



Royal Canadian Mounted Police Gendarmerie royale du Canada

84-01-12

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

Your file Votre reference

Our file Notre reference
71H-010-6

Attention: Mr. Gordon S. GaleRe: Donald MARSHALL, Jr.

Attached as requested in your telephone conversation
on the 83-01-12, are copies of the following correspondence:

Message 82 received on 71-05-30.
Message CIB4529/3 sent on 71-11-17.
Message MCIS 4720/10 dated 71-11-17.
Message MCIS 4725/10 dated 71-11-17.
Message NPSIC 42593/20 dated 71-11-17.
Report dated 71-12-21.
Polygraph report dated 71-11-30.

This is the only correspondence on our file previous to
our letter to you dated 82-02-25.


C.J. Reid, C/Supt.,
Commanding "H" Division

Encl.

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

JAN 16 1984

Nova Scotia

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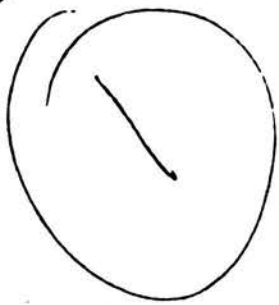
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May 30 3 11 AM '71

AG 177



T
RCMP HFX
1 ROUTINE SYD MAY30 UNCLAS

H DIV HFX MCIS
INFO SYDNEY S/DIV

*B.F. file
MURDER*

*also card Marshall
please.*

82 ALEXANDER SEALE (NEGRO) AGE 17 YRS OF WESTMOUNT C.B. CO DIED APPROX 8PM 29-5-71 AT SYDNEY CITY HOSPITAL AS RESULT OF ABDOMINAL STAB WOUNDS. SEALE LOCATED AT WENTWORTH PARK SYDNEY 12.15AM 29-5-71 IN AN UNCONSCIOUS STATE AND ADMITTED TO HOSPITAL IN CRITICAL CONDITION. DONALD MARSHALL JR INDIAN AGE 17 YRS GALLAGHER STREET MEMBERTOU, SYDNEY ALSO LOCATED SAME AREA IN PARK AND ALSO ADMITTED TO HOSPITAL WITH SEVERE LACERATION TO RIGHT ARM CONDITION SATISFACTORY CIRCUMSTANCES PRESENTLY BEING INVESTIGATED BY SYDNEY PD INVESTIGATION TO DATE REVEALS MARSHALL POSSIBLY THE PERSON RESPONSIBLE HOWEVER MARSHALL STATES HE AND DECEASED WERE ASSAULTED BY AN UNKNOWN MALE APPROX 5'8 TO 6' TALL GREY HAIR APPROX 50 YRS WHO STATED HE DID NOT LIKE INDIANS OR NEGROES AND ASSAULTED BOTH PERSONS WITH A LARGE KNIFE. SEARCH OF THE AREA FAILED TO PRODUCE THE WEAPON INVOLVED. MAY RECORDS BE CHECKED FOR PERSON(S) IN SYDNEY MET AREA USING SIMILAR TYPE MO WITH PHOTOS ETC FWD TO NCO I/C SYDNEY DET.

SYDNEY DET

*CIB
312A
A100*

RCMP HFX

288
ROYAL CANADIAN MOUNTED POLICE
OUTGOING MESSAGE FORM

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NOV 2 1971

TIME OF RECEIPT	FILE NUMBER	DRAFTER'S NAME DLB	TIME OF DISPATCH
	BRANCH, SECTION, ETC. CIB READERS	ROOM NO. TEL. NO.	
PRECEDENCE FOR ACTION ADDRESSES PRIORITY	PRECEDENCE FOR INFORMATION ADDRESSES ROUTINE	DATE 17-11-71	SECURITY CLASSIFICATION UNCLAS

FROM H DIV

TO P DIV

INFO SYDNEY SUB DIV

ORIGINATOR'S
REFERENCE
NUMBER**CIB 4529/3** REQUEST SERVICES OF POLYGRAPH EXAMINER IN SYDNEY, N.S.

ASAP IN CONNECTION WITH MURDER INVESTIGATION. DONALD MARSH
RECENTLY CONVICTED OF THIS MURDER HOWEVER JAMES WILLIAM
MACNEIL CLAIMS TO BE EYEWITNESS TO THE MURDER WHICH WAS
COMMITTED BY ROY WILLIAM EBSARY WHO DENIES ALL KNOWLEDGE.
EXAMINATION REQUESTED FOR MACNEIL WHO HAS GIVEN WRITTEN
CONSENT. IF EXAMINATION OF MACNEIL REVEALS HE IS TELLING
TRUTH POSSIBLY 3 FURTHER EXAMINATIONS WILL BE REQUIRED.
ADVISE IF EXAMINER AVAILABLE & ETA SYDNEY.

SIGNATURE OF PERSON RELEASING MESSAGE

D.J. WARDROP SUPT. OFFICER I+C CIB

TIME RELEASED (TIME OF SIGNATURE)

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1. FILE NUMBER, BRANCH or SECTION, DRAFTER'S NAME, etc. - To be filled in by the originator to facilitate prompt handling of a reply or query regarding the message. This information is not transmitted.
2. PRECEDENCE - Indicates to COMCENTRE the relative order in which messages are to be transmitted.
 - (a) FOR ACTION ADDRESSES - Enter precedence assigned to all action addressees, i.e., DEFERRED, ROUTINE, PRIORITY, OPERATIONAL IMMEDIATE or EMERGENCY.
 - (b) FOR INFORMATION ADDRESSES - Enter precedence assigned to all information addressees - usually DEFERRED.
3. TO - Enter all action addresses. Local abbreviations are not to be used if addressee is outside the Force.
4. INFO - Enter all information addresses. In multiple address messages (same message to more than one addressee), addressees to be designated either ACTION or INFORMATION.
5. ORIGINATOR'S REFERENCE NUMBER -
 - (a) Enter originator's reference number. It will be transmitted as first word of text of message.
 - (b) A message sent in reply to an incoming message MUST whenever available, contain a reference to and quote the Originator's number of that incoming message, i.e. UO 127 Re Your K62. Text

AG 177

RCMP 299

PRIORITY HFX NOV17 UNCLAS

COMM OTT

MCIS4720/10 PLEASE ADV FULL RECORD AND ANY WANTS FOR EPS 3996346
ROY NEWMAN ERSARY AND JAMES WILLIAM MACNEIL DE 25-6-46

MCIS HALIFAX

RCMP HQ HFX
PRIORITY HFX NOV17 UNCLAS

COMM OTT

MCIS4720/10 PLEASE ADV FULL RECORD AND ANY WANTS FOR EPS 3996346
ROY NEWMAN ERSARY AND JAMES WILLIAM MACNEIL DE 25-6-46

MCIS HALIFAX

MAKE EXIKH for Sgt Burgess
Sydney S/pt ATN Aug/Monmouth Sgt CIB P...
FOR 2:52/27 11-11-71 KOW
re Alan Cross William G. Burgess - 4...

PRIORITY HFX NOV17 UNCLAS

SYDNEY S/DI V

MCIS4725/10 ATTN INSP MARSHALL RE PHONE CONVERSATION BETWEEN
SGT PURGESS AND YOURSELF ROY NEWMAN ENSARY FPS 399634A C/R
9-4-70 SYDNEY NS (1) BREACH OF LCA SEC 85 FINED 10.00 DLRS AND
COSTS 1/2 10 DAYS (2) POSS OF CONCEALED WEAPON SEC 83 CC FINED
100.00 DLRS 1/2 2 MOS UNABLE TO ASSOC JAMES MACNEIL WITH ANY
FPS FILES THIS SECTION OR COMM OTT NO O/S WANTS

MCIS HALIFAX

RCMP HQ HFX
PRIORITY HFX NOV17 UNCLAS

SYDNEY S/DIV

MCIS4725/10 ATTN INSP MARSHALL RE PHONE CONVERSATION BETWEEN
SGT PURGESS AND YOURSELF ROY NEWMAN ENSARY FPS 399634A C/R
9-4-70 SYDNEY NS (1) BREACH OF LCA SEC 85 FINED 10.00 DLRS AND
COSTS 1/2 10 DAYS (2) POSS OF CONCEALED WEAPON SEC 83 CC FINED
100.00 DLRS 1/2 2 MOS UNABLE TO ASSOC JAMES MACNEIL WITH ANY
FPS FILES THIS SECTION OR COMM OTT NO O/S WANTS

MCIS HALIFAX

FOR FILE BY 17-11-71

291

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4725/10

RCMP MEX MCIS

62 HFX NOV17
214 PRIORITY OFF NOV17 UNCLAS

MCIS HALIFAX

NPSIC 42593/20 PEUR MCLIS 4720/10 ROY NEWMAN BESARY FPS 399630A C/R
9/4/70 SYDNEY NS (1) BREACH OF LCA SEC 85 FINED 10 DLRS AND COSTS
1/0 10 DAYS (2) POSS OF CONCEALED WEAPON 83CC FINED 100 DLRS 1/0 2
MONTHS UNABLE TO ASSOC JAMES MACNEIL WITH FPS FILE NO 075 WANTS

COMM

OTHER FILE REFERENCES. REF. AUTRES DOSSIERS.	DIVISION "H"	DATE 21 Dec. 71	RCMP FILE REFERENCES. REF. DOSSIERS GRC. AG 177
	SUB DIVISION SOUS DIVISION C.I.B.		
	DETACHMENT DÉTACHEMENT		

292

RCMP 352

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RCMP 352

RE
OBJET:

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

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

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

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

17 November 71

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

RE
OBJET:

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

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

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

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

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

John Lawrence PRACTICO (Age 16 Years)

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

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OBJET

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

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6. continued.

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

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

Terrence GUSHUE (Age 20)

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

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

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OBJET

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

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7. (continued)

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

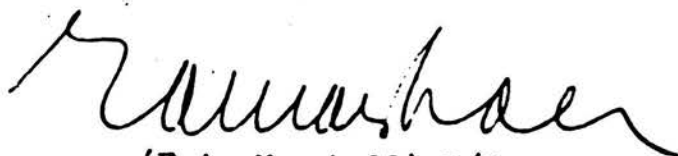
23 NOV 71

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

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

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

11. CONCLUDED HERE



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



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"F" Division
C.I.B.

RCMP 2 373

UR NO. _____
STRE N° _____

JR NO. 71 Poly 25
STRE N° _____

Regina, Sask., 30 Nov 71.

CONFIDENTIAL

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

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

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

1. James William MacNEIL
2. Roy Newman EBSARY

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

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

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

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

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

rep. Marshall

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

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


CONCLUSIONS:

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

REMARKS:

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

DISTRIBUTION:


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

Transcription of a tape of an item concerning Donald Marshall which was broadcast on CBC Halifax's First Edition, on Wednesday, January 11, 1984.

CBC News has learned that the Nova Scotia Attorney General's Department suppressed key evidence in the Donald Marshall Case, evidence that would be instrumental ten years later in Marshall's acquittal. Claude Vickery has more on the story.

Donald Marshall - eleven years he spent in jail for a crime he did not commit. It's been called the worst miscarriage of justice in Canadian history. It's been nine months now since Marshall was acquitted of that murder but so far the Provincial Government has refused to pay his legal bills estimated at \$80,000.00; refused to pay compensation, and refused to call a public inquiry.

(I feel that this is the kind of case that a lot of people would like to forget about but unfortunately it's not going to go away. There has been a tremendous injustice done here, taking a 17-year-old kid and putting him behind bars for eleven years and then telling him, "Well, yes, we made a mistake but you are partly to blame for it, so get lost".)

Does Marshall have a legitimate claim for compensation? The evidence is mounting in his favour. Last month we told you the story of Jimmy McNeil. Ten days after Donald Marshall was convicted of the stabbing in 1971, McNeil came forward. He had seen the whole thing. Marshall didn't do it, another man, Roy Ebsary, was the real killer. This crucial, eye-witness evidence was kept secret from Marshall and his lawyers.

The Attorney General's Department had an obligation to make this kind of material evidence available to the defence but the Attorney General's Department did not do so, in violation of it's own departmental policy.

The story of Jimmy McNeil is a sad episode in the legal history of this Province. Jimmy McNeil was trying to protect his friend Roy Ebsary and when Donald Marshall was put on trial McNeil was hoping that he would be found not guilty but ten days after the trial when Marshall was found guilty, McNeil decided that he couldn't protect his friend any longer and went to the Sydney Police. (I couldn't live with a person in jail because if he was me I would like somebody to come across and tell the truth too.) On November 15, 1971, McNeil gave his statement to the Sydney Police clearing Donald Marshall. Assistant Crown Prosecutor Lewis Matheson was told about this statement immediately by the Sydney Police. He says that he put in an urgent call to the

Attorney General's Department and spoke to the head of the Criminal Section, Bob Anderson. (Quote) "My recollection of it would be that I contacted, I believe, Bob Anderson who is now County Court Judge Anderson". (End of quote). So Matheson dumped the problem in the lap of the Attorney General's Department. As a result of that phone call the Donald Marshall Case passed out of the hands of the Sydney Police and into the hands of the Nova Scotia Attorney General's Department who, in turn, dispatched a senior R.C.M.P. officer to review the new evidence. Now the R.C.M.P. man gave McNeil and Ebsary lie detector tests but when Ebsary passed his lie detector test the R.C.M.P. man evidently lost interest in the case because he didn't bother to check Ebsary's criminal record and he didn't bother to get a warrant to search Ebsary's house.

The Chief Superintendent of the R.C.M.P. in Nova Scotia, Campbell Reid, told me that the investigator in question produced a three-page report. He says that, in the normal course of events, a copy of that report would have gone over to the Attorney General's Department. Reid says that at the time, 1971, the R.C.M.P. held regular briefings for members of the Attorney General's Department and, if it was really important, the Attorney General, himself, would have been briefed. So the R.C.M.P. had cast doubt on the McNeil revelations but it was still material evidence and it was highly relevant since the McNeil statement confirmed, in most respects, Donald Marshall's original story.

Here is what Lewis Matheson, The Assistant Crown Prosecutor, had to say (Quote) "It would have been totally inconsistent with the policy carried out at that time that it (the McNeil statement) would have been withheld from the defence lawyers". (End of quote).

But in 1972 Marshall's appeal came and went and the McNeil statement was kept secret from the defence. Marshall's new lawyer, Felix Cacchione, says that the new eye witness would have been grounds for a new trial. ("Well, if they had learned of it at the time that it was made, that is ten days after the conviction, they were in the process of preparing Donald Marshall appeal to the Supreme Court, the conviction and sentence appeal. I believe having that evidence in hand would certainly have come under the fresh evidence rules, it would have allowed the court, I think, to overturn the conviction and send the matter back for a retrial".).

Ten years later the Marshall Case would be reinvestigated by the R.C.M.P. and suddenly the McNeil statement unchanged would become the definitive version of the stabbing incident. The Crown kept it's secret for ten long years.

CBC News has now learned that the Attorney General's Department has destroyed all of the documents relating to the early years of the Donald Marshall Case - documents that could show who knew about the McNeil statement and who decided to suppress that evidence. The Attorney General's Department says that these documents were destroyed a long time ago, long before there was any fuss about the Donald Marshall Case. The Attorney General's Department says that normally they only hold onto documents for a couple of years and then they are, routinely, destroyed.

2 yrs

Robert Anderson, the former head of the Criminal Section at the Attorney General's Department, is now a County Court Judge. He has no recollection of the McNeil statement or the subsequent R.C.M.P. investigation. His boss was the Attorney General, Ben Pace, now a Judge of the Nova Scotia Supreme Court, Appeal Division. He has (quote) "No conscious recollection" (unquote) of the McNeil statement or the R.C.M.P. investigation.

Lewis Matheson was the Assistant Crown Prosecutor in Sydney. He is now a Judge of the Provincial Court. He says that as far as he knew Marshall's lawyers were told about the new eye witness back in 1971 but he never told them. His boss, Crown Prosecutor Donnie MacNeil, cannot answer any questions; he was killed in a 1978 plane crash.

Nova Scotia's Attorney General, Ron Giffin, won't comment on the Marshall Case, but Premier John Buchanan says that there cannot be any discussion of compensation or a public inquiry until two matters before the courts are cleared up. One of them is the Ebsary Case, which is coming up for appeal, and the other is the civil suit launched by Marshall and his lawyer against the Sydney Police. To Marshall and his lawyer that sounds very much like, "Drop the civil suit and we might talk about compensation", but Marshall's lawyer says that without any firm commitments of compensation or a public inquiry, the law suit will proceed.

Claude Vickery, CBC News, Halifax.

Thanks Claude.

PRESS RELEASE CONCERNING THE CASE OF DONALD MARSHALL

SECOND DRAFT

JANUARY 17, 1984

As an appeal by Roy Newman Ebsary from his conviction for the offence of manslaughter in relation to the death of Sanford

"Sandy" Seale in May of 1971 is pending before the

Appeal Division of the Supreme Court of Nova Scotia, I must ^{and that the the. As counsel C. will} refrain from commenting on specific aspects of evidence. _{proceedings to which the Prince is not a party}

However, I wish to respond, in general terms, to a news story carried by CBC Television News on Wednesday, January 11, 1984, in which it was stated that the Department of Attorney General suppressed key evidence in the case of Donald Marshall, Jr. for a period of ten years.

The Department of Attorney General's records respecting criminal and penal matters arising in 1971, which would include ^{any} department files concerning the prosecution of Donald Marshall, Jr., were destroyed in January of 1979 in accordance with an ^{approved} records retention schedule ^{after seven years} ~~which provided for the destruction~~ of such records after a lapse of a period of seven years. / As a result, it is not possible to confirm the nature of any communications which may have taken place between the late Donald C. MacNeil, Q.C., the Prosecuting Officer involved in the the prosecution of Donald Marshall, Jr. for the offence of Non-Capital Murder, and senior officials of the Department of Attorney General in Halifax. /

It has been and remains the policy of my Department to disclose to the Defence relevant and material evidence concerning the innocence of any person convicted of any offence, which comes to the attention of the Crown. ~~As the Department of Attorney General files concerning this case have been destroyed~~ *As the original files in this case are no longer available* in accordance with the records retention schedule, it cannot be determined what ~~steps~~ *steps*, if any, were taken by Mr. MacNeil or ~~senior officials in the Department of Attorney General to communicate the November, 1971 statement given by James William McNeil to the Sydney City Police, to counsel for Donald Marshall, Jr.~~ *the P.O., the late Mr. McNeil was interviewed and*

Through the offices of the R.C.M.P., "H" Division, in Halifax the Department of the Attorney General has obtained a copy of the report prepared by a Detective Inspector with "H" Division in Halifax in December of 1971 which recounts the involvement of the R.C.M.P., which, at the request of the Sydney City Police Department, conducted inquiries concerning Mr. McNeil's November 15, 1971 statement to that Department.

I should point out that this report does not confirm the information related in the CBC Television News story that the R.C.M.P. were dispatched to Sydney by the Department of Attorney General. It merely states that the R.C.M.P. became involved and relates the nature of that involvement and the

inquiries conducted by the R.C.M.P. This report concludes

with the assessment of the investigators that Donald Marshall, ^{the} ~~assessed~~ ^{in their assessment of the subject} ~~of Mr. Marshall, on the facts~~ ^{as requested at that time} Jr. was responsible for the death of Sanford (Sandy) Seale.

~~but that the evidence did not lead them to a sound~~ ^{different} ~~verdict~~ ^{from the verdict reached in the trial of Mr. Marshall}

Contrary to the assertion that the Department of Attorney General acted to suppress evidence in the case of Donald Marshall, Jr., the fact is that the Department of Attorney General was actively involved in the reinvestigation of Donald Marshall's 1971 conviction and took a non-adversarial position with a view of ensuring that the ends of justice would be served throughout the subsequent legal proceedings which resulted in the quashing of Mr. Marshall's 1971 conviction.

305

AG 61

09-84-28570

PRESS RELEASE CONCERNING THE CASE OF DONALD MARSHALL, Jr.

THIRD DRAFT

JANUARY 17, 1984

As an appeal by Roy Newman Ebsary from his conviction for the offence of manslaughter in relation to the death of Sanford (Sandy) Seale in May of 1971 is pending before the Appeal Division of the Supreme Court of Nova Scotia, and as Donald Marshall, Jr. has commenced a civil proceeding against the City of Sydney and members of its Police Department, I must refrain from commenting on specific aspects of evidence. However, I wish to respond in general terms, to a news story carried by C.B.C. Television News on January 11, 1984 in which it was stated that the Department of Attorney General suppressed key evidence in the case of Donald Marshall, Jr. for a period of ten years.

The Department's records respecting criminal and penal matters arising in 1971, which would include any Department files concerning the prosecution of Donald Marshall, Jr., were destroyed in January of 1979 after a period of seven years in accordance with an approved records retention schedule. As the original files in this case are no longer available, it is not possible to determine what communication, if any, was made by the Prosecuting Officer, the late Mr. Donald C. MacNeil, Q. C., to counsel for Donald Marshall, Jr. It has been and remains the policy of my Department to

disclose to the defence relevant and material evidence concerning the innocence of any person convicted of any offence, which comes to the attention of the Crown.

Through the offices of the R.C.M.P., "H" Division, in Halifax, the Department of Attorney General has obtained a copy of a report prepared in December of 1971 dealing with the involvement of the R.C.M.P., which at the request of the Sydney City Police Department, conducted inquiries concerning the November, 1971 statement given by James William McNeil to that Department.

I should point out that this report does not confirm the information related by the C.B.C. Television News story that the R.C.M.P. were dispatched to Sydney by the Department of Attorney General. It merely states that the R.C.M.P. became involved in the matter and relates the nature of that involvement. Following completion of their assessment of James William McNeil's statement and further inquiries which were conducted at that time, the Police remained of the view that Donald Marshall, Jr., was responsible for the death of Sanford Seale.

The assertion that the Department of Attorney General suppressed evidence in the case of Donald Marshall, Jr., is totally inconsistent with the role played by the Department

in the reinvestigation of Donald Marshall's 1971 conviction and with the position taken by the Crown throughout the subsequent legal proceedings which resulted in the quashing of Mr. Marshall's 1971 conviction, a position predicated upon ensuring that all relevant and material aspects of the case were presented before the Court.

January 12, 1984

Gordon F. Coles, Q.C.
Deputy Attorney General
Department of the Attorney General
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

Dear Mr. Coles:

RE: DONALD MARSHALL, JR.

On behalf of my client, Donald Marshall, Jr., and pursuant to the Freedom of Information Act, S.N.S. 1977, c.10, I hereby request access to any and all personal information held by or for the Department of the Attorney General or under the direct or indirect control of the said Department, including but not limited to:

1. All correspondence or communications whatsoever between the said Department and Correctional Service Canada (Canadian Penitentiary Service) or any of its branches, offices, agencies or institutions including all records, reports, opinions or recommendations;

2. All correspondence or communications whatsoever between the said Department and the federal Department of Justice or any of its branches, offices, agencies or institutions including all records, reports, opinions or recommendations;

3. All correspondence or communications whatsoever between the said Department and the National Parole Board or any of its branches, offices, agencies or institutions including all records, reports, opinions or recommendations;

Gordon F. Coles, Q.C.
January 12, 1984
Page 2

4. All correspondence or communications whatsoever between the said Department and the Police Department of the City of Sydney, or any officer thereof, including all records, reports, opinions or recommendations;

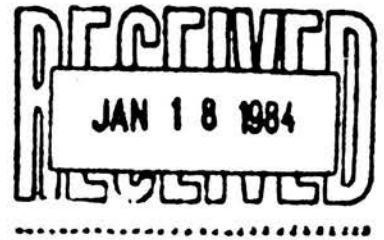
5. All correspondence or communications whatsoever between the said Department and the federal Department of the Solicitor General or any of its branches, offices, agencies or institutions including all records, reports, opinions or recommendations.

I thank you in advance for your anticipated co-operation.

Yours very truly,

Felix A. Cacchione

FAC/oh



**Attorney General
Province of Nova Scotia**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

FC 140

902 424-4044
902 424-4020

File Number 09-83-0638-09
Marshall, Donald,

January 17, 1984

Mr. Felix A. Cacchione
Lambert & Cacchione
Barristers & Solicitors
P. O. Box 547
Halifax, Nova Scotia
B3J 2R7

Dear Mr. Cacchione:

I wish to acknowledge your letter of January 12 seeking information on behalf of your client, Donald Marshall, Jr., pursuant to the Freedom of Information Act.

Your request is denied on the bases of Section 4(e), (g) and (h) of the Freedom of Information Act.

Pursuant to Section 12 of the Freedom of Information Act you may within fifteen days from this denial appeal the denial in writing to the Minister. The Minister shall within thirty days after receiving the request affirm, vary or overrule the denial. Pursuant to Section 13 of the Freedom of Information Act an appeal may be made to the House of Assembly if the Minister upholds the denial.

Yours very truly,

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

January 18, 1984

The Honourable Ronald Giffin, Q.C.
Attorney General
Province of Nova Scotia
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

Dear Mr. Minister:

RE: DONALD MARSHALL, JR.

It has now been eight months since Mr. Marshall was acquitted by the Appeal Division of the Supreme Court of Nova Scotia on a charge of murder. In light of the revelations of the past few weeks regarding the conduct of the Sydney City Police and the fact that your Department was aware that Mr. MacNeil had made a statement exculpating Mr. Marshall some ten days after Marshall's original conviction in 1971, is your Department prepared to conduct a full and impartial public inquiry into this situation? I would also appreciate your comments on the issue of compensation for Donald Marshall. Enough injustice has been done to this man to date and I would strongly urge that it be rectified without further delay.

I look forward to your response at your earliest convenience.

Yours very truly,

Felix A. Caochione

FAC/oh

LAMBERT & CACCHIONE

BARRISTERS & SOLICITORS

26 210

Michael A. Lambert, LL.B.
Felix A. Cacchione, B.A., LL.B.

Suite 903
1649 Hollis Street
Post Office Box 547
HALIFAX, NOVA SCOTIA
B3J 2R7

Telephone
(902) 423-9143

January 18, 1984

The Honourable Ronald Giffin, Q.C.
Attorney General
Province of Nova Scotia
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

Dear Mr. Attorney General:

RE: DONALD MARSHALL, JR.
YOUR FILE - 09-83-0638-09

By way of letter dated January 12, 1984, I made application on behalf of my client, Donald Marshall, Jr., for access to any and all personal information held by or for the Department of the Attorney General or under the direct or indirect control of the said Department under the Freedom of Information Act, S.N.S. 1977, c.10. The request for information included but was not limited to the following:

(1) All correspondence or communications whatsoever between the said Department and Correctional Service Canada (Canadian Penitentiary Service) or any of its branches, offices, agencies or institutions including all records, reports, opinions or recommendations;

(2) All correspondence or communications whatsoever between the said Department and the federal Department of Justice or any of its branches, offices, agencies or institutions including all records, reports, opinions or recommendations;

The Honourable Ronald Giffin
January 18, 1984
Page 2

(3) All correspondence or communications whatsoever between the said Department and the National Parole Board or any of its branches, offices, agencies or institutions including all records, reports, opinions or recommendations;

(4) All correspondence or communications whatsoever between the said Department and the Police Department of the City of Sydney, or any officer thereof, including all records, reports, opinions or recommendations;

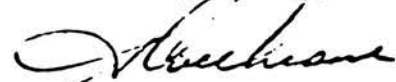
(5) All correspondence or communications whatsoever between the said Department and the federal Department of the Solicitor General or any of its branches, offices, agencies or institutions including all records, reports, opinions or recommendations.

By way of an unsigned letter from your Deputy, Gordon F. Coles, dated January 17, 1984, I was advised that Mr. Marshall's request pursuant to the Freedom of Information Act has been denied on the basis of Section 4(e), (g) and (h) of the said Act.

Take notice that pursuant to Section 12 of the Freedom of Information Act, Mr. Marshall appeals the denial of access by your Deputy Minister. I understand that the Act allows you thirty days after receipt of the request to affirm, vary or overrule the denial.

I trust this matter will be dealt with at your earliest convenience. I look forward to receiving your reply in relation to this matter.

Yours very truly,



Félix A. Cacchione

FAC/oh
enc.

AG 246

From Hon. Ronald C. Giffin, Q.C.
Attorney General

Our File Reference 09-84-0259-0/

To Mr. Martin E. Herschorn
Assistant Director(Criminal)

Your File Reference

Subject Donald Marshall, Jr. Case

Date February 7, 1984

Would you be good enough to look over the file and in particular the letter I received from Felix Cacchione dated January 18, 1984 appealing Gordon Coles' decision to me. I believe I have thirty days in which to get back to him after receipt of the request but as I have not had an opportunity to review the whole file, I would appreciate it if you would prepare a letter for my signature rejecting the appeal, citing the sections involved and I will sign it tomorrow.

Dictated but not read.
RCG/lw

P.S. Mr. Giffin can be reached at 895-5600 today if you need to speak with him.

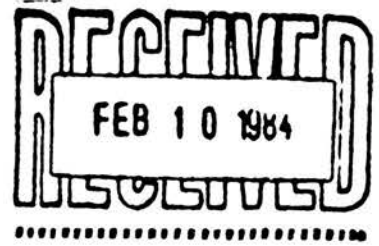
/lw

reer ebb was a 1979 man
when a court found him in contempt
in the aftermath of a bitter divorce
battle.

Mr. MacNeil had refused a
court order to pay his wife a \$50,000
lump sum alimony payment and
moved some \$65,000 in assets to the

pared the report but Mr. MacNeil's
death intervened.

"I did know him as an able
member of the legislature" and "a
capable and experienced prosecu-
tor," said Chief Judge How. "We
looked for experienced people."
Mr. MacNeil who suffered



**Attorney General
Province of Nova Scotia**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

FC 156

902 424-4044
902 424-4020

File Number 09-83-0638-09

February 8, 1984

Mr. Felix A. Cacchione
Lambert & Cacchione
Barristers & Solicitors
Suite 903
1649 Hollis Street
P. O. Box 547
HALIFAX, Nova Scotia
B3J 2R7

Dear Mr. Cacchione:

Re: Donald Marshall, Jr.

I wish to acknowledge your letter of January 18, 1984 wherein your client, Donald Marshall, Jr., appeals the denial of a request for information by Gordon F. Coles, Q.C., Deputy Attorney General. I have reviewed Mr. Marshall's request for information and wish to advise that I affirm this denial.

I am satisfied that the information which your client has requested would be likely to disclose information obtained or prepared during the conduct of an investigation concerning alleged violations of an enactment or the administration of justice, to which access is not permitted by virtue of Section 4(e) of the Freedom of Information Act. I am further satisfied that the requested information would also be likely to disclose legal opinions or advice provided to a department by a law officer of the Crown, or privileged communications between barrister and client in a matter of department business and opinions or recommendations by public servants in matters for decision by a Minister or the Executive Council. Clauses (g) and (h) of Section 4 of the Freedom of Information Act do not permit access to such information.

Mr. Felix A. Cacchione

- 2 -

February 8, 1984

Accordingly, I must uphold the denial of Mr. Marshall's request for the information referred to in your letter to me of January 18, 1984.

As you are no doubt aware, Section 13 of the Freedom of Information Act provides an appeal to the House of Assembly by a person to whom information has been denied.

Yours very truly,



Ronald C. Giffin

318

09-83-06-4-61
AG 132

LAMBERT & CACCHIONE

BARRISTERS & SOLICITORS

Michael A. Lambert, LL.B.
Felix A. Cacchione, B.A., LL.B.

Suite 903
1649 Hollis Street
Post Office Box 547
HALIFAX, NOVA SCOTIA
B3J 2R7

Telephone
(902) 423-9143

February 20, 1984

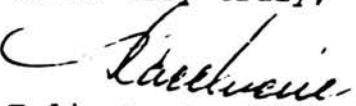
The Honourable Ronald Giffin, Q.C.
Attorney General
Province of Nova Scotia
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

Dear Mr. Minister:

RE: DONALD MARSHALL, JR.

Enclosed please find a copy of my letter to you dated January 18, 1984. To date I have not received a response to this letter and I would appreciate receiving one at your earliest opportunity.

Should you wish to sit down and discuss this matter, I would be pleased to meet with you at anytime.

Yours very truly,

Felix A. Cacchione

FAC/oh
enc.

January 18, 1984

The Honourable Ronald Giffin, Q.C.
Attorney General
Province of Nova Scotia
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

Dear Mr. Minister:

RE: DONALD MARSHALL, JR.

It has now been eight months since Mr. Marshall was acquitted by the Appeal Division of the Supreme Court of Nova Scotia on a charge of murder. In light of the revelations of the past few weeks regarding the conduct of the Sydney City Police and the fact that your Department was aware that Mr. MacNeil had made a statement exculpating Mr. Marshall some ten days after Marshall's original conviction in 1971, is your Department prepared to conduct a full and impartial public inquiry into this situation? I would also appreciate your comments on the issue of compensation for Donald Marshall. Enough injustice has been done to this man to date and I would strongly urge that it be rectified without further delay.

I look forward to your response at your earliest convenience.

Yours very truly,

Felix A. Cacchione

FAC/oh

January 19, 1984

Dorothy Bezanson
Prothonotary
P.O. Box 475
Sydney, Nova Scotia
B1P 6H4

Dear Miss Bezanson:

Re: Marshall v. The City of Sydney et al
S.N. No. 02790

In relation to this matter, please be advised that we will not be applying for a further extension of time on this action.

Should you have any questions, please do not hesitate to contact me.

Yours truly,

Felix A. Cacchione

FAC/oh

January 23, 1984

HAND DELIVERED

The Honourable Ronald Giffin
Attorney General
Province of Nova Scotia
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

Dear Mr. Giffin:

RE: DONALD MARSHALL, JR.

Please be advised that I have been instructed by my client to allow his action against the City of Sydney and John MacIntyre and William Urquhart, S.N. No. 02790, to lapse. Mr. Marshall does not want this action to act as an obstacle to the governments handling of the issue of compensation and a public inquiry in his case.

Mr. Marshall has instructed me not to commence and further proceedings against the City of Sydney but to reserve his right to commence an action against the police officers as individuals.

It is my client's hope that a just and speedy resolution of this matter can be forthcoming. A reply at your earliest convenience would be greatly appreciated.

Yours truly,

Felix A. Cacchione

FAC/oh

FEB 17 1984

**Attorney General
Province of Nova Scotia**


PO Box 7
Halifax Nova Scotia
B3J 2L6

902 424-4044
902 424-4020

File Number 09-83-0638-09

February 9, 1984

Mrs. Alexa McDonough, M.L.A.
Leader of the
New Democratic Party
P. O. Box 1617
HALIFAX, Nova Scotia
B3J 2Y3

Dear Mrs.  McDonough:

This is to acknowledge receipt of your letter of November 22, 1983. I appreciate the interest which you have taken in this matter and wish to advise you that the Government of Nova Scotia will take your comments into consideration in its review of this matter.

In November of 1983, shortly after I became Attorney General for Nova Scotia, I met with Mr. Felix Cacchione, the solicitor representing Mr. Donald Marshall. At that time Mr. Cacchione outlined to me his client's requests for payment of his legal costs, compensation and a public inquiry into the original police investigation of the death of Mr. Sandy Seale. The Government of Nova Scotia has not yet made a decision on these requests. I do understand that the Government of Canada has decided not to pay any costs or compensation to Mr. Marshall.

As you may know, after Mr. Marshall's conviction was set aside by the Appeal Division of the Supreme Court of Nova Scotia, charges were laid against Mr. Roy Ebsary in connection with the death of Mr. Sandy Seale. In November of 1983 Mr. Ebsary was convicted of manslaughter and sentenced to five years imprisonment. He has since appealed both his conviction and his sentence, and that appeal has not yet been heard by the Appeal Division of the Supreme Court of Nova Scotia.

.../2

It is my view, as Attorney General, that I must not either say or do anything which might, even inadvertently, prejudice or even appear to prejudice the criminal proceedings involving Mr. Ebsary which are still before the courts by virtue of his appeal. For that reason I have determined that the Government of Nova Scotia ought to make no public statement or decision on Mr. Marshall's requests until such time as the criminal proceedings involving Mr. Ebsary are disposed of by the courts.

At this point in time, therefore, the Government of Nova Scotia has neither accepted nor rejected the requests communicated to me by Mr. Marshall's solicitor and I intend to await the outcome of the criminal proceedings involving Mr. Ebsary before making any public statement of the intentions of the Government of Nova Scotia with respect to those requests.

Again I do want to thank you for taking the time and trouble to write to me about this matter and, I remain.

Yours very truly,



Ronald C. Giffin

Feb 10/84

D.M. Jr.

F. Coman - committee recommends public inquiry

- strongly recommend P.I. when Elsony trial over

- inquiry should begin immediately if after P.I. - it has to be re-evaluated

-:

- Pres. began conversation re DM.

- re P.I. - not moving before Elsony's appeal.

- Chief Justice sd. P.I. may be contempt of ct

- re announcement of P.I. could be done now to begin after Elsony

- compensation - not disposed before Elsony is over.

- immediately after Elsony's decision the gov't will immediately move on publishing - might start on compensation.


- not persuaded about upgrading

- re direct contact between AG + FC

- would talk to Giffen + Coles re direct communication

- Lloyd Shaw also wants letter to Buchanan re precise date of Elsony appeal.

→

- gov't will announce P.I. 

Father Coman
769-2114

Nov 15/53

Lou Siffin · 1:57 pm.

→ will meet privately - no reporter:

Nov 23/53 2 pm.

— 3rd floor - Law Bldg.

Université Ste.-Anne
Church Point
Digby County, Nova Scotia
BOW 1M0

February 15, 1984

Hon. John M. Buchanan, Q.C.
Premier, Province of Nova Scotia
Office of the Premier
Province House
Halifax, Nova Scotia

Dear Mr. Premier:

Re: Donald Marshall, Jr.

On behalf of Dean William Charles, Mr. George Mitchell, Q.C., Mr. Lloyd Shaw, and myself, I want to thank you for the opportunity to discuss with you last Friday morning the situation concerning Donald Marshall, Jr.

My request for the meeting followed a lengthy discussion among our group. On our invitation, Mr. Felix Cacchione attended part of our meeting. Mr. Cacchione had been asked by Donald Marshall to speak on his behalf. Mr. Marshall had decided not to attend himself because he is mentally and emotionally exhausted after the experiences and frustrations he has suffered for the best part of his life.

Our group wishes to follow up our meeting, Mr. Premier, by stating in writing the following three recommendations:

1) Public Inquiry

We strongly recommend that you announce at this time that a full public inquiry into the Donald Marshall case will be held immediately after the Ebsary Appeal is completed. We feel that such a public inquiry, properly conducted, would help restore to the judicial system the credibility which it has lost as a consequence of this case. It would help clear the air and the minds of the growing number of Nova Scotians, and citizens throughout Canada, who are deeply concerned about the handling of this vital matter even today.

February 15, 1984

2) Compensation

We further recommend that proper compensation to Donald Marshall should not be delayed by the public inquiry. We feel that the compensation process should begin immediately. If, as you indicated, the compensation awarded should prove to be inadequate, then it should be supplemented by the government after the public inquiry makes its recommendations.

Immediate compensation would enable Mr. Marshall to get started on building a new life, including being able to upgrade and utilize his plumbing trade which he is most anxious to do.

3) Communication

We also recommend arrangements be made for better communications between the Attorney General's Department and Donald Marshall and his lawyer, Felix Cacchione.

Obviously, Mr. Premier, members of our group feel strongly that the Donald Marshall case has reached a most urgent and critical stage. We have reason to believe that this view is widely held by many other persons and organizations throughout Nova Scotia and beyond.

If members of our group can be of any assistance to you and your government, and to Donald Marshall, in a mediation role, we will be glad to offer our full co-operation.

Yours sincerely,

Rev. Léger Comeau

On Behalf of:

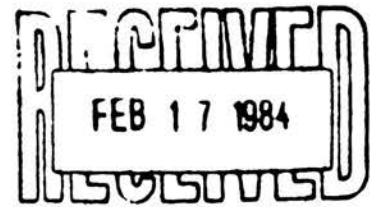
Dean William H. Charles

George M. Mitchell, Q.C.

Lloyd R. Shaw



HOUSE OF ASSEMBLY
NOVA SCOTIA



FC 162

OFFICE OF THE LEADER
NEW DEMOCRATIC PARTY

P.O. BOX 1617
HALIFAX, NOVA SCOTIA
B3J 2Y3

February 15, 1984.

OPEN LETTER

The Honourable Ronald C. Giffin
Attorney General
Province of Nova Scotia
Halifax, N.S.

Dear Mr. Attorney General:

I am writing to express my extreme disappointment with your reply this week to my letter of November 22, 1983 reiterating our call for your Government to undertake a public inquiry into the wrongful conviction of Donald Marshall Jr. Your refusal to proceed with a public inquiry and fair compensation for Mr. Marshall is yet another chapter in a shameful saga involving not only a grave miscarriage of justice, but a frightening incapacity of your Government to respond in a humane and reasonable way to right the wrong that has been committed.

There is no question that Mr. Marshall was wrongfully convicted of murder. There is no question that in order to establish his wrongful conviction he was forced to accumulate significant legal bills. There is no question that as long as the reasons for his wrongful conviction remain clouded, Mr. Marshall will not be able to begin the painful and arduous process of rebuilding his life. How, in the face of all this, you can continue to do nothing is beyond my comprehension.

Perhaps there is some logic in not proceeding with any public hearings until after the Mr. Roy Ebsary appeal has been heard. There is no conceivable reason, however, for your Government not to state its unequivocal commitment to a public inquiry and clear intention to compensate. The public inquiry commission could be appointed and the groundwork could commence to get the inquiry underway immediately after Mr. Ebsary's appeal is concluded. None of this would "even inadvertently, prejudice or even appear to prejudice the criminal proceedings involving Mr. Ebsary which are still before the courts".

February 15, 1984.

page 2

As you know, I have strenuously avoided treating Mr. Marshall's case as a political football. God knows the suffering he and members of his family have endured has been excruciating enough, without having to drag out the process further in order to wring a humane response and some measure of justice from the system.

However, your continuing refusal to respond forces me to pursue the matter, as a last resort, on a political level. I write you today to plead once again that you take immediate steps to ensure that Mr. Marshall is compensated and to see that such a miscarriage of justice not be repeated in this Province.

I FURTHER URGE THAT YOU DO SO IMMEDIATELY BEFORE THE LEGISLATURE RESUMES ON FEBRUARY 27 SO THAT DONALD MARSHALL AND HIS FAMILY WILL NOT HAVE TO FACE THE FURTHER PAIN AND HUMILIATION OF AN ASSEMBLY FULL OF ELECTED POLITICIANS WRANGLING OVER A MATTER THAT CAN AND SHOULD BE SETTLED BY A GOVERNMENT WITH A CLEAR MANDATE AND THE NECESSARY MEANS TO DO SO FORTHWITH.

Yours sincerely,



Alexa McDonough, M.L.A.
Halifax Chebucto
Leader, Nova Scotia NDP

Peter

Doug Rutherford

FC 21

substantial discussion list
 2 deputies, Coles + Tasse
 - not the minutes

- MacG. prepared to contact
 Cuffin if necessary
 4 the next week

- in fact, more - reasonable to say that
 Elbowy appeal + Vassinal not inconsistent

- fed thinking is that even if
 inquiry presented difficulties - what is
 the point of inquiry

- isn't compensation the bottom line