

Laying Information

Discussion with Laura: Dor McNeil

What information made available
at that time? ✓

5(1)(d)

Marshall arrest

In detail: where

Warnings:

Conversations

Seizure by Marshall. : back to hi
discovery 15/192

Believe you had your mon.? Continued to
believe this until 1982? 1984?

Search him or house for weapons ✓

12(a)

Roy Gould 16/55

June 7

why take this statement

of evidence
who/when/where of self inflicted wound? Still
believe this in 1984 - Sept. 1982
wanted blood sample. In going to co-operate 15/82
out Marshall? Counsel? Crown Counsel!!

Mattson

16/59

June 8

why wasn't he visited earlier?

16/3

Brian Doucet 16/60 June 14

No reference in Police log to this call

Refer

~~2/91~~

~~who sent this. Explain~~

16/102

~~who prepared.~~

6 (12)(c)

Tom Christmas Incident

In detail
evidence Christmas: Exhibits

4.22 - no evidence offered on this charge

Discuss B & E.

Severity of sentence
want him out of town?

Any other threats:

take any statements? why

16/16

Discuss with Pratio

Buttsworth meeting with Pratio.
Was he advised of this ¹⁹⁸⁰
→ told to check with Woodburn? Denis
Expected to be told by Buttsworth?

June 17/71

His activity that day.

Independent recollection?
Why was Harris picked up? any discussion
with her before.

Harris ① 12/63
when aware of it

How was Harris contacted?
Why?
Was he present?

Harris ↓ Mrs. Harris residence

Why not typed on Sydney Police forms.

Compare ~~the~~ description with Junior
and Mac Neil 12/26 12/17

Convinced she was lying!
15/13 para. 22

Harris (2) 16/65

Is it verification
was she at Police station from 8:15 - 12:25
Not many records for that
period of time.

Was Vegetal present? Why did
he not sign as a witness?
Tell her ~~Harris~~ ^{Gresham} said only 1 present.

Statement

- ① Is this the same lady referred
to by Lord? 16/46 "cutting up middle"
Discovery
 - ② Very leading question. told U she
didn't see Seal 16/65
 - ③ Why asking this question?
 - ④ No witness
- Theory?

Ever take any other statements
from her.

Ever discuss case with her again?
No reference to Mary O'Reilly? why?

16/129 Identify. when made. ^{Before statement.}
_{pos'n from Harris}

for only see:

- (1) Recall of conversation with
Patricia Harris
- (2) Fabrication

The Thursday referred to in this note must
be other than June 17 (Thursday)

June 4 - Friday
Thursdays June 3, 10, 17

Harris evidence

XV

- *2798,9 - Statements kept being taken exp.
- 2802 - She was at Police Station whole time
- 2804 - Wouldn't accept for her to have seen two men
- * 2806 - told about perjury. If say anything different from what in statement would go to jail
- 2807 told mother that night had allowed to say she saw two men in the back.
- 2813 been discussed events of that night in presence of O'Reilly
- 2814 O'Reilly called her it would stick out in her mind
- 2815 Felt pressured + had to agree with things she didn't believe. M^{rs} I & U

Mrs. Harris

- * 2955 when two men mentioned it would be completed + known to her.
- 2956 Patricia began to cry. (also 2959)
- Asked to step out of room - sometimes works out better this way
- * 2957 about twelve scraps of paper on floor.
Lot of pressure

7(13)(c)

Terry Bushue

why was he there?

Did he give earlier statement - evidence
XV 27078

why no copy of earlier one or any notation

contacts with Hurvick during night

Statement

- ① Numerous references to Patterson. ever look him up? 63/65 2/17 2/22
- ② knew that was not correct.
- ③ Vegetarian not noted to be present. (Bushue says they both were XV/2717)

Person standing did the questioning 2766 Bushue

any other contacts or statements from him?

June 18
Mary Patricia O'Reilly 16/74 E. 61

7(14)

How was she taken to Police Station? From where?

Why was she contacted? Any note to track this up?

Parents? Unlisted number.

Statement Remembered evidence. (over)

A. Significance of these statements.
refer p. 129 - she did not know Seal!!
Q. How did he know this. How obtain it.

② what lead him to ask these questions. Very leading

③ U not present according to record

Refer to her evidence - get contradictions

Theory
aware of what going to say? 15/13 para. 20
How?

1 a friend of mine that -- He and I got together this summer, and
2 we started talking about it and she said, "Remember you and I
3 went out and had a cigarette or something?" She said, "Was it
4 an ambulance or a police car?" I said, "I remember a siren,
5 but I can't tell you any more."

6 Q. You were talking about this to a friend just this past summer?

7 A. Yes. Theresa MacNeil, the one that was with me that night.

8 That we went outside and talking but --

9 Q. Have you talked to anybody else about your memories of this?

10 A. No.

11 Q. You were asked if you knew Sandy Seale and you answered, "No."

12 And you were asked if you knew Donald Marshall. You said, "Yes."

13 And you say about halfway down the page:

14 A. He called Saturday morning. He was looking
for Kate, my sister. He talked to me and her.

15 Q. What was the conversation?

16 Then you relate a conversation with Junior. Does that in any
17 way refresh your memory that you may in fact have spoken to
18 Junior, yourself, on that Saturday morning?

19 A. It doesn't refresh my memory. I know that he called, but I
20 don't remember having a conversation with him.

21 Q. Okay, the contents of that which says -- It talks about a gray
22 haired man, about two men, about a cigarette, about Sandy Seale,
23 and about the phrase, "Okay, Blackie," and he stabbed him.

24 Does that in any way refresh your memory?

25 A. No.

MARY CSERNYIK, by Mr. Orsborn

1 Q. Is it possible that you had that conversation with Junior before
2 he spoke to your sister?

3 A. No.

4 Q. It's not possible?

5 A. No.

6 Q. If it's not possible, can you give us any assistance as to how
7 it got on to the statement?

8 A. It doesn't make sense, because even that night when my mother
9 came out and said that it happened, you know, I don't know.
10 And then the next day -- I don't know.

11 Q. Are you telling us now that you would not have given this
12 answer to Sergeant MacIntyre?

13 A. I don't recall giving it.

14 Q. Okay, but is it possible that you could have given it then?

15 A. No. No.

16 Q. If you didn't give it, can you give us any help at all as to
17 where it might've come from?

18 A. Well, maybe they got some statements mixed up. There was more
19 than me that gave a statement about --

20 Q. Yes.

21 A. -- this part anyway.

22 Q. Right. Was --

23 A. You hear so much about gray-haired men and all this. That's
24 something that I never discussed with anybody.

25 Q. Other than you and the two police officers and Catherine for

MARY CSERNYIK, by Mr. Orsborn

1 a short time, was there anybody else in this interview room
2 with you at the time?

3 A. No.

4 Q. Do you know if Sergeant MacIntyre was writing as you were
5 talking?

6 A. I believe he was.

7 Q. What was he writing --

8 A. Or it might've been the other guy too, I don't know.

9 Q. Is that his writing?

10 MR. CHAIRMAN:

11 Whose handwriting is it, please?

12 MR. ORSBORN:

13 My understanding, My Lord, is that it would be Sergeant MacIntyre's
14 handwriting.

15 BY MR. CHAIRMAN:

16 Q. Is this not your handwriting?

17 A. No.

18 Q. Just your signature?

19 A. Just my signature.

20 BY MR. ORSBORN:

21 Q. Do you recall if Sergeant MacIntyre was writing while he was
22 standing up?

23 A. I don't know. If he was writing, he must've wrote it awful
24 fast.

25 Q. Did he sit down at any time while he was talking to you?

MARY CSERNYIK, by Mr. Orsborn

1 A. Not that I remember.

2 Q. Further reference in that statement on the second page of the
3 typed version to a discussion with Patricia Harriss. In 1971,
4 did you know Patricia Harriss?

5 A. Yes, she was in my class in Grade 7.

6 Q. At Central High?

7 A. Yeh.

8 Q. Was she part of the group that you hung around with?

9 A. Not that I recall. She went with Terry Gushue, that's all I
10 remember. Just -- you know.

11 Q. Did you know Terry? Just to see him, yeh. Did you spend any
12 time with him at dances or anything like that?

13 A. Maybe to say hello and a little conversation, that's all.

14 Q. Did you spend any time either with her or with the two of
15 them as a couple in the park?

16 A. No, not that I remember. No.

17 Q. Have you had any discussion with Patricia Harriss concerning
18 this case within the last two or three years?

19 A. No, I haven't.

20 Q. Now, this -- In this statement, the question reads:

21 Q. Did you discuss this matter with Patricia
22 Harriss?

23 And I think by "this matter," he's referring to; or the question
24 refers to the stabbing and the description of the two men.

25 And your answer is:

A. Yes.

MARY CSERNYIK, by Mr. Orsborn

1 | Then the question:

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

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

8 | Do you recall telling the police that you told Patricia Harriss
9 | to tell the two man story?

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

11 | Q. Is it possible that you told that -- told the police that you
12 | had told Patricia about the two men?

13 | A. No.

14 | Q. Why are you so certain?

15 | A. I'm certain because I never discussed it. You know. Like her
16 | and I -- It'd be different if we hung around together. We knew
17 | other. I just knew her as -- You know.

18 | Q. Do you know --

19 | A. I'd like to know where this came from, too.

20 | Q. You and some others. Even though you were going with Steve
21 | Csernyik at this time, was Junior still a friend of yours.
22 | Did you look on him as a friend?

23 | A. Yes. Just as -- You know.

24 | Q. Did you look on his brother, Pius, as a friend of yours at
25 | this time?

26 | A. Yes.

1 Q. Is it possible at all that perhaps you together with your
2 sister Catherine, even when you were talking around school
3 said, "Look, we've got to help Junior", and "This is what
4 Junior says happened and this is what you've got to say".
5 Is that sort of scenario possible?

6 A. No. No.

7 Q. I have one other thing to see if it helps your memory,
8 Ms. Csernyik. Perhaps if she could be shown Volume 16. I
9 don't think she has that. Volume 16 at page 129; 129, number--
10 This is another note, Ms. Csernyik that we believe to be in
11 Sergeant MacIntyre's handwriting. It's a little difficult
12 to read but I'll -- I'll do my best. It says:

13 Mary O'Reilly said to Ms. Harriss
14 that Sandy Seale ran up to the
15 corner where Pollett's is to tell
16 his girlfriend that he was going
17 with Junior. Mary is Margaret
18 O'Reilly's sister. The O'Reilly
19 twins told...

20 I'm not sure if it's "me" or "her".

21 ...to tell the story about the
22 grey haired man. Junior is a
23 good friend of theirs. They
24 hang around with the Indians.
25 Mary told me that in school
last Thursday. She went with
Pius Marshall and now she goes with
Steve...

26 And, I guess, somebody couldn't spell Csernyik. Those
27 references in there to Sandy Seale and -- and Pollett's
28 corner, does that in any way refresh your memory?

MARY CSERNYIK, by Mr. Orsborn

- 1 A. No.
- 2 Q. Do you have any recollection of telling Ms. Harriss at any
3 time that Sandy Seale had run to the corner where Pollett's
4 is?
- 5 A. No. I didn't even know Sandy Seale. I've never met the man
6 in my life.
- 7 Q. At the time you gave this statement to the police you knew that
8 Sandy was the one that had been stabbed?
- 9 A. Well, I just knew of his name. I knew of it and that was it.
- 10 Q. Did you know that Sandy had a girlfriend?
- 11 A. No.
- 12 Q. Would Patricia Harriss know who you were going out with? Would
13 she know that you had gone out with Pius Marshall?
- 14 A. She probably would. It's just, you know --
- 15 Q. Would Sergeant MacIntyre know who you were going out with?
- 16 A. Well, I guess he knew everything.
- 17 Q. Would he have any way of knowing that you had gone out with
18 Pius Marshall?
- 19 A. I think he just said, "Which Indian are you -- are you going
20 with"?
- 21 Q. Do you have any recollection of him saying that to you?
- 22 A. Yes, he just asked me, and I don't know if I hesitated or
23 I didn't want to tell him or -- I had to tell him I guess.
- 24 Q. And what did you tell him?
- 25 A. That I went out with Pius Marshall.

MARY CSERNYIK, by Mr. Orsborn

1 Q. Did you tell him that you were not going out with Pius at
2 the time that you were going out with Steve?

3 A. I don't remember. I told him who I walked home with but --

4 Q. You told him who you walked with?

5 A. Yes.

6 Q. And that was Steve Csernyik?

7 A. Yes.

8 Q. Now the statement that you gave to the police says quite
9 clearly and you did sign it, it says quite clearly that you
10 discussed the matter with Patricia Harriss and that you told
11 her about the grey haired man. I can think of three
12 possibilities of how that got there. The first possibility is
13 that you, in fact, made the statement. The second possibility
14 is that someone perhaps suggested it to you and you agreed.
15 Another possibility is that you didn't make the statement
16 at all and somebody put it there. Are there any other possibilities
17 that you can think of as to how that got on that piece of paper?

18 A. No. Your third possibility is right. Somebody must have put
19 it there because I didn't.

20 Q. Why do you say that?

21 A. Because I don't recall saying that at all. If I did, I did, but--

22 Q. Patricia Harriss when she testified before the Commission,
23 although she said she knew you, she said a number of times
24 that she had not discussed it with you. She did say, I believe,
25 at one point that it was possible that she might have discussed

MARY CSERNYIK, by Mr. Orsborn

- 1 | this with you sometime before she gave the statement to
2 | the police. Given the importance of this notation, I'll ask
3 | you again so that we are sure of what you're telling us. Are
4 | you telling us that it is not possible that you talked
5 | to Patricia Harriss and that it did not happen or that it perhaps
6 | might have happened?
- 7 | A. It's not possible that --
- 8 | Q. Do you recall how long you were at the police station that
9 | morning?
- 10 | A. No, maybe forty minutes and maybe an hour.
- 11 | Q. The -- I think the statement is indicated as starting at
12 | nine-thirty and finishing at nine-fifty which would be about
13 | twenty minutes. Do you recall if you were there in the
14 | interview room for longer than that?
- 15 | A. No, I don't know now if I waited for my sister, until she
16 | finished (I would have been there longer.) or did I come home
17 | or what, you know.
- 18 | Q. Would you have gone back to school?
- 19 | A. It's a possibility I went back to school.
- 20 | Q. Was your mother still there when you got out?
- 21 | A. I don't know. Well, maybe I walked back because it was
22 | only -- The old police station is where the bus line was and--
- 23 | Q. It was pretty close to it?
- 24 | A. Yeh.
- 25 | Q. Is that far from the school?

MARY CSERNYIK, by Ms. Derrick

- 1 | was supposed to say this so it came from her first, I guess.
- 2 | Q. But -- But in your statement, this statement, it's purported
- 3 | that you did -- that you said this. Yes, in answer to the
- 4 | question did you discuss this matter with Patricia Harriss.
- 5 | And you're saying today that it is not possible for you to
- 6 | have said that?
- 7 | A. No, it isn't. No.
- 8 | Q. So where did that portion of your statement come from?
- 9 | A. I don't know.
- 10 | Q. In response to Mr. Orsborn who was asking you questions a
- 11 | moment ago, he gave you three possibilities?
- 12 | A. Yes.
- 13 | Q. And you chose out of those three possibilities -- You said,
- 14 | "Someone must have put it there?"
- 15 | A. Yes.
- 16 | Q. So in your opinion who would have put it there?
- 17 | A. Whoever was copying it down.
- 18 | Q. So therefore, it must have been the police who put it there?
- 19 | A. Yes.
- 20 | Q. Is that your feeling about this statement today?
- 21 | A. Well, it couldn't have been anybody else.
- 22 | Q. It couldn't have been anybody else?
- 23 | A. No.
- 24 | Q. And your evidence today is it's not something that you said?
- 25 | A. No, I never said it.

Catherine O'Reilly

7(14)

where detained? How? Parents why brought in for questioning?

Statement Evidence

① Description - compare with others
detained? why? was ^{people} Mark Hill also part of
this great conspiracy

② W.A. was a witness this time.

!! why not ask her if she spoke with Harris

June 23 4/82

7(15)

Why take this statement?

- ① Done even by midnight
why have this one typed

Rudy Perrin July 2

Why take this? any leads?
tips?

16/127

Was he a police informant. evidence.

Statement

- ① Speak to Lowson?
- ② another good description
- ③ Reference to notes 1st ~~st~~ ^{statement} 2/32

Meade Davis

7/15

Why force this statement.

Attempts to get blood sample from
Jr. using Dr. Virsik - Discaney

16/137

Why have this statement typed &
not the Hansen?

Visits to scene. Reconcile stories

Witness consultation

turn over of material? Originals.

7/16

Deputy

know Rosenblum photo.

Dealings with them in past.

Practice with statements & other file material.

Practice said that Michael Macdonald was also with his mother on this admission - Aug 25/71

- Vol XII 2090

Preliminary — TRIAL

Corbett name: witness

McIntyre → A.G.

Franks notes Vol XVII at 7

McIntyre re Prot ~ 82

Franks notes

Vol XVII at 13 & 14

8(15)

Restis visit to N.S. Hospital. ^{taxn} _{XII/2090}
by Police. aware of this? advise
name? Affidavit & charge. Vol XVII/13914

Ex. 47
April 14/82 ltr to Kezouff.

from Christmas Prosecution

TRIAL

9(18) Present throughout : what told Grand Jury.

Proctor: his recollection

Medicine Museum Khutor
4132

Surprise at verdict: ✓

Key Point: two independent witnesses:

Repe Jury address Mac Neil & from Judge.

Appeal cr. 2/126

2/131

Over

Nov. 15/71

8(19)

His activity:

Instructions from Matheson. Evidence
Interview Jeremy on who was at Elsbury
home on night of stabbing

His Instructions to man:

aware of Elsbury? evidence Andrew M^{rs} Donald
~~these records? 16/11~~

Statement 16/177 ft

John MacNeil

Unquoted took Statement. Why?
Note times 6:25 - 6:40

David 7:10

o In detail: knife worked off
whose handwriting for statement

Jane MacNeil 16/176

9(1a)

In this entire statement. ✓ Did MacNeil
have statements. Surprise?

① Anne Elsay had wife; son:
daughter - why not interview ✓
all of them. mother evidence

② Compare this description with one
✓ given by Marshall 16/17 Haines 16/63
when he saw Elsay wearing blue overalls.
MacNeil

7:25 - 8 - not very detailed.

Know Elsay? Why not ask for
a description

9/19)

Check to determine if Elsay had a record? 14/105 14/1

Would this not be a standard, routine thing to do. ✓

Opinion of Max Hill? Marshall report 16/205
Believe him

If he was telling truth chart +
pictures could not?

9(19)

8:45 - 9:07 Mary Elsbury

Mainly concerned about conversation at Wardslip

- ① Had been an attack in The Park
- ② Why not ask her questions which arise out of Maxwell's statement?
 - Washing knife! ✓
 - What Ray was wearing! ✓
 - Who else home that night! ✓
 - Visit to home next day! ✓
 - Did Ray carry a knife! ✓
 - Was he violent! ✓

How picked up? Kept separate from others?

9:15-10:10

Roy Elsbury

9(19)

Remains knowledge of him

How dressed - Elsbury evidence

① Suspect?

① Some similarities to MacNeil. Never heard of this altercation before

② Usual for conversation with someone solving you?

②(a) any conversation

③ If had record could confront him at this time.

④ Now know a disturbance on Crescent St. in vicinity of murder scene after 11 P.M. on night of stabbing. MacNeil says they got home at 12

Elsbury evidence
p. 244
overleaf

Intend to take a full statement?

i) who home that night

ii) who he drunk - MacNeil?

iii) walking knife

iv) ~~was he wearing blue~~

R. N. EBSARY, by Mr. Pugsley

1 the other fellow and he dropped Jim and ran off with the
2 other fellow."

3 A. Right.

4 Q. Now, the next question is: "Did you stab the man you were
5 wrestling with?" And you responded --

6 A. No.

7 Q. "Hell, no. Why would I stab him?"

8 A. That's right.

9 Q. And there's reference in that statement that you took
10 swipe at or attempted to stab Seale?

11 A. No, because Seale was standing when I made the swipe
12 at him.

13 Q. Yes. You did not tell Detective MacIntyre that you made
14 an attempt to stab Seale?

15 A. Well, I certainly told him that I took a swipe at Seale.

16 Q. That is not in the statement.

17 A. Well, I told him. That's for bloody sure.

18 Q. Did you tell him anything about Marshall? About taking
19 a swipe at Marshall?

20 A. Yes, I did.

21 Q. But that is not in the statement either.

22 A. No, well there you are.

23 Q. I see.

24 A. But I did.

25 Q. Yes. Did you stab the man you were wrestling with? "Hell,

Greg Elson 14/191

9(19)

How did he get there?

time discrepancy.

Why not ask:

Does Ray carry a knife!

Was Greg home night of stabbing!

Who was home?

Was Ray violent!

Wasting knife!

Q 655 - Statement doesn't contain every thing.
There for few hours

Things Could have Done or suggested

line-up - view by Marshall:
Harris: George Marshall

Interview Chord: Patricia

Interview Donna Elsay

Interview Marshall

✓ Get Elsay Report.

✓ Search Elsay home for knife

If had interviewed Donna & had obtained Elsay Report: & asked other questions

- (a) Report of knife offence
- (b) violent man
- (c) worked blood off knife

Should he have done all this

If he had Marshall stay in jail less than 2 weeks

Who introduced R.C.M.P. & why
 Marston evidence
 (over!!)

10(20)

14/131, 132

what expected of R.C.M.P.

What info given to them?
 Marston

Who determines what kept in file? How long?
 Policy re destruction?

Marshall Investigation

What given: Nov. 15 statement
 Preliminary Transcript
 Judge's Transcript portions
 (where get these?) 5613, 14
 other statements - crucial
 pieces of evidence. 5605, 17

What done: Review investigation 5608
 16/205 - went to scene ^{couple of hours.} had conversation 5611
~~told him your theory is~~
~~self inflicted wound~~ 5629, 30 *
 5700, 01
 told him

What not given: 1. conflicting statements of
 Chow + Heatis 5618, 83, 5752
 2. Any statement from Heavis. 5676, 5711
 3. George MacNeil statement or anything
 supporting ~~the~~ Jim MacNeil 5713

OPAC Info given:
 1. Theory re self inflicted wound 5629, 30 5698
 5700, 01
 16/207
 2. Essay conviction - Trivial offense
 5627-29
 5715, 16

3. Thought Marshall statement was a
coinc & bull story 5623 16/205
4. Marshall & Seale went on lobbying
someone. 5694,5 5773 16/206
5. Ebsary & Marshall "somewhat intoxicated"
on night of lobbying 5702
6. Marshall made a "pretense of
summoning aid."

Reason
 not too bright 16/206
 no collaboration. Independent witnesses (judges
 charge)

not aware of lobbying until 1982* 15/213



D. LEWIS MATHESON, by Mr. Orsborn

1 | wouldn't be -- it would be highly unlikely. If a Judge is
2 | in doubt about what he may have in his notes and he
3 | considers it important and he's going to make a comment on
4 | it, he asks the Court Reporter to select that portion from
5 | the record, have it typed, it goes to the Judge. There would
6 | be no reason to expect that any of that information would get
7 | into the file for the Crown or for the defense.

8 | Q. Okay, now after the police advise you that -- of the story
9 | the Ebsary's told you, did you think it necessary to pursue
10 | the matter further?

11 | A. Yes.

12 | Q. What did you do?

13 | A. I -- my immediate superior next to Mr. MacNeil who was
14 | absent was Robert Anderson in Halifax. And I made a call
15 | and determined what his home number was. And I called him
16 | and informed him of the situation pretty well the way I
17 | already outlined to the Court.

18 | MR. CHAIRMAN:

19 | Q. That was the same night?

20 | A. Yes, sir. And it was from the police station in the same room
21 | I called him and asked if he would recommend -- oh, another
22 | thing that I didn't mention. When the police came back, they
23 | indicated that Mr. Ebsary and MacNeil were both willing to
24 | take a polygraph test. And I thought, well, I was in enough
25 | of a quandary. I knew that a polygraph was not admissible

D. LEWIS MATHESON, by Mr. Orsborn

1 evidence in court; but I was in a bit of a quandary and I
2 thought, well, it might be some sort of an investigative
3 aid along with other evidence and I thought it would be a
4 good idea if he was done. And since they were both willing
5 in addition to the other matters I mentioned, the only
6 polygraph instrument operative in Nova Scotia at that time
7 to my knowledge was in Halifax. And I phoned -- when I
8 phoned Mr. Anderson I mentioned that to him too if he could
9 get us a polygraph instrument. I mentioned about whether
10 investigations should be done by another department. I told
11 him my impressions of the witness and everything that -- well I
12 told him, I think, everything that I told the Court up until
13 now.

14 BY MR. ORSBORN:

15 Q. And what advice did you receive from Mr. Anderson?

16 A. He -- he didn't have any further suggestion as to what might
17 be done that night. He told me that he would get back to
18 me about the other matters that I put to him. I don't
19 recall receiving a call the next day. But early the next
20 day I was aware, how I became aware I don't know, that --
21 that Inspector Marshall of the R. C. M. P. and a polygraph
22 operator were coming, I think, the following week to -- to
23 do an investigation.

24 Q. And when you say "to do an investigation", what did you
25 understand by that?

D. LEWIS MATHESON, by Mr. Orsborn

1 | A. Well, I -- I don't recall having any specific details of what
2 | his mandate would be.

3 | Q. What did you want done?

4 | A. Well, I wanted the thing investigated. I had spoke of the
5 | prospect of bringing in another police force and since
6 | Inspector Marshall was coming, I presumed that's what he
7 | was going to do.

8 | Q. You say "you wanted the thing investigated", did you want the
9 | whole thing looked at or simply Ebsary and MacNeil looked at?

10 | A. No, I think it would have been -- if I had been doing it, I
11 | would have talked to more than Ebsary and MacNeil. I would
12 | have talked to the witnesses who gave evidence at the trial
13 | also. At least, if not -- if not -- and then anybody else
14 | that that investigation might bring to light that was unknown
15 | to us at that time.

16 | Q. Did you expect then when the R. C. M. P. became involved, that
17 | they would, in fact, interview witnesses that testified at
18 | trial?

19 | A. Yes, I -- I expected that was -- that was done.

20 | Q. Did you issue any instructions to them not to do that?

21 | A. No, sir. No, it would -- far be it for me to -- I requested
22 | that -- that an investigation be done. And as I said, my
23 | whole presence there -- another thing that was in my mind there
24 | talking to MacNeil, was I don't want to get mixed up so I'm
25 | going to become a witness and, you know, I wanted to get the

D. LEWIS MATHESON, by Mr. Orsborn

1 thing thrashed out; but I don't -- I never presumed to tell
2 police officers how they should conduct their investigation.
3 I might suggest that it would be nice if something was
4 investigated; but -- and I -- I wouldn't -- it wouldn't --
5 it wouldn't occur to me to tell Marshall what to do. If
6 there was anything to be said from the Crown point of view
7 at all, it would have, should have been said, if at all,
8 by Mr. MacNeil. Who by the time Marshall arrived in town was
9 back -- back in his office.

10 Q. And your expectation was, none the less, that the investigation
11 would go beyond Ebsary and MacNeil?

12 A. I understood, yeh.

13 Q. Now did you brief Donald MacNeil on his return?

14 A. Yes.

15 Q. What did you indicate to him?

16 A. Well, I think I told -- certainly told him everything I told
17 the Court here this morning, you know.

18 Q. And what was his reaction?

19 A. Well, I -- I don't remember. I do remember what I was looking
20 for in a way of a reaction. I said, "You know, what else
21 could I, you know, should I have done anything else or...".
22 And I don't really -- as far as I recall, I think, he was
23 satisfied that I had done -- at least, he was kind enough
24 not to be critical of what I had done.

25 Q. Did he then concur in your involvement with the R. C. M. P.?

D. LEWIS MATHESON, by Mr. Bissell

1 | what was wrong with him, but you -- you could have described
2 | it as scared and nervous.

3 | Q. And you had in your mind later that night that -- or at least
4 | what you thought, all of the Ebsarys had been interviewed
5 | and came out with statements that contradicted that given by
6 | Mr. MacNeil. Is that correct?

7 | A. Yes, sir.

8 | Q. So as of that night you really knew of no other evidence other
9 | than perhaps what Donald Marshall himself might say --

10 | A. That's correct.

11 | Q. --that supported what Mr. MacNeil was saying?

12 | A. That's correct.

13 | Q. I gather that the subject of a polygraph first came up as
14 | a result of the --

15 | A. And I want to add to that, I don't recall what the initial
16 | inconsistent statements said, but there may have been something
17 | in that too that -- that would be not simply -- that would have
18 | added to Marshall's contention if you understand my answer.

19 | Q. Yeh. I gather that the subject of the polygraph first came
20 | up as a result of an interview between a member of the Sydney
21 | Police Department and Roy Ebsary. Is that your understanding?

22 | A. It's quite possible.

23 | Q. I take it also on the -- the night of the 15th of November that
24 | you had no reason to question the partiality or the confidence
25 | of Sergeant MacIntyre or Inspector Urquhart?

D. LEWIS MATHESON, by Mr. Bissell

- 1 A. No, I had no reason except that it crossed my mind that -- that
2 maybe it would be better if another force did it. I mentioned
3 that to Mr. Anderson in passing.
- 4 Q. But you didn't doubt their partiality or impartiality?
- 5 A. No, no, no.
- 6 Q. And you didn't doubt that they would be interested in getting to
7 the bottom of -- and determining who, in fact, was the real
8 offender in this particular case?
- 9 A. Yes, sir.
- 10 Q. And you spoke with Mr. Anderson that night about the polygraph?
- 11 A. Yes, I mentioned that both MacNeil and Ebsary were willing to
12 take the polygraph and it might be useful.
- 13 Q. And Mr. Anderson agreed?
- 14 A. I don't remember what Mr. Anderson said, but the next day I knew
15 a polygraph was coming so I presume he agreed.
- 16 Q. You were not a party to any of the arrangements that were made
17 between the Attorney General's Office and the Royal Canadian
18 Mounted Police?
- 19 A. No, sir.
- 20 Q. You didn't see any letter that went to the Royal Canadian
21 Mounted Police from the Attorney General that set out the
22 mandate or the responsibilities of the Royal Canadian
23 Mounted Police in this particular matter?
- 24 A. No, sir.
- 25 Q. Would you agree with me, sir, that for the Royal Canadian Mounted

D. LEWIS MATHESON, by Mr. D. Pink

1 BY MR. D. PINK:

2 Q. One final thing on that, Judge Matheson, did Inspector
3 Marshall indicate that he was going to speak to Mr. Anderson
4 or anybody else in the Attorney General's Department regarding
5 his investigation?

6 A. I assumed he was going to speak to somebody in the Attorney
7 General's Office in Halifax --

8 Q. Do you have any recollect --

9 A. --not to speak, report, written report.

10 Q. Do you have any recollection of him actually having said that?

11 A. Pardon?

12 Q. Do you have any recollection of him having said that?

13 A. No, I -- I don't recall the exact words. That was my impression.

14 Q. With regard to what brought the R.C.M.P. here, you indicated
15 that you called Mr. Anderson on the evening of November 15th at
16 home?

17 A. Yes.

18 Q. And as a result of your discussions with -- the Sydney Police
19 Department requested that another police force become involved?

20 A. Well, it was something that -- that occurred. I thought maybe
21 a fresh look at the whole thing would be useful. I didn't
22 mean to imply that -- that I had any doubt about what Sydney
23 had done. I just thought it might be useful and I mentioned
24 that to Mr. Anderson and the next day I was told that Inspector
25 Marshall was coming.

D. LEWIS MATHESON, by Mr. D. Pink

1 Q. There was reference to a letter of request in questioning by
2 by Mr. Bissell. Do you have any knowledge of the type of
3 request that was made of the R.C.M.P. --

4 A. No, I don't know.

5 Q. -- to bring them to Sydney?

6 A. No, I have no idea.

7 Q. And do you have any knowledge of whether the request was
8 actually made in writing?

9 A. I have no idea.

10 Q. In your experience would a written request be necessary
11 to involve a Police Department in an investigation?

12 A. I think I indicated in my direct evidence, I didn't know how
13 to go about involving another Police Department in the
14 investigation and that was one of the reasons I called
15 Halifax.

16 Q. And I take it it flows from that and I'll just -- On this point,
17 you have no knowledge of what instructions or request was made
18 of the R.C.M.P.?

19 A. No, sir.

20 MR. CHAIRMAN:

21 Well, on that point, Mr. Pink, maybe you would like to draw the
22 witness's attention to page 204, again the -- the report of --

23 MR. D. PINK:

24 On the top of page 204?

25 MR. CHAIRMAN:

No, the bottom of page 204, the last -- paragraph three.

E. ALAN MARSHALL, by Mr. Spicer

1 MR. PUGSLEY:

2 But I have serious doubts as well and so it's my friend's
3 recollection that's getting on the record rather than the
4 witness's.

5 MR. SPICER:

6 I thought -- think there will be subsequent evidences from his
7 own report as to why he thinks these statements that he has here --

8 MR. CHAIRMAN:

9 This -- I interpret this as being a method of this witness deciding
10 whether or not these were the statements as opposed to whether
11 it came from John Jones or William Smith and I see nothing wrong
12 with the approach being used by Commission counsel.

13 BY MR. SPICER:

14 Q. And the last statement is, are you able to tell us whether
15 or not you would have received the June 4, 1971 statement
16 of Maynard Chant?

17 A. I feel sure that I did, certain I did.

18 Q. You indicate in your report, sir, that you--on page two in parag
19 five, you perused "transcripts of evidence given
20 at the preliminary hearing". Are you able to tell us today
21 whether or not you were given the transcript of the preliminary
22 hearing?

23 A. To the best of my recollection I did receive the transcript. Yes

24 Q. You also say that you received "some transcripts of evidence
25 given in high court during the trial". Do you have any

E. ALAN MARSHALL, by Mr. Spicer

1 recollection of what those -- what that material might
2 have been?

3 A. I think I did but I've forgotten about it for a moment.

4 I think Judge Dubinsky quoted some evidence -- some of the
5 evidence in his direction to the jury and I think I got some
6 of that.

7 Q. That material is contained, for the benefit of counsel, in
8 Volume two, pages 88, 89, 90, 91, 92, 95, 96, 97, 101 and
9 102. I'll show you this material, sir, and ask you, do you
10 have any recollection of receiving anything from Sergeant
11 MacIntyre that would have contained these transcriptions
12 of the testimony that was given at trial?

13 A. I'm on thin ice. I'm on thin ice about this one.

14 Q. Okay, well if you don't remember then just set it aside
15 if you have no recollection of getting it. Did you ask
16 Sergeant MacIntyre for the entire file?

17 MR. CHAIRMAN:

18 Q. What your saying is that you recall receiving a portion of--
19 a transcript of a portion of Mr. Justice Dubinsky's Charge
20 to the jury which contained quotations from some of the
21 evidence. Is that what your saying?

22 A. Yes, sir.

23 Q. But you can't identify what's been shown to you as being the--

24 A. The one that I got.

25 Q. -- the one that you received?

E. ALAN MARSHALL, by Mr. Spicer

1 A. Yes, My Lord.

2 Q. Okay.

3 BY MR. SPICER:

4 Q. Do you recollect, sir, whether or not you asked Sergeant
5 MacIntyre for the entire file that he had?

6 A. No, at that time I did not.

7 Q. And why did you not ask him for the file?

8 A. Well, at that point in time I was seeking his co-operation.
9 I was treading very gently and he had this dossier of
10 papers prepared for me.

11 Q. When he handed that dossier to you, sir, did he say anything
12 about what it was that he was giving you?

13 A. Yes, to the best of my recollection he was saying -- Oh --
14 these are the crucial pieces of evidence adduced by witnesses
15 surrounding the eye witness accounts of the murder. Now
16 I must tell you that this is -- this was not my style of
17 doing investigations and I'm really half at a loss as to
18 why I was going so slowly at that time.

19 Q. Going so slowly in what sense?

20 A. In the investigation. Instead of going full-bore
21 and saying give me this, give me that or I'll get a --
22 you know, I'll get a subpoena or -- and to the best of my
23 recollection the reason that I wasn't being more forceful
24 at that time was because of the mandate that was given to
25 me to look just at the -- into the aspect of MacNeil making--

E. ALAN MARSHALL, by Mr. Spicer

1 | understanding what the whole story was as might have been
2 | gleaned from the entire file?

3 | A. Well, I go back to what I say before, that I thought the
4 | polygraph would get to the heart of the matter very quickly.

5 | Q. Without having to look at the entire file?

6 | A. Without having to re-investigate or look at -- yeh, even
7 | look at the whole file.

8 | Q. Without having a look at everything that was available?

9 | A. Yep. Yes, sir.

10 | Q. Is it fair to say that at the time that you accepted the
11 | materials from Sergeant MacIntyre that you accepted his
12 | word for what he was giving you as the crucial material
13 | related to the eye witnesses?

14 | A. Yes, absolutely.

15 | Q. Do you think, sir, that in going to look at the work of
16 | another police force on reflection that it's good practise
17 | to accept the word of the original investigating officer?

18 | A. Well, let me put it this way. Probably not and probably
19 | I didn't go there, you know, initially with the intention
20 | of just listening to MacNeil -- I'm sorry -- to Detective
21 | MacIntyre and accepting his word carte blanche but I tell
22 | you this, that if you work with a man over the years and
23 | grown to respect him as a policeman, as an honest man that
24 | I think that preys on your mind whether you want to believe it
25 | or not, in other words subliminally.

E. ALAN MARSHALL, by Mr. Spicer

1 Q. And your intention though, I think you told me a couple of
2 minutes ago, was to get to the bottom of it, was it not?

3 A. Yes. Yes.

4 Q. And indeed later on, if you look at your own report, you say
5 in your own report that -- the end of paragraph three of
6 that report on the first page of it.

7 ... I went to Sydney on the 16 Nov.
8 where, together with Sgt. MCKINLEY...
9 a thorough review of the case was
10 conducted with the following results.

11 Is that what you eventually thought you had done, "a thorough
12 review of the case"?

13 A. When I wrote this report I had already done a number of things.
14 I had gone over the investigation with Detective MacIntyre,
15 with Sergeant McKinley. I'd looked at the evidence adduced
16 at preliminary hearing which was provided to me by Detective
17 MacIntyre and some statements and because of this I had -- I
18 used the term "review", "thorough review".

19 Q. That's what you thought you were doing, I take it, from
20 your report, sir?

21 A. Yes, to review it.

22 Q. And would it be the case that when you left Halifax to go
23 to Sydney that nobody had placed any restrictions on what
24 it was you were supposed to be doing when you got there?

25 A. There was no restrictions but the reason I think I'm right
in recalling that there wasn't -- there was not an instruction

E. ALAN MARSHALL, by Mr. Spicer

1 MacIntyre?

2 A. Yes.

3 Q. Did you go and meet with him?

4 A. Yes.

5 Q. Was there anybody else at the meeting other than yourself
6 and Sergeant MacIntyre?

7 A. Not that I recall.

8 Q. Can you tell us today what the substance of that conversation
9 was that you had with Sergeant MacIntyre?

10 A. Well, the substance of the conversation was that he knew
11 I -- why I was there. He had a transcript and some statements
12 for me and I, you know, I'm having -- I have difficulty
13 recalling what it -- you know -- the exact words we spoke
14 or what we said.

15 Q. Did you have an impression from that conversation as to
16 whether or not -- what Sergeant MacIntyre's view was of
17 the case?

18 A. Yes, my impression is that he was very confident that he
19 had the right man.

20 Q. Can you recollect in any way how it was that he expressed
21 that confidence to you? What --

22 A. I'm -- You know, I'd be guessing sir really. I can't -- but
23 that's the clear impression that I have, is that he was
24 convinced that he had the right man.

25 Q. And you indicated to me a minute or so ago that you were given

E. ALAN MARSHALL, by Mr. Spicer

1 | Q. You would agree with me though that it's not good practise
2 | to accept the word of the original investigating officer?

3 | A. Today I would, yes.

4 | Q. Are you able to tell us, sir, whether or not you received
5 | any conflicting statements, written statements from Sergeant
6 | MacIntyre at the time you received the package of material?

7 | A. No, to the best of my recollection when we were having
8 | the discussion about what transpired he said, look, I had
9 | -- initially I had some difficulty with Chant and Pratico
10 | but they soon, sort of, came around and I got the right
11 | words out of him or -- I'm not -- Sorry, that's not what
12 | he said. That's not what he said.

13 | Q. What was it that he did say?

14 | A. Well, what he said was, I had some difficulty with these
15 | witnesses at first and -- but then they came around and told
16 | the truth pretty quickly, in that context.

17 | Q. And having been told that you asked no further questions
18 | at that time?

19 | A. No, because, you know, that is a relatively common experience.
20 | At least it has been my relatively common experience --
21 | relative common experience, to experience people who initially
22 | who are not forthcoming or not ingenuous and as a matter
23 | of fact I think it was not more than two years before this
24 | that Corporal Smith and I were involved in a murder case
25 | when the exact same thing happened where one man, one witness
was reluctant.

E. ALAN MARSHALL, by Mr. Spicer

1 Q. Would you've been prepared to write off that description on
2 the basis of that sort of mistake, or would it not have
3 occurred that maybe it was something like him?

4 A. Five nine or ten and 190 pounds? In my recall, he wasn't
5 anywhere near 190 pounds.

6 Q. All right. Did he have a blue coat on when you saw him?

7 A. When I saw him? When I saw Ebsary?

8 Q. Yes.

9 A. I can't recall.

10 Q. He has told us here at page 360 and 361 of the transcript that
11 indeed he was wearing the same blue coat the time that he saw
12 you as he was wearing the night of the incident.

13 A. Well, if he was, I didn't pay attention to it.

14 Q. And in any event, you didn't ask for Junior Marshall's state-
15 ment, and you had no idea of the description of these people.

16 A. I can't recall that now.

17 Q. You knew that Pratico and Chant had given different stories to
18 the police when they were first interviewed?

19 A. Yes, sir.

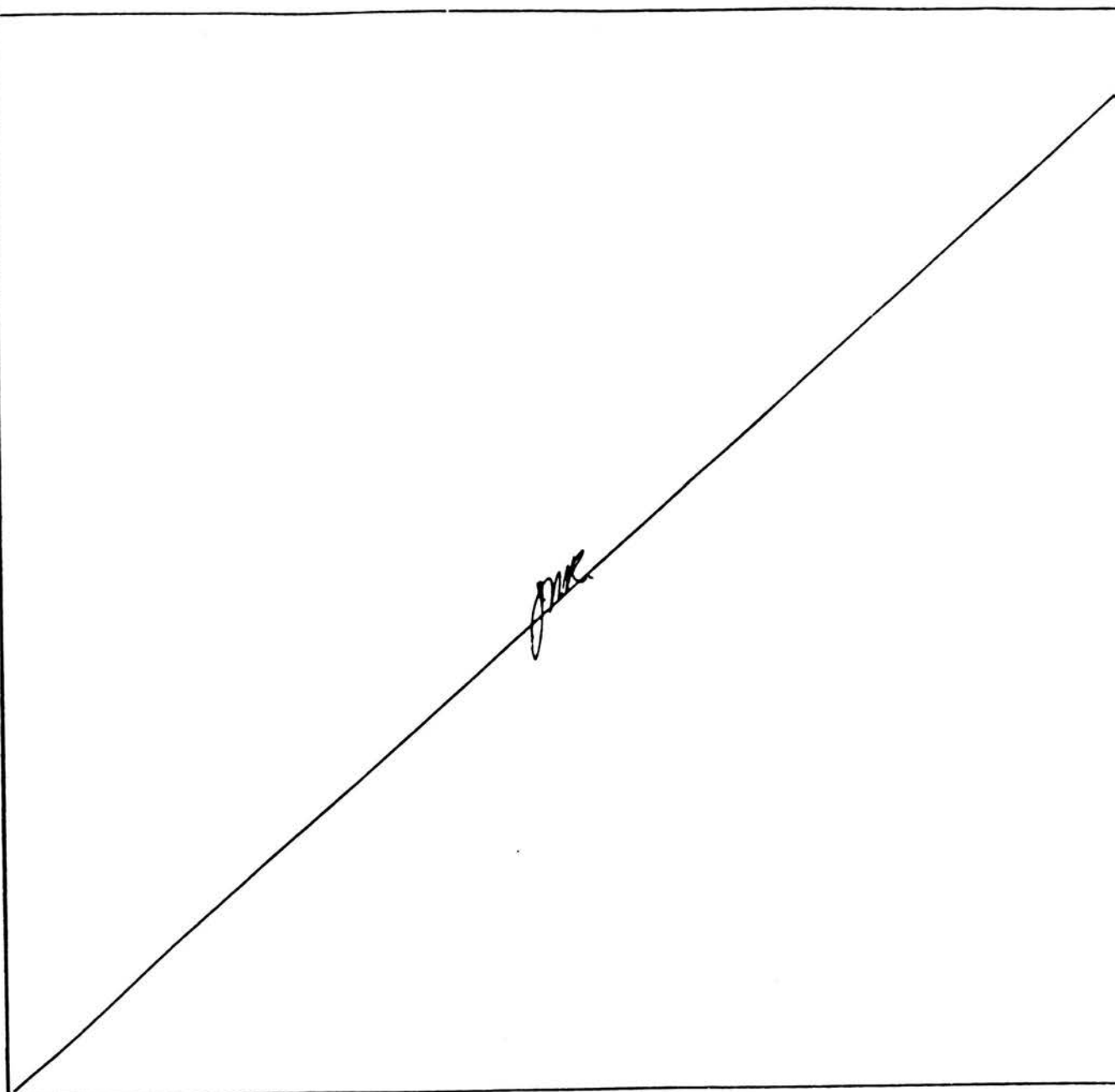
20 Q. You didn't -- Did you ask in what respects their stories were
21 different?

22 A. As clearly as I can remember, Detective MacIntyre told me
23 that these two young fellows had given him a cock and bull
24 story to start with, but very soon after having heard the cock
25 bull stories, they straightened themselves out and gave the

E. ALAN MARSHALL, by Mr. Spicer

1 statement that MacIntyre had given me -- the statements that
2 MacIntyre had given me.
3
4
5

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25



E. ALAN MARSHALL, by Mr. Pugsley

- 1 A. Yes, sir.
- 2 Q. Why did you prefer MacNeil over Rosenblum? Why didn't you call
3 Rosenblum?
- 4 A. Good question because once counsel -- Once Crown counsel
5 becomes engaged in the case, I don't think I have ever gone
6 to a defence counsel on my own for any reason. If I wanted
7 something from the defence, once Crown counsel became involved,
8 it was from lawyer to lawyer, from counsel to counsel, but I
9 can't ever recall going to a defence counsel on my own once
10 we had counsel of our own.
- 11 Q. What did you want from Donny MacNeil?
- 12 A. What did I want from Donny MacNeil? I wanted to -- It's what
13 I wanted to tell him. I wanted to tell him of the results of
14 the test.
- 15 Q. With respect to the statements that MacIntyre gave to you, I
16 take it you have no recollection today of what statements they
17 were?
- 18 A. Or how many?
- 19 Q. Yes.
- 20 A. With no great precision.
- 21 Q. You can't say whether he gave you both statements of Maynard
22 Chant?
- 23 A. To the best of my recollection, I did not get two statements
24 on any -- from -- dealing with any one person. To the best
25 of my recollection, sir.

E. ALAN MARSHALL, by Mr. Spicer

1 Q. But the one thing you didn't do was you didn't go and ask
2 the Sydney police department whether or not they had a
3 statement from Patricia Harriss?

4 A. No, I didn't.

5 Q. And you knew that she -- that they had a statement from her?

6 A. Yes.

7 Q. Because it says so at the preliminary at page 27.

8 A. Yes, sir.

9 Q. Did it -- Has it not occurred to you that if you'd asked her
10 for -- if you'd asked John MacIntyre for Patricia Harriss's
11 statement, you might've discovered that in fact there were two
12 statements?

13 A. Had I asked him?

14 Q. You certainly would've got something from him.

15 A. Yes, sir.

16 Q. Yes. But you didn't do that?

17 A. No.

18 Q. Do you not think the reference to Patricia Harriss and Terry
19 Gushue's statement again should've been a warning to you or
20 a signal to you that perhaps you ought to follow that up and
21 do something about it?

22 A. I do now.

23 Q. But you didn't at the time?

24 A. No.

25 Q. Page 46 of Volume 16 is Chant's statement of June 4th, which

E. ALAN MARSHALL, by Mr. Ruby

1 the course of your evidence you very generously characterized
2 Sergeant MacIntyre as an "honest man", and yet when I go
3 through your evidence, I have some questions about that. Let
4 me explain what I mean and you tell me what you think as I
5 go through it. You were given a certain number of statements,
6 for example, you were given Chant's statement and you were
7 told Chant had made a previous inconsistent statement. But
8 Sergeant MacIntyre did not, I suggest to you and you tell
9 me if I'm correct, tell you that in Chant's first statement
10 there was a description of two men consistent with Marshall's
11 story about two men in the Park. He didn't tell you that?

12 A. Not to my recollection, no, sir. Not the description part.

13 Q. And he gave you some statements of witnesses but he didn't
14 give you the early statement, the previous inconsistent
15 statement, of Miss Harriss?

16 A. No.

17 Q. Which contained a description of Roy Ebsary. Let me just
18 read you that description. Page 63, volume 16:

19 Describe the other men to me?

20 One man was short with a long
21 coat. Gray or white hair, with
a long coat.

22 He didn't give you that information, did he?

23 A. Not that I recall, sir, no.

24 Q. Well, surely that's not the mark of an honest man, to conceal
25 the evidence that would support MacNeil's statement and

E. ALAN MARSHALL, by Mr. Ruby

1 | BY MR. RUBY:

2 | Q. Let me try and rephrase this then leaving out that word. I'm
3 | suggesting to you that you as a police officer would hardly
4 | expect an "honest man", to use your earlier language, to
5 | not furnish you with the earlier information that would
6 | support MacNeil's statement, fair?

7 | A. Fair, yes, sir.

8 | Q. And also you were not given, as I understand it, the
9 | statements of George or Sandy MacNeil. Sergeant MacIntyre
10 | didn't give you the statements where they, at page 26 of
11 | volume 16, described:

12 | (the man as)
13 | 1 man - (as) grey haired; grey or
14 | white top coat - 5-9 - W.
15 | 180 lbs. hair (black) flat
16 | on his head no wave -
17 | straight back - round fat
18 | face trampish looking -
19 | late 50's.

20 | A. I can't recall whether I got that one or not, sir.

21 | Q. Had you had that surely you would have referred to it in your
22 | report as evidence supporting MacNeil, would you not?

23 | A. Yes, sir.

24 | Q. But the fact is you were not given any of the evidence
25 | supporting MacNeil, were you?

26 | A. Not that I recall, sir.

27 | Q. And I suggest to you that is not consistent with the behaviour
28 | of an honest police officer, do you agree with me?

E. ALAN MARSHALL, by Mr. Spicer

1 | A. Well, no I didn't. At that time -- at any time I don't
2 | think because, again, whether he said that it was a trivial
3 | offense or he knew about it or whatever, it got pushed to
4 | the background of my mind.

5 | Q. And you didn't do anything further about it?

6 | A. No.

7 | Q. Did you do anything --

8 | A. Take cognizance of it but put it in the back of my mind and --

9 | Q. But it was information that you had at that time, November
10 | 17th?

11 | A. Say again?

12 | Q. It was information that you had that there was a conviction?

13 | A. Yes, oh, yes, quite clearly.

14 | Q. What else did you do on November 17th in connection with the
15 | investigation?

16 | A. I recall MacIntyre showing me the jacket and looking at it
17 | closely. The one that MacNeil -- that Marshall was wearing.

18 | Q. Do you remember any discussion concerning that jacket?

19 | A. Well, it seemed to me that when we looked at the jacket
20 | we examined the possibility that it was self -- self -- a
21 | self-inflicted wound had caused or Marshall had inflicted
22 | the tear in the jacket himself. You know, it seems to me
23 | we had conversation along that line.

24 | Q. Are you able to tell us whether or not that was something
25 | that you thought of or something that was suggested to you

E. ALAN MARSHALL, by Mr. Spicer

- 1 by Sergeant MacIntyre?
- 2 A. I really can't say how it came up.
- 3 Q. Do you know how it was that Sergeant --
- 4 A. When --
- 5 Q. Sorry.
- 6 A. When you look at the jacket, as I recall, it's -- it was
7 cut in half -- half sort of half cut and ripped on the left
8 inner portion. And it looked like it was the type of --
9 the position of the cut was such that it would have been
10 quite easy to take the knife in your right hand and just
11 run it along -- it looked -- it looked like it would be
12 an easy thing to do really.
- 13 Q. Was any view expressed to you by Sergeant MacIntyre as to
14 whether or not he thought the wound had been self-inflicted?
- 15 A. Well, again, I think we talked about it and I believe that
16 he did, but my recollection is that he did, yes.
- 17 Q. And if he had done so, would that have been something that
18 you would have accepted from Sergeant MacIntyre?
- 19 A. Well, you know, the man tells me this and I say, yes, that's
20 plausible in my own mind. Yeh, it looks -- looks reasonable
21 to assume that -- that because of the position of the cut on
22 the sleeve, at that time, that that could have been the
23 case.
- 24 Q. Are you able to tell us whether or not you came away from
25 that conversation thinking that perhaps the wound was

E. ALAN MARSHALL, by Mr. Spicer

- 1 Q. You go on to say:
- 2 ...and, what is just as
3 important, there was no
4 collaboration between
5 the two.
- 6 A. Yes.
- 7 Q. From where did you get that conclusion?
- 8 A. Well, I think I must have got it from Detective MacIntyre
9 who undoubtedly was at the preliminary and heard
10 Mr. Justice Dubinsky say the same thing only he used the
11 word "corroboration" and not -- Have you got the -- I think
12 I used the same phrase or words.
- 13 Q. You did no independent investigation to discover whether or
14 not there was any collaboration between the two?
- 15 A. No, I -- No.
- 16 Q. On the next page of your report, on page four, the fourth
17 line, you say:
- 18 *evidence* While in gaol, MARSHALL removed
the bandage from his arm and
flushed it down the toilet...
- 19 A. Yes, sir.
- 20 Q. Where did you get that idea from?
- 21 A. From Detective MacIntyre.
- 22 Q. ...and even removed the sutures
23 himself...
- 24 There was evidence that that occurred?
- 25 A. No, that's -- the doctor said that.

E. ALAN MARSHALL, by Mr. Spicer

1 | A. Yes.

2 | Q. I direct your attention to page 57 of volume one which is
3 | the testimony of Doctor Virick, and he's asked at line 23:

4 | Q. Based on your knowledge at the time,
5 | your opinion is that the wound was
6 | not self inflicted?

6 | A. This point is against it.

7 | Q. Your opinion is that it was not self
8 | inflicted?

8 | A. Yeah, I would say so.
9 |

10 | And then:

11 | Q. But it could be self inflicted?

12 | The answer to that question is,
13 | doctor?

13 | A. It could be.
14 |

15 | But his opinion was that it wasn't.

16 | A. But he said right after that that it could be.

17 | Q. Well, how could you, sir, be firmly convinced on the basis
18 | of that that it was self inflicted?

19 | A. That plus the -- the location of it. I got it in my mind
20 | that -- that -- I had it in my mind that it was the self-
21 | inflicted type wound.

22 | Q. And you had that in your mind before you looked at the
23 | preliminary. Is that fair to say?

24 | A. I can't say that, sir.

25 | Q. Did you have a discussion with Sergeant MacIntyre?

E. ALAN MARSHALL, by Mr. Spicer

1 A. Yes, absolutely.

2 Q. And Did Sergeant MacIntyre express any view to you as to
3 whether or not that wound was self-inflicted?

4 A. I think he did.

5 Q. And what was his view?

6 A. It was his view that it was self-inflicted.

7 Q. And having had an opportunity to review the transcript of the
8 preliminary and see the doctor's opinion that it was not,
9 you're still prepared to say that you were firmly convinced?

10 A. Yeh, that's probably an overstatement, but I was convinced
11 but probably not firmly.

12 Q. An overstatement, sir? The only evidence at the time in the
13 preliminary was the doctor's opinion that it wasn't self-
14 inflicted?

15 A. But could have been.

16 Q. It could have been and that's enough for you to be firmly
17 convinced?

18 A. Well, it was at that time in the view of the circumstances.

19 Q. What do you mean, in view of the circumstances?

20 A. Well, at that time because of what had happened that's --
21 I became convinced that it was self-inflicted.

22

23

24

25

E. ALAN MARSHALL, by Mr. Spicer

1 had been contacted?

2 A. Yes, and I'm sure that -- that Smith phoned me and the
3 discussion took place over the phone, as to who I wanted
4 examined at that time.

5 Q. And the people that you wanted examined at that time were who?

6 A. Ebsary and MacNeil.

7 Q. If you could just now look, since you have the volume in front
8 of you, 199 -- 199 and 200. You indicated a couple of minutes
9 that you also made a request in connection with criminal
10 records?

11 A. Yes, sir.

12 Q. And are you able to tell us from those three transmissions
13 from 198 to 200, whether or not on November the 17th you
14 would have known that Roy Ebsary had had a conviction --

15 A. Yes.

16 Q. -- for possession of a concealed weapon?

17 A. Yeh.

18 Q. And that's information that would have come to you on the
19 17th of November?

20 A. Yes, sir.

21 Q. Do you remember doing --

22 A. And I -- excuse me.

23 Q. Sorry.

24 A. I think also that Detective MacIntyre had already told me
25 that -- about Ebsary's conviction. I think.

E. ALAN MARSHALL, by Mr. Spicer

1 Q. When do you recollect that he told you that?

2 A. When do I recollect it? Well, you know --

3 Q. Well, during the day -- did he tell you during the day of
4 November 17th?

5 A. I think so. He said, "Oh, yes, you might as well know that
6 Ebsary has got a conviction for a concealed weapon".

7 Q. Do you remember anything else about that conversation?

8 A. No, I don't. Other -- other than the fact that -- no, I
9 don't. I don't recall. For some reason or other the previous
10 conviction didn't register too deeply with me. I don't know
11 whether it was a trivial-- a relatively trivial offense. Like
12 there's no M. O. on it, eh, it just says "concealed weapon".

13 Q. Did you understand it at any time to have been a knife?

14 A. Well, again, to the best of my recollection, I believe Detective
15 MacIntyre told me it was a knife involved in that -- in that --

16 BY MR. RUBY:

17 Q. Could you repeat your last phrase, sir?

18 A. Beg your pardon.

19 BY MR. SPICER:

20 Q. Just repeat the last part of your answer?

21 A. I believe it -- that it was Detective MacIntyre who told me
22 that a knife was involved. That's an answer to that
23 question.

24 Q. Certainly. Did you follow that up at all with Sergeant
25 MacIntyre?

E. ALAN MARSHALL, by Mr. Ruby

1 professional standards he would expect of a competent and honest
2 police officer because certainly he is a man who is dealing
3 with an assumption that way.

4 MR. CHAIRMAN:

5 And I think he's told -- he's told us that.

6 MR. RUBY:

7 Yes, I have some other items I want to put to him.

8 MR. CHAIRMAN:

9 All right.

10 BY MR. RUBY:

11 Q. You told my friend that the previous offense of Mr. Ebsary
12 was described to you by Sergeant MacIntyre as a "trival
13 offense"; do you recall that?

14 A. I recall that in that -- that is to the best of my recollection
15 sir.

16 Q. You obviously were not told that it was a concealed weapon
17 offense involving a knife, or that would have been in your
18 report; is that fair?

19 A. I'm not saying that he didn't mention that a knife was
20 involved, sir. I don't think he ever said that.

21 Q. You would describe it as "trival"?

22 A. I don't think I used the word "trival", did I?

23 Q. You did but you may not feel it's appropriate now?

24 A. Inconsequential type of offense. --

25 Q. All right.

E. ALAN MARSHALL, by Mr. Ruby

1 A. -perhaps would be a --

2 Q. You've had a chance to read the report at volume 16, page 1
3 of that particular offense?

4 A. Yes, sir.

5 Q. And you agree with me that is not the description of an
6 inconsequential offense?

7 A. Certainly not.

8 Q. So would it in your view have been appropriate for a
9 competent and honest police officer to have so described
10 that offense to you without giving you the true details?

11 A. Would have been appropriate?

12 Q. For a competent --

13 A. No.

14 Q. -- and honest police officer?

15 A. Certainly not.

16 Q. Would not. Not if he knew the true facts, correct?

17 A. Yeh, that's correct, sir.

18 Q. Sergeant MacIntyre persuaded you that there is "only a
19 pretense of summoning aid", is that correct, by Mr.
20 Marshall?

21 MR. PUGSLEY:

22 I'm sorry, I missed the question.

23 BY THE WITNESS:

24 A. Pardon.

25

F. ALAN MARSHALL, by Mr. Spicer

1 | these are the things that I seem to recall going through
2 | my head at the time.

3 | Q. And this is six days before you gave Mr. MaNeil a polygraph?

4 | A. Yes.

5 | Q. And you concluded on the 17th already without the benefit
6 | of the polygraph, in fact, the very question you say you've
7 | been brought down to Sydney to answer, had already been
8 | answered. That is that you were certain that his account
9 | of the altercation insofar as it concerned Ebsary, "was
10 | a figment of his imagination"?

11 | A. Well, I thought it was, but -- but I wasn't certain to the
12 | extent that I would not ask the polygraph operator to come
13 | down.

14 | Q. Did you have any discussions with Sergeant MacIntyre on the
15 | 17th concerning his impression of Jimmy MacNeil?

16 | A. I'm sure we did.

17 | Q. And are you able to tell us today what -- what your impression
18 | was of what Sergeant MacIntyre thought of him?

19 | A. Well, I think -- I think he thought the same as what I did or
20 | I thought the same as what he did. I don't know whether I got the
21 | cart before the horse or the horse before the cart.

22 | Q. What was it that he thought?

23 | A. About it being a cock-and-bull story about MacNeil --
24 | MacNeil's statement that -- that Marshall didn't do it, that --
25 | that Ebsary did.

E. ALAN MARSHALL, by Mr. Spicer

- 1 Q. And were you then -- were you the 17th accepting Sergeant
2 MacIntyre's impression of Jimmy MacNeil as something that
3 you would take into account in coming to your conclusion --
- 4 A. Yes.
- 5 Q. -- that it "was a figment of his imagination"?
- 6 A. Sure. Part of it.
- 7 Q. Well, on the 17th, sir, what else did you take into account
8 in coming to that conclusion?
- 9 A. I can't say. I can't remember.
- 10 Q. Did Sergeant MacIntyre give you the statements that were taken
11 by him of Jimmy MacNeil and Roy Ebsary?
- 12 A. Well, I'm pretty certain he did.
- 13 Q. And those two statements are contained in volumes -- in
14 volume 16 at 176 and 186. Mr. Ebsary's is at page 186 and
15 Mr. MacNeil's is at 176. On the 17th, sir, you've now --
16 you've been to the Park with Sergeant MacIntyre. You spent
17 sometime reviewing the material. If I understand you
18 correctly, you've spoken with Jimmy MacNeil. Was there anything
19 else that you did with respect to this investigation on
20 November the 17th?
- 21 A. I called Sergeant Burgess in Halifax on the telephone to
22 -- to line up the polygraph operator for me.
- 23 Q. And in volume 16 at 195 --
- 24 A. And I think I asked him to look -- to check with N. C. I. S.
25 for criminal records.

E. ALAN MARSHALL, by Mr. Spicer

1 | Where in any of that is there a statement that he took care
2 | not to stand where Seale could see him?

3 | A. There isn't.

4 | Q. No, and that's an inference that you drew?

5 | A. No. Yes, sir.

6 | Q. Why was it important to you to draw that inference and to put
7 | it in your report?

8 | A. Well, I think -- I think the inference is that perhaps
9 | Marshall did not want Seale to -- Well, you know, really
10 | I can't say. I'm sorry, I -- my mind is muddled on that.

11 | Q. Page three of your report?

12 | A. Yes, you know, why did I say that.

13 | Q. You're telling us today you don't know why you said that?

14 | A. There was some significance to it but I can't put my mind to
15 | it right now.

16 | Q. On page three of your report starting at the sentence that
17 | begins:

18 | MARSHALL wanted PRATICO to come
19 | down into the Park. (Although
20 | PRATICO never admitted or
21 | suggested that MARSHALL and
22 | SEALE were going into the park
23 | to attempt to 'roll' someone,
24 | the inference is there and it
25 | is the concensus of opinion
26 | MARSHALL and SEALE were, at
27 | this time, bent on robbing
28 | someone).

24 | Where, sir, did that information come from?

25 | A. First, I think Detective MacIntyre mentioned it to me, secondly,

E. ALAN MARSHALL, by Mr. Spicer

1 Ebsary's statement to the police which I can't find right
2 now.

3 Q. It's at page 186 of volume 16.

4 A. They:

5 ...asked us if we had (any) cigarettes
6 and if we had any money.

7 A. It's in the answer to the first question.

8 Q. And if you read your report, sir, are you not in your report
9 referring to an earlier point in time, that is, before they
10 met up? "It's the consensus of opinion that Marshall and
11 Seale were at this time (That's when they were headed into
12 park.) bent on robbing someone." What possible support is
13 there for that in any of the material that you have?

14 A. What possible support is there in the material that I have?

15 Q. In the material that you have.

16 A. I can't find the -- Jesus, I wrote that and I must have wrote
17 it for a reason.

18 Q. If it's not in the material -- If it's not in the material
19 that you have, sir --

20 A. Yeh.

21 Q. --could it be that it's just as a result of a discussion that
22 you had with John MacIntyre?

23 A. Undoubtedly.

24 Q. And again you've told us many times that you took what John
25 MacIntyre said at his word?

E. ALAN MARSHALL, by Mr. Ross

- 1 | didn't ask for any police information on Sandy Seale, did
2 | you?
- 3 | A. I can't recall. I can't recall if I did or I didn't, no,
4 | sir.
- 5 | Q. I must ask you very directly --
- 6 | A. Obtain police information on --
- 7 | Q. Yes.
- 8 | A. Or a record of Sandy Seale?
- 9 | Q. Yes.
- 10 | A. I can't recall that I did, sir, no.
- 11 | Q. Did John MacIntyre tell you that in his view Sandy Seale and
12 | Marshall were down in the park intent on robbing somebody?
- 13 | A. Well, we -- we -- my report says we came to that consensus
14 | and I think that's probably what happened.
- 15 | Q. He would have given you that information?
- 16 | A. I believe so.
- 17 | Q. Well, did you ask him anything more about Sandy Seale or you
18 | just accepted the information that he gave you?
- 19 | A. You know, I can't recall, sir, whether I did or I didn't.
- 20 | Q. Is it fair to say that the time you spent doing this review
21 | was merely an effort to confirm information that had already
22 | been given to you by John MacIntyre?
- 23 | A. That's one way of putting it.
- 24 | Q. Is there another way to put it?
- 25 | A. Well --

E. ALAN MARSHALL, by Mr. Spicer

1 Q. Paragraph 9 of your report, the 4th line, "somewhat intoxicated
2 you're referring to Ebsary and MacNeil being "somewhat
3 intoxicated". Are you with me?

4 A. Yes, sir.

5 Q. What material did you have before you that would indicate
6 that either Ebsary or MacNeil were "somewhat intoxicated"?

7 A. I can't recall now, sir.

8 Q. I would submit to you, sir, that there's nothing in the
9 statements that indicates anything other than the fact
10 that they were at the tavern?

11 A. At the tavern. Well, I don't recall, sir.

12 Q. If it -- if there is nothing in the material, where do you
13 think that idea could have come from?

14 A. Well, it would -- it would have to come from Detective
15 MacIntyre.

16 Q. Let's keep going in that paragraph:

17 ...somewhat intoxicated, happened
18 to walk through the park and were
19 accosted by SEALE and MARSHALL.
20 Their attacks were not successful
21 and following the altercation a
22 violent argument ensued between
23 the two attackers culminating
24 with MARSHALL stabbing SEALE...

21 A. Yes, sir.

22 Q. How did you reach that conclusion?

23 A. I can't -- I can't say today.

24 Q. ...and then inflicting a superficial
25 wound on his own (arm) forearm to
divert suspicion from himself before

E. ALAN MARSHALL, by Mr. Ruby

1 BY MR. RUBY:

2 Q. Sergeant MacIntyre persuaded you that there was only "a
3 pretense of summoning aid on the part of Mr. Marshall"?
4 That's according to your report, "a pretense of summoning
5 aid"?

6 A. Could you tell me where you're reading from, sir, please?

7 Q. Page 4 of your report, page 10 of volume 18, in paragraph
8 9 about a little bit over half way:

9 before he made the pretense
10 of summoning aid for SEALE.

11 And I thought you had said to my friend that there was no
12 evidence for that that you knew of; it was merely something
13 that you got from Sergeant MacIntyre?

14 A. I can't recall that. I don't recall commenting on that
15 particular subject. On that particular phrase "the
16 pretense -- the pretense of summoning aid", I can't recall
17 giving evidence about that.

18 Q. Okay, in any event --

19 A. I did, oh, my god.

20 Q. It's okay. It's been a long day, today and yesterday. In
21 any event let me just try and deal with it this way. Do you
22 agree with me there's no support for that "pretense of
23 summoning aid" statement except what Sergeant MacIntyre told
24 you?

25 A. Yes, sir.

Al Marshall evidence

Review report. When cover-ups come from other than MacI.

5608 went over investigation to MacI ✓

5611, 13 Met to him. rec'd some statements & a transcript of police. (+ Duker's change) ✓

5611 Very confident he had covered man

5615, 17 Did not ask for entire file. told he was given crucial pieces of evidence ✓

5618, 5683
732 Did not receive conflicting statements. told they ^{had} started for Chou & Reatis had difficulty at first but they come around

5623 MacI thought something MacNeil or Marshall did. Cook & Lull story. Accepted this & took into account.

5624 Had Elsbury & MacNeil statements ✓

5627-29 *
5715, 16 told Marshall about Elsbury conviction. Terminal offence. conceded weapon - knife ✓

562930*
5700, 5701

Maureen Marshall facted by Mac I. ^{spoke that}
thought wound self inflicted. ^{which opinion} No

5676, 5711

Did not go + ask for statement from Harvill.
Knew they had a statement from her, not given
early statement

5694, 5
5773

Consensus Marshall + ~~was~~ Seale bent on
getting someone

5702

Mac I told him Elson + Mac Neil
'somentol intoxicated'

5713*

not given any evidence suggesting
Mac Neil

577

Marshall made "pretense of summoning aid"

Visits to Scene:

Discussions

Tell Marshall Matheson advised Donna
Elroy was interviewed.

Polygraph results: Accuse.

Ltr from Smith 1982.

↓
5597 - 1958-59 = Sydney
5597 - 1962-64 = Sydney

You might want to get out
of him that Marshall was stationed
L Sydney too twice & knew McIntyre

Dec 71 - 73

o(21)

any dealings?

Dealings Marshall Sr.

o(22)

1973

Donna & Katchford
 Refer Donna & Katchford residence.
 4404 - over
 Refer 4. 73 - Diagram by Katchford
 visit from ^{Wt. Gray} Green Statement.

Green discuss & Dequhart

DAVID RATCHFORD, by Mr. MacDonald

1 A. I knew what he looked like and I knew what Mr. Urquhart looked
2 like as well.

3 Q. Okay. What happened when you got there?

4 A. I introduced myself and told them that I had brought this
5 girl to the station with some information on --

6 Q. Did you identify her?

7 A. I don't know. I don't know if I said this is Donna Ebsary or
8 if I said I brought this person. I'm not really -- I can't
9 qualify, you know, whether I identified her in person or not.
10 I said that I brought this person with some information that
11 may help you with the Donald Marshall case. According to
12 her, her father is responsible for the -- Yes, they would
13 have been aware of the name because I remember that there
14 was -- Donna had told me that her father had been taken in for
15 questioning at the time and I brought the name up. Ebsary.
16 And they said -- Mr. Urquhart had suggested to me that he
17 had already been in for questioning and that the case was
18 closed and that they had what they considered to be the
19 man who was responsible for that killing safely behind bars.
20 I said Well, -- I said, "you should listen to her story." I said,
21 "she's got a very interesting story to tell." But they wouldn't
22 grant me or her the time to -- to say anything and we left.
23 We left the police station.

24 Q. Now, let me go back. You said there were two people in the
25 room, Mr. MacIntyre and Mr. Urquhart?

1 A. Yes.

2 Q. Did you speak with both?

3 A. No, I only spoke with Mr. Urquhart.

4 Q. Where would Mr. MacIntyre have been?

5 A. He was inside of a cubicle behind Mr. Urquhart and he was
6 coming out. He was walking toward us and listening to
7 what we had to say.

8 Q. Was he in a position to hear what was being said?

9 A. I believe he was, yes.

10 Q. Now, you said to Mr. Urquhart, "you should hear what this
11 girl has to say?"

12 A. Yes, I said --

13 Q. Something to that effect?

14 A. I said you -- I said, "she has something I think you should hear."
15 and they --

16 Q. Okay. And his reply was?

17 A. That they didn't want to hear anything she had to say. That
18 the case was closed. As simple as that.

19 Q. Okay. How long were you there?

20 A. Five minutes.

21 Q. What -- How would you describe the tone or the manner that you
22 were treated by Mr. Urquhart?

23 A. Very official. I mean he wasn't rude to me or anything like that
24 but he just plainly stated that, you know, that they had their
25 man and that was it.

DAVID RATCHFORD, by Mr. MacDonald

1 | Q. Now, did Donna tell Constable Green the same story she had
2 | told you?

3 | A. Exactly and he believed her immediately.

4 | Q. How do you know that?

5 | A. Because he told me. He said, "I believe her, Dave." You know he's
6 | indicating to me, "Yes, I think she's telling the truth." That
7 | prompted him then to go immediately down to the Sydney
8 | Police Department himself.

9 | Q. Do you -- Did you go with him?

10 | A. No, I did not.

11 | Q. So how do you know he went to the Sydney Police?

12 | A. Because he -- Because he came back shortly afterwards. Oh,
13 | within -- gosh he was only gone maybe 20 or 25 minutes and
14 | then he came back and said sorry that they would -- had
15 | not allowed him access to any records or anything to do with
16 | the case.

17 | Q. Did he say what he attempted to do at the police station?

18 | A. He asked them if he could have a look at files related to
19 | the Donald Marshall case.

20 | Q. Did he say who he was speaking with?

21 | A. He probably did but I can't remember which of the two gentlemen
22 | he said he had spoken to.

23 | Q. And what did he say was the result of his request?

24 | A. He said he was denied that request and then he told me that
25 | he -- that he legally didn't have any right to have access to

1975

10/23

Eugene Cole

~~Refer Cole notes. see interview~~
16/213

was ~~not~~ Deputy Chief Bar

1981

Don Paul 16/215

11/24

1971- 82

(a) Correction Services
Refer to his recommendations

Normal for him to be asked?
why refer.

11/25

Promotion to Chief
Procedure

1976

Rosenblum Recommendation

Exhibit

Promotion!!!!

Changes

Organizational

status: over

Notes

Review q. 66. why must be
opposed to this when RCMP,
Mayer + others all in favor.

q. 63 Vol. 25 pp. 22 ft.

Gould 3844 - Saying statistics not accurate.

Changes
Procedural (1984) (Ray Elesary.)

TRAINING: Detectives Ident.

Co-operation other forces

Tactical Squad - 1971 ^{4th wave}

Aug. 81 16/215

58

2/26

Jan. 1982

Almonson letter - Vol. 19/11

What is new here: 16/217
Purpose of meeting? what produced 17/8

Contact Smith - Polygraph 16/217
Frank note ~~17/11~~ view on Feb 3

Why include R.C.M.P. How?

Mandate.

Frank extracts:-

What assistance to be given to RCMP
meetings?

Frank's notes -
Kept inquiring from Frank what happened 17/2, 3, 6, 12
Briefed by RCMP time to time 17/8

Was he ever interviewed by Wheaton?
 Did he want to be? John Edwards
 said he had to be. 17/13

Meet Insp. Scott Feb. 26/82
 Dennis out of hand? What told 17/4, 15
 19/30

17/7 Visit to Gordon Gale? Payne?
 8

Unannounced. Produced statements

Not known to others at that time

Leave anything with Gale

Trying to convince Gale that Marshall guilty
 by Harris, eg. Should not be believed ✓

When turn over Harris Statement?

Circumstances 17/9 Dennis creator

Ever told by Frank he recommended
 investigation by RCMP should
 focus on Sydney Police? 17/10

* Regaining Aff. full opportunity to
change + did 17/13, 14

Read R CMP Report. Comment 17/14

* Visit to Edwards Jan 17/83. Belost case
& attempt to convince Edwards of

Marshall quote 17/16, 17
Meeting Dept. A-G. Why 17/17

Did not appreciate of handling of the
reference?

Interview ²⁴
1144/45
1207/08

Wash.

Daniel:

Present in Marigny's office April 1982
Wheaton had letter from A-G. Daniel
sitting when he could see file on Chief's lap.

Some docs. just threw on floor & Wheaton
couldn't see them. more than one

only recall one document & it was
critical to the investigation

"might or will give you everything"
embarrassed!!

Trying to keep docs. from Wheaton

Wheaton

Need to get documents in response to letter
from A-G. (why not give everything earlier?)

when leaving told by Daniel a document on
floor.

Asked for this document - Daniel's first
statement. Never seen before
Chief had "very guilty" look on
his face.

Edwards

(p. 9 of his notes)

Apidocuit
Chonv

Hausa

Butis

Marshall

- Feb 9 - Lt. H. ^{Marshall} Ed - Cape Breton Post - advised he had read in the case
 - Sydney City Police Chief went to H.Q. to meet in A. G.'s dept
 - there is another suspect.
- I indicated efforts have been made to re-open the case; that the request had been made to the Sydney City Police; that I have had no communication from them on how A. G.'s dept.
- I also requested that he refrain from reporting this "rumor" to avoid prejudging any potential investigation.

1148 Sydney - S. C. H. P. 539-7121

- advised call of ed's interest
- also gave me fully info:

Antigonish RCMP - 2663-6500

- location in Pictou

Feb 10 - C. D. H. H. H. - he had also been contacted by the staff of the Post and when he spoke to me; he will speak to King to ask that no reporting be done on story.

Feb 11 - C. S. S. Harry White
- he 11 keep me posted

March 11/82 - Cpl. Connal

- found guilty Tues. March 9/82 of stabbing
 - J. O'Connell will recommend sentence

FE 106

John's affidavit July 22.

FP 15 - delete.

25. + 27. Insert FP between

27 and 28 relating to
statements taken from Roy,
Greg and Mary.

See's

These are not in volume yet.

The note has been referred
to Mather's having a request
'DA' - Mather may be
able to comment.

Key factors leading to

Conviction: & dismissal of appeal & his belief:

two independent witnesses

no collaboration

no motive to conspire to lie &
Convinced Lt. Marshall

Mrs Harris + Mrs. Chant: Independent -
no collaboration

"Both say you asked them to leave room
while their children being interrogated
because you would be able to get
better results"

any motive to conspire against you?

Barbara Floyd - ^{John} Reatic - ^{Maryann} Chant:

All say you told them you had a
witness who saw them in back
or right of sleeping

Chord - Mrs. Chord - ^{Wayne} Magee

All say that during June 4th interview you said "evidence Maynard giving not consistent with that of another witness"

Chord, Beatrice, Mrs. Chord, Harris, Mrs. Harris
Mrs. Clemens

"all say you threatened witnesses with serious consequences if they didn't tell truth"

M.R. MacDonald

Says he helped you felly on morning following spilling.

O'Kelly joins Harris:
"Did not collaborate to have Patricia
Harris say she saw old guy heard
man in Park to help Junior"

Al Marshall, wheaton, Edwards, Davis

Did not turn over entire file at
outset of investigations in 1971, 1982 but
~~only those portions~~

Green & Battford

Approached

Davis wheaton

Deliberately tried to retain &
conceal evidence Harris 1st
statement in 1982

Denial

Beleena Floyd: 3130

Said there was a eye witness who saw her in the Park

Scott Mackay

- 648 1) at station for four hours.
654 2) Bringing in off duty officer to see if he could identify them

Deborah Timmins

715 Interviewed by MacDyre at Police station. ~~No~~ Statement taken.

Mrs. Clark : 1) told Magwood they had a witness
353 4,40 who saw her there

353 5,38 Asked her to leave room

3541 If Magwood lying could be charged

Mrs. Harris : 1) whenever her own mentored statement
2955 completed & put on floor

56, 59 2) Police cried

2957 3) asked to leave room - domestic's never better

Mrs. Clemons : 1) told Joe Clemons she would go
3458 to juvenile court if she didn't Tell the truth

2) not a proper person to be bringing up a child being
she let her run around & unsavoury characters.

3) would get Sr. Marshall for something.

Denials

Mary Patricia O'Reilly:
3301, 2, 5, 8, 9, 23
Did not say she told Patricia Harris to tell police the old man story

Patricia Harris

Maynard Stark

John Reaticis

M. R. MacDonald - Reviewed report with him on Saturday a.m. May 29/71

Dennis

(3)

Al. Marshall:

Herb Davis:

Harry Wheaton

M.R. MacDonald

David Ratchford: approached him & Ury. in 1979 +
4403 red chest Donna & told case closed.

Magee

Green:

(K A)

MacNeil address to Jerry

2/58, 59, 63

Mulhens

4946, ~~4947~~

Lodge

2/88 94, 5 99, 100 101

Appraisal Division

2/125, 6

131

MacIntyre Distances
July 1984

133, 171, 179, 180



NOTES OF EVIDENCE OF JOHN MacINTYRE

Volume 15A

Preliminary

Comment

Page No.

- 1 He interviewed Marshall on the 30th day of May, 1971.
- 2 The statement was taken close to 5:00 p.m. in the evening and the statement was reduced to writing and Marshall was not under arrest at the time. He did not threaten Marshall in any way and no one else was present at the time he took the statement.
- 3 Marshall was asked to come to the Police Station that day and asked to stay there by MacIntyre.
- 4 He just told Marshall to stay around in case he needed him. He had also likely sent for Marshall on the Saturday and Marshall would have been at the Police Station for a considerable time on that day.
- 5 He couldn't say how often he talked to Marshall on the 29th and it could have been in the morning, or afternoon, or evening.
- 7 He spoke to Marshall some time between 9:00 and 10:00 on the 30th. He had a line-up at the Police Station that morning.
- 8 During the morning of the 30th he probably spoke with Marshall five or six times. He also spoke to him in the afternoon and it would be several times.

Affidavit - November, 1982 - Draft

- 11 In paragraph 7 he states no one pressured Chant in any way to alter his testimony.
- In paragraph 9 he refers to the fact he did not discuss anything with Chant between the taking of the two statements.
- In paragraph 12 he says when he told Pratico he did not believe he gave the truth in the first statement, Pratico thereupon voluntarily recited the facts set out in his second statement

MacIntyre (Cont'd)

Page No.

Comment

- 12 He said he did not believe Chant or Pratico because he suspected each had previously obtained their respective stories from Marshall. In paragraph 15 he refers to Patricia Harriss' first statement and he calls it a "written statement". He explains the difference between the Harriss statements on the basis that he had taken an intervening statement from Gushue. He also refers to the statement from Mary O'Reilly.
- 13 He says in paragraph 20 that he was likely aware of what O'Reilly was going to say before he took the statement from Harriss. He says he has no independent recollection of the sequence of events. He says in paragraph 23 that at no time did he or anyone else insist Harriss give a particular account of what happened or try to frighten her. He discounts the statements of George and Sandy MacNeil on the basis that they were superceded in importance by those subsequently taken from Chant, Pratico and Harriss.
- 14 Paragraph 29 is not complete. He refers to paragraph 32 to the fact that Donald C. MacNeil was fully aware of all statements taken by members of the Sydney Police Department.
- The Affidavit is signed although it is not sworn to and is incomplete.
- 15 There is a second Affidavit from MacIntyre referring to the fact that paragraph 29 is incomplete and deleting that paragraph from his Affidavit. Note, however, that paragraph 1 of the first Affidavit is not complete either.

Evidence Given During Ebsary Trial in November, 1983

- 18 Prior to the statement being taken, he and Sgt. Mike MacDonald were the only two Police Officers who had contact with Ebsary.
- He says Ebsary was given the standard warning.

MacIntyre (Cont'd)

<u>Page No.</u>	<u>Comment</u>
20	He describes his practice in taking statements and he was the one who was to ask all questions and the person with him was not to do any talking. Any questions they wanted to ask would have to be written down and passed to MacIntyre.
21	Ebsary's statement is noted to have been concluded at 10:00 p.m. and to have commenced at 9:15.
23	Mary Ebsary's statement is noted to have commenced at 9:55.
25	He is shown the conflict between time on the statement from Roy and Greg Ebsary and says it is a slight mistake and he would not have been going from one room to the next since he only had one room for taking statements.
26	He says there was nothing between he and Ebsary until he was giving the warning and then the statement is in question and answer form.
30	He describes the practice he would have followed in instructing the Police Officers who were sent to pick up a witness such as Ebsary and they would be told not to have any conversation with the party.
32	He was in detective work for over 20 years.
33	The creek was drained and they searched the area to the best of their ability to find the murder weapon but were not successful.
34	Following taking the statements from the Ebsarys and MacNeil, he consulted with Don C. MacNeil and Mr. Lavatte. He requested at that time that another Department should look at it and the R.C.M.P. was brought in and as of that date MacIntyre had nothing more to do with it.
35	Prior to taking the statement from Ebsary a warning was given to him in the standard form.
37	He proceeded to take the statement in question and answer form.

MacIntyre (Cont'd)

Page No.

Comment

- 40 The first contact he had with Roy Ebsary was on November 15, 1971. He instructed a Police Officer to pick him up in a car.
- 41 He has a practice of keeping people apart if he is going to be taking interviews from more than one person.
- 43 He would be continually with Roy Ebsary while his statement was being taken and continually with Greg Ebsary when his statement was taken. He never takes two statements at one time or gets involved in the second one when he is taking the first.
- 46 He didn't tell Ebsary any of the contents of the statement made by MacNeil. He would have told Ebsary that he had a statement taken in his presence which was making a very serious complaint and he was investigating it further at the time and it would have involved the Seale investigation. The decision to lay a charge against Donald Marshall was made on the advice of the Crown Prosecutor.
- 49 After the 15th of November, 1971 he had nothing further to do with the case and he was not involved in an advisory capacity. He did know who in the R.C.M.P. took over the investigation.

Discovery Examination - C.B.C. Case - September, 1984

- 58 He joined the Police Force as a Constable in May, 1942. He did not have any particular qualifications for police work at that time. His educational background was high school.
- 59 In 1950 he was assigned to the Investigation Branch and in 1955 appointed Detective Sgt. In June 1966 he was appointed Sgt. of Detectives. On October 1, 1973 he was appointed to the rank of Deputy Chief and on December 1, 1976 was appointed Chief of Police. He retired on May 31, 1984. He took a course in Halifax at the Maritime Police School early in his career and it covered all parts of police work.

MacIntyre (Cont'd)

<u>Page No.</u>	<u>Comment</u>
61	He has had some buildings taken down and reconstructed and rented them as warehouse facilities.
62	He has also bought and sold houses after putting them in first class condition.
66	The Court made a decision that Marshall was innocent and he respects that decision.
74	He refers to the comments of Marshall that he was called up by a couple of people to the front of the green apartments and he questions that this could actually happen.
77	He was called that night about the stabbing. He had a detective on duty and would have told him if anything else came up to call him.
78	He wouldn't go to the scene because there was nothing at the scene at that time that the police wouldn't look after.
79	He talks about the stabbing of Marshall's arm and why he questioned it. He also says he examined the jacket and he found the jacket had several fresh cuts.
80	He explains why he had difficulty accepting that Marshall's arm had been stabbed and particularly that there was no blood.
82	He was after a blood sample of Marshall and the Doctor said he would try to get him one when he took the stitches out. MacIntyre says that Marshall taking out the stitches himself is hardly the actions of an innocent person.
83	MacIntyre would not agree that the type of wound and the condition of the jacket and the little damage done to the arm was consistent with the stabbing being done by some other person.
87	He does not think he had anything to do with Marshall of a serious nature in the laying of information. Perhaps he may have been for intoxication. There were serious things happening with him that other police in the Department had dealings with such as damage to property.

MacIntyre (Cont'd)

Page No.

Comment

98	He doesn't know if Donald Marshall or his lawyers were advised of the statements by MacNeil and Ebsary but it was related to the Crown.
100	Ebsary would be known to some members of the Police Department because on one occasion he was picked up with some type of knife on him and was charged. We have several charges during the year of concealed weapons.
102	Lou Matheson was the Assistant Crown and he understands it was him that he dealt with on the night MacNeil gave his statement.

Sept 4, 1984

NOTES FOR DISCOVERY EXAMINATION OF JOHN MacINTYRE

<u>Page No.</u>	<u>Comments</u>
104	He refers to the fact that MacNeil did not know whether Ebsary had stabbed Marshall on the night in question and he attaches significance to this.
52	He refers to the statements taken from Mrs. Ebsary and Greg and notes that he didn't get any of the information about how terrible Ebsary was with knives and so on.
108	He points out again that neither the wife nor son pointed out anything about violence being exhibited by the father.
109	Two statements are often taken in cases and especially if you think someone is not coming across and telling you the truth, you go back after them.
114	He never received a copy of the R.C.M.P. report (red book).
123	He told McGee that because Chant was only 14 years of age he wanted either the mother or father with him. He describes the set-up having Mrs. Chant, Burke, McGee, on one side of the table, Maynard on the other and he and Urquhart at one end.
124	The statement is in question and answer form. Nobody else asked questions and no one left the room until it was over. ✓
125	He denies that anyone told Chant that someone had seen him in the park so therefore he had to see something. ✓
126	The entire interview with Chant consisted of questions and answers and everything said on that day is contained on the statement except the discussion with the mother beforehand saying that he wanted the truth from Maynard. ✓

JOHN MacINTYRE (Cont'd)

<u>Page No.</u>	<u>Comments</u>
129	Burke, Mrs. Chant, McGee would have been present throughout the interview. ✓
130	He repeats that Chant was not told someone had seen him in the park and that whatever he asked is in the statement. ✓
132	He repeats again that except the remark made to the mother, everything said (the entire conversation) is contained in the statement. ✓
✓ 133	Chant and Pratico lived 31 miles apart. How could they pinpoint Marshall and the other chap on Crescent Street at that time of night on that particular date in the same spot along with Harriss and Gushue and not be there.
134	He described the route of Chant and Pratico. He has Chant wrong in that he has him coming across Byng Avenue and then on up onto the tracks.
136	He repeats that whatever was said to Chant is documented in the statement. ✓
139	He suggests there was a group of girls who hung around and they all knew Marshall well. (This is in reference to Harriss).
152	Mrs. Harriss was there with her and if she wasn't in the room, she must have wanted to stay out.
160	He says that Harriss and Marshall went to a house and met before evidence was given in the Appeal Division.
169	He says there were patrols on the night by the Police Department. He couldn't say what was done the following days because he didn't have his records.

JOHN MacINTYRE (Cont'd)

Page No.

Comments

- 171 He points out that Harriss, Pratico and Chant all have Marshall and Seale in the same location and they couldn't have done that if they weren't there. ✓
- 172 With Pratico the totality of the conversation is what's written in the statement. He goes on to say there must have been some opening remarks by him and then he started to talk and MacIntyre started to write. ✓
- 175 He says he did not tell Pratico what to say at any time. ✓
- 177 Pratico changed his mind during the trial after a conversation with Donald Marshall, Sr.
- 179 He repeats the importance of Chant and Pratico giving the same statement when they lived miles apart and "were several hundred feet apart" on the night.
- 184 He refers to Coles coming to see him a couple of years later and he had a complaint from Ottawa and MacIntyre passed all the files over to him.

✓ 192

Because of my previous knowledge of him I would not be alarmed if he stalked somebody

202

What were we going to photograph?
at many of RCMP?

203

(a) He didn't usually prepare a full written report of what he did

(b) cannot say who was in lineup.
If he had given evidence at TRIAL
he could have

213

✓

(a) Spill Feb (July/84) Marshall had something to hide & definitely wanted to know Police off.

(b) took Marshall 11 years to tell about robbery & he didn't know anything about it.

224

retention of Rappford & Donno approach until 1984.

235

If Rappford & Donno spoke to U.S. it should be discussed in court.

237

If first evidence statement should be taken if witness willing. U.S. in charge of Detective Section Men.

239

If Green contacted Police probably he didn't call Chief or Deputy.

CHIEF JOHN MacINTYRE

✓ What procedure was followed when conducting interviews of minors?

What documents did he give to Inspector Marshall in 1971? Why did he not give him copies of the entire police file.

Looking at the plan of Wentworth Park, how would anyone possibly take a shortcut and walk the route which Chant said he walked.

Refer to Chant's Statement of May 30, 1971 taken at 5:15. Where was this taken and under what circumstances? How was Chant brought from Louisbourg?

How did he ever get Pratico to the Police Station on May 30? What was the clue which led him to Pratico?

✓ Note that the Statement from Donald Marshall was taken May 30th at 5:12 p.m. Did Marshall speak to Chant on the way out of the room? Why wasn't the Statement taken from Chant the previous night?

Refer him to the handwritten note in the Sydney Police Department 1971 booklet referring to Tim Lynch knowing someone from Louisbourg who witnessed the stabbing.

✓ Did he ask the Sydney Detachment of R.C.M.P. for assistance? Refer him to the telex from Sydney Detachment and determine if any response was received and if so, what was said? The information in this telex could only come from the Statement provided by Marshall on May 30th.

✓ Who took the Statement of George MacNeil and Roderick MacNeil? Note that they saw two people in the Park fitting the description.

MacIntyre (Cont'd)

Refer to the Statement of Mary O'Reilly. Why did he ask her if she had discussed the matter with Patricia Harriss? What information did MacIntyre have which would indicate O'Reilly even knew Patricia Harriss? Did he arrange to have Mary O'Reilly picked up at school and brought to the Police Station without any notification to her parents. Was any attempt made to contact her parents and have them in attendance.

Why was he taking a Statement from Poirier after Marshall was convicted? Did he consider the evidence of Poirier to be important.

Refer to the Statements of John MacNeil, David MacNeil and James MacNeil taken on November 15, 1971. Did he check Ebsary's record at that time and determine that Ebsary had been convicted of a concealed weapons charge involving a large knife?

Advise him of the statement made by Emily Clemons and show him a copy of the statement and obtain his comments. (Liaise with Wylie with respect to seeing Mrs. Clemons and talking to Joan Clemons).

Ask him questions to confirm or discount the comments contained in the statement from Dollimount concerning Ratchford's story.

Refer to the statement obtained from George MacNeil and find out why this evidence was not developed.

MacIntyre (Cont'd)

Refer him to the records of the Sydney Police Department concerning the April 8, 1970 incident involving Ebsary and the concealed weapon. When did he first see this report? In particular, did he see it in 1971 and if not, why not? Are the various policemen referred to on the report still available?

(The report can be found in my file concerning the Sydney Police Department in 1971 investigation, Volume G-1).

Review the plan which was introduced into evidence and have him discuss the logic of Chant proceeding up Bentinck Street to the railway tracks and then walking down the tracks as a "shortcut" to get home. The plan can be found in Volume G-1 on page 4.

Look at the Crime Report prepared on May 29, 1971 and the reference to "three" stab wounds in Seale. The typewritten report eliminates the word "three". Was he aware of this discrepancy?

The handwritten report is found on page 5 of Volume G-1 and the typewritten on page 14.

Show him the handwritten notes contained on page 30 of Volume G-1 and have him identify and explain who the various people are.

Review with him the telex from the Sydney Detachment of R.C.M.P. to Halifax which was sent at 3:11 a.m. May 30th. Did he have any discussions with the R.C.M.P. and did he ask them to make this request of the Identification Branch. Was there any response

MacIntyre (Cont'd)

to this telex and if so, what information was given. What efforts were made by the Sydney Police to ascertain whether there were any records of a similar type M.O. being used in Sydney.

(The telex can be found in Volume G-1 at page 32).

Refer to the MacNeil statement. Who witnessed this statement? The description given by the MacNeils is very similar to that given by Marshall. Was this information made available to Crown Prosecutor?

(The MacNeil Statement can be found at page 33 of Volume G-1).

Was he provided with a copy of a letter from the Black United Front to the Chief of Police and if so, was there any pressure being brought to bear on him to come up with a quick solution to this crime.

(Letter on page 34 of Volume G-1).

Review the contents of Chant and Pratico's statements with him. In particular take him through the geography descriptions with the aid of a map and show that what is being said here does not make much sense.

(The statements can be found commencing at page 41 of Volume G-1).

See what he knows about Christmas's involvement. Tell him the expected evidence from Christmas concerning the suggested sentence if he pled guilty to break and enter. //

Refer him to the evidence expected to be given by Emily Clemons (found in Volume G-2) and ask him if he ever told Joan Clemons that he was going to get Marshall. Does he have any reason to offer as to why the Clemons would make up a story such as the one being suggested.

MacIntyre (Cont'd)

Refer him to the letter from Aronson of January 26, 1982 found in Volume G-3 at page 6. Also refer to page 7 and the internal document from R.C.M.P. indicating MacIntyre had contacted the R.C.M.P. seeking information on the polygraph examinations and seeking a phone number of a person who he could call. The envelope containing the letter is copied on page 16 of Volume G-3 and shows it was received in Sydney on February 1, 1982.

Refer him to the letter from Jean Smith written February 2, 1982 and confirming a telephone conversation with MacIntyre. The letter is found on page 8 of Volume G-3. Why was he contacting Green? At what time was the R.C.M.P. brought into the investigation in 1982? Have him comment in particular on the contents of the third last paragraph in the letter.

Refer to the R.C.M.P. Report starting on page 10 of Volume G-3. Why was he at a meeting in the office of the Crown Prosecutor? Who requested that the R.C.M.P. become involved? Who initiated the contact with the Crown Prosecutor or the Attorney General's Department.

The author of the R.C.M.P. telex of May 30, 1981 is not known to the R.C.M.P. (see Bissell's letter to Osborne April 9, 1987).

Review with MacIntyre the comments contained in Bissell's letter of April 9, 1987.

Chief grew up on Crescent St. Must have known 1st Beat's Statement impossible.

MacIntyre (Cont'd)

Refer him to Ebsary's Statement of November, 1971 and also the Statement by MacNeil given at the same time.