

Outline: General

①

①

General Experience

②

Practices followed:

- i) taking statements
- ii) instructing those for whom responsible
- iii) seeing conduct of investigation
- iv) Having statements typed: checking of accuracy

③

~~Experience used~~ Record System available to Sydney Police in 1971

(a) own records

(b) RCMP

(c) other

Ident. Services available.

④

Experience with major crime

- (a) murder + other violent deaths
- (b) attempts
- (c) major assaults
- (d) B & E & robbery
- (e) other

⑤

Procedure to be followed when dealing with major crime.

⑥

Assistance with investigation:

- (a) RCMP: (b) other police: (c) Crown Prosecutor
- (d) other - informants etc.

(2)

Junior Marshall - Tom
Christmas - other natives
PRIOR to May 28/71

- ① Appenice with Junior.
(a) Paper to Junior records
(b) Usual for Mac Intyre to be involved
with Junior offences.
(c) AA in al Intyre - any relation?
(d) Joan Clemons story
(e) ~~O'Kelly for~~

② Tom Christmas
Go through record material

③ Natives
O'Kelly twins story
others.

Seale
Knowledge of him
Appenice with him

Marshall Investigation

⑦ May 28 / 1971

- (a) His movement that day. ^{Compare with Standard}
- (b) Knowledge of Michael R. McDonald:

 - (c) Confidence in his ability
 - (c) Phone call: what told: what instructions given: why not come out: Knowledge of shrewdness of crime: Does he now think he should have come out
 - (d) other
 - (e) Instruction to other police suspects. How conveyed.

⑧ May 29 / 1971

- Some on 7(e)
- (a) Trace his movement in detail; Refer to all statements + notes.
- (a)(i) Refer to Occurrence reports + notes
- (b) Refer to Woods notation
- (c) why require Junior to be around station all day. Any warning that he a suspect
- (d) Prior knowledge Patricia ^{about others}
- (e) why no statements that day: ^{Refer to McDonald's statement re suspect}
Ready at end of day

Does he have independent recollection.

9 May 30, 1971

- (a) Refer all notes in Statements
Deal with any conflicts or evidence.
- (b) line up: Purpose? why have one
- (c) Marshall at Station: why: suspect:
- (d) visit to Louisbourg. why?
- (e) statements at Station: why
Mexico.

Go through statements in detail
why not take one from Marshall
days before.

- (f) Blockade of Memberton.
Theory at end of day
Check of records? M.O.'s?

10 May 31, 1971 - June 3, 1971

- (a) Trace activities in detail
- (b) Refer to all notes & statements
deal with all conflicts in
evidence given by others.

Theory at end of day.

Does he have independent recollection

June 7, 1971

(11)

(a) Activities in Detail: Independent Recollection

(b) Peattie Statement:

(a) where - visit to Park

(b) So through statement in detail - critical analysis?

(c) Believe him?

(c) Grant Statement:

(a) where: In Detail

Refer to all conflicting evidence

(b) Refer to statement in detail

(i) critical analysis? any suggestions to him

(c) Believe him?

Theory of crime?

(d) ~~⊕~~ Laying of Information: (at Procedure)

~~(d) How can the be~~

Marshall Arrest:

In detail

Warnings

any conversation

Surprise

June 5 - June 16/71

12

- (a) Trace activity in detail: why being done?
- (b) Refer to all notes + statements & any evidence referring to them.

Independent Recollection?

- (c) Tom Christmas incident.
 - i) Refer to records.

June 17/71

13

Does he have Independent Recollection

Patricia Harris

- a) Why Harris at Police station.
- b) Was her statement verbatim.
 - i) Point out "witness" abuse on original. Explanation
 - ii) Refer to First Statement. His knowledge of it.
 - iii) Refer evidence of Harris + Mrs. Harris
 - iv) was she there entire time.
 - v) Refer to his handwritten note re O'hilly tennis? when made?

7

Harris
vi) any contact with Harris later
vi) why was O'Reilly question asked to Harris.

c) Terry Bushue

- i) why at Police Station. who arrive. How.
- ii) Contact with Harris
- iii) Explain "witness"

Theory

June 18/71

14

- a) O'Reilly turns Independent Recollection
- i) when picked up? why? How?
 - ii) Draft statements in detail. Refer to evidence

Defence

15

(a) Appearance Problem: Khattar.
Their knowledge of his practice of taking statements.

15

June 19 - Sub Preliminary

- (a) Activities
 - (b) Review any statements. why taken? Leads.
 - (c) Deal with any conflicts in the evidence.
 - (d) Attempt to get blood sample: collusion Dr. Vucich; request of defense counsel.
 - (e) Visits to scene.
 - (f) Consultation Crown: witnesses; file material to Crown. Explanations.
- Preliminary Hearing

17

Preliminary - TRIAL

- (a) Consult Crown - witnesses
- (b) Practice visit to N.S. Hospital. Advice to Crown.

18

TRIAL

- (a) Present throughout
- (b) Restio experience in Hall
- (c) Surprise at Verdict:

Key point: Fact Chart & Restio had no connection & come up with the same story.

19

Nov. 15/71

- (a) In Detail: Instructions: From whom Review Statements & evidence of other. Questions which arise from statements
- (b) who introduced R.C.M.P. (Compare with Walker evidence)
- (c) Things that could (should) have been done:
 - (i) line up
 - (ii) Interview other witnesses:
 - Chart: Restio: Marshall:
 - Donna Elsay
 - (iii) Check of records - Elsay
- ~~(d) Refer to Marshall Testimony~~
- ~~(e) Introduction of R.C.M.P.:~~
- (d) fine differences in statements

(20)

Nov. 15 - Nov. 23/71

- (a) Contacts with Al Marshall: compare with Marshall evidence.
- (b) Material given to Marshall
- (c) Visits to scene. other assistance.
- (d) answer results of Polygraph Report?

(21)

Dec. 1971 - 1973

any dealings

(22)

1973

- (a) contact Pateford & Donna Elson. (Refer Pateford evidence)
- (b) Ever discuss to Vignobant

(23)

1975

Eugene Cole:
Refer to Cole notes

24

1971 - 82

(a) Correction Services:

Dealings with These Services

(b) Recommendation against visits home by Marshall. why he being asked.

25

Promotion to Chief

(a) Deal with History: possible return.

(b) Organizational & Procedural changes implemented by him.

26

Jan. 1982

- (a) Monson letter. what new here?
- (b) Response.
- (c) Refr. to contacts with
Wheaton, Counsel, Davis,
Frank Edwards, Gordon Hill,
Gordon Cole

Belief?

- (d) documents & materials - give
to RCMP. why legit for
letter from A.G.

27

Reference

- (a) His involvement
- (b) Affidavit
- (c) other

28

Division Appeal Division

- (a) His comments

29

CBC Action

- (a) Refer to Transcript of broadcast & get his comments.
- (b) action stopped by him

30

Summary:

list number of people who he says control the ^{agencies} in the evidence they ^{have} given
 Common denominator is MacIntyre.

Regrets? mistakes
 anything he would do differently

Mac Intyre

Age.

Family

Career:

Education: Grade X Courses 1942 May? 1956 - 2 weeks

Address: 1950

TRAINING for Police Force

History with Force:

Training

Courses:

For last promotion deal with his
Qualifications for job. Seniority(?)

Relationship between Patrolmen &
 Detectives: ✓ Any change until time
 crime happens. Occurrence reports. Difference.
 What happened to them?
 who took statements: Patrolmen?

Who laid Informations? Appeared in Court

Detective: Describe job.:

Detective Sgt.

Chief of Det.: Training of others. ✓

Appearance of Michael R.: Bill Vegetant.
 Premier experience before Detective

His confidence in others: why

complaints to chief? Police Commission?
 competence? Training? Promotion? why
 procedure? change

Statements:

1 (2)

Training

✓ Practice: take down everything said?
Asking questions - no one to interfere

~~Voir dire Ebsary FRAC~~
Stand or sit?

Witnesses: Signature? General Practice to
have witness sign if present? Should
why? ✓ have one present?
McDonald X/1701

Read over to witness?

take down everything said?
Q & A form?

Juvenils: any different practice?

Michael R. McDonald X/1696 if going to take a
Statement have to be one of parents present. Policy

why must parent present? 1697*98

Refusing? Define

Get in trouble if do not tell the truth?

✓
Investigation: Manual?

Person in charge?
 How decided?
 Reporting procedure

Practice followed:

Make notes of everything he did?

Statements: take from everyone
 spoken to? why?

Reference occurrence reports? ✓
 Crime reports?

Involvement patrolmen ✓

typing of statements:

which ones? why

Instructions? add information later? ✓

what kept in files? who decided?

what files retained? when? why
 all

1(3)

✓ What records available to Police in 1971.
occurrence reports. Crime Reports. How far through
despatch system in Jail.

What assistance available from RCMP + other
Cooperation?

Ident. Services: <sup>Photo
Drawing
Fingerprinting</sup>

What available. From where.

Importance for investigation? Proof
AT TRIAL. GTS

Jalousy or bias?

42
29

71

major:

- Murder + other violent death ✓
- attempted murder ✓
- major assaults
- B + E + robbery
- others?
- arson

murder : 2

ATtempts : con / recall org / unusual

Major Crimes: Define

(4)

(4)
(5)

Instruction to his staff re procedure to be followed when dealing with major crimes. ✓

to patrolmen? ✓

Any manual of any kind available for staff.

Experience only? ✓ Involvement chief? Det. Sgt?

Go through curriculum of Ryan & Wright on these points.

Number of major crime investigations he has experienced? Prior & Subsequent 1971 ✓

- Murder & violent death ✓
- attempted murder ✓
- major assaults ✓
- B+E and robbery
- Other

Independent Recollection

1(6)

What assistance available
from + sought from

RAMP ✓

Other Police ✓

Informants ✓

Crown Prosecutors ✓

Others ✓

2 ①

Knowledge of Jr. Marshall

Any charges would be known.
any other?

Go through Records: Chronology
p. 48 Vol. 22

See GA

Fingerprinting practice.

16/108 - Fingerprint for LCA violation?

Based on experience would not be alarmed
if he committed a murder
15/192.
what previous dealings suggest such
a conclusion?

Clemens Incident

Refer to evidence

Clemens:
Had no idea why they wanted to talk to Joan ^{XIX} 3449
Not invited to come but did anyway
took Joan in office by herself & gestured to mother
to sit outside 3454

Mother entered room because Joan being told
she could be in juvenile court if she didn't say
what they wanted 3458 *

not a proper person to bring up child because
littering her with around 2 unsavoury characters
told him he was like bloody Gestapo or Russian 3460 *

Jr. Marshall not a proper person for
Joan to be associating with 3461 *

If don't get him on this one will get him
on another 3475 *

BACK TO 6

EMILY CLEMENS, by Mr. Spicer

1 A. Yes, I did.

2 Q. Okay, what was it that prompted you to go into the room?

3 A. Well, at that time he was saying that if she didn't say
4 what she wanted to say that she could be in -- she could go
5 up against, I don't know, juvenile court or something
6 or another to that affect.

7 Q. Could you just -- do you want to just go back and repeat
8 that for us because his Lordship did hear you?

9 A. Well, he was trying at the time -- I mentioned -- I heard
10 her mention something about juvenile hall or juvenile court.

11 COMMISSIONER EVANS:

12 Juvenile --

13 BY MR. SPICER:

14 Q. Sorry, junior --

15 A. Juvenile.

16 Q. Juvenile, juvenile.

17 A. Yeh, that's it yeh. He was mentioning to that effect if
18 she didn't tell the truth that way and of course when he
19 mentioned that, I got kind of worried because I said "Gee
20 what's"-- I thought it was more to it then it really was
21 you know, just giving the liquor thing. And I was more
22 curious to go in and find out what else was, you know,
23 that he was trying to get out of her.

24 Q. Right.

25 A. So I went in and --

EMILY CLEMENS, by Mr. Spicer

- 1 Q. Do you go in and -- did you just stroll in or did you go
2 in go in -- were you angry at this point?
- 3 A. I was annoyed --
- 4 Q. Annoyed?
- 5 A. -- and I was quite upset at the time.
- 6 Q. Why were you annoyed and upset?
- 7 A. Well, I just didn't like the way that it was. I felt that
8 that time if he had have been a little more not so forceful
9 with her. If he did want to get something out of her, he
10 may have got a better chance if he was more human about it.
- 11 Q. Okay. You went into the room?
- 12 A. Yeh.
- 13 Q. What did you say?
- 14 A. I just asked him why he was the way he was and everything
15 else. And he said, "I think your daughter is lying." And
16 I said "Well, if she told the truth", and I said, "I think
17 she does." Because I said "Because she's not a person that
18 would lie that way." You know, one thing led to another.
- 19 Q. Well, and when you say one thing led to another, I want you
20 to make sure that you tell us as much as you can remember
21 as to what was said?
- 22 A. Well, he said that he asked if I knew where my daughter was
23 all the time and I said well, I said, yes, I -- I knew that
24 she went to school. I knew she went out. And we always --
25 she always phoned when she went any place to let me know

EMILY CLEMENS, by Mr. Spicer

1 where she was at and that. . And she said that -- and then
2 he went and told me that I wasn't what you would call a
3 proper person to be bringing up any child because I didn't
4 -- that I was letting my children run around with
5 unsavoury characters. To that effect. So then I got mad
6 and told him off.

7 Q. And when you told him off, what did you say to him?

8 A. Do I have to say it.

9 Q. Yes.

10 A. I told him he was like bloody Gestapo or Russian. I said
11 then you remind me of a bit little lobster, you never --
12 you don't know when to leave go. Well, he asked me to say
13 it and I told yeh.

14 Q. All right. I'm sorry you're going to have to say it again
15 though because you said it so quickly. Just slow it down
16 a little bit.

17 A. Well, I told him at that time that he reminded me of
18 somebody in the Gestapo or --

19 Q. Gestapo.

20 A. -- Gestapo or Russian. And I said another thing too, I said
21 you remind of a lobster, when you grab a hold of something,
22 you don't know when to let it go.

23 Q. You remind me of a lobster, when you grab a hold of something,
24 you never let go?

25 A. I don't know -- that was my way of telling him --

EMILY CLEMENS, by Mr. Spicer

- 1 | Q. That was your way of telling him what?
- 2 | A. That I didn't like what he was doing.
- 3 | Q. And then -- the comments that he'd been making before that
- 4 | that you, I think you've indicated, you didn't know where
- 5 | your daughter was and that suggestion was being made to
- 6 | you. How did you respond to that? Did you say anything
- 7 | to that?
- 8 | A. I got mad and I may have said a few more things but as I
- 9 | said I don't remember at the time while I was there.
- 10 | In fact I didn't even remember what I said before
- 11 | until someone else reminded me of what I said.
- 12 | But I did get made at him because I found out that my
- 13 | daughter -- I respected her rights and she respected mine
- 14 | and she -- when she went out, she always phoned me to let
- 15 | me know where she was and that and I said I wasn't going
- 16 | to be a watchdog on her.
- 17 | Q. During this conversation or exchange between yourself and
- 18 | John MacIntrye, did he make any reference to Junior
- 19 | Marshall?
- 20 | A. You mean --
- 21 | Q. When you were in the room there?
- 22 | A. Well, he just said that he wasn't the proper person that
- 23 | my daughter should be associating with.
- 24 | Q. I'm sorry, he told you that Junior Marshall was not a
- 25 | proper person?

EMILY CLEMENS, by Mr. Spicer

1 | that he or the police could have gotten Junior Marshall --

2 | A. Well, it was --

3 | Q. -- on or did he say to you

4 | If I don't get him now, I'll get
5 | him later on.

6 | Which was it?

7 | A. Well, he said it -- that he would make the mistake sometime
8 | in the near future that he would probably would get him --
9 | pick him up on it. That's what I understood it; now I
10 | couldn't.

11 | Q. I see.

12 | A. Something to that effect.

13 | MR. SPICER:

14 | Is that clarified, my Lord.

15 | COMMISSIONER EVANS:

16 | Q. Well, on this. Does that mean that as I get the gist of the
17 | conversation that was going on between Marshall and your
18 | daughter. He thought -- I'm sorry, between MacIntyre and
19 | your daughter, the police were of the view that Marshall
20 | had given liquor to your daughter?

21 | A. That's right.

22 | Q. And your daughter denied that Marshall gave her any liquor?

23 | A. Yeh, he denied at that time being given the liquor.

24 | Q. Now did she admit that somebody had given her liquor?

25 | A. As far as I understood it they got the liquor but she didn't

2 (2)

Tom Christmas

Knowledge:

Granstone Incident: had group of men in cell. playing one against other 4/40-4/56
Vol. 22 pp. 6 ff

Go through records: Refer to Christmas evidence

Seriousness of Sentence?

Vol. 22 pp. 25, 28, 33

Present summary preliminary? Hear evidence of

Proctor? Attempt to Tell Truth.

Exhibit 22?

2(3)

Natives

General Dealings with them.

Refer to evidence.

Andrews - Indians noted from Vol VII 1178-1180

Ever told this by anyone? Suspended?

O'feilly evidence re handling

7.65.

Native evidence - sleeping it off.

Dustoe - Indians treated differently

2(4)

Seale

Knowledge?

Father?

Experience?

Record?

Capable of robbery?

1 the other girls.

2 Q. Okay. Are you saying then that there was a feeling among the
3 girls in the group that their membership in this group or their
4 being part of this group was generally something that the
5 other parents didn't approve of?

6 A. Yes.

7 Q. Why was that?

8 A. I believe there was a lot of prejudice at that time. That's
9 my personal opinion.

10 Q. Other than your parents nonapproval, was there any other
11 evidence or suggestion of this prejudice?

12 A. The police made it very clear that that was bad company.

13 Q. Okay. Could you tell us how you arrived at that conclusion,
14 please?

15 A. We were at a midnight show in Sydney on Charlotte Street. We
16 were out walking around and a police car stopped, took our
17 names, addresses, telephone number, and that was it. We were
18 left alone after that not realizing that they had made a visit
19 to my house asking if they knew who we were with, that we were
20 in very bad company, and this was in the middle of the morning
21 so it was quite a shocker to my parents, thinking there may
22 be a bad accident or something.

23 Q. Okay. Do you know roughly when this occurred in relation to
24 the incident?

25 A. I believe it was that summer. The summer of '71.

- 1 Q. Following the incident?
- 2 A. No, before.
- 3 Q. Do you recall who you were with? The members of the group?
- 4 A. Yes, I do. I was there with Artie Paul, my sister, with Pius
- 5 Marshall.
- 6 Q. Your sister Margaret or --
- 7 A. Mary.
- 8 Q. Sister, Mary.
- 9 A. There was Theresa MacNeil and Junior Marshall. I believe that
- 10 was it.
- 11 Q. Okay. And you say it was the middle of the morning. Do you
- 12 mean the middle of the early morning?
- 13 A. Yes.
- 14 Q. Around what time?
- 15 A. I'd say between one and two.
- 16 Q. Had you been out walking around on Charlotte Street that hour
- 17 of the morning before?
- 18 A. No.
- 19 Q. Do you recall who the policemen were?
- 20 A. No, I don't .
- 21 Q. Did they come up in a car, though?
- 22 A. Pardon me?
- 23 Q. They came by in a car or were they on the beat?
- 24 A. They were in a car.
- 25 Q. And they stopped?

1 Q. The other question I -- You had known Junior Marshall for
2 some period of time prior to this?

3 A. Yes.

4 Q. Had you known any incident that -- any trouble that he had,
5 that is Junior Marshall, with the police --

6 A. No.

7 Q. --with respect to supplying liquor to minors. Did you know
8 anything about that?

9 A. No, I didn't.

10 Q. You did not. Okay. Was it your view that the police were
11 concerned because you were out with the Marshall boy or was
12 it just because you were out with some Indian boy?

13 A. I believe it was the particular people that we were with that
14 night.

15 Q. That is Marshall and his brother?

16 A. Yes, and Paul.

17 Q. And a Paul.

18 A. Artie Paul.

19 Q. And that was the concern of the police officers who went to
20 your father?

21 A. Yes, that's correct.

22 COMMISSIONER EVANS:

23 Thank you. I have no further questions.

24 MR. CHAIRMAN:

25 That's all thank you very much.

1 Q. Did you ever have occasion of any contact with the police
2 when you were hanging around with the Indians?

3 A. Just once, one night.

4 Q. When was that?

5 A. Well, it was months before Junior was convicted. I don't
6 know what month.

7 Q. Okay.

8 A. But --

9 Q. Can you tell us what happened?

10 A. Well, we were at a show and it was --

11 Q. When you say we, who is we?

12 A. My sister and I and --

13 Q. Your sister?

14 A. My twin sister and my older sister. And we were at --

15 Q. And your twin sister's name is Margaret?

16 A. Margie. Margie and Catherine were there and it was about one-
17 thirty in the morning. We left the show and we started walking
18 down by the Credit Union on the corner of Townsend and George
19 and they stopped us. I was --

20 Q. Who were you with?

21 A. I was with Pius Marshall and my sister was with Artie Paul
22 and we weren't really doing anything but they said that --
23 took our names and where do you live and we gave all the
24 information out and then they called my parents and told them
25 that we were walking with the Indians and that. I guess they

- 1 | couldn't take us in. We weren't really doing anything.
2 | I don't think anyway.
- 3 | Q. They called the parents that night?
- 4 | A. Yes, or they went down to the house. I can't remember now.
- 5 | Q. They went to your house that night?
- 6 | A. Yeh, they went to the house. I don't know if they called
7 | first or went down to the house. My father didn't appreciate
8 | it anyway. I remember back.
- 9 | Q. Do you know who the policemen were?
- 10 | A. I think it was Boots Walsh?
- 11 | Q. Boots Walsh?
- 12 | A. I'm -- possibility.
- 13 | Q. Why do you think it was him?
- 14 | A. Well, that's the only man that I remember that, you know,
15 | I can see his face and that.
- 16 | Q. You remember a description of him?
- 17 | A. Yeh. Tall, slim like you. Make you feel good.
- 18 | Q. I'm not so sure about that.
- 19 | A. I remember he rolled down the window but, you know, I couldn't
20 | tell you what colour eyes he had but I know he was thin and
21 | thin faced. Just -- and --
- 22 | Q. Why would they call your parents or why did they go to your
23 | parents house?
- 24 | A. I guess cause we were walking with the Indians. We should
25 | have been home in bed.

1 Q. Did they tell you that it was because you were with
2 the Indians?

3 A. Yeh, they just asked where we were coming from and where
4 we were going and, you know.

5 Q. Had you been out on the street at that hour of the night
6 before?

7 A. No, it's was just that we were supposed to be in the show
8 but we weren't.

9 Q. At one-thirty?

10 A. Yes. We were walking down to go home.

11 Q. Do you think they would have stopped you if you had been
12 with White guys?

13 A. No, I don't think.

14 Q. Still one-thirty in the morning?

15 A. Yeh, well, if, what was it? If there had have been a curfew
16 or something, why didn't they take us home?

17 Q. Why do you think that they would not have stopped you if
18 you'd been with White guys?

19 A. Well, just that a lot of people are prejudiced and at that
20 time in that year we were doing the wrong thing.

21 Q. Can you tell us a little more about that? That time -- At that
22 year you were doing the wrong thing?

23 A. Well, we were out late and we were with Indians.

24 Q. Did the police make any point of saying to your parents that
25 you were with Indians?

*Sydney Discovery Services, Official Court Reporters
Sydney, Nova Scotia*

AMBROSE McDONALD, by Ms. Edwardh

- 1 and was it consistent, those kinds of questions. Can you
2 re-formulate that in a little different way so what
3 precisely was he asking you to look for?
- 4 A. He was asking me just to read it and see what I thought of
5 the evidence that was given and I know he had some concerns
6 but he didn't express them to me at that time. He just asked
7 me to read and see if I saw anything in it that was
8 inconsistent with what I knew.
- 9 Q. And I take it what you were reading was the Reference in the
10 Court of Appeal. You were not reading the original trial
11 to find out -- you weren't reading the '71 transcript?
- 12 A. No, no, not the '71 it was the --
- 13 Q. It was the '82 transcript?
- 14 A. It was the '82, yes.
- 15 Q. And I take it the concern at that time was whether or not
16 " enough or all the evidence had been put forward?
- 17 A. Yes.
- 18 Q. To see whether the Court of Appeals had been hoodwinked
19 in aquitting Marshall, that was the concern? Isn't it, fair
20 to say?
- 21 A. Possibly.
- 22 Q. From your discussion with --
- 23 A. I wouldn't use the word hoodwinked.
- 24 Q. Well, I'm sorry.
- 25 A. A little strong.

AMBROSE McDONALD, by Ms. Edwardh



1 Q. Okay, the Court of Appeal had not had all the material fully
2 and fairly put before them to make a real determination on
3 all the evidence and that was Sergeant MacIntyre's concern?

4 A. That was all our concern.

5 Q. Okay, it was Sergeant MacIntyre's concern?

6 A. It was.

7 Q. And I take it he expressed that to you?

8 A. Yes, he did.

9 Q. Is it also fair to say that at that time from his conversations
10 he conveyed to you some notion that he believed that Mr.
11 Marshall was guilty?

12 A. Yes, I think at that point he still believed that he had
13 the right man based on all the evidence that he had.

14 Q. And it would be fair to say from your conversations that he
15 still holds that believe today?

16 A. I can't say what he'd say today, I've had very few conversations
17 with the man in the last three years.

18 Q. You may not be able to comment on that?

19 A. No, I wouldn't want to.

20 Q. The type of review you gave, I take it, was to identify what
21 you felt was wrong with what might raise questions about
22 whether everything was fully and frankly put before the Court
23 of Appeal. That was the type of review that you did?

24 A. Yes.

25 Q. So when you refer to questions such as conduct of Crown counsel

official reference

D. LEWIS MATHESON, by Mr. Orsborn

- 1 A. Yes, I certainly did discuss that with Mr. MacNeil.
- 2 Q. Do you recall his response?
- 3 A. Well, I don't recall specifically what he said but I just went
4 through what my beliefs were and I don't recall him having
5 anything to say consistent to the fact that Mr. MacNeil
6 believed that what he had in his file was true.
- 7 Q. Did you question at all the process whereby two young people
8 would initially give statements which did not implicate
9 Mr. Marshall, and then on a later date both gave statements
10 which implicated Mr. Marshall?
- 11 A. I believe we had -- we had -- we asked the officers about it
12 and in particular Sergeant MacIntyre, and I don't recall that
13 we quizzed him about the process but he assured us that he
14 had questioned them on one occasion and got one answer when
15 he questioned them on the second occasion he got another and
16 a different answer and I'm -- I sincerely believe to this day
17 that Detective MacIntyre believed that his second answer was true,
18 MacNeil did, and I did.
- 19 Q. I see. In the review of the file, sir, you've mentioned
20 inconsistent statements from Chant and Pratico. Do you recall
21 if you saw inconsistent statements from Patricia Harriss, and
22 by a statement in her case I mean even a paper with information
23 from her on it which is not necessarily signed by her?
- 24 A. Again I can't recall that I read that. I'm satisfied I had
25 all the information that there was, but no, I don't recall

May 28/71

activities that day. when go home.

Michael R.
Experience
Composure

Confidence: why take case from him^{11/16/72}

Independent recollection of phone call?

McGilkey call: why he called?

what told? Dennis come?

Speak to chief?

why not come out??????

15/77,8

understood chap at hospital
Detectives working.
Call if any more info.

nothing at scene police
couldn't look after

Instructions given to
MacDonald?

Desk Sgt.

What did he expect was being
done? By whom? ✓

How would patrolmen get
instructions? Revised?

Would

In retrospect Should he have
come out that night

May 29/71

John O'Hara
VIII/1672

Independent recollection?

when arrive?

Briefly MacDonald? His notes? 9.38

Partakers? who? what told.

Anyone else?

Complaints or criticisms?

Occurrence Reports &

Crime Reports?

Vol. 16

pp. 2-16

Suspects:

^{Wood}
~~Ryan~~ note 9.40

9.41

Evidence 1874

M. R. MacDonald - no suspect 1673*

What instructions given to Police
on duty?

All activities that lead to obtain
evidence!

✓ Refused Ident. Service Offer. Ch. 147 or.
Vol VII 1259-60 67 1274*

Walt VIII/1407 would get all available of picture.

Review Police Records?

M.O.'s.

Elzary Record 16/1

Knife Q. 26

Marshall

Was he around?

why?

Preliminary
Sent for
1574

Statement? OAL.

Questions re conflict of descriptions?

what description was he making on
warning?Prattis: Prior knowledge?

when knew of him?

only discussion May 29.

Chand: know of him of 29th

16/97 May 30/71

why not see him on 29th

What useful info obtained on that day?

Any information fed into the Record system?

What was Maritime Comm. Index System

type of info fed in key

Sydney Police

See attached letter



Department of Justice
Canada

Ministère de la Justice
Canada

APR 13 1987

4th Floor
Royal Bank Building
5161 George Street
Halifax, Nova Scotia
B3J 1M7

4ième étage
Immeuble Banque Royale
5161 rue George
Halifax, Nouvelle-Écosse
B3J 1M7

426-8203

April 9, 1987

Our file: AR-21,613
Notre dossier:

Your file:
Votre dossier:

Mr. George W. MacDonald
Commission Counsel
Royal Commission on the
Donald Marshall, Jr.,
Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear George:

Re: Donald Marshall Inquiry

I acknowledge receipt of your letter of April 6, 1987 concerning the Operations Manual of the Royal Canadian Mounted Police. As you can well imagine, the Operations Policy Manual of the Royal Canadian Mounted Police is not only voluminous, but also restricted. I do, however, enclose for your information a copy of the page from the Manual which relates to the responsibilities and procedures in initiating a prosecution. You will note, in particular, paragraph D.1.c, which sets out that the decision to lay charges rests solely with the Police.

During the interviews which took place on March 30, 1987, we discussed the nature of the police information services in place at the time of the murder of Sandy Seale in reference to the telex sent from Sydney Subdivision to "H" Division Headquarters on May 30, 1971 requesting a "M.O. check." I am advised that the C.P.I.C. system was not operational in 1971 and did not become operational in Nova Scotia until July 7, 1972. The Maritime Crime Index Section was operational in 1971 and it maintained what was known as a "M.O. wheel" which kept track of the M.O.'s of known criminals in the following categories: sex, arson, murderers, safe attacks, unusual crimes, armed robberies and violence. The telex of May 30, 1971 was a request for the authorities at M.C.I.S. to check this intelligence service.

Corporal Shaw has been unable to locate among the R.C.M.P. records any written response to the telex of May 30, 1971. The M.O. wheel was destroyed sometime ago as it became redundant when C.P.I.C. was introduced in July 1972. Corporal Grant Shaw is of the

.../2

Canada

Mr. George W. MacDonald
April 9, 1987
Page Two

opinion that Mr. Ebsary's name would not have appeared on the M.O. wheel in May, 1971. He has come to this opinion because the authorities in Ottawa advise that the Sydney Police Department did not enter any particulars of a modus operandi in the appropriate portion of Mr. Ebsary's fingerprint sheet No. 399634A, which was prepared in April, 1970 when Mr. Ebsary was convicted of possession of a weapon. Mr. Ebsary's fingerprint sheet is still lodged with the authorities in Ottawa. Since there is no indication of a modus operandi on the fingerprint sheet, it is doubtful that any entry would be made by M.C.I.S. on its M.O. wheel arising from Mr. Ebsary's conviction. It is also noteworthy that the telex of May 30, 1971 requested M.C.I.S. to check for a male between 5 feet 8 inches and 6 feet in height. Mr. Ebsary's height is only 5 feet 2 inches, so it is highly unlikely that a check would have resulted in the identification of Mr. Ebsary, even if his name had been entered on the M.O. wheel.

Yours very truly,



James D. Bissell
General Counsel
Director, Atlantic Region

JDB:ja

Enclosure

Suspect at end of day?

M. R. MacDonald - no indication
Marshall guilty at end of Saturday 16 86

~~what effort~~

Refer 16/90

who would & could request?
charge? Record?

where would the description of
the two men come from?

any reply? Follow up?

known at end of the day?

Theory at end of the day?

Give any criticism of people involved that night?
How conveyed.

Walsh - did not get dying declaration¹¹¹¹ / 1351
- left scene. did not secure
Maidonald!

1. Did not take statements from
Chant! Marshall! Did not even
get Chant's address
2. Did not go to spot where body found^{MR. 1661}
to look for blood ¹⁷³⁶
3. Did not get info from Walsh. Deon. Meoy
^{X/ 1650}
4. Gave no instructions to patrolmen or
Sgt. Regard ¹⁷²⁷
¹⁶⁶³
5. Did not search Marshall or ask
if he had a knife
6. No search of Seale's clothing or
accommodation to ~~obtain~~ ^{secure} them? Did Seale
have any money, etc. ¹⁷¹⁶
7. No request of Dr. to obtain blood sample &
check for alcohol - drugs.
8. Did not secure scene. Did not call in
Ident. Services.
9. Did not search for witnesses. Talk to
residents. (Basic Technique to do so 1677)

10. Had description from Marshall Lees
This not put out even codis. 4. 38

Cf. McCoy 16/40

Macdonald 16/8

1728

Reyn Standard Techniques - Service Crime
1863++

1. Cordon off area. Preserve evidence ✓
2. Get statements as soon as possible ✓
3. Get names of witnesses
4. Get on scene as soon as possible ✓
5. Get Ident. Assistance ✓
6. Get post mortem (Police Decide MacDonald 1719)
 wanted about one 1687
 Reyn 1864
7. Secure victim's clothing - immediately
8. Door to door canvass - make note of anything told to you
9. Check records for similar M.O.'s

Weight 5258 ft

1. First consideration protect scene & gather the evidence. ^{blood} ^{measuring} ^{etc.} tape it off & leave someone
2. Get names of witnesses & statements
3. Call in Ident. Services immediately. Photos. Measurements
4. Post mortem
5. Use special egg shell or metal detector
6. Door to door canvass - keep note ✓
7. Obtain clothing of victim

Any possible explanation for failure to do most basic things except ~~etc~~: (i) total incompetence or (ii) already had a theory & looking for evidence to substantiate

How avoid tunnel vision? Premature Conclusion

May 30, 1971

Independent Recollection

4(9)(a)

Refer handwritten note 16/30
of Barbara Floyd evidence 3/29, 30
why no statement? eye witness denial

who else seen that day or

May 29 16/15 16/130

Olona Dixon 16/24 16/25
where handwriting

(b) Marshall at Station? Why?

suspect? warning? Suspect?
Refer Preliminary

line-up. - 15A/7 MacDonnell X/1690-1
why? who? 1692* - would not have a
Ricardo -1692 lining if no suspect.
1751-52 Newspaper Article
!!

House to House interview

BARBARA FLOYD, by Mr. Spicer

- 1 left onto Argyle, gone past Argyle a little beyond Crescent?
- 2 A. Yes, past Crescent a bit.
- 3 Q. Right and you would've dropped Joan off there?
- 4 A. Yeh.
- 5 Q. Okay. And then where would you and Sandra have gone?
- 6 A. Back down this way and over here and up that way.
- 7 Q. Okay. So back down Argyle, along George a little bit, and
- 8 then off along by Cottage Road?
- 9 A. Yes. Up towards Townsend Street.
- 10 Q. Up towards Townsend Street?
- 11 A. Yes.
- 12 Q. During the course of taking Joan over towards -- on Argyle and
- 13 on your trip back, did you hear any sirens or see anything?
- 14 A. No.
- 15 Q. Did you see anybody at all?
- 16 A. No.
- 17 Q. So the only person you would've seen would've been John Pratico
- 18 when you left the dance?
- 19 A. Everyone at the dance was there outside.
- 20 Q. Sorry?
- 21 A. Everyone that was at the dance outside and around, yeh.
- 22 Q. Yes. Did you have -- Were you visited the next morning by
- 23 John MacIntyre?
- 24 A. Yes.
- 25 Q. And you -- Was he by himself?

BARBARA FLOYD, by Mr. Spicer

- 1 | A. No. Mr. Mallowney.
- 2 | Q. Was with him?
- 3 | A. Yes.
- 4 | Q. Do you remember what time of the day that was?
- 5 | A. It was shortly before noon. It wasn't really early. It was
6 | later in the morning.
- 7 | Q. Okay. And did you meet him at the door or did your mother?
8 | Did you go to the door and answer the door?
- 9 | A. No, I don't know who answered the door. It wasn't me.
- 10 | Q. Did MacIntyre and Mallowney come into your house?
- 11 | A. Yes.
- 12 | Q. And what was it that they were there for?
- 13 | A. To speak to me.
- 14 | Q. Did they tell you what it was they wanted to talk to you about?
- 15 | A. They told me that Junior and Sandy had been stabbed the night
16 | before and they asked me if I was at the dance, and then they
17 | asked me if I was in the park.
- 18 | Q. Right. And what did you say?
- 19 | A. I said I wasn't in the park.
- 20 | Q. What did they say to that?
- 21 | A. Well, they said that they had an eye witness that said that I
22 | was there.
- 23 | Q. What did you say?
- 24 | A. That I wasn't.
- 25 | Q. Did they persist in --

BARBARA FLOYD, by Mr. Spicer

1 A. Yes, they described me. At the time, I had a towel on my head
2 because I had just gotten out of the shower, and they knew
3 exactly what I looked like. They knew what clothes I wore and
4 things like that and said that somebody did see me there.

5 Q. And in the course of telling you that somebody had seen you
6 there the night before, did they describe to you the clothes
7 that you had been wearing the night before?

8 A. Yes.

9 Q. And did they describe them correctly?

10 A. Yes.

11 Q. Can you give us any idea of how many times they suggested to
12 you that you were in the park?

13 A. A few times.

14 Q. And would those suggestions have been being made by MacIntyre
15 or by Mallowney?

16 A. MacIntyre.

17 Q. What was Mallowney doing?

18 A. Just standing over against the wall.

19 Q. Can you describe MacIntyre's attitude towards you that morning?

20 A. Well, he was persistent that I did -- that I was there -- that
21 they had an eye witness saying that I was there.

22 Q. Did he tell you who the eye witness was?

23 A. No.

24 Q. And did you persist in saying, "No, I wasn't."?

25 A. That's right.

Recollection?

Louisbourg:

4 (a) (d)

Why?

Involvement in the Sea?

Discussions about?

Louisbourg? Return to Sydney?

Why no parents to Sydney?

What happened on return to Sydney? where about places?

Kept Separate from Marshall?

L(9) (e)

Restia:

who lead to him? took shield with blood (Mar-Restia x 11/22/63)

Why!! How picked up. where placed

as the Police station separated?

Check evidence that he saw Restia at Police Station.

Check statement 2/46 (3)

ferri totan ?

any contact with Marshall?

Marshall

Statements: no witness

16/17

Affidavit - belief that they death obtained story from Marshall! Why!! 15/12

10

M.R. Z

mid 40's - very
tall - white hair
- must stroke +
younger

4

Dean

tall yellow-
white hair +
Short fellow

E. 38

M.R.

July - 90

5-8 - 6' tall
grey hair. Approx
50

17

Marshall

Small fellow 5-9-10

190# grey hair combed
black - glasses

50 yrs. long wide face

long blue coat

black shoes - rounded toe

2. Brown corduroy coat - 5-11

150# - black hair 35 years
thin face

22

Prattis

one had brown corduroy jacket

5'5 Jack complexion - heavy set

Other grey suit 6'
husky - red sweater.

18

Chart

1. 6-2 light brown hair
dark pants - suit coat
over 200#

2. 6' tall - dark pants
dark hair 165#

couldn't say if young
or old

max Hill

1. grey haired - glasses
white top coat 180# fair
flat on head - straight back
round face - trumpet looking

2. 6' thin slote 30's early
40's thin face brown
jacketed - short

(Aff. 15/13)

~~Practice Statements: 16/22~~

what known?

← compare statements?

Suspects.?

✓✓✓ Efforts made to locate the people
described by Marshall?

Theory end of the day

Blockade of Menhaden:

when occur? why?

Vol. 19/124

incidence. work vol. VIII/1346

Season of Buck.

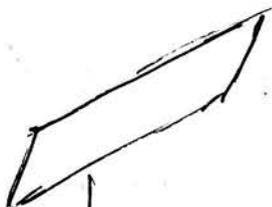
when?

where?

Remember Marshall path as described by Chant. Marshall is a suspect.

S

you're
↓



cut ~~hatched~~

Dr. Jiric

cut

suspect

(21)

May 31/87 Monday.

Dr. Dirick

Therapy done that day.

See 16/15 - Beane

not filed
6:30

MacNeil Statement: 16/26 16/27
of description given with photo
of Marshall of May 30
whose handwriting

MacNeil evidence - He contacted Police

16/13/8

MacI Aff. - para 25 15/13
efforts made to locate these people.

What else being done.

What were patrolmen doing? What instructions?
His investigation?

What known at end of day

Vol 1 / 103

Theory of Case

June 1 Tuesday

4(10)

Activity ?

16/15 - interview James Cotic

Theory of case:::

Dr. Verick

June 2 Wednesday

Flora's Final Statement

16/28

Scott McKay Statement: 16/3/1

Get his evidence. pp. ^{IV} 652 -

Why there for 4 hours? no time of print!!
By himself 652 see next page
other policeman

Wouldn't take long to get his
Statement. 1/2

Debbie Macpherson:

Spoke to her? 16/127 135

evidence. 71388 (attached)

Where is statement? If there for 1 1/2 hour
would be some writing.

He could have relevant evidence: Something
~~Seah said~~

4(10)

p. 1138

SCOTT MacKAY, by Mr. Spicer

- 1 A. Approximately four hours.
- 2 Q. And do you remember from what time in the evening to what
3 time?
- 4 A. When I was speaking to you earlier today and I said about
5 six o'clock in the evening, I see from my statement it was
6 six-thirty. But it was around there, I knew it was around
7 between six and ten at night. It was four hours.
- 8 Q. And you got home around ten or ten-thirty?
- 9 A. Ten-thirty, I'd say, yes.
- 10 Q. Okay. Do you remember who the officer was who questioned you?
- 11 A. The gentleman that came to pick me up was Detective Urquhart.
12 He took me to the station and there I met with Detective
13 MacIntyre, Detective Urquhart and there was another Detective,
14 I don't know who that was.
- 15 Q. How many people would have been in the room during the
16 questioning?
- 17 A. Three and me. Three officers, like, three Detectives and
18 myself.
- 19 Q. MacIntyre, Urquhart and one other whose name you don't know?
- 20 A. That's right.
- 21 Q. Okay, who did the questioning?
- 22 A. Mostly MacIntyre and Urquhart.
- 23 Q. During the course of the interview, did any other police
24 officers come in and out of the room?
- 25 A. Yes, at one point in time they were talking about the officers

SCOTT MacKAY, by Mr. Spicer

1 were at the scene that particular night and they wanted me
2 to identify them and they had some officers come in in
3 plain clothes.

4 Q. They would come into the room and you would be asked to
5 identify them and they would leave again? *Wheee*

6 A. That's right.

7 Q. Were you able to identify any of them?

8 A. No, Sir.

9 Q. Your statement Mr. MacKay is rather short. Can you tell us
10 what was going on for the four hours that you were at the
11 police station?

12 A. Well, they -- first of all they asked me to give, you know,
13 the accounts of the night, which I did. Then they went over
14 it a second and the second time they started tearing it apart
15 and, you know, questioning -- the first -- like -- the first
16 time I said it, they didn't question too much and the second
17 time there was questions after every action it seemed like,
18 you know. So that took a while and then the officers came in
19 that were supposedly on duty that night in plain clothes.
20 So we went through that. They had me call a friend while I
21 was there too to confirm something, I can't recall what it
22 was exactly, I had to confirm --

23 Q. They had you call a friend?

24 A. Yeh.

25 Q. Do you remember who the friend was?

SCOTT MacKAY, by Mr. Ruby

1 Q. All right. The process that -- you used the phrase, when
2 my friend was asking the questions about the statement
3 taking process: "tearing it apart." To quote reference to
4 your statement. Have you told us know what you mean
5 by tearing it apart or was it something that you just --

6 A. Well, just going over it so many times. Like, you know,
7 you get tired of saying it and -- you know, like I can
8 see giving a statement and going over it a second time but
9 --you know, not going over it a third time and -- you know,
10 like they were -- it just seemed to be a little to much --
11 you know. That's all I'm saying.

12 Q. They went over it again and again?

13 A. Yes, sir.

14 Q. The same points? I guess sometimes the same points --
15 sometimes different points?

16 A. Yeh, I guess. Yeh.

17 Q. Yes?

18 How long did this interrogation last? Can you estimate
19 it for me?

20 A. It was four hours that -- from the time that I sat
21 in to about the time we finished up. Approximately four.

22 Q. Four hours -- they were questioning you for a four
23 hour process?

24 A. Yes, sir.

25 Q. And you were all alone?

SCOTT MacKAY, by Mr. Ruby

1 A. That's right.

2 Q. My goodness. Did they offer you at any point an opportunity
3 to have a adult there? Your mother, family member, older
4 brother?

5 A. No.

6 Q. Would you have liked such an opportunity to have someone there
7 with you?

8 A. If I had have known what they were going to do, darn right.
9 I trusted them -- you know, they're officers -- you know,
10 but in my opinion they didn't treat me very good. Like,
11 but I'm sure if there was somebody else there it would have
12 been a little better.

13 Q. And you wound up feeling, as I understand it, that you
14 were the criminal and not --

15 A. Yeh, that feeling -- like you know -- like you know, it's
16 just -- I think they would have had a little more respect
17 of the situation, that they had me there, if I had my
18 father or mother or a professional lawyer or something.

19 Q. You had the feeling that you were going to get in to
20 trouble?

21 A. Sort of felt that way, yeh.

22 Q. The last thing I want to ask you about is during Junior
23 Marshall's reputation. You said it was a bad one and he
24 reputation for picking fights and being a trouble maker,
25 did you personally ever see him pick a fight?

SCOTT MacKAY, by Mr. Pugsley

1 Q. And you had signed those two pages after the statement
2 was written down by Sergeant MacIntyre?

3 A. Yes, sir.

4 Q. Yes. If you turn to page thirty four-- page thirty four
5 appears to be a statement taken on June 2nd, 1971, the
6 same evening at seven thirty p.m. from a Lawrence Paul
7 signed by Detective MacIntyre. Do you know Lawrence Paul?

8 A. No, sir.

9 Q. No. And if you turn to page thirty six, there's a statement
10 again on June 2nd at eight o'clock signed by Arthur Paul
11 and witnessed by Detective MacIntyre as well. Could
12 it well be that Sergeant MacIntyre saw you when you initially
13 came in at around six thirty in the evening but was out
14 for a period of time at seven thirty and then eight o'clock
15 to take these other statements and then returned to the
16 room where you were being questioned?

17 A. Yes, like I said he was gone at certain times. He wasn't
18 there for the full four hours but he was there for the
19 greater part -- like two thirds of the night he was there.

20 Q. You indicated to my friend that you would have been happier
21 if an adult had been present with you. If your mother
22 had been present with you?

23 A. Yes.

24 Q. Did you make the request that your mother be present?

25 A. No, sir.

SCOTT MacKAY, by Mr. Pugsley

1 Q. Was there any attempt by either Detective MacIntyre or
2 Detective Urquhart to force you to stay in the room
3 against your will?

4 A. Well, they weren't going to let me go until they were
5 satisfied with what they had. I mean I -- if come say
6 eight o'clock I'm getting tired of what's going on and
7 said I'm going to leave now, I don't think I could have
8 been able to leave.

9 Q. I see. Did you say that you wanted to leave?

10 A. No, I wanted to satisfy them to -- you know, I wanted to --
11 I gave a story and I wanted them to be satisfied with with
12 I recalled that night and --

13 Q. Of course.

14 A. -- you know, I didn't want to stay there, no. Sure. So
15 maybe it was against my will although I didn't say I wanted
16 to leave.

17 Q. No.

18 A. Like they came over to Westmount and picked me up. The
19 City Police and I had no way home. I had no money to
20 get a bus or nothing so -- you know. As far as I was
21 concerned when I was going home was when they were satisfied.

22 Q. Was your mother there at home when they picked you up?

23 A. Yes.

24 Q. She knew where you were?

25 A. Yes, sir.

DEBORAH M. TIMMINS, by Mr. Spicer

1 A. Nothing, no.

2 Q. --been there the night of the stabbing?

3 A. Right.

4 Q. Okay. Did your parents express any desire to come with you
5 to the police station?

6 A. No.

7 Q. So you went down with your brother and your uncle?

8 A. Yes, I did.

9 Q. And when you got to the police station do you remember by
10 whom you were interviewed?

11 A. Well, I remember Mr. MacIntyre mostly and there was one other
12 gentleman but I can't particular make him by name.

13

14

15

16

17

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25

SP

DEBORAH M. TIMMINS, by Mr. Spicer

- 1 Q. All right. Do you remember what he looked like?
- 2 A. No.
- 3 Q. No. Do you remember for how long you were at the police
4 station?
- 5 A. Probably for an hour or an hour and a half for sure.
- 6 Q. All right, and what sorts of questions were you asked?
- 7 A. Just in general what happened that night, and you know, what
8 we would -- we come across and what was said and stuff like
9 that.
- 10 Q. Were you being questioned by MacIntyre?
- 11 A. Yes, most of the time.
- 12 Q. Most of the time.
- 13 A. All the time. He was there the whole time.
- 14 Q. Do you remember anything in particular that he was asking you?
- 15 A. Well, not really just that he -- I found him a little suggestive.
16 Things that I didn't see that maybe I should have seen or some-
17 thing.
- 18 Q. Can you remember any -- Can you give us any examples?
- 19 A. Well, for instance a man in a trench coat which I had no
20 recollection of at all but it was suggested more or less that
21 I did see him, but I didn't.
- 22 Q. Suggested to you by whom?
- 23 A. Mr. MacIntyre.
- 24 Q. I see. Is there anything else that you recollect about that
25 meeting?

DEBORAH M. TIMMINS, by Mr. Spicer

- 1 A. Yes, and the railroad tracks. Crossing a railroad track,
2 but like, you know, I had to cross the railroad tracks,
3 really precise sort of thing and I said, "No, I didn't."
- 4 Q. What was the reason that it was suggested that you had to
5 cross the railroad tracks?
- 6 A. I don't know why unless -- I don't -- I don't know why, why
7 it was. Like it was more or less really suggestive and I
8 kept saying, "No, that isn't where I went." or "That isn't
9 how I went."
- 10 Q. All right, and how many times would you have had to say, "No,
11 that's not where I went."?
- 12 A. Oh, quite a few times.
- 13 Q. And what happened? Had they finally stopped asking about that?
- 14 A. Yeh, well, my brother kind of spoke up. He said, "Well, if she
15 didn't see nothing, she didn't see nothing." sort of thing so
16 he kind of give up on it.
- 17 Q. Okay. Did you say anything to the police that day about Sandy
18 having said to you, "no cops".
- 19 A. Yes, I told everything that I had heard and seen.
- 20 Q. And you remember telling them that?
- 21 A. Yes.
- 22 Q. I see. Do you remember whether or not you signed a statement?
- 23 A. Yes, I did.
- 24 Q. Do you remember whether the statement was written out by
25 MacIntyre or by anybody else?

DEBORAH M. TIMMINS, by Mr. Spicer

- 1 A. I'm not really sure who wrote it out but it was hand-written
2 and I know I signed it.
- 3 Q. Do you remember signing it?
- 4 A. Yes, I do.
- 5 Q. Did you read it before you signed it?
- 6 A. Not particularly, no, because I just figured they writ down
7 what I said.
- 8 Q. All right, was it read out to you before you signed it?
- 9 A. I can't remember, no.
- 10 Q. And this statement would have been taken at a time when you
11 were still in school?
- 12 A. Yes.
- 13 Q. And when did school end?
- 14 A. The end of June.
- 15 Q. The end of June?
- 16 A. Yeh.
- 17 Q. So it would have been sometime probably in June?
- 18 A. Yeh, some time.
- 19 Q. Were you contacted at any time by lawyers acting for Mr. Marshall?
- 20 A. No.
- 21 Q. Were you ever contacted by the Crown Prosecutor's office?
- 22 A. No.
- 23 Q. No. Were you subsequently contacted by the R.C.M.P. in 1982?
- 24 A. Yes. Yes, in 1982. That was the first telephone call I got
25 since I had been at the police station that day.

DEBORAH M. TIMMINS, by Mr. Ross

1 A. That he had been stabbed.

2 Q. I see. But I'm -- I'm speaking about when you went down to
3 the police station. I understand you gave a statement to
4 Detective MacIntyre.

5 A. Yes, I did.

6 Q. And he wrote this down?

7 A. Yes, he did.

8 Q. With your brother, Steven, present and your uncle, Allan, present?

9 A. Yes.

10 Q. And I'm asking you: After giving that statement, did you speak
11 to Allan about the statement?

12 A. No, I tried to forget it really.

13 Q. I see, what about Steven? Did he ever read it?

14 A. No.

15 Q. So is it fair to say that between the time of that statement
16 which would have been in June of 1971 and now, did you ever
17 discuss with anybody apart from the police the statement he
18 said, "No cops."?

19 A. Maybe casual contact or casual conversation but nothing, you
20 know, no, nothing major.

21 MR. ROSS:

22 Thank you very much, Mrs. Timmons. No more questions.

23 MR. CHAIRMAN:

24 Mr. Wildsmith.

25 MR. WILDSMITH:

No questions, My Lord.

Lawrence Paul 12/34

4(10)

How learn of him?

Use made of statement?

Why typed

June 2 /
jackets jr

Artie Paul

Some questions as Lawrence.

evidence

what known

theory?

Gary Tolin :

4/10)

How learn of him?

Why take statement? Use?

not getting very far. no request for help RCMP. MCIS?

Visit to scene of crime scene occurrence.

who present.

any tips from informants? other

Resume 14/98

Theory of Case

Refer Aff. 15/12 - in detail para. 14

Friday

(26)

June 4/71

Independent Recollection?

5 (11) (a)
(5)

Why contact Reatic? ✓

where? How get him to station?

Tell him why? Parents?

Who present? Was interview

at Police station?

Any contact with him b/w May 30
& June 4? Discussion? W

Does statement contain everything
said to Reatic.

What mention of earlier statement.

Rejury. Pressure

Protiv.

why brought them 2nd time?

How brought them?

Inquiries in detail in my dealings
with him lecturer taking statements.

(Protiv says there was a visit to Park XH/2128

who present:

Set-up: Standing ✓

Sitting ✓

everything said in on statements? 15/172

Didn't Tell P what to say 15/175

Pressure:

Prattis evidence

- 2064 We have a witness saying you
were in Park that night,
that I was in Park + seen what
happened
- 2079-80 "We found been battle with your
fingerprint on it"
- 2128 Went to Park with Mr. Intyre
before 2nd statement.
- 2134/5 Never would have told story if
not pressured by Mr. Intyre

JOHN L. PRATICO, by Mr. Spicer

- 1 "All we want is the truth."
- 2 Q. Who said that to you?
- 3 A. Sergeant MacIntyre.
- 4 Q. All right, and what did you say?
- 5 A. I said well -- I said -- I didn't know what to say so we kept
- 6 talking and he said, "You know, if we don't get the truth, you
- 7 could be going to gaol."
- 8 Q. Just a minute now. Could you repeat that for me?
- 9 A. "If you did not tell us what happened, you could be going to
- 10 gaol."
- 11 Q. Okay. Why --
- 12 A. And I was nervous when he said that.
- 13 Q. And why were you nervous?
- 14 A. Because I was never in gaol before and I know -- I know what
- 15 gaol is all about.
- 16 Q. Right, okay, go on.
- 17 A. So we're talking a little bit and he said, "We have a witness
- 18 saying you were in the park that night."
- 19 Q. "We have a witness that said you were in the park that night."?
- 20 A. That I was in the park and seen what happened.
- 21 Q. Did he tell you who that witness was?
- 22 A. No, sir.
- 23 Q. Okay. Did you believe him?
- 24 A. I didn't -- I knew -- I knew in my mind he had no witness but
- 25 he sort of insisted that there was a witness there that seen

1 me in the park.

2 Q. All right. Okay, go on.

3 A. So I just sat and we're talking. So we talked for a little
4 while about the witness and then he said -- so we talked and
5 then we talked and he said, "All we want is the truth. If we
6 get the truth, that would be just fine.". And I didn't know
7 what the truth was at that time. So we talked a little bit
8 and we discussed what happened in the park.

9 Q. Did he tell you what happened in the park?

10 A. In around about way.

11 Q. What do you mean in around about way?

12 A. Well sort of -- like he sort of implied to that I knew what
13 happened in the park, eh.

14 Q. Do you remember -- when you say, "he sort of implied", --

15 A. Well, he said, "You were seen there and we believe you know
16 what happened.".

17 Q. And what did you say to that? Do you remember?

18 A. I said I don't. He said, "Yes, you do.".

19 Q. All right.

20 A. He said, "We know different.".

21 Q. What did you think about that?

22 A. I started getting pretty scared. I didn't know what in the
23 heck they were up to.

24 Q. All right, go on.

25 A. Well, what he said, threatened to be put in gaol is pretty scarry

JOHN L. PRATICO, by Ms. Edwardh



- 1 Q. What I'm going to ask you is just to take a moment and think
2 about whether you must have gone to the Park before you gave
3 or signed this statement because of what you say here?
- 4 A. Dear, I told Mr. Spicer what you're trying to get to
5 this is the second statement. I went to the Park with them
6 after the first statement, dear.
- 7 Q. Okay, that's what I wanted to just draw your attention. So
8 let's talk about the time you went to the Park before you
9 gave this second statement.
- 10 A. Yes, dear.
- 11 Q. Okay, and do you recall who you went to the Park with on that
12 on that occasion?
- 13 A. Yes, dear.
- 14 Q. Who was that?
- 15 A. Sergeant MacIntyre.
- 16 Q. Okay, and do you recall seeing Maynard Chant in the Park at
17 that time?
- 18 A. No, dear, he was not there.
- 19 Q. And when you went through the Park, can you describe for us
20 what you recall happened in the Park on that occasion?
- 21 A. You mean with the Police Department?
- 22 Q. With the Police Department before you gave your second
23 statement?
- 24 A. Well, we were around the bushes, showing me the -- we went
25 by the bushes and they said, "Would this be about where you

JOHN L. PRATICO, by Ms. Edwardh

1 at?", you know. So we point out a spot and then they showed
2 to me where the body was laying. Which I did not know where
3 the body was laying; but it was showed to me.

4 Q. And did they -- did they say anything about Mr. Marshall
5 where he was?

6 A. Well, they described, you know, the scene and where Mr.
7 Seale's body was laying, whereabouts Mr. Marshall would be
8 that type of thing, you know what I mean.

9 Q. Did they talk at all to you or didn't Sergeant MacIntyre
10 talk at all to you about what other things you might have
11 seen that night; such as, Mr. Marshall taking a knife from
12 his pocket. Was there any talk about that?

13 A. They didn't come out and say knife, dear, it was -- it was --
14 then there was no mention of knife, it was just, you know,
15 a hand was moving, you know, and no knife, no such shinny
16 object, no whatever, just to like and Mr. Marshall's
17 arms struck out.

18 Q. And that's what they told you?

19 A. Yes, dear.

20 Q. Now when you had gone through that process with the officers?

21 A. Yes, dear.

22 Q. Was it clear in your mind and I want you to think very
23 carefully about this before you answer this question, was
24 it clear in your mind after you left the Park what you
25 should be saying?

Proctor's Statement: 2/41 evidence.

5(11)(d)

- ① Speak to any of these people. Could have ascertained condition of Proctor.
- ② No one else had seen Marshall at home
- ③ Have him refer to plan for spot. When did Proctor show him. no reference to lunch. See ⑦
- ④ what does "when the incident happened" mean? location?

Why change for narrative to Q. 4A

- ⑤ must have been in right hand? answer in left handed?
- ⑥ Have him trace this out.
- ⑦ Have him trace this out. He knows where Proctor lives
- ⑧ Not another Saul around. He is on the Tracks
- ⑨ another reference to "Tracks"

S(11) (d)

(10) only reference to lunches.

Statement shows 45 minutes. Is that the total time. Any questions asked which do not show up?

Understanding of Pestic's condition that night? most nights.

Sleep off drinks in cells? evidence. why not!

Compare with earlier Statement? why lying? why believe them this time. ✓

Have interview again & force Statement

Maynard Chord

5(1)(c)

why decide to go to Lewisburg. ✓
who asked of McSee. ✓

Describe physical set up.
who standing? sitting?

Describe who present. Arguments?

Evidence Mrs. Chord: Maynard: Bursa.
3535, 38 857 3586, 87, 93
(Discovery 15/124 - no one left) 858
129. Burke not present 862

Statement to Chord when he
arrived.

"We have someone who saw you
there"
Chord Mrs. Chord McSee
855, 66, 68, 72, 94, 344, 41, 62, 64 3534, 40 3634, 3647, 49, 50
/ Discovery 15/125 - not told this
130

~~mother leaves room? 857~~
~~3535, 3538 *~~

If lying could be in trouble, or charged.
856 Mrs 3541
860

MAYNARD CHANT, by Mr. Orsborn

1 in tears that time. And my mother kept telling me to make
2 sure I told the truth and she was quite upset then. And --

3 Q. When you say your mother was upset --

4 A. She was upset. She was upset -- I don't know if she was
5 upset towards me but she was just telling me to tell the
6 truth and I kept saying it a couple of times, well, I
7 didn't see anything. And so he beckoned to her, so she
8 come over and they stood behind me and he -- I remember
9 him saying something reflecting that he, he's not going to
10 -- maybe if you leave the room, he'll tell us more. He
11 felt that by her being there, I wasn't being -- I wouldn't
12 tell them anything. So she left the room.

13 Q. Do you have a clear recollection of your mother leaving the
14 room that day?

15 A. Yes, I do.

16 Q. I should point out to you that we expect that Sergeant
17 MacIntyre, Sergeant Urquhart and Mr. Magee will all testify
18 to the effect that your mother was present throughout.

19 A. I can't help that.

20 Q. So, I, I put that to you because there's a conflict with
21 your testimony?

22 A. That's no problem.

23 Q. Does that in any way affect your own evidence that your
24 mother was there throughout?

25 A. No, it doesn't bother me. Like I said, I'm just here to

MAYNARD CHANT, by Mr. Orsborn

1 tell the truth. I just want to tell the truth, that's all.
2 And that's to my knowledge, she was there and when things
3 got really, really tense they had asked her to leave the
4 room. I wasn't pushed around or anything but his voice was
5 loud.

6 Q. How close was he standing to you?

7 A. Oh, at times, he was about as close to you are as from me.

8 Q. Was he on the other side of the table?

9 A. He was at the end of the table, he was walking back and forth.

10 Q. So you're, you're pointing to me and we're probably about
11 eight feet, six to eight feet apart. And you're suggesting
12 that as he was talking to you, he was standing at about that
13 distance from you?

14 A. Yes.

15 Q. You say his voice was loud -- in your earlier meeting with
16 him on May 30th, you had obviously had heard his voice.
17 When you say it was loud now, was it you mean a loud
18 normal speaking tone or a raised speaking tone?

19 A. Well, he seemed to be very, very hyped, hyped attitude.
20 His voice was very loud. He was very -- even his posture,
21 his gesture was very, you know, forward and --

22 Q. Could you explain that a little more please?

23 A. I don't know. It was -- he was just very forceful with what
24 he was saying. He's -- it was almost like not to the point
25 of screaming or really yelling, but it was to that probably

MAYNARD CHANT, by Mr. Orsborn

1 standing. I remember one detective was sitting at the head
2 of the table and Mr. MacIntyre was standing up and I was
3 sitting down and my mother was sitting beside me.

4 Q. Your mother was sitting beside you?

5 A. Yes.

6 Q. And you say that Detective MacIntyre was standing up?

7 A. Yes. He was doing the -- he was explaining to -- he was
8 saying -- he was explaining to me that the statement that
9 I had given -- that he believed that it wasn't true and
10 he was asking me if I knew anything else. And I remember
11 my mother telling me to tell the truth. So at one point in
12 time through the questioning, they had told me that there
13 was a, that they had a witness there that had told a story
14 and he said that he saw me there. And that I had seen what
15 he had seen regarding to the, to the incident that had
16 happened that night on May the 30th.

17 Q. You have a recollection now of being told that during that
18 interview?

19 A. Yes.

20 Q. Do you recall who told you that there was a witness there
21 had seen you?

22 A. They never told me who.

23 Q. No, but do you recall which of those present at the
24 interview told you?

25 A. I believe it was MacIntyre. He was doing most of the

MAYNARD CHANT, by Mr. Orsborn

1 A. Moving around a bit, not necessarily -- he was -- I can't
2 really remember his position. I remember him being up
3 over me as far as me looking up. I couldn't give you a
4 you know, a detail of what position he was in or --

5 Q. How did the interview proceed once your mother left?

6 A. Like, he just told me that I was in an awful lot of trouble.
7 That I had -- that the statement that I had given the first
8 time wasn't true. And that where I said that I was on
9 probation and he pointed out that fact that I could do time
10 and the result of that or I could get, you know, a maximum
11 of five years in prison because of that.

12 Q. Yes.

13 A. So I was just sitting back taking it all in what he was
14 saying and I remember -- I don't remember actually what
15 happened to, to make me give that the other statement but
16 I remember the words, I remember saying, well, what did --
17 in making reference to the person that they said that
18 saw me there. And he had given a statement that he said
19 that he had saw me there and I seen what he seen. I just
20 asked -- to the point where I just said, "Well, what did
21 he say that I seen".

22 Q. Do you recall whether or not they had a statement, a
23 written statement from this other witness at that interview?

24 A. They never showed me nothing.
25

MAYNARD CHANT, by Mr. Orsborn

1 they didn't -- I just tried to tell them that I didn't
2 see nothing and they didn't agree with that so I just
3 told them -- I just give them a statement. I remember
4 asking: "What did that person see?"

5 Q. And did they tell you?

6 A. Not in detail what he said that I saw. Or --

7 Q. And when you and I are using the word "they" in terms of
8 policemen that are talking to you --

9 A. I'm sorry.

10 Q. Perhaps we could identify, if possible, who was speaking to
11 you?

12 A. Mr. MacIntyre.

13 Q. Mr. MacIntyre. Do you know at what point, during the
14 interview, a hand written statement started to be produced?

15 A. Possibly -- I don't remember the -- how it was done or
16 I just remember when I was ready to give this statement I
17 believe he sat down and that from there on in I just
18 give the statement.

19 Q. At the --

20 A. At the point where the -- Oh, I'm sorry. At the point of
21 when I had said: "What did he say that I saw?"

22 Q. "What did he say that I saw?"

23 A. Well, I know as now, Pratico.

24 Q. Did you know at the time?

25 A. No.

MAYNARD CHANT, by Mr. Orsborn

- 1 Q. Did they tell you where that person had seen you?
- 2 A. I don't remember.
- 3 Q. What I'm trying to understand is the --
- 4 A. Why I got --
- 5 Q. -- amount of discussion that took place before the
- 6 actual writing commenced.
- 7 A. Yes. I understand. I don't -- I don't really understand
- 8 why I had changed my statement to go across the tracks.
- 9 All I can remember is the detective, Mr. MacIntyre stating
- * 10 that there was a man there who saw me -- he was there and
- 11 he saw me.
- 12 Q. Did he say where that man was?
- 13 A. Did he say where he was?
- 14 Q. Yes.
- 15 A. I don't -- I can't recall that. If he said that.
- 16 Q. Do you have any recollection at all of why you changed your
- 17 route when it came to this statement?
- 18 A. Well, in order for me to -- in order to witness the --
- 19 the -- the -- the thing that was committed on that evening
- 20 I would -- by being down at the -- this part of the tracks
- 21 I wouldn't be able to see anything that was happening up
- 22 over the other side.
- 23 Q. Did you figure that out for yourself?
- 24 A. Probably.
- 25 Q. Like, you figured out before that you had to double back on

1 "...to the said MacIntyre and Urquhart
2 knowing its contents were not true
3 because of pressure from the said
4 MacIntyre and Urquhart who insisted
5 I had witnessed the Seale murder,
6 although I had not, in fact, witnessed
7 same".

8 Is that a true statement?

9 A. Yes.

10 Q. In as few words as possible can you indicate to the Commission
11 the nature of the pressure that you received from Sergeant
12 MacIntyre?

13 A. Yes. That happened while the questioning was going on at
14 the Town Hall and to the point where they said that -- they
15 kept insisting that I must have seen something.

16 Q. Just be careful when you use the word "they" if you don't
17 mind. It's -- Is it one or both?

18 A. I'm sorry. One.

19 Q. Which one?

20 A. Mr. MacIntyre said that I must have seen something and he said
21 that a couple of times that I must have seen something, and
22 basically --

23 Q. This is the pressure that you refer to?

24 A. Yes.

25 Q. And what was the pressure that you received from Detective
Urquhart?

A. I just -- I'm very sorry for implicating him there. I just--
I don't -- I just -- I was categorizing them as one in the

1 same as far as them both being -- feeling a sense of fear
2 from both of them as just as far as them being "The Law"
3 and me being -- and just as far as me being -- them being
4 "The Law" and me being the --

5 Q. Did you, in fact, feel any pressure exerted on you by
6 Detective Urquhart?

7 A. I don't know. I can't remember. Even though I had given a
8 statement to reference to it I was --

9 Q. And similarly in paragraph 11 you say:

10 "The reason for giving the testimony
11 referred to in paragraph ten, at
12 the trial, was because I was afraid
13 and because MacIntyre and Urquhart
14 of the Sydney Police told me I had
witnessed the murder and was seen by
another witness who I believe was
John Pratico".

15 Did Sergeant MacIntyre tell you that you had been seen by
16 another witness?

17 A. Yes.

18 Q. Did Sergeant Urquhart tell you that you had been seen by
19 another witness?

20 A. I don't really know. I know I've given a statement to that
21 he did. Possibly when the interview was being -- or when the
22 statement was being taken -- only up to this point do I
23 recognize the other name as being -- Mr. Urquhart as being
24 one of the ones that was with Mr. MacIntyre. Only now do
25 I realize in the statement that I'm giving that I'm implying

MAYNARD CHANT, by Mr. Ruby

- 1 Q. Leaning over the table --
- 2 A. Leaning at the head of the head, leaning over the head of the
3 table.
- 4 Q. Over your forehead, and you said being close to you at times?
- 5 A. Yeh, walking on this side.
- 6 Q. Walking down to where you were?
- 7 A. Yes.
- 8 Q. And much like this?
- 9 A. Yes.
- 10 Q. Would he lean over at you like this?
- 11 A. I don't really picture that, no.
- 12 Q. Okay. And what happened in that Louisbourg meeting as I
13 understand it, was that the questioning would go on again,
14 and again, and again until it emerged as he wanted. Is
15 that fair?
- 16 A. Well, I was willing at that time to, to say yes, that I was
17 there according to the implication that they said that they
18 had a witness there that had seen and I had seen the same
19 thing that, he said that I had seen the same -- he saw me
20 there and I had seen the same.
- 21 Q. Right. But prior to that, prior to when they pulled this
22 witness out of the hat.
- 23 A. Yes.
- 24 Q. They're questioning you and you're not going along, correct?
- 25 A. No, correct.

- 1 Q. And they go over it again and again, correct?
- 2 A. Yes.
- 3 Q. And you reject that, you refused to go along until they pulled
- 4 the witness out of the hat, correct?
- 5 A. No, the -- when I was first there I remember my mother being
- 6 there with me. It might have been a sense of security there
- 7 and her telling me to tell the truth. And at that time that
- 8 was probably the only expression that I could give to say
- 9 that I didn't see anything and at that time I think I recall
- 10 from the beginning about the point that there was somebody
- 11 was there and they saw me there, by the interrogation of
- 12 the detective.
- 13 Q. That come up very near the beginning or at the beginning?
- 14 A. Just very close to when everything begin to take place, yes.
- 15 Q. All right, so from the very beginning they've confronted you
- 16 with the story about someone else was there and you must have
- 17 seen these things?
- 18 A. Yes.
- 19 Q. And therefore your statement that you didn't see anything is
- 20 not true?
- 21 A. I'm sorry.
- 22 Q. And therefore they are saying to you that --
- 23 A. That what I had said wasn't true.
- 24 Q. Was not true?
- 25 A. Yes.

- 1 Maynard and took you back to the Town Hall. Do I understand
2 that your recollection is that the Sydney Police in fact came
3 to your house to get him?
- 4 A. Yes, they came again.
- 5 Q. And do you recall whether or not it was the same police officers
6 that had come before?
- 7 A. Yes, it was the same two.
- 8 Q. Right. And they'd indicated that they had an eye witness?
- 9 A. Yes. They said they had a witness to prove that Maynard had
10 been there and that he was lying.
- 11 Q. Was this said to you in the house?
- 12 A. Yes.
- 13 Q. Was your husband present?
- 14 A. No, he was at work.
- 15 Q. Was Maynard present?
- 16 A. Yes.
- 17 Q. Did the police say any more than that they had another eye
18 witness?
- 19 A. No.
- 20 Q. Did they say who the eye witness was?
- 21 A. No.
- 22 Q. Did they say that they had a suspect for the stabbing?
- 23 A. No, I don't recall.
- 24 Q. Did you know at this point that Mr. Seale had died?
- 25 A. I don't remember. I could have, but I don't remember.

- 1 to them more freely if I wasn't there because he wasn't supposed
2 to be in Sydney that night --
- 3 Q. Yes.
- 4 A. -- you know, and so -- because he was on probation.
- 5 Q. He was supposed to have been in church with you, I think,
6 wasn't he?
- 7 A. Yes.
- 8 Q. But were you still of the opinion that when Maynard said that
9 he saw nothing he was in fact telling the truth?
- 10 A. Well, at that point, I didn't know whether he was telling
11 the truth or not. If they had evidence to prove that he was
12 there, I felt he must be lying.
- 13 Q. I see. And do you recall this being stated at the Louisbourg
14 Town Hall that this eye witness was there -- that they had
15 other evidence to prove that Maynard was lying?
- 16 A. Yes.
- 17 Q. Do you recall if they said who the eye witness was?
- 18 A. Who the -- Pardon me?
- 19 Q. Who the eye witness was?
- 20 A. No.
- 21 Q. Do you recall if Mr. Marshall's name came up in the interview
22 while you were there?
- 23 A. Don't remember.
- 24 Q. While you were in the room, do you recall how Maynard was, if
25 he was calm, if he was upset?

- 1 in any way challenge your own recollection?
- 2 A. It challenge -- it challenges my recollection; but my
3 recollection is that I -- I can't specifically -- I can
4 remember certain happenings that day, and I do not recall
5 Mrs. Chant leaving the room.
- 6 Q. Did you have any particular practice as a police officer
7 in terms of having parents present or not present when you'd
8 take statements from juveniles?
- 9 A. It was my understanding and that when questioning a juvenile
10 or a juvenile suspect we'll say or witness for that matter,
11 if he was under the age of sixteen years, then you would --
12 should if at all possible have one or two of the parents
13 present.
- 14 Q. Would this apply even if the juvenile was not the accused
15 but was simply a witness?
- 16 A. It was my -- it was my policy to have a parent present for
17 any questioning whatsoever of a juvenile.
- 18 Q. Was this a practice that you followed?
- 19 A. Yes, it is -- was.
- 20 Q. Do you recall the format of the interview whether or not
21 it was a discussion or whether or not it was a more formal
22 question and answer approach?
- 23 A. I -- Detective MacIntyre conveyed to Maynard that certain
24 information in a prior statement did not correspond with
25 other information that they had obtained afterwards and

WAYNE MAGEE, by Mr. Orsborn

- 1 | that they wanted more or less some clarification pertaining
2 | to the first -- first statement. And he then put questions
3 | to Maynard and wrote the answers down.
- 4 | Q. Sergeant MacIntyre put the questions?
- 5 | A. Sergeant MacIntyre did all of the questioning and writing.
- 6 | Q. Did you speak at all during the interview?
- 7 | A. No, I did not.
- 8 | Q. Did Detective Urquhart speak at all?
- 9 | A. No, he did not.
- 10 | Q. Did Mr. Burke speak at all?
- 11 | A. No, he did not.
- 12 | Q. Mrs. Chant?
- 13 | A. No, she did not.
- 14 | Q. Are you able to describe for us today the -- the tone and
15 | the level of voice which Sergeant MacIntyre used?
- 16 | A. I would say it was -- it was a normal tone. I don't recall
17 | any -- anything sticking out in my mind that was unusual.
18 | I don't recall any raising of any voices by anyone including
19 | Detective MacIntyre. They would -- Detective MacIntyre would
20 | ask certain questions and -- and Maynard would answer them.
21 | I think perhaps the answer wasn't written down immediately,
22 | but they would -- they would -- they would quiz each other
23 | so to speak and for clarification and they would -- this is
24 | the way the statement was conducted. And I do not recall,
25 | in fact, I thought, you know, that it was done in a very

WAYNE MAGEE, by Mr. Orsborn

1 generally interested enough in the events to follow the
2 discussion?

3 A. I don't think I was really up about it. I mean, it was
4 just another days work and really and truly I don't think
5 -- I read the goings on in reference to the trial and the
6 conviction of Mr. Marshall and I can't say that I gave it
7 any second thought at all.

8 Q. I'm thinking of sort of during the interview, when you
9 were sitting in there, if you were interested in following
10 the information that was being obtained?

11 A. Not really. I did wonder -- At one time, I recollect, I
12 was going to leave but then I thought I might -- it might
13 interfere with the line of questioning or whatever and so
14 that I just sat there and, as policy, said nothing.

15 Q. Now, you've related to us the -- you recall comments being
16 made to the effect that there was information that was
17 inconsistent with what Maynard had said --

18 A. Yes.

19 Q. -- and you wanted to question Maynard again. Do you have
20 any recollection of what that other information was that
21 the police had at the time?

22 A. I can't recall specifics. I do recall that there was answers
23 that Maynard gave to Detective MacIntyre that, I think, he
24 felt that wasn't quite right and that he would -- he may say
25 well, we were talking with this individual and they said this

WAYNE MAGEE, by Mr. Orsborn

1 and -- that line of questioning but --

2 Q. Yes. Do you remember the names of any individuals being
3 given?

4 A. No, I can't recall any names.

5 Q. Do you remember Maynard taking the approach initially that
6 he didn't see anything on that night?

7 A. I can't recall that.

8 Q. Okay. Do you remember any discussion between them of the
9 route that Maynard took through Wentworth Park on that night?

10 A. I can't specifically recall that.

11 Q. Remember any discussion about a dark haired fellow in the
12 bushes?

13 A. I don't recall that but to elaborate they -- it was outlined
14 the circumstances of the stabbing and the location etcetera
15 but -- and there was a lot of questions and of course they
16 all pertained to the stabbing but I can't recall any specific
17 questioning.

18 Q. When you say it was outlined, the circumstances of the
19 stabbing, how was that outlined?

20 A. I think Mr. Chant was advised that well, the bridge is here
21 and the bandshell is there and this one was supposed to be
22 here. That's sort of dialogue was going on between them.

23 Q. Okay. If I understand you correctly, and please correct me
24 if I'm wrong, was there a sort of a scene painted for Maynard
25 so that he could put himself into it?

WAYNE MAGEE, by Mr. Orsborn

- 1 | A. I don't think that would -- that that was the case.
2 | I believe that Maynard was -- he might have been getting
3 | confused and he was given advice as to well, you know,
4 | this one in this statement didn't say that. You know,
5 | what's the situation here or there. It's -- I can't recall
6 | the specifics of it but I'm -- you know, that was the
7 | gist of it. They were -- there may be five minutes or two
8 | minutes or a minute and a half of questioning before an
9 | answer was written down.
- 10 | Q. Okay. Do you recall if there was any reference made to
11 | a statement given by another witness?
- 12 | A. I don't recall any references made to specific individuals
13 | or names. I don't recall any names -- any other names.
- 14 | Q. Do you know if Sergeant MacIntyre was referring to any
15 | statement or piece of paper when he was questioning Maynard?
- 16 | A. I don't recall. I don't believe. He had his pen in his
17 | hand and the paper on the desk and he was writing answers
18 | down and --
- 19 | Q. Now, the -- you've spoken of the outline that was given,
20 | were there suggestions made to Maynard in the course of the
21 | questioning as to what he might have seen or might not have
22 | seen?
- 23 | A. I don't -- I don't recall any suggestions being made to him.
24 | Some of the answers were -- I take it and I guess it's only
25 | my opinion, that I take some of the answers perhaps Detective

WAYNE MAGEE, by Mr. Orsborn

1 MacIntyre knew weren't right or didn't correspond with other
2 information so he was quizzed more. That was pretty well
3 the gist of the taking of the statement.

4 Q. Okay. When he was quizzed more would that simply be a
5 repetition of the question --

6 A. Yes.

7 Q. -- by Sergeant MacIntyre?

8 A. Most often, yes.

9 Q. Would there be suggestions made to Mr. Chant?

10 A. I don't recall any suggestions being made. It -- There was
11 no arguing going on. The questions were asked and there
12 may have been -- may have been a pause by Maynard or maybe
13 a mistake that Detective MacIntyre knew and he would put the
14 question to him again but it was a very -- I recall, a
15 very straight forward undertaking by the detective.

16 Q. Okay. Do you recall any mention being made, during the
17 interview, of Maynard being on probation and getting in
18 trouble if he didn't tell the truth?

19 A. I do not recall that being said.

20 Q. Could it have, in fact, been said and you just don't
21 remember?

22 A. I don't think so. I -- you know, again, to repeat myself
23 there's certain aspects that I remember distinctly and again
24 the introductions -- except that I don't -- I think I would
25 have recalled that.

MAYNARD CHANT, by Mr. Orsborn

1 talking there -- it was basically -- he was doing most of
2 the questioning and most of the talking at the time. He
3 had -- he said that about -- that I -- he knew that I had
4 not told the truth in this statement in May 30th. And he
5 implied that I -- he had asked me first, "Did I see anything".
6 And at that time I had said, I was trying to get across that
7 I didn't see anything at all but I just said that -- I just
8 sort of tried to more or less tried to tell the truth. I
9 just said, "I didn't see anything".

10 Q. And at the point when you said you that you didn't see
11 anything, were you asked for an explanation of your
12 first statement to which you had seen the four men?

13 A. No, when I said that then, then he said, "You must have
14 saw something". And I said well and I was trying to tell
15 him that I didn't see anything. I was meaning that I didn't
16 see anything at all. I was trying probably set the record
17 straight more or less to say that I just didn't want anything
18 to do with it any more and I didn't see anything. And which
19 I didn't see anything. He kept on insisting that I did see
20 something. He told me that --

21 Q. Was he standing throughout this conversation?

22 A. Yes. He told me that, that a -- He pointed out the fact that
23 I was on probation and by lying I was in serious trouble and
24 that I could go to jail and the result of my lying the first
25 time. And by that time I was, I was, well, I was just about

MAYNARD CHANT, by Mr. Orsborn

1 partly on what you had imagined?

2 A. No. I was, I was very, very -- I was probably ashamed
3 at the fact that I did what I did and I -- it was about
4 that time that I was -- and even as far as my parents
5 was concerned, I -- we used to have a good communication
6 growing up but it was to the point that I was doing a lot
7 of wrong and I was more or less concealed within myself
8 at that time. Not to say anything, you know, I didn't
9 think people could really understand what was going on.
10 I didn't think people really understood what was happening.
11 Probably that's why I couldn't really express myself as to
12 say exactly that I had not seen anything and I kept --
13 I remember saying it three or four times that I didn't see
14 a thing.

15 Q. During this exchange, I think you've mentioned that the
16 police brought up the subject of your probation?

17 A. They, they -- well my probation officer was there and
18 they reminded me that I was already in trouble before
19 and that I was on probation and that I was in a bunch of
20 trouble now because I was -- because I wasn't telling
21 the truth. And at some point they suggested even that
22 as far as a jail sentence, I could get two to five years
23 by not telling the truth.

24 Q. All right. Are you, are you saying that that phrase, "two
25 to five years" was mentioned during this exchange?

MAYNARD CHANT, by Mr. Orsborn

- 1 A. Yes it was.
- 2 Q. Who was it mentioned by?
- 3 A. By Mr. MacIntyre.
- 4 Q. I don't know if you recall talking to the, talking to the
5 lawyers for the C. B. C., Mr. Chant, when they were involved
6 in the Civil Action by Mr. MacIntyre, but if you would turn
7 to Page 89 of the Volume that is there before you. That's --
8 this is an excerpt from that Discovery proceedings, Page
9 89 of Volume 12 and in the answer to question number 89
10 with respect to this phrase "two to five years" is in about
11 line four of that question and this was done in 1984, I
12 believe. You say, "I can't remember if they actually said
13 two to five years, but I know they said I could be doing
14 time".
- 15 A. Yes.
- 16 Q. Is that in any way affect your recollection that you've
17 given us today?
- 18 A. It's just that as I continue to, you know, to, to --
19 as I continue to reflect and to look back on things, some
20 things come clear and somethings still remain cloudy.
21 Basically when I was giving that statement, I didn't want
22 to --
- 23 Q. Sorry, which statement are you referring to? That C. B. C.
24 one?
- 25 A. Yes. I didn't want to make any implications that it --

WAYNE MAGEE, by Mr. Orsborn

1 Q. Was there any mention of the word perjury?

2 A. No, not to my recollection. There was never any mention
3 made of perjury.

4 Q. Was there any mention made of the possibility of Maynard
5 going to gaol for two to five years?

6 A. I don't recall that being said.

7 Q. Maynard, himself, testified that it was suggested to him
8 during the interview that he could go to gaol for two to
9 five years for not telling the truth, not telling the police
10 the truth. Is it your evidence that it was not said or it
11 could have been said and you just don't remember?

12 A. I just don't remember.

13 Q. Okay. Did you get any impression at the conclusion of the interview,
14 knowing Maynard as you did, that he had in fact told the truth?

15 A. I certainly didn't have any reasons to believe that he told --
16 or mislead the police officers.

17 Q. Okay. Your recollection, sir, on the setting and who was
18 present and who left and didn't leave seems to be very
19 very clear. I have the impression that your recollection
20 on the content of the interview is less than clear. Is there
21 any reason why you can remember one and not the other?

22 A. Well, I certainly can remember the introductions, who was
23 present and I remember that there was a statement taken from
24 Maynard Chant by Detective MacIntyre. And that Detective
25 MacIntyre asked him numerous questions during the taking of the

- 1 | A. I don't remember.
- 2 | Q. Did he start to cry at any time while you were there?
- 3 | A. I can't remember that. He could have. Well, I don't remember.
- 4 | Q. If he had started to cry, is it likely that you would've left?
- 5 | A. I probably wouldn't have.
- 6 | Q. Probably wouldn't have?
- 7 | A. Yes.
- 8 | Q. While you were in the room, do you recall any reference being
- 9 | made to the fact that Maynard was on probation and could get
- 10 | in some trouble?
- 11 | A. Yes. Yeh.
- 12 | Q. Do you recall who made that reference?
- 13 | A. No, I don't know. But I know -- It was said that he was on
- 14 | probation and he could be in a lot of trouble if he didn't
- 15 | tell the truth and didn't --
- 16 | Q. Who was doing most of the talking?
- 17 | A. I believe it was Sergeant MacIntyre.
- 18 | Q. And other than Maynard and Sergeant MacIntyre, do you remember
- 19 | anybody else saying anything at all?
- 20 | A. I don't remember.
- 21 | Q. Do you recall while you were there, any reference being made
- 22 | to the fact that Maynard perhaps could have committed perjury
- 23 | or perhaps could go to goal for two to five years?
- 24 | A. Yeh, I believe that was mentioned that he -- if he was lying,
- 25 | he could be charged.

Statement 2/46 Ex. 31

← Does it contain anything? 50 mins.
Discovery: other non-opening remarks see full file 15/126, 132, 136

① Trace Route. Not very possible.

② Conflict with Preatis Statement.

How could he possibly come up with a statement like this & with such precision?

Does spot correspond with spot Preatis "showed" me & type.

How could he possibly ~~independently~~ independently identify Preatis.

③ Preatis at Police Station on Sunday. May 30/71

④ Check out & identify this potential witness?

- ⑤ Was this suggested to him?
Not even an answer to where Marshall
standing.
- ⑥ If Peatris correct these two ✓
must have seen each other.
- ⑦ Different side than Peatris.
- ⑧ Describe in detail. Refer to
Plan. How could Marshall catch
him this fast? Why couldn't
Marshall mistake Peatris?
- ⑨ What attempts made to find
driver of car.
- ⑩ Fairly detailed description, eg "six feet"

5(11) (c)

11 why ask this question ✓

12 why not ask if Pratis ✓
or Traps?

Compare this statement with
earlier one? why not? ✓

compare with Pratis: Directions: Distances

ask Chand why he told or
entire statement earlier?

Reason? Believe him?

why not have all witnesses sign?

lots of room on original page ✓

and interview again? ✓

3/ miles

32A1

Yesterday
transcript!!

Now believe they were
both lying to you on
June 4 ?? Neither of them
present to see Seale + Marshall.
together on Crescent St.

Did he prompt Choud on
accepted answers to him?

McGee 2688, 89 seen
Suggest other witness had seen
Marshall side Seale Choud 963, 64

Refer to similarities? If
lying how could they
possibly have so many
similar facts?

Similarities

32A

Chart

1. ON TRACKS etc.
(Saw tracks in bushes)
2. Seale & Marshall acquiring
3. Seale facing Tracks
4. Marshall facing houses
about 1 1/2' from each other
5. Marshall took knife from
pocket & jab right side
6. Seale bent over

Practice

1. ON TRACKS & could see
where incident happened.
(30-40' away)
2. Seale & Marshall acquiring
3. Seale facing Tracks
4. Marshall facing Street
4' within arms length
5. Marshall hand toward
left side Seale's stomach
6. Seale fell - Marshall ran
up Crescent toward Regyle
7. Seale screamed

Did they both independently come
up with these key points.
Possible?

✓ Given to the Sheriff to look? Later?

✓ Important role in the investigation to this stage?

Summarizing:

✓ to this date nothing done to investigate anyone other than Junior.

✓ No real attempts to locate men decided by Jr.

✓ No review of Sydney Police records which might have led to Elsbury

✓ No request for ~~an~~ assistance MCIS

✓ No house to house canvass of neighbors

tunnel vision? Getting facts to fit theory present just a.m. as reported by Cst. Wood

MAYNARD CHANT, by Mr. Ruby

- 1 Q. And I take it your first response was to say no I didn't see
2 anything is not true, correct?
- 3 A. I was trying to respond to that I was lying and I was trying
4 also to respond to that I didn't see anything. I think it's
5 safe to say that in viewing -- I'd seen the events of what
6 had taken place and I was in -- I was probably confused with
7 the events and with the terms that they were using as
8 implying that I had seen the actual stabbing to me is reflecting
9 as a stabbing, I was reflecting as the wound or -- you know
10 reflecting as the person who was hurt. I didn't probably
11 understand at that time what they were really implying as
12 far as their -- as far as seeing the actual stabbing.
- 13 Q. But they would repeat then, I take it, you did see the stabbing?
- 14 A. It was either seen the stabbing or you had to see something.
- 15 Q. All right. And they did that more than once?
- 16 A. Yes, more than once.
- 17 Q. How many times, just roughly. I know you can't remember exactly?
- 18 A. Three, three, at least three or four times.
- 19 Q. All right, until finally you gave up?
- 20 A. I just, well -- that particular time I remember them asking
21 my mother to leave the room.
- 22 Q. And that's when you gave up?
- 23 A. And I don't know if he applied once again that there was
24 somebody, we've got a witness that saw you there. And at
25 that time I just said, I remember saying the statement, "Well

MAYNARD CHANT, by Mr. Ruby ✓

1 | what did he see. What did he say that I seen".

2 | Q. All right. First of all if your mom had remained in the room
3 | do you think you might have had the strength to resist the
4 | pressures?

5 | A. I don't know if I could have opened up and really begin to
6 | explain everything because at that time I was very -- I was
7 | quite devastated with everything that was happening. I think
8 | possibly if my mother had have stayed there with me I would
9 | have continued to say that I didn't see anything. I really
10 | feel that I would say that -- I would just use those words,
11 | "I didn't see nothing".

12 | Q. Okay. At some point when they confront you with the story
13 | about the other witness, you say to them, as you just told
14 | us, "What did he say I'd seen". And, of course, they must
15 | have at that point told you the basics of the story you were
16 | to tell because that would be the answer to that question,
17 | correct?

18 | A. Yes.

19 | Q. And the most basic part of that, of course, is that it was
20 | Marshall that had stabbed Seale? That's what the other
21 | witness in fact would have seen?

22 | A. Yes.

23 | Q. And when I say they, just to make it clear, we're talking
24 | about MacIntyre or MacIntyre and Urquhart or Urquhart?

25 | A. Well, back then as viewing them and as I said earlier, then

MAYNARD CHANT, by Mr. Ruby

1 to be a little more specific, I'd view them as being a team
2 and basically, I guess, --

3 Q. Fair view --

4 A. Like what I said from one come from another. I didn't
5 distinguish the difference.

6 Q. And MacIntyre's doing most of the talking?

7 A. I believe so.

8 Q. Do you remember MacIntyre doing the talking on this subject?

9 A. I believe he was the one that did most of the talking.

10 Q. On this subject?

11 A. On every subject in the room.

12 Q. Okay, and one of the things they told you was that you were
13 over on the tracks, correct? That's where you were when this
14 took place and when you saw this?

15 A. I don't know --

16 Q. According to the witness?

17 A. Pardon me.

18 Q. According to the witness they told you about?

19 A. I don't remember if they actually indicated or not. Possibly.

20 Q. All right, let me ask you to look at something maybe we'll
21 refresh your memory with it. Because it's been a long time.
22 In the Murrant cross-examinations in the Volume you've got
23 before 16 -- 12 -- 12 --

24 MR. RUBY:

25 Page 90, Mr. Lords.

WAYNE MAGEE, by Mr. Orsborn

1 | MR. D. PINK:

2 | That's all. Thank you.

3 | MR. ORSBORN:

4 | Just one brief question on re-direct, My Lord.

5 | BY MR. ORSBORN:

6 | Q. Mr. Magee, my friend Mr. Pink, Mr. Joel Pink asked you about
7 | Mr. Ruby's line of questioning with respect to the quizing and
8 | your response was, "Well, it wasn't exactly as he described it".
9 | Could you just clarify in what respect Mr. Ruby's questioning
10 | of you with respect to the quizing was inexact?

11 | A. Well, I guess I used the word, "quizing" in one of these
12 | statements that I have given so what I -- what I meant by
13 | quizing -- what I meant by quizing was that a question would
14 | be answered -- would be asked and Maynard would require some
15 | elaboration or perhaps Detective MacIntyre would require some
16 | elaboration further on his initial answer and -- so that I
17 | meant MacIntyre quizing in a sense Chant.

18 | Q. Right. Could you give an example of the type of elaboration
19 | that Maynard would require?

20 | A. Something -- What sticks out in my mind is the area of the park
21 | that has certain locations. I think of the bridge -- I believe
22 | there's a walking -- a walkway there and that in reference to
23 | the band shell and the bushes, that sort of thing, yeh. I
24 | take it Maynard wasn't quite familiar with that whole area.

25 | Q. Was he then looking -- Was Maynard looking for assistance in

WAYNE MAGEE, by Mr. Orsborn, by Commissioner Evans

1 | completing his statement or in giving his answers?

2 | A. I think that would be a fair assessment, yes.

3 | Q. And did Sergeant MacIntyre provide that assistance?

4 | A. He would render -- He would render where the walkway was in
5 | reference to where the clump of bushes was, you know, in
6 | direction, this sort of this.

7 | Q. And was there --

8 | A. It was a very, as I recall, a very casual conversation.

9 | Q. Was there any assistance rendered as to where Maynard was on
10 | the walkway or where he was on the railroad tracks?

11 | A. I don't -- I don't recall that specifically, no.

12 | Q. Was there any assistance rendered as to what Maynard could
13 | have seen or could not have seen from any particular location
14 | in the park?

15 | A. That's possible. I don't recall that, but it's possible.

16 | Q. I see, and is it your recollection that after this assistance
17 | was given, on occasion that an answer would then be written
18 | down?

19 | A. Yes.

20 | MR. ORSBORN:

21 | I see. Thank you very much.

22 | BY COMMISSIONER EVANS:

23 | Q. Sheriff, turning to page 192, line 45 --

24 | A. Yes.

25 | Q. --it says:

Louisbourg Council Chamber

Mrs Chant:

- 3534 Sydney Police said they had a witness to prove Maynard had seen them + he was lying (at the house!)
3540 at Town Hall
- 3535, 38 She was asked to leave room thought Maynard would talk more freely if I weren't there
- 3539 Until she left Maynard kept saying he hadn't seen anything
- 3541 If Maynard lying he could be charged
- 3564 If Burke then she doesn't remember seeing him

Burke

- 3584 asked to sit in. told by a judge if parent present no need for protection officer
- 3586 Did not sit in on taking of statements
- 3587 He was not present at interview
- 3583 despite what anyone says

Chond evidence

Drive to Catalone Vol V. 797, 802

Louis Henry Statement 854 -

① MacIntyre Standing through most
of interview
856 858 863 868 869 ✓

② His mother asked to leave room ✓
857 858 862

③ He was crying
862 863

④ told would be in trouble for lying ✓
856

⑤ told a witness Saw him there: what did he
say I saw: must have seen something ✓
855 866 868 872 943 944
961 962 964

⑥ MacIntyre very loud & big
858 960

Magree

3629 He, M^{ee}I, U, Chand, Mrs. Chand & Burke present

3631 Mr. Chand Sat in Chair directly behind Maynard

3633 → M^{ee}I did not stand at any time
3643
3644 → Mrs. Chand did not leave room

* 3634 M^{ee}I conveyed to Maynard that certain info. in a prior statement did not correspond with other info they obtained afterwards

3642 Had conversation with M^{ee}I in 1982 re taking of statement

* 3647 M^{ee}I may say we were talking to this individual and they said this

3648

* 3649

Chand admitted of layover etc. Maynard getting confused & was given advice ... this one in this statement didn't say that

* 3650

Some of Maynard's answers M^{ee}I knew weren't right & didn't correspond with other information so he was quizzed more
Doesn't recall mention of prokation

No memory of previous statement

3662

3688-89

Period of ~2 minutes of questioning before answer written down
Samples of assistance to Chand

MAYNARD CHANT, by Mr. Orsborn

- 1 A. I don't, I don't know if, I don't know -- what I'm saying
2 is the statement that I'd given in '82 or reflecting to
3 C. B. C., if I was to use the word perjury, it would be
4 my own standing to use it now. But not so much as literally
5 said by them.
- 6 Q. I understand, okay, thank you.
- 7 A. May I ask a question?
- 8 Q. No, but go ahead anyway.
- 9 A. I'm just wondering if -- does that cause any cause of
10 conflict or does that cause any type of, type of --
- 11 Q. Well, you've said, you can't remember whether the word was
12 used or not and I think it's fair to point out that the testimony
13 again of Detective MacIntyre and Detective Urquhart and Mr.
14 Magee will be to the effect that that word perjury (persay)
15 was not used in the discussion. That you had not said, I take
16 as didn't occur, you simply said you don't recall.
- 17 A. I was just wondering if that evidence was incriminating
18 towards me as far as giving the statement which I've just
19 given?
- 20 Q. Not at all.
- 21 A. Okay.
- 22 Q. Do you recall how the statement proceeded after your mother
23 left? Number one did Detective MacIntyre stay standing up?
24
- 24 A. Yes.
- 25 Q. Still at the head of the table?

MAYNARD CHANT, by Mr. Orsborn

X 1 Q. And it was at that point that Sergeant MacIntyre sat down?

2 A. Yes.

3 Q. Mr. Chant, I'll show you what I believe to be the original
4 of this statement and ask you if the signatures at the
5 bottom of each of these pages are yours? As to page one?

6 A. Yes.

7 Q. As to page two?

8 A. Yes.

9 Q. As to page three?

10 A. Yes.

11 Q. As to page four?

12 A. Yes.

13 Q. And as to page five, for the record there is a fifth
14 foolscap page of that statement and I think it correct
15 to say that your signature does not appear on that page?

16 A. No.

17 MR. ORSBORN:

18 May I ask that this be filed, My Lord, as an exhibit consisting
19 of five foolscap pages representing what I believe to be the
20 original handwritten statement of Mr. Chant, dated June fourth,
21 1971, 2:55 p.m., exhibit 31.

22 COMMISSIONER POITRAS:

23 Did you say that it was not signed, Mr. Orsborn?

24 MR. ORSBORN:

25 The final page only, My Lord, was not -- did not have Mr. Chant's

MAYNARD CHANT, by Mr. Orsborn

- 1 Q. Now, when your mother left, I think you told that there
2 was at present Sergeant MacIntyre and another officer
3 who I believe to be Sergeant Urquhart. You said Mr. Magee
4 and Mr. Burke. Was Mr. Burke, being your probation officer,
5 was he a friend of yours?
- 6 A. As a counselling friend -- interest, yes.
- 7 Q. Yes. Did you in any way feel that he was providing some
8 support to you by being there?
- 9 A. I don't know.
- 10 Q. Did he, to your recollection, say anything during the
11 interview?
- 12 A. Not that I remember, no.
- 13 Q. Do you recall Mr. Magee saying anything during the interview?
- 14 A. Not that I remember.
- 15 Q. Did you at anytime ask that your mother be brought back in?
- 16 A. No. I would just -- I was just concerned right then and
17 there with what was happening. I -- no. Being that young
18 I guess, I never really even considered that. I just
19 -- I just wanted to -- At that point in time I just wanted
20 to give a story. That I could get out of there and get
21 away from that. And that resulting -- because of that
22 I had given a statement which --
- 23 Q. Was there any one thing which more than another made you
24 decide you were going to give this statement?
- 25 A. I just -- I just really didn't care anymore that -- Possibly

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 his
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
 would he be out of town?

Any other threats:

to see 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 up.
- 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 - if 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 - whenever two men mentioned it would be completed + known to floor.
- 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 Hurvics 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
15 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?

 A. Yes.

MARY CSERNYIK, by Mr. Orsborn

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 Kesouf.

from Christmas Prosecution

TRIAL

q(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 16/1/77 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 house 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

(A) Suspect?

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

(2) Usual for conversation with someone solving you?

(2a) 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: Prutico

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 ahead 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 - Trial office
 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.

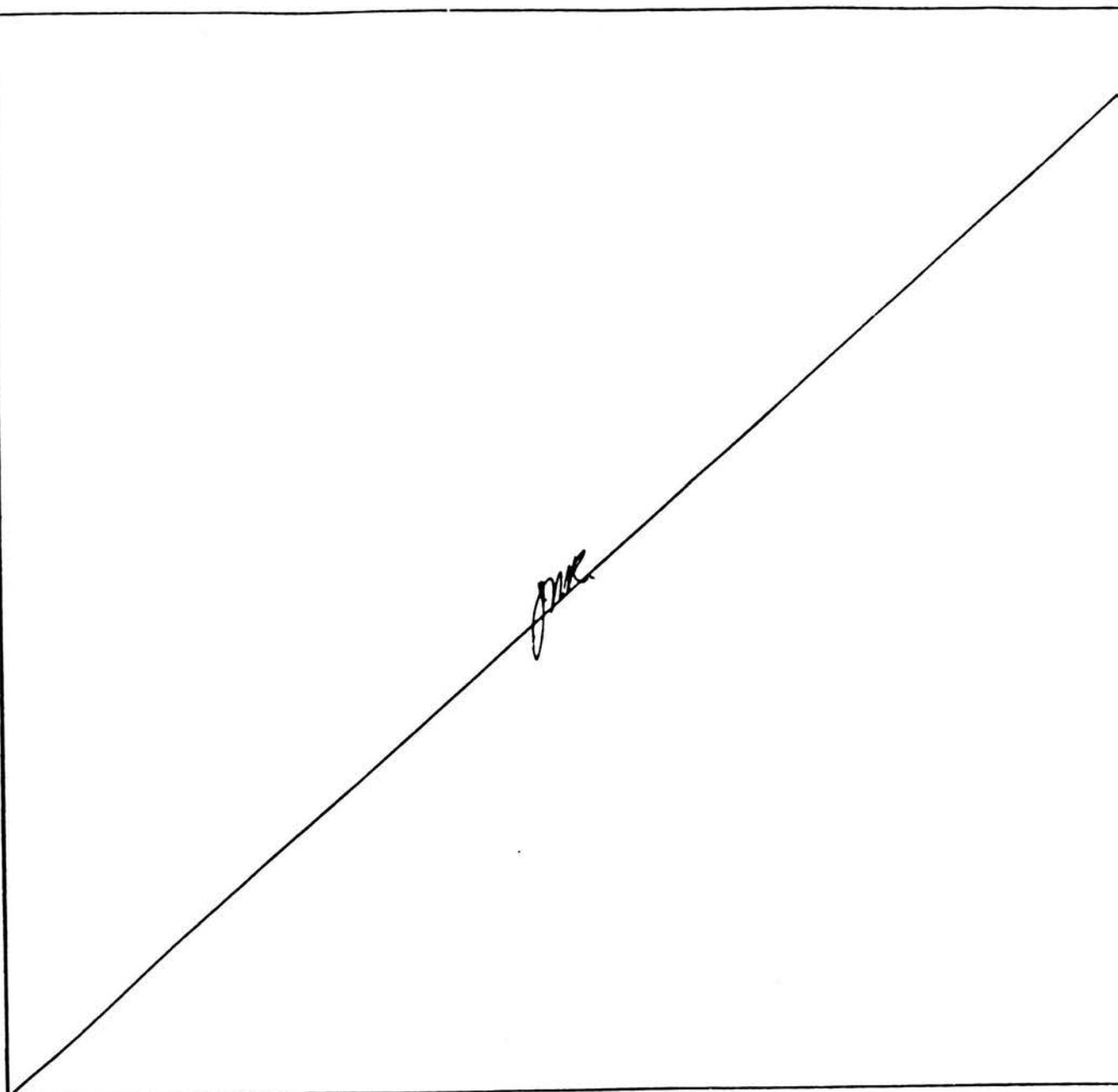
20 Q. You didn't -- Did you ask in what respects their stories were
21 different?

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.
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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. (+ Dukeristay 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. ^{Victim 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
'somewhat 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 ^{W. Young} 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 Per

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

notes: over

Notes

Review q. 66. why must be
 opposed to this when RCMP,
 Maya + 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

Alomson 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 Dep. 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

Putis

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. Hall - he had also been contacted by the staff of the Post and when he spoke to me; he will speak in May 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 Magnood they had a witness
353 4, 40 who saw her in there
353 5, 38 Asked her to leave room
3541 If Magnood 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 & unsavory characters.
3) would get Sr. Marshall for something.

Denials

(2)

Mary Patricia O'Reilly:
Did not say she told Patricia
3301, 2, 5, 8 Harris to tell police the old
9, 23 nor story

Patricia Harris

Maynard Hart

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)

<u>Page No.</u>	<u>Comments</u>
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

retirement 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.