

I N D E X

VOLUME 20

DOCUMENTS RELATING TO REVIEW
AND REINVESTIGATION
MAY, 1983 - AUGUST, 1986 -----PAGES 1 - 104

MEDIA POOL COPY

1
DEPARTMENT
OF
ATTORNEY GENERAL
NOVA SCOTIA

P. O. BOX 7
HALIFAX, NOVA SCOTIA
B3J 2L8

Our File No 9-82-0236-0

May 13, 1983

71-010-6

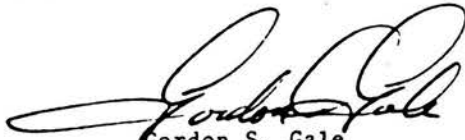
C. O. "H" Division
R.C.M.P.
3139 Oxford Street
P. O. Box 2286
Halifax, Nova Scotia
B3J 3E1

Re: Donald Marshall, Jr.

As you are aware the Appeal Division has allowed Mr. Marshall's appeal and directed that a verdict of acquittal be entered. In view of this, we have instructed the Prosecutor, Frank Edwards to proceed with the laying of a charge of second degree murder against Roy Newman Ebsary. The police function in the charge against Mr. Ebsary will be the responsibility of your force as the Attorney General's directive turning the case over to your force remains in effect.

We have requested that Mr. Edwards review the evidence and advise us as to what evidence exists in regard to charges against Mr. Marshall and any others involved in the case.

There remains the question as to whether there should be any inquiry into the handling of the original investigation and the prosecution of it. ~~Accordingly, I request that you have your files reviewed to determine whether there are, in your opinion, any instances of improper police practices or procedures~~ in regard to the investigation by the Sydney Police Department. In doing this I would ask that you point out what they are and what would have been a proper police practice or procedure. The purpose of this is to use it as background material to enable us to advise the Attorney General and come to a conclusion as to whether or not the matter warrants any type of inquiry into the actions of the Sydney Police Department in regard to the case or in regard to the actions of the Prosecutor.


Gordon S. Gale
Director (Criminal)

GSG:jd

WRITE - ÉCRIRE À LA MAIN

<p>TO - A <i>Reidus</i></p>	<p>FROM - DE <i>CLPD</i></p>	<p>Date <i>8/05/88</i></p>
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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

Donald Marshall

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

*Send a copy of this to O.C. Sydney
 I.D. Division for review by his officer, and also
 send to Harry Whelan, advising him that a
 file is available for his perusal.
 Indicate in our funding memo that it may be
 difficult to define what is an improper police procedure or
 procedure, & therefore the reviewer may wish to
 comment on the manner in which a certain procedure
 was done, as compared to the manner or investigation
 procedure he personally would have followed.
 We would not expect any investigation to be undertaken
 but restrict our examination of all material*

<p>Diary Date - Date d'agenda <i>on hand.</i></p>	<p>Meeting Date - Date de réunion <i>D.D. for</i></p>	<p>P.A. - A.C. Date _____ Init./N° _____</p>	
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C.

O.C. Sydney Sub-Division

Officer i/c C.I.B.

RCMP 2 329

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE/VOTRE RÉFÉRENCE 71H-010-6
YOUR FILE/VOTRE RÉFÉRENCE
DATE 83-05-19

SUBJECT Donald MARSHALL, Jr.
OBJET -----

The attached correspondence from the Attorney General's Department refers.

It may certainly be difficult to define what is improper police procedure, therefore, the reviewer may wish to comment on the manner in which a certain procedure was done, as compared to the manner or investigative procedure he personally would have followed. We do not expect any investigation to be undertaken, but restrict our examination to all material on hand.

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

Encl.

N.C.O. i/c Internal Investigation Section

FORWARDED, together with correspondence from the Attorney General's Department. The Division file is available for perusal should you require it.

Halifax, N.S.
83-05-19

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

DCS/lmm

OP REM
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P-05-19
[Signature]

DEPARTMENT
OF
ATTORNEY GENERAL
NOVA SCOTIA

4

179 203

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

Our File No: 09-84-0255-09

May 13, 1983

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

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Gordon S. Gale
Director (Criminal)

GSG:jd



MEMORANDUM

NOTE DE SERVICE

Sydney S/Division P.C. Co-Ordinator

The O.C. Sydney Sub/Division

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE/NOTRE RÉFÉRENCE 82S-0042
YOUR FILE/VOTRE RÉFÉRENCE 71H-010-6(Hfx)
DATE 83-05-24

SUBJECT / OBJET: Donald MARSHALL, J.R.

Attached for your information and necessary action is correspondence from the Officer i/c C.I.B with a copy of a letter from Gordon S. GALE of the Attorney-General's Department.

Would you please conduct the necessary review of the file and advise me of your findings. You may wish to confer with S/Sgt. WHEATON, Cpl. CARROLL and myself in this regard to ensure all areas of the investigative procedure are covered.

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

83-06-02 AM - Gd. Stutt advises CIBO engineering re: when he can expect report on Marshall; advised 2-3 weeks.

RCMP2 329

RCMP2 329

O.C. Sydney Sub-Division

Officer i/c C.I.B.

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE/NOTRE RÉFÉRENCE 71H-010-6
YOUR FILE/VOTRE RÉFÉRENCE
DATE 83-05-19

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

Encl.

N.C.O. i/c Internal Investigation Section

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Halifax, N.S.
83-05-19

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

DCS/lmm

OP REM
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P-05-19
[Handwritten signature]

DEPARTMENT
OF
ATTORNEY GENERAL
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Our File #: 09-84-0255-0

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Gordon S. Gale
Director (Criminal)

GSG:jd

TO
A
Officer i/c C.I.B.

FROM
DE
N.C.O. i/c Complaints &
Internal Investigation Section

SUBJECT
OBJET
Donald MARSHALL, Jr.

1 (IMP2) 382

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE / NOTRE RÉFÉRENCE 71H-010-6
YOUR FILE / VOTRE RÉFÉRENCE
DATE 83-05-30

1. This will acknowledge receipt of your memorandum dated the 19th of May, 1983 with attachment of the Department of Attorney General. To review this investigation in relation to any instances of improper police practices or procedures for the sake of simplicity, I will address the three key Crown witnesses first and then the overall police investigation.
2. Maynard Vincent CHANT - At the time of this murder investigation, Maynard CHANT was fourteen years of age, living with his parents at Louisburg, N.S. The parents are of the Evangelical Faith with the father being the local undertaker they were then and are now well respected in the community. Maynard, himself, was not interested in his school work and was on probation for stealing milk bottle money, thus a source of concern for his extremely honest parents.
3. On the night of the stabbing, he was present at the scene and endeavoured to stem the flow of blood with his shirt. He now tells us he was very excited and upset by same and told the police that he saw it all, meaning the wound, when checked at 1.00 A.M.
4. CHANT was next interviewed by Chief J. F. MacINTYRE at 5.35 P.M. of the 30th of May, 1971 with the murder occurring on the night of the 28/29 of May '71. This would be good police practise I would submit. In this interview, CHANT places himself on the railroad tracks in the park and relates the story of how the murder was committed as related to him by Donald MARSHALL, whom he saw at the scene and talked to. In this statement he does not say that he saw Donald MARSHALL stab Sandy SEALE.
5. At this stage in the investigation, CHANT would have been a key person from a police point of view. Chief MacINTYRE and Detective M. R. MacDONALD went to the CHANT home and asked for Maynard. Mrs. CHANT directed them to Catalone, where Maynard was visiting. Maynard CHANT was picked up by the two police officers and driven to the Sydney City Police offices and a statement was obtained between 5.15 P.M. and 5.35 P.M. and he was released. While there is no doubt in my mind that Mrs. CHANT would readily give the police permission to interview her son, it would not be our policy, nor good

police practise to interview a juvenile alone who was a possible key witness to this crime.

6. Detective MacDONALD in his statement advises the Chief spoke to him briefly outside the police car, nothing was said between Catalone and Sydney and then he was interviewed by the Chief alone without Detective MacDONALD present. CHANT, for his part, says he feared the police officer.

7. The next statement taken from CHANT was on the 4th of June, 1971 at 2:55 P.M. Prior to taking this statement at 10:45 A.M. on the 4th of June, Chief MacINTYRE had taken a statement from John PRATICO stating that he too was standing on the track and witnessed Donald MARSHALL stab Sandy SEALE. Although PRACTICO says he saw no one else in the area, CHANT had previously placed himself on these same tracks and would therefore have had to view the murder the same way.

8. There is a good deal of conflict as to how this interview was conducted. Chief MacINTYRE advises that himself and Detective W. URQUHART went to Louisburg and contacted Chief Wayne McGEE. Chief McGEE brought Mrs. CHANT and Maynard to the Council Chambers in Louisburg and the interview was conducted with the aforementioned police officers present as well as Mrs. CHANT and probation officer Lawrence BURKE. Chief McGEE is now Sheriff in Sydney and feels the interview happened this way with no intimidation or duress used by Chief MacINTYRE. Probation Officer BURKE, for his part, recalls the incident and states he was not present during the interview but had conversation relative to it. Judge EDWARDS, who was sitting in the same building, recalled the incident the same as Mr. BURKE. Mrs. CHANT recalls being picked up by Chief McGEE and being taken to the Town Hall. At the Town Hall she recalls talking with all the aforementioned and telling her son to tell the truth. He was then taken into a room and interviewed by the Chief and Detective URQUHART. Maynard CHANT recalls the interview the same as his mother. In the room he recalls being told by Chief MacINTYRE that he saw Donald MARSHALL stab Sandy SEALE. Chief MacINTYRE told him that he was seen in the park by another person and had to see the murder. He further advises that he threatened him with revocation of his probation for theft of milk bottle money. Faced with this situation and being entirely alone, as his mother had told him to co-operate fully with the police, he answered the questions with the answers as given to him by Chief MacINTYRE.

9. In reviewing the verbal story and statement as given by CHANT the 16th of February, 1982, I compared same with his statement which he had not seen for at least 11 years. In the 1971 statement, paragraph 1, he refers to a dark haired fellow hiding in the bushes on Crescent Street. PRACTICO, in his statement, says he was on the tracks but at trial changes this to the bushes. There then follows a series of questions culminating in CHANT identifying MARSHALL as having stabbed SEALE. The statement is then signed Maynard CHANT, Detective Sat. John MacINTYRE and Sgt. Detective Wm. URQUHART. Attached

mother; Lawrence BURKE - Probation Officer Juvenile Court; Chief Wayne R. McGEE, URQUHART and myself; however, none of their actual signatures appear. I would submit for your consideration that it is highly suspect that all these persons were present. Once again, the presence of the parent or guardian would be required by our policy and the procedures used appear very questionable.

10. In regards to his giving false evidence on the stand, CHANT advised that he could not bring himself to do so at the Supreme Court trial. A check of transcripts found this to be true and CHANT was declared a hostile witness. He ultimately agreed with the evidence as given in Preliminary. I feel the Chief and the Crown Prosecutor had to know that the creditability of this witness was shakey in the extreme during the trial in 1971 in view of the three conflicting statements and his manner of giving evidence. CHANT for his part feels that he was set up and orchestrated into being an eye witness by Chief MacINTYRE. He has told me that he knows he did wrong and is willing to accept any punishment that is meted out in this regard.

11. John Louis PRATICO - At the time of this offence Mr. PRATICO was 16 years of age and residing with his mother. Mrs. Margaret PRATICO was interviewed and recalled hearing of the murder on the radio. She stated that John was in bed at the time and asked her who was hurt in the park. I found Mrs. PRATICO to be a very nervous person but when questioned closely on this point, she was sure her son, in her opinion, was not aware of the murder until the following morning when he partially heard of same on the radio and questioned her on it. When questioned as to why he advised the police he saw the murder or why he had even come to the attention of the police, she could offer no explanation. She advised he has been receiving mental help since childhood and asked us not to speak to him as his personality can swing from the calm to rage very easily. To the best of Mrs. PRATICO's knowledge, John was handled exclusively by Chief John MacINTYRE and she stated that he was extremely upset after the Preliminary Hearing and had to be taken to the N.S. Hospital, Dartmouth, N.S. When asked if he told lies she advised he lives in a sort of fantasy world.

12. To get a more complete picture of John PRATICO in 1971, Dr. M. A. MIAN, F.R.C.P., Medical Director of the Cape Breton Hospital, was interviewed. He has stated that he has treated PRATICO since 1970 and when questioned in regards to his reliability as an eye witness to a murder he stated that he would consider him to be a very unreliable informant as he tends to manipulate and fantasize. I asked Dr. MIAN if PRATICO could himself be manipulated into saying he saw a murder he did not see. He indicated that was possible if it were in a context that would make him look like a hero and thus fit his fantasy. During the 1982 investigation it was found that PRATICO's mental state remains much the same with him making conflicting statements to the press or news media and the police. After consultation with Crown Prosecutor, Frank EDWARDS, it was decided not to use PRATICO as a witness.

to say he should not have been used as a witness in 1971 as he was completely unreliable at that time.

13. In looking at PRATICO, one must ask the question as to why the police ever questioned him in the first place. This question has never been fully explained by Chief MacINTYRE or PRATICO. In the 1982 investigation it was established that PRATICO was in the area of the dance at St. Joseph's Hall when someone brought the news that there had been a stabbing at the Park. The three girls he followed to the area of the Park have been interviewed and confirm this. A confidential source of information who has been reliable in the past and grew up with PRATICO et al was questioned. He advised me that he felt PRATICO could have been a source of Chief MacINTYRE's at the time but more likely one, Raymond POIRIER, who was present on the steps with the group MARSHALL described the murder to was a source of information at that time for Chief MacINTYRE. Mr. POIRIER was interviewed and a statement obtained, in which he confirms giving information to Chief MacINTYRE about PRATICO. I feel there is a very good possibility that the reason PRATICO was interviewed and re-interviewed was as a result of information from POIRIER to the Chief. In conclusion and addressing the question of proper police practises, I do not think it proper to have used a mentally unbalanced witness who had to be taken to a mental institution between Preliminary and Supreme and who at Supreme Court approached the defense and told them he was lying as a Crown witness.

14. Patricia HARRIS - At the time of this offence Patricia HARRIS was 15 years of age, residing with her mother at 5 Kings Road, Sydney, N.S. On the 17th of June she was interviewed by Chief MacINTYRE and Detective W.F. URQUHART as she had seen MARSHALL and SEALE on Crescent Street prior to the murder. To set the scene for this interview, one must remember that MARSHALL had been charged and the evidence against him was the evidence of PRATICO and CHANT. There was no physical evidence, no confession or walk through, no corroboration, other than PRATICO and CHANT for one another, and this must have been considered tenuous. Patricia HARRIS recalls being picked up prior to the first movie which she was going to attend, this would place the beginning of the interview some time prior to 7:00 P.M. In reviewing the Sydney City Police file after the order had been made by the Attorney General that they turn over all documentation, I found a partially completed statement dated 17th June, 1971 - 8:15 P.M. In this statement she states that MARSHALL was with two other men, one of whom was short with a long coat and gray or white hair. This statement was stopped shortly thereafter. It might be pointed out that this would conflict with the final draft of the PRATICO, CHANT statements which place ~~MARSHALL~~ and SEALE alone on Crescent Street.

15. The next statement appears at 1:20 A.M. on the morning of the 18th of June and only MARSHALL and SEALE are on Crescent Street. No mention is made of the man who would fit EBSARY's description. Miss HARRIS, in her 1982 statement, advises that in fact the police took three statements from her. She states that between the taking of the first statement until

of five hours, they scared the devil out of her. Her mother waited outside the room and at one point when she began crying, they let her speak to her and gave her coffee. She describes the interrogation as the police going over and over what they thought she should see, banging the table with their fist. She recalls feeling she was obliged to give evidence as per the last statement or she would be in trouble. Again, in regards to proper police practice, I feel the police felt they had a rather mature 15 year old on their hands, however, be that as it may, if Miss HARRIS' story is accepted and there is documentation in the form of two statements as well as my interview with her mother, then this is certainly not proper police practise and using her as a witness is unethical.

16. Terrance Patrick GUSHUE - This witness was 20 years of age in 1971 and accompanied Patricia HARRIS. On the night in question, from the 1971 investigation and 1982 investigation, I feel it fair to say that he was intoxicated. In his 1971 statement, he advises that he had consumed two quarts of beer and some wine. Others at the dance say he was kicked out for fighting and he says he was trying to break up a fight. In my dealings with GUSHUE, I found him very reluctant to say anything. I made numerous enquiries prior to finding him and found he enjoys a poor reputation. On my first contact he indicated he did not wish to speak and on the second I took a short statement from him, during which he was drinking but not drunk. He basically recalls seeing MARSHALL and others in the Park that night. When I asked about the treatment he received on the 17th of June, he advised they were kind of rough but that's their job. It might be noted the timing on his statement is from 11:40 P.M. to 12:05 A.M. The foregoing are the main Crown witnesses presented to the Jury in 1971.

17. In regards to the investigation conducted into this murder as a whole, I feel Chief MacINTYRE came under a great deal of pressure to solve this murder. Firstly; he was under pressure from his Chief of the Day as he refused to attend the scene on the night and morning of the murder. Secondly; the Black United Front forwarded correspondence to the Department demanding action, copy on file. Thirdly; a previous murder had been unsolved, creating public controversy. Fourthly; everyone felt certain that MARSHALL had committed this crime and cut himself to cover up his crime. Fifthly; a great cry from the press and media in regards to problems in the Park with racial overtones. Sixthly; the Crown Prosecutor Mr. Donald MacNEIL was pressing for a successful conclusion and one could go on. Faced with the foregoing and the witnesses at hand, Chief MacINTYRE chose to believe the statements he wanted to believe and told the witnesses they were telling the truth and they agreed with him. This, I feel, is improper police practice. From reading the transcripts I would submit the case was skillfully prosecuted and the decision of the Jury is understandable based on the evidence they heard and the mood of the City of Sydney at the time. There can be no doubt that MARSHALL, CHANT and PRATICO perjured themselves for the various reasons as noted.

18. In regards to the ethics of the Prosecution, one cannot comment on same as Crown Prosecutor, Donald Mac NEIL, is deceased and it is impossible to say how many of the various statements and background of the witnesses were made known to him. This case was investigated solely by Chief MacINTYRE with some help from Detective URQUHART and was basically solved in one day, the 4th of June, 1971, when statements were taken from PRATICO and CHANT and the charge then laid and warrant issued. I found Chief MacINTYRE to be adamant that MARSHALL is and was guilty and still refuses to look on the matter in balance. I would submit for your consideration that if a police officer in his drive to solve a crime refuses to look at all sides of an investigation and consider all ramifications, then he ultimately fails in his duty.

H. F. Wheaton, S/Sgt.,
N.C.O. i/c Complaints and
Internal Investigation Section.

O.C. Sydney Sub/Division

NCO i/c Sydney Sub/Division G.I.S.

SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE/NOTRE REFERENCE
YOUR FILE/VOTRE REFERENCE 71H-010-6
DATE 83-06-15

SUBJECT / OBJET Donald MARSHALL, Jr.

With reference to correspondence dated 83-05-24 from S/Sgt. H.F. WHEATON in the above regard, the following is submitted:

CHANT stated when first interviewed by WHEATON and myself at Louisbourg that he was threatened by MacINTYRE and URQUHART with perjury if he didn't tell them what they wanted and the penalty would be Dorchester Penitentiary. CHANT said at age fourteen he didn't know what perjury meant and was very much afraid of the future. This procedure as well as his interview with URQUHART, MacINTYRE, MCGEE and BURKE would appear to leave them open to further criticism.

PRATICO when interviewed by myself on several occasions was and is an extremely nervous individual who is easily confused, he should never have been considered for court purposes.

2. In conclusion, interview tactics used in the initial investigation would obviously not be approved by the courts or this Force. It is also difficult to understand why more attention was not given to EBSARY and MacNEIL in 1971 as at least EBSARY was known to the city police and his unusual manner of dress (cloak, etc.) would be outstanding.

J. E. Carroll
(J. E. CARROLL) Cpl.
NCO i/c Sydney S/D G.I.S.

T.B.B.
(T.B.B.) S/Sgt.
P.C. Co-or. Syd. S/D G.I.S.

RUMP2 382

SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE / NOTRE REFERENCE 71H-010-6
YOUR FILE / VOTRE REFERENCE
DATE 83-05-30

TO A Officer i/c C.I.B.

FROM DE N.C.O. i/c Complaints & Internal Investigation Section

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6. Detective MacDONALD in his statement advises the Chief spoke to him briefly outside the police car, nothing was said between Catalone and Sydney and then he was interviewed by the Chief alone without Detective MacDONALD present. CHANT, for his part, says he feared the police officer.

7. The next statement taken from CHANT was on the 4th of June, 1971 at 2:55 P.M. Prior to taking this statement at 10:45 A.M. on the 4th of June, Chief MacINTYRE had taken a statement from John PRATICO stating that he too was standing on the track and witnessed Donald MARSHALL stab Sandy SEALE. Although PRATICO says he saw no one else in the area, CHANT had previously placed himself on these same tracks and would therefore have had to view the murder the same way.

8. There is a good deal of conflict as to how this interview was conducted. Chief MacINTYRE advises that himself and Detective W. URQUHART went to Louisburg and contacted Chief Wayne McGEE. Chief McGEE brought Mrs. CHANT and Maynard to the Council Chambers in Louisburg and the interview was conducted with the aforementioned police officers present as well as Mrs. CHANT and probation officer Lawrence BURKE. Chief McGEE is now Sheriff in Sydney and feels the interview happened this way with no intimidation or duress used by Chief MacINTYRE. Probation Officer BURKE, for his part, recalls the incident and states he was not present during the interview but had conversation relative to it. Judge EDWARDS, who was sitting in the same building, recalled the incident the same as Mr. BURKE. Mrs. CHANT recalls being picked up by Chief McGEE and being taken to the Town Hall. At the Town Hall she recalls talking with all the aforementioned and telling her son to tell the truth. He was then taken into a room and interviewed by the Chief and Detective URQUHART. Maynard CHANT recalls the interview the same as his mother. In the room he recalls being told by Chief MacINTYRE that he saw Donald MARSHALL stab Sandy SEALE. Chief MacINTYRE told him that he was seen in the park by another person and had to see the murder. He further advises that he threatened him with revocation of his probation for theft of milk bottle money. Faced with this situation and being entirely alone, as his mother had told him to co-operate fully with the police, he answered the questions with the answers as given to him by Chief MacINTYRE.

9. In reviewing the verbal story and statement as given by CHANT the 16th of February, 1982, I compared same with his statement which he had not seen for at least 11 years. In the 1971 statement, paragraph 1, he refers to a dark haired fellow hiding in the bushes on Crescent Street. PRATICO, in his statement, says he was on the tracks but at trial changes this to the bushes. There then follows a series of questions culminating in CHANT identifying MARSHALL as having stabbed SEALE. The statement is then signed Maynard CHANT, Detective Sgt. John MacINTYRE and Sgt. Detective Wm. URQUHART. Attached

mother; Lawrence BURKE - Probation Officer Juvenile Court; Chief Wayne R. McGEE, URQUHART and myself; however, none of their actual signatures appear. I would submit for your consideration that it is highly suspect that all these persons were present. Once again, the presence of the parent or guardian would be required by our policy and the procedures used appear very questionable.

10. In regards to his giving false evidence on the stand, CHANT advised that he could not bring himself to do so at the Supreme Court trial. A check of transcripts found this to be true and CHANT was declared a hostile witness. He ultimately agreed with the evidence as given in Preliminary. I feel the Chief and the Crown Prosecutor had to know that the creditability of this witness was shaky in the extreme during the trial in 1971 in view of the three conflicting statements and his manner of giving evidence. CHANT for his part feels that he was set up and orchestrated into being an eye witness by Chief MacINTYRE. He has told me that he knows he did wrong and is willing to accept any punishment that is meted out in this regard.

11. John Louis PRATICO - At the time of this offence Mr. PRATICO was 16 years of age and residing with his mother. Mrs. Margaret PRATICO was interviewed and recalled hearing of the murder on the radio. She stated that John was in bed at the time and asked her who was hurt in the park. I found Mrs. PRATICO to be a very nervous person but when questioned closely on this point, she was sure her son, in her opinion, was not aware of the murder until the following morning when he partially heard of same on the radio and questioned her on it. When questioned as to why he advised the police he saw the murder or why he had even come to the attention of the police, she could offer no explanation. She advised he has been receiving mental help since childhood and asked us not to speak to him as his personality can swing from the calm to rage very easily. To the best of Mrs. PRATICO's knowledge, John was handled exclusively by Chief John MacINTYRE and she stated that he was extremely upset after the Preliminary Hearing and had to be taken to the N.S. Hospital, Dartmouth, N.S. When asked if he told lies she advised he lives in a sort of fantasy world.

12. To get a more complete picture of John PRATICO in 1971, Dr. M. A. MIAN, F.R.C.P., Medical Director of the Cape Breton Hospital, was interviewed. He has stated that he has treated PRATICO since 1970 and when questioned in regards to his reliability as an eye witness to a murder he stated that he would consider him to be a very unreliable informant as he tends to manipulate and fantasize. I asked Dr. MIAN if PRATICO could himself be manipulated into saying he saw a murder he did not see. He indicated that was possible if it were in a context that would make him look like a hero and thus fit his fantasy. During the 1982 investigation it was found that PRATICO's mental state remains much the same with him making conflicting statements to the press or news media and the police. After consultation with Crown Prosecutor, Frank EDWARDS, it was decided not to use PRATICO as a witness.

to say he should not have been used as a witness in 1971 as he was completely unreliable at that time.

13. In looking at PRATICO, one must ask the question as to why the police ever questioned him in the first place. This question has never been fully explained by Chief MacINTYRE or PRATICO. In the 1982 investigation it was established that PRATICO was in the area of the dance at St. Joseph's Hall when someone brought the news that there had been a stabbing at the Park. The three girls he followed to the area of the Park have been interviewed and confirm this. A confidential source of information who has been reliable in the past and grew up with PRATICO et al was questioned. He advised me that he felt PRATICO could have been a source of Chief MacINTYRE's at the time but more likely one, Raymond POIRIER, who was present on the steps with the group MARSHALL described the murder to was a source of information at that time for Chief MacINTYRE. Mr. POIRIER was interviewed and a statement obtained, in which he confirms giving information to Chief MacINTYRE about PRATICO. I feel there is a very good possibility that the reason PRATICO was interviewed and re-interviewed was as a result of information from POIRIER to the Chief. In conclusion and addressing the question of proper police practises, I do not think it proper to have used a mentally unbalanced witness who had to be taken to a mental institution between Preliminary and Supreme and who at Supreme Court approached the defense and told them he was lying as a Crown witness.

14. Patricia HARRIS - At the time of this offence Patricia HARRIS was 15 years of age, residing with her mother at 5 Kings Road, Sydney, N.S. On the 17th of June she was interviewed by Chief MacINTYRE and Detective W.F. URQUHART as she had seen MARSHALL and SEALE on Crescent Street prior to the murder. To set the scene for this interview, one must remember that MARSHALL had been charged and the evidence against him was the evidence of PRATICO and CHANT. There was no physical evidence, no confession or walk through, no corroboration, other than PRATICO and CHANT for one another, and this must have been considered tenuous. Patricia HARRIS recalls being picked up prior to the first movie which she was going to attend, this would place the beginning of the interview some time prior to 7:00 P.M. In reviewing the Sydney City Police file after the order had been made by the Attorney General that they turn over all documentation, I found a partially completed statement dated 17th June, 1971 - 8:15 P.M. In this statement she states that MARSHALL was with two other men, one of whom was short with a long coat and gray or white hair. This statement was stopped shortly thereafter. It might be pointed out that this would conflict with the final draft of the PRATICO, CHANT statements which place MARSHALL and SEALE alone on Crescent Street.

15. The next statement appears at 1:20 A.M. on the morning of the 18th of June and only MARSHALL and SEALE are on Crescent Street. No mention is made of the man who would fit EBSARY's description. Miss HARRIS, in her 1982 statement, advises that in fact the police took three statements from her. She states that between the taking of the first statement until

of five hours, they scared the devil out of her. Her mother waited outside the room and at one point when she began crying, they let her speak to her and gave her coffee. She describes the interrogation as the police going over and over what they thought she should see, banging the table with their fist. She recalls feeling she was obliged to give evidence as per the last statement or she would be in trouble. Again, in regards to proper police practice, I feel the police felt they had a rather mature 15 year old on their hands, however, be that as it may, if Miss HARRIS' story is accepted and there is documentation in the form of two statements as well as my interview with her mother, then this is certainly not proper police practise and using her as a witness is unethical.

16. Terrance Patrick GUSHUE - This witness was 20 years of age in 1971 and accompanied Patricia HARRIS. On the night in question, from the 1971 investigation and 1982 investigation, I feel it fair to say that he was intoxicated. In his 1971 statement, he advises that he had consumed two quarts of beer and some wine. Others at the dance say he was kicked out for fighting and he says he was trying to break up a fight. In my dealings with GUSHUE, I found him very reluctant to say anything. I made numerous enquiries prior to finding him and found he enjoys a poor reputation. On my first contact he indicated he did not wish to speak and on the second I took a short statement from him, during which he was drinking but not drunk. He basically recalls seeing MARSHALL and others in the Park that night. When I asked about the treatment he received on the 17th of June, he advised they were kind of rough but that's their job. It might be noted the timing on his statement is from 11:40 P.M. to 12:05 A.M. The foregoing are the main Crown witnesses presented to the Jury in 1971.

17. In regards to the investigation conducted into this murder as a whole, I feel Chief MacINTYRE came under a great deal of pressure to solve this murder. Firstly; he was under pressure from his Chief of the Day as he refused to attend the scene on the night and morning of the murder. Secondly; the Black United Front forwarded correspondence to the Department demanding action, copy on file. Thirdly; a previous murder had been unsolved, creating public controversy. Fourthly; everyone felt certain that MARSHALL had committed this crime and cut himself to cover up his crime. Fifthly; a great cry from the press and media in regards to problems in the Park with racial overtones. Sixthly; the Crown Prosecutor Mr. Donald MacNEIL was pressing for a successful conclusion and one could go on. Faced with the foregoing and the witnesses at hand, Chief MacINTYRE chose to believe the statements he wanted to believe and told the witnesses they were telling the truth and they agreed with him. This, I feel, is improper police practice. From reading the transcripts I would submit the case was skillfully prosecuted and the decision of the Jury is understandable based on the evidence they heard and the mood of the City of Sydney at the time. There can be no doubt that MARSHALL, CHANT and PRATICO perjured themselves for the various reasons as noted.

18. In regards to the ethics of the Prosecution, one cannot comment on same as Crown Prosecutor, Donald Mac NEIL, is deceased and it is impossible to say how many of the various statements and background of the witnesses were made known to him. This case was investigated solely by Chief MacINTYRE with some help from Detective URQUHART and was basically solved in one day, the 4th of June, 1971, when statements were taken from PRATICO and CHANT and the charge then laid and warrant issued. I found Chief MacINTYRE to be adamant that MARSHALL is and was guilty and still refuses to look on the matter in balance. I would submit for your consideration that if a police officer in his drive to solve a crime refuses to look at all sides of an investigation and consider all ramifications, then he ultimately fails in his duty.

H. F. Wheaton, S/Sgt.,
N.C.O. i/c Complaints and
Internal Investigation Section.

The O.C. Sydney Sub/Division

The Sydney Sub/Division
Plain Clothes Co-ordinator

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SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE/NOTRE RÉFÉRENCE 71H-010-6
YOUR FILE/VOTRE RÉFÉRENCE
DATE 83-06-16

SUBJECT
OBJET

Donald MARSHALL, Jr.

This file has been reviewed by Cpl. CARROLL and myself, and although he and S/Sgt. WHEATON are far more familiar with it than anyone, there are some points of interest in the police investigation.

The treatment of the witnesses, important witnesses, CHANT, HARRIS and PRATICO, is highly suspect to say the least. No court, I suggest, would approve of the manner in which these individuals were handled. One must look also at the prosecution and the manner in which Donald MacNEIL handled the case. Had he been informed, as he should have been, of the different statements given by the above witnesses and the manner in which CHANT conducted himself at trial, then it would seem likely he would have been aware there were serious doubts about the credibility of these witnesses.

MARSHALL told police from the very outset there were two other men in the Park beside he and SEALE, and that one of them stabbed SEALE and cut his arm. The police officers on duty that night must have placed some credibility in MARSHALL's story as a search was conducted of the city; motels, taxis, in fact, there are reports from several police officers about their efforts in this regard. It was known that MARSHALL is left handed. SEALE was stabbed on the left side, MARSHALL was cut on the left arm. Everyone MARSHALL spoke to after the stabbing were told basically the same story, "look what they did to me". He described the older man and the younger man who made racial remarks about "niggers" and "Indians".

HARRIS in her first statement mentioned two other men in the park. The statement was never completed and there was no mention made in subsequent statements about these two other men. CHANT, in his statement of May 30th, 1971, mentioned, "two other men", he was questioned by police about these two men. Another witness, George MacNEIL, was questioned by police on May 31st, 1971, and gave a statement indicating there were two other men in the park beside SEALE and MARSHALL.

71H-010-6


The O.C. Sydney Sub/Division

Donald MARSHALL, Jr.

Sydney City Police were familiar with EBSARY who was convicted in 1970 for carrying a knife. His manner of dress and his potential for violent crime was also known. In August, 1971, Det. URQUHART received information EBSARY was responsible for the murder. Then, in November, 1971, James MacNEIL came forward after telling several people about the events in the park on the night of the stabbing. All of this supported MARSHALL's original story.

With the amount of material available that seemed to support MARSHALL's story or "alibi", it is surprising someone, including the Prosecutor, did not take a more serious look at the probability of the "two other men" theory. It has long been held and practiced by police that an accused's alibi should be checked, in fact, police have a responsibility to do so.

Many complex factors played a part in the case, the pressure on investigators, the mood of the city at the time, all played an important part resulting in MARSHALL becoming a victim. It is relatively easy to criticize the investigation at this point in time and one should be conscious of all of the factors involved. No less a consideration in these factors is the many years of loyal and dedicated service of Chief MacINTYRE to his community.


S/Sgt.
T.E. Barlow, #20980
Sydney S/Division
P.C. Co-ordinator

The Officer i/c C.I.B.

The O.C. Sydney Sub/Division

RC 412	
SECURITY - CLASSIFICATION - DE SÉCURITÉ	
OUR FILE / NOTRE RÉFÉRENCE	
82S-0042	
YOUR FILE / VOTRE RÉFÉRENCE	
71H-010-6	
DATE 83-06-17	

SUBJECT
OBJET

Donald Marshall, Jr.

This will acknowledge receipt of your correspondence of 83-05-19, with attachments from the Attorney General's Department.

I have reviewed the reports submitted by S/Sgt. WHEATON, S/Sgt. BARLOW and Cpl. CARROLL, in this regard, and I would like to make the following observations.

In this case, the three main witnesses, CHANT, PRATICO and HARRISS, all gave several statements to the police, and initial statements were to the effect that they saw very little and after a lengthy interrogation all gave statements supporting the police contention that MARSHALL stabbed SEALE. As a result, at the trial we had one witness, PRATICO, tell the father of the accused and the Defence Counsel, that he was lying, that he did not see MARSHALL stab SEALE. We have CHANT stating under oath that he did not see MARSHALL stab SEALE, and was declared a hostile witness. We have HARRISS, who gave less than straightforward evidence as to how many people were present with MARSHALL that night.

It would be fair to say that the Crown Prosecutor must have been aware of the unreliability of these witnesses, and from reading a transcript of the evidence he was hard pressed to get sufficient evidence before the Court from these witnesses, to register a conviction.

Had MARSHALL not been a young person, with a record, i.e., (charged 7 times by the Sydney City Police between June 12, 1970 and May 1, 1971), and had been suspected of other types of offences that had occurred in the park and at a nearby cemetery, then I doubt if the police would have pursued this individual with such tenacity. MARSHALL himself, by lying, certainly did not help his situation and probably felt that there was no danger of him being convicted of a crime he did not do. But, if he had admitted to the attempted robbery of EBSARY and MacNEIL, then he probably would have gone to gaol. Had MARSHALL told

71H-010-6
82S/0042

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The Officer i/c C.I.B.

Donald MARSHALL, Jr.

....told the truth in the initial instance, the police would more than likely have believed his story and pursued the description of these two men who looked like priests, in more depth. I feel sure this investigation would have led them to EBSARY, and as you can see from EBSARY's statement of November 15, 1971, he admits that he and MacNEIL were approached by two individuals who attempted to rob them in the park on the night of the murder. EBSARY says in his statement that he was wearing a reversible blue topcoat that night.

If you look at one of the statements Patricia HARRIS gave on the night of June 17, 1971, started at 8:15 P.M. and never finished, she states, "Terry and I left, walked back of the bandshell onto Crescent Street in front of the big green building. We saw and talked to Junior MARSHALL. With MARSHALL was two other men."

Q. Describe the other men to me?

A. "One man was short with a long coat, grey or white hair with a long coat. I was talking to Junior. Terry got a match from Junior and Terry said they are crazy. They were asking him, Junior, for a cigarette."

This description of one of the men MARSHALL was talking to fits EBSARY to a "T".

Further to what S/Sgt. WHEATON, S/Sgt. BARLOW and Cpl. CARROLL have said, HARRIS' mother was upset enough about the treatment of her daughter that she contacted a lawyer the next morning and this was confirmed from the lawyer's appointment book which he still has in his possession.

It has not been determined conclusively how PRATICO became a witness, as he did not appear to mention anything about the offence until after his contact with the police some days later. From all reports that would not be consistent with PRATICO's character. As it refers to CHANT, he was on probation at the time and was trying to get home to Louisbourg as he was on probation and out after his curfew when he became entangled with MARSHALL near the park. After he was

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82S-0042

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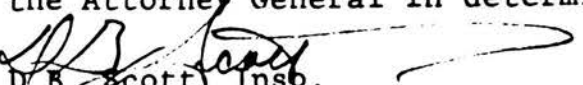
Donald MARSHALL, Jr.

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From all accounts, tremendous pressure was being placed on the police and on the Crown, to bring this investigation to a successful conclusion. At times the Negro community was going to take out their vengeance on the Indians and the Indians were going to take out their vengeance on the "whites" who were lying against MARSHALL. The whole atmosphere was getting racial overtones and causing a complete uproar in the city. Although this does not justify the actions of the police or the Crown, it certainly gives you an insight into the pressure they were under at the time this case was investigated. I think this is a good example of a pitfall that is open to all policemen during investigations where the investigator identifies a person he thinks is responsible for the offence and then sets out to prove his theory and gain evidence against that person. Rather, the investigator should be led by the evidence presented to him and pick out those areas to be followed up and review all aspects to see where the evidence leads him.

A person could review the information available and find numerous flaws and variances from standard practices and procedures on the part of the police, the Crown Prosecutor, the Defence and the Court. However, it is easy to second-guess when you have all kinds of time to sit down and go over not only the information that was available at the time, but the information that is available to us today.

I trust that this information will be of some assistance to the Attorney General in determining what course of action to follow.


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



Royal Canadian Mounted Police Gendarmerie royale du Canada

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83-06-24

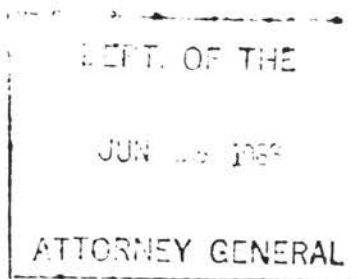
Your file Votre référence

09-84-0255-08

Our file Notre référence

71H-010-6

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



Attention: Mr. Gordon Gale

Re: Donald MARSHALL, Jr.

This refers to your correspondence dated 83-05-13. I am attaching reports from Insp. D. B. Scott, O.C. Sydney Sub-Division, and S/Sgt. H. F. Wheaton, presently N.C.O. i/c Internal Investigations, who was at the time of our investigation into this matter stationed at Sydney and responsible for conducting our investigation. Contained therein is an overview of procedures taken by investigators along with suggested procedures as to how the investigation might otherwise have been handled.

It is apparent all the warning signals were ignored by the investigators and Crown Counsel in carrying out this investigation. While a change in the direction of the investigation could have taken place at several points, it appears the investigators failed to pay sufficient heed to other evidence suggesting the possibility someone other than MARSHALL was responsible. Of course MARSHALL did nothing to help the investigators or himself by his failure to tell the true story.


As you will recall, James McNEILL, in his statement of November 15, 1971, advised the Sydney City Police that he had been with Roy EBSARY and that he had witnessed EBSARY stab SEALE and had accompanied EBSARY to his home where he had washed the murder weapon in the sink. McNEILL also indicated in his statement that Mrs. EBSARY, her daughter and son were at home at the time. While great pains were taken to question McNEILL and EBSARY and have them submit to a polygraph test, I can find nothing to indicate Mrs. EBSARY or her daughter Donna EBSARY or her son were subjected to any lengthy interview. Donna EBSARY, when interviewed in April, 1982, had no trouble recalling the conversation between James McNEILL and her father on the night of the murder. Had these people been interviewed, it may have confirmed McNEILL'S statement and caused the investigators to take a second look as to the identity of the person responsible. On the other hand, there may have been sufficient family fear of EBSARY to have prevented these persons from telling the truth to the

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police at that time. When Donna EBSARY made her statement to the police in 1982, she was no longer living at home or under the influence of her father.

As has been stated, it is easy to look back now and come to definite conclusions as to the manner and direction this investigation should have followed. No doubt the investigators at the time truly believed MARSHALL to be responsible and in their zealously to gather all the evidence available placed too much reliance on the evidence of certain witnesses together with the fact that wrongful conclusions were drawn by the investigating team.



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

Encls.

3139 Oxford Street
P.O. Box 2286
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The Officer i/c C.I.B.

The O.C. Sydney Sub/Division

RCMP 412

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE / NOTRE RÉFÉRENCE 82S-0042
YOUR FILE / VOTRE RÉFÉRENCE 71H-010-6
DATE 83-06-17

SUBJECT / OBJET Donald Marshall, Jr.

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The Officer i/c C.I.B.

Donald MARSHALL, Jr.

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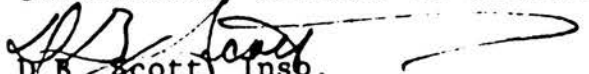
Donald MARSHALL, Jr.

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

Officer i/c C.I.B.

N.C.O. i/c Complaints & Internal Investigation Section

CMP2 382

SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE / NOTRE REFERENCE 71H-010-6
YOUR FILE / VOTRE REFERENCE
DATE 83-05-30

SUBJECT / OBJET Donald MARSHALL, Jr.

1. This will acknowledge receipt of your memorandum dated the 19th of May, 1983 with attachment of the Department of Attorney General. To review this investigation in relation to any instances of improper police practices or procedures for the sake of simplicity, I will address the three key Crown witnesses first and then the overall police investigation.

2. Maynard Vincent CHANT - At the time of this murder investigation, Maynard CHANT was fourteen years of age, living with his parents at Louisburg, N.S. The parents are of the Evangelical Faith with the father being the local undertaker they were then and are now well respected in the community. Maynard, himself, was not interested in his school work and was on probation for stealing milk bottle money, thus a source of concern for his extremely honest parents.

3. On the night of the stabbing, he was present at the scene and endeavoured to stem the flow of blood with his shirt. He now tells us he was very excited and upset by same and told the police that he saw it all, meaning the wound, when checked at 1.00 A.M.

4. CHANT was next interviewed by Chief J. F. MacINTYRE at 5.35 P.M. of the 30th of May, 1971 with the murder occurring on the night of the 28/29 of May '71. This would be good police practise I would submit. In this interview, CHANT places himself on the railroad tracks in the park and relates the story of how the murder was committed as related to him by Donald MARSHALL, whom he saw at the scene and talked to. In this statement he does not say that he saw Donald MARSHALL stab Sandy SEALE.

5. At this stage in the investigation, CHANT would have been a key person from a police point of view. Chief MacINTYRE and Detective M. R. MacDONALD went to the CHANT home and asked for Maynard. Mrs. CHANT directed them to Catalone where Maynard was visiting. Maynard CHART was picked up by the two police officers and driven to the Sydney City Police offices and a statement was obtained between 5.15 P.M. and 5.35 P.M. and he was released. While there is no doubt in my mind that Mrs. CHANT would readily give the police permission to interview her son, it would not be our policy, nor good

police practise to interview a juvenile alone who was a possible key witness to this crime.

6. Detective MacDONALD in his statement advises the Chief spoke to him briefly outside the police car, nothing was said between Catalone and Sydney and then he was interviewed by the Chief alone without Detective MacDONALD present. CHANT, for his part, says he feared the police officer.

7. The next statement taken from CHANT was on the 4th of June, 1971 at 2:55 P.M. Prior to taking this statement at 10:45 A.M. on the 4th of June, Chief MacINTYRE had taken a statement from John PRATICO stating that he too was standing on the track and witnessed Donald MARSHALL stab Sandy SEALE. Although PRACTICO says he saw no one else in the area, CHANT had previously placed himself on these same tracks and would therefore have had to view the murder the same way.

8. There is a good deal of conflict as to how this interview was conducted. Chief MacINTYRE advises that himself and Detective W. URQUHART went to Louisburg and contacted Chief Wayne McGEE. Chief McGEE brought Mrs. CHANT and Maynard to the Council Chambers in Louisburg and the interview was conducted with the aforementioned police officers present as well as Mrs. CHANT and probation officer Lawrence BURKE. Chief McGEE is now Sheriff in Sydney and feels the interview happened this way with no intimidation or duress used by Chief MacINTYRE. Probation Officer BURKE, for his part, recalls the incident and states he was not present during the interview but had conversation relative to it. Judge EDWARDS, who was sitting in the same building, recalled the incident the same as Mr. BURKE. Mrs. CHANT recalls being picked up by Chief McGEE and being taken to the Town Hall. At the Town Hall she recalls talking with all the aforementioned and telling her son to tell the truth. He was then taken into a room and interviewed by the Chief and Detective URQUHART. Maynard CHANT recalls the interview the same as his mother. In the room he recalls being told by Chief MacINTYRE that he saw Donald MARSHALL stab Sandy SEALE. Chief MacINTYRE told him that he was seen in the park by another person and had to see the murder. He further advises that he threatened him with revocation of his probation for theft of milk bottle money. Faced with this situation and being entirely alone, as his mother had told him to co-operate fully with the police, he answered the questions with the answers as given to him by Chief MacINTYRE.

9. In reviewing the verbal story and statement as given by CHANT the 16th of February, 1982, I compared same with his statement which he had not seen for at least 11 years. In the 1971 statement, paragraph 1, he refers to a dark haired fellow hiding in the bushes on Crescent Street. PRACTICO, in his statement, says he was on the tracks but at trial changes this to the bushes. There then follows a series of questions culminating in CHANT identifying MARSHALL as having stabbed SEALE. The statement is then signed Maynard CHANT, Detective Sgt. John MacINTYRE and Sgt. Detective Wm. URQUHART. Attached

mother; Lawrence BURKE - Probation Officer Juvenile Court; Chief Wayne R. McGEE, URQUHART and myself; however, none of their actual signatures appear. I would submit for your consideration that it is highly suspect that all these persons were present. Once again, the presence of the parent or guardian would be required by our policy and the procedures used appear very questionable.

10. In regards to his giving false evidence on the stand, CHANT advised that he could not bring himself to do so at the Supreme Court trial. A check of transcripts found this to be true and CHANT was declared a hostile witness. He ultimately agreed with the evidence as given in Preliminary. I feel the Chief and the Crown Prosecutor had to know that the creditability of this witness was shakey in the extreme during the trial in 1971 in view of the three conflicting statements and his manner of giving evidence. CHANT for his part feels that he was set up and orchestrated into being an eye witness by Chief MacINTYRE. He has told me that he knows he did wrong and is willing to accept any punishment that is meted out in this regard.

11. John Louis PRATICO - At the time of this offence Mr. PRATICO was 16 years of age and residing with his mother. Mrs. Margaret PRATICO was interviewed and recalled hearing of the murder on the radio. She stated that John was in bed at the time and asked her who was hurt in the park. I found Mrs. PRATICO to be a very nervous person but when questioned closely on this point, she was sure her son, in her opinion, was not aware of the murder until the following morning when he partially heard of same on the radio and questioned her on it. When questioned as to why he advised the police he saw the murder or why he had even come to the attention of the police, she could offer no explanation. She advised he has been receiving mental help since childhood and asked us not to speak to him as his personality can swing from the calm to rage very easily. To the best of Mrs. PRATICO's knowledge, John was handled exclusively by Chief John MacINTYRE and she stated that he was extremely upset after the Preliminary Hearing and had to be taken to the N.S. Hospital, Dartmouth, N.S. When asked if he told lies she advised he lives in a sort of fantasy world.

12. To get a more complete picture of John PRATICO in 1971, Dr. M. A. MIAN, F.R.C.P., Medical Director of the Cape Breton Hospital, was interviewed. He has stated that he has treated PRATICO since 1970 and when questioned in regards to his reliability as an eye witness to a murder he stated that he would consider him to be a very unreliable informant as he tends to manipulate and fantasize. I asked Dr. MIAN if PRATICO could himself be manipulated into saying he saw a murder he did not see. He indicated that was possible if it were in a context that would make him look like a hero and thus fit his fantasy. During the 1982 investigation it was found that PRATICO's mental state remains much the same with him making conflicting statements to the press or news media and the police. After consultation with Crown Prosecutor, Frank EDWARDS, it was decided not to use PRATICO as a witness.

to say he should not have been used as a witness in 1971 as he was completely unreliable at that time.

13. In looking at PRATICO, one must ask the question as to why the police ever questioned him in the first place. This question has never been fully explained by Chief MacINTYRE or PRATICO. In the 1982 investigation it was established that PRATICO was in the area of the dance at St. Joseph's Hall when someone brought the news that there had been a stabbing at the Park. The three girls he followed to the area of the Park have been interviewed and confirm this. A confidential source of information who has been reliable in the past and grew up with PRATICO et al was questioned. He advised me that he felt PRATICO could have been a source of Chief MacINTYRE's at the time but more likely one, Raymond POIRIER, who was present on the steps with the group MARSHALL described the murder to was a source of information at that time for Chief MacINTYRE. Mr. POIRIER was interviewed and a statement obtained, in which he confirms giving information to Chief MacINTYRE about PRATICO. I feel there is a very good possibility that the reason PRATICO was interviewed and re-interviewed was as a result of information from POIRIER to the Chief. In conclusion and addressing the question of proper police practises, I do not think it proper to have used a mentally unbalanced witness who had to be taken to a mental institution between Preliminary and Supreme and who at Supreme Court approached the defense and told them he was lying as a Crown witness.

14. Patricia HARRIS - At the time of this offence Patricia HARRIS was 15 years of age, residing with her mother at 5 Kings Road, Sydney, N.S. On the 17th of June she was interviewed by Chief MacINTYRE and Detective W.F. URQUHART as she had seen MARSHALL and SEALE on Crescent Street prior to the murder. To set the scene for this interview, one must remember that MARSHALL had been charged and the evidence against him was the evidence of PRATICO and CHANT. There was no physical evidence, no confession or walk through, no corroboration, other than PRATICO and CHANT for one another, and this must have been considered tenuous. Patricia HARRIS recalls being picked up prior to the first movie which she was going to attend, this would place the beginning of the interview some time prior to 7:00 P.M. In reviewing the Sydney City Police file after the order had been made by the Attorney General that they turn over all documentation, I found a partially completed statement dated 17th June, 1971 - 8:15 P.M. In this statement she states that MARSHALL was with two other men, one of whom was short with a long coat and gray or white hair. This statement was stopped shortly thereafter. It might be pointed out that this would conflict with the final draft of the PRATICO, CHANT statements which place MARSHALL and SEALE alone on Crescent Street.

15. The next statement appears at 1:20 A.M. on the morning of the 18th of June and only MARSHALL and SEALE are on Crescent Street. No mention is made of the man who would fit EBSARY's description. Miss HARRIS, in her 1982 statement, advises that in fact the police took three statements from her. She states that between the taking of the first statement until

of five hours, they scared the devil out of her. Her mother waited outside the room and at one point when she began crying, they let her speak to her and gave her coffee. She describes the interrogation as the police going over and over what they thought she should see, banging the table with their fist. She recalls feeling she was obliged to give evidence as per the last statement or she would be in trouble. Again, in regards to proper police practice, I feel the police felt they had a rather mature 15 year old on their hands, however, be that as it may, if Miss HARRIS' story is accepted and there is documentation in the form of two statements as well as my interview with her mother, then this is certainly not proper police practise and using her as a witness is unethical.

16. Terrance Patrick GUSHUE - This witness was 20 years of age in 1971 and accompanied Patricia HARRIS. On the night in question, from the 1971 investigation and 1982 investigation, I feel it fair to say that he was intoxicated. In his 1971 statement, he advises that he had consumed two quarts of beer and some wine. Others at the dance say he was kicked out for fighting and he says he was trying to break up a fight. In my dealings with GUSHUE, I found him very reluctant to say anything. I made numerous enquiries prior to finding him and found he enjoys a poor reputation. On my first contact he indicated he did not wish to speak and on the second I took a short statement from him, during which he was drinking but not drunk. He basically recalls seeing MARSHALL and others in the Park that night. When I asked about the treatment he received on the 17th of June, he advised they were kind of rough but that's their job. It might be noted the timing on his statement is from 11:40 P.M. to 12:05 A.M. The foregoing are the main Crown witnesses presented to the Jury in 1971.

17. In regards to the investigation conducted into this murder as a whole, I feel Chief MacINTYRE came under a great deal of pressure to solve this murder. Firstly; he was under pressure from his Chief of the day as he refused to attend the scene on the night and morning of the murder. Secondly; the Black United Front forwarded correspondence to the Department demanding action, copy on file. Thirdly; a previous murder had been unsolved, creating public controversy. Fourthly; everyone felt certain that MARSHALL had committed this crime and cut himself to cover up his crime. Fifthly; a great cry from the press and media in regards to problems in the Park with racial overtones. Sixthly; the Crown Prosecutor Mr. Donald MacNEIL was pressing for a successful conclusion and one could go on. Faced with the foregoing and the witnesses at hand, Chief MacINTYRE chose to believe the statements he wanted to believe and told the witnesses they were telling the truth and they agreed with him. This, I feel, is improper police practice. From reading the transcripts I would submit the case was skillfully prosecuted and the decision of the Jury is understandable based on the evidence they heard and the mood of the City of Sydney at the time. There can be no doubt that MARSHALL, CHANT and PRATICO perjured themselves for the various reasons as noted.

R(1112) 382

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18. In regards to the ethics of the Prosecution, one cannot comment on same as Crown Prosecutor, Donald Mac NEIL, is deceased and it is impossible to say how many of the various statements and background of the witnesses were made known to him. This case was investigated solely by Chief MacINTYRE with some help from Detective URQUHART and was basically solved in one day, the 4th of June, 1971, when statements were taken from PRATICO and CHANT and the charge then laid and warrant issued. I found Chief MacINTYRE to be adamant that MARSHALL is and was guilty and still refuses to look on the matter in balance. I would submit for your consideration that if a police officer in his drive to solve a crime refuses to look at all sides of an investigation and consider all ramifications, then he ultimately fails in his duty.

H. F. Wheaton, S/Sgt.,
N.C.O. i/c Complaints and
Internal Investigation Section.

ROYAL CANADIAN MOUNTED POLICE

DIVISION "M"	SUB-DIVISION Sydney	DETACHMENT Sydney GIS	"HO" FILE NO.	DATE 83-11-09
DIVISION FILE NO. 71H-010-6	SUB-DIVISION FILE NO. 82-77	DETACHMENT FILE NO.	P.C.R. 83-09-19	F.P.S. <i>RCMP 2 149</i>
DEFENDANT Roy Newman EBSARY		ADDRESS 68 Falmouth Street Sydney, N.S.		
BIRTHDATE 12-06-02	BIRTHPLACE Newfoundland	OFFENCE Manslaughter, Sec. 217 C.C.		
PLEA <input type="checkbox"/> GUILTY <input checked="" type="checkbox"/> NOT GUILTY		TRIAL PLACE Sydney, N.S.	TRIAL METHOD <input checked="" type="checkbox"/> PART XVI <input type="checkbox"/> PART XVII <input type="checkbox"/> PART XVIII <input type="checkbox"/> PART XXIV	MAGISTRATE OR JUDGE Justice R. MacLeod ROGERS
DISPOSITION OF CHARGE AND DATE CONVICTED: See Remarks 83-11-08				C-2168 FORWARDED <input type="checkbox"/> YES <input type="checkbox"/> NO
INFORMATION LAID BY Cpl. J. E. CARROLL		<input type="checkbox"/> FINE & COSTS PAID INTO COURT <input type="checkbox"/> GAOL TERM TAKEN	IF TIME TO PAY BY WHAT DATE MUST PAYMENT BE MADE	<input type="checkbox"/> PHOTOGRAPHED <input type="checkbox"/> FINGERPRINTED
COLLECTED FROM COURT <input type="checkbox"/> FINE <input type="checkbox"/> POLICE COSTS	CASH SHEET NO.	POLICE COSTS <input type="checkbox"/> VOLUNTARY APPEARANCE ATTENDING COURT \$ _____ <input type="checkbox"/> ARREST \$ _____ MILEAGE \$ _____ <input type="checkbox"/> SERVING SUMMONS \$ _____ \$ _____		
FORWARDING STAMPS		OTHER COSTS MAGISTRATES FEES \$ _____ WITNESS FEES \$ _____ \$ _____ \$ _____ \$ _____ \$ _____		
REMARKS CANADIAN CITIZEN <input checked="" type="checkbox"/> ALIEN <input type="checkbox"/> DATE OF ENTRY _____				
1. Further to PCR 83-09-19, a second trial for EBSARY commenced at Sydney, N.S., on 83-11-04. WINTERMANS represented the accused and EDWARDS acted for the Crown. Witnesses called were as follows:				
MARSHALL		- Same evidence as previous trial.		
MACNEIL		- " " " " " "		
EBSARY (Mary)		- " " " " " "		
EBSARY (Donna)		- " " " " " "		
. . . /2				
<input type="checkbox"/> CONCLUDED				
S.U.I. DIARY DATE _____ SIGNATURE _____				

25

Roy Newman EBSARY - Manslaughter

2

RCMP 149

2. On 83-11-07, the trial resumed with Sydney Police Chief John MacINTYRE and Deputy Chief Michael MACDONALD giving evidence in a voir dire regarding a statement taken by them from EBSARY in 1971 in which he denied carrying a knife or stabbing anyone. Justice ROGERS ruled the statement to be admissable. The remaining witnesses were:

- MROZ - Same evidence.
- CARROLL - Taped interview with EBSARY, played in Court, typed transcripts given to jury.
- NAQVI - Same evidence, believed a knife blade with a minimum length of 3½" could have caused wound.

3. The Crown closed its case at this point; Defence Counsel then made a motion for a directed verdict of acquittal on the grounds the Crown had failed to show the cause of death, NAQVI's evidence was not admissable because he referred to hospital records, not his own personal notes, some notes made by other staff, had little recall of the incident. He also stated it was dangerous to leave the case with the jury bearing in mind a robbery was in progress and EBSARY was the victim, not the aggressor.

4. The Crown argued the motion was too late, objections should have been made when NAQVI gave his evidence, also the "self defence" issue must be placed before the jury. The motion was denied, no defence evidence called.

5. Summations were given during the A.M. of 83-11-08. EDWARDS made numerous references to the tape which indicated the accused was carrying a knife and prepared to "drop" anyone who bothered him. It was also conflicting with EBSARY's statement to Chief MacINTYRE in 1971. In his charge to the jury, Justice ROGERS when reviewing the evidence, referred to the recorded interview as a "damaging document".

6. After three hours of deliberation, the jury returned to the Courtroom with three questions:

. . . /3

(2)

Roy Newman EBSARY - Manslaughter

3

RCMP 149

- (1) Should they be concerned with EBSARY's assault on MARSHALL?
- (2) Were they to decide if EBSARY used excessive force?
- (3) Requested Court's instruction to jury re duty of members be repeated.

Justice ROGERS explained they had to examine the evidence and come to their own conclusions. A verdict of "GUILTY" was returned a half hour later, EBSARY was released on various conditions to appear for sentence on 83-11-24.

7. It should be noted Prosecutor EDWARDS presented this case in a most professional manner, his summation to the jury (ninety minutes) eliminated a large part of the defence arguments in advance since WINTERMANS had the final remarks to the jury. In view of the foregoing, a further report will be submitted when disposition is known.

S.U.I.

D.D. 83-11-30

(T. E. BARLOW) S/Sgt.
P.C. Coordinator

(J. E. CARROLL) Cpl.
i/c Sydney Sub/Div. GIS

Copy to O.C. Sydney Sub/Division

The Officer i/c C.I.B.

FORWARDED 83-11-15. In view of the recent developments in this case, I intend on sending an investigator to obtain statements from Supt. E.A. MARSHALL, Rtd., and ex-Cpl. E.C. SMITH, who were responsible for the RCMP investigation and Polygraph Test in 1971. The reason for this decision is:

- 1) EBSARY has now been convicted for the death of Sandy SEALE.
- 2) Chief MacINTYRE, while giving evidence at this trial, has stated that this Murder investigation was turned over to the RCMP in 1971 after MacNEIL came forward with new evidence concerning EBSARY.
- 3) It has still not been decided, but the Government could still call for a Public Enquiry into the original investigation.

From reviewing the files, it appears that our investigators only spoke to MacNEIL and EBSARY as well as Chief MacINTYRE and Crown Prosecutor Donnie MacNEIL. They also reviewed the City Police evidence from court transcripts and statements, however, did not conduct a new investigation or re-interview witnesses from the original trial.

In view of this, and unless advised to the contrary, I will have our investigators contact both Supt. MARSHALL, Rtd., who presently resides at Belle Isle, Annapolis County, N.S., and ex-Cpl. SMITH who resides at Rothesay, N.B., to determine what in fact they did do, so we may better answer any subsequent questions that could be asked at a Public Enquiry, the Attorney General, or others concerning our role in this area.

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

OTHER FILE REFERENCES:
REF. AUTRES DOSSIERS:

41

DIVISION
"H"

DATE

83-11-25

RCMP FILE REFERENCES:
REF. DOSSIERS GRC:

RCMP 2

SUB-DIVISION / BOUS-DIVISION
Sydney

71H-010-6

82-77

82S-0042

DETACHMENT - DÉTACHEMENT
Sydney Sub/Div GIS

RE - OBJET:

Roy Newman EBSARY - Manslaughter
Sydney, N.S. 71-05-28/29

DEPT. ATT. GEN.

ATT:

DIV. FME 7 71H-010-6

DEC 6/83

1. Further to my report dated 83-11-09, EBSARY was sentenced to a term of five years at Dorchester Penitentiary by Justice R. MacLeod ROGERS at Sydney, N.S. on 83-11-24.
2. Defence Counsel WINTERMANS called Dr. P. CARDEW, local physician, to describe EBSARY's condition and ability to look after himself. A second witness, Mrs. R. STROWBRIDGE, who now resides with EBSARY, stated she cooks his meals, does his laundry and has to help him bathe. She admitted that EBSARY does help in the purchase of groceries, she also said she would continue to look after him if he was not incarcerated. WINTERMANS asked for a three-year suspended sentence for his client and reminded the court of EBSARY's three month pre-trial custody (on remand in hospital with broken neck). Justice ROGERS objected to defence counsel's description of some twenty medals EBSARY was wearing in court. He asked WINTERMANS if it was ever verified his client had been awarded any of these decorations, counsel stated he was only repeating what the accused had related to him. Just prior to sentence, EBSARY accused Justice ROGERS of running a "kangaroo court" and misleading the jury in his address. He also asked if he could take legal action against his family members whose remarks were quoted in his pre-sentence report and robbed him of everything including his character.
3. In passing sentence, Justice ROGERS quoted from the taped interview in which the accused showed no remorse or concern in 1971 or now, he was content to have MARSHALL "languish" in penitentiary, his conduct then could have mitigated sentence now but does not. The courtroom was heavily guarded and EBSARY was searched when he arrived due to a threat he made toward prosecutor EDWARDS. Appeal documents were signed by EBSARY prior to leaving court and are to be presented to the Appeal Court in Halifax, N.S., during the a.m. of 83-11-25.

S.U.I.

D.D. 84-03-20

J. E. Carroll
(T. E. BARLOW) S/Sgt.
P. C. Co-ordinator

J. E. Carroll
(J. E. CARROLL) Cpl.
i/c Sydney Sub/Division GIS

Copy to: O.C. Sydney Sub/Division

• HANDWRITE - ÉCRIRE À LA MAIN

70 file	FROM - DE	Date
	C. O.	8/14/15

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

Interview with Claude Vickroy - CBC News.

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

Subject: Donald Marshall - Murder Counters (present)

Spoke with Mr. Vickroy and advised that we did not re-examine the hospital case log in 1971 but rather did a review of the evidence together with a copy of a paragraph written on incident at the time.

(b) Results of job report: Etc., truthful; Product - in enclosure.

(c) We reviewed file as result of a request for last C.P. & A.M. report.

(d) Review done by Insp. K. H. Marshall who reported the review did not reach any other conclusions but those found by the Court.

(e) That I cannot verify if an actual report went to the A.M. dept. but in all probability it did or was discussed.

(f) That the C.F.B.O. at that time was kept D.T. to wrap.		P.A. - A.C.	
Diary Date - Date d'agenda	Meeting Date - Date de réunion	Date	Init./N°

BIN
BD

Classification

File No. - N° du dossier

RCMP 224

HANDWRITE - ÉCRIRE À LA MAIN

	FROM - DE	Date

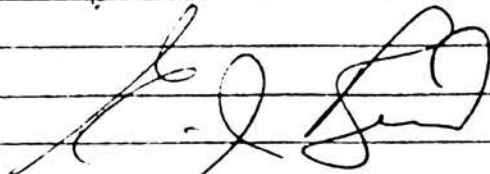
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| <input type="checkbox"/> Comments
Commentaires | <input type="checkbox"/> Action
Donner suite | <input type="checkbox"/> Prepare Brief
Préparer un exposé | <input type="checkbox"/> Return with Current File
Retourner avec le dossier actuel |
| <input 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)

I also advised Mr. Gordon Hoke of my
 interview with the CBC on that the P.M.
 would be aware.

Plc (opt) appended is null for info of
 Minutes if necessary.



Diary Date - Date d'agenda

Meeting Date - Date de réunion

Date

43/12/15

Init./A



P.A. - A.C.

44

DIVISION

"H"

DATE

83-12-29

RCMP REFERENCES:
REF DOSSIERS JRC

SUB DIVISION / SOUS DIVISION

Sydney, N.S.

DETACHMENT - DETACHEMENT

Sydney S/D GIS

71H-010-6

82-77

82S-0042

RCMP 168

RE - OBJET:

Re: Roy Newman EBSARY
Manslaughter
Sydney, N.S. 71-05-28/29

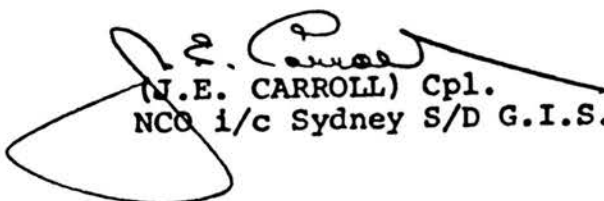
1. Further to my report dated 83-11-25 and footnote by O.C. Sydney Sub/Division in the above regard, be advised a patrol was made to Saint John, N.B., and Eugene Clair SMITH interviewed on 83-12-19, statement obtained, attached. He was permitted to review his polygraph report of 1971 and other correspondence pertaining to his involvement since he did not have personal notes, the file held in Regina where he was stationed in 1971 has been destroyed. SMITH stated the principle involved in polygraph is guilt feelings and if EBSARY showed no remorse from the incident, he would not be a good candidate for polygraph testing.
2. On 83-12-20 Supt. E.A. MARSHALL (Retired) was interviewed at his home near Bridgetown, N.S., he declined to give a statement but did discuss the investigation openly. The following is a resume of notes made during this discussion:

He recalled the trip to Sydney, met with Sgt. John MacINTYRE, was given a file or part of a file, some typed statements, was briefed on evidence by MacINTYRE, couldn't recall any contact with URQUHART, went back to Wandlyn Motel in Sydney after the tests on MacNEIL and EBSARY, went over details of case, (would have tested other people including MARSHALL, if he had a "gut" feeling something was wrong with MARSHALL's trial and the investigation,) had worked on many cases with MacINTYRE prior to this case, was not sure if MacINTYRE produced all the file, polygraph done by E.C. SMITH on 71-11-23, to best of recollection MacNEIL was uncertain, not sure if he was telling truth, called prosecutor, Donnie MacNEIL, that evening, he came to Wandlyn Motel, discussed results of the test, MacNEIL called someone in A.G.'s office, possibly Leonard PACE. Departed for Halifax, did not recall if MacNEIL contacted defence counsel, may have driven MacNEIL home, didn't read all of transcript.
3. It would appear EBSARY had no more concern for MARSHALL being incarcerated in 1971 than he has now and was - is still capable of acting out his fantasies which would greatly effect the pre-test interview and subsequent test. James MacNEIL was not

.../2


4/5/82 MP2.168

mentally strong at that time and remains in the same state. As a result of interviewing both SMITH and MARSHALL there can be no doubt they came to Sydney for the sole purpose of interviewing and polygraphing EBSARY and MacNEIL, no request for interrogation of other witnesses was made or anticipated and the Force's involvement terminated at the conclusion of the test. No further details regarding an appeal decision are known.


(N.E. CARROLL) Cpl.
NCO i/c Sydney S/D G.I.S.

S.U.I.

D.D. 84-03-20


(T.E. BARLOW) S/Sgt.
Sydney S/D P.C. Co-or.

c.c. O.C. Sydney Sub/Division

HANDWRITE - ÉCRIRE À LA MAIN

BIN BD	Classification
	File No. - N° du dossier RCMP 221

TO -	FROM - DE	Date
note to file	C O	84.01.06

<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
Marshall Case

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

Claude Veihweg - C.B.C. News.
 Telephone conversation on 84.01.05 and today.
 Report of previous interview: (a) Review of findings by
 Roy Marshall
 (b) Polygraph examination -
 Ebray - truthful; kicked in
 conclusion.
 (c) Marshall's report received
 non conclusion as Court.
 (d) We did not do a
 re-investigation - rather
 a review of the evidence plus
 polygraph.
 (e) It would be normal
 procedure for force to
 either send a copy of the
 report to the P.A. or discuss it
 with him or his officials.
 (f) Our file is made or to
 what, if anything, actually
 took place regarding the
 report.

R. C. M. P.
 JAN 11/84
 C. I. D.

Diary Date - Date d'agenda	Meeting Date - Date de réunion	P.A. - A.C.	
		Date	Init./N°

● HANDWRITTE - ÉCRIRE À LA MAIN

TO - À	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)

2.

(9) He requested me to go on
concern for interview but
I declined.

Mr. ~~Smith~~ Vickroy informed me that he
spoke to Mr. H.C. Warden, C.2.B.C.H. at the time,
but was told that he, Warden, has nothing to
do with the file and that it was probably handled
by Mr. Albert Mudge, C.O.H. at that time.
Efforts to contact Mudge by Vickroy unsuccessful
as former was in U.S. vacationing.

Mr. Vickroy wanted to know if Mr. Insp.
Marshall could speak on the case - I advised
that that would be a decision he would
have to make himself but that he was free to
do so if he so wished.

P.S. Mr. V. also advised that he was in
contact with A.M. department - A.M. refuses to
discuss case with him. We advised A.M.
department have no record of case. A letter
written by A.M. department at the time
would have been aware of the case.

[Handwritten signature]

Diary Date - Date d'agenda	Meeting Date - Date de réunion	P.A. - A.C.	
		Date	Init./N°



O.C. Sydney Sub-Division

Officer In Charge C.I.B.

SUBJECT
OBJET

Roy Newman EBSARY
Manslaughter
Sydney, N.S. - 71-05-28/29

I acknowledge receipt of your investigator's report, in this matter.

In the light of the investigator's gratuitous remarks in paragraph 3 of the report, as I understand the matter, nothing has altered the situation vis-a-vis MARSHALL-SMITH since 1971.

No further action should be taken and you should consider the matter closed at this time.

R.A. MacGibbon, Supt.,
Officer In Charge C.I.B.

RAMacG:acy

RCMP 223

SECURITY - CLASSIFICATION - DE SÉCURITÉ

OUR FILE/NOTRE RÉFÉRENCE

71H-010-6

YOUR FILE/VOTRE RÉFÉRENCE

82-77

82S-0042

DATE

84-01-06

RCMP 213

Handwritten signature and date: 10/19

ROUTINE

C.I.B.

84-10-19

UNCLAS

COMMISSIONER, OTTAWA

 R. A. MACGIBBON, SUPT.
 OFFICER I/C C.I.B.

"H" DIVISION

CIB 765/1

ATTENTION: DEPUTY COMMISSIONER CRIMINAL OPS

RE DONALD MARSHALL, JR. AND MEDIA COVERAGE RELATED TO RELEASE OF R.C.M.P. REPORTS. COPIES OF R.C.M.P. INVESTIGATIONAL REPORTS WERE RELEASED TO MEDIA AT A NEWS CONFERENCE IN AM 84-10-17 BY PROVINCIAL LIBERAL PARTY CANDIDATE KIRBY GRANT. THE REPORTS DEAL WITH AN INVESTIGATION BY OUR S/SGT. H.F. WHEATON INTO THE EVENTS SURROUNDING THE INVESTIGATION OF THE OFFENCE OF MURDER FOR WHICH MARSHALL WAS CONVICTED IN 1971. THE REPORT RELIED UPON WAS WRITTEN 82-05-20 BY S/SGT. WHEATON. LAST PARA OF THE REPORT DEALS WITH A DECISION TO DELAY INTERVIEWS OF MEMBERS OF SYDNEY POLICE DEPARTMENT. THIS MATTER WAS RESOLVED BY FURTHER INVESTIGATION INTO THE PROCEDURES AND PRACTICES OF THE SYDNEY POLICE DEPARTMENT AND REPORTED IN MAY 1983. GRANT AND MEDIA ARE NOW SUGGESTING THAT THERE WAS INTERFERENCE IN THE INVESTIGATION. SINCE THE PRESS CONFERENCE, THE FOLLOWING HAS OCCURRED.

- 1) ATTORNEY GENERAL R. GIFFIN, Q.C., HAS MADE A PUBLIC STATEMENT IN RESPONSE TO THE ALLEGATIONS. BASICALLY, HE STATED THAT THE DECISION TAKEN (REFERRED TO IN REPORT) WAS A STRATEGIC DECISION NOT TO PURSUE SECONDARY ISSUES UNTIL THE PRIMARY

 61-01-19
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P. 112 2:3

CIB 765/1

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ONE WAS DEALT WITH. THE PRIMARY ISSUE WAS HOW DONALD MARSHALL JR. WAS ARRESTED, TRIED AND CONVICTED IN 1971. SECONDARY ISSUES WERE THE POLICE PRACTICES.

- 2) MR. GIFFIN EMPHASIZED THAT NO DECISIONS HAVE BEEN MADE WITH RESPECT TO MARSHALL AND WILL NOT BE MADE UNTIL THE CONCLUSION OF A TRIAL OF ROY EBSARY.
- 3) MR. GIFFIN AND HIS DEPARTMENT WILL NOT MAKE ANY FURTHER RESPONSES ON THE MATTER.
- 4) C.O. "H" DIVISION IN RESPONSE TO ONE MEDIA QUERY HAS RESPONDED THAT ALL INVESTIGATIONS HAVE BEEN COMPLETED.
- 5) CROWN PROSECUTOR FRANK EDWARDS, SYDNEY, N.S. HAS INFORMED ATTORNEY GENERAL THAT HE RELEASED A COPY OF THE REPORT TO COUNSEL FOR MARSHALL, STEPHEN ARONSON ON JUNE 23, 1982. EDWARDS' EXPLANATION TO THE DEPARTMENT IS THAT HE WAS ATTEMPTING TO ENSURE THAT ALL POSSIBLE INVESTIGATIVE LEADS WERE BEING PURSUED.
- 6) ENQUIRIES IN "H" DIVISION REVEAL THAT THERE ARE OTHER KNOWN RELEASES OF REPORTS, ETC. OTHER THAN NORMAL COMMUNICATIONS TO AND FROM DEPUTY ATTORNEY GENERAL. WE

RCMP 2 23

CIB 765/1

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("H" DIVISION) ARE SATISFIED THAT THIS IS THE CASE.

THIS DIVISION DOES NOT PROPOSE TO RESPOND TO THE MATTER FURTHER.

URGENT

COMMISSIONER, OTTAWA

ATTN: D/Comm CR Ops

PLEASE DELIVER PRIOR TO
0800 hrs 84.10.22.

84.10.20 UNCLAS

71H-010-6

R. C. H. Sibbald ^{SUPV} O'le C.I.B.

TRACOMMS 388/1 - Further conversation with
D/Comm CR Ops - D.C.I. & O'le C.I.B. H Div
on 84.10.19. Following 18 documents relate
to investigation by this Force as requested
by DAG, Nova Scotia on 83.05.13.

[Signature]
84/10/22

OP REV
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