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Vol 236
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**ROYAL COMMISSION ON THE
DONALD MARSHALL, JR., PROSECUTION**

Volume 73

Held: June 2, 1988, in the World Trade and Convention
Center, Halifax, Nova Scotia

Before: Chief Justice T.A. Hickman, Chairman
Assoc. Chief Justice L.A. Poitras and
Hon. Justice 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:
Counsel for Donald Marshall, Jr.

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

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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1
2 MR. CHAIRMAN

3 Associate Chief Justice Poitras will not be with us today, he
4 has some significant duties to perform in his court in Quebec. So
5 we will carry on as best we can. Miss Derrick.

6 MS. DERRICK

7 Thank you, My Lord.

8 SUPERINTENDENT A. E. VAUGHAN, recalled and previously sworn,
9 testified as follows:

10 EXAMINATION BY MS. DERRICK

11 Q. Superintendent Vaughan, when we left off yesterday we
12 were just referring you to Volume 34 at page 52, which is
13 Mr. Marshall's Dorchester statement.

14 A. Yes.

15 Q. Because you had rec...we were relating this to the police in
16 1971 suspecting Mr. Marshall and I think you were making
17 a comment with respect to Mr. Marshall's juvenile behavior,
18 providing them with some grounds to suspect him of Mr.
19 Seale's murder. That...are we on track together?

20 A. I believe.

21 Q. And you will note that in Volume 34 at page 52 of Mr.
22 Marshall's statement there are references by Mr. Marshall to
23 being questioned a lot by John MacIntyre for things like
24 knocking over gravestones, dynamite caps and was kicked
25 out of Wentworth Park, although there's no reference to

1 when these things happened or how often. Now what I'd
2 suggest to you is that what's described here is pretty typical
3 kid stuff.

4 A. Not in my view it isn't.

5 Q. Is that right? You think that that would give a police officer
6 a good basis for suspecting someone of murder?

7 A. Well, that good basis for suspecting murder is a difficult
8 question. A lot of murders are committed by people who
9 have no record at all. But certainly that's anti-social
10 behaviour that Mr. MacIntyre seems to have...seems to have
11 been confronted with on a number of occasions on the part
12 of Mr. Marshall.

13 Q. And you don't think that it's quite a leap from that kind of
14 behaviour to suspecting Mr. Marshall of murdering Sandy
15 Seale?

16 A. Well, we're talking also, not only of being in the graveyard
17 and knocking over tombstones and dynamite caps. But
18 we're also talking about what policemen, at least, consider
19 fairly serious crime in terms of robbing people in the park.
20 That's normally considered, in our view, a violent crime.

21 Q. But I thought that that was part of the problem here that
22 you've taken the view that Mr. Marshall didn't disclose that
23 at the time...

24 A. Yes.

25 Q. ...which would have made him less likely to be a suspect if

- 1 he had, I think that's basically what you say in your letter.
- 2 A. No, my position really is that when we were discussing this
3 yesterday that that type of activity would be consistent
4 with...robbery would be something that would be consistent
5 with what Mr. MacIntyre would be used to dealing with
6 with Mr. Marshall.
- 7 Q. I think I'm not following you because I understood
8 yesterday that it was the nondisclosure of this robbery that
9 you say...
- 10 A. Put it this way. If Mr. Marshall had disclosed that robbery
11 that would be more consistent with Mr. MacIntyre's
12 association with Mr. Marshall than encountering a man who
13 just chanced...a chance encounter with somebody who
14 resembles a priest in the park and somebody winds up
15 dead.
- 16 Q. Although Mr. MacIntyre never dealt with Mr. Marshall in
17 terms of a robbery. There is no evidence of that...
- 18 A. No, no.
- 19 Q. ...at all.
- 20 A. I realize that.
- 21 Q. Right.
- 22 A. But what I'm saying is had he disclosed that information it
23 would be more consistent with the behaviour of Mr.
24 Marshall.
- 25 Q. So that's the same...

- 1 A. In Mr. MacIntyre's mind.
- 2 Q. ...thing as say...sorry, I didn't mean to interrupt.
- 3 A. In Mr. MacIntyre's mind.
- 4 Q. So that's the same thing as saying Mr. Marshall isn't really
5 believable unless he's up to no good.
- 6 A. No, I'm saying it's more consistent with what Mr. MacIntyre
7 was dealing with in terms of Mr. Marshall.
- 8 Q. Even though Mr. Marshall was never charged and never
9 convicted for any violent offences prior to this one.
- 10 A. Yes. Mr. Marshall did not disclose the fact that he was in the
11 park for the purpose of robbing anybody. However, Mr.
12 MacIntyre had dealt with him on a number of occasions in a
13 criminal activity way and had he disclosed that to him it
14 may have seemed more credible to him the story, than the
15 story that was presented.
- 16 Q. And it isn't your experience as a police officer that the
17 disclosure of a violent crime, a violent offence like robbery,
18 during the course of which a killing occurs would make a
19 person more likely to be suspected of the murder rather
20 than less likely.
- 21 A. Not necessarily.
- 22 Q. In fact, in May of 1971, there was no evidence of any
23 animosity between Mr. Marshall and Mr. Seale.
- 24 A. Not that I'm aware of from the reports.
- 25 Q. And there was no evidence of Mr. Marshall being a violent

1 person.

2 A. No evidence of...

3 Q Mr. Marshall being a violent person.

4 A. Well, in my view, robbing people is a violent crime.

5 Q But there was no evidence of that in May of 1971.

6 MR. BAILEY

7 Excuse me, My Lords, I'd just like to remind everyone that
8 my ...Superintendent Vaughan was not even in the division in
9 1971. Superintendent Vaughan didn't come to the division until
10 1985. I just wonder since you've already heard the evidence of
11 the persons who were directly involved in that activity whether
12 there is much to be gained, if anything, from a questioning of
13 my...of Superintendent Vaughan on these lines.

14 MR. CHAIRMAN

15 None to be gained. The only involvement, as I understand
16 it, of Superintendent Vaughan is when he, at the request or as a
17 result of a memorandum from Staff Sergeant Wheaton, reviewed
18 the file and reached certain conclusions. We have the advantage
19 of having heard the evidence of most or certainly some of the
20 witnesses who are referred to in the file. So we would have
21 Superintendent Vaughan at a distinct disadvantage. He only
22 having the...what's written there.

23 MR. BAILEY

24 I certainly think that it's germane as to the basis for his
25 conclusions and...

1 MR. CHAIRMAN

2 That's right, and he's explained this but...

3 MR. BAILEY

4 ...so on, but as to whether or not there was evidence or not I
5 don't know that my client is able to answer those kinds of
6 questions.

7 MR. CHAIRMAN

8 I'm not disagreeing with you.

9 MS. DERRICK

10 My Lord, I...perhaps I can clarify this. I'm certainly asking
11 Superintendent Vaughan with respect to what evidence he saw
12 upon his review of the file.

13 MR. CHAIRMAN

14 He's told us.

15 MS. DERRICK

16 I...and I think that it is germane with respect to him then
17 drawing the conclusions that he has and that's why I was
18 pursuing that line of questioning.

19 MR. CHAIRMAN

20 But it's...you know.

21 MS. DERRICK

22 He has said MacIntyre and his investigators certainly had
23 grounds to suspect Marshall.

24 MR. CHAIRMAN

25 Right. When you read the statement of Donald Marshall,

1 I've forgotten the page now.

2 MS. DERRICK

3 52.

4 MR. CHAIRMAN

5 Page 52, which points out the danger of placing too much
6 emphasis on what...on what people read many years later. You
7 started by saying, "I was picked up by the Sydney police on
8 several occasions. I was questioned." But there were two other
9 sentences proceeding that which read,

10 I guess you would say (this is Donald Marshall)
11 I was a bad young boy. I drank a lot and
12 generally hung around. I was picked up by the
13 Sydney police, city police on several occasions. I
14 was questioned by John MacIntyre for things
15 like knocking over gravestones, dynamite caps
16 and was kicked out of Wentworth Park.
MacIntyre didn't like me as I wouldn't talk or
confess of these crimes.

17 But by taking bits and pieces out of it it conveys the wrong
18 impression, and if we're going to cross-examine Superintendent
19 Vaughan as to how he could conceivably arrive at the conclusion
20 that he did based on his knowledge that he gleaned from the file
21 then surely the whole paragraph should be read into the record,
22 shouldn't it?

23 MS. DERRICK

24 Well, My Lord, respectfully I don't believe that changes
25 anything. That's certainly a matter for argument.

1 MR. CHAIRMAN

2 That's right.

3 MS. DERRICK

4 On this...

5 MR. CHAIRMAN

6 And that's...

7 MS. DERRICK

8 ...point, but I...I...and I believe I have my answers, wanted to
9 draw out the fact from Superintendent Vaughan that upon his
10 review of the file there was no evidence disclosed that there was
11 animosity between the parties or that Mr. Marshall was a violent
12 person and that statement doesn't disclose those things either.

13 MR. CHAIRMAN

14 Well, again, as you say, that's a matter for argument.

15 MS. DERRICK

16 Q. Superintendent Vaughan, in your review of the materials in
17 preparation of this letter, did you have occasion to review Al
18 Marshall's 1971 reinvestigation report?

19 A. Yes, I read his report.

20 Q. So that was part of the entire...

21 A. Yes.

22 Q. ...materials that you looked at. In your letter at page...I'm
23 looking at page 74, this is Volume 20.

24 A. Yes.

25 Q. Are you acknowledging in that final paragraph where you

1 say,

2 There's one other point to be considered in the
3 overall analysis of MacIntyre's actions in the
4 investigation of the Seale murder. MacIntyre's
5 position would undoubtedly be that although his
6 methods of interrogation may have been
7 somewhat irregular or forceful they were
8 intended to elicit truthful statements from the
9 three witnesses referred to earlier.

10 Then you say, "Furthermore, that the three witnesses
11 incorrectly misconstrued the intent of his methods to be
12 threatening or coercive leading them to provide false
13 information."

14 A. Yes.

15 Q. Are you, in effect, saying there that on the evidence you had
16 before you you determined that the actions of Mr.
17 MacIntyre were subjectively viewed as threatening or
18 coercive, but you're saying that this was misunderstood or
19 misconstrued by Chant, Pratico and Harriss?

20 A. What I'm saying there is that Mr. MacIntyre may have used
21 forceful tactics but that he believed that Marshall was guilty
22 of the offence. He was attempting to elicit the truth from
23 them and that in the statements that the witnesses provided
24 they have taken the approach that Mr. MacIntyre used as to
25 suggest that he had counseled them to perjure themselves.

Q. So you're effectively giving Mr. MacIntyre the benefit of the
doubt. You're saying that he didn't intend to be threatening,

1 they merely took it that way.

2 A. On the basis of my review of the file I did not see what is
3 alleged to be criminal activity on the part of Mr. MacIntyre.
4 I read overzealousness, I read retaining or detaining
5 witnesses for a long period of time, I read allegations of
6 desk pounding and using a loud voice. But I didn't read
7 anything in there of...that would connote criminal activity.

8 Q. And are you saying, in effect, that you believe the witnesses
9 lied because of an error on their part?

10 A. I believe they incorrectly interpreted Mr. MacIntyre's
11 actions.

12 Q. So they took it wrong what was going on, that's what you're
13 saying.

14 A. Oh, absolutely.

15 Q. Would it not be fair to say that if a witness feels threatened
16 by a police officer then the police officer must be being
17 threatening, it's a subjective thing?

18 A. Well, he could very well have been intimidating.

19 Q. I'd suggest to you that it's not proper that a police officer be
20 intimidating.

21 A. It's not an accepted practise, no.

22 Q. It's not a proper practise.

23 A. No.

24 Q. You said in your direct evidence that...yesterday, that
25 perhaps Mr. Chant lied because of "powers of suggestion by

1 the police", I think those were your words. Am I not right
2 in saying that it's not proper for the police to suggest things
3 to witnesses that aren't true?

4 A. It's a tactic that's used. It may not be...it may not be
5 according to Hoyle, but it's a tactic that's used. It may not
6 be accepted in courts if a person happens to be an accused,
7 but there are many tactics that are used by police.

8 Q. It's not a proper tactic though, is it?

9 A. Well, it's a tactic that's used, I guess you could say that it's
10 not proper in that sense.

11 Q. Well, you don't approve of it as a tactic.

12 A. Not necessarily, no.

13 Q. Effectively in your preparation of your opinions here you
14 dismissed Superintendent Bentley, Barlow and Staff
15 Sergeant Wheaton.

16 A. Yes.

17 Q. And their criticisms of the police.

18 A. Yes. I didn't necessarily dismiss aggressive tactics, if that's
19 what you're talking about. I dismissed their notion that I
20 should launch an investigation into criminal activity.

21 Q. If the allegations of the witnesses have included physical
22 brutality by the police would you have felt there should be
23 an investigation then?

24 A. Physical brutality?

25 Q. Yes.

SUPT. VAUGHAN, EXAM. BY MS. DERRICK

1 A. Oh, well, physical brutality is an offence.

2 Q. So you would have felt there should be an investigation if
3 the allegations had amounted to that.

4 A. Into that particular offence, but not necessarily counseling
5 perjury, but I mean we'd have to see what the
6 circumstances would be.

7 COMMISSIONER EVANS

8 Are we talking about hypothetical situations or are we
9 dealing with actual situations?

10 MS. DERRICK

11 No, I was asking...

12 COMMISSIONER EVANS

13 There's no, absolutely no suggestion that any physical
14 violence...

15 MS. DERRICK

16 No.

17 COMMISSIONER EVANS

18 ...was ever used.

19 MS. DERRICK

20 And I certainly wasn't suggesting in this case that there was.

21 COMMISSIONER EVANS

22 Well, what's the point then in discussing it?

23 MS. DERRICK

24 I guess the point in why I put it to Superintendent Vaughan
25 is to determine at what point he would feel that there ought to be

1 an investigation.

2 A. Well, I've...I've testified yesterday that there would have to
3 be some proof of facts that would lead objectively to the
4 inference that Mr. MacInyre wilfully counseled these
5 people to tell an untruth.

6 Q. To your knowledge there has never been an internal review
7 by the Sydney Police force with respect to these matters.

8 A. Well, I have no knowledge of that, no.

9 Q. So if there were improper tactics being used in 1971 they
10 could have still been going on in 1986 for all you would
11 know?

12 COMMISSIONER EVANS

13 Well, how is this witness going to answer that? He has told
14 you he knows nothing about the internal operations of the Sydney
15 Police force.

16 MS. DERRICK

17 Thank you, My Lord.

18 COMMISSIONER EVANS

19 I think you're way off line on this type of questioning and
20 it's not helping us any. What we're trying to find out is what
21 happened and getting evidence from people who know what
22 happened. This man knows nothing about that.

23 MS. DERRICK

24 Thank you, My Lord.

25 Q. In Volume 34, Superintendent Vaughan, at page 89. This, I

1 believe, is a report by Staff Sergeant Wheaton in May of
2 1982 and it is the report in which the reference is made to
3 Mr. Edwards advising Staff Sergeant Wheaton of Gordon Gale
4 saying that the interviews with respect to MacIntyre and
5 Urquhart should be held in abeyance for the present. And
6 then at the very end of the report he says, Staff Sergeant
7 Wheaton says, "This file will be held open pending further
8 instructions as well as new areas of investigation which may
9 come to light." From whom would those instructions come?
10 Who would provide those instructions, the further
11 instructions that are referred to?

12 A. I can't answer you that question.

13 Q. So you don't know what he would be referring when he says
14 that, whether he means furthers instructions from the RCMP
15 or further instructions from the Attorney General's
16 Department.

17 A. There was a report, and I'm not sure of the date, that went
18 in after suggesting that our investigation into the Seale-
19 Marshall matter had been completed, and we could proceed
20 with whatever. I don't know whether that comes before or
21 after. So I'm uncertain and I can't answer your question. If,
22 in fact, the Seale murder investigation by Mr. Scott and Mr.
23 Wheaton had been completed then I would suggest that an
24 investigation into practises and procedures used by the city
25 police, that instruction would have to come from the

1 Attorney General's Department. But I don't know what he's
2 alluding to there. He could be alluding to further
3 investigation with respect to the Seale murder that he was
4 involved in legitimately, but other than that I can't respond.

5 Q. If my recollection is correct, I think the reference to the
6 investigation being complete, in fact, predated this.

7 MR. CHAIRMAN

8 Paragraph 4, I think.

9 MS. DERRICK

10 Yes, thank you, My Lord.

11 Q. In paragraph 4, page 88, "In regards to the Ebsary-Marshall
12 portions of this file all avenues of investigation known to
13 date have been completed."

14 A. Yes.

15 MR. CHAIRMAN

16 Staff Sergeant Wheaton's report of 1982 we're looking at.

17 MS. DERRICK

18 It's paragraph 4.

19 MR. CHAIRMAN

20 Yes.

21 SUPT. VAUGHAN

22 A. Well, I would...I can make the assumption that the...he's
23 waiting for Mr. Gale to offer this...the direction that they
24 proceed with the interview of, in Mr. Wheaton's mind, of Mr.
25 MacIntyre and Mr. Urquhart.

1 Q. Thank you. Superintendent, just a few other questions. If
2 you turn to page 100 of Volume 20, Volume 20 is the
3 volume that has your letter in it. Page 100 is Mr. Coles'
4 response to your letter.

5 A. Yes.

6 Q. Is that what you expected in terms of a response?

7 A. Well, when I wrote it over, as I testified yesterday, if in fact
8 they had any advice to offer with respect to my
9 interpretation of the evidence then I would expect them to
10 respond to that, giving me some advice. This letter says, in
11 fact, they agree with that.

12 9:54 a.m.

13 A. Cont'd.

14 So if you're asking me whether I anticipated the Attorney
15 General's Department to come back and say, "Lay a charge," or
16 "Don't lay a charge," or "You've got evidence," or "You haven't,"
17 I had no anticipation in that respect. I had drawn my
18 conclusions on it and any advice that they may wish to offer
19 to me. If was a misinterpretation and I've had another look
20 at it.

21 Q. And did you expect this advice to take the form of being legal
22 advice, like a legal opinion?

23 A. Yes.

24 Q. With respect to the issue of...

25 A. With respect to the strength of the evidence.

1 Q. With respect to counselling, the offence of counselling
2 perjury?

3 A. That's right. But as I say, I didn't have any particular
4 anticipation. That was my conclusion. If they had something
5 to offer, they would have offered it.

6 MS. DERRICK

7 Thank you, Superintendent Vaughan.

8 MR. CHAIRMAN

9 Mr. Pugsley?

10
11 EXAMINATION BY MR. PUGSLEY

12
13 Q. Superintendent Vaughan, my name is Ron Pugsley and I'm
14 acting for John MacIntyre.

15 A. Yes, sir.

16 Q. Yesterday, His Lordship, Mr. Justice Evans, addressed some
17 questions to you about Staff Wheaton coming too early to the
18 decision that Marshall was innocent. Do you recall those
19 questions?

20 A. Yes, I do.

21 Q. And it's my recollection of the evidence and of what His
22 Lordship said that it was on February the 16th that Wheaton
23 came to the conclusion that Marshall was innocent at a time
24 when he had interviewed only and taken statements from
25 only three people; namely, Sarson and Chant and Jimmy

Recess - 2

Margaret E. Graham Discovery Service

298 PORTLAND STREET, DARTMOUTH, N.S. B2Y 1K4

PHONE: 469-5734

To: All Solicitors

From: Margaret E. Graham

Date: June 6, 1988

Re: Daily Transcripts.

Errata

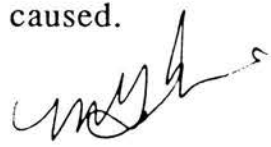
Volume 72, Page 12882, Line 25 should have added:

"was submitted, that were submitted by Staff Sergeant Wheaton and, in particular, his 1983 summation." Insert corrected page as attached.

Volume 73, Pages 12966 to 12978 should have:

SUPT. VAUGHAN, EXAM. BY MR. PUGSLEY as a header, instead of exam. by Ms. Derrick.

I apologize for any inconvenience this may have caused.



M. Graham

1 A. Yes.

2 Q. He had not yet interviewed Patricia Harriss and he had not
3 yet interviewed John Pratico. Now do you agree with the
4 suggestion that that was too early in the investigation to come
5 to the conclusion that Marshall was innocent?

6 A. He may have concluded that, but he continued his
7 investigation. I don't believe that it's premature to arrive at
8 certain conclusions, as long as you don't leave it at that
9 without furthering your investigation.

10 Q. Quite so. As long as you don't fall victim to tunnel vision, as
11 has been, as the term has been described.

12 A. That's correct.

13 Q. And you've indicated that you did not feel that Sergeant
14 Wheaton fell victim to tunnel vision because he kept an open
15 mind in the balance of the investigation with respect to the
16 innocence or guilt of Donald Marshall, Jr.

17 A. The reports would indicate that.

18 Q. Yes.

19 A. Yes, sir.

20 Q. Assuming that he did not fall victim to tunnel vision in that
21 regard; that is, with respect to whether or not Donald
22 Marshall, Jr. was innocent or not, I want to suggest to you that
23 he did fall victim to tunnel vision with respect to John
24 MacIntyre and his involvement vis-à-vis pressuring Chant
25 and Pratico.

1 MacNeil.

2 A. Yes.

3 Q. He had not yet interviewed Patricia Harriss and he had not
4 yet interviewed John Pratico. Now do you agree with the
5 suggestion that that was too early in the investigation to come
6 to the conclusion that Marshall was innocent?

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23 Marshall, Jr. was innocent or not, I want to suggest to you that
24 he did fall victim to tunnel vision with respect to John
25 MacIntyre and his involvement vis-à-vis pressuring Chant

1 and Pratico.

2 A. I would have to... It would be conjecture on my part to
3 answer this question.

4 Q. Yes.

5 A. But I will answer it, if you wish. I don't believe, and as I say,
6 it's simply an opinion of mine, I don't believe that at that
7 particular point in time Mr. Wheaton or others (otherwise it
8 would have wound up in the reports) believed Mr. MacIntyre
9 had committed a criminal offence. I believe that people,
10 policemen, and I don't think that they're in isolation, live with
11 certain situations for a long period of time and become
12 emotionally involved in them and they may very well arrive
13 at conclusions after a period of time that certain things were
14 wrong.

15 Q. Conclusions that might be either right or wrong.

16 A. That's correct.

17 Q. When do you feel that Wheaton came to the conclusion that
18 MacIntyre had been guilty of some criminal offence?

19 A. I don't know. I don't believe, as I say, it was at that
20 particular time, for a number of reasons which I've stated,
21 such as the pertinence of the, or the relevance of the
22 document that it was allegedly placed under the table.
23 There's absolutely no mention of counselling perjury or any of
24 those types of tactics, overt acts, anything else in any of the
25 correspondence that I've read.

1 A. I would have to... It would be conjecture on my part to
2 answer this question.

3 Q. Yes.

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5 it's simply an opinion of mine, I don't believe that at that
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21 document that it was allegedly placed under the table.
22 There's absolutely no mention of counselling perjury or any of
23 those types of tactics, overt acts, anything else in any of the
24 correspondence that I've read.

25 Q. That, of course, goes to the issue of whether or not, in fact,

1 that incident occurred at all.

2 A. That's correct.

3 Q. Certainly there's nothing in his report of May, 1983, a year
4 after, as I recall it, that takes this hard line about counselling
5 perjury. It's not until the 1986 report that he's that adamant.

6 A. That's right, sir.

7 Q. Yes.

8 A. In the reports. I don't know what has been discussed
9 verbally. I have no knowledge of that.

10 Q. Well, certainly on an examination of the reports, I believe it's
11 May of 1983 and again May of 1986, there appears to be a
12 sharp turn.

13 I do, however, want to go back to the question of
14 tunnel vision as far as MacIntyre is concerned and suggest to
15 you that he was guilty of tunnel vision and that having come
16 to the conclusion that Marshall was innocent, as he did on or
17 about the 16th of February, it was necessary for him to come
18 to the conclusion that Chant and Pratico had lied when they
19 gave evidence at trial. That, I take it, necessarily follows.

20 A. You're talking about Mr. MacIntyre and tunnel vision?

21 Q. I'm sorry, Wheaton. Wheaton having come to the conclusion
22 that Marshall was innocent, having come to that conclusion on
23 or about the 16th of February, 1982, Staff Wheaton
24 necessarily had to come to the conclusion that Chant and
25 Pratico had lied when they gave evidence.

1 Q That, of course, goes to the issue of whether or not, in fact,
2 that incident occurred at all.

3 A. That's correct.

4 Q Certainly there's nothing in his report of May, 1983, a year
5 after, as I recall it, that takes this hard line about counselling
6 perjury. It's not until the 1986 report that he's that adamant.

7 A. That's right, sir.

8 Q Yes.

9 A. In the reports. I don't know what has been discussed
10 verbally. I have no knowledge of that.

11 Q Well, certainly on an examination of the reports, I believe it's
12 May of 1983 and again May of 1986, there appears to be a
13 sharp turn.

14 I do, however, want to go back to the question of
15 tunnel vision as far as MacIntyre is concerned and suggest to
16 you that he was guilty of tunnel vision and that having come
17 to the conclusion that Marshall was innocent, as he did on or
18 about the 16th of February, it was necessary for him to come
19 to the conclusion that Chant and Pratico had lied when they
20 gave evidence at trial. That, I take it, necessarily follows.

21 A. You're talking about Mr. MacIntyre and tunnel vision?

22 Q I'm sorry, Wheaton. Wheaton having come to the conclusion
23 that Marshall was innocent, having come to that conclusion on
24 or about the 16th of February, 1982, Staff Wheaton
25 necessarily had to come to the conclusion that Chant and

1 A. That's correct.

2 Q. And that is correct and then he was then required, I suggest,
3 to make a determination as to why they had lied.

4 A. That's right.

5 Q. And he came to the conclusion or the determination that they
6 had lied because of improper pressure on the part of
7 MacIntyre?

8 A. That's correct.

9 Q. Yes, all right. Now do you agree that his investigation into the
10 circumstances surrounding whether or not Chant and Pratico
11 had lied would necessarily involve talking to those people
12 who were present when Chant and Pratico were interviewed?

13 A. His investigation, I believe, did include the interview of
14 people like Mr. Magee and Mrs. Chant. I believe that's
15 correct, yes.

16 Q. It did not, however, include interviewing John MacIntyre?

17 A. No, it did not.

18 Q. And it did not include interviewing William Urquhart?

19 A. No, it did not.

20 Q. And one would have thought that those were two rather
21 essential persons that one would want to interview in order
22 to assess the reliability of the statements made by Chant and
23 Pratico they were improperly pressured?

24 A. That would be a logical assumption if, in fact, the
25 investigators at the time believed that to be a relevant issue,

1 Pratico had lied when they gave evidence.

2 A. That's correct.

3 Q. And that is correct and then he was then required, I suggest,
4 to make a determination as to why they had lied.

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7 had lied because of improper pressure on the part of
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22 essential persons that one would want to interview in order
23 to assess the reliability of the statements made by Chant and
24 Pratico they were improperly pressured?

25 A. That would be a logical assumption if, in fact, the

1 pertinent issue.

2 Q. Do you agree that it would be relevant that when taking
3 statements from witnesses such as Chant and Pratico, that in
4 the event they alleged they were pressured improperly by
5 policemen, that it would be appropriate and right and
6 thorough to put down in the statement the name of the
7 individuals involved who were doing the improper
8 pressuring?

9 A. To include their names...

10 Q. Yes.

11 A. In the reports?

12 Q. Yes.

13 A. Yes.

14 Q. That would be a key element to include in the report, I take
15 it?

16 A. Well, yes.

17 Q. Yes. Did you notice that there were statements taken from
18 Maynard Chant by the investigators in 1982? One as late as
19 April the 20th?

20 A. Yes.

21 Q. And the first one on February 16th.

22 A. Yes.

23 Q. The first one was an abortive interview because of a wake
24 going on in the Chant home, at which Carroll and Wheaton
25 were both present. But that statement is signed. The second

1 investigators at the time believed that to be a relevant issue,
2 pertinent issue.

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4 statements from witnesses such as Chant and Pratico, that in
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24 Q. The first one was an abortive interview because of a wake
25 going on in the Chant home, at which Carroll and Wheaton

1 statement, April 20th, some more than two months later,
2 taken by Carroll and Hyde, I believe, neither one of those
3 statements identifies MacIntyre as exerting any improper
4 pressure at all.

5 A. Yes, I agree with you.

6 Q. And I suggest to you that if MacIntyre had been identified by
7 Chant in either one of those statements, that it would be
8 critical for the investigators to put that down in the
9 statement?

10 A. I'm not... To answer that question, I would have to presume
11 that Chant knew who MacIntyre was, his identity and so on to
12 identify him in the statement.

13 Q. Quite so.

14 A. But if he did, then, and he had those allegations to make, then
15 most assuredly, he should have put it in the statement.

16 Q. Did not Staff Wheaton advise you that Maynard Chant told he
17 and Carroll that it was MacIntyre that improperly pressured
18 him?

19 A. Yes.

20 Q. Do you not find it singular that he advises you that verbally,
21 but Chant himself in the written statement is not able to
22 confirm that identification?

23 A. Well, it may very well be attributed to an oversight on the
24 part of Mr. Wheaton. I don't think there's any deliberate
25 attempt to mislead, if that's where we're going.

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2 statement, April 20th, some more than two months later,
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25 part of Mr. Wheaton. I don't think there's any deliberate

1 Q. I'm not suggesting that, and I'm not suggesting either
2 whether it was in bad faith or good father or what, but do you
3 not find it singular that two statements taken from one
4 witness, and one of the very few witnesses in the
5 reinvestigation that was interviewed on two occasions and
6 gave two statements, that he was not able to identify
7 MacIntyre in either one? And yet, Wheaton was making the
8 verbal assertions that Chant could identify MacIntyre as
9 improperly pressuring him.

10 A. Yes, well, as I said, it may very well be that it was verbally...
11 He was verbally identified to Mr. Wheaton and didn't include
12 it in the statement. It wasn't a complete statement in that
13 context.

14 Q. Both statements were not complete.

15 A. Yes.

16 Q. Carroll and Wheaton both. Do you not find it rather singular
17 as well that when Wayne Magee was interviewed on April
18 2nd by Harry Wheaton, that Wayne Magee advised Staff
19 Wheaton that MacIntyre had not improperly pressured
20 Maynard Chant on the June 4th statement taken in
21 Louisbourg?

22 A. Yes.

23 Q. And yet that very key fact was not included in the statement
24 by Harry Wheaton. Do you not find that rather unusual?

25 A. When they took the statements, I'm really not sure what they

1 attempt to mislead, if that's where we're going.

2 Q. I'm not suggesting that, and I'm not suggesting either
3 whether it was in bad faith or good father or what, but do you
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21 Maynard Chant on the June 4th statement taken in
22 Louisbourg?

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25 by Harry Wheaton. Do you not find that rather unusual?

1 had in their mind. I'm of the view that they certainly did
2 interview them with respect to pressure tactics. There's no
3 question of that. They did carry out that dimension of the
4 investigation. I'm not convinced that they had in their mind
5 at that time any notion of criminality on the part of Mr.
6 MacIntyre and Mr. Urquhart. And that is the only conclusion
7 that I can come to for the omission of certain things.

8 Q. Yes, but would not a trained investigator, upon coming to the
9 conclusion that a man is innocent, a man who is convicted
10 essentially on the evidence of two eyewitnesses. Those two
11 eyewitnesses say that they lied under pressure from the
12 police when they gave evidence before a jury in 1971. Would
13 not a competent and careful investigator want to find out why
14 they lied? That's pretty germane, isn't it?

15 A. It's germane, there's no doubt about it at all.

16 Q. Conceivably, they may not be telling the truth when you
17 interviewed them in the reinvestigation. You want to assess
18 whether or not their statements...

19 A. Yes.

20 Q. At that time are accurate.

21 A. Yes.

22 Q. And I suggest to you further that it was rather singular that
23 at the statement taking on June 4th in Louisbourg when we
24 have either six or seven people present.

25 A. That's correct.

1 A. When they took the statements, I'm really not sure what they
2 had in their mind. I'm of the view that they certainly did
3 interview them with respect to pressure tactics. There's no
4 question of that. They did carry out that dimension of the
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23 Q. And I suggest to you further that it was rather singular that
24 at the statement taking on June 4th in Louisbourg when we
25 have either six or seven people present.

1 Q. That there's only one person, one person who says that
2 Wayne Magee was not present. And that person was not
3 there at all. That person was Harry Wheaton. That person,
4 eleven years later in 1982, says he doubts that Wayne Magee
5 was there at all. And yet Wayne Magee says he was there
6 and MacIntyre says he was there and Urquhart says he was
7 there and Beudah Chant says he was there and Maynard
8 Chant says he was there. The only person who says he
9 doesn't think he was there was Harry Wheaton. Now I
10 suggest to you that these things indicate to me that Staff
11 Wheaton had tunnel vision as far as MacIntyre's involvement
12 was concerned. He was, he came to the conclusion that
13 MacIntyre was the villain and he adopted that scenario
14 throughout the piece.

15 A. That may very well be. I don't know what was in Staff
16 Wheaton's mind when he...

17 Q. All right.

18 A. Chose to disbelieve that Mr. Magee's testimony was wrong or
19 statement was wrong.

20 Q. In Volume 20 in, I believe it's page 80, your memorandum
21 that is dated 86-06-12.

22 A. Yes, sir.

23 Q. In the last paragraph, you say:

24
25 I would strongly advise Staff Wheaton not to

1 A. That's correct.

2 Q. That there's only one person, one person who says that
3 Wayne Magee was not present. And that person was not
4 there at all. That person was Harry Wheaton. That person,
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24 Q. In the last paragraph, you say:
25

SUPT. VAUGHAN, EXAM, BY MR. PUGSLEY

1 discuss this case at all with any media or other
2 unauthorized persons in any detail whatever.

3 Is that the message you conveyed to Wheaton "in any detail
4 whatever," or did you indicate to him that he was not to
5 discuss it at all?

6 A. He was advised and he understood that he wasn't to discuss
7 this matter with the media, period.

8 Q. Right. Were you aware at that point in time that he, and this
9 is June of 1986, when I say "at that point in time," because I
10 don't know the exact dates when Staff Wheaton met with
11 Michael Harris on the eight occasions and discussed freely and
12 voluntarily any virtu... It would appear any question that
13 Michael Harris wanted to ask. The book is published in '86.
14 The preface written by Michael Harris is dated, I believe, June
15 of 1985, which suggests that the interviews with Harris took
16 place before your memo of June 12th, 1986. Were you aware,
17 in fact, that Wheaton had met with Michael Harris on eight
18 occasions?

19 A. No, I wasn't.

20 Q. What comment do you make concerning that kind of conduct
21 by an R.C.M.P. officer while the Ebsary case is still before the
22 courts?

23 A. Well, our instructions are quite clear, that these types of
24 interviews are not to be given under circumstances where
25 people are still before the courts, whether it's Ebsary or

1 I would strongly advise Staff Wheaton not to
2 discuss this case at all with any media or other
3 unauthorized persons in any detail whatever.

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5 whatever," or did you indicate to him that he was not to
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19 occasions?

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22 by an R.C.M.P. officer while the Ebsary case is still before the
23 courts?

24 A. Well, our instructions are quite clear, that these types of
25 interviews are not to be given under circumstances where
people are still before the courts, whether it's Ebsary or

1 Marshall or whomever.

2 Q. Has any action ever been taken against Staff Wheaton at any
3 time, not only with respect to this particular investigation, but
4 any other investigations in which he has been involved with
5 respect to his comments to the media or leaks to the media?

6 A. Not to my knowledge. I can't honestly answer you that. I
7 don't know and I haven't checked.

8 Q. I see. Where could one check that? How would it be possible
9 to check that?

10 A. Well, that would have to be ascertained through his officer
11 commanding or through the administration officer for the
12 division.

13 Q. I see. Who is the administration officer for the division?

14 A. Currently, it's Superintendent Sabean.

15 Q. Sabean?

16 A. Sabean, that's right.

17 Q. S-A-B-E-A-N?

18 A. That's right.

19 Q. He resides in Halifax, does he?

20 A. That's correct, sir.

21 Q. You were asked yesterday why there was no mention in
22 writing in 1982 of the Patricia Harriss incident of slipping it
23 under the table and your answer, I believe, and I stand to be
24 corrected on this, was he was not really dealing with the
25 activities of John MacIntyre at that time and that might have

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3 time, not only with respect to this particular investigation, but
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25 activities of John MacIntyre at that time and that might have

1 been a reason why it was not included in the... And you were
2 speculating, I think, but I think that was the speculation that
3 you offered. Am I correct on that?

4 A. In part. I'm of the view that Staff Sergeant Wheaton wasn't
5 looking, and this, of course, again, is speculation and it may be
6 right or it may be wrong, but I have a notion that at that
7 particular time, the investigators may have felt some
8 manipulation, whatever, but I don't believe, because of those
9 various omissions, that they believed a criminal offence had
10 taken place. And I'm also fairly certain that had the senior
11 officers in the division, and I'm referring to the criminal
12 operations officer, had they been of the opinion or had
13 knowledge that that was a suspicion, I'm quite certain that
14 there would have been a direction to interrogate them.

15 Q. I can accept that... I may or may not accept... Or I may or
16 may not argue with you concerning that speculation in 1982,
17 but surely it does not hold up in 1986 when Staff Wheaton
18 was asked to comment and, indeed, did comment on the
19 conduct of MacIntyre and says that he should be charged
20 criminally. But, again, no mention at all in 1986 of slipping a
21 piece of paper on the floor.

22 A. No, there's no mention of it at all.

23 Q. No.

24 A. And I have no explanation for it in '86.

25 Q. And if he may not have been thinking about in '82, he

1 been a reason why it was not included in the... And you were
2 speculating, I think, but I think that was the speculation that
3 you offered. Am I correct on that?

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21 piece of paper on the floor.

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25 Q. And if he may not have been thinking about in '82, he

1 certainly, and did, in fact, think about MacIntyre's conduct in
2 1986 when he recommended perjury charges.

3 A. That's correct.

4 Q. But, again, singular that there was no mention in the written
5 report in '86.

6 A. That's right, sir.

7 Q. You mentioned yesterday, talking about methods of
8 interrogation and you said, I think the words used, "a
9 widespread practice in 1971 to put it to witnesses, 'You're
10 lying, tell me the truth,'" that kind of approach.

11 A. Well, I said that it wasn't unique to Mr. MacIntyre, that
12 practice.

13 Q. I think, and I may be wrong, I think the words you used, sir,
14 were "widespread practice."

15 A. Okay, fine, I'll accept that.

16 Q. Are you prepared to...

17 A. Yes.

18 Q. Accept that description as an appropriate description for that
19 type of interrogation in 1971?

20 A. Perhaps I should qualify that by saying that not every
21 policeman in the country would use that tactic, but it had
22 been used.

23 Q. Sure.

24 A. There's no question of it at all.

25 Q. And you're aware that, I don't mean of your own personal

1 certainly, and did, in fact, think about MacIntyre's conduct in
2 1986 when he recommended perjury charges.

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19 type of interrogation in 1971?

20 A. Perhaps I should qualify that by saying that not every
21 policeman in the country would use that tactic, but it had
22 been used.

23 Q. Sure.

24 A. There's no question of it at all.

25 Q. And you're aware that, I don't mean of your own personal

1 experience, but you're aware that that practice was in vogue
2 in various places throughout Canada in 1971?

3 A. It had been used in various places, yes.

4 Q. Would that... In this particular case, Chief MacIntyre knew
5 that the first written statement that he took from Pratico and
6 Chant both were lies, knew that they had lied. And may I
7 suggest to you that all the more reason why it would be a
8 legitimate tactic to say to witnesses who you knew had
9 already lied to you, "Look it, I want the truth."

10 A. Oh, yes. However, you also have to recognize, in my view,
11 that when you're dealing with young people and you use
12 forceful tactics, it's not a proper tactic to use force, and
13 particularly when you're dealing with young people, because
14 of that very suggestive nature that they have. And that's the
15 danger of that type of thing.

16 Q. It is, indeed, although there's no suggestion in the first Chant
17 interview on May 30th by Chant himself that there was any
18 pressure of any kind by MacIntyre.

19 10:15 a.m.

20 A. I agree with that.

21 Q. And yet he did lie.

22 A. I agree.

23 Q. Yeah. So the investigator is put in a difficulty situation
24 when he's faced with that set of circumstances.

25 A. And the qualification, I believe I put on it, is that if the

1 statements are to be believed, because my opinions are
2 being expressed from reports that are written.

3 Q. Yes.

4 A. I have no direct, not having been here, knowledge of...

5 Q. Quite so.

6 A. ...those types of things.

7 Q. Yes. We sort of skimmed over your background,
8 Superintendent Vaughan, and I must admit I just glanced
9 briefly at the two pages. Can you condense for us verbally
10 your background with the force? You've been with the force
11 for thirty-one years?

12 A. Yeah, thirty-two in the end of July. Well, it's...I've been all
13 over Canada literally.

14 Q. Yes. You've fulfilled various functions during the course of
15 your career.

16 A. I've worked on detachments and highway patrol units. A
17 fair number of years in plainclothes responsibilities and in
18 audit responsibilities and then in the commission ranks as
19 an assistant OC and assistant...or an OC, assistant CIB officer
20 and CIB officer, criminal operations officer.

21 Q. The kind of investigation carried out by Staff Wheaton and
22 Staff...and Jim Carroll on this case in 1982, that's the kind of
23 work you had done in the past in your career.

24 A. I have, yes.

25 Q. Yes.

SUPT. VAUGHAN, EXAM. BY MR. PUGSLEY

1 A. With one qualification again.

2 Q. Yes.

3 A. I did not, during that period of time, investigate a case that
4 had been commenced by another city police force.

5 Q. I see. But as far as investigation itself is concerned you've
6 done that...

7 A. Yes.

8 Q. ...on many occasions.

9 A. Yes, sir.

10 MR. PUGSLEY

11 Thank you, sir, that's all the questions I have.

12 MR. CHAIRMAN

13 Mr. Murray.

14 MR. MURRAY

15 Thank you, My Lord.

16 EXAMINATION BY MR. MURRAY

17 Q. Superintendent Vaughan, my name is Donald Murray. I'm
18 representing William Urquhart and I have a few questions
19 in a very narrow area for you in relation to Mr. Urquhart.
20 Your ultimate letter dated August 1st, '86, to Gordon Gale,
21 has very brief reference to Mr. Urquhart, only as an
22 assistant in the investigation. I take it that Staff Wheaton's
23 letter to you in 1986 setting out what he felt were improper
24 practises and why John MacIntyre ought to be charged with
25 perjury contained no similar complaint of William Urquhart.

SUPT. VAUGHAN, EXAM. BY MR. MURRAY

1 A. No, it did not, sir.

2 Q. You then conducted an independent review of the material
3 in the file.

4 A. Yes.

5 Q. To see if Staff Wheaton's remarks with respect to John
6 MacIntyre were justified. I take it that if you had come
7 across documentation in the file or anything which
8 suggested misconduct by Mr. Urquhart you would have
9 independently assessed that as well.

10 A. Yes.

11 Q. There was no documentation that you could find that
12 suggested any criminal conduct on the part of Mr. Urquhart.

13 A. Not at that time, no, sir.

14 Q. The only documentation, I suggest, that could cast any
15 aspersion on Mr. Urquhart would be in reference to Patricia
16 Harriss and the allegations about being with her for a
17 number of hours.

18 A. That's right, sir.

19 Q. I'd like you to turn to Volume 20, at page 55, 65 rather.

20 A. Yes, sir.

21 Q. And there's a sentence...

22 COMMISSIONER EVANS

23 What page?

24 MR. MURRAY

25 Page 65, Your Honour.

SUPT. VAUGHAN, EXAM. BY MR. MURRAY

1 Q About six lines down there's a sentence that begins, "She
2 will give evidence..."

3 A. Yes. I see that.

4 Q And it reads,

5
6 She will give evidence that Detective Urquhart
7 did not want to hear about these other two men.
8 She was turned over to MacIntyre who kept
9 badgering her for hours and hours until she
10 eventually told him what she saw.

11 And continues on. Then in the third paragraph on that page
12 there's a concluding sentence, "After a five-hour interview
13 with the former Chief and Detective Urquhart she had forgot
14 the two men and stated that the only people on the street
15 were Marshall and Seale."

16 A. Yes.

17 Q If Mr. Wheaton was wrong about those two facts then any
18 basis for criticism of Mr. Urquhart in relation to Patricia
19 Harriss disappears as well.

20 A. From what I can see in the correspondence.

21 Q And from what you recall from your review of the file
22 material.

23 A. Yes.

24 MR. MURRAY

25 I have no further questions.

MR. BARRETT

No questions, My Lord.

EXAMINATION BY MR. PINK

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Q. Superintendent Vaughan, my name is Darrel Pink and I'm here on behalf of the Attorney General's Department. I just have a very few areas to cover with you. In your letter of August 1, 1986, to Mr. Gale on the first page, at the end of the first para...end of the second paragraph you say, "It should not have been construed in any way, " at page 72, "It should not have been construed in any way as precluding a police investigation at a later date if such was deemed necessary and warranted," that's with regard to Staff Sergeant Wheaton's report of May 20th, '82.

A. That's right, sir.

Q. And, in fact, the RCMP did carry on the investigation as it related to Mr. Ebsary. If you could look at Volume 34 at page 114.

A. 34. Yes, sir.

Q. The investigation pertaining to Mr. Ebsary and the eventual charge against him did continue and there was this further report from Corporal Carroll.

A. Yes.

Q. And, in fact, the investigation as it related to the Marshall murder investigation or the Seale murder investigation also continued, and on page 123 on that volume.

A. Yes.

Q. There is a further report.

1 A. Yes.

2 Q. Pertaining to that. Correct.

3 A. Yes, right, sir.

4 Q. And so the RCMP in Sydney did deem it necessary to carry
5 on their investigation and were able to do so.

6 A. Oh, they did, yes, indeed. In terms of the Seale
7 investigation, yes.

8 Q. Staff Wheaton in his report to you, which preceded, which
9 was part of your review of the file made reference to a
10 three-phase investigation.

11 A. Yes, sir.

12 Q. From your review of the file material did you find any other
13 reference to the investigation having been broken down into
14 three separate and distinct phases?

15 A. It's included, I believe, in these '82 reports having
16 completed the phases and then moving into the interview of
17 Mr. MacIntyre and Mr. Urquhart, the interviews of these
18 people, is this what you're referring to?

19 Q. Well, did you...is that the only reference then to MacIntyre
20 and Urquhart being distinct from everything else?

21 A. That I can see.

22 Q. And is there anything that breaks up the Ebsary murder
23 investigation as a separate and distinct investigation from
24 the...or the charges against Ebsary as opposed to the
25 reinvestigation as it pertained to Donald Marshall?

1 A. Not that I'm aware of.

2 Q. Thank you. Sir, you...in your resumé that you prepared for
3 this hearing, Exhibit 156.

4 A. Yes, sir.

5 Q. On page 5 at the very bottom you say as follows,

6
7 Recognizing the Attorney General is responsible
8 for the administration of justice we sent copies
9 of serious crime reports to the department
10 because of his accountability to the public
11 interest and he must assured of an adequate
12 level of police service to the public.

13 A. Yes.

14 Q. Am I correct that the reports we see in the Marshall file
15 would qualify as serious crime reports?

16 A. Yes, indeed, and, in fact, with respect to the Marshall matter
17 the Attorney General's Department, at least, I don't know
18 prior to 1982, but certainly since 1982 they've received
19 everything that had been submitted on it.

20 Q. And in general and specifically regarding the Marshall
21 matter, you would expect the serious crime reports to
22 accurately and completely reflect what the investigator was
23 doing.

24 A. Yes.

25 Q. And the reports prior to reaching the Attorney General
would be commented on by senior officers and sometimes
the criminal operations officer.

1 A. That's correct, sir.

2 Q And they, too, would reflect what they were thinking and,
3 about the investigation.

4 A. That's right, sir.

5 Q And the Attorney General's Department would only have the
6 knowledge that's gained...that's in the reports of the
7 thoughts and reflections of the officers conducting the
8 investigation.

9 A. And that's true at the criminal operations officer's level also.

10 Q I guess it's just magnified one level...

11 A. Yes.

12 Q ...when it gets to the Attorney General's Department.

13 A. That's correct.

14 Q Finally, sir, I just wanted to make sure I understood your
15 evidence from yesterday regarding the RCMP's role in the
16 Province. As I understand your evidence, the RCMP really
17 conducts two types of policing in the Province: federal
18 policing and provincial policing.

19 A. That's correct.

20 Q Federal policing involves all federal statutes except the
21 Criminal Code and I might be missing environmental or
22 something may also fall under it.

23 A. Yes, sir.

24 Q The provincial policing is done in Nova Scotia by contract.

25 A. That's right, sir.

- 1 Q Between the Province and the Federal Government.
- 2 A Yes.
- 3 Q And under the police contract the RCMP become the
4 provincial police force as that's defined in the Police Act.
- 5 A That's correct, sir.
- 6 Q And have powers throughout the Province as the provincial
7 police force.
- 8 A That's correct, sir.
- 9 Q The contract specifies the municipal units or the type of
10 municipal units in which the RCMP polices.
- 11 A That's right, sir.
- 12 Q And RCM...and the RCMP can become involved in municipal
13 policing in one of three ways, I suggest to you. One by
14 contract with the municipality directly.
- 15 A That's correct, sir.
- 16 Q By being requested by the Attorney General to carry out an
17 investigation in an area of municipal jurisdiction.
- 18 A That's right.
- 19 Q Or by being invited into a municipal jurisdiction by the local
20 police force.
- 21 A That's correct. But we, in fact, will retain the right based on
22 the availability of our resources to do that type of thing or
23 the nature of the case.
- 24 Q And if a municipal police force invites the RCMP into their
25 jurisdiction.

SUPT. VAUGHAN, EXAM. BY MR. PINK

1 A. That's correct.

2 Q Nothing is required from the Attorney General to give them
3 specific power to police in that area.

4 A. Not that I'm aware of.

5 Q They have...RCMP officers have the authority by virtue of
6 being provincial police officers to investigate in that area.

7 A. Right, sir.

8 Q Thank you, sir.

9 MR. PRINGLE

10 I think perhaps we have the option of going third from last,
11 My Lord, in this case. We may have nothing to ask.

12 COMMISSIONER EVANS

13 I just wanted to ask you one question. Dealing with the...you
14 go by contract or are requested by the AG's Department or a
15 request by the local...

16 SUPT. VAUGHAN

17 Police department.

18 COMMISSIONER EVANS

19 Police department. But I take that latter would be a very
20 limited participation.

21 SUPT. VAUGHAN

22 It is. It's normally in the area of assisting the police
23 department to investigate a particular case. They may need
24 technical assistance.

25

SUPT. VAUGHAN, EXAM. COMMISSIONERSCOMMISSIONER EVANS

Yes.

SUPT. VAUGHAN

And this is done quite frequently on an ongoing basis, whether it's...

COMMISSIONER EVANS

But if it was going to be any lengthy period would you not contact the AG's office.

SUPT. VAUGHAN

Yes, we would have deliberation with them on that matter, particularly in cases like the Marshall matter and I believe some negotiation took place with Mr. Edwards, if I'm ...

COMMISSIONER EVANS

I was thinking particularly when they brought in the polygraph man from some place, you wouldn't be spending your funds without not having some idea of reimbursement by the Province, I take it.

SUPT. VAUGHAN

Yes, indeed, it's a very serious consideration, the amount of our resources, because we do contract with the Province for police services.

COMMISSIONER EVANS

Thank you.

MR. CHAIRMAN

Superintendent, with respect to reporting, it's my

SUPT. VAUGHAN, EXAM. COMMISSIONERS

1 understanding from some witnesses we've had testify who are
2 members of your force that when a report is sent into the CIB
3 officer, I'm thinking particularly now of Inspector Al Marshall's
4 report.

5 SUPT. VAUGHAN

6 Yes, My Lord.

7 MR. CHAIRMAN

8 It is then read by one or more readers.

9 SUPT. VAUGHAN

10 It may be read by one or more readers, generally one
11 reader, and forwarded on to the...I see it then.

12 MR. CHAIRMAN

13 What is shown on that report to indicate that it has been
14 read?

15 SUPT. VAUGHAN

16 Well, first of all, if it's being forwarded on to the Attorney
17 General's Department, normally it would be signed with a
18 forwarding minute by the criminal operations officer or his
19 designate, in his absence, and directed to the Deputy Attorney
20 General. And in other cases where it's forwarded as a matter of
21 course it's stamped, "Copy forwarded to the Attorney General's
22 Department."

23 MR. CHAIRMAN

24 I think you told Miss Derrick that you had read the report of
25 Inspector Marshall.

SUPT. VAUGHAN, EXAM. COMMISSIONERS

1 SUPT. VAUGHAN

2 I had, yes, sir.

3 MR. CHAIRMAN

4 Is that the kind of report that you would anticipate would
5 be forwarded to the Department of the Attorney General.

6 SUPT. VAUGHAN

7 Yes, sir.

8 MR. CHAIRMAN

9 Now, where is...

10 MR. WILDSMITH

11 Mr. Ross asked with your indulgence for me to go ahead of
12 him.

13 MR. ROSS

14 Now, I am here.

15 EXAMINATION BY MR. ROSS

16 Q. Superintendent Vaughan, my name is Anthony Ross and I'd
17 like to ask you one or two questions on behalf of Oscar Seale
18 and the Black United Front. Now there is one concern that
19 I've had for a while and perhaps you might be able to help
20 me clear this up. I'd ask you to look at Volume 34, please.

21 A. What page?

22 Q. Page 5 through 8. Those four pages. The first page, in fact,
23 is captioned "Occurrence report" and the following pages are
24 a continuation of the report. And without going into the
25 content of the report, I just wanted to find out whether or

1 not it was a practise in the RCMP to create a running
2 narrative of the work being done on any particular officer
3 when investigating a major crime?

4 A. On any particular officer?

5 Q. By, yeah, no, by any particular officer, if he...if he's got a
6 narrative of his activities.

7 A. Yes. This is the type of form that they would use and that
8 may translate itself into a formal report on another form. If
9 you look at the bottom, you'll see the number C237 into our
10 headquarters.

11 Q. Sure, I understand that.

12 A. Yes.

13 Q. So, then if one was to get, to look at a total RCMP file on a
14 major investigation, is it fair to say that you should find the
15 occurrence...the occurrence report followed by almost daily
16 continuation sheets reflecting the activity of the officer and
17 from time to time comprehensive reports?

18 A. Find them where, at our headquarters level?

19 Q. Some place, I don't know.

20 A. Well, at the detachment level where the investigation is
21 being done, you would find the occurrence reports. You may
22 not find those in the headquarters' file.

23 Q. I see.

24 A. In our file, at our headquarters' level. You would find the
25 formal report itself.

1 Q I see. But as far as the daily activity sheet, there is no
2 requirement to file a sheet on what each officer is doing.

3 A. Oh, the normal course of the investigation, yes, they write
4 these on these occurrence reports and then ultimately an
5 investigative report, if it's required, would be found on a
6 formal reporting document which would go forward.

7 Q. Sure. Let's forget about the formal reporting document for a
8 minute then and let's just deal with the occurrence report
9 and the continuation sheet. I take it when you reviewed
10 this file, you would have had access to the occurrence report
11 and a substantial number of continuation sheets, would you?

12 A. I can't recall seeing the occurrence reports myself. I can't
13 recall. There may have been some on the files, but I don't
14 think so.

15 Q. Well, would you expect, on an investigation of this nature,
16 that there would be occurrence reports reflecting the day-
17 to-day activity of the police officer in charge?

18 A. I would expect that they would have an occurrence report
19 submitted on their activities which would be held at the unit
20 level. But for our decision-making purposes, I would expect
21 a formal report covering the pertinent details to be on our
22 division file.

23 Q. Sure.

24 A. For the information of the people that have to deal with it
25 and make the decisions on it.

1 Q. And I take it, sir, that as far as the occurrence reports are
2 concerned, these should be to a large degree or in large
3 measure consistent with the day-to-day notebook type
4 notes which the officer would take...would make.

5 A. Yes, generally.

6 Q. So, that...

7 A. ...the progress...

8 Q. ...if you were to get his notebook, you'd find entries for the
9 first Monday and every...for, sorry. You'd get his notebook
10 and if there are twenty entries in the notebook for activity
11 with respect to that investigation, those should also appear
12 on the occurrence report some place with an explanation,
13 would you...

14 A. Not necessarily. There may be entries in the notebook that
15 it wouldn't be necessary to enter into an occurrence report.

16 Q. Okay. Thank-you very kindly. Now, coming back to your
17 testimony. As I recall, you indicated that, and just for your
18 recollection, the RCMP is a professional organization that if
19 you're going to make statements, these have got to be based
20 on fact. Do you recall giving that evidence?

21 A. Yes, I do.

22 Q. Yes. And further that as far as the investigation is
23 concerned, that you understood that there was supposed to
24 be an investigation of the Seale murder or a reinvestigation
25 of it, that's the general function in these...

1 A. Yes.

2 Q. Yes. You went further to indicate in response to Miss
3 Derrick, you commented that anti-social behaviour was a
4 reasonable basis to support suspicion of...suspicion of
5 criminal activity.

6 A. That has to be put in this context. I'm talking about Mr.
7 MacIntyre and the story that comes to Mr. MacIntyre by Mr.
8 Marshall that he's in the park and these two people who
9 resemble priests, whatever, they encounter them and Mr.
10 Seale winds up being stabbed. And what I'm intending to
11 convey, if I didn't do it very well, was that not disclosing to
12 or disclosing to Mr. MacIntyre at the outset that the purpose
13 of the encounter was for a robbery would be much more
14 consistent with Mr. MacIntyre's knowledge of and dealings
15 with Mr. Marshall.

16 10:32 a.m.

17 Q. I see. So I take it, then, that subsequent to 1982, when
18 Ebsary was indeed identified as the man behind the knife...

19 A. Yes, sir.

20 Q. That new factors had been brought into the investigation.
21 Number one, you had Ebsary and his personality. He had
22 been classified as, I guess you read the reports, as bizarre,
23 eccentric.

24 A. Yes.

25 Q. A penchant for knives.

1 A. Yes.

2 Q. A fascination by violence.

3 A. That's right.

4 Q. Lived in a strange little world by himself and prone to
5 unprovoked attacks. Do you recall all that?

6 A. Well, I don't necessarily recall "prone to unprovoked attacks".

7 Q. Okay, perhaps...

8 A. But you're probably right.

9 Q. Perhaps I'll tell you where you'll find that. If you look at
10 Volume...

11 MR. BAILEY

12 Excuse me, if it pleases the Commission. If this refers to
13 some report that Superintendent Vaughan has reviewed, once
14 again, I think that to ask to Superintendent Vaughan to go into the
15 personality of Mr. Ebsary, unless it's contained in reports, is not
16 helpful to this Commission and not fair to this witness.

17 MR. CHAIRMAN

18 It's certainly not assisting us, but I gather from
19 Superintendent Vaughan's reply, that you have read the report.

20 SUPT. VAUGHAN

21 I've read a report which described Mr. Ebsary as eccentric.
22 I can't recall the wording...

23 MR. CHAIRMAN

24 The components that made up his eccentricity or his alleged
25 eccentricity. Or that he was given to unprovoked assault. But let's

SUPT. VAUGHAN, EXAM. BY MR. ROSS

1 take all that as a given. Now what's your question, Mr. Ross?

MR. ROSS

2
3 Well, that's the point. All I want to put that as given. Now
4 comes the question.

MR. CHAIRMAN

5
6 All right.

BY MR. ROSS

7
8 Q In light of all of this, recognizing this is 1982. You've got a
9 new personality involved. Why was it still so easy just to
10 accept that Sandy Seale, on the other hand, who could not
11 have been classified as antisocial, or in any way prone to any
12 form of ill conduct, why was it so easy just to accept on face
13 value that he had been involved in a robbery?

14 A. I can't answer it other than the fact that it's happened in the
15 past and where fine young people become involved in
16 activities such as that. He's young. He may have been led. I
17 don't know. I really can't explain it.

18 Q That's exactly the point. He's young and he may have been
19 led.

MR. BAILEY

20
21 Once again, with respect, none of that is in any report that
22 my client, that Superintendent Vaughan has read.

MR. CHAIRMAN

23
24 I know, and I realize that a lot of Superintendent Vaughan's
25 evidence is not very relevant, but I assume counsel to this

1 Inquiry, we're taking advantage of his years of experience and
2 training in the investigatory field to get his professional opinion.

3 MR. ROSS

4 That's all I'm looking for, if it pleases, My Lord.

5 MR. CHAIRMAN

6 And we now have it.

7 MR. ROSS

8 That is the one question that I was concerned with.

9 BY MR. ROSS

10 Q. And I take it, then, that you didn't think it was necessary to
11 look behind the personality of Sandy Seale as it was known to
12 determine... For instance, when you looked at Marshall, you
13 considered his history and the fact that he could be a suspect
14 in the eyes of MacIntyre.

15 A. Yes.

16 Q. And with really fairly good police reasoning.

17 A. Yes.

18 Q. When you looked at Ebsary, he could be a suspect for a man
19 to wield a knife because of his background and character.

20 A. Yes, that's correct.

21 Q. And, as far as Sandy Seale is concerned, the only thing we
22 knew is that he was young and could be led.

23 A. I can't give you any definitive response on that other than
24 what I've already given you.

25

1 MR. ROSS

2 Thank you very kindly.

3 EXAMINATION BY MR. WILDSMITH

4
5 Q Superintendent, my name is Bruce Wildsmith. I'm here for
6 the Union of Nova Scotia Indians. I just have three quick
7 areas for you. I'm looking at Exhibit 156, which is your
8 description of your relationships with the R.C.M.P. and I'm
9 looking at page four of Exhibit 156, the top item that says
10 "Public complaints made to the department about procedures
11 used by policemen."

12 A. Yes, sir.

13 Q I take it when you say "public complaints," you mean
14 complaints by members of the public?

15 A. Yes, I am.

16 Q And would it be also fair to take it that if you had allegations
17 from people who were witnesses at a trial that they had been
18 induced to fabricate evidence by policemen who were, in fact,
19 the police chief and the police inspector that you would
20 regard that as one of these public complaints about which you
21 should have discussions with Mr. Gale.

22 A. Yes.

23 Q That's fair?

24 A. If we had an allegation from a member of a public?

25 Q Yes, somebody who was, in fact, a witness at a trial.

1 A. Yes.

2 Q. It's no less serious, is it, if the allegation comes from a
3 member of your own force?

4 A. Yes.

5 Q. And, therefore, that ought to be the kind of thing that's
6 discussed at your level with Mr. Gale?

7 A. Yes.

8 Q. I'm looking at Harry Wheaton's report now in Volume 34...

9 MR. CHAIRMAN

10 Mr. Wildsmith, can you give me some indication as to how
11 that relates to the Union of Indians?

12 MR. WILDSMITH

13 Yes, I think... I've asked questions in this area before, My
14 Lord, and I think that I had the same difficulty with you before
15 and explained at that time that I'm interested and the Union of
16 Nova Scotia Indians is interested in the way the system of justice
17 is expected to operate as a basis for assessing how it operated
18 with Donald Marshall. It's kind of a comparative concept.

19 MR. CHAIRMAN

20 Well, Donald Marshall, Jr. is represented by very able
21 counsel who, again, today, on cross-examination, canvassed these
22 very issues and I've asked counsel time and time again if they
23 will try and restrict their cross-examination to areas directly
24 affecting their clients. And I'm at a loss on the line of questioning
25 that you're following now, unless you have reason to believe that

SUPT. VAUGHAN, EXAM. BY MR. WILDSMITH

1 if the complaint had involved some member of your client's group
2 that there would have been a different approach taken.

MR. WILDSMITH

4 Well, you see, I think what Your Lordship is asking me to do
5 is separate the notion that Mr. Marshall was divisible into an
6 Indian in some contexts...

MR. CHAIRMAN

8 No, no.

MR. WILDSMITH

10 And not in another.

MR. CHAIRMAN

12 Your clients were granted standing for a specific reason and
13 I recognize that you have a more difficult chore in dealing with
14 racism than many other counsel have in dealing with a more
15 factual situation. But you're now getting into the factual situation
16 relevant to the review by Superintendent Vaughan, and that's all
17 he here's for.

MR. WILDSMITH

19 Yes.

MR. CHAIRMAN

21 Of certain police activities.

MR. WILDSMITH

23 Yes, and the issue I'm interested in is who has responsibility
24 for following up on allegations of misconduct by the police force
25 that, in fact, is responsible for...

SUPT. VAUGHAN, EXAM. BY MR. WILDSMITH

1 MR. CHAIRMAN

2 My understanding of Superintendent Vaughan's evidence so
3 far is that upon receiving the allegation of Staff Sergeant Wheaton
4 with respect inter alia to Chief MacIntyre, that he then reviewed
5 the files that were available and concluded that no further
6 investigation at that time was warranted.

7 MR. WILDSMITH

8 At a certain point.

9 MR. CHAIRMAN

10 At that time. At the time that he wrote his letter to, to Mr.
11 Gale.

12 MR. WILDSMITH

13 Yes.

14 MR. CHAIRMAN

15 Left the door open as to what the R.C.M.P. may or may not
16 do...

17 MR. WILDSMITH

18 That letter was in 1986 that...

19 MR. CHAIRMAN

20 That's right.

21 MR. WILDSMITH

22 That Your Lordship is referring to.

23 MR. CHAIRMAN

24 That's right.

25

SUPT. VAUGHAN, EXAM. BY MR. WILDSMITH

1 MR. WILDSMITH

2 Which is a period here of four years when, between this
3 gentleman's assessment and Mr. Wheaton's suggestion. And I'm
4 trying to figure out who...

5 MR. CHAIRMAN

6 Mr. Wheaton said...

7 MR. WILDSMITH

8 Might have some responsibility in those four years.

9 MR. CHAIRMAN

10 I don't know what four years you're talking about now.

11 MR. WILDSMITH

12 Mr. Wheaton's report that I've just referred Superintendent
13 to was written in 1982, May the 20th, 1982. Now between that
14 and Superintendent Vaughan's letter, August the 1st, 1986, so
15 we've got a period of slightly in excess of four years. Now what
16 happened to the suggestion in that time? We also have Mr.
17 Gale's...

18 MR. CHAIRMAN

19 He doesn't know, does he?

20 MR. WILDSMITH

21 Well, it's the area of responsibility and, surely, a man of his
22 seniority can comment on responsibility in the steps or the chain
23 of command...

24 MR. CHAIRMAN

25 It would have been better if I had allowed the irrelevant

SUPT. VAUGHAN, EXAM. BY MR. WILDSMITH

1 question in the beginning, and we would have the answer. What's
2 the answer to Mr. Wildsmith's...

3 SUPT. VAUGHAN

4 Pardon me, sir?

5 MR. CHAIRMAN

6 What's the answer to Mr. Wildsmith's question?

7 MR. WILDSMITH

8 I don't think I've got around to asking the question, but I'll
9 accept Your Lordship's view that it's not relevant and move on to
10 something else.

11 BY MR. WILDSMITH

12 Q. In Exhibit 156, on page five, Item 10, is your document
13 referring to matters where you routinely send reports on to
14 the Attorney General's Department. Item 10 at the top of
15 page five refers to "hunting offences by Indians."

16 A. Oh, yes, sir, yes.

17 Q. Can you tell me, and perhaps you can't, when that policy or
18 practice came into force, to refer hunting offences by Indians
19 to the Attorney General's Department?

20 A. That relates to the Simon case and the treaty rights of Indians
21 for hunting purposes and it relates to... It relates to our
22 reference to the Attorney General's Department before we
23 take any action.

24 Q. Yes.

25 A. Because I believe that that constitutional issue has not been

1 finally resolved and so our policy instructions, in fact, state
2 that when we come across an Indian hunting then...

3 Q. My question was when, sir?

4 A. Pardon me?

5 Q. When?

6 A. When?

7 Q. When did this directive or this instruction come?

8 A. I believe the Simon decision was 1985 and we've had policy
9 changes two or three times since.

10 Q. And these policy changes are initiated by the Attorney
11 General's Department?

12 A. No, they're initiated by us, but in consultation with the
13 Attorney General's Department.

14 Q. I see. And as you specified it here, I take it that no charges
15 are to be laid until the decision is made by the Attorney
16 General's Department on prosecutions.

17 A. Yes, we receive...

18 Q. How long has the policy been in that form, no charges until
19 direction?

20 A. Well, I can't give you a definitive time. At least a year.

21 Q. Okay.

22 A. I can go that far.

23 Q. A year earlier than today?

24 A. Yes.

25 Q. That's several years after the Simon case?

- 1 A. Yes.
- 2 Q. Okay.
- 3 A. It may have been before but, as I say, I can't be specific on it.
- 4 Q. And does your direction come from officer commanding in
5 Halifax, or Ottawa, or the Attorney General's Department? I
6 think you said there was an R.C.M.P. review in consultation
7 with the Attorney General's Department?
- 8 A. Attorney General's Department of the province.
- 9 Q. Yes, so is consultation at the Halifax level, division level?
- 10 A. That's correct.
- 11 Q. With yourself or with someone else?
- 12 A. Normally, we'll send a report to Mr. Gale.
- 13 Q. Yes, I mean the directions or the instructions, were they ones
14 that you engaged in discussions with with Mr. Gale?
- 15 A. Yes, or the chief reader himself, we'll engage in discussions.
- 16 Q. I don't mean on a case-by-case basis. I mean on the...
- 17 A. On the policy issue.
- 18 Q. Instructions.
- 19 A. I understand what you're talking about, yes.
- 20 Q. So the person that you would deal with in the Attorney
21 General's Department is Mr. Gale?
- 22 A. That's correct.
- 23 Q. Thank you. On page four in your description.... Sorry, on page
24 two in your description. The first item on the reporting
25 system refers to major crimes or sensitive issues. And

1 apparently, in brackets, you indicate what is meant by
2 "sensitive issues". "Ones likely to arouse media attention or
3 political attention."

4 A. That's correct.

5 Q. Can you tell us what then the purpose of referring these
6 sensitive issues are to division headquarters?

7 A. What is the purpose?

8 Q. Yes.

9 A. Our policy instructions set out, from our headquarters in
10 Ottawa, set out fairly clearly that any major issue that is
11 likely to create a great deal of media sensation or involve a
12 member of our organization are to be reported to our
13 headquarters forthwith.

14 Q. What about this reference to political attention?

15 A. That would arouse media attention on a fairly wide basis.

16 Q. I think it's expressed in here as alternates, media or political
17 attention.

18 A. Actually, it's both.

19 Q. Do you know anything about the system of "green tab files"?

20 A. Pardon me?

21 Q. Do you know anything about a system of "green tab files"?

22 A. Yes.

23 Q. Can you tell us about that?

24 A. All that is is a method of classifying documents. There are
25 certain police practices that are used, certain techniques that

1 are used and it's on a need-to-know basis. So, therefore, it's
2 categorized "green border."

3 Q. So "green bordered" files are files created by the R.C.M.P.?

4 A. That's correct.

5 Q. And they are on a need-to-know basis?

6 A. Yes.

7 Q. And would some of those files go to the Attorney General's
8 Department and some not?

9 A. They may, depending on the nature of the investigation and
10 their requirement to have it.

11 Q. Yes. So, on occasion, some of those need-to-know files would
12 go to the Attorney General's Department?

13 A. That's correct, yes, sir.

14 Q. Would they be kept at the Attorney General's Department or
15 just brought in to show to certain people?

16 A. They would be forwarded to the Attorney General's
17 Department and kept within the confines of their record-
18 keeping system.

19 Q. Do you know how long it's been the practice to do that?

20 A. I couldn't... I haven't got the vaguest idea. Some considerable
21 period of time, I'd suggest.

22 Q. 1971?

23 A. It may have been. My recollection wouldn't go back that far.

24 Q. Okay.

25 A. On that.

1 Q. And can you give us some examples of what files would be on
2 a need-to-know basis?

3 A. Well, let me put it this way. We have technical operations
4 that are sensitive and, in the public interest, we don't discuss
5 them. They may involve wiretap operations or they may
6 involve undercover operations or whatever the case may be.
7 And that may very well be the type of report that would
8 have a green border on it. And it may also be a case where
9 we require the assistance of the Attorney General in an
10 operation and that would be one of the categories that I could
11 refer you to.

12 Q. Might some of these files also fall into the category of
13 sensitive issues requiring political attention or involving,
14 likely to arouse political attention?

15 A. I beg your pardon?

16 Q. Would some of these files also involve what's classified in
17 your document as involving sensitive issues that might arouse
18 political attention?

19 A. They may or they may not. It's...

20 Q. Yes, could be in that category.

21 A. They could be.

22 Q. Yes. I also note in your Item 1 on page two in the fourth line,
23 that one of the apparent purposes of sending the reports on to
24 division headquarters is so that readers or analysts could look
25 at them to identify shortcomings.

1 A. That's part of their function, yes.

2 Q. Is it fair for me to think that what's being suggested here is
3 that greater attention is paid to these files with respect to the
4 adequacy of the investigative work that's been done?

5 A. Yes, we want to insure to the extent possible that the
6 operations are carried out with propriety, compliance with
7 the law and the policies of the organization. And that's one of
8 the systems of checks and balances.

9 Q. A more thorough job done in those cases.

10 A. Yes, sir.

11 Q. And I'm also looking at page five, Item 11, and I don't know,
12 maybe this should be cross-referenced with what we've just
13 been discussing. It seems to indicate, if I read this correctly,
14 that this would then be one of those cases that gets more than
15 average publicity, or where there's an indication that the
16 Attorney General's Department will be contacted concerning
17 the case.

18 A. Yes.

19 Q. So that would be amongst the matters that are discussed with
20 Mr. Gale.

21 A. Yes, either directly or by report.

22 Q. Written report, do you mean?

23 A. Yes, sir.

24 MR. WILDSMITH

25 Thank you. Those are all my questions.