-year period is the involvement or is the
17 role of the parole officer twofold, at least in the sense that
18 you're watching the person to see how they're doing, I take
19 it that would be the case.

20 A. Yes.

21 Q. But are you also there to help that person through any
22 problems that they might have?

23 A. Yes.

24 Q. Okay. And do you, in fact, fulfil both those roles when
25 you're working with somebody on full parole?

1 A. Hopefully, yes.

2 Q. That's your job anyway.

3 A. Yes, that's your job.

4 Q. Can you make any comment at all as to what sort of
5 situation somebody would be in, let's take Junior Marshall,
6 getting back out on the street and very quickly not having
7 the support mechanism and not having the involvement of
8 the parole officers at all, in terms of his own reintegration
9 into society?

10 A. I can only express my opinion, but my opinion from
11 knowing Donald Marshall inside would be that he would
12 have a lot of difficulties.

13 Q. Okay. Can you expand on that for us a bit? Why do you
14 think he would have a lot of difficulties?

15 A. He would...he was an individual who it would have been
16 easy to take advantage of. He was very soft spoken. He had
17 a lot of mistrust, I guess for obvious reasons, but a lot of
18 mistrust of the system. So it would be difficult for him to
19 ask for help if he needed help.

20 Q. But at least to ask for help from...

21 A. From anyone.

22 Q. ...the correctional system.

23 A. From the correctional system, from social agencies not
24 involved with corrections even.

25 Q. Uh-hum.

1 A. He had a lot of pride and independence which would also
2 make it difficult for him to say "I can't manage."

3 Q. In your view would he have needed help?

4 A. I would think he would. He was quite young when he came
5 into the penitentiary system and became very much
6 involved in the penitentiary system as it's a survival
7 mechanism. If you know you're going to be there for quite
8 awhile you adapt and he adapted.

9 Q. Do you know whether or not after Mr. Marshall was...or after
10 the hearing of the reference and after it had been found that
11 he had not committed the murder, do you know whether or
12 not any help was offered to Mr. Marshall by anybody in the
13 correctional system?

14 A. I do not know.

15 Q. I want to ask you a series of questions concerning Mr.
16 Marshall specifically, and you have Volume 35 in front of
17 you, and if you could turn to page 91, which I believe is
18 really your first document that I have seen, I think, that
19 carries your signature. This document is dated, in the right-
20 hand corner, 19 May, 1977. At that stage of the game, if I
21 could just lead you up to this, you would have been the case
22 preparation officer at Springhill.

23 A. Yes, sir.

24 Q. And that would have been...you would have been acting as a
25 parole officer fulfilling the first part of the parole officer

1 role that you spoke of today.

2 A. Yes.

3 Q. Preparation of cases.

4 A. Yes.

5 Q. Okay. Did your caseload include other persons serving life
6 sentences other than Junior Marshall.

7 A. Yes, quite a number of them.

8 Q. Can you tell us how many?

9 A. At that point probably about twenty.

10 Q. Out of, what was the total population of Springhill at that
11 point?

12 A. In the neighbourhood of four hundred.

13 Q. Would you have been responsible for all of those persons
14 serving life sentences at Springhill?

15 A. Yes.

16 Q. Why was that?

17 A. By choice.

18 Q. You have a particular interest in persons serving life
19 sentences?

20 A. In part, yes, but how I became involved with all of the lifers
21 was as a result of having been assigned the case of a lifer to
22 prepare for the board, for the Parole Board, and in that
23 individual's case there was a virtually empty file that began
24 when he came in and there was a lot of it...material from the
25 first six months or so that he was in, and then nothing for

1 four or five years, and it made it very difficult for him and
2 very difficult for me in preparing his case for the board. So,
3 I conceived of a project which, for lack of a better name, was
4 called Lifer's Project, that whereby I would work with all of
5 the lifers in Springhill and regularly prepare reports on
6 their progress and what they were thinking at the time and
7 what their plans were, put these on their file so that when it
8 came time for their cases to be presented to the board there
9 wouldn't be this four or five, six-year gap.

10 Q. And that gave rise to, and we'll get to some of these in the
11 materials, these Lifer's Project reports.

12 A. Yes.

13 Q. And if I understand you correctly your concern was that
14 with a lifer when they became eligible there really wasn't
15 anything in the file that you could look to to get an
16 understanding of what that person was all about.

17 A. Yes.

18 Q. Okay.

19 A. And what they had done during the five or six years they
20 had been in jail.

21 Q. It was just a blank.

22 A. Just a blank.

23 Q. You were responsible for Junior Marshall at this time, in
24 1977.

25 A. Yes.

1 Q. Okay. How frequently would you be seeing him?

2 A. It varied. On a casual, nonformal interview basis.

3 Q. Uh-hum.

4 A. I would have seen him every week. On a formal interview
5 basis I probably would have seen him every couple of
6 months.

7 Q. On the weekly meetings though, what's the difference in
8 terms of the information that you're getting between the
9 formal and the informal situation?

10 A. In the formal situation occurs when, say in the case of
11 Donald Marshall, he and I would be sitting down together in
12 an interview room and I would be having set questions and
13 he would be answering them. Formal interviews were
14 generally for the purpose of preparing one of the various
15 reports that were...that I placed on his file. On an informal
16 basis was kind of like a teacher who has office hours and
17 anybody can stop in and chat. So what you're doing is you're
18 answering questions where individuals are in and out, you
19 know, two minutes, three minutes, five minutes, whatever.

20 Q. But you're still forming impressions and...

21 A. You're still forming impressions, yes, exactly, but you're not
22 necessarily producing a report.

23 Q. All right. If we could just talk for a minute or so on this
24 document on page 91, which is called at the top "Cumulative
25 Summary T.A. Submission" what does that mean?

1 A. It's a submission made to the Parole Board in regards to
2 temporary absences.

3 Q. And Mr. Marshall is asking to participate in meetings at the
4 MicMac Friendship Centre in Halifax.

5 A. Yes, escorted temporary absences is what he was requesting.

6 Q. Was he granted this particular escorted temporary absence?

7 A. Yes.

8 Q. In the appraisal section of the report in the first paragraph
9 you say in the second sentence,

10
11 Throughout the interview Marshall appeared to
12 be quite cooperative individual, was willing to
13 answer all the writer's questions. Discussed
14 various areas of his life with the exception of
15 those concerning his offence. Marshall continues
16 to argue that he is not guilty and as he is
17 appealing his conviction...

18 Did you have any idea what he was talking about in 1977
19 when he said he was appealing?

20 A. No, I just assumed he was appealing.

21 Q. Okay. You took his word for that.

22 A. Yes.

23 Q. "As he is appealing his conviction is unwilling to discuss this
24 matter." Are you saying then that he just wasn't prepared
25 to talk at all about the offence?

A. Right. He simply would not discuss the offence at that
point. That was not unusual. Individuals who were

1 appealing their sentence would never discuss it.

2 Q. Would it be unusual for somebody to be appealing their
3 sentence or their conviction six years after the original?

4 A. No, not in the case of a life sentence. They take very long
5 time, those appeals.

6 Q. Was it important to you in 1977 that Marshall be prepared
7 to discuss the offence?

8 A. No, not at that stage.

9 Q. Was it at some stage?

10 A. It was important to me to try to come to an understanding
11 what happened that night.

12 Q. Right. But you say that at this stage in 1977 it wasn't
13 important.

14 A. No, at this stage in 1977 all he was requesting was an
15 escorted temporary absence program.

16 Q. Right.

17 A. It was not necessary that he discuss the offence in order for
18 me to feel comfortable with recommending him for that. If
19 I was going to be recommending him for a more extensive
20 release program then it would be important to have a better
21 understanding of what happened.

22 Q. On page 92, the first full paragraph, the last couple of lines,
23 "He realizes and accepts the fact that in light of his appeal
24 pending any T.L.A.'s," that's temporary leaves of absence...

25 A. Uh-hum.

1 Q "...he receives will have to be escorted." Can you explain
2 that to us?

3 A. Well, sorry, I lost track of where...

4 Q Sorry. The last two lines of the first full paragraph on page
5 92. Starting "He realizes and accepts..."

6 A. Right.

7 Q "...the fact that..."

8 A. To the best of my recollection as long as he was maintaining
9 that he was innocent of the offence and maintaining that he
10 would not accept a temporary absence to any place
11 unescorted, to any place other than Sydney, the chances of
12 the institution granting him an unescorted temporary
13 absence were next to non-existent.

14 Q Did it have any direct relationship to the fact that his appeal
15 was pending?

16 A. Oh, I'm sorry, I'm sorry.

17 Q You know what I mean.

18 A. Yeah, sorry about that. When you had an appeal pending
19 the institution at that point would not have granted an
20 unescorted temporary absence in part because of the policy
21 of the Parole Board at the time to not grant day paroles or
22 full paroles when appeals were pending.

23 Q You're familiar with the fact that there was some testimony
24 given I think by Debbie Gass about that at one stage.

25 A. Yes.

1 Q Right. That's no longer the policy of the Parole Board.

2 A. No.

3 Q Are you able to tell us for what period of time it was the
4 policy?

5 A. As best as I've been able to ascertain in my research it was
6 a policy from 1976 to 1979.

7 Q And would have affected Mr. Marshall at the time in 1977.

8 A. It would not have affected him if he had applied for parole,
9 no.

10 Q All right. But if he had applied for an unescorted temporary
11 leave of absence it would have, would it not?

12 A. The institution would have applied that Parole Board policy.

13 Q Sure.

14 A. They were the people making the decision on unescorted
15 temporary absences at that time.

16 Q Right.

17 A. Had it been in 1979 had he been applying for an unescorted
18 temporary absence it would have been a Parole Board
19 decision.

20 Q Yes.

21 A. Not an institutional decision and that policy would not have
22 affected that decision.

23 Q In 1977 if he had applied for an unescorted temporary
24 absence.

25 A. Then it would have been an institutional decision.

1 Q. And they would have applied the...

2 A. They would have applied...

3 Q. ...existing policy.

4 A. ...the existing policy.

5 Q. So...

6 A. Although there would have been no need to apply it in the
7 case of a lifer. It wasn't designed for lifers.

8 Q. Right. Because the sentence couldn't be increased.

9 A. Exactly.

10 Q. All right.

11 A. And that was why the policy was there.

12 Q. So is that statement in the last two lines incorrect? "In light
13 of his appeal pending any T.L.A.'s he receives will have to be
14 escorted."

15 A. No, that was correct based on what the policy of the
16 institution at the time was.

17 Q. Notwithstanding the fact that he was a lifer.

18 A. Not with...yes. The institution didn't make those sorts of
19 distinctions.

20 Q. In the last paragraph on page 92,

21
22 As noted above, the writer does have some
23 concerns about Marshall's participation in a
24 T.L.A. program based on Marshall's institutional
behaviour and progress he would certainly
appear to merit such consideration.

25 And this is the sentence I want to ask you about, "However,

1 Marshall's insistence that he is innocence, his feelings that
2 he can't do much more time and his ambivalence about
3 being released on T.L.A.'s might make him an escape risk."

4 A. Uh-hum.

5 Q. "Thus, although the writer is recommending as a proposed
6 action Marshall be allowed to participate, I would not
7 support a T.L.A. that would see him receiving unescorted
8 passes." Is it fair to say that from reading this document or
9 this comment that Marshall's insistence that he was innocent
10 at the time in 1977 was a factor?

11 A. A factor.

12 Q. Sure.

13 A. But only one.

14 Q. Can you rank those three factors at all, the ones that you
15 referred to here on page 92 or is that not possible?

16 A. I could.

17 Q. Which was the most important to you?

18 A. The least important was his insistence that he was innocent.
19 The other two factors, mainly his feeling that he couldn't do
20 much more time and his ambivalence about being released
21 on T.L.A. probably were fairly close but I would say that his
22 feeling that he couldn't do much more time was the highest
23 factor to make him an escape risk.

24 Q. Would there not be some relationship between the feeling
25 that he can't do...that he couldn't do much more time and the

1 fact that he said he was innocent?

2 A. Given that he was innocent, yes, I would think there would
3 be. But at the time I had no reason to believe he was
4 innocent.

5 Q. Let me ask you about that for a minute. At this time in
6 1977 Marshall was expressing these view that he was
7 innocent. Did you take him at all seriously?

8 A. No.

9 Q. Why not?

10 A. In part because, as I explained earlier, it was not unusual
11 for inmates to claim they were innocent, and it was even
12 less unusual for them to claim they were innocent when
13 they were talking to somebody whom they did not know
14 and had not yet established a trusting relationship with.

15 Q. Was it becoming unusual in his case though, because we're
16 now six years into the piece? Was it starting to become
17 unusual that he would maintain his innocence for that
18 length of time?

19 A. I would say, yes, but in my case this report was written
20 essentially when I first met him.

21 Q. Right.

22 A. And I would have expected him, even if he had been guilty,
23 but had not admitted it, say, or had not yet reached the
24 point of admitting it. I would have expected him to be
25 adamant about maintaining he was innocent when talking to

1 someone he doesn't know.

2 Q Okay. So that at the time you first came in contact with him
3 '76-'77 the fact that he was claiming to be innocent really
4 didn't turn on any lights in your head?

5 A. Not at this point.

6 Q Not at that point in time, okay. Could I ask you to turn page
7 97. This is a document which is dated October 21, 1977, and
8 it is one of these Lifer's Project reports that you were
9 talking about a few minutes ago. Would this have been the
10 information that you received in here based, for the most
11 part, on the interview with Mr. Marshall that you referred
12 to.

13 A. Yes.

14 Q Yes. So is it really a report of your interview in large part.

15 A. Yes.

16 Q Okay.

17 A. By and large, yes.

18 Q And the second paragraph, sorry, third paragraph, the one
19 that begins,

20
21 The writer pointed out to Marshall that it's
22 extremely rare for an innocent individual to be
23 convicted of murder, and on a very rare occasion
24 when this does happen the individual involved
25 makes a consider ruckus in terms of filing appeal
after appeal.

At this point in time were you in any way trying to get Mr.

1 Marshall to admit his guilt?

2 A. I don't think at any point that I was ever trying to get or
3 pressure Mr. Marshall into admitting that he was guilty. I
4 was trying to understand and get to the bottom of what
5 happened at the time of the offence.

6 Q. Is it fair to say, though, that at this point in time in October
7 of 1977, as you say in the next paragraph, in the third and
8 fourth last lines from the bottom of that paragraph, that
9 begins "Marshall voiced..."

10 A. Uh-hum.

11 Q. You say, "The writer requested Marshall to consider the
12 possibility that perhaps he did, in fact, commit the offence
13 but is unable to remember doing so."

14 A. Uh-hum.

15 Q. Is it a fair inference from that that you were trying to get
16 Marshall to come to terms with the fact that he did it?

17 A. Yes, I believed that he did it.

18 Q. Yes. And is it a fair inference that you were trying to press
19 him a little bit on that view, and your view was that he did
20 it?

21 A. Perhaps. That particular statement about, "Considering the
22 possibility that he did, in fact, commit the offence but is
23 unable to remember doing so." At the time there were
24 several other lifers in Springhill institution with whom I was
25 working, for whom that applied exactly, that they had for a

1 long time denied the offence and had just begun to, in one
2 case, had just barely begun to remember that, in fact, yes,
3 they had done that, and I...

4 Q. They just blocked the memory out of their...

5 A. Yeah. And I was exploring whether or not this might not
6 have happened with Donald Marshall as well.

7 Q. And when you're asking Marshall, as you say in your note
8 here, that you're requesting him to consider the possibility
9 that perhaps he did, in fact, commit the offence, for what
10 purpose would you be making that request?

11 A. I'm sorry, I don't really understand the...

12 Q. Well, if you're asking him to consider the possibility that
13 perhaps he did, in fact, commit the offence, why would you
14 be asking...

15 A. I wasn't asking him to consider the possibility that he
16 committed it, but to consider the possibility that he
17 committed it and doesn't remember committing it, consider
18 whether or not that is a possibility.

19 Q. Doesn't that include in it the fact that you're asking him to
20 consider that he did it?

21 A. I...

22 Q. Whether or not he remembers it.

23 A. I suppose.

24 Q. Yeah.

25 A. But like I said, you know, I had no reason to believe that he

1 didn't.

2 Q. Okay. And at this stage in October of 1977 for what reason
3 would you be asking him to consider this possibility in
4 terms of your work with him?

5 3:14 p.m.

6 A. I believed that he had committed the offence. I felt that I
7 had good and reasonable grounds. Everything I had read,
8 everything I had heard led me to believe that he had
9 committed the offence. And, therefore, it was, in my mind,
10 important that he come to an acceptance and an
11 understanding of what had happened at the time of the
12 offence in order for me to feel comfortable that he had dealt
13 with the factors that led to the incident and thus was a safe
14 case to recommend for eventual release.

15 Q. Okay, maybe if we could talk about that answer in the context
16 of what you say in the last paragraph of this report on page
17 98, if you would just flip over. You say in the, beginning the
18 third line, the sentence that begins:

19 His lack of any protestation in this regard leads
20 the writer to suspect that perhaps Marshall is
21 approaching the point where he will be
22 eventually willing to admit and deal with his
23 offence.

24 Were you getting a sense that Mr. Marshall was going to
25 admit the offence?

26 A. Mr. Marshall, although denying the offence, in any of my

1 dealings with him, was never particularly adamant or
2 aggressive or... He didn't make a big issue of it. It was
3 simply, "I didn't do it."

4 Q. He certainly seems to have brought it up on virtually every
5 occasion that you dealt with him, at least as recorded in these
6 documents.

7 A. He didn't bring it up. In essence, I would bring up a
8 discussion of the offence and he would say, "I didn't do it." I
9 would say, "What happened?" He would give me a version of
10 what happened that night and that would be as far as it
11 would go. But he would never, although consistently
12 maintaining that he was innocent, he did not make a big deal
13 out of it. He would not, he was not an individual who would
14 say, you know, bring up, on any occasions let alone frequent
15 occasions, "I'm doing time for something I didn't do," or
16 anything like that. He only ever brought it up if you began
17 talking about the offence. That was the only time the issue
18 ever came up. He never brought it up.

19 Q. Was it important to you, other than to be able to understand
20 the factors that were operating you thought at least in Mr.
21 Marshall's mind at the time of the offence, was that the only
22 reason it was important for, would have been important for
23 you to speak about the offence itself at all?

24 A. What other reason would there be?

25 Q. I don't know. I'm asking you. Those are the only, that would

1 be the only reason, so he could come to grips with whatever it
2 was that prompted what you thought had been a commission
3 of the offence.

4 A. So as to be able to make a judgement whether or not those
5 factors had been dealt with.

6 Q. On page 103, we're now into 1978. Can you tell us what that
7 note of yours is about?

8 A. At the time, Marshall's name had been submitted as one of
9 the individuals who could possibly participate in Atlantic
10 Challenge, which was an outward bound-type of program.

11 Q. Was that a day parole program?

12 A. It was a five-day day parole program. His name was
13 submitted for it. He was not eligible to participate in that
14 program because he was not yet eligible for day parole.
15 Therefore, it was an impossibility for him to take part in it.
16 During the fall prior to that, there had been a number of
17 heated discussions between myself and Marshall on various
18 issues where he had received the impression that whatever
19 he wanted, I was going to say no.

20 Q. That's the "previous confrontations" you referred to in the
21 second paragraph.

22 A. Yes, and I did not feel and the other members of his case
23 management team working with him did not feel that it was a
24 good idea for me to interview him again and say, "No, I'm not
25 going to recommend you for this either," when the reason

1 why I wasn't going to recommend him had nothing to do with
2 him but had to do with purely legislative factors that he
3 wasn't eligible for the program. So this memo was written
4 and placed on file to explain why I did not interview him in
5 connection with his desire to take part in this program.

6 Q. You say at this time in January of 1978 at the end of the third
7 paragraph:

8 In fact, the institution recently denied Marshall's
9 request for an escorted T.A. as it is felt that in
10 light of his unstableness at the present time, he
11 represents too high a security risk.

12 Can you comment on what that "unstableness" was?

13 A. There was a period of time, and I can only... I cannot tell you
14 for sure if this was the time, because it was a long time ago,
15 but there was a period of time when his behaviour in the
16 institution was extremely aggressive towards staff, towards
17 myself, towards the other members of the case management
18 team where he, in one case, threw a chair at one of the staff
19 members.

20 Q. Are you able to offer any insight as to what provoked that
21 aggressiveness?

22 A. I suspect that it had to with the issue of whether he was
23 guilty or innocent of the crime. Although I was not putting a
24 lot of pressure on him to admit that he was guilty, some
25 people were.

1 Q. Who would those people have been?

2 A. Some of the other people, members of his case management
3 team who had contact with him far more frequently than I
4 did on a daily basis.

5 Q. Was it your sense that his frustration in maintaining his
6 innocence in the face of the response that he was guilty was
7 causing this aggression to a degree?

8 A. At the time... In retrospect, yes, I would say that that is true.
9 At the time, my belief at the time was that he was coming
10 close to admitting that he was involved in the offence and
11 that that's what was starting to come out.

12 Q. Do I understand from your comment on page 103, "That his
13 unstableness at the present time, he represents too high a
14 security risk," that his aggressiveness, as demonstrated, for
15 instance, by this chair-throwing incident you referred to,
16 caused, if I understand you correctly, at least in part by his
17 maintaining his innocence, put him in a situation where he
18 then, because of that represented a too high a security risk in
19 retrospect?

20 A. Yes.

21 Q. If I could ask you now to turn to page 105. These next couple
22 of documents are in the wrong order, so we're just going to
23 skip around a little bit.

24 A. Okay.

25 Q. But 105, it's dated June 1, 1978.

1 A. Yes.

2 Q. And that's a recommendation from yourself for Junior
3 Marhsall to participate in the Atlantic Challenge Program and
4 that's the summer version of the Atlantic Challenge.

5 A. Uh-huh.

6 Q. I'd just like to ask you a few questions about the last
7 paragraph on page 105 of your appraisal. And if it's the same
8 ground that we've just covered a second ago when we were
9 talking about his unstableness, then tell me that there's
10 nothing different here. But you say:

11
12 During the past year, there's been a deterioration
13 in Marshall's behaviour and attitude [and it
14 refers back to that other project] and this
15 situation centred around Marshall's continued
16 protestations of innocence, the feeling of his case
workers, including the writer, that Marshall had
to admit to and work through the crime.

17 Now that sounds to me from reading it that you thought at
18 this point in June of 1978 that Marshall did have to admit to
19 the crime prior to his eventual release.

20 A. I thought he was guilty.

21 Q. I know but was it important in June of 1978 from your point
22 of view as the author of this document, that Marshall had to
23 admit to and work through his crime prior to eventual
24 release?

25 A. That's a difficult question to answer. That's what I said, but

1 at the same time, I was recommending him for release in the
2 report in which I said that.

3 Q. Yes, but you were recommending him for day parole and your
4 comment's in the context, is it not, of eventual release?

5 A. Day parole...

6 Q. Marshall had to admit...

7 A. Is a release.

8 Q. Okay, is it eventual release? Is that what you were getting
9 at?

10 A. I beg your pardon?

11 Q. When you say in the sentence I just referred you to,
12 "Marshall had to admit to and work through the crime prior
13 to eventual release." I'm asking you whether or not in June of
14 1978 it was your view that Marshall did, indeed, have to
15 admit to the crime prior to his eventual release?

16 A. I believe I just answered that. That's what I wrote, so yes,
17 you could say that was my view. However, I wrote that in a
18 report in which I was recommending him for release.

19 Q. I understand that. The answer to my question then, and tell
20 me if I'm wrong, is that in June of 1978 when you say
21 Marshall had to admit to and work through the crime prior to
22 his eventual release, was that that, in fact, was what your
23 view was at the time. That, indeed, he did have to admit to it.

24 A. Work through more so than admit to.

25 Q. All right, but we have to give some meaning...

1 A. The key issue is working through the factors related to the
2 offence.

3 Q. Okay.

4 A. Admission of guilt or innocence isn't important. Working
5 through the factors that led to involvement in the offence, if
6 he was involved, is what's important.

7 Q. All right, but at least in June of '78, it was a factor that you
8 thought was important enough to comment on.

9 A. Yes.

10 Q. That he had to admit to it. How does that comment in this
11 note on 105, 106, can you put that in the context of Exhibit
12 150 for me, in the context of the Parole Board policy which
13 we talked about earlier in your testimony?

14 A. I shall try again. I believe I had already done that, but
15 obviously I didn't explain it clearly enough. You do not have
16 to admit that you are guilty of any offence in order to be
17 considered for and granted parole. That is true in all cases. It
18 was true in Junior Marshall's case. If, however, you are
19 convicted of a very serious offence where there was a degree
20 of violence involved--robbery with violence, assault causing
21 bodily harm, manslaughter, murder, rape, what have you. In
22 order for the Parole Board to consider that you are a safe
23 individual to release, and protection of society is a primary
24 concern and risk is a primary factor, the Parole Board has to
25 be convinced that there are not factors in your personality

1 and behaviour that represent a risk to society and that if you
2 were involved in the offence, that the courts have deemed
3 you to be guilty of and convicted you of, that those factors
4 have been satisfactorily dealt with. That can be gotten
5 around or can be dealt with through admitting that you were
6 involved in the offence and discussing and dealing with the
7 factors that led to that. Or it can be dealt with as was the case
8 in Mr. Marshall's case, by a general discussion of your
9 behaviour and your attitudes and your personality at the
10 time that the offence occurred and dealing with, regardless of
11 whether you're guilty or innocent, and dealing with those
12 unacceptable aspects of your behaviour and changing those.

13 Q. You operate on, or would you operate on the assumption that
14 most of the people that you're dealing with are, in fact,
15 guilty?

16 A. One has to operate on that assumption.

17 Q. Sure.

18 A. If they have not been deemed to be guilty by a court of law,
19 we are not working with them.

20 Q. And one of the, would it not be the case that one of the ways
21 to get somebody to deal with the factors that may have led to
22 them being in there in the first place would, indeed, be to
23 admit to the crime because once they've admitted to it, it's
24 easier to deal with it.

25 A. Yes.

1 Q. Sure. And is that what you're getting at here on page 105 in
2 the summer of 1978. "Marshall had to admit to and work
3 through the crime prior to eventual release...?"

4 A. Yes.

5 Q. If I could just keep going.

6
7 Marshall had to admit to and work through the
8 crime prior to eventual release and Marshall's
9 growing frustration and tension arising out of
being denied privileges, such as temporary
absences granted to other individuals.

10 Can you tell us what that was about?

11 A. Beyond what I've said there, I can't. The next sentence
12 indicates that his program had been curtailed.

13 Q. Why was it...

14 A. By the institution.

15 Q. Yes, can you tell us why?

16 A. It was curtailed because of his behaviour in the institution.

17 Q. This is the aggressiveness?

18 A. The aggressiveness towards staff, the fighting with other
19 inmates.

20 Q. And you go on to say that that fact, that's the curtailment,
21 only added to his frustration and tension.

22 A. Yes.

23 Q.
24 This culminated in an incident in the institution
25 on March 26th, 1978, when Marshall became
involved in a fight with another inmate and

ended up in dissociation.

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I take it there's a shorter way of describing what "dissociation" is?

A. The hole.

Q. The hole, okay.

A. Although it is not a hole.

3:30 p.m.

Q. No, but that's what it is commonly referred to.

A. That's what it is commonly referred to as, yes.

Q. You then go on to say, "As a result of this incident Marshall's caseworkers at the institution drew up a new institutional plan with Marshall which he agreed to follow." What would have been the elements of that institutional plan, do you remember?

A. I go on to explain that.

Q. Okay.

A. Namely that he was to receive favourable work reports, which means that his instructor was to be...he was to be behaving at work in such a way that his instructor would be giving him good assessments.

Q. And at work would be at the trade at which he was...

A. Which was the plumbing trade at that time I believe.

Q. Right.

A. He was to avoid occurring further offence reports, which means avoid breaking institutional rules and regulations and

1 incurring institutional charges for that. He was to continue
2 his participation in the institutional sports program, but to
3 use restraint. What that related to was that Junior was very
4 active in sports and was as likely as not to become involved
5 in a fight when involved in a competitive team sport-type
6 environment, and he was to improve his attitude in the unit.
7 And that related to his verbal aggressiveness and
8 threatening of staff.

9 Q. Okay. And just to summarize you go on to say that, "Since
10 he was released from dissociation on April of '78 he's settled
11 down and is starting to look better."

12 A. Uh-hum.

13 Q. I take it is the gist really of your report.

14 A. Yes, exactly.

15 Q. Okay. And on the basis of that you're prepared to
16 recommend him.

17 A. Yes.

18 Q. For the Atlantic Challenge Summer Program. Then if you
19 could flip back to 104, that is a report of the actual parole
20 hearing, is that correct?

21 A. That is correct, yes.

22 Q. Okay. So that you have everything in front of you, on page
23 107 that would seem to be your note of that parole hearing,
24 is that correct?

25 A. That is correct.

1 Q. Okay. Flip back to 104 for a minute then. You say in the
2 second paragraph that, "Subject was quite calm during the
3 interview but continued to claim innocence of the crime for
4 which he is serving time."

5 A. Excuse me, sir.

6 Q. Yeah.

7 A. I did not write that.

8 Q. I understand that.

9 A. You said, "You say in the second paragraph," and I...

10 Q. Okay.

11 A. ...just wanted to clarify I did not write that.

12 Q. But on page 107, this is the reason I mentioned that
13 particular note, was that on 107 you do discuss in your note
14 starting in the second paragraph, "During their interview,"
15 that's the people on the Parole Board, is it?

16 A. Uh-hum.

17 Q. The board members discussed with Marshall the Atlantic
18 Challenge Program and what he thought and then in the
19 third paragraph you say,

20
21 Prior to interviewing Marshall the issue of his
22 guilt or his innocence, in particular his
23 protestations of innocence was discussed briefly
24 and it was apparent there were a number of
25 differences of opinion on the issue. The same
issue came up again during the Board interview
with Marshall and he was provided with the
opportunity of relating his version of the events

of the night of the offence.

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A. Uh-hum.

Q Are you able to tell us whether or not Mr. Marshall took advantage of that opportunity and described his version of the events?

A. That says that he did.

Q Okay.

A. I'm sorry I cannot tell you which version of the events of the night of the offence he provided on that occasion.

Q Now you say "which version" and I remember that you commented a few minutes ago that you heard more than one version, I take it.

A. Yes.

Q Can you tell us the versions that you heard? What were you told by Mr. Marshall about what happened?

A. I heard a wide variety of versions going all the way from, "I have no idea what happened, I wasn't there," to a version whereby he came upon the scene afterwards, Sandy was lying there and he ran to get help. I heard a version on several occasions to the effect that there were two sailors from a foreign ship who were in uniform and spoke a foreign language that encountered him and Sandy in the Park and stabbed both of them, and I heard a version on at least one occasion, maybe twice I'm not sure, about an old man in a long coat with a younger man with him who

1 walked up to them and said, "I hate red men and I hate
2 niggers," and stabbed them both.

3 Q. In your experience, dealing with people who continue to
4 protest their innocence, is it usual or unusual to hear more
5 than one version of the facts?

6 A. It's unusual. Usually when they maintain their innocence
7 they have a version and it never varies.

8 Q. Did Mr. Marshall's changing variations of the story make you
9 think one way or the other whether or not he might be
10 guilty?

11 A. It made me more inclined to think that he was guilty.

12 Q. Why was that?

13 A. Because it created for me an impression, well, all right she
14 didn't buy that one maybe she'll buy this one.

15 Q. All right. Did you confront him with his various versions?

16 A. Yes.

17 Q. And what was his response?

18 A. "That's how I remember it now. "

19 Q. Mr. Marshall was granted this particular Atlantic Challenge
20 request.

21 A. Yes, he was.

22 Q. I just wonder whether or not you know that on page 104, in
23 the last paragraph before the line there, "We understand,"
24 and Minister is crossed out, "Minister of Justice has asked
25 for transcript of the trial for what reason we do not know."

1 Did you have any knowledge of that request yourself?

2 A. Prior to that hearing, no, I did not.

3 Q. Was it discussed at the time?

4 A. It was and my impression at the time was that that
5 information came from one of the board members at the
6 hearing.

7 Q. Was...are you...did you ever check it yourself to see...

8 A. No.

9 Q. ...whether in fact it was true?

10 A. No.

11 Q. And you don't know today.

12 A. I do not know.

13 Q. Page 114, we're now into July of 1978, signed by...it was
14 dictated July 18, 1978. And I think also in order to
15 understand this particular document you need Exhibit 69
16 which I think you also have in front of you. That's that one
17 there.

18 MR. CHAIRMAN

19 Before we get into this particular aspect maybe we should
20 take a short recess.

21 RECESS - 3:36 p.m.

22

23

24

25

4:00 p.m.

1
2 Q The lifer's project report that we were just starting to look at
3 on page 114, completed by yourself in July of 1978, you say
4 in the fourth paragraph:

5 As could be expected, the issue of Marshall's
6 guilt or innocence was again raised. Marshall
7 was informed by the writer and by institutional
8 staff that, from our point of view, whether or not
9 he actually committed the offence was no longer
10 important. What was important was the fact
11 that the picture presented of him had led us to
12 the conclusion that Marshall was the sort of
13 individual who could have committed a murder.

14 Why was it that at this point in July of 1978 that "whether or
15 not he actually committed the offence was no longer
16 important"?

17 A. Because, by that point, we had a good enough, or we felt we
18 had a good enough insight into the types of behavioural
19 problems that Donald Marshall presented at the time of the
20 offence and presented at that time still in the institution, that
21 we could help him deal with what sorts of things needed to be
22 worked on and needed to be changed in order for him to earn
23 a release.

24 Q So that you had a good enough picture of Marshall and a good
25 enough understanding of how to deal with him, quite apart
from the question of whether or not he committed the
offence.

1 A. Yes.

2 Q. At that point.

3 A. That's right.

4 Q. Then you say in the last paragraph on page 114, in the fourth
5 and fifth line, what Marshall would have to do in order to
6 change this situation; that is, being the sort of person who
7 could commit murder or a similar offence:

8
9 Marshall was informed that not only would he
10 have to change his behaviour, but that he would
11 also have to change his personality, his attitudes,
12 and his responses to situations and people.

13 That's a pretty tall order.

14 A. I agree, but it's also standard operating procedure for a lifer.

15 Q. Okay. When you say "change his personality and attitudes", is
16 what you're trying to do is get him to the point where if, for
17 instance, he was to react aggressively to a situation in the
18 past, that now he would not react aggressively to the
19 situation, for instance.

20 A. Yes.

21 Q. And do you hope to get him to the point where he would not
22 react aggressively instinctively, or that he would say to
23 himself, "Oh, oh, I'm going to react aggressively. No, I'm not
24 going to react aggressively." In other words, does it become
25 something that he doesn't even think about anymore?

A. Ultimately. You start by getting them to the point where they

1 think before they react.

2 Q. Right.

3 A. And hope to, eventually, with practice and time, get them to
4 the point where that thinking step is no longer necessary. It
5 does, indeed, become instinctive.

6 Q. During the period of time that you were responsible for Junior
7 Marshall, did you ever think that he had gotten to that point?

8 A. There is no question he was making progress towards that
9 point.

10 Q. I see. But by the time you ceased to have any direct
11 involvement with him in '79, he had not reached that point, I
12 take it, is that...

13 A. He had not totally reached that point but certainly he had
14 reached that point where we were prepared to begin
15 recommending him for greater and greater releases. Or
16 would have, had he not escaped.

17 Q. So he was going along, he was progressing along that route?

18 A. Yes, he was on the road to release.

19 Q. The document that's associated with this lifer's project report,
20 I believe, is Exhibit 69. Is that the community assessment
21 that was done at the time?

22 A. Yes.

23 Q. That was done as a result of a direction by yourself.

24 A. Yes, that's right.

25 Q. And there's some comments in there about, on page two of

1 the assessment itself, which would be the fourth page of the
2 document, referring to an interview with Chief MacIntyre and
3 the chief being opposed to Marshall coming back to the
4 community.

5 A. Uh-huh.

6 Q. What was, what sort of importance do you give to that type of
7 reaction from the police chief?

8 A. Reasonable, a reasonable amount. Contrary to popular
9 opinion, police are not universally opposed to people being
10 released on parole or passes, although many people think
11 they are. In the majority of cases, they are not. And when
12 they are and when they are quite strong and adamant about
13 it, as Chief MacIntyre appeared to have been, then that is
14 taken quite seriously.

15 Q. Did you speak to Chief MacIntyre yourself?

16 A. No.

17 Q. Have you ever been involved in any other cases, any other
18 community assessments in which Chief MacIntyre had been
19 interviewed?

20 A. I never did any.

21 Q. No, but are you familiar with other situations in which he had
22 been interviewed, asked that same sort of question, "Do you
23 want this person back in the community?"

24 A. I do not recollect. Undoubtedly, yes, I would have received a
25 number of them. I had a number of other inmates who came

1 from the Sydney area that I was involved with, but I don't
2 specifically remember one.

3 Q. On page 120. This is a document, which seems to have been
4 dated in November 15, 1978, signed by yourself, as the parole
5 officer, and Anne Marie MacDonald. Can you tell us what
6 gave rise to a submission of this report?

7 A. At that time, it was the policy of the Parole Board that when
8 an individual was being considered for a regular release
9 program, some time prior to that consideration, a report such
10 as this one, which was entitled "Special Submission to the
11 Board for those inmates to whom Section 3.12 of the Parole
12 Act apply", that a report such as this, that tied together and
13 summarized all of the various aspects of the case, be
14 completed for use by the Parole Board members in
15 considering the case. Generally, I would complete that report
16 on an individual when we began talking about a regular
17 release program, and I wouldn't necessarily complete it at the
18 time that I was doing the submission. It was a report that
19 would generally take quite some time to compile the
20 information and complete. So I would complete it when I had
21 an opportunity to do so.

22 Q. Is the submission in respect of any particular application...

23 A. No.

24 Q. Or is it just a cumulative document?

25 A. It's just a cumulative document, completed at a time when, in

1 the case of Donald Marshall, we were beginning to consider
2 preparing his case for our submission to the Board the
3 following spring. And I think that's what it says at the end of
4 it, if I remember correctly.

5 Q. "Anticipate that this plan will be presented to the Parole
6 Board early in 1979."

7 A. Yes.

8 Q. And that would have been a plan for unescorted temporary
9 absences.

10 A. Right.

11 Q. Would you have spoken to Mr. Marshall at or about the time
12 that you finalized this report in November of '78?

13 A. Probably not. I would think not, no.

14 Q. There are places in it where it's clear that you're relating
15 things that Mr. Marshall himself told you.

16 A. Uh-huh.

17 Q. And on page 121, in the first full paragraph, you say:
18 "Marshall describes himself as a child as a shy, sneaky,
19 organizer type." And then further on"

20
21 Marshall further admits to a juvenile criminal
22 record for assault. Marshall's involvement in
23 criminal activity continued after his turning
24 sixteen and included theft, supplying liquor to a
25 minor, robbery with violence.

24 Is "robbery with violence" a phrase that Junior Marshall
25 would have used?

1 A. No.

2 Q. Do you know what he was talking about?

3 A. He... Yes, what he was talking about, at that time, was a type
4 of behaviour he engaged in where he would stand in
5 doorways and grab drunken individuals as they went by to
6 get money from them.

7 Q. And this is something that he told you?

8 A. Yes.

9 Q. Was this cumulative report, in fact, ever utilized in connection
10 with a request for temporary absence on the part of Junior
11 Marshall?

12 A. I'm sorry, I don't know.

13 Q. You don't know.

14 A. No. I don't remember whether a temporary absence program
15 was ever submitted to the Parole Board.

16 Q. At page 137...

17 MR. CHAIRMAN

18 127?

19 MR. SPICER:

20 Sorry, 137, My Lord.

21 BY MR. SPICER

22 Q. We're now into the summer of 1979 and is this the
23 recommendation in connection with the Atlantic Challenge
24 from which Mr. Marshall left?

25 A. Yes.

1 Q. And you say on page 138 in your appraisal:

2 Since the writer's previous Part IV, dated March
3 27th, 1979, considerable changes have occurred.
4 The most significant of these was his transfer
5 from Unit 11 to Unit 10, a therapeutic
6 community.

7 Can you tell us what that was about?

8 A. Springhill Institution had four living units where inmates
9 resided. For Units 8, 9, and 11, you were simply assigned to
10 one or the other of those when you first came to the
11 institution and you would generally remain there throughout
12 your time there. At the time that I was working with Donald
13 Marshall initially, he was in Unit 11. Unit 10 was a separate
14 type of living unit altogether. It was set up as what they
15 called "the therapeutic community". There was a great deal
16 more freedom for inmates who were in that unit. You were
17 not ever locked into your cell. You weren't locked into the
18 unit. You were free to go around and visit with people, drink
19 coffee whenever you wanted. In return for the increased
20 freedoms and privileges, there were increased expectations.
21 You had to attend what were, in effect, group therapy
22 sessions on a regular basis. You had to be able to and willing
23 to deal with a great deal of confrontation from other inmates
24 and from staff who would confront you about your behaviour,
25 your attitude, whatever.

1 Q. Was this a step towards release?

2 A. Yes.

3 Q. Being transferred to this unit?

4 A. Yes.

5 Q. So was Marshall...

6 A. It was a transfer that you requested.

7 Q. Okay.

8 A. It was not a transfer initiated by institutional staff.

9 Q. But if you requested it, if you requested it and it's granted,
10 that's a good sign?

11 A. Yes.

12 Q. How did Mr. Marshall make out, generally?

13 A. He did quite well in Unit 10.

14 Q. Did he?

15 A. Yes.

16 Q. Do you know for what period of time he was there?

17 A. He was there, let's see, I don't know how long he was there.
18 He was there at least from then... I'm sorry, I would know
19 exactly how long. He was there at this point. So some time
20 before June of '79.

21 Q. Right.

22 A. He would have remained there until he escaped on the day
23 parole, at which point he would have lost the right to stay
24 there.

25 Q. And he would have gone back...

- 1 A. To Unit 11.
- 2 Q. Right. And the date of his escape, if you just look at page 142,
3 "Preventative Security, Unusual Occurrence Report." So that
4 indicates September 24, 1979.
- 5 A. Yes.
- 6 Q. So when he was returned from that, he would have gone back
7 into the regular population.
- 8 A. Yes.
- 9 Q. Okay. When did your direct involvement with Mr. Marshall
10 as his parole officer conclude?
- 11 A. About then, about the time that he escaped.
- 12 Q. Did you deal with him after he came back from the escape?
- 13 A. On a formal basis, I don't believe so. I don't believe I
14 completed any further reports.
- 15 Q. Did you ever talk to him about it?
- 16 A. Certainly I talked to him about the escape.
- 17 Q. What did he say about it?
- 18 A. That he was going to see about his appeal.
- 19 Q. Did you believe him?
- 20 A. Yes.
- 21 Q. Do you recollect any other discussions with Mr. Marshall,
22 subsequent to him coming back from the escape?
- 23 A. Not on a formal basis. Only on a casual basis.
- 24 Q. The only other...
- 25 A. He did not have much to do with staff after that.

1 Q. He didn't?

2 A. Because he... No, he realized that he had blown the credibility
3 that he had been working to establish.

4 Q. Did it set him back substantially in terms of his credibility?

5 A. Yes.

6 Q. The escape?

7 A. Yes.

8 Q. Yes?

9 A. Yes.

10 Q. What was the attitude of the staff towards him when he came
11 back?

12 A. Sit there and get nothing.

13 Q. What does that mean? Sorry, "sit there and get nothing"?

14 A. The staff, by and large, no longer trusted him, were no longer
15 willing to help him get out. He had to prove himself all over
16 again.

17 4:15 p.m.

18 Q. So he starts back at square one.

19 A. Yes.

20 Q. The only other document in the materials which seems to
21 bear on you directly is page 159, and it's a couple of years
22 later in June of 1981, case conference at Springhill in which
23 you're noted as being one of the persons in attendance. Can
24 you tell us what gave rise to this particular meeting?

25 A. At that time Donald Marshall had been back in Dorchester

1 Penitentiary for close to a year, I think, eight or nine months
2 I think, I think from the previous October if I remember
3 correctly.

4 Q Uh-hum.

5 A. And the case management staff working with him in
6 Dorchester were considering moving him back to Springhill
7 again as a step forward.

8 Q Right.

9 A. Starting him again on the path to release. And whenever a
10 lifer was being considered for movement from maximum
11 security, such as Dorchester was then, to medium security
12 there would be a case conference involving staff from both
13 institutions. Usually it only involved institutional staff. In
14 the case of Donald Marshall it involved both institutional
15 staff and parole service staff.

16 Q Why would that have been?

17 A. Because parole service staff had had quite a bit of
18 involvement with him, both when he was in Dorchester and
19 when he was in Springhill, and the purpose of this case
20 conference was to consider whether or not it was a feasible
21 idea to move him back from Dorchester to Springhill.

22 Q Right. And the consensus of the meeting was that it wasn't,
23 is that...

24 A. Yes, that's right.

25 Q Okay. Is, was it then an option for him to go straight from

1 maximum security at Dorchester to, for instance, an
2 institution like the Carlton Centre?

3 A. It was an option. It was the option we recommended
4 basically. I think we were recommending actually that he
5 go from Dorchester to Westmoreland which was a minimum
6 security institution and then to Carlton Centre. It would not
7 be usual for an individual to go directly from maximum
8 security to a halfway house such as Carlton Centre, but, you
9 know, the Parole Board members could have granted that
10 sort of release. They have that discretion.

11 Q. And was this report or progress summary, as it's called, at
12 159, generated then as result of disagreement between the
13 staff at Dorchester and those at Springhill as to what should
14 happen to Junior Marshall?

15 A. No, it was generated as an account of what happened during
16 the case conference. It would have been generated even if
17 there had been total agreement.

18 Q. Why was the case conference set up in the first place then?

19 A. The case conference was set up to consider whether or not
20 he should be moved from Dorchester to Springhill.

21 Q. Right. And there was a disagreement about that.

22 A. There was.

23 Q. Yeah.

24 A. But what I'm saying is that if we had all been in an
25 agreement the report would have existed.

MS. McCONKEY, EXAM. BY MR. SPICER

1 Q. Sure. It was the lack of precision of my question which
2 caused that answer. I think I was really trying to ask you
3 what caused the conference as much as what caused the
4 report itself, I think that...

5 A. What caused the conference was...

6 Q. Yeah.

7 A. ...his desire to come back to Springhill.

8 Q. Okay.

9 MR. CHAIRMAN

10 Westmoreland is a provincial institution.

11 MS. McCONKEY

12 No, it's a federal institution, minimum security.

13 MR. CHAIRMAN

14 Minimum security. Where?

15 MS. McCONKEY

16 It's located outside the prison walls of Dorchester. It's a
17 farm camp.

18 MR. SPICER

19 Q. Fairly handy to Dorchester?

20 A. Yes, a stone's throw.

21 Q. Did you have any further involvement with Junior
22 Marshall's case subsequent to June of 1981?

23 A. No.

24 Q. Did Junior ever discuss with you his relationship with Sandy
25 Seale?

1 A. Only that they played sports together and that he knew him.

2 Q. Did he say anything about Sandy's activities on the night of
3 the murder?

4 A. No, I don't remember him saying that.

5 Q. Other than the fact that Junior Marshall maintained his
6 innocence over the period of time that he was in the
7 institution, was there anything else that was unusual about
8 him as an inmate?

9 A. No, he was a relatively typical inmate.

10 Q. Was there...did you notice any difference in the way you
11 dealt with him or the way that he dealt with you to your
12 knowledge by reason of the fact that he was an Indian?

13 A. No.

14 Q. No.

15 A. No.

16 Q. You dealt with other lifers that were Indians?

17 A. Yes.

18 Q. And you didn't notice any difference between Junior and
19 white lifers, for instance, people who were...

20 A. He was perhaps a bit more soft spoken.

21 Q. Right.

22 A. Except when he was angry.

23 Q. And did you...or did you understand that that soft
24 spokenness had anything at all to do with the fact that
25 Junior was an Indian or merely that he was just a soft-

1 spoken person?

2 A. I think that I would have included that it had to do with
3 the fact that he was a native.

4 Q. Did you draw any conclusions from the fact that he was soft
5 spoken?

6 A. No.

7 Q. No.

8 A. Only that I had to listen more closely to hear him.

9 Q. Right. Would he tend to initiate conversations or would you
10 be the one that would have to tend to initiate them?

11 A. It varied. We went through cycles.

12 Q. Uh-hum.

13 A. Initially I initiated them as I did with virtually all inmates.
14 We went through a period of time when he would initiate
15 them and would make a point of talking to me or asking to
16 talk to me or stopping in during my office hours, and then
17 we went through another period of time when he was quite
18 angry because he wasn't getting the privileges he felt he
19 should be getting and he would avoid all staff.

20 Q. Do you think on the whole that as Junior's parole officer that
21 you got along with him?

22 A. Yes. It was my impression that I did.

23 MR. SPICER

24 Thank you.

25

12565 MS. McCONKEY, EXAM. BY MR. SPICER

1 MS. DERRICK

2 My Lords, it's twenty-five after four and I certainly will be
3 more than five minutes.

4 MR. CHAIRMAN

5 More than twenty?

6 MS. DERRICK

7 Conceivably.

8

9 4:22 p.m. - INQUIRY ADJOURNS TO 31 MAY 1988 - 9:30 a.m.

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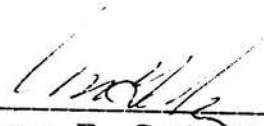
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REPORTER'S CERTIFICATE

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



Margaret E. Graham

DATED THIS 30 day of June 19 88 at Dartmouth, Nova Scotia