

I N D E X

VOLUME 20

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

**MEDIA POOL COPY**

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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

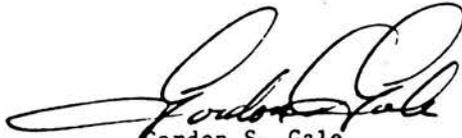
C. O. "H" Division  
R.C.M.P.  
3139 Oxford Street  
P. O. Box 2286  
Halifax, Nova Scotia  
B3J 3E1

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

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

*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  
40

*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

*73-06-02 AM - Gd. Stutta advise 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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OBJET Donald MARSHALL, Jr.  
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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  
40

*P-05-19*  
*[Handwritten signature]*

DEPARTMENT  
OF  
ATTORNEY GENERAL  
NOVA SCOTIA

P. O. BOX 7  
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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 COMP 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

SUBJECT  
OBJET Donald MARSHALL, Jr.

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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.

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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

R 2112 147

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

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

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SECURITY - CLASSIFICATION - DE SÉCURITÉ	
OUR FILE / NOTRE RÉFÉRENCE	
82S-0042	
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82S/0042

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The Officer i/c C.I.B.

Donald MARSHALL, Jr.

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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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The Officer i/c C.I.B.

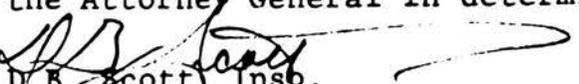
Donald MARSHALL, Jr.

....initially picked up by the police and stated he had seen it all, he was taken to the City Hospital where he spoke to Detective MacDONALD, who was in charge of the investigation at that point. MacDONALD got in the back seat and interviewed CHANT in front of the hospital and, although MacDONALD cannot recall the context of the conversation, the point concerning, "I saw it all", was clarified as MacDONALD states if it had not been or if he had given any indication he had been a witness to the offence, then a statement would have been taken from him at the police station. After two further interviews with the police, CHANT gives two statements with the last giving complete details of the crime from the information he obtained from MARSHALL and the police.

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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RCMP 2413

83-06-24

Your file    Votre référence

09-84-0255-08

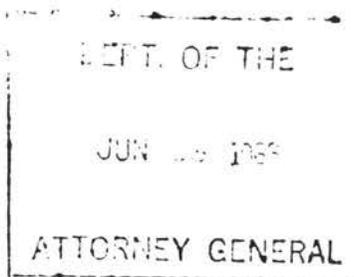
Our file    Notre référence

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  
Halifax, Nova Scotia  
B3J 3E1



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

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The Officer i/c C.I.B.

Donald MARSHALL, Jr.

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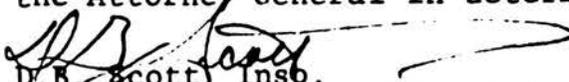
Donald MARSHALL, Jr.

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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.

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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 <b>"M"</b>		SUB-DIVISION <b>Sydney</b>		DETACHMENT <b>Sydney GIS</b>		"HO" FILE NO.		DATE <b>83-11-09</b>			
DIVISION FILE NO. <b>71H-010-6</b>		SUB-DIVISION FILE NO. <b>82-77</b>		DETACHMENT FILE NO.		P.C.R. <b>83-09-19</b>		F.P.S. <i>RCMP 2 149</i>			
DEFENDANT <b>Roy Newman EBSARY</b>				ADDRESS <b>68 Pالمouth Street Sydney, N.S.</b>							
BIRTHDATE <b>12-06-02</b>		BIRTHPLACE <b>Newfoundland</b>		OFFENCE <b>Manslaughter, Sec. 217 C.C.</b>							
PLEA <input type="checkbox"/> GUILTY <input checked="" type="checkbox"/> NOT GUILTY		TRIAL PLACE <b>Sydney, N.S.</b>		PLACE AND DATE <b>Sydney, N.S. 71-05-28/29</b>				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 <b>Justice R. MacLeod ROGERS</b>	
DISPOSITION OF CHARGE AND DATE <b>CONVICTED: See Remarks 83-11-08</b>								C-2168 FORWARDED <input type="checkbox"/> YES <input type="checkbox"/> NO			
INFORMATION LAID BY <b>Cpl. J. E. CARROLL</b>				<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

To 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 Counten (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 paragraph summary on incident at hospital.

(b) Results of job good. Also, truthful; prudent - inelocutione.

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

(d) Review done by Insp. K. H. Powell 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

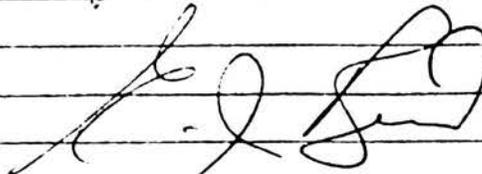
- |  |   |  |   |
|--|---|--|---|
| <input type="checkbox"/> Comments<br>Commentaires            | <input type="checkbox"/> Action<br>Donner suite               | <input type="checkbox"/> Prepare Brief<br>Préparer un exposé | <input type="checkbox"/> Return with Current File<br>Retourner avec le dossier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

71H-010-6

82-77

82S-0042

SUB DIVISION / SOUS DIVISION

Sydney, N.S.

DETACHMENT - DETACHEMENT

Sydney S/D GIS

RCMP 168

RE - OBJET:

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

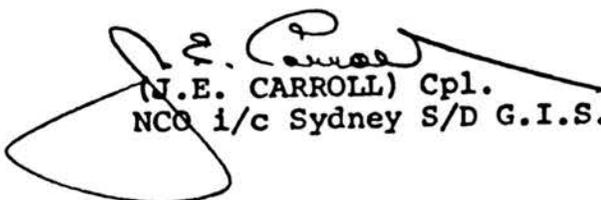
1. Further to my report dated 83-11-25 and footnote by O.C. Sydney Sub/Division in the above regard, be advised a patrol was made to Saint John, N.B., and Eugene Clair SMITH interviewed on 83-12-19, statement obtained, attached. He was permitted to review his polygraph report of 1971 and other correspondence 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 - <i>Note to file</i>	FROM - DE <i>C O</i>	Date <i>84.01.06</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 *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  
    *Top Marshall**

*(b) Polygraph examination -  
    Ehrig - truthful; kicked in  
    conclusion.*

*(c) Marshall's report received  
    None 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 A.M. or discuss it  
    with him or his officials.*

*(f) Our file is made on the  
    subject, 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°

BIN BD	Classification
	File No. - N° du dossier R/m/2 221

● HANDWRITING - ÉCRIRE À LA MAIN

TO - À	FROM - DE	Date

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

SUBJECT - SUJET

2.

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

(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 were  
unsuccessful as he is 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 there is 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

 84-10-19  
 58

*P. 112 2:3*

CIB 765/1

- PAGE 2 -

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

- PAGE 3 -

("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 <sup>SUPV</sup>  
O'Leary C.I.B.

TRACOMMS 388/1 - Further conversation with  
D/Comm CR Ops - D.C.I. & O'Leary 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  
38 -

Dom Broun

Re: John C. ...  
civil suite CBC

DONALD C. MURRAY

ICE

53

BIN	L
BD	

Classification
File No. - N° du dossier P.C.M.P.2 264

STEWART, MACKEN & COVERT  
BARRISTERS AND SOLICITORS  
19021 420-3200 TELEX 09-22593  
DIRECT DIAL 902-420-3341

PURDY'S WHARF TOWER ONE  
1959 UPPER WATER STREET  
P.O. BOX 997  
HALIFAX, CANADA B3J 2X2

FROM - DE	Date 86-05-12
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File

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

Above named wants to look at  
city police file re: Donald Marshall  
He represents former city police  
inspector Billy Arguehart. To check on request.  
-05-12  
:30pm Advised to correspond direct to A.G. since  
material was handed over on order of A.G.  
To save time as trial starts 2 June 86  
JFB

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

45

82-77

RE - OBJET

BIN - BD

DATE TIME HEURE ACTION TAKEN - MESURES PRISES

86-05-13

Ray Newman Elsay's appeal was denied however instead of serving this year it has been changed to one year.

86-05-14

Checked Collobretay's office & they advised that they have not rec'd anything official on the matter & feel they won't for another thirty days (appeal period).  
S.U.D.  
Rob

D.D. 86-06-30

<input type="checkbox"/> Concluded Enquête terminée	Date Complainant Notified Date d'avis au plaignant	SUI DD - DA ECE ▶	<input type="checkbox"/> Consulted consulte	<input type="checkbox"/> Attended sur les lieux	<input type="checkbox"/> Advised avisé
Investigator - Enquêteur		Date	SUPERVISOR SUPERVISEUR		Date
COPIES TO - COPIES A		Other - Autre			PAGE
<input type="checkbox"/> MO <input type="checkbox"/> CG	<input type="checkbox"/> DIV	<input type="checkbox"/> CIS <input type="checkbox"/> SFJ	<input type="checkbox"/> GIS <input type="checkbox"/> SFG		

Nova Scotia



Department of  
Attorney General

PO Box 7  
Halifax, Nova Scotia  
B3J 2L6

Our File No

May 14, 1986

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

This will confirm my instructions of May 14th to Superintendent Vaughan that the Sydney Police Department files on the Donald Marshall, Jr. case which were turned over to your force be delivered to Ronald N. Pugsley, O.C. of Stewart, MacKeen and Covert located at Purdy's Wharf, Tower One in Halifax.

  
Gordon S. Galt  
Director (Criminal)

GSG:jd

ADM. REK  
B Kull

11/11/86

*Rcmp 268*

56

May 22

983629

19 86

Received from  
Reçu de

Sydney Sub-Division RCMP

Copies of documents received from Sydney

City Police relative to the Donald Marshall  
Sand Seale case

Dollars

*[Handwritten Signature]*  
Signature

5431175 EQUIPMENT LIMITED OTTAWA K1M 0K1 - 91

*[Handwritten note]*

Officer i/c C.I.B.

Halifax S/D Section N.C.O.

SECURITY - CLASSIFICATION - DE SECURITE
CONFIDENTIAL
OUR FILE/NOTRE REFERENCE
YOUR FILE/VOTRE REFERENCE
DATE
86-06-05

SUBJECT  
OBJET

Canadian Broadcasting Corporation -  
Request for Interview -  
Donald MARSHALL Case

On the 4th June, 1986 I received a telephone call from Mr. Roger BILL, a producer for the CBC. He requested that I do a live interview with Mr. Ian McINTYRE for a CBC current affairs program.

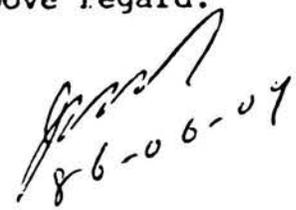
I questioned Mr. BILL as to what the content of this program would be. From the conversation, it is clear that they wish to question me in regards to (1) the actions of the Attorney General's Department during the investigation of the Donald MARSHALL case and subsequent investigations; (2) The actions of the Sydney City Police, particularly, Chief John MacINTYRE and any charges I may have recommended; and (3) My opinions of the judiciary, particularly comments of the Supreme Court; i.e. Donald MARSHALL is the author of his own misfortune.

Mr. BILL offered the use of CBC Lawyer, Mr. MURRANT, to scrutinize and review all questions prior to airing.

In regards to the above, if I were to answer these questions honestly, which I would do, it would undoubtedly cast the Department of the Attorney General in bad light. It would also bring forth the fact that I feel Chief John MacINTYRE should be charged criminally with counselling perjury. Thirdly, I do not feel Donald MARSHALL is the author of his own misfortune. He is the victim of an unscrupulous police officer, John MacINTYRE.

In view of the fact that this would undoubtedly have wide repercussions, I have discussed same with my Officer Commanding and seek your comments in the above regard.

  
H.P. Wheaton, S/Sgt.,  
Halifax S/D Section N.C.O.

  
86-06-07

O.C. Halifax Sub-Division

Officer i/c C.I.B.

P-111P2 227

SECURITY - CLASSIFICATION - DE SÉCURITÉ
CONFIDENTIAL
OUR FILE/VOTRE RÉFÉRENCE
71H-010-6
YOUR FILE/VOTRE RÉFÉRENCE
DATE
86-06-12

SUBJECT / OBJET Canadian Broadcasting Corporation -  
Request For Interview -  
Donald MARSHALL Case  
-----

I am very concerned with the contents of paragraph four of memorandum from your Section N.C.O. dated 86-06-05. I am not sure from perusing the file, just why S/Sgt. WHEATON feels he would cast the Attorney General's Department in a bad light.

I also wonder why he would now make a recommendation that Chief MacINTYRE should be charged criminally with counselling perjury, as over three years have elapsed, and any prosecution action could fail, due to the Charter of Rights. Why, if he felt prosecution should be entered, did he not make the recommendation in his report dated 83-05-30? I would also be interested in any new evidence, which may have come to light, as well as a summation of concrete evidence in support of his view, with report reference please.

I also do not totally agree that Donald MARSHALL was not the author of his own misfortune. It is mentioned numerous times throughout the file that MARSHALL refused to admit he was planning to commit a robbery at the time of the death. If he had told the truth from the beginning, the case may have been handled completely different.

I would strongly advise S/Sgt. WHEATON not to discuss this case at all with any media or other unauthorized persons in any detail whatever. The matter is under appeal to the Supreme Court of Canada and, therefore, should not be discussed.

A.E. Vaughan, Supt.,  
Officer i/c C.I.B.

*Original not rec'd by 86-06-16.  
Copy by hand from C180*

DLB/lmm

*S/Sgt. Wheaton*

*For your attention being further  
to your discussion with  
C180 this date just before  
86-06-16.*

*3 P/A  
86/06/11*

R.C.M.P. 220

Officer i/c C.I.B.

Halifax S/D Section N.C.O.

SECURITY - CLASSIFICATION - DE SECURITE
CONFIDENTIAL
OUR FILE/NOTRE REFERENCE
YOUR FILE/VOTRE REFERENCE
DATE
86-06-05

SUBJECT / OBJET

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In view of the fact that this would undoubtedly have wide repercussions, I have discussed same with my Officer Commanding and seek your comments in the above regard.

H.P. Wheaton, S/Sgt., Halifax S/D Section N.C.O.

Handwritten signature and date: 86-06-07

O.C. Halifax Sub-Division

Officer i/c C.I.B.

SECURITY - CLASSIFICATION - DE SÉCURITÉ
CONFIDENTIAL
OUR FILE/MOTRE RÉFÉRENCE
71H-010-6
YOUR FILE/VOTRE RÉFÉRENCE
DATE
86-06-12

SUBJECT / OBJET Canadian Broadcasting Corporation - Request For Interview - Donald MARSHALL Case

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*A.E. Vaughan*  
A.E. Vaughan, Supt.,  
Officer i/c C.I.B.

*cc copy given to you by C.I.B. 86-06-14*

HALIFAX  
JUN 20 1986  
SUB-DIVISION  
R. C. M. POLICE

WRITE - ÉCRIRE À LA MAIN

TO - À  <p style="font-size: 2em; text-align: center;">CIBO</p>	FROM - DE  <p style="font-size: 1.5em; text-align: center;">CIB - Sgt Bentley</p>	Date  <p style="font-size: 1.5em; text-align: center;">86/06/13-</p>
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| <input type="checkbox"/> Comments<br>Commentaires            | <input type="checkbox"/> Action<br>Donner suite               | <input type="checkbox"/> Prepare Brief<br>Préparer un exposé | <input type="checkbox"/> Return with Current File<br>Retourner avec le dossier actuel |
| <input type="checkbox"/> Perusal and P.A.<br>Lire et classer | <input type="checkbox"/> Prepare Reply<br>Rédiger une réponse | <input type="checkbox"/> Make File(s)<br>Ouvrir un dossier   | <input type="checkbox"/> Check Records<br>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)

I have reviewed the file of Donald MARSHALL and there is little doubt that the Sydney City Police used questionable tactics during the investigation of this murder, however, I do not believe that prosecution of MacIntyre, et al, at this stage is warranted. The report submitted by S/Sgt. H.F. WHEATON, dated 83/05/30 and tagged as appendix #1, seems to sufficiently cover a number of the ~~the~~ <sup>the</sup> ~~proceedings~~ <sup>proceedings</sup> initiated by the Sydney City Police. In addition, when new evidence was relayed to the Sydney City Police, they were not prepared to re-investigate the information to establish its genuineness. As far as I am concerned, MacIntyre's et al, tactics have been common knowledge for a few years now and I would certainly think that Frank EDWARDS, Q.C. Crown Prosecutor as well as the Department of Attorney General, were well aware of any wrong doings by these men and undoubtedly discussed whether charges were warranted. In addition, to my knowledge and from review of the file, I can not find where any of the witnesses, who appeared <sup>at</sup> during the MARSHALL trial, have been or will be charged for this offence.

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

WRITE - ÉCRIRE À LA MAIN

TO - A	FROM - DE	Date
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|--|---|--|---|
| <input type="checkbox"/> Comments<br>Commentaires            | <input type="checkbox"/> Action<br>Donner suite               | <input type="checkbox"/> Prepare Brief<br>Préparer un exposé | <input type="checkbox"/> Return with Current File<br>Retourner avec le dossier actuel |
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SUBJECT - SUJET

Page 2.

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

Furthermore, I do not recommend that this force become involved in the ebe program - current affairs.

Perhaps I might suggest that the Department of Attorney General be approached with the idea that all murder investigations by the City of Sydney be handled by this force - not the City Police. I believe we mean our force, had to take over another murder investigation, since the MARSHALL case, simply because the Sydney Police did a lousy job.

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

TO  
A

O.C. Halifax Sub-Division

FROM  
DE

Halifax S/D Section N.C.O.

SECURITY CLASSIFICATION - DE SÉCURITÉ
<b>CONFIDENTIAL</b>
OUR FILE / NOTRE RÉFÉRENCE
YOUR FILE / VOTRE RÉFÉRENCE
71H-010-6
DATE
86-07-14

SUBJECT  
OBJET

Canadian Broadcasting Corporation  
Request for Interview -  
Donald MARSHALL Case

This will acknowledge receipt of memorandum of Officer i/c C.I.B. dated 86-06-12 with your attachment. My memorandum of 86-06-05 was in relation to opinions which would be asked by the captionally noted media and the general direction my answers would take. I will deal with paragraph four of my memorandum as per conversation with yourself and the CIBO. The main point at issue being, what evidence is there to support a charge and/or further investigation of former Chief of Police for the City of Sydney, John McINTYRE? Perhaps the simplest way to break down a rather lengthy and complex investigation would be to take each witness and describe what evidence he or she could give.

Maynard CHANT - Louisburg, N.S.

He can give evidence that on 71-05-29 he was fourteen years old. At approximately midnight, he was walking home at Wentworth Park, Sydney, N.S. He was approached by Donald MARSHALL, who had a cut on his arm and advised Sandy SEALE had just been stabbed on the opposite side of the park on Crescent Street. CHANT and a group of young people drove around the park to the scene where CHANT took off his shirt and placed it on the wound. On arrival of the Sydney City Police, he was sent on his way. He was subsequently checked by Csts. JOHNSTON and MCKENZIE, who had a perimeter check point set up. Because of the bloody shirt, he was taken to the Sydney General Hospital where he was interviewed by Detective M.R. MacDONALD, who he told what he had seen and done. He was taken to the station and his father picked him up and took him home. He was in no way at this point an eye witness to the murder and did not say he was.

On 71-05-30 CHANT will state he was interviewed by McINTYRE. In this statement he will give evidence that he said what McINTYRE told him to say - basically that he saw Donald MARSHALL, Sandy SEALE and two other men on

- 2 -

Crescent Street. This was totally untrue, however, he advises he was afraid of McINTYRE, who threatened him by banging the table and talking loudly.

The next statement CHANT can give evidence on is 71-06-04 when he was again interviewed by McINTYRE and states he saw MARSHALL stab SEALE. Again, he will give evidence that he agreed with the Chief as he feared him; that he pounded the table and threatened to put him in jail, as he was on probation for theft of milk bottle money. He later perjured himself on the stand at Preliminary Hearing of the MARSHALL trial. During Supreme Court he would not say he saw the stabbing. He was declared a hostile witness and finally agreed with what he said in the Preliminary. In February of 1982 he was interviewed by Cpl. CARROLL and myself and readily admitted to his perjury and gave his reason why he lied. During the 1982 investigation, various side issues of the people present during the June 4th statement, Court Transcripts, etc. were checked. In all instances, CHANT's recall has been extremely accurate. When giving evidence since 1982, CHANT has been a very believable witness and has become rather frustrated that the real reason for him perjuring himself as a fourteen year old has never been revealed totally.

John Louis PRATICO - New Waterford, N.S.

Will give evidence that he was sixteen years old at the time of the SEALE murder and under psychiatric care. He will state he was interviewed by McINTYRE on 71-05-30. He told him that he saw SEALE and MARSHALL on Crescent Street and heard a scream. He then observed two fellows run away and jump in a stationwagon. He thought they were bikers.

On 71-06-04 he was again interviewed by McINTYRE and told him what he wanted to hear. He will state he did so out of fear of McINTYRE. He realized he was lying and approached the defense lawyer and Sheriff and told them so. He was then taken to the Crown Prosecutor's office and again threatened with perjury by the Crown and former Chief McINTYRE. Between the preliminary and Supreme Court, he had a nervous breakdown and was admitted to the Nova Scotia Hospital. On 82-02-25 PRATICO was interviewed by Cpl. J. E. CARROLL and readily admitted he lied on the stand and his reason for doing so was fear of the former Chief John McINTYRE. The statement as given was merely the repeating of what he was told to say by the former Chief.

- 3 -

Patricia HARRIS - 5 Kings Road, Sydney, N.S.

Will give evidence that in May of 1971, she was fourteen years old. On the night of 28/29 May she was walking home with Terry GUSHUE. GUSHUE was older and intoxicated. On Crescent Street they met and talked to Donald MARSHALL. She also observed two other men on Crescent Street, one old with white hair and a long coat. She will give evidence that Detective URQUHART did not want to hear about these other two men. She was turned over to McINTYRE who kept badgering her for hours and hours until she eventually told him what he said she saw, that the only two men on the street were SEALE and MARSHALL. She was extremely upset and told her mother. The next day they went to a lawyer, who told her to tell the truth. She felt seized with her story and felt she would be in trouble if she changed it. She therefore lied on the stand as a result of the coercion of former Chief McINTYRE.

These three people all say the same thing, that they were counselled to commit perjury by former Chief John McINTYRE. Various other bits and pieces of evidence can be given by Dr. Mian, PRATICO's Psychiatrist of the day, Sgts. Davies and Carroll, who assisted, and the writer. This evidence will corroborate the three key witnesses and may also show mens rae on the part of the former Chief.

On the 30th May 71 McINTYRE was fresh on the case and had interviewed MARSHALL; therefore, he knew that the principles on Crescent Street at the time were MARSHALL, SEALE and two other men. CHANT's statement and PRATICO's statement of the 30th both reflect this. On the 4th Jun 71 the former Chief was convinced MARSHALL committed the crime and the two men did not exist. PRATICO's statement and CHANT's statement both reflect this and they became eye witnesses to a murder that they never saw. Patricia HARRIS was a different problem for the Chief. She stated she saw the two men but not SEALE. After a five hour interview with the former Chief and Detective URQUHART, she forgot the two men and stated the only people on the street were MARSHALL and SEALE.

In conclusion, I feel this investigation has taken various phases. The first phase proved MARSHALL's innocence to the satisfaction of the Court. The second phase proved EBSARY's guilt pending any appeal. The third phase, which has not been completed, is the investigation of former Chief McINTYRE. I would respectfully submit that an offence has been committed by the former Chief and it bears further investigation to ascertain if it will stand the test of the courts. Certainly, there is a prima facie case here.

  
H.F. Wheaton, S/Sgt.

71H-010-6  
1510-1-1 (S/D)

- 4 -

Officer i/c C.I.B.

FORWARDED 86-07-18 for your information and attention,  
having reference to correspondence of 86-06-12.

The matter of further investigation and possible  
charges which could be laid against Chief McINTYRE  
was addressed by S/Sgt. Wheaton in his report dated  
86-06-05.

Halifax, N.S.

J.M. Penney, Supt.  
O.C. Halifax Sub-Division.

O.C. Halifax Sub-Division

Officer i/c C.I.B.

*F. 1112 227*

SECURITY - CLASSIFICATION - DE SECURITE
CONFIDENTIAL
OUR FILE/NOTRE REFERENCE
71H-010-6
YOUR FILE/VOTRE REFERENCE
DATE
86-06-12

SUBJECT / OBJET Canadian Broadcasting Corporation -  
Request For Interview -  
Donald MARSHALL Case  
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I am very concerned with the contents of paragraph four of memorandum from your Section N.C.O. dated 86-06-05. I am not sure from perusing the file, just why S/Sgt. WHEATON feels he would cast the Attorney General's Department in a bad light.

I also wonder why he would now make a recommendation that Chief MacINTYRE should be charged criminally with counselling perjury, as over three years have elapsed, and any prosecution action could fail, due to the Charter of Rights. Why, if he felt prosecution should be entered, did he not make the recommendation in his report dated 83-05-30? I would also be interested in any new evidence, which may have come to light, as well as a summation of concrete evidence in support of his view, with report reference please.

I also do not totally agree that Donald MARSHALL was not the author of his own misfortune. It is mentioned numerous times throughout the file that MARSHALL refused to admit he was planning to commit a robbery at the time of the death. If he had told the truth from the beginning, the case may have been handled completely different.

I would strongly advise S/Sgt. WHEATON not to discuss this case at all with any media or other unauthorized persons in any detail whatever. The matter is under appeal to the Supreme Court of Canada and, therefore, should not be discussed.

A.E. Vaughan, Supt.,  
Officer i/c C.I.B.

*Original not rec'd by 86-06-16.  
Copy by hand from C130*

DLB/lmm

*S/Sgt. Wheaton*

*For your attention being further  
to your discussion with  
C130 this date just forget  
8/10/86*

*by P/A  
86/06/11*

WRITE - ÉCRIRE À LA MAIN

TO - À	FROM - DE	Date
CIBO	CIB - Sgt Bentley	86/06/13-

<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)

I have reviewed the file of Donald MARSHALL and there is little doubt that the Sydney City Police used questionable tactics during the investigation of this murder, however, I do not believe that prosecution of MacIntyre, et al, at this stage is warranted. The report submitted by S/Sgt. H.F. WHEATON, dated 83/05/30 and tagged as appendix #1, seems to sufficiently cover a number of the ~~the~~ pressure moves initiated by the Sydney City Police. In addition, when new evidence was relayed to the Sydney City Police they were not prepared to re-investigate the information to establish its genuineness. As far as I am concerned, MacIntyre's, et al, tactics have been common knowledge for a few years now and I would certainly think that Frank EDWARDS, Q.C. Crown prosecutor as well as the Department of Attorney General, were well aware of any wrong doings by these men, and undoubtedly discussed whether charges were warranted. In addition, to my knowledge and from review of the file, I can not find where any of the witnesses, who perjured themselves during the MARSHALL trial, have been or will be charged for this offence.

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

WRITE - ÉCRIRE À LA MAIN

TO - A	FROM - DE	Date
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SUBJECT - SUJET

Page 2.

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

Furthermore, I do not recommend that this force become involved in the CBE program - current affairs.

Perhaps I might suggest that the Department of Attorney General be approached with the idea that all murder investigations in the City of Sydney be handled by this force - not the City Police. I believe we, meaning our force, had to take over another murder investigation, even the MARSHALL case, simply because the Sydney Police did a lousy job.

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

• WRITE - ÉCRIRE À LA MAIN

TO - À	FROM - DE	Date
CIBO	CIB	86/07/29

<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
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SUBJECT - SUJET

DONALD MARSHALL

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

I have again reviewed this file and can only reiterate my earlier comments that this murder investigation, under the direction of John MacIntyre, Sydney City Police, was carried out by investigators who had no qualms about using questionable tactics. Whether or not their maneuvers can be construed as in breach of the offence of counselling a witness to commit perjury is a matter for a court to decide. To specifically isolate certain statements given in evidence by CHANT, PRACTICO or HARRIS, and categorically state that the witnesses were under a threat by the Police if they did not co-operate, is almost impossible.

I believe that based on what is contained in S/Sgt. Wheaton's reports dated 83/05/30 and 86/07/14, sufficient suspicion has been raised to warrant further investigation for the offence of "counselling to commit perjury" following which the determination by the Department of Attorney General should be forthcoming concerning charges. I think that both MacIntyre and URGUMBA should be interviewed, as well as the three witnesses, CHANT, PRACTICO & HARRIS, to establish exactly what statements were made at the instigation of the Police. Furthermore, I think that:

Diary Date - Date d'agenda

Meeting Date - Date de réunion

P.A. - A.C.

Date  
8/6/08/01Init./N  
RB

WRITE - ÉCRIRE À LA MAIN

TO - À	FROM - DE	Date
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| <input type="checkbox"/> Perusal and P.A.<br>Lire et classer | <input type="checkbox"/> Prepare Reply<br>Rédiger une réponse | <input type="checkbox"/> Make File(s)<br>Ouvrir un dossier   | <input type="checkbox"/> Check Records<br>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)

Both MacIntyre and URRUHART should be questioned in depth as to why a further investigation was not carried out when it was learned the wrong person had been convicted. This information was relayed to Detective URRUHART by MAURICE RATCHFORD, as well as Cpl Gary GREEN, RCMP. Also, CHANT openly admitted in court that he was lying and had not seen the murder, but, this did not seem to sway/influence the crown to re-investigate the matter.

Perhaps, to investigate the ~~the~~ offence of Covering up, may never provide the ingredients necessary to lay charges against MacIntyre or URRUHART, but it ~~is~~ would ~~be~~ must at least try, particularly in light of the fact that MARSHALL has been acquitted and Roy DESSARY has been convicted of the murder.

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

CONFIDENTIAL

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

71H-010-6

August 1, 1986

Attention: Mr. Gordon S. Gale  
Director (Criminal)

Dear Mr. Gale:

Re: Roy Newman EBSARY  
Manslaughter  
Sydney, Nova Scotia  
71-05-28/29

Attached is a copy of my memorandum of 86-06-12 directed to the O.C. Halifax Sub-Division and the subsequent response from S/Sgt. Wheaton dated 86-07-14. The latter outlines the views of S/Sgt. Wheaton regarding the evidence to support a charge and/or further investigation of the former Chief of Police for the City of Sydney, John MacIntyre for counselling perjury.

I have now completed my review of the entire matter. To begin with, I should like to clarify the import of paragraph 1 of my memorandum of 86-06-12. Regrettably, your suggestion of 82-05-20 to hold the matter in abeyance was unintentionally misinterpreted to mean that the investigation from a police perspective should be stopped. For your information and record purposes, I have found no evidence whatever to support such an interpretation. I fully appreciate that the suggestion you made to hold the matter in abeyance was related to events occurring at the time, e.g., consideration of an inquiry, etc. It should not have been construed in any way as precluding a police investigation at a later date if such was deemed necessary and warranted.

The three witnesses at the MARSHALL trial: Maynard CHANT, John Louis PRATICO and Patricia HARRIS, have admitted that they gave perjured testimony during the trial proceedings allegedly because of coercion and threats made by former Chief MacIntyre. Further, they claimed that

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

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their testimony was in fact based on what MacIntyre told them to say. While these allegations are indeed serious, I do not support a further investigation at this time for the following reasons:

- 1) In his memorandum of 83-06-17, the O.C. Sydney Sub-Division suggested that while there were numerous flaws and variances from standard police practices and procedures, he concluded that this was an example of policemen identifying a person they think is responsible for an offence and then setting out to prove the theory by gathering the necessary evidence; moreover, he was of the view that the actions of the Sydney Police investigators was one of overzealousness.

In his memorandum of 83-06-24, the then CIBO took the position that the investigators (MacIntyre and Urquhart) believed MARSHALL to be responsible and in their zealously, together with the evidence available, placed too much reliance on the evidence of certain witnesses, hence, incorrect conclusions were drawn. On 84-01-06 the then CIBO wrote to the O.C. Sydney Sub-Division advising him that no further action should be taken and the matter should be considered closed at that time.

In the correspondence referred to, the police managers involved in the review of this matter made no suggestion whatever that MacIntyre or Urquhart may have counselled perjury.

- 11) There appears to be no independent relevant or material evidence available which would tend to corroborate the statements of CHANT et al. In essence, therefore, any prosecution of MacIntyre, or others, for counselling perjury would have to be based on the recollections of three self-confessed perjurers. Moreover, their recollections would be based on precisely what was said to them by MacIntyre, or others, during interviews which occurred fifteen years ago.

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

- 111) While the prosecutor, Donald MacNeil, may have had relevant and material evidence in relation to this matter, he has since deceased. As well, a Sydney policeman, one, MORZ, who may also have had some knowledge of this matter is deceased.

I share the view that this is a classic case of policemen focussing their efforts on one suspect to the exclusion of all other possibilities. This, I submit, reflects poor judgement rather than conduct involving criminal acts. In this regard, the following factors must also be taken into consideration.

- a) MacIntyre and his investigator(s) certainly had grounds to suspect Marshall in that during the previous year (1970/71), he had been "picked up" on seven different occasions in the park area where SEALE was murdered.
- b) It was not until the EBSARY trial in the 1980's that MARSHALL finally disclosed the full circumstances surrounding his presence in the park on that occasion. This non-disclosure at the time of the investigation no doubt influenced MacIntyre's belief that MARSHALL was in some way involved in the crime.
- c) The polygraph examination of EBSARY in 1971 showed him to be truthful. As well, the polygraph examination of another witness, MacNEIL, proved inconclusive. Again, the results of these examinations may have influenced MacIntyre in his belief that MARSHALL was in some way involved in the crime.

There is one other point to be considered in the overall analysis of MacIntyre's actions in the investigation of the SEALE murder. MacIntyre's position would undoubtedly be that although his methods of interrogation may have been somewhat irregular or forceful, they were intended to elicit truthful statements from the three witnesses referred to earlier. Furthermore, that the three witnesses incorrectly misconstrued the intent of his methods to be threatening or coercive leading them to provide false information.

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

For all these reasons, it is my view that no useful purpose would be served in initiating a further investigation into the allegations of counselling perjury. It is my understanding that some form of public inquiry will be held following the decision of the Supreme Court of Canada in the EBSARY case. Should such public inquiry identify any evidence of probative value warranting further police investigation, the appropriate action would be taken.

Your advice in this matter would be appreciated. Should you require further clarification on any of the points made, please do not hesitate to contact me.

Yours truly,

A. E. Vaughan, Supt.  
Officer in Charge  
Criminal Investigation Branch

Encls.

3139 Oxford Street  
P.O. Box 2286  
Halifax, Nova Scotia  
B3J 3E1

AEV/rjb

TO  
A

O.C. Halifax Sub-Division

FROM  
DE

Halifax S/D Section N.C.O.

SUBJECT  
OBJET

Canadian Broadcasting Corporation  
Request for Interview -  
Donald MARSHALL Case

SECURITY CLASSIFICATION / DE SÉCURITÉ
<b>CONFIDENTIAL</b>
OUR FILE / NOTRE RÉFÉRENCE
YOUR FILE / VOTRE RÉFÉRENCE
71H-010-6
DATE
86-07-14

This will acknowledge receipt of memorandum of Officer i/c C.I.B. dated 86-06-12 with your attachment. My memorandum of 86-06-05 was in relation to opinions which would be asked by the captionally noted media and the general direction my answers would take. I will deal with paragraph four of my memorandum as per conversation with yourself and the CIBO. The main point at issue being, what evidence is there to support a charge and/or further investigation of former Chief of Police for the City of Sydney, John McINTYRE? Perhaps the simplest way to break down a rather lengthy and complex investigation would be to take each witness and describe what evidence he or she could give.

Maynard CHANT - Louisburg, N.S.

He can give evidence that on 71-05-29 he was fourteen years old. At approximately midnight, he was walking home at Wentworth Park, Sydney, N.S. He was approached by Donald MARSHALL, who had a cut on his arm and advised Sandy SEALE had just been stabbed on the opposite side of the park on Crescent Street. CHANT and a group of young people drove around the park to the scene where CHANT took off his shirt and placed it on the wound. On arrival of the Sydney City Police, he was sent on his way. He was subsequently checked by Csts. JOHNSTON and McKENZIE, who had a perimeter check point set up. Because of the bloody shirt, he was taken to the Sydney General Hospital where he was interviewed by Detective M.R. MacDONALD, who he told what he had seen and done. He was taken to the station and his father picked him up and took him home. He was in no way at this point an eye witness to the murder and did not say he was.

On 71-05-30 CHANT will state he was interviewed by McINTYRE. In this statement he will give evidence that he said what McINTYRE told him to say - basically that he saw Donald MARSHALL, Sandy SEALE and two other men on

- 2 -

Crescent Street. This was totally untrue, however, he advises he was afraid of McINTYRE, who threatened him by banging the table and talking loudly.

The next statement CHANT can give evidence on is 71-06-04 when he was again interviewed by McINTYRE and states he saw MARSHALL stab SEALE. Again, he will give evidence that he agreed with the Chief as he feared him; that he pounded the table and threatened to put him in jail, as he was on probation for theft of milk bottle money. He later perjured himself on the stand at Preliminary Hearing of the MARSHALL trial. During Supreme Court he would not say he saw the stabbing. He was declared a hostile witness and finally agreed with what he said in the Preliminary. In February of 1982 he was interviewed by Cpl. CARROLL and myself and readily admitted to his perjury and gave his reason why he lied. During the 1982 investigation, various side issues of the people present during the June 4th statement, Court Transcripts, etc. were checked. In all instances, CHANT's recall has been extremely accurate. When giving evidence since 1982, CHANT has been a very believable witness and has become rather frustrated that the real reason for him perjuring himself as a fourteen year old has never been revealed totally.

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- 3 -

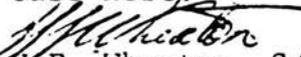
Patricia HARRIS - 5 Kings Road, Sydney, N.S.

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H.F. Wheaton, S/Sgt.

R. L. M. P. 2 3 7.

71H-010-6  
1510-1-1 (S/D)

- 4 -

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86-06-05.

Halifax, N.S.

J.M. Penney, Supt.  
O.C. Halifax Sub-Division.

O.C. Halifax Sub-Division

Officer i/c C.I.B.

*P. MP2 227*

SECURITY - CLASSIFICATION - DE SÉCURITÉ
CONFIDENTIAL
OUR FILE/NOTRE RÉFÉRENCE
71H-010-6
YOUR FILE/VOTRE RÉFÉRENCE
DATE
86-06-12

SUBJECT / OBJET Canadian Broadcasting Corporation -  
Request For Interview -  
Donald MARSHALL Case  
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A.E. Vaughan, Supt.,  
Officer i/c C.I.B.

*Original not rec'd by 86-06-16.  
Copy by hand from C130*

DLB/lmm

*A/Sgt. Wheaton*

*For your attn being further  
to your discussion with  
C130 this date just forget  
x/ 06-16.*

*3 P/A  
86/06/11*

# MESSAGE

Daily No - N° quotidien	Precedence - Priorité <b>IMMEDIATE</b>	Location - Lieu "HQ" OTTAWA	Date 86-08-01	Security Classification - Classification adhésive UNCLASSIFIED
C.O. "E" DIVISION				
PERSONAL ATTENTION OF: C.I.B.O.				
DIRECTOR, GENERAL ENFORCEMENT AND SUPPORT SERVICES				
Original's Reference No. - N° de référence de l'auteur DGESS/1/554	Our File - Notre n° de dossier	Your File - Votre n° de dossier		

CPS for \_\_\_\_\_  
OF \_\_\_\_\_

RE "E" DIVISION FILE 71H-010-6

THIS WILL CONFIRM TELEPHONE DISCUSSION A.M. THIS DATE BETWEEN SUPT. VAUGHAN AND ASSISTANT COMMISSIONER SCHRAMM IN RELATION TO A WORD OMISSION AND TYPOGRAPHICAL ERRORS IN THE AMENDED DRAFT FORWARDED ON 86-07-31. ATTACHED IS CORRECTED VERSION FOR YOUR INFORMATION AND FILE RECORD.

DELIVER TO SUPT. VAUGHAN UPON RECEIPT.

PA 86/08/05  
RB

*[Handwritten Signature]*  
R. E. Schramm, Assistant Commissioner

TO BE DELIVERED BY À LIVRER D'ICI LE	Date	Time - Heure	Author's Signature Signature de l'auteur	Phone No. - N° de téléphone	Date
REPLY REQUIRED BY					Time - Heure



Royal Canadian  
Mounted Police

Gendarmerie royale  
du Canada

82

F. 10112 232

Votre file votre référence

Our file Notre référence

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

71H-010-6

Re: Roy Newman KESARY  
Manslaughter  
Sydney, Nova Scotia  
71-05-28/29

Dear Mr. Gale:

Attached is a copy of my memorandum of 86-06-12 directed to the O.C. Halifax S/D and the subsequent response from S/Sgt. Wheaton dated 86-07-14. The latter outlines the views of S/Sgt. Wheaton regarding the evidence to support a charge and/or further investigation of the former Chief of Police for the City of Sydney, John MacIntyre for counselling perjury.

I have now completed my review of the entire matter. To begin with, I should like to clarify the import of paragraph 1 of my memorandum of 86-06-12. Regrettably, your suggestion of 82-08-20 to hold the matter in abeyance was unintentionally misinterpreted to mean that the investigation from a police perspective should be stopped. For your information and record purposes, I have found no evidence whatever to support such an interpretation. I fully appreciate that the suggestion you made to hold the matter in abeyance was related to events occurring at the time e.g. consideration of an inquiry, etc. It should not have been construed in any way as precluding a police investigation at a later date if such was deemed necessary and warranted.

The three witnesses at the MARSHALL trial: Maynard CHANT, John Louis PRATICO, and Patricia HARRIS, have admitted that they gave perjured testimony during the trial proceedings allegedly because of coercion and threats made by former Chief MacIntyre. Further, they claimed

Addressed copies to:  
Commissioner, RCMP  
1300 Allé Viate D'Est  
Ottawa, Ontario

À adresser aux répondants à  
Le commissaire de la G.R.C.  
1800, prom. Allé Viate  
Ottawa (Ontario)

R1A 098

...2

Canada

p. 2 252

that their testimony was in fact based on what MacIntyre told them to say. While these allegations are indeed serious, I do not support a further investigation at this time for the following reasons:

- i) In his memorandum of 83-06-17, the O.C. Sydney Sub-Division suggested that while there were numerous flaws and variances from standard police practices and procedures, he concluded that this was an example of policemen identifying a person they think is responsible for an offence and then setting out to prove the theory by gathering the necessary evidence; moreover, he was of the view that the actions of the Sydney Police investigators was one of overzealousness.

In his memorandum of 83-06-24, the then CIBO took the position that the investigators (MacIntyre and Urquhart) believed MARSHALL to be responsible and in their zealously, together with the evidence available, placed too much reliance on the evidence of certain witnesses; hence, incorrect conclusions were drawn. On 84-01-06 the then CIBO wrote to the C.C. Sydney Sub-Division advising him that no further action should be taken and the matter should be considered closed at that time.

In the correspondence referred to, the police managers involved in the review of this matter made no suggestion whatever that MacIntyre or Urquhart may have counselled perjury.

- ii) There appears to be no independent relevant or material evidence available which would tend to corroborate the statements of CHANT et al. In essence, therefore, any prosecution of MacIntyre, or others, for counselling perjury would have to be based on the recollections of three self-confessed perjurers. Moreover, their recollections would be based on precisely what was said to them by MacIntyre, or others, during interviews which occurred fifteen years ago.

- iii) While the prosecutor, Donald MacNeil, may have had relevant and material evidence in relation to this matter, he has since deceased. As well, a Sydney policeman, one, MOSE, who may also have had some knowledge of this matter is deceased.

I share the view that this is a classic case of policemen focussing their efforts on one suspect to the exclusion of all other possibilities. This, I submit, reflects poor judgement rather than conduct involving criminal acts. In this regard, the following factors must also be taken into consideration.

- a) MacIntyre and his investigator(s) certainly had grounds to suspect Marshall in that during the previous year (1970/71), he had been "picked up" on seven different occasions in the park area where SEALE was murdered.
- b) It was not until the ESSARY trial in the 1980's that MARSHALL finally disclosed the full circumstances surrounding his presence in the park on that occasion. This non-disclosure at the time of the investigation no doubt influenced MacIntyre's belief that MARSHALL was in some way involved in the crime.
- c) The polygraph examination of ESSARY in 1971 showed him to be truthful. As well, the polygraph examination of another witness, MacNEIL, proved inconclusive. Again, the results of these examinations may have influenced MacIntyre in his belief that MARSHALL was in some way involved in the crime.

There is one other point to be considered in the overall analysis of MacIntyre's actions in the investigation of the SEALE murder. MacIntyre's position would undoubtedly be that although his methods of interrogation may have been somewhat irregular or forceful, they were intended to elicit truthful statements from the three witnesses referred to earlier. Furthermore, that the three witnesses incorrectly misconstrued the intent of his methods to be threatening or coercive leading them to provide false information.

#15/

- 4 -

RCMP 232

For all these reasons, it is my view that no useful purpose would be served in initiating a further investigation into the allegations of counselling perjury. It is my understanding that some form of public inquiry will be held following the decision of the Supreme Court of Canada in the EBERRY case. Should such public inquiry identify any evidence of probative value warranting further police investigation, the appropriate action would be taken.

Your advice in this matter would be appreciated. Should you require further clarification on any of the points made, please do not hesitate to contact me.

Yours truly,

A.E. Vaughan, Supt.  
Officer in Charge  
Criminal Investigations Branch



Royal Canadian Mounted Police

Gendarmerie royale du Canada

86 RCMP 232

Your file Votre reference

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

Our file Notre reference

71H-010-6

Attention: Mr. Gordon Gale

July 30, 1986

Re: Roy Newman EBSARY
Manslaughter
Sydney, Nova Scotia
71-05-28/29

I am attaching for your information a memorandum which I forwarded to the O.C. Halifax Sub-Division dated 86-06-12 and a response from S/Sgt. Wheaton relative to his views that an investigation should be conducted into the alleged matter of former Chief of Police, John MacIntyre, counselling perjury.

By way of explanation of paragraph 1 of my memorandum, S/Sgt. Wheaton offers that your suggestion in [redacted] to hold the matter in abeyance be interpreted as stopping the investigation from a police perspective.

For the record, I have found no evidence whatsoever to support any such interpretation and am fully aware that the suggestion to hold the matter in abeyance was related to events occurring at the time such as consideration of a public enquiry, etc., but that in no way would preclude a police investigation later if it was deemed essential and warranted by this Force.

I have reviewed this file thoroughly and I would offer the following for your consideration and advice please. The three witnesses, Maynard, CHANT, John PRATICO and Patricia HARRIS, have stated that they lied in the MARSHALL trial as a result of coercion and threats by former Chief MacIntyre and that their testimony was in fact what MacIntyre told them to say. On the surface this appears highly suspicious, however, for the following reasons I do not feel that further investigation is warranted.

- 1) The C.I.B. Officer on 83-06-24 took the position that the investigators (MacIntyre and Urquhart) believed MARSHALL to be responsible and in their zealously together with the evidence available placed too much reliance on the evidence of certain witnesses together

..12

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

1) continued.

with the fact that wrongful conclusions were drawn by the investigating team. The C.I.B. Officer on 84-01-06 wrote to the O.C. Sydney Sub-Division and told him no further action should be taken and the matter should be considered closed at this time. The O.C. Sydney Sub-Division on 83-06-17 suggested that while there were numerous flaws and variances from standard practices and procedures on the part of the police, this is an example of policemen identifying a person they think responsible for the offence and then setting out to prove the theory and gain evidence against the person and moreover, the actions of the Sydney Police investigators was overzealousness. Nowhere is there a suggestion in these reports that these managers felt the former Chief or his assistance had counselled perjury.

ii) Any prosecution of the former Chief or others for counselling perjury would be dependent on the recollection of three self-confessed perjurers. Moreover, they would be required to recall quite precisely what was said to them during interviews which occurred over fifteen years ago. I would suggest this would be a defense field day.

iii) Certainly the prosecutor of the day, Donald MacNeil, would have pertinent information and testimony in this matter, however, he is deceased. It is my view that this in fact may, in part, prevent or present a defense. *MOREOVER, ANOTHER POSSIBLE MATERIAL WITNESS SYDNEY POLICEMAN MORZ IS ALSO DECEASED.*

The pursuit of MARSHALL as the person responsible for the SEALE murder by MacIntyre et al was in fact reinforced by polygraph examination given EBSARY in 1971. The polygraph examination showed EBSARY to be truthful. Another witness by the name MacNEIL was also given a polygraph examination which proved inconclusive.

MacIntyre and his investigators certainly had justification to suspect MARSHALL since during the previous year, 1970/71, he had been picked up on seven different occasions for offences in the park area where SEALE was murdered.

MARSHALL, until the EBSARY trial in the 1980's, did not tell the truth about his motives about being in the park which in itself would reinforce MacIntyre's belief of his guilt.

MacIntyre and others would logically in any proceeding suggest that their tactics were forceful and that in fact, while they may be suggestive, desk pounding

THERE APPEARS BE NO INDEPENDENT INFORMATION OR MATERIAL PARTICULAR WHICH WOULD TEND TO CORROBORATE THE RECOLLECTION OF CHANTE

IT APPEARS TO BE A CLASSIC CASE OF POLICEMEN MAKING AN ONE-SIDED ARGUMENT TO THE EXCLUSION OF OTHER POSSIBILITIES. REFLECTS A LACK OF JUDGEMENT OR CONDUCT WITH A MINIMAL CONNOTATION.

BUT ASSESSED

(U)

"H" Div. File No. 61H-010-6

vii) continued.

tactics were intended to elicit a truthful statement from CHANT, PRATICO and HARRIS that they had in fact observed MARSHALL commit the murder and ~~They~~ ~~that~~ would undoubtedly allege that this was interpreted by the young witnesses as a suggestion that they lie.

It is my view that under the foregoing circumstances there would be no useful purpose served in proceeding further with an investigation into an allegation of counselling perjury. ~~however, before concluding the matter here, I would appreciate your advice on my analysis of the facts.~~ IT IS MY UNDERSTANDING THAT SOME FORM OF ENQUIRY WILL BE HELD FOLLOWING EBSARY'S SUPREME COURT HEARING. IF, AT THE CONCLUSION OF THE HEARING FACTS ARE ESTABLISHED WHICH WOULD WARRANT FURTHER ACTION BY THIS FORCE THAT AVENUE IS OPEN TO US.

YOUR ADVICE IN THIS MATTER WOULD BE APPRECIATED.

MORA  
~~CHITRE~~

89

R C M P 2 232

CONFIDENTIAL

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 Gale

July 30, 1986

Re: Roy Newman EBSARY  
Manslaughter  
Sydney, Nova Scotia  
71-05-28/29

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- 1) The C.I.B. Officer on 83-06-24 took the position that the investigators (MacIntyre and Urquhart) believed MARSHALL to be responsible and in their zealotry together with the evidence available placed too much reliance on the evidence of certain witnesses together

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PA 86/08/01  
RA

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

i) continued.

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- ii) There appears to be no independent information or material particulars which would tend to corroborate the recollection of CHANT et al. Any prosecution of the former Chief or others for counselling perjury would be dependent on the recollection of three self-confessed perjurers. Moreover, they would be required to recall quite precisely what was said to them during interviews which occurred over fifteen years ago. I would suggest this would be a defense field day.
- iii) Certainly the prosecutor of the day, Donald MacNeil, would have pertinent information and testimony in this matter, however, he is deceased. It is my view that this in fact may, in part, prevent or present a defense. Moreover, another possible material witness, Sydney Policeman MORZ is also deceased.
- iv) This appears to be a classic case of policemen locking in on one individual to the exclusion of all other possibilities. It reflects poor judgement rather than conduct with criminal connotations.
- a) The pursuit of MARSHALL as the person responsible for the SEALE murder by MacIntyre et al was in fact buttressed by polygraph examination given EBSARY in 1971. The polygraph examination showed EBSARY to be truthful. Another witness by the name MacNEIL was also given a polygraph examination which proved inconclusive.

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PA 56/6

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

- iv) b) MacIntyre and his investigators certainly had justification to suspect MARSHALL since during the previous year, 1970/71, he had been picked up on seven different occasions for offences in the park area where SEALE was murdered.
- c) MARSHALL, until the EBSARY trial in the 1980's, did not tell the truth about his motives about being in the park which in itself would reinforce MacIntyre's belief of his guilt.
- v) MacIntyre and others would logically in any proceeding suggest that their tactics were forceful and that in fact, while they may be suggestive, desk pounding tactics were intended to elicit a truthful statement from CHANT, PRATICO and HARRIS that they had in fact observed MARSHALL commit the murder and they would undoubtedly allege that this was interpreted by the young witnesses as a suggestion that they lie.

It is my view that under the foregoing circumstances there would be no useful purpose served in proceeding further with an investigation into an allegation of counselling perjury. It is my understanding that some form of enquiry will be held following EBSARY'S Supreme Court Hearing. If, at the conclusion of the Hearing facts are established which would warrant further action by this Force, that avenue is open to us. Your advice in this matter would be appreciated.

  
A. E. Vaughan, Supt.  
Officer in Charge  
Criminal Investigation Branch

Encls.

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

*PA 06/08/01  
RB*

RCMP 2 233  
92  
#61 plg

# MESSAGE

Dist. No. - N° de distribution <b>IMMEDIATE</b>	Location - Lieu <b>"HQ" OTTAWA</b>	Date <b>86-07-31</b>	Security Classification - Classification adéquate <b>UNCLASSIFIED</b>
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C.O. "H" DIVISION

TO  
A  
**PERSONAL ATTENTION OF: C.I.B.O.**

INFO.  
REMS.

FROM  
DE  
**DIRECTOR, GENERAL ENFORCEMENT AND SUPPORT SERVICES**

Originator's Reference No. - N° de référence de l'auteur <b>DGESS/1/552</b>	Our File - Notre n° de dossier	Your File - Votre n° de dossier
--	--------------------------------	---------------------------------

RE "H" DIVISION FILE 71H-010-6.

ATTACHED IS AMENDED DRAFT OF YOUR PROPOSED CORRESPONDENCE TO MR. GALE FOR YOUR CONSIDERATION. PLEASE REVIEW IT TO ENSURE THE ESSENCE OF ALL ESSENTIAL DETAILS HAVE BEEN APPROPRIATELY CAPTURED.

DELIVER TO SUPT. VAUGHAN UPON RECEIPT.

86 JUL 31 15:00

CPS RF 196  
1 OF 5

ADM. SERV.

PA 5/10/86  
RB

TO BE DELIVERED BY À LIVRER D'ICI LE	Date	Time - heure	Authorizing Signature Signature de l'expéditeur	Phone No. - N° de téléphone	Date
---	------	--------------	--	-----------------------------	------

*[Handwritten signature]*

Royal Canadian  
Mounted Police

Gendarmerie royale  
du Canada

93

P. 233

p2 of 5

Your file Votre référence

Our file Notre référence

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

71H-010-6

06 JUN 31 15:5

Re: Roy Newman ESBARY  
Manslaughter  
Sydney, Nova Scotia  
71-05-28/29

Dear Mr. Gale:

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...2

Address replies to:  
Commissioner, RCMP  
1200 Alta Vista Drive  
Ottawa, Ontario

Adresser ses réponses à:  
Le commissaire de la G.R.C.  
1200, prom. Alta Vista  
Ottawa (Ontario)

K1A 0R2

RCMP 233

p3 of 5

- 2 -

this testimony was in fact based on what MacIntyre told them to say. While these allegations are indeed serious, I do not support a further investigation at this time for the following reasons:

- i) In his memorandum of 83-06-17, the O.C. Sydney Sub-Division suggested that while there were numerous flaws and variances from standard police practices and procedures, he concluded that this was an example of policemen identifying a person they think is responsible for an offence and then setting out to prove the theory by gathering the necessary evidence; moreover, he was of the view that the actions of the Sydney Police investigators was one of overzealousness.

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In the correspondence referred to, the police managers involved in the review of this matter made no suggestion whatever that MacIntyre or Urquhart may have counselled perjury.

- ii) There appears to be no independent relevant or material evidence available which would tend to corroborate the statements of CHANT et al. In essence, therefore, any prosecution of MacIntyre, or others, for counselling perjury would have to be based on the recollections of three self-confessed perjurers. Moreover, their recollections would be based on precisely what was said to them by MacIntyre, or others, during interviews which occurred fifteen years ago.

86.11.31 15:5

- 3 -

- iii) While the prosecutor, Donald MacNeil, may have had relevant and material evidence in relation to this matter, he has since deceased. As well, a Sydney Policeman, one, MORZ, who may also have had some knowledge of this matter is deceased.

I share the view that this is a classic case of policemen focussing their efforts on one suspect to the exclusion of all other possibilities. This, I submit, reflects poor judgement rather than conduct involving criminal acts. In this regard, the following factors must also be taken into consideration.

- a) MacIntyre and his investigator(s) certainly had grounds to support Marshall in that during the previous year (1970/71), he had been "picked up" on seven different occasions in the park area where SEALE was murdered.
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88.MR.31 15:

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p5 of 5

RCMP 233

- 4 -

For all these reasons, it is my view that no useful purpose would be served in initiating a further investigation into the allegations of counselling perjury. It is my understanding that some form of public inquiry will be held following the decision of the Supreme Court of Canada in the EBSARY case. Should such public inquiry identify any evidence of probative value warranting further police investigation, the appropriate action would be taken.

Your advice in this matter would be appreciated. Should you require further clarification on any of the points made, please do not hesitate to contact me.

Yours truly,

A.E. Vaughan, Supt.  
Officer in Charge  
Criminal Investigations Branch

36 JUN 31 15:5

Nova Scotia

**Department of  
Attorney General**

Deputy Attorney General

Gordon F. Coles, Q.C.

PO Box 7  
Halifax, Nova Scotia  
B3J 2L6

902 424-4223

File Number

09-86-0371-09

August 11, 1986

Supt. A. E. Vaughan  
Officer in Charge  
Criminal Investigation Branch  
Royal Canadian Mounted Police  
P.O. Box 2286  
Halifax, Nova Scotia  
B3J 3E1

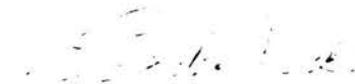
Dear Supt. Vaughan:

Re: 71H-010-6  
Roy Newman EBSARY

✓ Mr. Gale has referred to me your letter of August 1 for my consideration and reply.

Your review in this matter concurs with my own understanding of the events and I agree with your conclusions and advice in the matter.

Yours very truly

  
Gordon F. Coles

RECEIVED

PA 56/08/21  
RB

# MESSAGE

Priority No. - <i>Précedence - Priorité</i>	Location - <i>Lieu</i>	Date	Security Classification - <i>Classification sécuritaire</i>
URGENT	C.I.B.	86-08-21	UNCLAS

COMMISSIONER, OTTAWA  
 ATTN: A/COMM'R SCHRAMM, D.G.E.S.S.  
 SUPT. BEATHAM, PUBLIC RELATIONS

*[Handwritten scribble]*

C.I.B.O.

Originator's Reference No. - <i>N° de référence de l'auteur</i>	Our File - <i>Notre n° de dossier</i>	Your File - <i>Votre n° de dossier</i>
CIB 389/1		

RE: ROY NEWMAN EBSARY FILE 71H-010-6 (DONALD MARSHALL)

THE FOLLOWING RELEASE WILL BE MADE TO MEDIA THIS DATE:  
 "THE MATERIAL ON HAND HAS BEEN ASSESSED AND IT HAS BEEN  
 DETERMINED THAT THERE IS INSUFFICIENT BASIS TO WARRANT  
 FURTHER CRIMINAL INVESTIGATION BY THE RCMP."

DP REV.

*PA 86/08/21 RB*

TO BE DELIVERED BY À LIVRER D'ICI LE	Date	Time - <i>Heure</i>	Authorizing Signature <i>[Signature]</i> Signature de l'approbateur	Phone No. - <i>N° de téléphone</i>	Date
	REPLY REQUIRED BY RÉPONDRE D'ICI LE			A. E. VAUGHAN, SUPT., OFFICER I/C C.I.B.	

Commissioner, Ottawa  
Attn: A/Commr. Schramm  
D.G.E.S.S.

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

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE/NOTRE RÉFÉRENCE <b>71H-010-6</b>
YOUR FILE/VOTRE RÉFÉRENCE
DATE <b>86-08-26</b>

SUBJECT  
OBJET

Roy Newman EBSARY  
Manslaughter  
Sydney, Nova Scotia  
71-05-28/29  
-----

Attached is a copy of correspondence from the Department of Attorney General dated 86-08-11, which is in response to correspondence I submitted on 86-07-30.

The Department of Attorney General has agreed that further investigation against the former Chief of Police, John MacINTYRE, is unwarranted.

A.E. Vaughan, Supt.,  
Officer i/c C.I.B.

Encl.

RCLB/lmm

**ADM. REV.**  
*Keel*  
*PA 86/08/26*  
*RM*

Nova Scotia



**Department of  
Attorney General**

Deputy Attorney General  
Gordon F. Coles, O.C.

PO Box 7  
Halifax, Nova Scotia  
B3J 2L6

902 424-4223

File Number

09-86-0371-09

August 11, 1986

Supt. A. E. Vaughan  
Officer in Charge  
Criminal Investigation Branch  
Royal Canadian Mounted Police  
P.O. Box 2286  
Halifax, Nova Scotia  
B3J 3E1

Dear Supt. Vaughan:

Re: 71H-010-6  
Roy Newman EBSARY

✓ Mr. Gale has referred to me your letter of August 1 for my consideration and reply.

Your review in this matter concurs with my own understanding of the events and I agree with your conclusions and advice in the matter.

Yours very truly

Gordon F. Coles

REC-1

PA 6/10/86/24  
RMB

CONFIDENTIAL

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

71H-010-6

August 1, 1986

Attention: Mr. Gordon S. Gale  
Director (Criminal)

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Re: Roy Newman EBSARY  
Manslaughter  
Sydney, Nova Scotia  
71-05-28/29

Attached is a copy of my memorandum of 86-06-12 directed to the O.C. Halifax Sub-Division and the subsequent response from S/Sgt. Wheaton dated 86-07-14. The latter outlines the views of S/Sgt. Wheaton regarding the evidence to support a charge and/or further investigation of the former Chief of Police for the City of Sydney, John MacIntyre for counselling perjury.

I have now completed my review of the entire matter. To begin with, I should like to clarify the import of paragraph 1 of my memorandum of 86-06-12. Regrettably, your suggestion of 82-05-20 to hold the matter in abeyance was unintentionally misinterpreted to mean that the investigation from a police perspective should be stopped. For your information and record purposes, I have found no evidence whatever to support such an interpretation. I fully appreciate that the suggestion you made to hold the matter in abeyance was related to events occurring at the time, e.g., consideration of an inquiry, etc. It should not have been construed in any way as precluding a police investigation at a later date if such was deemed necessary and warranted.

The three witnesses at the MARSHALL trial: Maynard CHANT, John Louis PRATICO and Patricia HARRIS, have admitted that they gave perjured testimony during the trial proceedings allegedly because of coercion and threats made by former Chief MacIntyre. Further, they claimed that

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their testimony was in fact based on what MacIntyre told them to say. While these allegations are indeed serious, I do not support a further investigation at this time for the following reasons:

- 1) In his memorandum of 83-06-17, the O.C. Sydney Sub-Division suggested that while there were numerous flaws and variances from standard police practices and procedures, he concluded that this was an example of policemen identifying a person they think is responsible for an offence and then setting out to prove the theory by gathering the necessary evidence; moreover, he was of the view that the actions of the Sydney Police investigators was one of overzealousness.

In his memorandum of 83-06-24, the then CIBO took the position that the investigators (MacIntyre and Urquhart) believed MARSHALL to be responsible and in their zealously, together with the evidence available, placed too much reliance on the evidence of certain witnesses, hence, incorrect conclusions were drawn. On 84-01-06 the then CIBO wrote to the O.C. Sydney Sub-Division advising him that no further action should be taken and the matter should be considered closed at that time.

In the correspondence referred to, the police managers involved in the review of this matter made no suggestion whatever that MacIntyre or Urquhart may have counselled perjury.

- 11) There appears to be no independent relevant or material evidence available which would tend to corroborate the statements of CHANT et al. In essence, therefore, any prosecution of MacIntyre, or others, for counselling perjury would have to be based on the recollections of three self-confessed perjurers. Moreover, their recollections would be based on precisely what was said to them by MacIntyre, or others, during interviews which occurred fifteen years ago.

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- 111) While the prosecutor, Donald MacNeil, may have had relevant and material evidence in relation to this matter, he has since deceased. As well, a Sydney policeman, one, MORZ, who may also have had some knowledge of this matter is deceased.

I share the view that this is a classic case of policemen focussing their efforts on one suspect to the exclusion of all other possibilities. This, I submit, reflects poor judgement rather than conduct involving criminal acts. In this regard, the following factors must also be taken into consideration.

- a) MacIntyre and his investigator(s) certainly had grounds to suspect Marshall in that during the previous year (1970/71), he had been "picked up" on seven different occasions in the park area where SEALE was murdered.
- b) It was not until the EBSARY trial in the 1980's that MARSHALL finally disclosed the full circumstances surrounding his presence in the park on that occasion. This non-disclosure at the time of the investigation no doubt influenced MacIntyre's belief that MARSHALL was in some way involved in the crime.
- c) The polygraph examination of EBSARY in 1971 showed him to be truthful. As well, the polygraph examination of another witness, MacNEIL, proved inconclusive. Again, the results of these examinations may have influenced MacIntyre in his belief that MARSHALL was in some way involved in the crime.

There is one other point to be considered in the overall analysis of MacIntyre's actions in the investigation of the SEALE murder. MacIntyre's position would undoubtedly be that although his methods of interrogation may have been somewhat irregular or forceful, they were intended to elicit truthful statements from the three witnesses referred to earlier. Furthermore, that the three witnesses incorrectly misconstrued the intent of his methods to be threatening or coercive leading them to provide false information.

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For all these reasons, it is my view that no useful purpose would be served in initiating a further investigation into the allegations of counselling perjury. It is my understanding that some form of public inquiry will be held following the decision of the Supreme Court of Canada in the EBSARY case. Should such public inquiry identify any evidence of probative value warranting further police investigation, the appropriate action would be taken.

Your advice in this matter would be appreciated. Should you require further clarification on any of the points made, please do not hesitate to contact me.

Yours truly,

A. E. Vaughan, Supt.  
Officer in Charge  
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