

I N D E X

VOLUME 19

DOCUMENTS RELATING TO REVIEW
AND REINVESTIGATION
JANUARY, 1982 - MARCH, 1983 -----PAGES 1 - 150

MEDIA POOL COPY

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Rem 160

Aronson, MacDonald Barristers & Solicitors

Stephen J. Aronson
Leo I. MacDonald

Dartmouth Professional Centre · Suite 305 · 277 Pleasant Street · Dartmouth, N.S. Canada B2Y 4B7 · (902) 463-9131

January 26, 1982

Chief
Sydney City Police
Sydney, Nova Scotia

Dear Sir:

Re: Donald Marshall, Jr.

I have been retained by Mr. Marshall to look into the circumstances surrounding his conviction for the murder of Sandy Seale in Sydney.

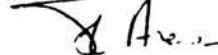
I have had several conversations with Mr. Marshall at Dorchester and he continues to declare his innocence. I have also spoken with several other individuals who are concerned with this matter.

One individual - Mitchell Bayne of 11 Twining Street, Pictou who in October of 1979 was living in Sydney with Roy Ebsary. Ebsary, according to Bayne, raised the matter of the Seale murder and told Bayne that it was in fact he (Ebsary) who committed the murder. I spoke with Bayne personally and he told me that Ebsary had indeed confessed to him.

Recently I was advised that Ebsary has been charged with an assault in the Sydney area. May I therefore ask that you look into Mr. Bayne's story to determine whether it warrants further action on your part.

I would appreciate hearing from you once you have looked into this information.

Yours sincerely,



Stephen J. Aronson

SJA:md
c.c. - Donald Marshall, Jr.

82H371

RTN RTN C.I.B. 82-02-02 UNCLAS

C.O. "C" DIVISION
ATTN: INSP. W.L. HOLMES
DRUG SECTION

D.F. Christen, Supt.,
Officer i/c C.I.B.

"H" DIV.

CIB 60/3

*Not sent
E.C. Smith did polygraph*

CHIEF MACINTYRE, SYDNEY CITY POLICE, CONTACTED THIS H.Q.
AND ADVISED A DONALD MARSHALL WAS CONVICTED OF THE MURDER
OF SANDY SEALE IN 1971. DURING THE INVESTIGATION, A SUSPECT
ROY EBSARY WAS GIVEN A POLYGRAPH EXAMINATION. PLEASE ADVISE
WHETHER OR NOT YOU RECALL IF YOU CONDUCTED THIS EXAMINATION,
AND IF SO, IF YOU REMEMBER THE RESULTS. IF POSITIVE, PLEASE
ADVISE YOUR PHONE NUMBER SO CHIEF MACINTYRE CAN CALL YOU IN
THIS CONNECTION.

*PIA file re Donald MARSHALL,
Murder, Sydney, N.S.
71 May 28*

NO RECORD
MAY 28 1978

*+ record Sandy SEALE
Roy EBSARY*

NO RECORD
MAY 28 1978

*BPIA
82102102*



3

COMMERCIAL INVESTIGATIONS & CONSULTANTS LTD. ✓

P. O. Box 129-6 Rothesay, N. B., Canada, E0G 2W0, (506) 849-2509

RCMP 2 106

February 2, 1982

Sydney Police Department
City Hall Building
Sydney, N.S. BLP 6H7

ATTENTION: Chief John McIntyre

Dear Sir;

RE: Donald Marshall
Murder, Sydney, N.S.

This will confirm our telephone conversation of this date with reference to the above murder.

In 1971 I was a member of the Royal Canadian Mounted Police and stationed on the Polygraph Section at Regina, Saskatchewan. During the month of November that year I received a call from Supt. E. A. Marshall of Halifax, N.S. to assist him with reference to the Marshall murder. Supt. Marshall is now stationed at R.C.M.P. Headquarters at Ottawa, Ontario.

As a result of that request I attended at Sydney, N.S. on 23 November 1971 and my personal ledger shows that I gave polygraph examination to two persons on that date in this regard. It indicates that I examined one J.W. MacNeil and rendered an indefinite opinion as to his truthfulness. It also shows that I examined one R.N. Ebsary and rendered a truthful opinion when he denied committing the murder in question.

I have no other records of my involvement in this matter and I would assume that the R.C.M. Police at Regina would have destroyed the file after a five year period as that was their policy at that time.

My memory of this particular file is quite clear because I use to be stationed in Nova Scotia prior to entering the polygraph program and I remember that the Sydney trip was the first time I returned to Nova Scotia after leaving in July of that same year.

Supt. Marshall advised that One Donald Marshall had been convicted earlier that year of murdering a Negro chap in the park at Sydney, Nova Scotia. The offence had been investigated by your Department and prosecuted by one Donald McNeil. Sometime after the conviction was handed down by the court, one J. W. McNeil came forth and advised that the wrong man had been convicted as he alledged that he saw one R. N. Ebsary commit this murder rather than Marshall. That information had been reported to the Nova Scotia Attorney's General Department and they asked the R.C.M. Police to look into the matter.

It was decided between Supt. Marshall, Supt. Gardiner (O.C. then of Sydney Sub-division of the R.C.M. Police) and myself that we should first examine MacNeil on the story he was giving to the police. I recall that I found him to be a very difficult polygraph subject and I was not able to obtain polygraph charts that I could properly interpret. I therefore had to render an indefinite opinion.

Following that examination, I examined Ebsary on his denial of the murder. I was satisfied that his charts were truthful when he denied involvement and so rendered that opinion.

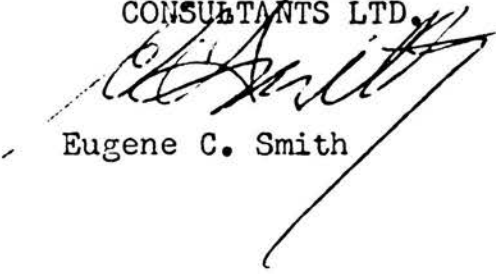
The results of Ebsary's polygraph examination were given to Mr. Donald MacNeil and it is my understanding that he so advised Donald Marshall's lawyer and give him the opportunity to submit his client to the examination. It is also my understanding that Marshall, through his lawyer, declined the examination.

The foregoing concluded my involvement in this particular matter and I must confess that the subject never crossed my mind again until you called this date.

I trust that the information I have provided will be of some assistance to you. Should you have any further questions, please don't hesitate to contact me again at (506) 849-2049.

Yours truly,

COMMERCIAL INVESTIGATIONS &
CONSULTANTS LTD.



Eugene C. Smith

ECS:vs

REP. CD SIGNALE	Date 82-02-03	Time - Heure	Priority Priorité 3
Details of Event - Précisions sur l'incident Investigation re murder			
Location - Endroit Sydney, N.S.			Zone
UNITS ASSISTING - UNITÉS DÉPÊCHÉES			
P.C. - V.P.	Traffic Circulation	G.I.S. - S.E.G.	Ident.
Dog Services Serv. des chiens		Other - Autre	

Subject No NO du sujet	G1 - P1	G2 - P2	82-77 RCMP 2.186
Address - Adresse Sydney, N.S.			BIN BO
Phone - NO de tél			
DOB Y.-A	DATE DE NAISS M. D.-J	App Age Âge app	Height Taille
Mass Masse	Hair Cheveux	Eyes Yeux	Race Desc Race Origine
Driver's Licence No - NO de permis de conduire		P.O.I. P. dem	Photo No - NO de photo
Charges - Accusation(s)		F.P.S.	OCCURRED SURVENU
Investigator - Enquêteur WHEATON & CARROLL		Unit - Service GIS	
Nature of Event - Genre d'incident Re: Donald MARSHALL, Jr. Murder - Sydney, N.S. 1971 Asst. to Sydney P.D.			

Status État	Licence No - NO d'immatr.	Prov.	L. Yr. Année d'imm.	No. of Occupants Nombre d'occupant(s)	Sumame - Nom de famille	<input type="checkbox"/> As above - Même que ci-dessus
Type	Make - Marque	Model - Modèle	Style	Year - Année	G1 - P1	G2 - P2
Colour Couleur	Top - Toit	Bottom - Carross	Val. Tag. No. - NO d'étiquette de validation	Year - Année	Address - Adresse	
V.I.N. - N.I.V.					City - Ville	
Distinct Features Caractéristiques	Interior - Intérieur	Exterior - Extérieur	Prov.	Phone - NO de tél		

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
82-02-03		Insp. D.B. SCOTT, O.C. Sydney Sub/Div. advised that on even date he had attended a meeting requested by Chief John F. MacINTYRE, Sydney P.D., in the office of Crown Prosecutor Frank EDWARDS. In this meeting Chief MacINTYRE advised that he had received a letter from a solicitor, Steven J. ARONSON from the firm of ARONSON & MacDONALD, 277 Pleasant St., Dartmouth, N.S. # 463-9131. This letter was dated 82-01-26 and in it Mr. ARONSON advised that he was representing one Donald MARSHALL, Jr., an inmate of Dorchester Penitentiary who had been convicted of a murder of one Sandy SEALE in Sydney N.S., in May of 1971. Mr. ARONSON advised that MARSHALL has for the past 11 years maintained that he is innocent of this

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Investigator - Enquêteur		Date		SUPERVISOR SUPERVISEUR Signature		Date
COPIES TO COPIES A :	<input type="checkbox"/> H.Q. D.G.	<input type="checkbox"/> DIV.	<input type="checkbox"/> C.I.S. S.F.J.	<input type="checkbox"/> G.I.S. S.E.G.	Other - Autre	

OCCURRENCE No. — N° D'INCIDENT	
Y.A.	8 2 -77
BIN — BD	

RE — OBJET:

Donald MARSHALL, Jr. Murder

DATE	TIME HEURE	ACTION TAKEN — MESURES PRISES
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Remise 186

82-02-03

murder. MARSHALL has retained Mr. ARONSON to look into this matter and to this end he has interviewed one Mitchell Baine SARSON of 11 Twining St., Pictou, N.S. Mr. SARSON advised that he lived with a Roy EBSARY of Mechanic St., Sydney, N.S., during 1979. Mr. EBSARY had an occasion to confess to SARSON that it was in fact he who stabbed the colored chap, SEALE, in the park in 1971. ARONSON requested that the matter be looked into and subsequently the Officer i/c gave this file to this office. On reviewing this file it was found that on the night of the 28th/29th of May, 1971, Roy EBSARY was in Wentworth Park accompanied by one James MacNEIL. MacNEIL and EBSARY were apparently approached by SEALE and MARSHALL and an attempt was made to rob them. This fact did not come to light until November, 1971 at which time MARSHALL had been convicted in Supreme Court for non-capital murder. After this conversation MacNEIL went to the police and advised that in fact EBSARY had stabbed SEALE during the attempted robbery. MacNEIL was frightened for his own life and afraid to come forward prior to this time. The original investigation was conducted into these new facts by Chief MacINTYRE and he requested the assistance of this Force to further look into the matter. To this end then Sub/Insp. E.A. MARSHALL and Polygraph Operator E.C. SMITH conducted interviews of both MacNEIL and EBSARY.

.../2

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Investigator — Enquêteur		Date		SUPERVISOR SUPERVISEUR		Signature
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RE — OBJET:

Donald MARSHALL, Jr. Murder

BIN — BD

DATE	TIME HEURE	ACTION TAKEN — MESURES PRISES
		2 0712 156

82-02-03

The results of this interview was that EBSARY came out as truthful and not involved in the murder and MacNEIL came out as uncertain due to his low mental capabilities.

In the latter part of January of this year Roy EBSARY was involved in the near fatal stabbing of a man at his home on Faulkner St., Sydney. This matter is presently being investigated by the Sydney City Police Det. Horace WOODBURN. On speaking to Det. H. WOODBURN it would appear that this was an unprovoked attack and EBSARY is a very violent individual. EBSARY's wife, Mrs. Mary EBSARY was interviewed and she also feels that her former common-law husband is indeed very violent and is capable of stabbing a person. She further advised that EBSARY is eccentric, feels that he is an ordained minister as well as a sea captain. She discussed her life with her former common-law husband and there seemed to be no love lost between the two of them. During the time that Mitchell SARSON lived at their home she felt that EBSARY and SARSON were conducting a homosexual relationship. She therefore kicked the pair of them out of the house and they lived together for a period of time in Whitney Pier, then moved to Faulkner St., Sydney. She could offer no direct evidence in relationship to the stabbing in 1971 and I feel that if she knew anything she would tell us.

.../4

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RE - OBJET:

Donald MARSHALL, Jr. Murder

BIN - BD

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
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82-02-03

James MacNEIL of 222 Mount Pleasant St., Sydney, was interviewed and attached statement obtained. MacNEIL is still positive to this date that EBSARY did stab SEALE and advised that he was present when the incident occurred. There can be no doubt that MacNEIL is a simple person but the manner in which he revealed the foregoing appeared forthright and honest.

82-02-10

Patrol was made to Pictou, N.S., and Mitchell SARSON was interviewed and attached statement obtained. In the statement SARSON advised that EBSARY admitted stabbing SEALE and that this revelation came out of the blue with no previous coaching from SARSON. It might be noted in the statement that the wording used by EBSARY at the time of the stabbing was similar to the wording used by MacNEIL and MARSHALL in their original statements taken back in 1971. SARSON would have a vested interest for defending MARSHALL as his sister had an affair with MARSHALL during the period of time that he escaped from Dorchester Penitentiary approximately two years ago. SARSON visits his brother who is doing time with MARSHALL and he has undoubtedly discussed this case at great lengths with him. It was at MARSHALL's instigation that SARSON made the revelation of EBSARY known to lawyer, ARONSON. Investigation will continue in relation to this file.

S.U.I.

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Investigator - Enquêteur		Date	SUPERVISOR SUPERVISEUR	Signature		Date
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JOHN F. MacINTYRE
Chief of Police



Address All Communications To
Chief Of Police

OFFICE OF
CHIEF OF POLICE
SYDNEY, NOVA SCOTIA

February 15, 1982.

Mr. Stephen J. Aronson
Aronson & MacDonald, Barr.etc.
Dartmouth Professional Centre
Suite 305
277 Pleasant Street
Dartmouth, Nova Scotia
B2Y 4B7

Re: Donald Marshall, Jr.

Dear Mr. Aronson:

I wish to acknowledge your letter of January 26, 1982 re the above named and wish to advise you that the information contained therein has been duly noted.

Yours very truly,

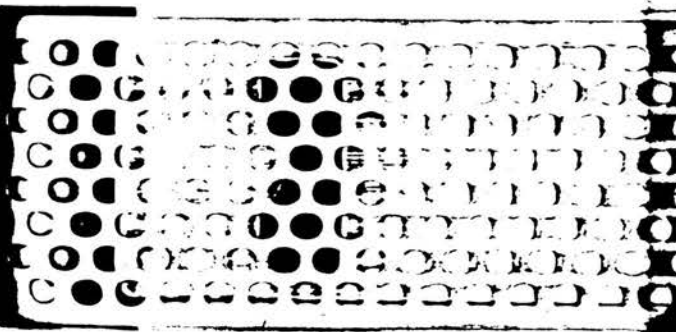
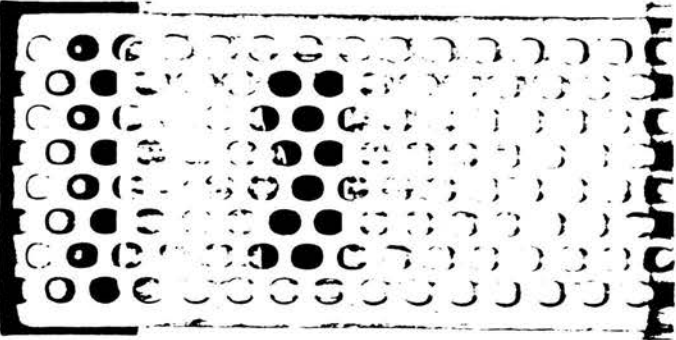
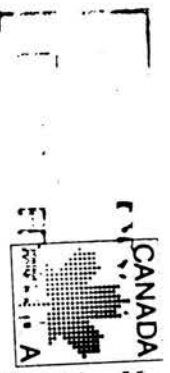
John F. MacIntyre
Chief of Police

Suite 305
277 Pleasant Street
Dartmouth, Nova Scotia, Canada
B2Y 4B7

Chief
Sydney City Police
SYDNEY, Nova Scotia

John A. [Signature]

John A. [Signature]



Roy Newman EBSARY, 68 Falmouth St., Sydney, N.S.

11

Interviewed: 82-02-22 at 4:45 P.M.

RCMP 251

Returned to EBSARY residence at 68 Falmouth St., Sydney, N.S., door answered by EBSARY, drunk in kitchen at table. Went into livingroom with EBSARY, sat at typewriter while he stood, had been drinking but not drunk, laughing, shouting to drunk in kitchen. Asked what my horoscope sign was, I replied SCORPIO, he said, "The only break I ever got was from a SCORPIO." I asked him what did he want to talk about, that my boss had instructed me to come to see him. At the time I was holding a statement pad in my hand, I asked EBSARY if he wanted to tell me what happened in the park that night, he just stood in front of me smiling. I said "Was it self-defence or what? EBSARY said, "It was self-defence we just defended ourselves." I asked him what he used to defend himself, he replied, "Just a small pen knife," at that time he made a motion with his fingers indicating the length of the knife as approximately 3 - 4 inches. I asked him where the knife was now, he said it had been lost over the years. I told him I knew some details of SEALE's wound and a pen knife was not capable of inflicting that type of wound. EBSARY said he didn't want to give a written statement until he met Junior MARSHALL's mother, he wanted to see her face and "judge" her, he wanted to see where they lived, the type of house they lived in. I agreed to arrange a meeting between EBSARY and the MARSHALL family and advise him of the time and date. I left at approximately 5:00 PM.

J. S. Carroll Jr.

9.17 AM

BSARY office WHEATON = CARROLL
of Newman BSARY - RD 12-46-02
Falmouth St, Sydney, NB 539-8171
rooms on ground floor.

lawy career, laughing over height, injuries at sea,
s. Mum treats him, #234907 2240 Canadian #
never drunk during war, shrapnel in arse, daughter in
Boston, son at Steel Plant. Assault, ordained 3 yrs ago.
universal life Church, California JEC out of room 2 min.
10.38 AM Bible, Blood Testament, discussion re Bibles, conf-
sion, lost 3 books, "Heaven - Hell" #1, 2 - 3 editions. Believes
all an earth, pay for acts in another existence, believes
in panics on earth. Has heard voices from other world,
y. old American Navy is friend, ghost writes for him.
as golden retriever dog, had 2 nervous breakdowns
at 10 yrs. ago., one just after war. Camp Hill Hospital
171 Xmas - New Years, came to Nfld for grandfathers
uneral, 10.46 AM doesn't know how long he'll live, may not
et up some Am. Shows medals, sank BISMARCK, was an
oob, gun captain, family names. Separated from wife,
over ordination papers, said it was only a joke, she let
DICK SWEENEY, Breton asked E. to take in student
for board, wife agreed, end of webor 10.57 AM, spoke
of stabbing incident at his home, woman went for + bottle
of wine, suggested men + woman stay at Vista for weekend,
man used phone (woody) next saw woody on ground at
working meter, was told by police stories changed many
ines. like most precious thing. 11.01 AM Warning by
WHEATON, explained MARSHALL case, voices heard -
Joan of Arc, Moses, history. Victims dead, tyr. of

22

Possessed - girl comes to home - Demons, hears voices,
 fights them off, Black flash takes over, has thought
 of suicide. W. has read file, Maxwell and E. at
 Tavern, doesn't know his name, at his home, Tavern
 possibly closed, no drinks? was walked home by
 young man, walked through park to Crescent St.
 shown sketch by W. 11.09 AM, shot out to home near
 Argyle, @ MARSHALL has served 11 yrs, had beard, PRATER
 mentally shook, gives mother hard time. (smoking) The whole
 thing rested on him. W. - what did you do that night
 E. There were two fellows in park, told to empty
 pockets, other fellow fought with MARSHALL, other man
 took what was in pockets & ran. Heaven & Hell (W)
 MARSHALL's mother groans everyday for 11 yrs. for son,
 has maintained innocence, what will happen when you die?
 Peace of mind? Can't believe all of Bible (E) Gave evidence
 to police but not at trial, letter from MARSHALL. recently,
 not going to ~~do~~ ^{say} anything he didn't do, 11.25 AM asked to
 reflect on what's going on. CARROLL & WHEATON out of
 room, back in 11.31 AM forced by aunt, (E) MARSHALL may
 be falsely imprisoned, evidence of robbery never came
 out, may have been self defence. Do you have knife? (E)
 E. No. SARSON (E) smoked pot in house, spoke to him,
 SWEENEY wanted him to train SARSON, a gentleman's
 gentleman, wife freaked, left. Son said he would kill E.
 if he stayed. E. left with SARSON to Carlton Hotel,
 SARSON back to Pieter, SARSON & E. lived at Pier, (E)
 Break-ins at Pier, sent SARSON home, came back several
 times for a week at a time into drugs. 12.04 PM (W)
 read Mac NEIL'S statement. Pockets searched 12.27 PM
 ARSON statement read by W. 12.34 PM 1.03 PM water. (E)
 6.41 PM out of room

82-02-25

The Deputy Attorney General
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

Our file
71H-010-6

Attention: Mr. Gordon S. Gale

Re: Murder of Sandford William SEALE
71-05-28/29

I am forwarding this resume, being further to our conversation of 82-02-23.

When complete report is received from Sydney General Investigation Section, same will be forwarded to you.

D.F. Christen, Supt.,
Officer i/c C.I.B.

DCS/lmm
Encl.

3139 Oxford Street
P.O. Box 2286
Halifax, N.S.
B3J 3E1

CP REM
40

SA
82-02-25
LH
B1

SEALES - Victim

Donald MARSHALL - Accused - EBSARY
- James McNIEL

Re: SEALES Murder
Sydney, N.S., 1971

In spring of 1971 MARSHALL was convicted in Sydney of stabbing and killing SEALES. The offence occurred on May 28/29, 1971, in the City of Sydney and was investigated by Sydney City Police. Sometime in January Chief John McIntyre, Sydney City Police, called to relate series of events surrounding the SEALES murder. The Chief advised he had received correspondence from a lawyer representing MARSHALL claiming his client was innocent of the 1971 murder. MARSHALL apparently had obtained the services of a lawyer on reading in the paper that EBSARY, who is now approximately 70 years of age, had recently stabbed a man in the stomach in Sydney. Chief McIntyre indicated the letter from the lawyer requested a certain witness be interviewed. He indicated where the murder had been investigated by their Force, that really they should not be looking into this matter now. I advised him to contact Insp. Scott who would provide assistance if required. On the 82-02-23 Insp. Scott called and basically related the following information. Maynard CHANT who was 14 years of age at the time was supposed to have witnessed this stabbing. He apparently had to be declared a hostile witness at the time of the trial. He has now been interviewed and advises that he lied, that he did not actually see Donald MARSHALL stab SEALES.

John PROSTICO, who was approximately 12 years old at the time and supposedly under psychiatric treatment, was another eye witness. It has been determined PROSTICO also lied during the trial and the psychiatrist has indicated that at the time he testified he was not mentally competent.

Don MARSHALL was interviewed ^{again} for the first time, has apparently told his side of the story. He claims he and SEALES were going to roll EBSARY and James McNIEL for their money. MARSHALL and SEALES walked up to them and hit them up for some money. MARSHALL then grabbed a hold of McNIEL and SEALES grabbed EBSARY. SEALES supposedly told EBSARY to dig down deep (meaning for all his money). EBSARY supposedly replied - you mean like this and turned and stabbed SEALES in the stomach, killing him. MARSHALL on seeing this attempted to turn and flee, however, EBSARY slashed him on the arm.

Sometime shortly after the incident, James McNIEL came forward and advised the Sydney City Police that he was with EBSARY and that it had been EBSARY who had stabbed SEALES and had then come home and washed the blood off his hands. Sydney City Police did not believe McNIEL and it called on our Force to investigate and review the evidence. This was done by now Supt. Al Marshall and retired S/Sgt. Jean Smith, Polygraphist. The Polygraph examination was given to McNIEL and it is understood the results were non-conclusive. EBSARY was brought in, tested and apparently came out truthful. As a result no further investigation was conducted by this Force. To this date McNIEL still claims EBSARY stabbed SEALES.

PIA
2/10/73

Our members have spoken to a Mitchell Baine SARSEN who advises that in 1979 he was living with EBSARY. One night when they were drinking EBSARY admitted killing SEALES. SARSEN stated that EBSARY related a conversation, i.e., dig deep, I'll help you dig deep, which would not really be known to SARSEN unless someone very close to the murder had told him.

Our members have now interviewed EBSARY and he has acknowledged he committed the offence. Don McNIEL, now deceased, was crown prosecutor at the time.

Mr. Gordon Gale advised of above this date. Full report being submitted by Sydney R.C.M.P.



D.F. Christen, Supt.
Officer i/c C.I.B.

ON THE 28/29 OF MAY 71 AT APPROXIMATELY 12 MN SANDFORD WILLIAM SEALE WAS STABBED ON CRESCENT STREET, SYDNEY, N.S. AS A RESULT OF A SINGLE WOUND TO THE STOMACH SEALE EXPIRED AT 8 AM ON THE MORNING OF THE 29 MAY 71. INVESTIGATION BY SYDNEY CITY POLICE REVEALED THAT SEALE WAS IN COMPANY WITH DONALD MARSHALL JUNIOR AT THE TIME OF THE MURDER. MARSHALL GAVE EVIDENCE IN SUPREME COURT TO THE EFFECT THAT HE HAD BEEN WITH SEALE IN WENTWORTH PARK WHICH BORDERS CRESCENT STREET. HE AND SEALE WERE CALLED TO CRESCENT STREET BY TWO UNKNOWN MEN AND CONVERSATION ENSUED REGARDING DRINKING, WOMEN AND BUMMING CIGARETTES. MARSHALL STATED THAT THE SHORTER OF THE TWO MEN BECAME INCENSED AND COMMENTED THAT HE HATED NEGROES AND INDIANS AT WHICH TIME HE WITHDREW A KNIFE AND STABBED SEALE IN THE STOMACH. HE THEN STRUCK OUT AT MARSHALL STRIKING HIM IN THE LEFT ARM.

MARSHALL THEN ADVISED THE COURT HE RAN FROM THE SCENE AND THE FIRST PERSON HE CAME IN CONTACT WITH WAS MAYNARD CHANT. HE REPORTED THE INCIDENT TO CHANT AS WELL AS OTHERS ON THE STREET AND RETURNED TO THE SCENE AWAITING POLICE AND AMBULANCE. MARSHALL WAS THE ONLY WITNESS FOR THE DEFENSE AND WAS EXAMINED BY HIS COUNSEL, C.M. ROSENBLUM, AND WAS CROSS-EXAMINED BY THEN CROWN PROSECUTOR, D.C. MCNIEL.

EVIDENCE FOR THE CROWN WAS GIVEN BY NUMEROUS POLICE, LAB AND PERIPHERAL WITNESSES. AN EXCULPATORY STATEMENT WAS OBTAINED FROM MARSHALL AND THE MURDER WEAPON WAS NOT FOUND. THE PRINCIPAL EVIDENCE FOR THE CROWN WAS TWO EYE WITNESSES WHO TESTIFIED THAT THEY SAW MARSHALL STAB SEALE. THE FOLLOWING ARE THE SALIENT POINTS OF THEIR EVIDENCE AS IT WAS KNOWN AT THAT TIME.

MAYNARD VINCENT CHANT (AGE 14 AT TIME OF MURDER)

TESTIFIED THAT HE WAS WALKING DOWN THE RAILWAY TRACKS IN WENTWORTH PARK JUST PRIOR TO THE STABBING. HE FIRST SAW A PERSON LATER IDENTIFIED AS JOHN LAWRENCE PRACTICO SITTING IN THE BUSHES BETWEEN THE RAILWAY TRACKS AND CRESCENT STREET. HE ALSO SAW TWO MEN, ONE OF WHOM HE RECOGNIZED AS DONALD MARSHALL, STANDING CLOSE TO EACH OTHER ON CRESCENT STREET. HE HEARD MUMBLING AND SWEARING AND HE THOUGHT MARSHALL WAS DOING MOST OF THE SWEARING. HE THEN SAW MARSHALL TAKE OUT A KNIFE FROM HIS POCKET AND JAB IT INTO THE MAN HE WAS WITH. CHANT BECAME FRIGHTENED AT THIS POINT AND RAN DOWN TO THE RAILWAY TRACK TO BYNG AVENUE. DURING THIS TIME MARSHALL ALSO WALKED OVER TO BYNG AVENUE AND

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MET CHANT ALONG WITH TWO OTHER BOYS AND TWO GIRLS. (THESE PERSONS HAVE NEVER BEEN LOCATED OR IDENTIFIED). MARSHALL TOLD THE GROUP THAT TWO MEN HAD ATTACKED HE AND HIS BUDDY (SEALE). HE ALSO SHOWED THEM A SUPERFICIAL CUT ON HIS ARM WHICH WAS NOT BLEEDING INCIDENTALLY. HE STATED THAT HIS BUDDY (SEALE) WAS ON THE OTHER SIDE OF THE PARK WITH A KNIFE IN HIS STOMACH. A CAR THEN CAME ALONG (NEITHER THE CAR OR ITS DRIVER WERE IDENTIFIED) AND THEY (MARSHALL, CHANT AND THE OCCUPANTS OF THE CAR) DROVE AROUND TO WHERE SEALE WAS LYING ON THE STREET. MARSHALL TOOK CARE NOT TO STAND WHERE SEALE COULD SEE HIM. CHANT TOOK OFF HIS SHIRT AND PUT IT OVER SEALE'S STOMACH WHILE WAITING FOR THE AMBULANCE.

JOHN LAWRENCE PRACTICO (AGE 16 YEARS)

PRACTICO ATTENDED THE DANCE AT SAINT JOSEPH HALL, SYDNEY, UNTIL MIDNIGHT WHEN HE LEFT BY HIMSELF. HE MET MARSHALL AND SEALE AND THEY WALKED TO THE CORNER OF ARGYLE AND GEORGE STREETS. MARSHALL WANTED PRACTICO TO COME DOWN INTO THE PARK. (ALTHOUGH PRACTICO NEVER ADMITTED OR SUGGESTED THAT MARSHALL AND SEALE WERE GOING INTO THE PARK TO ATTEMPT TO ROLL SOMEONE, THE INFERENCE IS THERE AND IT IS THE CONSENSUS OF OPINION MARSHALL AND SEALE WERE AT THIS TIME BENT ON ROBBING SOMEONE). PRACTICO THEN PROCEEDED INTO THE PARK ON HIS OWN AND SAT DOWN IN THE BUSHES TO DRINK A PINT OF BEER WHEN HE SAW SEALE AND MARSHALL ON CRESCENT STREET. HE TESTIFIED THAT HE WAS ABOUT 30 OR 40 FEET FROM THEM AT THIS TIME AND THAT HE HEARD AN ARGUMENT TAKE PLACE BETWEEN THE TWO DURING WHICH SEALE IS ALLEGED TO CALL MARSHALL A ("CRAZY INDIAN") AND MARSHALL CALLED SEALE ("A BLACK BASTARD"). PRACTICO SAW MARSHALL PLUNGE A WEAPON INTO SEALE'S SIDE. SEALE FELL TO THE GROUND AND THEN MARSHALL RAN UP CRESCENT STREET TOWARDS ARGYLE STREET. PRACTICO THEN RAN TO HIS HOME ON BENTINCH STREET.

NEITHER OF THE TWO AFOREMENTIONED WITNESSES TOLD THE TRUTH TO THE POLICE WHEN THEY WERE FIRST INTERVIEWED. HOWEVER, THIS CAN BE PUT DOWN TO THE FACT THEY WERE BOTH SCARED AND THAT PRACTICO IS NOT TOO BRIGHT. IN THE FINAL ANALYSIS EVIDENCE, WHICH WAS AS OUTLINED ABOVE, IS BELIEVED TO BE FACTUAL AND WHAT IS JUST AS IMPORTANT THERE WAS NO COLLABORATION BETWEEN THE TWO. IN OTHER WORDS WHAT THE COURT HAD WERE THE SAME FACTS TOLD BY TWO QUITE INDEPENDENT WITNESSES.

MAYNARD VINCENT CHANT WAS INTERVIEWED ON THE 16TH OF FEBRUARY OF THIS YEAR. HE IS NOW 25 YEARS OF AGE AND MARRIED. HE ADVISED THAT HE LIED COMPLETELY ON THE STAND DURING THE AFOREMENTIONED TRIAL. HIS REASONING FOR THIS WAS THAT HE WAS 14 YEARS OF AGE AT THE TIME AND FRIGHTENED. HE WAS TOLD BY THE POLICE THAT HE WAS SEEN IN THE PARK AND WENT ALONG WITH WHAT THEY TOLD HIM. HE FELT THAT HE WAS BROWBEATEN BY THE CROWN PROSECUTOR AND STATES THAT ONCE HE GAVE EVIDENCE AT THE PRELIMINARY HE WAS THREATENED WITH BEING CHARGED WITH PERJURY. HE AGREES WITH MARSHALL'S STORY ON MEETING AND RETURNING TO THE BODY. AT THE TIME HE FELT MARSHALL WAS GUILTY AS EVERYONE SAID SO AND HE WAS KNOWN TO BE OF BAD CHARACTER. A MORE DETAILED STATEMENT TO BE FORWARDED WITH SUPPLEMENT REPORT.

EFFORTS WERE MADE TO LOCATE JOHN L. PRACTICO AND HIS MOTHER WAS LOCATED. SHE ADVISED THAT JOHN WAS ADMITTED TO THE NOVA SCOTIA HOSPITAL AFTER THIS TRIAL AND HAS BEEN IN AND OUT OF MENTAL INSTITUTIONS ON A CONTINUING BASIS. SHE REQUESTED THAT WE NOT INTERVIEW HER SON AS THIS WOULD SET HIM OFF AND HE BECOMES VERY BELLIGERENT. IN VIEW OF PRACTICO'S MENTAL STATE, DOCTOR M. A. MIAN, MEDICAL DIRECTOR OF THE CAPE BRETON HOSPITAL, WAS INTERVIEWED. HE ADVISED THAT HE HAS BEEN TREATING PRACTICO SINCE HE WAS 12 YEARS OF AGE. HE DESCRIBES HIM AS A PERSON LIVING IN A FANTASY WORLD WHO CONTINUALLY LIES AND MANIPULATES ACCORDING TO HIS OWN WISHES. DURING THE PERIOD OF THIS TRIAL PRACTICO WAS BEING TREATED BY DR. MIAN AND HE STATES THAT IN HIS OPINION HE WOULD BE A MOST UNRELIABLE INFORMANT. EVIDENCE TO THIS EFFECT WAS NOT CALLED BY EITHER THE CROWN OR DEFENSE. ALTHOUGH I NOTE JUDGE DUBINSKY IN HIS ADDRESS TO THE JURY REFERS TO HIM AS AT BEST A VERY NERVOUS WITNESS.

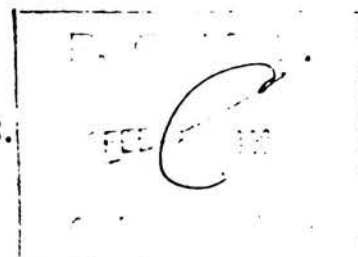
AFTER MARSHALL'S CONVICTION ONE JAMES WILLIAM MCNEIL, AGE 25, CAME FORWARD AND SAID THAT HE WAS WITH A MAN BY THE NAME OF ROY EBSARY DURING THE EVENING OF THE 29TH MAY 71 AND THAT HE, EBSARY, HAD IN FACT MURDERED SEALE. THIS ASPECT WAS INVESTIGATED BY THEN INSP. E.A. MARSHALL AND POLYGRAPHIST, E.C. SMITH. THIS INVESTIGATION TOOK THE FORM OF A REVIEW OF STATEMENTS BY INSP. MARSHALL AND POLYGRAPH TESTS CONDUCTED BY THEN CPL. SMITH. THE END RESULT OF SAME BEING THAT EBSARY WAS FOUND TO BE TRUTHFUL IN HIS DENIAL OF THE MURDER AND MCNIEL INDEFINITE DUE TO HIS LOW I.Q. ALSO THE FACT THAT HE WAS EASILY LEAD.

LETTER OF COMPLAINT RECEIVED FROM STEPHEN J. ARONSON, BARRISTER, 277 PLEASANT STREET, DARTMOUTH, HAS BEEN INVESTIGATED. IN THIS LETTER ARONSON ADVISED THAT ONE MITCHELL BAYNE SARSON OF 11 TWINING STREET, PICTOU, COULD SHED FURTHER LIGHT ON THIS MURDER. SARSON INTERVIEWED, STATEMENT OBTAINED INDICATING THAT SARSON LIVED WITH EBSARY DURING 1979 AND THAT HE HAD ADMITTED TO HIM THAT HE HAD STABBED SEALE. IT IS INTERESTING TO NOTE IN MARSHALL'S AND MCNIEL'S ORIGINAL STATEMENT AND EVIDENCE THAT WHEN THE INCIDENT TOOK PLACE, SEALE TOLD EBSARY "TO DIG MAN DIG" REFERRING TO GETTING HIS MONEY OUT OF HIS POCKET. EBSARY IS ALLEGED TO HAVE SAID "YOU WANT WHAT I GOT OR I'LL GIVE YOU WHAT I GOT" AT WHICH TIME HE STABBED SEALE. SOME 10 1/2 YEARS LATER SARSON RECITES THE SAME CONVERSATION AND STATES HE HEARD SAME FROM EBSARY. ~~SARSON WOULD NOT MAKE A STRONG WITNESS. HE HAS BEEN CONVICTED OF POSSESSION FOR THE PURPOSE AND IS PRESENTLY SUSPECTED OF DEALING IN DRUGS.~~

IN VIEW OF THE FOREGOING DONALD MARSHALL JUNIOR WAS INTERVIEWED IN DORCHESTER PENITENTIARY. THE FACTS IN RELATION TO WITNESSES CHANGING THEIR STORIES, ETC., WAS NOT MADE KNOWN TO HIM. HE WAS SIMPLY ASKED TO TRUTHFULLY TELL HIS STORY. HE BASICALLY TOLD THE SAME STORY WITH THE EXCEPTION THAT HE ADMITTED THAT HE AND SEALE HAD TRIED TO ROB EBSARY AND MCNIEL. A SCUFFLE BROKE OUT BETWEEN HE AND MCNIEL AND IT WAS AT THAT TIME THAT HE SAW EBSARY STAB SEALE. AFTER STABBING SEALE EBSARY CAME AT HIM AND HE PUT OUT HIS LEFT HAND TO WARD OFF THE BLOW OF THE KNIFE AND RECEIVED A CUT ON HIS LEFT ARM. MARSHALL HAD NEVER TOLD ANYONE OF THIS BEFORE AS HE THOUGHT IT WOULD LOOK BAD FOR HIM.

ROY EBSARY WAS INTERVIEWED AT LENGTH ON FEBRUARY 22/82 AND HE DENIED THE STABBING BUT MADE CERTAIN MINOR CONCESSIONS WHICH WOULD LEAD ONE TO BELIEVE HE WAS RESPONSIBLE. IN THE LATER AFTERNOON EBSARY MADE A VERBAL ADMISSION OF GUILT. THIS MAN, TO SAY THE LEAST, IS ECCENTRIC, BELIEVES HIMSELF TO BE AN ORDAINED MINISTER AND A SEA CAPTAIN. HE WEARS A BLUE BURBERY OVER HIS SHOULDERS AS DESCRIBED BY MARSHALL ORIGINALLY. A PHYSHIATRIC EVALUATION OF EBSARY SHOULD REVEAL THAT HE ALSO LIVES IN A FANTASY WORLD. EBSARY IS PRESENTLY BEFORE THE COURT ON A RECENT CHARGE OF WOUNDING AND WAS PREVIOUSLY CHARGED WITH CARRYING A CONCEALED WEAPON. ALL INCIDENTS INVOLVED KNIVES. INVESTIGATION CONTINUES. REPORT TO FOLLOW.

S/Sgt. H. F. Wheaton
P.C. Co-ordinator
Sydney Sub-Division G.I.S.



OTHER FILE REFERENCES: REF. AUTRES DOSSIERS: 21	DIVISION	DATE	RCMP FILE REFERENCES: REF. DOSSIERS GRC: 82-77 Rcmp2 415
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	SUB-DIVISION / SOUS-DIVISION		
	Sydney, N.S.		
DETACHMENT - DÉTACHEMENT			
Sydney Sub/Div, GIS			

RE: - OBJET:

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.
Sydney, N.S. 71-05-28/29
(Sydney City Police Case)

- On 82-02-03 a meeting was held at the office of Crown Prosecutor, F. EDWARDS, with Insp. D.B. SCOTT, O.C. Sydney Sub-Division, Chief J.F. MacINTYRE, Chief of Police for the City of Sydney, and Mr. EDWARDS in attendance. Chief MacINTYRE had called this meeting for the purpose of discussing the SEALE murder which took place in the City of Sydney on the night of the 28th - morning of the 29th of May, 1971.
- Chief MacINTYRE produced a letter written to him by Steven J. ARONSON of the Law Firm of ARONSON & MacDONALD, 277 Pleasant St., Dartmouth, N.S., telephone number, 463-9131, copy number 1 attached. In this letter Mr. ARONSON advised that he was representing Mr. MARSHALL and that he had uncovered new evidence in the noted case. This evidence came from the person of Mitchell Bayne SARSON of 11 Twining St., Pictou, N.S. Mr. SARSON had been interviewed by ARONSON at MARSHALL's request and he had told him that in 1979 one Roy EBSARY of Sydney, N.S., had admitted stabbing SEALE. Mr. ARONSON requested Chief MacINTYRE look into the matter.
- It was Chief MacINTYRE's feeling and concurred with by Mr. EDWARDS that an impartial investigation should be conducted by this Force. Chief MacINTYRE was very familiar with the case and was in fact a Detective Sergeant at the time and main investigator of the offence. The Chief turned over all statements, taken in the case and thoroughly explained the case to Insp. SCOTT and later to myself. A description of the offence is as follows.
- At approximately 12:00 Midnight on the night of the 28th/29th of May, 1971, the Sydney City Police received a call from a Mr. Brian DOUCET of 120 Crescent St., Sydney, N.S. Mr. DOUCET related to the Police that he had two men at his door advising of a stabbing outside his home on Crescent Street. Mr. DOUCET stated that one of these men was Donald MARSHALL and that he had a cut on his left arm which was not bleeding. Mr. DOUCET later gave evidence to this effect, copy of his original statement attached - number 2. I find two points interesting in this statement; one, that it was Donald MARSHALL who came to his door with another man, two, he observed a cut and it was not bleeding.
- On the date in question the Sydney City Police had three vehicles on duty which were immediately dispatched to the scene. Attached are copies of the reports made by the various officers. Basically, SEALE was found with a very extensive slashing wound to his stomach and lost a great deal of blood. MARSHALL was at the scene and taken by the Police to the Hospital where he received ten stitches

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for the cut in his left arm. Police Officers roughly describe the scene and their actions. The main point of interest is that eye witness, Maynard CHANT of Louisbourg, N.S., was uncovered at this point. For the sake of clarity statements will be numbered "3a, b, c, d, e." A plan of the scene also attached numbered 4.

6. Numerous neighbourhood enquiries were conducted and statements taken, however, very little of an evidentiary nature was revealed. From these statements we are able to follow the paths of the two principle subjects, SEALE, the deceased, and MARSHALL, the accused. Witness, Alana DIXON's statement, number 5, traces SEALE from the dance at St. Joseph's Hall walking behind her and her two friends down George Street and entering Wentworth Park. It is interesting to note that conversation took place with the deceased and he did not talk to anyone else between the dance and entering the Park. An interview with Keith BEAVER confirms this story but states that SEALE walked down George Street with them but did not enter the Park, statement number 6 attached. The next witness to see SEALE was Patricia Ann HARRIS and Terrance GUSHUE. GUSHUE was apparently intoxicated but HARRIS gives an account of seeing MARSHALL and SEALE together on Crescent Street. From the sequence of events this must have been a few minutes prior to the murder. There appears to be no conflict at this point; MARSHALL gave GUSHUE a match. SEALE appears to have walked away from the group as they approached, statement number 7 attached. Shortly after the stabbing, one Robert Scott MacKAY and his girlfriend arrive at the scene. SEALE is lying on the roadway stabbed with no one else in sight. MacKAY runs across the Park for help and when he returns MARSHALL is returning to the scene in a car, statement number 8 attached.

7. In relation to Donald MARSHALL's movements, they were traced to Bedford, Shubenacadie and returning to Sydney on the day of the murder. During this time he was in the company of one Roy GOULD and on the evening in question was wearing a light yellow jacket belonging to GOULD. During the evening there is no connection with Sandford SEALE. MARSHALL did not attend the dance and as near as can be ascertained they met in the Park shortly before 12:00 Midnight. The previously mentioned witness, HARRIS, places the two of them together on Crescent Street. From this point one could only take the statement of MARSHALL, copy attached, number 9. It will be noted that MARSHALL states he saw one Robert PATTERSON in the Park. There is no statement taken from PATTERSON and to date he can not be located. MARSHALL's statement is self-explanatory. He attributes the stabbing to the shorter of two men who they met on Crescent Street. The reason being that they didn't like colored people or Indians. What appears to be minor points in this statement later prove rather interesting. He believed the two men were Priests. In evidence he stated that the shorter man wore a long blue coat over his shoulders. He also stated that the older of the two wore glasses and gave a general physical description.

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Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

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8. Investigation on 71-05-30 included the taking of a statement from Maynard Vincent CHANT, age 15 years, of Louisbourg, N.S., as well as John Louis PRACTICO of 201 Bentinck Street, Sydney, statements number 10 and 11 attached. CHANT stated he was standing on the tracks and saw the two men that stabbed SEALE and MARSHALL. After the stabbing he stated that MARSHALL caught up to him, showed him his arm where he was stabbed and they then returned to SEALE in the company of others and he placed his shirt on SEALE's wound. His description of the two men does not match MARSHALL's. A short statement was taken from PRACTICO directly following CHANT's statement. In this statement he places SEALE and MARSHALL together outside the Park between the dance hall and the store on George Street. He states he was some distance from the scene and did not see the murder, but saw the two assailants make good their escape in a Volkswagen car which he describes.

9. On 71-06-04 PRACTICO and CHANT were again interviewed. It should be noted that these two subjects did not know one another. The only common thread being that both discussed the murder with MARSHALL. PRACTICO was interviewed first and substantially changed his story from the first statement. He states he met SEALE and MARSHALL at the corner of George and Argyle Streets and they endeavoured to entice him into the Park. He then took up a position on the railroad tracks and observed Donald MARSHALL stab SEALE. In Court he gave in evidence that he was seated behind a bush drinking a pint of beer and observed MARSHALL stab SEALE. He was cross-examined closely by Defence on his verbal statements and gave his reason for divergence as being in fear of his life from MARSHALL's Indian friends. At one point in Supreme Court, PRACTICO approached the Defence and Sheriff advising he was lying. This was brought out in Court and PRACTICO attributed it to his fear of Indians.

10. On the afternoon of 71-06-04 a second statement was also taken from CHANT. In this statement he recants his first statement and advises that he saw MARSHALL stab SEALE. It might also be noted that he says that MARSHALL did not go for help, however, witness DOUCET says he arrived at his home and requested an ambulance. There is no reason given for this change of heart but Chief MacINTYRE advises he lied in the first instance at the instigation of, and from fear of MARSHALL. It will be noted that the second statement is signed by Det. Sgt. John MacINTYRE, Det. William URQUHART, Mrs. Beulah CHANT (mother), Chief Wayne MacGEE, and CHANT's Probation Officer. In reading the transcript of the trial of this case I note that CHANT was declared a hostile witness when it came to the point of saying he saw MARSHALL stab SEALE. He was then questioned on the evidence given in lower Court and answered in the affirmative that MARSHALL stabbed SEALE. There was no cross-examination in regards to the first statements taken from both PRACTICO and CHANT.

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11. The foregoing was the basic evidence for the Crown. Evidence for the Defence was given by MARSHALL and it would appear from reading the transcript that he made a poor witness. MARSHALL was convicted of non capital murder and the case was appealed to the Supreme Court of Nova Scotia and the appeal was dismissed. On 71-11-15 after the completion of trials, one James William McNEIL of George Street, Sydney, contacted Chief MacINTYRE. He basically advised the City Police that he was with Roy EBSARY on the night of the murder on Crescent Street. He observed EBSARY stab SEALE in an abortive robbery attempt. His conscience had bothered him since MARSHALL's conviction and he told his mother and brother and then the Police, see statement number 12.

12. As MARSHALL had already been convicted and all the facts as then known presented to the Court, Chief MacINTYRE felt that an independent investigation should be done by the R.C.M.P. To this end then S/Insp. E.A. MARSHALL came to Sydney as well as Cpl. E.C. SMITH. Cpl. SMITH conducted a polygraph test on both EBSARY and McNEIL and found EBSARY truthful in that he did not stab SEALE. McNEIL was found indeterminate as he has a low I.Q. and is easily led. Please find attached copies of S/Insp. MARSHALL and Cpl. SMITH's reports noted as attachment number 14a. Roy EBSARY was interviewed and admitted to the robbery attempt by SEALE and MARSHALL but denied the murder. This would more or less terminate the investigational process in regards to this investigation. During the ensuing years Chief MacINTYRE advised that he periodically heard from the MARSHALL family. On one occasion MARSHALL attempted to get Christmas parole which the Chief felt was improper due to the threats made and possible follow-up of same. In reviewing the statements originally taken in this case, the only reference to EBSARY and McNEIL I can find is a statement from George McNEIL and Sandy McNEIL of 91 and 84 Bungalow Road, Coxheath, N.S., In this statement they advised that they observed two men answering the description of EBSARY and McNEIL in the Park talking to a fellow and girl sitting on a Park bench, statement number 13 attached.

13. Investigation in regards to the letter of complaint of Mr. ARONSON was conducted by Cpl. J.E. CARROLL and S/Sgt. H.F. WHEATON. As Mr. EBSARY is presently before the Courts for a stabbing incident the investigator, Detective Cpl. H.A. WOODBURN of the Sydney City Police was interviewed. It was learned that EBSARY and the victim got into an argument with reference to placing a lock on his door. As the victim was about to leave, EBSARY appeared from the kitchen with a knife and plunged it in the victim's chest. EBSARY has categorically denied same and comes to trial on 82-03-05. EBSARY was well known to Detective Cpl. WOODBURN as an eccentric wino who lives in a fantasy world. Subject refers to himself as an ordained minister and a sea captain, neither of which he is. He is known to have a violent side to his personality and has been charged with carrying a concealed weapon (knife) since the murder of SEALE as well as the recent stabbin

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incident. EBSARY normally dresses in a rather natty fashion wearing a blue burbery over his shoulders, numerous rings on his fingers and a sea captain's hat. His day to day life consists of brief sober periods with varying degrees of intoxication the remainder of the time.

14. Mrs. Mary EBSARY, Mechanic St., Sydney, N.S., the former common-law wife of Roy EBSARY was interviewed. Also present at this interview was Gregory A. EBSARY, age 26 years, son of Roy and Mary EBSARY. Mrs. EBSARY and her son were very rational and co-operative. They described the period of around May, 1971, as being a very turbulent time for them. Roy EBSARY at this time was working as an assistant chef at the Isle Royal Hotel and drinking heavily. When drinking he was extremely violent and Mrs. EBSARY would have to dress the two children and get out of the house as she feared for their safety. Roy EBSARY also had a fetish for knives. Son Gregory described a grinding wheel he had in the basement where he would make knives. Subjects could not categorically state that on the evening in question that Roy EBSARY was carrying a knife but they would be very surprised if he were not. Gregory EBSARY turned over ten knives which would have been in Roy's possession at the time of the murder. Photo attached. These knives had been placed over a beam in the basement and had never been touched. Knives have been forwarded to C.D.L. Halifax for hair, fiber and blood examination. The second point of note from this interview is that after Roy EBSARY completed the polygraph test, which he passed, he returned home and did not leave the house for seven years. He completely changed his habits by not drinking or associating with anyone. This situation stopped when Mitchell SARSON came to live at the home and a homosexual relationship began. Roy EBSARY then returned to his former pattern of drinking, violence and an affinity for knives. Statement of Mrs. EBSARY and her son attached, number 14b. Also attached pictures of knives seized # 14d.

15. James William McNEIL of 222 Mt. Pleasant St., Sydney was interviewed. McNEIL was quite sure that on the evening of the 28/29 of May, 1971, he saw EBSARY stab SEALE. He used the same words that were used in statements some ten and one half years ago, "dig man dig". When questioned in detail McNEIL's memory was not accurate and there were areas he could not recall. I found McNEIL to be sub-average intelligence, simple but honest. He was not vindictive or motivated in a derogatory way to tell his story about EBSARY. He said his conscience bothered him and he told his family about it and they went to the Police. See statement number 14c taken from McNEIL as well as statements taken from his brothers numbered 15 and 16. When asked about the polygraph he said that he was very nervous and felt he flunked it

16. Mitchell Bayne SARSON of 11 Twining St., Pictou, N.S., was interviewed, see statement number 17. It will be noted that SARSON met Donald MARSHALL, Jr. in Dorchester and had several discussions with him. The possibility of collusion between MARSHALL and SARSON can not be precluded. However, SARSON says that EBSARY told him he stabbed SEALE and is willing to take a polygraph to this effect. It should also be mentioned that SARSON has been convicted of poss. for the purpose of trafficking and is known to Pictou Det. as a trafficker in marihuana.

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17. From reading Judge DUBINSKY's address to the Jury it becomes evident that this entire case hinged around the evidence of the two eye witnesses. There was no murder weapon recovered, no statement of admission from MARSHALL, and no strong motive of hatred, etc., between MARSHALL and SEALE. The two witnesses indicated they heard an argument. On 82-02-16 witness Maynard Vincent CHANT was interviewed at his father's home, statement number 18 attached.

18. It will be noted that CHANT states that he did not witness the murder, and was in fact on the opposite side of the Park when it happened. The first he knew of same was when MARSHALL came running up to him. The story from that point basically agrees with MARSHALL. He advises that he repeated the story to the police because when he was checked on George Street near Shadwick he had advised he saw it all meaning the wound, blood, intestines, etc. From that point he was interviewed by the Police and felt obligated to say something so he repeated the story told him by MARSHALL in the car around the Lake and at the scene waiting for the Police. On the 4th of June when interviewed by the Police he was told he was seen in the Park so he agreed to it and from there on he was afraid not to agree. He emphasized that he was fourteen turning fifteen years of age at the time and felt pressured into helping the Police and the Prosecutor. He advised that the prosecutor threatened him with a charge of perjury if he changed his story after the lower Court hearing. Mr. CHANT volunteered this information to the investigators absolutely without prompting and said it has been on his conscience since the trial. Approximately two years ago CHANT became a "Born Again Christian" and advised his mother of what he had done. I asked Mrs. CHANT about this and she confirmed Maynard CHANT's story. This family is well known in Louisbourg as being very religious. CHANT swears he is now telling the truth in regards to this matter and exhibits considerable remorse for what he had done.

19. The investigators had some difficulty locating the second eye witness, John L. PRACTICO. Subject's mother was eventually located and she advised her son is living in New Waterford, however, refused to divulge his location. She stated that he has had severe mental problems since this incident and was fearful that our interviewing of him would bring on a complete nervous breakdown. She stated that after giving evidence in Court her son had to be admitted to the Nova Scotia Hospital. He fears greatly that some day MARSHALL will get out of jail and kill him. She requested that we speak to his psychiatrist, Dr. MIAN, at the Cape Breton Hospital, or his case worker, Andy ANDERSON.

20. Dr. M.A. MIAN, Director of the Cape Breton Hospital, and Miss Ann McLEOD, Hospital Staff Administrator, were interviewed; they both concurred on their views of PRACTICO. Dr. MIAN advised that he has been treating PRACTICO since he was twelve years old, subject being sixteen at the time of the murder. He is classed as being

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Donald MARSHALL, Jr.
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schizophrenic. This condition manifests itself in this man by his continually lying and manipulating so that he can place himself in the limelight. He craves to be the center of attention and is continually a social problem. When confronted he becomes aggressive and belligerent. Subject is kept on continual medication in order to function outside the institution. Dr. MIAN and Miss McLEOD were most helpful and allowed the investigators to peruse PRACTICO's complete file. In doing so the pattern could be clearly seen as described above from Doctors locally as well as the Nova Scotia Hospital and an Army psychiatrist which PRACTICO became involved with when trying to join that organization. Dr. MIAN was very strongly of the opinion that PRACTICO would be a most unreliable witness in the murder case he gave evidence on in 1971. As an aside, the Doctor advised that he was surprised someone did not contact him at the time of this trial as he was then treating PRACTICO. PRACTICO never talked about the trial other than to express fear that the Indians were out to get him. Statement of Dr. MIAN number 19 attached.

21. In view of the serious nature of this matter it was felt that PRACTICO should be interviewed. An interview was conducted by Cpl. CARROLL with Mr. A. ARSENAULT present. Cpl. CARROLL found PRACTICO to be very nervous, however, appeared in control of his faculties. Please find his statement number 20 attached. Mr. ARSENAULT who has been in touch with PRACTICO for a number of years advised Cpl. CARROLL that this was one of PRACTICO's better days.

22. A patrol was made to Dorchester Penitentiary and Donald MARSHALL was interviewed. The facts of this investigation were not made known to MARSHALL. We advised him we were looking into Mr. ARONSON's letter and if he had anything to tell us in regards to the SEALE murder to feel free to do so. He then began to recall the events of the night of the 28/29 of May, 1971. He followed the events as previously outlined stating that he was not at the dance at St. Joseph's Hall and met SEALE on the George Street side of Wentworth Park. He advised that the first time he saw EBSARY and McNEIL who he refers to as the tall fellow and short fellow or young fellow and old fellow was on the George Street side of Wentworth Park and they were talking to a guy and a girl sitting on a Park bench. MARSHALL and SEALE walked about the Park and discussed getting money by robbing someone. He said he had never told anyone about this as he felt it would look bad for him. They saw the tall fellow and short fellow go up on Crescent Street and go in the direction of South Bentinck Street. They also saw Terry GUSHUE and Patricia HARRIS and GUSHUE asked him for a match. At this time SEALE and MARSHALL broke up, MARSHALL going to Terry GUSHUE and giving him a match and SEALE went back and engaged EBSARY and McNEIL in conversation. After leaving GUSHUE and HARRIS he went down Crescent Street to SEALE, EBSARY and McNEIL. They engaged in conversation and talked about women in the Park, booze and other things. EBSARY and McNEIL turned to leave heading toward South Bentinck Street.

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Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

cont'd

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23. At this point MARSHALL called them back and told them they wanted their money. SEALE was in front of EBSARY and MARSHALL took McNEIL and a scuffle ensued. He observed EBSARY stab SEALE and he then let go of McNEIL as EBSARY was then coming after him. EBSARY swung the knife at him and he warded the blow off receiving a cut on his inner left arm. He then ran from the scene until he ran into CHANT and reported the incident to him and returned to SEALE as previously described. He describes the two men as the short man being older wearing glasses with a blue coat over his shoulders. The younger fellow was tall and very drunk. In the conversation one of the two said they were priests but they were both fairly drunk and trampish looking.

24. MARSHALL maintains his innocence and has done so during his entire time in prison. He advised he thinks continually of his case and the evidence given. During our visit at Dorchester, Supervisor Dale CROSS was spoken to. He showed us MARSHALL's file and stated that he was a very good prisoner. The fact that he maintains his innocence is rather rare as it would be definitely to his advantage to admit his guilt because he would then be eligible for more consideration from the parole board. Mr. CROSS feels that with his prison record there is a good possibility he would be out now if he admitted guilt. Written statement obtained from Donald MARSHALL on 82-03-09. Statement number 21 attached.

25. On reading the transcript of evidence and the address to the Jury by both the Crown and Defence another area presented to the Jury to support MARSHALL's guilt was the evidence of Patricia HARRIS. It will be remembered that HARRIS and her boyfriend, GUSHUE, met MARSHALL on Crescent Street minutes prior to the murder. MARSHALL gave GUSHUE a light, GUSHUE being rather intoxicated. GUSHUE's evidence was rather vague due to his state of sobriety, however, Miss HARRIS then 14 years of age, gave evidence that there were no other people on Crescent Street at this time. She stated SEALE walked away from MARSHALL, GUSHUE and herself and the other two alleged people which would be EBSARY and McNEIL were not on the street. Miss HARRIS was located and interviewed, Statement number 22 attached. It will be noted that Miss HARRIS states she was pressured into saying that the two other people were not present. She was quite upset with the way she was treated by the Police, and felt forced to lie on the stand because she had given a written statement. Miss HARRIS's recollection supports MARSHALL's story completely in regards to the number of people present on Crescent Street at that time. The evidence as presented to the Jury was that only MARSHALL and SEALE were on Crescent Street when in fact there were two other people present on the street at the time and Miss HARRIS says she told the Police repeatedly and they refused to accept. In view of the serious allegations being made by Miss HARRIS she was requested to relate her story to Crown Prosecutor, F.E. EDWARDS, which she did on 82-03-01. Terrance GUSHUE was interviewed, however, his memory of the night in question was poor. GUSHUE's statement number 23 attached.

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Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

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26. On 82-02-22, Roy Newman EBSARY was picked up and brought to our Sydney office. He was interviewed from 10:17 A.M. until 1:41 P.M. at which time he complained of chest pains and was taken home. I found this man to be as basically described by Det. Cpl. WOODBURN. Subject rambled a great deal and at best is a very odd individual. When confronted with the crime he would try to change the subject or evade the issue. He seems to totally believe his fantasies as his wife predicted. On several occasions during this interview I felt that EBSARY was about to confess to the crime, however, he did not do so. At 4:30 P.M. I received a message to call EBSARY which I did with the conversation going as follows:

Introduction:

EBSARY: All our talking today was not in vain.

WHEATON: What do you mean by that.

EBSARY: Well you know I am a British Officer and a gentleman.

WHEATON: Yes.

EBSARY: You called me a homosexual.

WHEATON: Yes.

EBSARY: All our talking was not in vain you know.

WHEATON: Why is that.

EBSARY: Well I did it.

WHEATON: Are you admitting to stabbing SEALE.

EBSARY: Yes.

WHEATON: Would you like to speak to me.

EBSARY: No the other fellow.

WHEATON: Okay, I'll send Jim down.

27. At this point Cpl. J.E. CARROLL went to the EBSARY home. He found EBSARY drinking but not drunk and accompanied by another wino. He took him to a private room, however, he maintained a conversation with the man in the next room. Cpl. CARROLL asked him if it was self-defence and he stated it was and that he used a small pen knife which he no longer has. He said he did not wish to give a written statement at this time. He wanted to see Mrs. MARSHALL and see her face so he could judge her before he would give a further statement. He said he would give evidence at a new trial for MARSHALL. In view of the circumstances, Cpl. CARROLL left at this point.

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28. On the afternoon of the 23rd of February, 1971, a meeting was held with Mr. & Mrs. Donald MARSHALL, Sr., and Roy EBSARY was present. At this meeting he assured Mrs. MARSHALL that her son did not stab anyone and that he would get him out of prison. EBSARY indicated to the MARSHALLS and the investigators that everything hinged on what happens to him on his 5th of March Court appearance.

29. The two eye witnesses have completely changed their stories as told in their statements to Chief MacINTYRE and to the Court. Witness HARRIS has substantially changed her story in relation to the events of the evening of the 28/29 of May, 1971. If the two eye witnesses and Patricia HARRIS had given statements as they now have, there would not be a prima facie case against MARSHALL. EBSARY has made a verbal admission, however, refuses to give a written statement and is indeed a very strange individual who has never been mentally assessed. MARSHALL's story as presently told has changed from the evidence as given in Court in regards to the robbery. Witness McNEIL has not changed his story and maintains that EBSARY stabbed SEALE. When questioned about the murder weapon, EBSARY's comment was that his wife probably threw any knife away after he moved out. There can be no doubt that Donald MARSHALL, Jr., is doing everything within his power to get out of jail. He has written the Sydney City Police and also wrote to EBSARY after reading the account of the recent stabbing in the Cape Breton newspaper. He asked EBSARY to take the protection of the Canada Evidence Act and admit to his guilt as he knows he saw him stab SEALE. At this juncture, on balance, and keeping in mind the mental capabilities of the majority of the persons involved, I have very grave doubts as to MARSHALL's guilt. Contact will be maintained with Chief MacINTYRE and Crown Prosecutor F. EDWARDS.

30. Any direction which might be forthcoming would be very much appreciated.


(H.F. WHEATON) S/Sgt.
P.C. Co-ordinator
Sydney Sub/Division G.I.S.

The Officer i/c C.I.B.

FORWARDED 82-03-12. Attached for your information is completed report with appendices, as submitted by S/Sgt. H.F. WHEATON, Sydney Sub/Division P.C. Co-Ordinator.

On 82-02-26, Chief John McINTYRE, Sydney City Police Department, came to my office at which time I allowed him to read the statements of CHANT and PRACTICO, in which they state they lied at the trial of MARSHALL in 1971. I also advised him in general terms the investigation we had conducted to that date.

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RCMP 415

CONT'D FROM PAGE 10

Chief MacINTYRE brought up several points that we both thought should be clarified to determine the accuracy of this investigation. As a result of this meeting, I requested all witnesses be interviewed and, in particular, the HARRIS girl to determine the accuracy of her statement that only MARSHALL and SEALE were present, as this seemed critical in Chief MacINTYRE's mind that this proved MARSHALL was lying.

You will note that HARRIS' statement is quite revealing and as a result of her remarks it would appear to strengthen MARSHALL's claim that there were these other men present and his recollection of what happened that night is accurate.

It would appear from this investigation that our two eyewitnesses to the murder lied on the stand, and that the other main witness, HARRIS, lied as well, under pressure from the Sydney City Police. We also have statements from MARSHALL and MacNEIL, stating that EBSARY is the person responsible for SEALE's murder, as well as a verbal admission to our investigators that he was responsible.

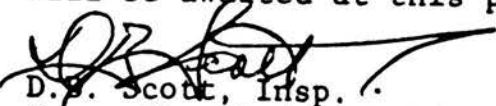
After reviewing this case, I feel that MARSHALL is innocent of the offence and that we presently have enough evidence to support a prima facie case against EBSARY for the murder of SEALE.

We have not received word back from the Lab. as to their findings regarding the knives given us by EBSARY's wife; however, when this report is available same will be forwarded.

I have not personally discussed this report with the Crown Prosecutor, Mr. Frank EDWARDS; however, S/Sgt. WHEATON has kept him fully apprised of the investigation.

If charges are contemplated against EBSARY, they should probably be handled by the Sydney City Police, as this offence is still within their jurisdiction.

Your comments and those of the Attorney General's Department will be awaited at this point.


D.S. Scott, Insp.
Commanding Sydney Sub/Division

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

cont'd RUMP 415

KEY LIST OF ATTACHMENTS:

1. Letter from Stephen J. ARONSON, Barrister, Dartmouth, N.S.
2. Statement of Brian DOUCET, 120 Crescent St., Sydney, N.S.
- 3a. Statement of P.C. Ambrose MacDONALD, Sydney City P.D.
- 3b. Statement of Csts. L. MROZ, DEAN, WALSH & McDONALD of Sydney City P.D.
- 3c. Statement of Cst. WALSH & MROZ, Sydney City P.D.
- 3d. Statement of P.C. Howard DEAN, Sydney City P.D.
4. Plan drawing of scene.
5. Statement of Alanna DIXON, 1155 Westmount Rd., C.B.
6. Statement of Keith BEAVER.
7. Statement of Patricia Ann HARRIS, 5 Kings Rd., Sydney, N.S.
8. Statement of Robert Scott MacKAY, 225 Fulton Ave., Westmount.
9. Statement of Donald John MARSHALL, 38 MicMac St., Sydney, N.S.
10. Statement of Maynard Vincent CHANT, Main St., Louisbourg, C.B.
11. Statement of John PRACTICO, 201 Bentinck St., Sydney, N.S.
12. Statement of James William McNEIL, 1007 Rear George St., Sydney
13. Statement of George Wallace McNEIL & Roderick Alexander McNEIL of Coxheath, C.B.
- 14a. Reports of S/Insp. MARSHALL & Cpl. SMITH
- 14b. Statement of Mrs. Mary EBSARY & Gregory EBSARY, 46 Mechanic St., Sydney, N.S.
- 14c. Statement of James William MacNEIL, 222 Mt. Pleasant St., Sydney, N.S.
- 14d. Photo of knives seized.
15. Statement of David William McNEIL, 1007 George St., Sydney, N.S.
16. Statement of John Joseph MacNEIL, 187 King St., East Toronto, Ont.

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Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

cont'd *FILED 415*

- 17. Statement of Mitchell Bayne SARSON, 11 Twining St., Pictou, N.S.
- 18. Statement of Maynard Vincent CHANT, Louisbourg, C.B.
- 19. Statement of Dr. M.A. MIAN, M.D. F.R.C.P., Sydney, N.S.
- 20. Statement of John Louis PRACTICO, 331 MacKay St., New Waterford, C.B.
- 21. Statement of Donald MARSHALL, Jr., Dorchester, New Brunswick.
- 22. Statement of Patricia Ann HARRISS, 5 Kings Rd., Sydney, N.S.
- 23. Statement of Terrance Patrick GUSHUE, 630 George St., Apt. # 5, Sydney, N.S.

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TRANSIT SLIP

FICHE DE SERVICE

34

RcMP2 294

Classification

BIN
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File No. - N° du dossier

RcMP2 294

• RITE - ÉCRIRE À LA MAIN

TO - A <i>Sgt Burgess</i>	FROM - DE <i>CLRO</i>	Date <i>82.02.26</i>
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- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Comments
Commentaires | <input type="checkbox"/> Action
Donner suite | <input type="checkbox"/> Prepare Brief
Préparer un exposé | <input type="checkbox"/> Return with Current File
Retourner avec le dossier actuel |
| <input type="checkbox"/> Perusal and P.A.
Lire et classer | <input type="checkbox"/> Prepare Reply
Rédiger une réponse | <input type="checkbox"/> Make File(s)
Ouvrir un dossier | <input type="checkbox"/> Check Records
Vérifier les dossiers |

SUBJECT - SUJET

REMARKS (Use same A-5 for Reply when space permits) - REMARQUES (Si l'espace le permet, répondre sur cette formule)

*Send this up for attention of D.C.I.
Start memo out by summarizing briefly the
facts & then refer them & attached copy
of telex.*

*Advise him copy of complete report
will be forwarded upon receipt. ~~Advise~~ Advise
him that if it is determined there has been a
misconduct of justice, & Marshall is innocent
of the offense for which he was convicted in 1971
there will no doubt be considerable publicity.*

*We are funding copies to him as it is possible this
publicity will touch on the force or use of
our involvement at this time. He*

Diary Date - Date d'agenda	Meeting Date - Date de réunion	P.A. - A.C.	
<i>May week 8 inform Sgt Marshall of the</i>		Date	Init./N°

Commissioner, Ottawa

Attn: D.C.I.

Officer i/c C.I.B.
"H" Division, Halifax, N.S.

SECURITY - CLASSIFICATION - DE SECURITE
URGENT
OUR FILE NOTRE REFERENCE
71H-010-6
YOUR FILE VOTRE REFERENCE
DATE
82-02-26

SUBJECT / OBJET

Donald MARSHALL Jr.
Non-Capital Murder, Sec. 206(2) C.C.
Sydney, N.S.
(Sydney City Police Case)

Attached for your information is copy of report dated 71-12-21, together with copy of polygraph report dated 71-11-30, which briefly outlines the circumstances of this case which was investigated by the Sydney City Police, as well as the involvement of this Force.

Also attached is copy of message received from Sydney Sub-Division on the 82-02-24, wherein you will note there is a possibility that MARSHALL, who was convicted and sentenced for the murder, may not have been responsible. A full investigation is being made into the murder by Sydney G.I.S., and a copy of their report will be forwarded upon receipt.

If it is determined there has been a miscarriage of Justice and MARSHALL is innocent, there will no doubt be considerable publicity. We are, therefore, advising you of the circumstances, as it is possible the publicity will affect the Force in view of our involvement at this time.

You may also wish to advise Supt. E.A. MARSHALL of the recent disclosures which have been made in this case.

D.F. Christen, Supt.,
Officer i/c C.I.B.

Encl.
DLB/lmm

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82-02-26
114

OTHER FILE REFERENCES REF. AUTRES DOSSIERS: 36	DIVISION "H"	DATE 21 Dec. 71	RCMP FILE REFERENCES. REF. DOSSIERS GRC: RcMP 2 352
	SUB-DIVISION - SOUS-DIVISION		
	C.I.B.		
	DETACHMENT DÉTACHEMENT		

RE
OBJET: Donald MARSHALL, Jr.
Non-Capital Murder (Sec. 206(2)) C.C.,
Sydney, N. S.
(Sydney City Police Case)

MARSHALL was convicted in Sydney, N. S. for the non-capital murder of Sandford William @ 'Sandy' SEALE (Negro). He was sentenced to life imprisonment by Mr. Justice J. L. Dubinsky.

2. The offence took place around midnight of the 28/29 May 71 (Friday evening - Saturday morning) in Wentworth Park in the City of Sydney. SEALE was stabbed once in the abdomen with a rather large weapon (blade about 3/4" wide and at least 4" long). The deceased underwent an emergency operation, but, expired at 8:00 A.M. on Saturday, the 29 May 71. Although conscious a number of times after the assault, he did not name his assailant. MARSHALL denied being the murderer, both to the police when interrogated and later on the stand during the trial. The weapon has never been recovered. Intensive investigation by the Sydney City Police was commenced and MARSHALL arrested on the 4 June 71. His Counsel, C.M. Rosenblum, has applied for leave to appeal the conviction.

3. After sentence was passed, one James William McNEIL, age 25 years, came forward and said that he was with a man by the name of Roy EBSARY during the evening of the 29 May 71 and that he, EBSARY, had in fact murdered SEALE in Wentworth Park. McNEIL was interviewed by Sydney City Police and the Prosecuting Officer for Cape Breton County, Donald C. MacNEIL, Q.C., on Monday the 15 Nov. 71. Roy EBSARY was picked up and interviewed and he denied murdering SEALE, although he did say that McNEIL and himself were in the park, after visiting a tavern during the evening of the 28 May 71 and that he and McNEIL became involved in an altercation with two men (later determined through investigation to be MARSHALL and SEALE). According to McNEIL and EBSARY, MARSHALL and SEALE attempted to rob them in the park. This altercation, which obviously happened prior to the murder, was not known to the police until McNEIL came forward on the 15 Nov. 71. At this point the Force became involved and I went to Sydney on the 16 Nov. 71 where, together with Sgt. G.M. MCKINLEY, i/c Sydney G.I.S., a thorough review of the case was conducted with the following results.

17 November 71

4. From the outset of our investigation it was apparent the use of the polygraph would be extremely useful. A request was therefore made for this equipment and the operator and the necessary authority received for Cpl. E. C. SMITH, "F" Division, to proceed to Sydney to assist with this investigation.

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Donald MARSHALL, Jr.
Non-Capital Murder (Sec. 206(2)) C.C.,
Sydney, N. S.
(Sydney City Police Case)

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5. Sgt. MCKINLEY received McNEIL's written permission that he would undergo the polygraph test. We interviewed McNEIL and it was obvious by his demeanour and speech that he has sub-normal intelligence and is slightly mental. He was, nonetheless, convinced that EBSARY had stuck a knife into the deceased and that later they went to EBSARY's home where he, EBSARY, washed off the knife. Because we were certain that McNEIL's account of the altercation insofar as it concerned EBSARY allegedly stabbing MARSHALL was a figment of his imagination, we did not immediately question him or take any further action with respect to McNEIL at this time. Rather, a number of hours were spent by Sgt. MCKINLEY and myself going over statements given by various witnesses to the police during the initial investigation and later and visiting the scene of the crime with Sergeant of Detectives John MacINTYRE, Sydney Police Department, and additionally perusing transcripts of evidence given at the preliminary hearing and some transcripts of evidence given in high court during the trial.

6. Without quoting all the evidence, the following are the salient points given by key witnesses of the events leading up to and following the stabbing. Kindly refer to the attached diagram which will illustrate and clarify much of the evidence given at the trial.

Maynard Vincent CHANT (Age 14 at time of murder - now Age 15)

Testified that he was walking down the railway tracks in Wentworth Park just prior to the stabbing. He first saw a person later identified as John Lawrence PRACTICO hiding in the bushes between the railway tracks and Crescent Street. He also saw two men, one of whom he recognized as Donald MARSHALL, standing close to each other on Crescent Street. He heard mumbling and swearing and he thought MARSHALL was doing most of the swearing. He then saw MARSHALL take out a knife from his pocket and jab it into the man he was with. CHANT became frightened at this point and ran down the railway tracks to Byng Avenue. During this time MARSHALL also walked over to Byng Avenue and met CHANT along with two other boys and two girls (these persons have never been located or identified). MARSHALL told the group that two men had attacked he and 'his Buddy' (SEALE). He also showed them a superficial cut on his arm, which was not bleeding, incidentally. He stated that his Buddy (SEALE) was on the other side of the Park with a knife in his stomach. A car then came along (neither the car or its driver were identified) and they (MARSHALL, CHANT and the occupants of the car) drove around to where SEALE was lying on the street. MARSHALL took care not to stand where SEALE could see him. CHANT took off his shirt and put it over SEALE's stomach while waiting for the ambulance.

John Lawrence PRACTICO (Age 16 Years)

PRACTICO attended the dance at St. Joseph's Hall, Sydney

6. continued.

until shortly before midnight, when he left by himself. He met MARSHALL and SEALE and they walked to the corner of Argyle and George Streets. MARSHALL wanted PRACTICO to come down into the Park. (Although PRACTICO never admitted or suggested that MARSHALL and SEALE were going into the park to attempt to 'roll' someone, the inference is there and it is the consensus of opinion MARSHALL and SEALE were, at this time, bent on robbing someone). PRACTICO then proceeded into the Park on his own and sat down in the bushes to drink a pint of beer when he saw SEALE and MARSHALL on Crescent Street. He testified that he was about thirty or forty feet from them at this time and that he heard an argument take place between the two during which SEALE is alleged to call MARSHALL a 'crazy Indian' and MARSHALL called SEALE a 'black bastard'. PRACTICO saw MARSHALL plunge a weapon into SEALE's side, SEALE fall to the ground and then MARSHALL running up Crescent Street towards Argyle Street. PRACTICO then ran to his home on Bentinck Street.

Neither of the two aforementioned witnesses told the truth to the police when they were first interviewed. However, this can be put down to the fact they were both scared and that PRACTICO is not too bright. In the final analysis evidence, which was as outlined above is believed to be factual and, what is just as important, there was no collaboration between the two. In other words, what the court had were the same facts told by two quite independent witnesses.

Terrence GUSHUE (Age 20)

GUSHUE also attended the dance at St. Joseph's Hall, but, left about 10:30 P.M. with a young girl. They were in the Park for some time and in fact saw and had conversation with MARSHALL and SEALE, although they did not know SEALE at the time. They did not witness the murder, but, could put both MARSHALL and SEALE on Crescent Street prior to the stabbing.

7. Some of the exhibits, particularly the jacket MARSHALL was wearing the night of the murder was examined. This light-weight yellow jacket was found to have the left sleeve cut and ripped. There were also some light blood stains on the left front portion of the jacket (see attached diagram) in such a position as to strongly indicate MARSHALL wiped his forearm on it. There were no blood stains on the inside of the sleeve, although MARSHALL led investigators to believe he had also been knifed during the scuffle with two unidentified men just prior to SEALE being stabbed. There was an insufficient

RE OBJET:	Donald MARSHALL, Jr. Non-Capital Murder, Sec. 206(2) C.C., Sydney, N.S. (Sydney City Police Case)	PAGE 4
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RCM 2 352

7. (continued)
 quantity of blood on MARSHALL's jacket to have it typed. CHANT stated that the cut on MARSHALL's arm was not bleeding when he saw him on Byng Avenue. Although the cut was superficial, it was sutured at the hospital. While in gaol, MARSHALL removed the bandage from his arm and flushed it down the toilet and even removed the sutures himself, suggesting that he did not want to have anything around with his blood on that could be picked up by the police from which his blood type might be determined. There are on the jacket what appears to be hesitation marks caused by a knife, and I am firmly convinced MARSHALL inflicted the slight cut on his arm after he stabbed SEALE to add credence to his story.

23 NOV 71

8. Cpl. E.C. SMITH conducted the polygraph tests on both McNEIL and EBSARY. His report is attached and indicates EBSARY is telling the truth when he answered "no" to the question, "Did you stab SEALE?" With respect to McNEIL's test, please note Cpl. SMITH cannot give an opinion as to whether or not he is telling the truth. Post-examination questioning leaves no doubt in my mind McNEIL is not telling the truth when he said EBSARY stabbed SEALE.

9. In conclusion, the chronology of events surrounding this murder appears thusly to the investigators. SEALE and MARSHALL entered Wentworth Park shortly before midnight intent on "rolling" someone. EBSARY and McNEIL, somewhat intoxicated, happened to walk through the park and were accosted by SEALE and MARSHALL. Their attacks were not successful and following the altercation a violent argument ensued between the two attackers culminating with MARSHALL stabbing SEALE and then inflicting a superficial wound on his own forearm to divert suspicion from himself before he made the pretense of summoning aid for SEALE. Later McNEIL, because he had been drinking and because of his subnormal intelligence, formed the idea that EBSARY had in fact stabbed SEALE when they were set upon. This became a fixation in his mind which surfaced in the form of positive action after MARSHALL had been sentenced to life imprisonment.

10. Mr. Donald MacNEIL, Q.C. has been made aware of the results of this investigation.

11. CONCLUDED HERE



(E.A. Marshall) S/Insp.
 "H" Division Detective Inspector



"F" Division
C.I.B.

RCMP 2 373

Regina, Sask., 30 Nov 71.

UR NO. _____
STRE NO. _____

UR NO. 71 Poly 25
STRE NO. _____

CONFIDENTIAL

Officer i/c, C.I.B., Halifax, N.S.

Re: Donald MARSHALL - Non-Capital Murder
Sec. 218(2) C.C. - Sydney, Nova Scotia
28/29 May 71

GENERAL: On the authorization of the OIC C.I.B., "H" Division, a polygraph examination was administered to the following persons on 23 Nov 71 at Sydney, N.S.

1. James William MacNEIL
2. Roy Newman EBSARY

Before taking the examination both subjects signed forms stating that they were taking the test voluntarily. Particulars of this offence were provided by Insp. E.A. MARSHALL.

PURPOSE: The main issue under consideration in the polygraph examination was whether or not these subjects were telling the truth with reference to their knowledge of the above-noted offence.

DATA: (a) There were indications of truthfulness in EBSARY's polygraph recordings when he answered "No" to the following test questions:

1. Around the end of May this year do you know for sure who stabbed Sandy SEAL?
2. Around the end of May this year did you stab Sandy SEAL?
3. Around the end of May this year were you right there when Sandy SEAL was stabbed?
4. Around the end of May this year did you wash blood off a knife?

(b) Throughout MacNEIL's examination there were irregular and erratic reactions to the test questions. These variations are the type which prevent an analysis of the charts and I can render no opinion as to whether or not MacNEIL was telling the truth when he answered "Yes" to the following test questions:

rep. Marshall

10 1971

71 Poly 25

P. 1002 323

30 Nov 71.

Re: Donald MARSHALL - Non-Capital Murder
Sec. 218(2) C.C. - Sydney, Nova Scotia
28/29 May 71

1. Around the end of May this year did Roy really stab Sandy?
2. Around the end of May this year did you see Roy stab Sandy?
3. Were you right there when Roy stabbed Sandy?
4. Around the end of May this year did you see Roy washing blood off his knife?


CONCLUSIONS:

It is my opinion, based on EBSARY's polygraph examination, that he was telling the truth to his questions.

REMARKS:

It will be noted that I gave an indefinite opinion as to MacNEIL's polygraph examination, however, the following should be added. This subject was interviewed after the examination and on a number of occasions was quite ready to admit that he was lying and that he was only "joking" when he said that EBSARY had stabbed SEAL. He would then revert to his original story. I believe that his mind was open to anything that might be suggested to him. Under the circumstances I do not feel that he is mentally capable of responding to a polygraph examination and for that reason no other tests were administered. I do feel, however, that EBSARY was truthful with reference to his polygraph examination.

DISTRIBUTION:


Cpl.,
(E.C. Smith) #20894,
Polygraph Section.

O.C. Sydney Sub-Division

Officer i/c C.I.B.

SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE / NOTRE REFERENCE 71H-010-6
YOUR FILE / VOTRE REFERENCE
DATE 82-03-16

SUBJECT
OBJET

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.
Sydney, N.S.
(Sydney City Police Case)

Correspondence of the N.C.O. i/c Sydney Sub-Division G.I.S. dated 82-02-25 together with your forwarding comment of 82-03-12 is acknowledged.

The material submitted certainly suggests there is a very real probability MARSHALL was not responsible for the stabbing of Alexander (Sandy) SEALE which subsequently resulted in SEALE'S death. In order to make all material in our possession available to the Attorney General's Department, I would request the second statements taken from CHANT and PRACTICO as mentioned in para. 9 of your report, be forwarded to this office. Also, would you please forward correspondence or advise how we determined PRACTICO approached defence counsel and the sheriff during the Supreme Court Hearing to advise he was lying. You have also made reference to the transcript of evidence taken during the trial. I would appreciate receiving a copy of any transcripts of evidence which are still available.

In para. 11 it is noted in the statement of James William McNEIL (#12) that a couple of days after the stabbing he had a conversation with Mrs. EBSARY and her son. When Mrs. EBSARY and her son were last contacted, were they specifically questioned about the statements McNEIL claims were made to him by them at their meeting in 1971.

Reference para. 2, it is not clear what transpired at EBSARY'S court appearance on the 82-03-05 and whether he is going to make any further statement with regard to the matter under investigation.

An early reply will be appreciated.

D. F. Christen, Supt.
Officer i/c C.I.B.

PP
82-03-16
RJB

DFC/rjb

Pg 2

82-03-16

71H-010-6

The Deputy Attorney General,
P.O. Box 7,
Halifax, Nova Scotia
B3J 2L6

Attention: Mr. Gordon Gale

Re: Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.
Sydney, N. S.
(Sydney City Police Case)

Further to my previous correspondence to you in this regard, please find attached investigation material as submitted by the N.C.O. in Charge Sydney Sub-Division G.I.S. and dated 82-02-25. This report as well as the comments of Insp. D. B. Scott, O.C. Sydney Sub-Division, highlight the consistencies of certain statements and facts surrounding this investigation and provide the motive for the stabbing. The fact the stabbing resulted from resistance offered at a robbery attempt appears to be more plausible than the suggestion an argument ensued between MARSHALL and SEALE which resulted in the stabbing. The contradictory statements taken in the initial instance and the most recent statements made by the persons involved certainly raise a question as to MARSHALL'S innocence.

It is very difficult to assess the sincerity of a witness by reading his/her statement. In attempting to reach a proper conclusion you may wish to consider having the Crown Prosecutor personally interview these witnesses to assess their sincerity and reliability.

Statements and transcript of evidence as requested from the O.C. Sydney Sub-Division will be forwarded as soon as they are received.

D. F. Christen, Supt.
Officer in Charge
Criminal Investigation Branch

Encl.

P.O. Box 2286,
Halifax, N. S.
B3J 3E1

Pg 4

"H" Div. File No. 71H-010-6

RCMP 297

Commissioner, Ottawa

Attention: D.C.I.

FORWARDED 82-03-16 for your information, being further to our correspondence to you dated 82-02-26.

D. F. Christen, Supt.
Officer i/c C.I.B.

Encl.

DFC/rjb

OTHER FILE REFERENCES:
REF. AUTRES DOSSIERS:

45

DIVISION

DATE

RCMP FILE REFERENCES:
REF. DOSSIERS GRC:

"H"

82-02-25

82-77

SUB-DIVISION / SOUS-DIVISION

Sydney, N.S.

DETACHMENT - DÉTACHEMENT

Sydney Sub/Div, GIS

RcMP2 415

RE: - OBJET:

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.
Sydney, N.S. 71-05-28/29
(Sydney City Police Case)

1. On 82-02-03 a meeting was held at the office of Crown Prosecutor, F. EDWARDS, with Insp. D.B. SCOTT, O.C. Sydney Sub-Division, Chief J.F. MacINTYRE, Chief of Police for the City of Sydney, and Mr. EDWARDS in attendance. Chief MacINTYRE had called this meeting for the purpose of discussing the SEALE murder which took place in the City of Sydney on the night of the 28th - morning of the 29th of May, 1971.
2. Chief MacINTYRE produced a letter written to him by Steven J. ARONSON of the Law Firm of ARONSON & MacDONALD, 277 Pleasant St., Dartmouth, N.S., telephone number, 463-9131, copy number 1 attached. In this letter Mr. ARONSON advised that he was representing Mr. MARSHALL and that he had uncovered new evidence in the noted case. This evidence came from the person of Mitchell Payne SARSON of 11 Twining St., Pictou, N.S. Mr. SARSON had been interviewed by ARONSON at MARSHALL's request and he had told him that in 1979 one Roy EBSARY of Sydney, N.S., had admitted stabbing SEALE. Mr. ARONSON requested Chief MacINTYRE look into the matter.
3. It was Chief MacINTYRE's feeling and concurred with by Mr. EDWARDS that an impartial investigation should be conducted by this Force. Chief MacINTYRE was very familiar with the case and was in fact a Detective Sergeant at the time and main investigator of the offence. The Chief turned over all statements, taken in the case and thoroughly explained the case to Insp. SCOTT and later to myself. A description of the offence is as follows.
4. At approximately 12:00 Midnight on the night of the 28th/29th of May, 1971, the Sydney City Police received a call from a Mr. Brian DOUCET of 120 Crescent St., Sydney, N.S. Mr. DOUCET related to the Police that he had two men at his door advising of a stabbing outside his home on Crescent Street. Mr. DOUCET stated that one of these men was Donald MARSHALL and that he had a cut on his left arm which was not bleeding. Mr. DOUCET later gave evidence to this effect, copy of his original statement attached - number 2. I find two points interesting in this statement; one, that it was Donald MARSHALL who came to his door with another man, two, he observed a cut and it was not bleeding.
5. On the date in question the Sydney City Police had three vehicles on duty which were immediately dispatched to the scene. Attached are copies of the reports made by the various officers. Basically, SEALE was found with a very extensive slashing wound to his stomach and lost a great deal of blood. MARSHALL was at the scene and taken by the Police to the Hospital where he received ten stitches

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Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

cont'd R. 2415

for the cut in his left arm. Police Officers roughly describe the scene and their actions. The main point of interest is that eye witness, Maynard CHANT of Louisbourg, N.S., was uncovered at this point. For the sake of clarity statements will be numbered "3a, b, c, d, e." A plan of the scene also attached numbered 4.

6. Numerous neighbourhood enquiries were conducted and statements taken, however, very little of an evidentiary nature was revealed. From these statements we are able to follow the paths of the two principle subjects, SEALE, the deceased, and MARSHALL, the accused. Witness, Alana DIXON's statement, number 5, traces SEALE from the dance at St. Joseph's Hall walking behind her and her two friends down George Street and entering Wentworth Park. It is interesting to note that conversation took place with the deceased and he did not talk to anyone else between the dance and entering the Park. An interview with Keith BEAVER confirms this story but states that SEALE walked down George Street with them but did not enter the Park, statement number 6 attached. The next witness to see SEALE was Patricia Ann HARRIS and Terrance GUSHUE. GUSHUE was apparently intoxicated but HARRIS gives an account of seeing MARSHALL and SEALE together on Crescent Street. From the sequence of events this must have been a few minutes prior to the murder. There appears to be no conflict at this point; MARSHALL gave GUSHUE a match. SEALE appears to have walked away from the group as they approached, statement number 7 attached. Shortly after the stabbing, one Robert Scott MacKAY and his girlfriend arrive at the scene. SEALE is lying on the roadway stabbed with no one else in sight. MacKAY runs across the Park for help and when he returns MARSHALL is returning to the scene in a car, statement number 8 attached.

7. In relation to Donald MARSHALL's movements, they were traced to Bedford, Shubenacadie and returning to Sydney on the day of the murder. During this time he was in the company of one Roy GOULD and on the evening in question was wearing a light yellow jacket belonging to GOULD. During the evening there is no connection with Sandford SEALE. MARSHALL did not attend the dance and as near as can be ascertained they met in the Park shortly before 12:00 Midnight. The previously mentioned witness, HARRIS, places the two of them together on Crescent Street. From this point one could only take the statement of MARSHALL, copy attached, number 9. It will be noted that MARSHALL states he saw one Robert PATTERSON in the Park. There is no statement taken from PATTERSON and to date he can not be located. MARSHALL's statement is self-explanatory. He attributes the stabbing to the shorter of two men who they met on Crescent Street. The reason being that they didn't like colored people or Indians. What appears to be minor points in this statement later prove rather interesting. He believed the two men were Priests. In evidence he stated that the shorter man wore a long blue coat over his shoulders. He also stated that the older of the two wore glasses and gave a general physical description.

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Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

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8. Investigation on 71-05-30 included the taking of a statement from Maynard Vincent CHANT, age 15 years, of Louisbourg, N.S., as well as John Louis PRACTICO of 201 Bentinck Street, Sydney, statements number 10 and 11 attached. CHANT stated he was standing on the tracks and saw the two men that stabbed SEALE and MARSHALL. After the stabbing he stated that MARSHALL caught up to him, showed him his arm where he was stabbed and they then returned to SEALE in the company of others and he placed his shirt on SEALE's wound. His description of the two men does not match MARSHALL's. A short statement was taken from PRACTICO directly following CHANT's statement. In this statement he places SEALE and MARSHALL together outside the Park between the dance hall and the store on George Street. He states he was some distance from the scene and did not see the murder, but saw the two assailants make good their escape in a Volkswagon car which he describes.

9. On 71-06-04 PRACTICO and CHANT were again interviewed. It should be noted that these two subjects did not know one another. The only common thread being that both discussed the murder with MARSHALL. PRACTICO was interviewed first and substantially changed his story from the first statement. He states he met SEALE and MARSHALL at the corner of George and Argyle Streets and they endeavoured to entice him into the Park. He then took up a position on the railroad tracks and observed Donald MARSHALL stab SEALE. In Court he gave in evidence that he was seated behind a bush drinking a pint of beer and observed MARSHALL stab SEALE. He was cross-examined closely by Defence on his verbal statements and gave his reason for divergence as being in fear of his life from MARSHALL's Indian friends. At one point in Supreme Court, PRACTICO approached the Defence and Sheriff advising he was lying. This was brought out in Court and PRACTICO attributed it to his fear of Indians.

10. On the afternoon of 71-06-04 a second statement was also taken from CHANT. In this statement he recants his first statement and advises that he saw MARSHALL stab SEALE. It might also be noted that he says that MARSHALL did not go for help, however, witness DOUCET says he arrived at his home and requested an ambulance. There is no reason given for this change of heart but Chief MacINTYRE advises he lied in the first instance at the instigation of, and from fear of MARSHALL. It will be noted that the second statement is signed by Det. Sgt. John MacINTYRE, Det. William URQUHART, Mrs. Beulah CHANT (mother), Chief Wayne MacGEE, and CHANT's Probation Officer. In reading the transcript of the trial of this case I note that CHANT was declared a hostile witness when it came to the point of saying he saw MARSHALL stab SEALE. He was then questioned on the evidence given in lower Court and answered in the affirmative that MARSHALL stabbed SEALE. There was no cross-examination in regards to the first statements taken from both PRACTICO and CHANT.

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RE-OBJET:

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206 (2) C.C.C.

cont'd RCMP 415

11. The foregoing was the basic evidence for the Crown. Evidence for the Defence was given by MARSHALL and it would appear from reading the transcript that he made a poor witness. MARSHALL was convicted of non capital murder and the case was appealed to the Supreme Court of Nova Scotia and the appeal was dismissed. On 71-11-15 after the completion of trials, one James William McNEIL of George Street, Sydney, contacted Chief MacINTYRE. He basically advised the City Police that he was with Roy EBSARY on the night of the murder on Crescent Street. He observed EBSARY stab SEALE in an abortive robbery attempt. His conscience had bothered him since MARSHALL's conviction and he told his mother and brother and then the Police, see statement number 12.

12. As MARSHALL had already been convicted and all the facts as then known presented to the Court, Chief MacINTYRE felt that an independent investigation should be done by the R.C.M.P. To this end then S/Insp. E.A. MARSHALL came to Sydney as well as Cpl. E.C. SMITH. Cpl. SMITH conducted a polygraph test on both EBSARY and McNEIL and found EBSARY truthful in that he did not stab SEALE. McNEIL was found indeterminate as he has a low I.Q. and is easily led. Please find attached copies of S/Insp. MARSHALL and Cpl. SMITH's reports noted as attachment number 14a. Roy EBSARY was interviewed and admitted to the robbery attempt by SEALE and MARSHALL but denied the murder. This would more or less terminate the investigational process in regards to this investigation. During the ensuing years Chief MacINTYRE advised that he periodically heard from the MARSHALL family. On one occasion MARSHALL attempted to get Christmas parole which the Chief felt was improper due to the threats made and possible follow-up of same. In reviewing the statements originally taken in this case, the only reference to EBSARY and McNEIL I can find is a statement from George McNEIL and Sandy McNEIL of 91 and 84 Bungalow Road, Coxheath, N.S., In this statement they advised that they observed two men answering the description of EBSARY and McNEIL in the Park talking to a fellow and girl sitting on a Park bench, statement number 13 attached.

13. Investigation in regards to the letter of complaint of Mr. ARONSON was conducted by Cpl. J.E. CARROLL and S/Sgt. H.F. WHEATON As Mr. EBSARY is presently before the Courts for a stabbing incident the investigator, Detective Cpl. H.A. WOODBURN of the Sydney City Police was interviewed. It was learned that EBSARY and the victim got into an argument with reference to placing a lock on his door. As the victim was about to leave, EBSARY appeared from the kitchen with a knife and plunged it in the victim's chest. EBSARY has categorically denied same and comes to trial on 82-03-05. EBSARY was well known to Detective Cpl. WOODBURN as an eccentric wino who lives in a fantasy world. Subject refers to himself as an ordained minister and a sea captain, neither of which he is. He is known to have a violent side to his personality and has been charged with carrying a concealed weapon (knife) since the murder of SEALE as well as the recent stabbing

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Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

cont'd *RCMP 415*

incident. EBSARY normally dresses in a rather natty fashion wearing a blue burbery over his shoulders, numerous rings on his fingers and a sea captain's hat. His day to day life consists of brief sober periods with varying degrees of intoxication the remainder of the time.

14. Mrs. Mary EBSARY, Mechanic St., Sydney, N.S., the former common-law wife of Roy EBSARY was interviewed. Also present at this interview was Gregory A. EBSARY, age 26 years, son of Roy and Mary EBSARY. Mrs. EBSARY and her son were very rational and co-operative. They described the period of around May, 1971, as being a very turbulent time for them. Roy EBSARY at this time was working as an assistant chef at the Isle Royal Hotel and drinking heavily. When drinking he was extremely violent and Mrs. EBSARY would have to dress the two children and get out of the house as she feared for their safety. Roy EBSARY also had a fetish for knives. Son Gregory described a grinding wheel he had in the basement where he would make knives. Subjects could not categorically state that on the evening in question that Roy EBSARY was carrying a knife but they would be very surprised if he were not. Gregory EBSARY turned over ten knives which would have been in Roy's possession at the time of the murder. Photo attached. These knives had been placed over a beam in the basement and had never been touched. Knives have been forwarded to C.D.L. Halifax for hair, fiber and blood examination. The second point of note from this interview is that after Roy EBSARY completed the polygraph test, which he passed, he returned home and did not leave the house for seven years. He completely changed his habits by not drinking or associating with anyone. This situation stopped when Mitchell SARSON came to live at the home and a homosexual relationship began. Roy EBSARY then returned to his former pattern of drinking, violence and an affinity for knives. Statement of Mrs. EBSARY and her son attached, number 14b. Also attached pictures of knives seized # 14d.

15. James William McNEIL of 222 Mt. Pleasant St., Sydney was interviewed. McNEIL was quite sure that on the evening of the 28/29 of May, 1971, he saw EBSARY stab SEALE. He used the same words that were used in statements some ten and one half years ago, "dig man dig". When questioned in detail McNEIL's memory was not accurate and there were areas he could not recall. I found McNEIL to be sub-average intelligence, simple but honest. He was not vindictive or motivated in a derogatory way to tell his story about EBSARY. He said his conscience bothered him and he told his family about it and they went to the Police. See statement number 14c taken from McNEIL as well as statements taken from his brothers numbered 15 and 16. When asked about the polygraph he said that he was very nervous and felt he flunked it

16. Mitchell Bayne SARSON of 11 Twining St., Pictou, N.S., was interviewed, see statement number 17. It will be noted that SARSON met Donald MARSHALL, Jr. in Dorchester and had several discussions with him. The possibility of collusion between MARSHALL and SARSON can not be precluded. However, SARSON says that EBSARY told him he stabbed SEALE and is willing to take a polygraph to this effect. It should also be mentioned that SARSON has been convicted of poss. for the purpose of trafficking and is known to Pictou Det. as a trafficker in marijuana.

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

cont'd R 415

17. From reading Judge DUBINSKY's address to the Jury it becomes evident that this entire case hinged around the evidence of the two eye witnesses. There was no murder weapon recovered, no statement of admission from MARSHALL, and no strong motive of hatred, etc., between MARSHALL and SEALE. The two witnesses indicated they heard an argument. On 82-02-16 witness Maynard Vincent CHANT was interviewed at his father's home, statement number 18 attached.

18. It will be noted that CHANT states that he did not witness the murder, and was in fact on the opposite side of the Park when it happened. The first he knew of same was when MARSHALL came running up to him. The story from that point basically agrees with MARSHALL. He advises that he repeated the story to the police because when he was checked on George Street near Shadwick he had advised he saw it all meaning the wound, blood, intestines, etc. From that point he was interviewed by the Police and felt obligated to say something so he repeated the story told him by MARSHALL in the car around the Lake and at the scene waiting for the Police. On the 4th of June when interviewed by the Police he was told he was seen in the Park so he agreed to it and from there on he was afraid not to agree. He emphasized that he was fourteen turning fifteen years of age at the time and felt pressured into helping the Police and the Prosecutor. He advised that the prosecutor threatened him with a charge of perjury if he changed his story after the lower Court hearing. Mr. CHANT volunteered this information to the investigators absolutely without prompting and said it has been on his conscience since the trial. Approximately two years ago CHANT became a "Born Again Christian" and advised his mother of what he had done. I asked Mrs. CHANT about this and she confirmed Maynard CHANT's story. This family is well known in Louisbourg as being very religious. CHANT swears he is now telling the truth in regards to this matter and exhibits considerable remorse for what he had done.

19. The investigators had some difficulty locating the second eye witness, John L. PRACTICO. Subject's mother was eventually located and she advised her son is living in New Waterford, however, refused to divulge his location. She stated that he has had severe mental problems since this incident and was fearful that our interviewing of him would bring on a complete nervous breakdown. She stated that after giving evidence in Court her son had to be admitted to the Nova Scotia Hospital. He fears greatly that some day MARSHALL will get out of jail and kill him. She requested that we speak to his psychiatrist, Dr. MIAN, at the Cape Breton Hospital, or his case worker, Andy ANDERSON.

20. Dr. M.A. MIAN, Director of the Cape Breton Hospital, and Miss Ann McLEOD, Hospital Staff Administrator, were interviewed; they both concurred on their views of PRACTICO. Dr. MIAN advised that he has been treating PRACTICO since he was twelve years old, subject being sixteen at the time of the murder. He is classed as being

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Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

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schizophrenic. This condition manifests itself in this man by his continually lying and manipulating so that he can place himself in the limelight. He craves to be the center of attention and is continually a social problem. When confronted he becomes aggressive and belligerent. Subject is kept on continual medication in order to function outside the institution. Dr. MIAN and Miss McLEOD were most helpful and allowed the investigators to peruse PRACTICO's complete file. In doing so the pattern could be clearly seen as described above from Doctors locally as well as the Nova Scotia Hospital and an Army psychiatrist which PRACTICO became involved with when trying to join that organization. Dr. MIAN was very strongly of the opinion that PRACTICO would be a most unreliable witness in the murder case he gave evidence on in 1971. As an aside, the Doctor advised that he was surprised someone did not contact him at the time of this trial as he was then treating PRACTICO. PRACTICO never talked about the trial other than to express fear that the Indians were out to get him. Statement of Dr. MIAN number 19 attached.

21. In view of the serious nature of this matter it was felt that PRACTICO should be interviewed. An interview was conducted by Cpl. CARROLL with Mr. A. ARSENAULT present. Cpl. CARROLL found PRACTICO to be very nervous, however, appeared in control of his faculties. Please find his statement number 20 attached. Mr. ARSENAULT who has been in touch with PRACTICO for a number of years advised Cpl. CARROLL that this was one of PRACTICO's better days.

22. A patrol was made to Dorchester Penitentiary and Donald MARSHALL was interviewed. The facts of this investigation were not made known to MARSHALL. We advised him we were looking into Mr. ARONSON's letter and if he had anything to tell us in regards to the SEALE murder to feel free to do so. He then began to recall the events of the night of the 28/29 of May, 1971. He followed the events as previously outlined stating that he was not at the dance at St. Joseph's Hall and met SEALE on the George Street side of Wentworth Park. He advised that the first time he saw EBSARY and McNEIL who he refers to as the tall fellow and short fellow or young fellow and old fellow was on the George Street side of Wentworth Park and they were talking to a guy and a girl sitting on a Park bench. MARSHALL and SEALE walked about the Park and discussed getting money by robbing someone. He said he had never told anyone about this as he felt it would look bad for him. They saw the tall fellow and short fellow go up on Crescent Street and go in the direction of South Bentinck Street. They also saw Terry GUSHUE and Patricia HARRIS and GUSHUE asked him for a match. At this time SEALE and MARSHALL broke up, MARSHALL going to Terry GUSHUE and giving him a match and SEALE went back and engaged EBSARY and McNEIL in conversation. After leaving GUSHUE and HARRIS he went down Crescent Street to SEALE, EBSARY and McNEIL. They engaged in conversation and talked about women in the Park, booze and other things. EBSARY and McNEIL turned to leave heading toward South Bentinck Street.

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Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

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23. At this point MARSHALL called them back and told them they wanted their money. SEALE was in front of EBSARY and MARSHALL took McNEIL and a scuffle ensued. He observed EBSARY stab SEALE and he then let go of McNEIL as EBSARY was then coming after him. EBSARY swung the knife at him and he warded the blow off receiving a cut on his inner left arm. He then ran from the scene until he ran into CHANT and reported the incident to him and returned to SEALE as previously described. He describes the two men as the short man being older wearing glasses with a blue coat over his shoulders. The younger fellow was tall and very drunk. In the conversation one of the two said they were priests but they were both fairly drunk and trampish looking.

24. MARSHALL maintains his innocence and has done so during his entire time in prison. He advised he thinks continually of his case and the evidence given. During our visit at Dorchester, Supervisor Dale CROSS was spoken to. He showed us MARSHALL's file and stated that he was a very good prisoner. The fact that he maintains his innocence is rather rare as it would be definitely to his advantage to admit his guilt because he would then be eligible for more consideration from the parole board. Mr. CROSS feels that with his prison record there is a good possibility he would be out now if he admitted guilt. Written statement obtained from Donald MARSHALL on 82-03-09. Statement number 21 attached.

25. On reading the transcript of evidence and the address to the Jury by both the Crown and Defence another area presented to the Jury to support MARSHALL's guilt was the evidence of Patricia HARRIS. It will be remembered that HARRIS and her boyfriend, GUSHUE, met MARSHALL on Crescent Street minutes prior to the murder. MARSHALL gave GUSHUE a light, GUSHUE being rather intoxicated. GUSHUE's evidence was rather vague due to his state of sobriety, however, Miss HARRIS then 14 years of age, gave evidence that there were no other people on Crescent Street at this time. She stated SEALE walked away from MARSHALL, GUSHUE and herself and the other two alleged people which would be EBSARY and McNEIL were not on the street. Miss HARRIS was located and interviewed, Statement number 22 attached. It will be noted that Miss HARRIS states she was pressured into saying that the two other people were not present. She was quite upset with the way she was treated by the Police, and felt forced to lie on the stand because she had given a written statement. Miss HARRIS's recollection supports MARSHALL's story completely in regards to the number of people present on Crescent Street at that time. The evidence as presented to the Jury was that only MARSHALL and SEALE were on Crescent Street when in fact there were two other people present on the street at the time and Miss HARRIS says she told the Police repeatedly and they refused to accept. In view of the serious allegations being made by Miss HARRIS she was requested to relate her story to Crown Prosecutor, F.E. EDWARDS, which she did on 82-03-01. Terrance GUSHUE was interviewed, however, his memory of the night in question was poor. GUSHUE's statement number 23 attached.

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Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

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26. On 82-02-22, Roy Newman EBSARY was picked up and brought to our Sydney office. He was interviewed from 10:17 A.M. until 1:41 P.M. at which time he complained of chest pains and was taken home. I found this man to be as basically described by Det. Cpl. WOODBURN. Subject rambled a great deal and at best is a very odd individual. When confronted with the crime he would try to change the subject or evade the issue. He seems to totally believe his fantasies as his wife predicted. On several occasions during this interview I felt that EBSARY was about to confess to the crime, however, he did not do so. At 4:30 P.M. I received a message to call EBSARY which I did with the conversation going as follows:

Introduction:

EBSARY: All our talking today was not in vain.

WHEATON: What do you mean by that.

EBSARY: Well you know I am a British Officer and a gentleman.

WHEATON: Yes.

EBSARY: You called me a homosexual.

WHEATON: Yes.

EBSARY: All our talking was not in vain you know.

WHEATON: Why is that.

EBSARY: Well I did it.

WHEATON: Are you admitting to stabbing SEALE.

EBSARY: Yes.

WHEATON: Would you like to speak to me.

EBSARY: No the other fellow.

WHEATON: Okay, I'll send Jim down.

27. At this point Cpl. J.E. CARROLL went to the EBSARY home. He found EBSARY drinking but not drunk and accompanied by another wino. He took him to a private room, however, he maintained a conversation with the man in the next room. Cpl. CARROLL asked him if it was self-defence and he stated it was and that he used a small pen knife which he no longer has. He said he did not wish to give a written statement at this time. He wanted to see Mrs. MARSHALL and see her face so he could judge her before he would give a further statement. He said he would give evidence at a new trial for MARSHALL. In view of the circumstances, Cpl. CARROLL left at this point.

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Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206 (2) C.C.C.

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RCMP 415

28. On the afternoon of the 23rd of February, 1971, a meeting was held with Mr. & Mrs. Donald MARSHALL, Sr., and Roy EBSARY was present. At this meeting he assured Mrs. MARSHALL that her son did not stab anyone and that he would get him out of prison. EBSARY indicated to the MARSHALLS and the investigators that everything hinged on what happens to him on his 5th of March Court appearance.

29. The two eye witnesses have completely changed their stories as told in their statements to Chief MacINTYRE and to the Court. Witness HARRIS has substantially changed her story in relation to the events of the evening of the 28/29 of May, 1971. If the two eye witnesses and Patricia HARRIS had given statements as they now have, there would not be a prima facie case against MARSHALL. EBSARY has made a verbal admission, however, refuses to give a written statement and is indeed a very strange individual who has never been mentally assessed. MARSHALL's story as presently told has changed from the evidence as given in Court in regards to the robbery. Witness McNEIL has not changed his story and maintains that EBSARY stabbed SEALE. When questioned about the murder weapon, EBSARY's comment was that his wife probably threw any knife away after he moved out. There can be no doubt that Donald MARSHALL, Jr., is doing everything within his power to get out of jail. He has written the Sydney City Police and also wrote to EBSARY after reading the account of the recent stabbing in the Cape Breton newspaper. He asked EBSARY to take the protection of the Canada Evidence Act and admit to his guilt as he knows he saw him stab SEALE. At this juncture, on balance, and keeping in mind the mental capabilities of the majority of the persons involved, I have very grave doubts as to MARSHALL's guilt. Contact will be maintained with Chief MacINTYRE and Crown Prosecutor F. EDWARDS.

30. Any direction which might be forthcoming would be very much appreciated.


(H.F. WHEATON) S/Sgt.
P.C. Co-ordinator
Sydney Sub/Division G.I.S.

The Officer i/c C.I.B.

FORWARDED 82-03-12. Attached for your information is completed report with appendices, as submitted by S/Sgt. H.F. WHEATON, Sydney Sub/Division P.C. Co-Ordinator.

On 82-02-26, Chief John McINTYRE, Sydney City Police Department, came to my office at which time I allowed him to read the statements of CHANT and PRACTICO, in which they state they lied at the trial of MARSHALL in 1971. I also advised him in general terms the investigation we had conducted to that date.

...../11

55
Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) CCC

PCMP 415

CONT'D FROM PAGE 10

Chief MacINTYRE brought up several points that we both thought should be clarified to determine the accuracy of this investigation. As a result of this meeting, I requested all witnesses be interviewed and, in particular, the HARRIS girl to determine the accuracy of her statement that only MARSHALL and SEALE were present, as this seemed critical in Chief MacINTYRE's mind that this proved MARSHALL was lying.

You will note that HARRIS' statement is quite revealing and as a result of her remarks it would appear to strengthen MARSHALL's claim that there were these other men present and his recollection of what happened that night is accurate.

It would appear from this investigation that our two eyewitnesses to the murder lied on the stand, and that the other main witness, HARRIS, lied as well, under pressure from the Sydney City Police. We also have statements from MARSHALL and MacNEIL, stating that EBSARY is the person responsible for SEALE's murder, as well as a verbal admission to our investigators that he was responsible.

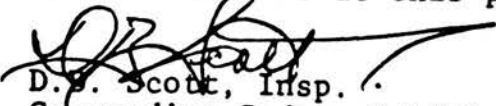
After reviewing this case, I feel that MARSHALL is innocent of the offence and that we presently have enough evidence to support a prima facie case against EBSARY for the murder of SEALE.

We have not received word back from the Lab. as to their findings regarding the knives given us by EBSARY's wife; however, when this report is available same will be forwarded.

I have not personally discussed this report with the Crown Prosecutor, Mr. Frank EDWARDS; however, S/Sgt. WHEATON has kept him fully apprised of the investigation.

If charges are contemplated against EBSARY, they should probably be handled by the Sydney City Police, as this offence is still within their jurisdiction.

Your comments and those of the Attorney General's Department will be awaited at this point.


D.S. Scott, Insp.
Commanding Sydney Sub/Division

56
Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

cont'd

RCMP 415

KEY LIST OF ATTACHMENTS:

1. Letter from Stephen J. ARONSON, Barrister, Dartmouth, N.S.
2. Statement of Brian DOUCET, 120 Crescent St., Sydney, N.S.
- 3a. Statement of P.C. Ambrose MacDONALD, Sydney City P.D.
- 3b. Statement of Csts. L. MROZ, DEAN, WALSH & McDONALD of Sydney City P.D.
- 3c. Statement of Cst. WALSH & MROZ, Sydney City P.D.
- 3d. Statement of P.C. Howard DEAN, Sydney City P.D.
4. Plan drawing of scene.
5. Statement of Alanna DIXON, 1155 Westmount Rd., C.B.
6. Statement of Keith BEAVER.
7. Statement of Patricia Ann HARRIS, 5 Kings Rd., Sydney, N.S.
8. Statement of Robert Scott MacKAY, 225 Fulton Ave., Westmount.
9. Statement of Donald John MARSHALL, 38 MicMac St., Sydney, N.S.
10. Statement of Maynard Vincent CHANT, Main St., Louisbourg, C.B.
11. Statement of John PRACTICO, 201 Bentinck St., Sydney, N.S.
12. Statement of James William McNEIL, 1007 Rear George St., Sydney
13. Statement of George Wallace McNEIL & Roderick Alexander McNEIL of Coxheath, C.B.
- 14a. Reports of S/Insp. MARSHALL & Cpl. SMITH
- 14b. Statement of Mrs. Mary EBSARY & Gregory EBSARY, 46 Mechanic St., Sydney, N.S.
- 14c. Statement of James William MacNEIL, 222 Mt. Pleasant St., Sydney, N.S.
- 14d. Photo of knives seized.
15. Statement of David William McNEIL, 1007 George St., Sydney, N.S.
16. Statement of John Joseph MacNEIL, 187 King St., East Toronto, Ont.

.../12

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

cont'd 111145

- 17. Statement of Mitchell Bayne SARSON, 11 Twining St., Pictou, N.S.
- 18. Statement of Maynard Vincent CHANT, Louisbourg, C.B.
- 19. Statement of Dr. M.A. MIAN, M.D. F.R.C.P., Sydney, N.S.
- 20. Statement of John Louis PRACTICO, 331 MacKay St., New Waterford, C.B.
- 21. Statement of Donald MARSHALL, Jr., Dorchester, New Brunswick.
- 22. Statement of Patricia Ann HARRISS, 5 Kings Rd., Sydney, N.S.
- 23. Statement of Terrance Patrick GUSHUE, 630 George St., Apt. # 5, Sydney, N.S.

OTHER FILE REFERENCES. REF. AUTRES DOSSIERS.	DIVISION "H"	DATE 82-03-22	RCMP FILE REFERENCES REF. DOSSIERS GRC: 82-77 RCMP 406
	SUB-DIVISION / SOUS-DIVISION Sydney, N.S.		
	DETACHMENT - DETACHEMENT Syd. Sub/Div. GIS		

RE: - OBJET:


Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.
Sydney, N.S. 28/29 MAY 71

This will acknowledge receipt of memorandum of C.I.B. Officer dated 82-03-16.

2. Please find attached the two statements of John Louis PRATICO and Maynard Vincent CHANT as taken by Sydney City Police on the 29th of May, 1971, and the 4th of June, 1971. On page 148 of the transcript of evidence as given in Supreme Court it can be seen that PRATICO approached the Sheriff and Defense advising that MARSHALL did not stab SEALE. It was also brought to the attention of the Jury at page 230.

3. Mrs. EBSARY and her son, Gregory, were questioned specifically in regards to McNEIL's comments that he should say nothing or he would be involved in Court. They readily concurred that they had spoken to McNEIL and that the main thrust of their conversation was that they wished him to stay away from the EBSARY home. Their reasoning being that EBSARY, at this juncture, had given up drinking and taken to his room.

4. On the 9th of March, 1982, EBSARY appeared in Court and after trial was convicted in relation to the recent stabbing incident. The case was adjourned to the 30th of March, 1982, for a pre-sentence report as well as psychiatric evaluation. I have been advised by Crown Prosecutor P.C. EDWARDS that Dr. C. DONOVAN, local psychiatrist, has been in touch with his office. Indications are that he will be asking the Court to refer EBSARY to the Nova Scotia Hospital for a cat-scan and further evaluation. He has found EBSARY to be out of touch with reality and living in a fantasy world.


(H.P. WHEATON) S/Sgt.
P.C. Co-ordinator
Sydney Sub/Div. G.I.S.

OFFICER IN CHARGE C.I.B.

5. FORWARDED 82-03-22. Civilian Member Duff EVERS of our Sackville Lab advised S/Sgt. WHEATON this date that he examined the exhibit knives forwarded to him in this case. As EVERS was the original analyst in this murder case, he still had slides of the material from SEALE's jacket as well as a piece of the material from MARSHALL's jacket.

.../2

RE OBJET

PAGE 2


Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.
Sydney, N.S. 28/29 MAY 71

R 6/1/72 435

6. On examination of all exhibits he found four fibers attached to the handle of exhibit # 8 and two fibers attached to the tape around the handle of this exhibit. He also found three fibers loose in the envelope that the exhibits were packed in. The results of his initial analysis are that three of the fibers are similar in every respect to the interior stuffing of SEALE's coat. That three of the fibers are similar in every respect to the exterior wool of SEALE's coat, and that the three fibers found in the envelope are similar in every respect to those of MARSHALL's yellow jacket.

7. Attempts are now being made to find (the deceased's) SEALE's jacket although it may have been destroyed after the appeal period. The final report from the Lab will be forwarded when received. The knives in question will also be subjected to blood analysis once EVERS has completed his tests.

8. With this new evidence there appears little doubt that EBSARY is responsible and that MARSHALL's version of the incident is accurate.


(D.B. SCOTT) Insp.
Commanding Sydney Sub/Division

CONTINUATION REPORT

R CMP 2 74

AGE

SUBJECT

CASE No.

C O P Y

May 30, 1971

Statement of John Pratico, age 16 yrs., residing at 201 Bentinck St., Sydney

Friday night I was at St. Joseph's Dance. I left there around 12 P.M. I seen Junior Marshall and Sandy Seale between the store and dance hall. I was talking to them. They wanted me to walk through with them. I said no. I went down Argyle St. and went over Crescent St. I was over by the Court house when I heard a scream. I looked. I seen 2 fellows running from the direction of the screaming. They jumped into a white volkswagon; blue lic. and white no. on it. One had a brown cordroy jacket - 5'5 dark complexion; heavy set. The other grey suit about 6 ft. tall; husky; red sweater -like a pullover. I started to run home.

Q. Did you see the Volkswagon since

A. No. I saw the 2 fellows twice last night walking near the park.

Q. Did you see them at the dance

A. Yes. I seen them walking around. Bobbie Robert Patterson said they are from Toronto Saints Choice ~~XXX~~ Bike Gang.

Signed: John Pratico

May 30th - 6 P.M.
Sergt. Det. J.F. MacIntyre

STATEMENT

May 30th 1971

PCMP2 74

Statement of John Pratico of 107
residing at 201 Kent Street Sydney

Friday night I was at St Josephs
Dance I left there around 12 P.M. I
saw Jim Marshall a fairly well
known the street dancer. I was
talking to them. They wanted me to
work through with them. I said no
I went home and went over
around 11 P.M. by the Court house
when I heard a scream. I looked
I saw 2 fellows running from the direction
of the screaming they jumped into a
white Volkswagen Blue tie white
no suit. one had a Brown Cordray jacket
5-5 Dark complexion heavy set.
The other being slight about 6 ft tall Husky
Red sweater into a Pullman. I started
to run home.

Q Did you see the Volkswagen drive
A No. I saw the 2 fellows twice last
night walking near the Park.
Q And you see them at the Dance
A Yes I saw them walking around.
Bobbie Robert Patterson said they are
from near to Saint Clair Biker Gang.

John Pratico

Witness _____

Date May 30th Time 6 P.M.

Signed _____

John Pratico

DE	SUBJECT	CASE No.
----	---------	----------

C O P Y

May 30, 1971 - 5:15 P.M.

Statement of Maynard Vincent Chant - age 15 yrs., residing at Main St. Louisburg, C.B.

Friday night I was in town and I left the Bus Terminal on Bentinck St. about 11:40 P.M. I walked down Bentinck St. I came over Byng Ave. and started to cross the tracks. I got half way across the tracks - first I seen 2 fellows walking and 2 more were walking kind of slow talking. The 2 fellows who stabbed Donald Marshall and Sandy Seale - they talked for a few minutes over on Crescent St. One fellow hauled a knife from his pocket and he stabbed one of the fellow - so I took off back across the tracks to Byng Ave. and started to walk towards the bus terminal. Then I seen Donald Marshall coming down. I turned around and started to walk the other way. Donald caught up to me and said look what they did to me. He showed me a long cut on his left arm. Then he said help me - my Buddy is over on the other side of the park with a knife in his stomach. Then we started to look for more help. We met some boys and girls - one of the girls gave Donald a handkerchief - we got a car to take us over to where Seale was lying on the pavement. I took my shirt and put it around his waist and Donald went to a grey house and asked the man if he would call an ambulance.

About ten minutes later, I went up and asked the man in the house to call again and I knelt down beside Sandy Seale and he said it was hot. I unbuttoned his jacket. I then discovered his stomach was cut. I took my shirt and put it where the cut was and made him comfortable. Then the police arrived. They called for the ambulance. He was taken to the hospital.

- Q. Did you know those other 2 men
- A. No
- Q. Did you know Donald Marshall
- A. I knew him to see him
- Q. Did you know Sandy Seale
- A. no
- Q. Could you give me a description of these other men
- A. one man about 6'2 - light brown hair; dark pants; suit coat - over 200 lbs. the other fellow 6' tall - dark pants; dark hair- 165 lbs.
- Q. Did you see their faces
- A. No
- Q. Would they be young or old
- A. I was not that handy

CONTINUATION REPORT

RCMP 2 9

SUBJECT

CASE No.

page 2 - continued - statement of Maynard Vincent Chant -----

Q. Was there just 4 men there

A. Yes

Q. Did you see any knife

A. Yes it was a figure of a knife

Q. How far away would you be

A. 45 ft. or more down the tracks

Q. Could you tell if Marshall was drinking

A. I would not say he was

Signed: Maynard Chant

time 5:35 P.M.

Sergt. Det. J.F. MacIntyre

RIP GRC

TRANSIT SLIP

FICHE DE SERVICE

64

RCMP 295

Classification

BIN BD

File No. - N° du dossier

RCMP 295

WRITE - ÉCRIRE À LA MAIN

TO - A
*Reagan
Sgt Jones.*

FROM - DE
C/BO

Date
82.03.24

- Comments
Commentaires
- Action
Donner suite
- Prepare Brief
Préparer un exposé
- Return with Current File
Retourner avec le dossier actuel
- Perusal and P.A.
Lire et classer
- Prepare Reply
Rédiger une réponse
- Make File(s)
Ouvrir un dossier
- Check Records
Vérifier les dossiers

SUBJECT - SUJET

REMARKS (Use same A-5 for Reply when space permits) - REMARQUES (Si l'espace le permet, répondre sur cette formule)

Fwd to A.G. further to our previous correspondence. Statements & transcripts attached.

Comment on fact we are forwarding only copy of transcript received at this office from Sydney -

Comment on fact examination of knife given our members by Mr. Ebsary would appear to indicate ^(First name) Ebsary was responsible for the murder of Sandy Lake. Results of CPE examination will be forwarded upon receipt. If ^{examined in it} conclusion, this together with eyewitness account of ^{First name} McNeil & Marshall would be sufficient & proceed with charges against Ebsary.

OP RFP
AC

<p>Diary Date - Date d'agenda</p>	<p>Meeting Date - Date de réunion</p>	<p>P.A. - A.C.</p>	
	<p><i>1 page (2)</i></p>	<p>Date</p>	<p>Init./N°</p>

WRITE - ÉCRIRE À LA MAIN

TO - A	FROM - DE	Date
--------	-----------	------

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Comments
Commentaires | <input type="checkbox"/> Action
Donner suite | <input type="checkbox"/> Prepare Brief
Préparer un exposé | <input type="checkbox"/> Return with Current File
Retourner avec le dossier actuel |
| <input type="checkbox"/> Perusal and P.A.
Lire et classer | <input type="checkbox"/> Prepare Reply
Rédiger une réponse | <input type="checkbox"/> Make File(s)
Ouvrir un dossier | <input type="checkbox"/> Check Records
Vérifier les dossiers |

SUBJECT - SUJET

REMARKS (Use same A-5 for Reply when space permits) - REMARQUES (Si l'espace le permet, répondre sur cette formule)

Advice will follow concerning
our efforts & review Seals' work
CP 4 example of exhibits.

CPBO

Send copy of our report to A.G. &
Ottawa with comment they will be
further advised.

[Signature]

Diary Date - Date d'agenda

Meeting Date - Date de réunion

P.A. - A.C.	
Date	Init./N°



Royal Canadian Mounted Police Gendarmerie royale du Canada

82-03-25

66

RCMP 301

Your file Votre référence

The Deputy Attorney General
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

Our file Notre référence

71H-010-6

Attention: Mr. Gordon S. Gale

Re: Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.
Sydney, N.S. 28/29 MAY 71

Further to our correspondence dated 82-03-16, attached is Sydney Sub-Division General Investigation Section report dated 82-03-22, with forwarding minute by the O.C. Sydney Sub-Division. Also enclosed are statements of John Louis PRATICO and Maynard Vincent CHANT dated 71-05-29 and 71-06-04, respectively, and transcripts of evidence which was received here from Sydney in single copy.

The examination of the knife given to our members by Mrs. EBSARY would appear to indicate that Roy Newman EBSARY was responsible for the murder of Sandford SEALE. Results of the C.D.L. examination will be forwarded to you upon receipt. If the examination is conclusive, this evidence, in conjunction with the eyewitness account of events by James William McNEIL and Donald MARSHALL, Jr., would be sufficient to proceed with a charge against EBSARY.

You will be further advised concerning our efforts to recover SEALE's coat, and the results of the C.D.L. examination of exhibits.

D.F. Christen, Supt.,
Officer i/c C.I.B.

Encl.

3139 Oxford Street
P.O. Box 2286
Halifax, N.S.
B3J 3E1

LJ/lmm

Pg 6

OTHER FILE REFERENCES: REF. AUTRES DOSSIERS:	DIVISION "H"	DATE 82-03-22	RCMP FILE REFERENCES: REF. DOSSIERS GRC: 67
	SUB-DIVISION / SOUS-DIVISION Sydney, N.S.		82-77
	DETACHMENT - DETACHEMENT Syd. Sub/Div. GIS		RCMP 406

RE: - OBJET:

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.
Sydney, N.S. 28/29 MAY 71

This will acknowledge receipt of memorandum of C.I.B. Officer dated 82-03-16.

2. Please find attached the two statements of John Louis PRATICO and Maynard Vincent CHANT as taken by Sydney City Police on the 29th of May, 1971, and the 4th of June, 1971. On page 148 of the transcript of evidence as given in Supreme Court it can be seen that PRATICO approached the Sheriff and Defense advising that MARSHALL did not stab SEALE. It was also brought to the attention of the Jury at page 230.

3. Mrs. EBSARY and her son, Gregory, were questioned specifically in regards to McNEIL's comments that he should say nothing or he would be involved in Court. They readily concurred that they had spoken to McNEIL and that the main thrust of their conversation was that they wished him to stay away from the EBSARY home. Their reasoning being that EBSARY, at this juncture, had given up drinking and taken to his room.

4. On the 9th of March, 1982, EBSARY appeared in Court and after trial was convicted in relation to the recent stabbing incident. The case was adjourned to the 30th of March, 1982, for a pre-sentence report as well as psychiatric evaluation. I have been advised by Crown Prosecutor F.C. EDWARDS that Dr. C. DONOVAN, local psychiatrist, has been in touch with his office. Indications are that he will be asking the Court to refer EBSARY to the Nova Scotia Hospital for a cat-scan and further evaluation. He has found EBSARY to be out of touch with reality and living in a fantasy world.

H.F. Wheaton
(H.F. WHEATON) S/Sgt.
P.C. Co-ordinator
Sydney Sub/Div. G.I.S.

OFFICER IN CHARGE C.I.B.

5. FORWARDED 82-03-22. Civilian Member Duff EVERS of our Sackville Lab advised S/Sgt. WHEATON this date that he examined the exhibit knives forwarded to him in this case. As EVERS was the original analyst in this murder case, he still had slides of the material from SEALE's jacket as well as a piece of the material from MARSHALL's jacket.

.../2

RE OBJET

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.
Sydney, N.S. 28/29 MAY 71


PAGE 2

RC 11172 406

6. On examination of all exhibits he found four fibers attached to the handle of exhibit # 8 and two fibers attached to the tape around the handle of this exhibit. He also found three fibers loose in the envelope that the exhibits were packed in. The results of his initial analysis are that three of the fibers are similar in every respect to the interior stuffing of SEALE's coat. That three of the fibers are similar in every respect to the exterior wool of SEALE's coat, and that the three fibers found in the envelope are similar in every respect to those of MARSHALL's yellow jacket.

7. Attempts are now being made to find (the deceased's) SEALE's jacket although it may have been destroyed after the appeal period. The final report from the Lab will be forwarded when received. The knives in question will also be subjected to blood analysis once EVERS has completed his tests.

8. With this new evidence there appears little doubt that EBSARY is responsible and that MARSHALL's version of the incident is accurate.


(D.B. SCOTT) Insp.
Commanding Sydney Sub/Division

CONTINUATION REPORT

RCMP 74

AGE

SUBJECT

CASE No.

COPY

May 30, 1971

Statement of John Pratico, age 16 yrs., residing at 201 Bentinck St., Sydney

Friday night I was at St. Joseph's Dance. I left there around 12 P.M. I seen Junior Marshall and Sandy Seale between the store and dance hall. I was talking to them. They wanted me to walk through with them. I said no. I went down Argyle St. and went over Crescent St. I was over by the Court house when I heard a scream. I looked. I seen 2 fellows running from the direction of the screaming. They jumped into a white volkswagon; blue lic. and white no. on it. One had a brown cordroy jacket - 5'5 dark complexion; heavy set. The other grey suit about 6 ft. tall; husky; red sweater -like a pullover. I started to run home.

Q. Did you see the Volkswagon since

A. No. I saw the 2 fellows twice last night walking near the park.

Q. Did you see them at the dance

A. Yes. I seen them walking around. Bobbie Robert Patterson said they are from Toronto Saints Choice ~~XXX~~ Bike Gang.

Signed: John Pratico

May 30th - 6 P.M.
Sergt. Det. J.F. MacIntyre

May 30th 1971

RCMP 74

Statement of John Pratico age 16 yrs
resident 201 Park Street Sydney

Friday night I was at St Joseph's
Dance I left there around 12 P.M. I
saw Jim Marshall a fairly well
known the street & Park Hall I was
talking to them they wanted me to
walk through with them. I said no
I went down airport and went over
cross street was near by the Court house
when I heard a scream. I looked
I saw 2 fellows running from the direction
of the screening they jumped into a
white Volkswagen Silver tie white
no mit. one had a Brown Cordray jacket
5-5 Dark complexion heavy set.
The other grey suit about 6 ft tall husky
Red sweater into a Pullman. I started
to run home.

- Q Did you see the Volkswagen Silver
- A No. I saw the 2 fellows twice last
night walking near the Park.
- Q Did you see them at the Dance
- A Yes I seen them walking around.
Bobby Robert Patterson said they are
from Warrato Sainte Claire Biker Gang.

John Pratico

Witness _____

Date May 30th Time 6 P.M.

Signed _____

[Signature]

GE

SUBJECT

CASE No.

COPY

June 4, 1971 - 2:55 P.M.

Statement of Maynard Vincent Chant, age 14 yrs., residing at Main St., Louisburg, C.B.

Last Friday night after 11:30 P.M., I left the Acadian Lines on Bentinck St. and walked down Bentinck St. to the tracks. Then I started down the tracks towards George St. I noticed a dark haired fellow sort of hiding in the bushes about opp. the second house on Crescent St.

Q. Did you know him.

A. No. I did not know his name but I seen him before out at the dances in Louisburg

Q. Did you see him since

A. Sunday afternoon at the Police Office in Sydney. I walked by this fellow on the track. I looked back to see what he was looking at. Then I saw 2 fellows standing about 1 1/2 ft. from each other on Crescent St. near the house with the railing up the middle of the steps. The same house which I called the police from. An old man with grey hair & glasses answered the door

Q. Were they the same size

A. One was taller than the other

Q. Which one was facing you

A. Short dark fellow was facing the tracks

Q. The taller man was facing the houses

Q. At this pt. did you recognize either of these men

A. The only man I recognized was Marshall

Q. What was he wearing

A. Dark pants and I think a yellow shirt with the sleeves up to the elbows. I wish to say that when he was arguing I mean Donald Marshall with the other men his sleeves were down to his wrist at that time.

SUBJECT

CASE No.

continued - page 2-----

Q. How long were you on the tracks watching them

A. About 5 minutes

Q. Could you hear what they were talking about

A. No. I just heard a mumbling of swearing. I think Marshall was the one who was doing most of the swearing. Then I seen Marshall haul a knife from his pocket and jab the other fellow with it in the side of the stomach.

Q. What side

A The right side - I seen him jab it in and slit it down

Q. How could you tell it was a knife

A. By the figure of it - it was shiny and long

Q. What happened then.

A. When Marshall drove the knife in, Seale, he bent over. Then I ran toward George St. down the ~~xx~~ tracks. I went into the Park, through the Park; then up to George St.; crossed the tracks and then on to Byng Ave.-about 3 houses over I met Donald Marshall and he said look at my arm. It was his left arm; his sleeve was up. The cut was on the inside of his arm - it was not a deep cut and it was not bleeding at that time-until we caught up to 2 boys & 2 girls who were walking. Donald said could you help us. One of the fellows said what is wrong. Then he said look what they done to me.

Then the other guy said "who" and Donald Marshall said the 2 fellows. He said my buddy is on the other side of the Park with a knife in his stomach. They ~~they~~ said they would try and help us. At the time a car came along and Donald stopped it and we asked for help. They picked us up and drove to the other side of the Park and we stopped about 6 ft. away from Seale. At this time, Seale was lying on the opp.side of the street. Donald Marshall got out; came over near the body of Seale and stood there. There was another man came along and knelt by Seale and then went over to a house and called an ambulance. Then he came back and knelt along side of me about 5 minutes. I asked this dark haired fellow to look

SUBJECT

CASE No.

continued - page 3-----

after Seale while I went up and called again. I forgot to state that the minute I got to Seale, I put my white shirt on his stomach. I said hold it and he mumbled. Police and ambulance arrived and he was taken to hospital.

Q. Did Donald Marshall call the police or ambulance at any time

A. No

Q. Did you

A. Yes, first at the house with the railing coming down the center of the steps

Q. Who was with you

A. Marshall stayed on the sidewalk

Q. Was there any other conversation between you and Marshall at that time

A. He said there were 2 men - tall one had brown hair done the stabbing.

Q. This of course is not true

A. No

Q. Did he know you were over the tracks

A. No - he did not.

Signed: Maynard Chant

3:45 P.M.

By: Sergt. Det. John McIntyre

Sergt. Det. Wm. Urquhart.

SUBJECT

CASE No.

Mrs. Beulah Chant - mother

Lawrence Burke - Probation Officer
Juvenile Court

Chief Wayne K. McGee

Urquhart and myself.

June 4th 1971 2:55 PM

Statement of Maynard Vincent
Chart age 14, residing at Main St
Lumbury Co.:

Last Friday night after 11:30 PM
I left the Accident scene on Bentuck
St and walked down Bentuck St to
the tracks. Then I started down the
tracks towards Sargent I noticed a
Dark haired fellow out of hiding in the
Brush about 100 yds. The second person
Came out at

- Q Did you know him
A No I did not know his name but I saw
him before out at the Devost in Lumbury
Q Did you see him since
A Sunday afternoon at the Police Office
I walked by this fellow on the track
I looked back to see what he was
looking at then I saw 2 fellows standing
about 1 1/2 ft from each other on Crescent
St near the house with the railing
up the middle of the steps. The same house
which I called the Police from. a old man
with grey hair glasses, around the door
where they the same size
A one was taller than the other
Q which one was facing you
A Short Dark fellow was facing the tracks
Q The taller man was facing the house
Q at this pt. did you recognize either of
these men
A The only man I recognized was Marshall
Q what was he wearing
A Dark pants and I think a yellow shirt
with the sleeves up to the elbows
Maynard Chart
3:45 PM last night by Sgt M. DeFulhart

I would like to say that when he was arguing I mean Donald Marshall with the other man his sleeves were done to his wrist at that time.

Q How long were you on the tracks watching them

A about 5 minutes

Q Could you hear what they were talking about

A No. I just heard a mumble of swearing I think Marshall was the one who was doing most of the swearing.

Q Then I seen Marshall haul a knife from his pocket and jab the other fellow with it on the side of the stomach.

Q What side

A The Right side I seen him jab in it and slit it down

Q How could you tell it was a knife

A By the figure of it it was shiny and long.

Q What happened then

A After Marshall done the 2nd jab I recall he got over then I ran toward the next down the tracks I went into the Park through the Park then up to the next crossed the tracks and then into the Byng area about 3 houses over I met Donald Marshall and he said look at my arm. It was he left arm his sleeve was up. The cut was on the inside of his arm it was not a deep cut and it was not bleeding at that time until we went up to 2 Byng & 2 Bido who were walking. Donald said could you help us. One of the fellows said what the army. Then he said look what they done to me

Maynard Chart

John McElreath
3:45 PM 4/20/76

Then the other boy said W/D and Donald Marshall said the 2 fellows. He said my Buddy down the other side of the Park with a knife in his stomach. Then they said they would try and help me at the time a Car Came along, and Donald stopped it and we asked for Help. They picked us up and Drove to the other side of the Park and we stopped about 6 ft away from Seal. at this time Seal was lying on the opposite of the street. Donald Marshall got out Came over near the Body of Seal and stood there. There was another machine along and I knelt by Seal and then went over to a house and called an ambulance. Then he Came back and knelt along side of me about 5 minutes I asked this Dark Haul fellow to look after Seal while I went up and called again. I forget to state that the minute I got to Seal I put my white shirt on his stomach. I said Hold it and he mumbled. Police and ambulance arrived and he was taken to Hospital.

Q Did Donald Marshall Call the Police ~~at~~ at anytime

A No

Q Did you

A yes just at the home with the Bailey Conj. down the Center of the steps

Q who was with you

A Marshall stayed on the sidewalk.

Q What was any other conversation between you & Marshall at that time.

A He said there were 2 men told me had been there done the stabbing.

Q This of course is not true

A No

Memorandum 3.45 P.M. by Sgt. [Signature]

Q Did he find you were on the
 tracks
 A No He did not.

Maynard/Clout

3.45 PM

Sup Det J. H. [unclear]

Sgt M. [unclear]

~~Two~~

Beulah Chant mother.
 Lawrence Burke - Probation Officer
 James Cant
 Chief Wayne R. Tucker
 Vincent O'Connell

82-03-25

71H-010-6

Commissioner, Ottawa

Attention: D.C.I.

FORWARDED for your information with report and statements referred to. As noted, the transcript was received in single copy and has been forwarded to the Deputy Attorney General.

You will be advised of further developments as they transpire.

Halifax, N.S.
82-03-25

D.F. Christen, Supt.,
Officer i/c C.I.B.

*MPA
8-03*

*82-03-25
LR*

Rum2 302

URGENT

URGENT

C.I.B.

82-03-30

UNCLAS

COMMR., OTT.

ATTN: INSP. TIMKO
FEDERAL POLICING BRANCH

D.F. Christen, Supt.,
Officer i/c C.I.B.

DIV.

CIB 176/3

ATTACHED, AS REQUESTED IN YOUR TELEPHONE CONVERSATION, IS
COPY OF CORRESPONDENCE SUBSEQUENT TO OUR CORRESPONDENCE DATED
82-02-26.

[Handwritten signature]
52/03/30

WRITE - ÉCRIRE À LA MAIN

BIN BD

Classification

File No. - N° du dossier

<p>Don.</p>	<p>From - DE Insp. Timko</p>	<p>Date</p>
-------------	----------------------------------	-------------

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Comments
Commentaires | <input type="checkbox"/> Action
Donner suite | <input type="checkbox"/> Prepare Brief
Préparer un exposé | <input type="checkbox"/> Return with Current File
Retourner avec le dossier actuel |
| <input type="checkbox"/> Perusal and P.A.
Lire et classer | <input type="checkbox"/> Prepare Reply
Rédiger une réponse | <input type="checkbox"/> Make File(s)
Ouvrir un dossier | <input type="checkbox"/> Check Records
Vérifier les dossiers |

SUBJECT - SUJET

Donald Marshall Jr.

REMARKS (Use same A-5 for Reply when space permits) - REMARQUES (Si l'espace le permet, répondre sur cette formule)

Please photo-fax Harry Wheaton's latest report for transmission to Col. Gen. Col. Gen. is apparently thinking of invoking the "Royal Prerogative of Mercy" but must have more info. Papers in Ottawa are stating that Marshall has already been released.

last report on file that point was CIBO's awarding minute of 82/1/26.

Photo-faxed copies are to be sent to Insp Timko - att'n: Federal Policy Branch.

call rec'd 12:10 PM. 02/03/80.

Diary Date - Date d'agenda

Meeting Date - Date de réunion

P.A. - A.C.	
Date 02/03/80	Init./N° <i>[Signature]</i>

CRIME DETECTION LABORATORY REPORT

RAPPORT DES LABORATOIRES JUDICIAIRES

This report may be published in whole or in part, without the written consent of the Commissioner of the Royal Canadian Mounted Police.

Il est interdit de publier en tout ou en partie ce rapport ou toute documentation photographique ou autre s'y rapportant sans le consentement écrit du Commissaire de la Gendarmerie royale du Canada.

City - Ville	Lab. no.	Lab. File No. - Dossier du lab.	Date
Sackville, N.B.		71S588	82-04-01
Section	Code des articles	Lab. Report No. - Rapport du lab. no.	
Hair & Fibre - 82-04-01	C.N. 33	Second	

Your File No. - Votre dossier no.

T
O
A
The N.C.O. i/c Sydney Sub/Div. G.I.S.,
R.C.M. Police,
SYDNEY, N.S.

82-77

RCMP 2 343

Reference - Référence
Donald MARSHALL Jr. Non-Capital Murder Sydney, N.S. 71-05-28/29

COPIES TO - COPIES À

1. GENERAL:

The following exhibits were received personally from C/M R.A. MacAlpine of the Halifax Serology Section on 82-03-17.

- Exhibit 1: one copper handled knife.
- Exhibit 2: one copper handled knife.
- Exhibit 3: one copper handled knife.
- Exhibit 4: one copper handled knife.
- Exhibit 5: one bread knife.
- Exhibit 6: one bread knife.
- Exhibit 7: one green handled knife.
- Exhibit 8: one green handled knife with tape.
- Exhibit 9: one butcher knife with broken blade.
- Exhibit 10: one butcher knife.

2. PURPOSE:

To examine exhibits 1 to 10 inclusive for the presence of any fibres consistent with the fibres composing exhibits A and/or B, a yellow jacket and a brown coat, as described in Laboratory Report 71S588 dated 29 June 1971.

3. DATA:

Exhibits 1 to 10 inclusive were examined microscopically for the presence of any fibres consistent with the fibres composing exhibits A or B.

4. CONCLUSIONS:

- (1) One synthetic fibre from exhibit 1, one synthetic fibre from exhibit 2, four synthetic fibres from exhibit 6, eight synthetic fibres from exhibit 8, two synthetic fibres from exhibit 9, two synthetic fibres from exhibit 10 and two synthetic fibres from the piece of tape present in the envelope are consistent with synthetic fibres composing the coat, exhibit B.
- (2) One light brown wool fibre from exhibit 8 and two light brown wool fibres from inside the envelope are consistent with light brown wool fibres composing the coat, exhibit B.
- (3) Three synthetic fibres removed from exhibit 8 are consistent with synthetic fibres composing the jacket, exhibit A.

Reference Référence	Lab. File No. - Dossier du lab. n°	Page
RE: Donald Marshall Jr. Non-Capital Murder Sydney, N.S. 71-05-28/29	71S588	2

71-05-28/29

5. REMARKS: (1) Exhibits 1 to 10 inclusive were returned to C/M R.A. MacAlpine of the Halifax Serology Section on 82-03-18. *8*

Submitted by: *AJE* C/M.
A. J. Evers, B.A.
i/c Hair and Fibre Section.

AJE/mgl

CRIME DETECTION LABORATORY REPORT

RAPPORT DES LABORATOIRES JUDICIAIRES

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City - Ville	Dossier no. - File no.	Date
Sackville, N.B.	71S588	82-04-05
Section	Code no. - Article no.	Lab. Report No. - Rapport du lab. no.
Hair & Fibre - 82-04-05	C.N. 33	Third
Your File No. - Votre dossier no.		
		82-77

T
O
A
The N.C.O. i/c Sydney Sub/Div. G.I.S.,
R.C.M. Police,
SYDNEY, N.S. ATT: S/Sgt. H.F. Wheaton

82-77

R.C.M.P. 345

Reference - Référence
Donald MARSHALL Jr. Non-Capital Murder Sydney, N.S. 71-05-28/29

COPIES TO - COPIES À

- GENERAL: The following exhibit was received personally from Sgt. Guy Arsenault at this laboratory on 82-03-26:

Exhibit 11: one cardboard basket.
- PURPOSE: To examine exhibit 11 for the presence of any fibres consistent with fibres composing exhibits A and B as described in Laboratory Report 71S588 dated 29 June 1971.
- DATA: Exhibit 11 was examined microscopically for the presence of any significant fibres.
- CONCLUSIONS: Four synthetic fibres removed from exhibit 11 are consistent with synthetic fibres composing the brown coat, exhibit B.
- REMARKS: Exhibit 11 is returned herewith via registered mail to the P.C. Co-ordinator Sydney Sub/Div. G.I.S. att'n S/Sgt. H.F. Wheaton.

Submitted by:  C/M.,
A.J. Evers, B.A.
i/c Hair & Fibre Section.

AJE'kgt

OTHER FILE REFERENCES:
REF. AUTRES DOSSIERS:

86

DIVISION
"H"

DATE
82-04-06

RCMP FILE REFERENCES:
REF. DOSSIERS GRC:

82-77

SUB-DIVISION / SOUS-DIVISION

Sydney, N.S.

DETACHMENT - DÉTACHEMENT

Sub/Div. G.I.S.

RCMP 403

RE: - OBJET:

Donald MARSHALL, Jr. - 410491A
Non-Capital Murder, Sec. 206(2) C.C.C.
Sydney, N.S. 71-05-28/29

82-168

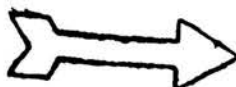
Further to previous report dated 22nd March 1982 please be advised that investigation has continued into this offence. Contact has been maintained with Roy EBSARY and to date he has made no further admissions. The more one deals with Mr. EBSARY the more one realizes his complex mental quirks and I would be somewhat surprised if any further admissions will be forthcoming. On the 30th of March, 1982, EBSARY was remanded on his present charge to 30 days in the Nova Scotia Hospital for further mental examination.

2. Several areas of new evidence have been forthcoming in regards to Mr. EBSARY and his family. Mary EBSARY and her son, Gregory, aged 27 years, live in the family home at 46 Mechanic St., Sydney, N.S. Several interviews have been conducted with them and a certain amount of rapport has developed. Mrs. EBSARY turned a picture of Roy EBSARY over to the writer, copy attached. This is how the subject would have dressed in 1971 and to the present day. The blue burbery worn in this picture as a cape has been seized from EBSARY's apartment and has been forwarded to C.D.L., Sackville for possible fiber identification. Numerous cuts were noted in the lining of this coat. Mary EBSARY advises that on the night of the 28/29 of May 1971 she was in their home located on Rear Argyle Street, Sydney. She recalls Roy and James McNEIL coming home at around twelve midnight. She places this as the time as the news had just come on. Present in the house at the time was Donna EBSARY, aged 12 or 13 years, and herself. The son, Gregory, was out playing hockey and returned some time later.

3. On entering the house the first room on the right was the livingroom boarded by a hallway with the kitchen being a separate room on the right hand side. Mrs. EBSARY now advises that James Mc NEIL stopped for a moment and talked to her. He said something about having a hard time in the park and continued down the hall talking to Roy in the kitchen. She heard him say, "You sure gave it to that nigger." Roy replied, "You shut up." At this time the daughter, Donna, went out to the kitchen.

4. In relation to Donna EBSARY her name was brought to my attention on the 29th of March, 1982. A Mr. David F. RATCHFORD of 296 Charlotte St., Sydney, contacted this office and advised that he had heard of the murder on the radio and wished to see a member. RATCHFORD was interviewed and the attached statement taken. In this statement he advises that Donna EBSARY had confided in him stating

.../2



MARITIME CRIME
INDEX SECTION

Donald MARSHALL, Jr.
Non-Capital Murder
Sydney, N.S.

Sec. 206(2) C.C.C.
71-05-28/29

REC 403

that her father was responsible for the murder. Miss EBSARY feared her father and wished the matter reported to the Police. RATCHFORD attempted to interest Detective William URQUHART, Sydney City Police, however, nothing was done. He then reported same to Cst. Gary GREEN presently of our Sackville Detachment of the R.C.M.P. Cst. GREEN confirms this and states that he discussed the matter with Detective W.A. URQUHART and received a rather cool reception. As the case was originally investigated by the Sydney City Police, Cst. GREEN felt he had advised the force responsible and he personally took no further action.

5. Also on the 29th of March, 1982, one Deborah Marlene MacDONALD COUTURE contacted this office and stated she had information in relation to this case. She was interviewed by Cst. D. HYDE and the attached statement taken. Mrs. COUTURE tells somewhat the same story as RATCHFORD with the venue being Boston where Donna EBSARY was moving to and still resides. Donna EBSARY was contacted by telephone on the 2nd day of April, 1982. She confirmed that she had gone to the kitchen on the 28/29th of May, 1971. She stated that she saw her father washing something off in the sink and he had blood on his hands. She did not mention seeing blood on his shirt or coat but did state he was wearing his blue burbery over his shoulders like a cape. She confirmed the conversation between EBSARY and McNEIL but used the word "fellow" instead of "nigger". She also recalled her father telling McNEIL not to go through the Park on the way home but to cut through the fields on his way home. As Miss EBSARY resides in Boston the foregoing has not been tied down by a formal written statement or face to face interview.

6. Also as a result of press coverage, Ms. Barbara Mary FLOYD of 121 Inglis St., Sydney, N.S., contacted this office and requested an interview. As so many other witnesses, she advised this case has been bothering her for eleven years. She stated that she had attended the dance at St. Joseph's Hall on the evening in question with her two friends, Sandra COTIE, Nee: McNEIL, and Joan CLEMENTS. Upon leaving the dance they were advised not to go down to the Park as there had been a stabbing. As they walked down the sidewalk she observed John PRATICO arguing with Ricky RISK. Sandra COTIE was interviewed and she stated that she saw PRATICO near St. Joseph's Hall and that he followed them down George Street to the area of the Park. At this time the murder had already been committed. Both girls know PRATICO and felt that it would be most unusual for him to witness a murder and then come up to the dance hall and walk around and never say anything. It might also be noted that in his original statements, PRATICO stated he ran home after viewing the murder. Ricky RISK was interviewed and he could neither confirm or deny that PRATICO was at the dance as he just does not remember. Barbara FLOYD also advised that she brought this matter to the attention of one of the lawyers mentioned in the papers. She could not recall whether it was a Prosecution or Defense lawyer.

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Donald MARSHALL, Jr.
Non-Capital Murder
Sydney, N.S.

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Sec. 206(2) C.C.C.
71-05-28/29


PCMP 403

7. A short resume of evidence available in relation to a charge against EBSARY is as follows:

- (a) Direct evidence of James McNEIL stating he was present when EBSARY stabbed SEALE.
- (b) Direct evidence of Donald MARSHALL, Jr., in relation to the robbery attempt and the subsequent stabbing.
- (c) Evidence of Mary EBSARY, a competent but not compellable witness re conversation and general dress and background.
- (d) Evidence of Donna EBSARY in regards to conversation in presence of accused.
- (e) Lab evidence of a total of twenty fibers belonging to the jackets of SEALE and MARSHALL.
- (f) Verbal admission to S/Sgt. WHEATON over phone.
- (g) Verbal and written admission to Cpl. J.E. CARROLL stating he knew MARSHALL did not stab SEALE.
- (h) Numerous witnesses, plans, pictures, continuity of original exhibits, etc.
- (i) Admission to Mitchell Bain SARSON.
- (j) Admission to Mr. & Mrs. MARSHALL that their son is innocent.

8. All facts concerning this case have been made known to Crown Prosecutor, F.E. EDWARDS and thoroughly discussed. The Crown Prosecutor feels confident in laying a charge of non-capital murder against Mr. EBSARY and I concur with him fully. Investigation to continue and any instructions awaited.

S.U.I.


(H.F. WHEATON) S/Sgt.
P.C. Co-ordinator
Sydney Sub/Div. G.I.S.

Donald MARSHALL, Jr.
Non-Capital Murder
Sydney, N.S.

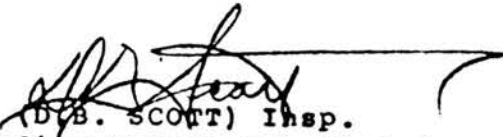
89 Sec. 206(2) C.C.C.
71-05-28/29

Revised 403

OFFICER I/C C.I.B.

9. FORWARDED 82-04-06. On 82-04-05 Chief John MacINTYRE was requested to come to this Sub/Division building to be brought up to date concerning this investigation. All new statements and information obtained since his last briefing were made known to him. Chief MacINTYRE was asked if there was any other avenues we should explore either of a rebuttal nature or in obtaining new evidence. He could not offer any suggestions in this regard.

10. In view of the foregoing, a further report will be submitted immediately upon receipt of the Lab report which outlines conclusively the fibers found on the suspected murder weapon. This report and the lab members evidence conclusively tie-in EBSARY with SEALE and MARSHALL.


(D.B. SCOTT) Insp.
Commanding Sydney Sub/Division

RCMP 230

OTHER FILE REFERENCES: REF. AUTRES DOSSIERS:	90	DIVISION "H"	DATE 82-04-07	RCMP FILE REFERENCES: REF. DOSSIERS GRC: 82-77 71H-010-6
		SUB-DIVISION / SOUS-DIVISION Sydney, N.S.		
		DETACHMENT - DETACHEMENT Sub/Div. G.I.S.		

RE: - OBJET: Donald MARSHALL, Jr.
Non-Capital Murder
Sydney, N.S. 71-05-28/29

RCMP 230

1. Please find attached hereto Crime Detection Laboratory Report of C/M A.J. EVERS, member in charge of Hair & Fiber Section. The ten knives were found together in a basket. The knife picked out by Mrs. EBSARY as being the knife normally carried by her husband during May of 1971 is knife # 8. Exhibit eight contained eight synthetic fibers and the tape from the handle of knife eight contained two synthetic fibers.

2. To further clarify C/M EVERS report, Exhibit "A" is the yellow jacket worn by MARSHALL on the night in question. Exhibit "B" is the brown jacket worn by the deceased, SEALE. This jacket consists of a wool outer covering and a pellow inner lining. All fibers mentioned in conclusion (1) are from the pellow inner lining. Conclusion (2) refers to the outer lining of the SEALE jacket. Conclusion (3) refers to the jacket worn by MARSHALL.

3. In reference to the basket which held the knives, the four fibers found in the basket are from the pellow inner lining of the SEALE jacket.

H.F. Wheaton
(H.F. WHEATON) S/Sgt.
P.C. Co-or. Sydney Sub/Div. GIS

DEPT. ATT. GEN.
ATT:
DIV. FILE #

APR 13

RCMP - HALIFAX, N.S.

MARITIME CRIME
INDEX SECTION

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414

CRIME DETECTION LABORATORY REPORT

RAPPORT DES LABORATOIRES JUDICIAIRES

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C.D. Laboratory - Lab. jud Sackville, N.B.	Lab. File No. - Dossier du lab. no 71S588	Date 82-04-01 <i>Remise 3/6</i>
Section Hair & Fibre - 82-04-01	Code No. - No de code C.N. 33	Lab. Report No. - Rapport du lab. no Second
		Your File No. - Votre dossier no 82-77

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À
The N.C.O. i/c Sydney Sub/Div. G.I.S.,
R.C.M. Police,
SYDNEY, N.S.

Reference - Référence
Donald MARSHALL Jr.
Non-Capital Murder
Sydney, N.S. 71-05-28/29

COPIES TO - COPIES À

1. GENERAL:

The following exhibits were received personally from C/M R.A. MacAlpine of the Halifax Serology Section on 82-03-17.

- Exhibit 1: one copper handled knife.
- Exhibit 2: one copper handled knife.
- Exhibit 3: one copper handled knife.
- Exhibit 4: one copper handled knife.
- Exhibit 5: one bread knife.
- Exhibit 6: one bread knife.
- Exhibit 7: one green handled knife.
- Exhibit 8: one green handled knife with tape.
- Exhibit 9: one butcher knife with broken blade.
- Exhibit 10: one butcher knife.

• PURPOSE:

To examine exhibits 1 to 10 inclusive for the presence of any fibres consistent with the fibres composing exhibits A and/or B, a yellow jacket and a brown coat, as described in Laboratory Report 71S588 dated 29 June 1971.

• DATA:

Exhibits 1 to 10 inclusive were examined microscopically for the presence of any fibres consistent with the fibres composing exhibits A or B.

CONCLUSIONS:


- (1) One synthetic fibre from exhibit 1, one synthetic fibre from exhibit 2, four synthetic fibres from exhibit 6, eight synthetic fibres from exhibit 8, two synthetic fibres from exhibit 9, two synthetic fibres from exhibit 10 and two synthetic fibres from the piece of tape present in the envelope are consistent with synthetic fibres composing the coat, exhibit B.
- (2) One light brown wool fibre from exhibit 8 and two light brown wool fibres from inside the envelope are consistent with light brown wool fibres composing the coat, exhibit B.
- (3) Three synthetic fibres removed from exhibit 8 are consistent with synthetic fibres composing the jacket, exhibit A. (C)

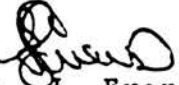


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Référence	Lab. File No. - Dossier du lab. n°	Page
RE: Donald Marshall Jr. Non-Capital Murder Sydney, N.S. 71-05-28/29	71S588	2

f 2002 000

5. REMARKS: (1) Exhibits 1 to 10 inclusive were returned to C/M R.A. MacAlpine of the Halifax Serology Section on 82-03-18. 

Submitted by:  C/M.
A. J. Evers, B.A.
i/c Hair and Fibre Section.

AJE/mgl

CRIME DETECTION LABORATORY REPORT

RAPPORT DES LABORATOIRES JUDICIAIRES

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C.D. Laboratory - Lab jud Sackville, N.B.	Lab File No. - Dossier du lab no 71S588	Date 82-04-05
Section Hair & Fibre - 82-04-05	Code No. - No de code C.N. 33	Lab Report No. - Rapport du lab no Third <i>R(n?) 000</i>
		Your File No. - Votre dossier no 82-77

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The N.C.O. i/c Sydney Sub/Div. G.I.S.,
R.C.M. Police,
SYDNEY, N.S. ATT: S/Sgt. H.F. Wheaton

Reference - Réfrence Donald MARSHALL Jr. Non-Capital Murder Sydney, N.S. 71-05-28/29
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COPIES TO - COPIES À

- GENERAL: The following exhibit was received personally from Sgt. Guy Arsenault at this laboratory on 82-03-26:

 Exhibit 11: one cardboard basket.
- PURPOSE: To examine exhibit 11 for the presence of any fibres consistent with fibres composing exhibits A and B as described in Laboratory Report 71S588 dated 29 June 1971.
- DATA: Exhibit 11 was examined microscopically for the presence of any significant fibres.
- CONCLUSIONS: Four synthetic fibres removed from exhibit 11 are consistent with synthetic fibres composing the brown coat, exhibit B.
- REMARKS: Exhibit 11 is returned herewith via registered mail to the P.C. Co-ordinator Sydney Sub/Div. G.I.S. att'n S/Sgt. H.F. Wheaton.

Submitted by: *[Signature]* C/M.,
A.J. Evers, B.A.
i/c Hair & Fibre Section.

JE'kgt

82-04-08

The Deputy Attorney General
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

71H-010-6

Attention: Mr. Gordon S. Gale

Re: Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.
Sydney, N.S. 71-05-28/29

Attached is latest report submitted by Sydney General
Investigation Section covering the latest interviews
and available evidence.

D.S. Webster, Insp.,
Division Intelligence Officer

DCS/lmm
Encl.

3139 Oxford Street
P.O. Box 2286
Halifax, N.S.
B3J 3E1



MARITIME CRIME
INDEX SECTION

11
2-14-68
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DEPARTMENT
OF
ATTORNEY GENERAL
NOVA SCOTIA

P. O. BOX 7
HALIFAX, NOVA SCOTIA
B3J 2L6


Our File: 09-82-0236-0

April 14, 1982

C. O. "H" Division
R.C.M.P.
3139 Oxford Street
P. O. Box 2286
Halifax, Nova Scotia
B3J 3E1

Re: Donald Marshall, Jr.
Noncapital Murder, Sec. 206(2) C.C.
Sydney, Nova Scotia
(Sydney City Police Case) - Their File 71H-010-6

Enclosed for your information is the copy of a letter from Ebsary to Marshall which was given to me by Stephen Aronson, Counsel for Marshall, when he met with me on March 31st. I understand that Mr. Aronson has the original. I am forwarding this to you for whatever use it may be.


Gordon S. Gale
Director (Criminal)

GSG:jd
Enclosure

*Copy to Sydney
8/2/84/16*

21/2/82.....

RCMP 2 308

Mr Don!..... I've tried to reach you by phone but no luck....

I'm collaborating with the R.V.M.P. To get you out of there.....

I can't do much until after the 5th of March

Yesterday at my request I met your dad and Mom

I've been badly beaten-up//can't walk can't see too well

Having failed to reach you via phone the R.V.M.P. suggest I drop you
a line your letter was stolen as well as a sum of money
while I was unconscious..... Police investigation etc etc

no favorable results..... I'm not running kid

I'm in your corner I'll do all I can to get you free

I promised your mom and Dad that, yesterday

I can't see too well but I trust you got the message

I'm in your corner anyhow

I'm sorry kid things turned out this way the kid.....

but it is "written....." the truth shall set you free

you see old boy I only act as I was trained

There's a lot to be taken into consideration.....

... a letter

the months you've spent in solitude.....

I too have spent in solitude.....

I listen to no one

I have no friends

every moment you have spent alone

I too have been alone

alone we get to know ourselves

any way hope for the best

Sincerely

Capt' P. N. Ebsary...DCM. CMG.

RE: - OBJET:

Donald MARSHALL, Jr.
Non-Capital Murder
SYDNEY, N.S. 71-05-28/29

APR 26 1982

Further to conversation with Officer Commanding Sydney Sub/Division, with reference to Chief McINTYRE's recent visit to the Department of the Attorney General, please be advised that Donald MARSHALL was on a 1-week day parole granted by The National Parole Board, in September of 1979. The purpose of this Parole was to partake in canoeing activities on the Eastern Shore of Nova Scotia.

MARSHALL did not return to Dorchester with the other inmates. He was subsequently found at the home of Shelly SARSON, sister of witness mentioned in paragraph 16 of previous report dated the 22nd of March, 1982. The following is the content of paragraph 16.

"Mitchell Bayne SARSON of 11 Twining St. Pictou, N.S. was interviewed, see Statement No. 17. It will be noted that SARSON met Donald MARSHALL, Jr. in Dorchester, and had several discussions with him. The possibility of collusion between MARSHALL and SARSON cannot be precluded. However, SARSON says that EBSARY told him he stabbed SEALE and is willing to take a Polygraph to this effect. It should also be mentioned that SARSON has been convicted of Possession for the Purpose of Trafficking and is known to Pictou Detachment as a trafficker in marihuana".

Since the interview of Mitchell Bayne SARSON and submission of previous report, a considerable amount of investigation has been completed. I feel that the following are the reasons for SARSON coming forward in this matter:

- (a) EBSARY successfully completed his Polygraph in November of 1971. He then remained in his home as a total recluse until 1979, at which time Mitchell SARSON entered the home.
- (b) EBSARY resumed his homosexual activities with SARSON, began drinking, and roaming the streets again. There can be no doubt that these two individuals had a very close relationship, and this undoubtedly led EBSARY to confide in SARSON.
- (c) Mrs. EBSARY and son, Gregory, ejected EBSARY and SARSON, from the home in 1980, and they continued a very close homosexual relationship until late 1980 when a rift took place between the two, leaving SARSON bitter towards EBSARY, and returning to Pictou.

Donald MARSHALL, Jr.
Non-Capital Murder,
SYDNEY, N.S.

98


2

71-05-28/29

CONT'D FROM PAGE ONE

- (d) Due to the previously described association between the SARSON family and MARSHALL, the admission was made known to MARSHALL and thus to his Solicitor.

SARSON was questioned closely as to the veracity of his allegations and is adamant that EBSARY confessed to him that he had stabbed SEALE in 1971. When asked if he would take a Polygraph test in this regard he responded in the affirmative with no hesitation.


H.F. WHEATON, S/Sgt.
P.C. Co-or. Sydney Sub/Division GIS.

ATTORNEY GENERAL
NOVA SCOTIA

Our File: 09-82-0236-08

P. O. Box 7
Halifax, Nova Scotia
B3J 2L6

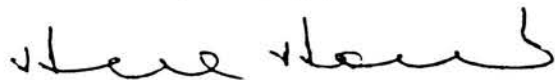
April 20, 1982

Mr. John MacIntyre
Chief of Police
Civic Centre, Esplanade,
Sydney, Nova Scotia
B1P 6H7

Dear Mr. MacIntyre:

Pursuant to Section 31(2) of the Police Act I hereby request you to deliver to Staff Sergeant H. F. Wheaton of the Sydney Sub-Division of the R. C. M. Police all warrants, papers, exhibits, photographs and other information or records in your possession or under your control dealing with the Donald Marshall, Jr. case commencing with the initial investigation in 1971.

Yours very truly,



Harry W. How, Q.C.



SCMP 311

ATTORNEY GENERAL
NOVA SCOTIA

Our File: 09-82-0236-08

P. O. Box 7
Halifax, Nova Scotia
B3J 2L6

April 20, 1982

Mr. Manning MacDonald
Mayor of Sydney
P. O. Box 730
Sydney, Nova Scotia
B1P 6H7

Your Worship Mayor MacDonald:

I am writing to you in your capacity as Chairman of the Sydney Board of Police Commissioners. Under Section 31 of the Police Act I wish to advise you that I am removing from the Sydney Police Department the investigation of the Donald Marshall, Jr. case and any matters arising therefrom and the R. C. M. Police will assume all matters connected with that investigation.

I am also writing to the Chief of Police requesting that he deliver to the R.C.M.P. all matters in his possession or under his control relating to the Donald Marshall, Jr. case.

Yours very truly,

Harry W. How, Q.C.



DEPARTMENT
OF
ATTORNEY GENERAL
NOVA SCOTIA

RCMP 312

P. O. BOX 7
HALIFAX, NOVA SCOTIA
B3J 2L6

Our File: 09-82-0236-08

April 21, 1982

C. O. "H" Division
R.C.M.P.
3139 Oxford Street
P. O. Box 2286
Halifax, Nova Scotia
B3J 3E1

Re: Donald MARSHALL, Jr.
Non-capital Murder, Sec. 206(2) C.C.
Sydney, N.S.
(Sydney City Police Case)
Your File: 71H-010-6

Enclosed is a copy of a letter sent to the Mayor of Sydney as Chairman of the Board of Police Commissioners and a copy of a letter sent to the Chief of Police in Sydney requesting that he turnover all material in regard to the Marshall case to Staff Sergeant Wheaton.

Gordon S. Gale
Director (Criminal)

GSG:jd
Enclosures

RCA 12 311

ATTORNEY GENERAL
NOVA SCOTIA

Our File: 09-82-0236-08

P. O. Box 7
Halifax, Nova Scotia
B3J 2L6

April 20, 1982

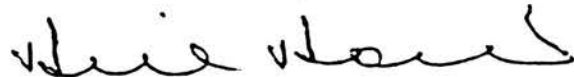
Mr. Manning MacDonald
Mayor of Sydney
P. O. Box 730
Sydney, Nova Scotia
B1P 6H7

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I am also writing to the Chief of Police requesting that he deliver to the R.C.M.P. all matters in his possession or under his control relating to the Donald Marshall, Jr. case.

Yours very truly,



Harry W. How, Q.C.


ATTORNEY GENERAL
CANADA

RCMP 310

Our File: 09-82-0236-08

P. O. Box 7
Halifax, Nova Scotia
B3J 2L6

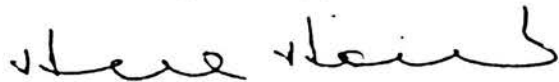
April 20, 1982

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Chief of Police
Civic Centre, Esplanade,
Sydney, Nova Scotia
B1P 6H7

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I hereby request you to deliver to Staff Sergeant H. F.
Wheaton of the Sydney Sub-Division of the R. C. M. Police
all warrants, papers, exhibits, photographs and other infor-
mation or records in your possession or under your control
dealing with the Donald Marshall, Jr. case commencing with the
initial investigation in 1971.

Yours very truly,



Harry W. How, Q.C.



Commissioner, Ottawa

Attn: D.C.I.

Officer i/c C.I.B.
"H" Division, Halifax, N.S.

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE / NOTRE RÉFÉRENCE 71H-010-6
YOUR FILE / VOTRE RÉFÉRENCE
DATE 82-04-26

SUBJECT
OBJET

Donald MARSHALL, Jr.
Non-Capital Murder
Sydney, N.S. 71-05-28/29

Please find attached all correspondence relating to this matter since the re-opening of the investigation by this Force.

As noted in correspondence from the Deputy Attorney General, he has directed all material held by the Sydney City Police in connection with this investigation be turned over to our Sydney G.I.S.

All future correspondence will be forwarded for your information.

D.F. Christen, Supt.,
Officer i/c C.I.B.

Encl.

DCS/lmm

02.07.23
57
[Signature]

OTHER FILE REFERENCES:
REF. AUTRES DOSSIERS:

105

DIVISION "H"

DATE
82-04-19

RCMP FILE REFERENCES:
REF. DOSSIERS GRC:

RCMP 2 342

SUB-DIVISION / SOUS-DIVISION

Sydney

82-77

DETACHMENT - DETACHEMENT
Sub/Div. G.I.S.

RE: - OBJET:

Donald MARSHALL, Jr.
Non-Capital Murder
SYDNEY, N.S. 71-05-28/29

1982

Further to conversation with Officer Commanding Sydney Sub/Division, with reference to Chief McINTYRE's recent visit to the Department of the Attorney General, please be advised that Donald MARSHALL was on a 1-week day parole granted by The National Parole Board, in September of 1979. The purpose of this Parole was to partake in canoeing activities on the Eastern Shore of Nova Scotia.

MARSHALL did not return to Dorchester with the other inmates. He was subsequently found at the home of Shelly SARSON, sister of witness mentioned in paragraph 16 of previous report dated the 22nd of March, 1982. The following is the content of paragraph 16.

"Mitchell Bayne SARSON of 11 Twining St. Pictou, N.S. was interviewed, see Statement No. 17. It will be noted that SARSON met Donald MARSHALL, Jr. in Dorchester, and had several discussions with him. The possibility of collusion between MARSHALL and SARSON cannot be precluded. However, SARSON says that EBSARY told him he stabbed SEALE and is willing to take a Polygraph to this effect. It should also be mentioned that SARSON has been convicted of Possession for the Purpose of Trafficking and is known to Pictou Detachment as a trafficker in marihuana".

Since the interview of Mitchell Bayne SARSON and submission of previous report, a considerable amount of investigation has been completed. I feel that the following are the reasons for SARSON coming forward in this matter:

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- (b) EBSARY resumed his homosexual activities with SARSON, began drinking, and roaming the streets again. There can be no doubt that these two individuals had a very close relationship, and this undoubtedly led EBSARY to confide in SARSON.
- (c) Mrs. EBSARY and son, Gregory, ejected EBSARY and SARSON, from the home in 1980, and they continued a very close homosexual relationship until late 1980 when a rift took place between the two, leaving SARSON bitter towards EBSARY, and returning to Pictou.

Donald MARSHALL, Jr.
Non-Capital Murder,
SYDNEY, N.S.

2

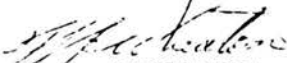
71-05-28/29

RCMP 342

CONT'D FROM PAGE ONE

- (d) Due to the previously described association between the SARSON family and MARSHALL, the admission was made known to MARSHALL and thus to his Solicitor.

SARSON was questioned closely as to the veracity of his allegations and is adamant that EBSARY confessed to him that he had stabbed SEALE in 1971. When asked if he would take a Polygraph test in this regard he responded in the affirmative with no hesitation.


H.F. WHEATON, S/Sgt.
P.C. Co-or. Sydney Sub/Division GIS.

82-04-26

The Deputy Attorney General
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

09-82-0236-08

71H-010-6

Attention: Mr. Gordon S. Gale

Re: Donald MARSHALL, Jr.
Non-Capital Murder
Sydney, N.S. 71-05-28/29

Please find attached, recent correspondence submitted
by Sydney G.I.S.

This correspondence outlines background information on
Mitchell Bayne SARSON, who would be a crucial witness in
any future charges against EBSARY. Apparently Chief
MacINTYRE, when in earlier conversation with you,
questioned the reliability of SARSON as a witness.

You will be advised as the investigation continues.

D.F. Christan, Supt.,
Officer i/c C.I.B.

DCS/lmm
Encl.

3139 Oxford Street
P.O. Box 2286
Halifax, N.S.

1
82-04-26
LM

RCMP 108

OTHER FILE REFERENCES: REF. AUTRES DOSSIERS:	DIVISION	DATE	RCMP FILE REFERENCES: REF. DOSSIERS GRC: 108
	"H"	82-05-04	
	SUB-DIVISION / SOUS-DIVISION		
	Sydney, N.S.		82-77
	DETACHMENT - DETACHEMENT		
	Sub/Div. G.I.S.		

RE: - OBJET: Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.
Sydney, N.S. 71-05-28/29

1. Investigation has continued in regards to the noted case and the following is submitted to update same. In p.c.r. dated 82-04-06 in paragraph two it was noted that a blue burbery coat believed worn by Mr. EBSARY at the time of the murder had been seized and forwarded for blood and fiber analysis. The noted tests were completed with negative results other than there were several cuts present on the lining of the burbery.

2. On 82-04-17 Donna EBSARY, daughter of Roy EBSARY, arrived in Sydney from her home in Boston. An interview was conducted and the attached statement obtained. Miss EBSARY is a young lady 25 years of age, a grade 12 graduate with three years of college who left this area to take up residence in the U.S.A. because of her father's bizarr behavior. She was also interviewed by Crown Prosecutor F.C. EDWARDS and it was the opinion of both the Crown and myself that she would make a good witness.

3. Maynard CHANT, one of the alleged eye witnesses in this case, as well as his mother were interviewed in regards to this offenc as well as to the nature of the taking of the various statements from him. Please find attached statements from the aforementioned as well as Probation Officer Larry BURKE and Sheriff Wayne McGEE who according to Chief MacINTYRE were present when this statement was obtained. On 82-04-26 Chief MacINTYRE handed over to the writer the file in regards to this case as held by the Sydney City Police as per instructions of the Department of the Attorney General. The original handwritten statement taken by Chief MacINTYRE from CHANT on 71-06-04 was located, copies attached. As can be seen, each page is signed by Maynard CHANT Sgt. Detective John MacINTYRE and Sgt. William URQUHART as well as the page which ends the statement. The other persons' signatures, who Chief MacINTYRE states were present, are not to be found on each page, however, a separate page is appended to the statement with the names "Beudah CHANT, Lawrence BURKE, Chief Wayne R. MacGEE, Det. URQUHART and myself" which appear to be in the hand of Chief MacINTYRE rather than individual signatures.


4. In analysing the various correspondence turned over by Chief MacINTYRE a statement was noted taken from Mary Patricia O'REILL age 14, of 23 Cross St., Sydney, N.S. On page two of this statement Miss O'REILLEY states that she told Patricia HARRISS "that there was supposed to be a grey haired man there. I told her if she was questio ed by the police she should tell about the grey haired man that Junior told me about". This statement was taken by Chief MacINTYRE and Det. URQUHART on 71-06-18 at 9:50 A.M. The HARRISS statement in which she says she saw only MARSHALL and SEALE was taken at 1:20 A.M. on 71-06-18 with the interrogation leading up to this beginning some five to

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

Cont'd

six hours earlier on 71-06-17. Mary O'REILLEY is now married and resides in Calgary. She has been contacted through her father, Joseph O'REILLEY, and denies trying to influence Patricia HARRISS in any way. Both Miss HARRISS and Miss O'REILLEY have advised they knew one another only casually at this time and could offer no explanation as to why this would have been in this statement. Mary O'REILLEY recalled being interviewed by the police and advises she was extremely frightened and upset and may very well have signed anything. Copy of this statement attached. It might be noted that there were no parents present when this statement was taken.

5. On 82-04-30 Mr. EBSARY appeared before Judge C. O'CONNELL on his present charge. The case was adjourned to 82-05-07 at which time Doctor Syed Naveed AKHTAR, M.D., Director, Forensic Service at the Nova Scotia Hospital, will give evidence in regards to Mr. EBSARY's mental health. Copy of Dr. AKHTAR's report attached. Crown Prosecutor F.C. EDWARDS indicates that EBSARY will be placed on a Lieutenant Governor's warrant when he appears on 82-05-07. As this investigation has become somewhat involved, a booklet has been compiled to further clarify same. This booklet contains all pertinent data known to date.


(W.F. WHEATON) S/Sgt.
P.C. Co-ordinator
Sydney Sub/Division G.I.S.

RE OBJET

PAGE

Statement of notes taken from Dr. F.M. NAQUI

Interviewed 82-05-05

RCMP 283
110

Dr. NAQUI advised that he could not recall the length of the wound in SEALE's stomach. The point of entry was to the left of center of the stomach. The knife entered the body and ran through to the back bone in a more or less horizontal fashion. The knife therefore did not stab downward in an overhand fashion.

The wound itself was opened from the breast bone to the Pubic and operation number 1 conducted. When SEALE failed to respond operation number 2 was conducted and the bleeding noted coming from the Aorta. The ribs were spread and the Aorta clamped off below the heart and repaired. Subject was basically too far gone and failed to respond and died.

No autopsy was conducted and I endeavoured to get some explanation of same and received no response. The height, weight and basics of the body are not known. From my investigation I feel that SEALE was a sturdy, young man, sixteen years of age, approximately 5 ft. 8 in. tall with a weight of approximately 150--160 pounds, this is based on photographs and descriptions gleaned during investigation.

In going over the various organs severed I endeavoured to ascertain the length of the knife that would have been used keeping in mind the above. Dr. NAQUI giving consideration stated that the knife would be 4½ " long. This might be used as a bench mark. It does after all agree with the murder weapon, however, I feel it would be dangerous to use for Court purposes.

(H.F. WHEATON) S/Sgt.
P.C. Co-ordinator
Sydney Sub/Division G.I.S.



The Officer i/c C.I.B.

The O.C. Sydney Sub/Division

SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE / NOTRE REFERENCE 82-77
YOUR FILE / VOTRE REFERENCE
DATE 82-05-05

SUBJECT Donald MARSHALL, Jr.
OBJET Non-Capital Murder, Sec. 206(2) CCC
Sydney, N.S.
71-05-28/29

Attached is a booklet containing a summary of events as they were known in 1971, and as they are now known in 1982. There is a map showing the scene of the Murder and there is a flow chart showing the events as they occurred during 1971, and also showing the results of our investigation in 1982.

For each key witness we have made a chapter in this book which includes all his/her statements and testimony during the Supreme Court trial, and any corroborating statements which may involve that witness. Each chapter starts with a profile of the person and how he was involved in this case. After this is the individual's initial statement, and subsequent statements taken by the Sydney City Police, followed by the transcript of his/her evidence at the Supreme Court trial, and then statements given to this Force in 1982.

The purpose of putting this book together is so you can follow the sequence of events for each witness and allow the reader to judge for himself why the witnesses lied in their statements to the police and during the trial of MARSHALL. There is no new evidence in this book; however, the clarity will allow the reader to better understand the whole investigation.

I believe that we have followed all avenues with respect to whether or not MARSHALL is guilty of this offence. This was hampered to some extent because of the time lapse from 1971-1982, and because certain pieces of information were not available, e.g., there was no police report written by the Sydney City Police tying in the investigation; there was no Crown Brief prepared by the City Police; there was no autopsy performed on the deceased; there were no photographs taken during the investigation; we know that a lineup was held from newspaper accounts and Chief McINTYRE's testimony at the Preliminary Hearing; however, no one can tell us who was in the lineup or who viewed it; PRACTICO, who was a

- 2 -

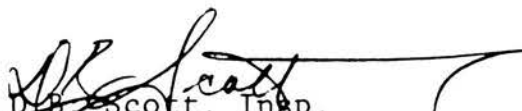
82-77

THE OFFICER I/C CIB

re: Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.

....key witness, comes to light two days after the Murder, no one can tell us how he was discovered to be a witness to this Murder.

I believe that the facts we have submitted show that Donald MARSHALL was not responsible for this Murder in 1971, and that sufficient evidence is available to prove that Roy EBSARY is the person responsible for the murder of SEALE. There are still avenues of investigation we are exploring; however, none of them are critical to the decision-making process as to MARSHALL's guilt or innocence in this case. They will be reported on as soon as completed by Sydney Sub/Division G.I.S.


D.B. Scott, Insp.
Commanding Sydney Sub/Division

Commissioner, Ottawa

Attention: D.C.I.

Officer i/c C.I.B.
"H" Division

SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE / NOTRE REFERENCE 71H-010-6
YOUR FILE / VOTRE REFERENCE
DATE 82-05-10

SUBJECT
OBJET

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.
Sydney, N.S. 71-05-28/29

I am attaching copies of most recent investigative material dealing with this investigation. As you will note, with the exception of some minor inquiries the investigation is almost complete.

You will be advised in due course of the recommendations to the Minister of Justice by the Attorney General of Nova Scotia as to the further disposition of this case.

D. F. Christer, Supt.
Officer i/c C.I.B.

Encls.

DFC/rjb

PA
82-05-10
R/S



TO
À

O.C. Sydney Sub-Division

FROM
DE

Officer i/c C.I.B.

SECURITY · CLASSIFICATION · DE SÉCURITÉ
OUR FILE / NOTRE RÉFÉRENCE 71H-010-6
YOUR FILE / VOTRE RÉFÉRENCE 82-77
DATE 82-05-10

SUBJECT
OBJET

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.
Sydney, N.S. 71-05-28/29

I have just reviewed the most recent correspondence submitted in connection with this investigation. The flow chart and chronicling of events provides the uninformed with an easy and ready reference to the facts as known in this case. I wish to express my appreciation to S/Sgt. H. F. Wheaton for a job well done and to the other members who have been involved in this investigation and who were instrumental in compiling this book.

Would you please pass on my comments to all the members who have been involved in this investigation.

D. F. Christen, Supt.
Officer i/c C.I.B.

82S-0042

Sydney Sub/Division P.C. Co-Ordinator, ✓
NCO i/c Inverness Det.

FORWARDED 82-05-13 for your information. I would also like to add my congratulations for a job well done. Please pass on this information to the members of your command who were involved in this investigation, as well as Mrs. Donna BOTTE for her part in compiling this report.

D.B. Scott
D.B. Scott, Insp.
Commanding Sydney Sub/Division

82-05-10

09-82-0236-08

The Deputy Attorney General,
P.O. Box 7,
Halifax, Nova Scotia
B3J 2L6

71H-010-6

Attention: Mr. Gordon Gale

Re: Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.
Sydney, N.S. 71-05-28/29

Further to my memorandum to you dated 82-04-26, kindly find the following correspondence attached.

Correspondence from S/Sgt. H.F. Wheaton dated 82-05-04 together with attachments.

Correspondence from Insp. D.B. Scott dated 82-05-05.

Red book containing summary of events as known in 1971 and as now known in 1982.

The statements made by witnesses to the police at the beginning of this investigation in 1971 and the information contained in more recent statements taken from these as well as additional witnesses are quite explicit. These statements together with the physical evidence still available suggests this offence was not committed by Donald MARSHALL, Junior, as originally believed, but rather, by Roy EBSARY. As indicated by Insp. Scott there are minor avenues of investigation to be explored such as interviewing members of the Sydney City Police who were involved in the original investigation to determine if there is anything further they can add and also to interview Doctor F.M. Naquvi, Sydney, N.S. As there was no autopsy performed, it would be our intention to attempt to determine through Doctor Naquvi the direction of the knife wound, the depth of the wound and the length of the blade inflicting the wound. You will be further advised when this has been done.

D. F. Christen, Supt.
Officer i/c C.I.B.

Encls.
3139 Oxford Street
P.O. Box 2286
Halifax, N. S.
B3J 3E1

DA
82-05-10
RJA

DFC/rjb

116

OTHER FILE REFERENCES: REF. AUTRES DOSSIERS:	DIVISION	DATE	RCMP FILE REFERENCES: REF. DOSSIERS GRC:
	"H"	82-05-04	
	SUB-DIVISION / SOUS-DIVISION		
	Sydney, N.S.		82-77
	DETACHMENT - DETACHEMENT		
	Sub/Div. G.I.S.		RCMP 343

RE: - OBJET: Donald MARSHALL, Jr.
 Non-Capital Murder, Sec. 206(2) C.C.C.
 Sydney, N.S. 71-05-28/29

1. Investigation has continued in regards to the noted case and the following is submitted to update same. In p.c.r. dated 82-04-06 in paragraph two it was noted that a blue burbery coat believed worn by Mr. EBSARY at the time of the murder had been seized and forwarded for blood and fiber analysis. The noted tests were completed with negative results other than there were several cuts present on the lining of the burbery.

2. On 82-04-17 Donna EBSARY, daughter of Roy EBSARY, arrived in Sydney from her home in Boston. An interview was conducted and the attached statement obtained. Miss EBSARY is a young lady 25 years of age, a grade 12 graduate with three years of college who left this area to take up residence in the U.S.A. because of her father's bizarre behavior. She was also interviewed by Crown Prosecutor F.C. EDWARDS and it was the opinion of both the Crown and myself that she would make a good witness.

3. Maynard CHANT, one of the alleged eye witnesses in this case, as well as his mother were interviewed in regards to this offence as well as to the nature of the taking of the various statements from him. Please find attached statements from the aforementioned as well as Probation Officer Larry BURKE and Sheriff Wayne McGEE who according to Chief MacINTYRE were present when this statement was obtained. On 82-04-26 Chief MacINTYRE handed over to the writer the file in regards to this case as held by the Sydney City Police as per instructions of the Department of the Attorney General. The original handwritten statement taken by Chief MacINTYRE from CHANT on 71-06-04 was located, copies attached. As can be seen, each page is signed by Maynard CHANT, Sgt. Detective John MacINTYRE and Sgt. William URQUHART as well as the page which ends the statement. The other persons' signatures, who Chief MacINTYRE states were present, are not to be found on each page, however, a separate page is appended to the statement with the names "Beudah CHANT, Lawrence BURKE, Chief Wayne R. MacGEE, Det. URQUHART and myself" which appear to be in the hand of Chief MacINTYRE rather than individual signatures.


4. In analysing the various correspondence turned over by Chief MacINTYRE a statement was noted taken from Mary Patricia O'REILLY age 14, of 23 Cross St., Sydney, N.S. On page two of this statement Miss O'REILLY states that she told Patricia HARRISS "that there was supposed to be a grey haired man there. I told her if she was questioned by the police she should tell about the grey haired man that Junior told me about". This statement was taken by Chief MacINTYRE and Det. URQUHART on 71-06-18 at 9:50 A.M. The HARRISS statement in which she says she saw only MARSHALL and SEALE was taken at 1:20 A.M. on 71-06-18 with the interrogation leading up to this beginning some five to

Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.

Cont'd Reports 393

six hours earlier on 71-06-17. Mary O'REILLEY is now married and resides in Calgary. She has been contacted through her father, Joseph O'REILLEY, and denies trying to influence Patricia HARRISS in any way. Both Miss HARRISS and Miss O'REILLEY have advised they knew one another only casually at this time and could offer no explanation as to why this would have been in this statement. Mary O'REILLEY recalled being interviewed by the police and advises she was extremely frightened and upset and may very well have signed anything. Copy of this statement attached. It might be noted that there were no parents present when this statement was taken.

5. On 82-04-30 Mr. EBSARY appeared before Judge C. O'CONNELL on his present charge. The case was adjourned to 82-05-07 at which time Doctor Syed Naveed AKHTAR, M.D., Director, Forensic Service at the Nova Scotia Hospital, will give evidence in regards to Mr. EBSARY's mental health. Copy of Dr. AKHTAR's report attached. Crown Prosecutor F.C. EDWARDS indicates that EBSARY will be placed on a Lieutenant Governor's warrant when he appears on 82-05-07. As this investigation has become somewhat involved, a booklet has been compiled to further clarify same. This booklet contains all pertinent data known to date.


(H.F. WHEATON) S/Sgt.
P.C. Co-ordinator
Sydney Sub/Division G.I.S.

The Officer i/c C.I.B.

The O.C. Sydney Sub/Division

SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE / NOTRE REFERENCE 82-77
YOUR FILE / VOTRE REFERENCE
DATE 82-05-05

SUBJECT Donald MARSHALL, Jr.
 OBJET Non-Capital Murder, Sec. 206(2) CCC
 Sydney, N.S.
 71-05-28/29

Attached is a booklet containing a summary of events as they were known in 1971, and as they are now known in 1982. There is a map showing the scene of the Murder and there is a flow chart showing the events as they occurred during 1971, and also showing the results of our investigation in 1982.

For each key witness we have made a chapter in this book which includes all his/her statements and testimony during the Supreme Court trial, and any corroborating statements which may involve that witness. Each chapter starts with a profile of the person and how he was involved in this case. After this is the individual's initial statement, and subsequent statements taken by the Sydney City Police, followed by the transcript of his/her evidence at the Supreme Court trial, and then statements given to this Force in 1982.

The purpose of putting this book together is so you can follow the sequence of events for each witness and allow the reader to judge for himself why the witnesses lied in their statements to the police and during the trial of MARSHALL. There is no new evidence in this book; however, the clarity will allow the reader to better understand the whole investigation.

I believe that we have followed all avenues with respect to whether or not MARSHALL is guilty of this offence. This was hampered to some extent because of the time lapse from 1971-1982, and because certain pieces of information were not available, e.g., there was no police report written by the Sydney City Police tying in the investigation; there was no Crown Brief prepared by the City Police; there was no autopsy performed on the deceased; there were no photographs taken during the investigation; we know that a lineup was held from newspaper accounts and Chief McINTYRE's testimony at the Preliminary Hearing; however, no one can tell us who was in the lineup or who viewed it; PRACTICO, who was a

- 2 -

82-77

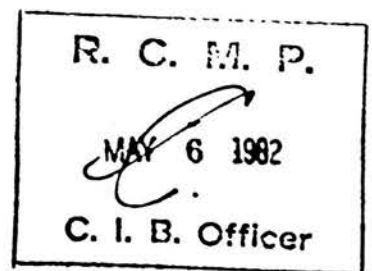
THE OFFICER I/C CIB

re: Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.

....key witness, comes to light two days after the Murder, no one can tell us how he was discovered to be a witness to this Murder.

I believe that the facts we have submitted show that Donald MARSHALL was not responsible for this Murder in 1971, and that sufficient evidence is available to prove that Roy EBSARY is the person responsible for the murder of SEALE. There are still avenues of investigation we are exploring; however, none of them are critical to the decision-making process as to MARSHALL's guilt or innocence in this case. They will be reported on as soon as completed by Sydney Sub/Division G.I.S.

D.B. Scott, Insp.
Commanding Sydney Sub/Division



RCMP 2 351

OTHER FILE REFERENCES: REF. AUTRES DOSSIERS:	DIVISION	DATE	RCMP FILE REFERENCES: REF. DOSSIERS GRC:
	"H"	82-05-20	
	SUB-DIVISION / SOUS-DIVISION		
	Sydney		82-77
	DETACHMENT - DÉTACHEMENT		120
	Sydney S/D GIS		

RE: - OBJET:

Donald MARSHALL, Jr.
Non-Capital Murder
Sydney, N.S.

410491A
Sec. 206(2) C.C.C.
71-05-28/29

Further to previous reports, please be advised that investigation has continued in regards to the above offence. It was noted in the interview of Donna EBSARY, daughter of Roy EBSARY, that in 1975 she overheard a conversation between her father and an uncle, Bob EBSARY, indicating that her father was responsible for this murder. Mrs. Mary EBSARY confirmed the visit of Robert and advised he lived in St. John's, Newfoundland.

2. A patrol was made to St. John's, and Robert EBSARY was interviewed. Some difficulty was encountered in locating EBSARY as he had changed his name from EBSARY to McLEAN. When the circumstances of this case were made known to him, he readily recalled the incident. He advised that he and Roy were upstairs in Roy's bedroom which was decorated like a ship. Roy was relating war stories, and he was taping same. He related a story of two people trying to rob him in a Park in Halifax. He further advised that he thwarted the robbery by stabbing one of the assailants. While telling this story, EBSARY became quite descriptive and made an underhanded stabbing motion. The next day Robert looked for the tape and EBSARY advised him that it was too dangerous to have around and he had destroyed it. Statement of Mr. McLEAN attached.

3. Members of the Sydney City Police, who were originally involved in this investigation, have been interviewed in regards to continuity of possession, identification of deceased and the various other aspects of this investigation which will be required to pursue the matter in any further court action. Self-explanatory statements from the various members are attached. It would appear at this juncture that all interviewing, compiling of the case and interviews with Crown Prosecutor, Donald C. MacNEIL, were handled by Chief MacINTYRE and Det. Inspector William URQUHART. The only evidence given by these two officers was by Chief MacINTYRE at Preliminary Hearing and not at Supreme Court. Copy attached.

4. In regards to the EBSARY and MARSHALL portions of this file, all avenues of investigation known to date have been completed. Discussions were held with Crown Prosecutor, Frank C. EDWARDS, in regards to interviewing Chief MacINTYRE and Insp. URQUHART in regards to the allegations of CHANT, PRATICO and HARRISS that they were induced to fabricate evidence in the original trial in this matter. Mr. EDWARDS has advised me that he further discussed the matter with

.../2



MARITIME CRIME


INDEX SECTION

Donald MARSHALL Jr.
Non-Capital Murder, Sec. 206(2) C.C.C.
Sydney, N.S. 71-05-28/29

RCMP 2 351

CONTINUED FROM PAGE ONE

Mr. Gordon GALE of the Attorney General's Department, and it was felt that these interviews should be held in abeyance for the present. This file will be held open pending further instructions as well as new areas of investigation which may come to light.


(H.F. WHEATON), S/Sgt.
Plain Clothes Co-ordinator
Sydney Sub/Division

HFW:lh

Attachments

TO: OFFICER I/C C.I.B.

FORWARDED 82-05-26 for your information.


(D.E. SCOTT) Insp.
Commanding Sydney Sub/Division

274

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Government of Canada

Gouvernement du Canada

MEMORANDUM

NOTE DE SERVICE

Commissioner, Ottawa

Attention: D.C.I.

Officer i/c C.I.B.
"H" Division

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE / NOTRE RÉFÉRENCE 71H-010-6
YOUR FILE / VOTRE RÉFÉRENCE
DATE 82-06-03

SUBJECT
OBJET

Donald MARSHALL, Jr.
Non-Capital Murder
Section 206(2) C.C.

My previous correspondence to you of 82-05-10 is in reference.

I gather from talking with Mr. Gordon Gale of the Attorney General's Department, the Attorney General of Nova Scotia, in referring this matter to the Minister of Justice, did not recommend any particular course of action to the Minister with respect to the granting of a pardon or returning the matter to the courts for a further ruling. As our correspondence has indicated, Roy EBSARY, the person suspected as being responsible for the murder of Alexander SEALE has now been committed to the Nova Scotia Mental Hospital on a Lieutenant-Governor's Warrant. Our investigation is now complete and the further direction of the Attorney General of Nova Scotia is being awaited.

D. F. Christen, Supt.
Officer i/c C.I.B.

DFC/rjb

82-06-03

The Deputy Attorney General
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

71H-010-6

Attention: Mr. Gordon S. Gale

Re: Donald MARSHALL, Jr.
Non-Capital Murder, Sec. 206(2) C.C.
Sydney, N.S. 71-05-28/29

My previous correspondence dated 82-05-10 with attachments refers.

Statements have now been obtained from the Sydney City Police, who were directly or indirectly involved in this investigation.

Dr. F.M. NAQUI has been interviewed by S/Sgt. H.F. WHEATON. Although no statement was taken, S/Sgt. WHEATON has outlined Dr. NAQUI's recall of the incident. There was no autopsy conducted, and his comments are attached.

A statement is also attached from Robert S.B. McLEAN. He had conversation with EBSARY at which time EBSARY talked of stabbing a man. Although names were not used, EBSARY appears to have been speaking of this offence.

As this completes our investigation into this matter, your further direction will be awaited.

D.F. Christen, Supt.,
Officer i/c C.I.B.

DCS/lmm
Encl.

OP REV
40 ✓

3139 Oxford Street
P.O. Box 2286
Halifax, N.S.
B3J 3E1

*82-06-03
L7
g*

RE - OBJET:

BIN - BD

DATE TIME HEURE ACTION TAKEN - MESURES PRISES

of Sandy SEALE, GIDDENS was met where they planned to photograph her grandson's picture. Chief CROWE said she would re-interview GIDDENS for a better description of the two people and mention the names Allan STOREY - Linda Mac GUARD of McLEANS magazine to her, will advise.

J.E.C. Pl.

4.30 P.m

Chief CROWE advised Mac GUARD and one Peter DONOVAN, local free-lance were the people involved. Apparently SEALE photo was given to GIDDENS and then a photograph taken of her holding the photo, she threatened to sue them if the photo was ever published.

Kin 187

Carroll, James 82-06-16

4.30 P.m

O.C. also advised Chief John MacINTYRE of Sydney P.D. had just called stating. Supt. Richard WASH and Ambrose MacDONALD now remember responding to a call at Menberton reserve when roadblocks were being set up to prevent trouble

Form with checkboxes: Concluded Enquête terminée, Date Complainant Notified, SUI S.E., D.O. - D.A., SUPERVISOR, Consulted, Attended sur les lieux, Advised avisé, Investigator - Enquêteur, Date, Signature, Date, COPIES TO: - COPIES A, H.Q. D.G., DIV., C.I.S. S.F.J., G.I.S. S.E.G., Other - Autre, PAGE 9

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RE - OBJET:

125

BIN - BD

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
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RCMP 187

on the reserve (prior to MARSHALL'S arrest) at which time MARSHALL was present and was asked by MacDONALD what he was doing while SEALE was being stabbed. He replied that he had kicked "the queer" behind the ear or in the heads words to that effect. Chief MacINTYRE wanted that noted for the record.

J. E. Carroll Cpl
82-06-16

<input type="checkbox"/> Concluded Enquête terminée	Date Complainant Notified Date d'avis au plaignant	SUI S.E.	D.D. - D.A.	<input type="checkbox"/> Consulted Consulté	<input type="checkbox"/> Attended sur les lieux	<input type="checkbox"/> Advised avisé
Investigator - Enquêteur		Date	SUPERVISOR SUPERVISEUR	Signature		Date
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TRANSIT
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DE SERVICE

BIN
BD

Classification

File No. - N° du dossier 126

• HANDWRITE - ÉCRIRE À LA MAIN

R6mp2 304

TO <i>A C IBO</i>	FROM - DE <i>Gpl. Stett</i>	Date
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|--|---|--|---|
| <input type="checkbox"/> Comments
Commentaires | <input type="checkbox"/> Action
Donner suite | <input type="checkbox"/> Prepare Brief
Préparer un exposé | <input type="checkbox"/> Return with Current File
Retourner avec le dossier actuel |
| <input type="checkbox"/> Perusal and P.A.
Lire et classer | <input type="checkbox"/> Prepare Reply
Rédiger une réponse | <input type="checkbox"/> Make File(s)
Ouvrir un dossier | <input type="checkbox"/> Check Records
Vérifier les dossiers |

SUBJECT - SUJET

REMARKS (Use same A-5 for Reply when space permits) - REMARQUES (Si l'espace le permet, répondre sur cette formule)

Possibly on your Thurs. A.M. meeting with A.C. you could determine the present standing. Last par. our cor. 82/06/03 refers.

CIB Readers -

will discuss with Mr. Gale and advise you on 82-09-24.

R.S.

82/09/28 file with A C IBO - One file to be concluded unless further investigation requested by Crown. J.

DP REV
40

AS 9/21

Diary Date - Date d'agenda

Meeting Date - Date de réunion

Date

P.A. - A.C.

Init./N°