

NEWSPAPER ARTICLES AND HANSARDS ON DONALD MARSHALL, JR.

1982

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March 25, 1982	Federal ruling may be sought on new evidence
April 1, 1982	Munro will meet Marshall's lawyer
April 2, 1982	Marshall's lawyer meets with Justice Department officials; No word on action
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Jan. 19, 1984 Marshall's appeal lawyer says he didn't receive new evidence

Jan. 19, 1984 Marshall's lawyer denied access to file

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June 9, 1986 The tangled trial of Donald Marshall

June 10, 1986 Obvious contradictions

June 13, 1986 Donald Marshall still wonders when the
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June 19, 1986 Giffin breaks the silence--Probe into
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Convicted murderer seeking new trial after 11 years

Donald Marshall Jr., a 28-year-old Sydney man who has served 11 years in Dorchester Penitentiary for murder, has never given up his claim of innocence. And the wheels set in motion a few months ago by Mr. Marshall and his attorney may set him free and rewrite the legal history of the Maritimes.

At 17, Donald Marshall was charged with non-capital murder for the stabbing death of 16-year-old Sandy Seale in Sydney's Wentworth Park. Despite hints of false testimony, and the contention by defense counsel Simon Khattar that a prosecution witness admitted lying in a pre-trial hearing, the young Memberlou Reserve man was found guilty.

At the trial Mr. Marshall testified that two men "who looked like priests" stabbed his companion. He said he met Sandy, a friend of his, in the park on May 28, 1971. They were having "a friendly conversation" when the two men approached.

"They said they were from Manitoba and were looking for girls in the park," he testified. The older of the strangers, he said, then took out a knife, and thrust it into the Seale boy's stomach, then turned on him.

He was convicted and Mr. Justice J. L. Dubinsky of the Nova Scotia Supreme Court sentenced the crying Marshall to life in prison.

Since the conviction Mr. Marshall and his parents have insisted on his innocence. And his attorney, Halifax lawyer Stephen Aronson, is now hoping the 1971 conviction will be reversed.

While unable to reveal the nature of the new evidence, Mr. Aronson said Wednesday he is "optimistic, based on my understanding of the facts brought forward that Junior (Mr. Marshall) has a good case."

Mr. Aronson said he approached the Sydney Police Department several months ago on the matter, and they in turn turned the investigation over to the RCMP.

In the legislature Wednesday, Attorney General Harry How confirmed that his department is now studying an interim report of that investigation. Responding to a question from Vince MacLean MLA for Cape Breton South, Mr. How said the RCMP, at the request of the Sydney police force re-examined the evidence presented at the trial.

He said the RCMP are looking into allegations to the effect "that the evidence given at the trial was improper, if not perjury." The attorney general's office has received an interim report and has asked the RCMP to "further investigate certain aspects of the report," he said.

Mr. How said he will make a recommendation to Jean Chretien, the federal justice minister when the report is completed. If sufficient evidence of an improper trial exists, he said, Mr. Chretien could order a new trial, or that the case be sent to the appeal division of the Nova Scotia Supreme Court.

If Mr. Marshall's conviction is thrown out, it would be the first time a murder conviction has been reversed in the Atlantic Provinces.

RCMP Investigation Places Doubt On Donald Marshall Conviction

It was almost 11 years ago a slim Indian boy broke into a cell in the prisoner's dock at the County Court House after a Supreme Court judge sentenced him to life in prison on a non-capital murder charge.

The Cape Breton Post has learned that an intensive, two-month investigation by crack RCMP officials places considerable doubt on the validity of the conviction.

New evidence, it was learned, may clear Donald Marshall, of Membertou, of guilt in connection with the knife-slaying of 16-year-old Sandy Seale in Wentworth Park in May, 1971.

Marshall, who was 17 at the time of his trial, has spent the last 11 years in Dorchester Penitentiary, proclaiming his innocence.

Attorney General Harry How, Tuesday confirmed the investigation revealed new evidence which he will bring to the attention of the

Supreme Court as soon as possible.

There appeared to be three options open to Mr. How. He could ask for a new trial, a royal pardon or immediate parole.

RCMP have kept silent on the probe although it was learned that several witnesses at the trial have given statements that appear to be in conflict with testimony submitted in court.

There is no immediate indication of reasons for the investigation or the possible reopening of the case.

At the time of the trial Marshall took the stand in his own defence and denied he killed Seale.

He testified that one of two men "who looked like priests" stabbed the victim with a knife.

Marshall said he had known Seale as a friend for three years. He met Seale in the park late on May 28, 1971, and "we had a friendly con-

versation."

He said during the investigation two strangers approached them and asked for a cigarette and a light.

"We gave the men what they asked for. They said they were from Manitoba and were looking for girls in the park."

Marshall then stated that the older of the two strangers took a knife out of his pocket and drove it into Seale's stomach.

"He swung the knife at me and struck me on the arm. I didn't stab Seale or lay hands on him."

Simon Khattar QC, who defended Marshall said last night that he could recall an unusual incident during the trial.

"I was called out into the corridor by one of the Crown's key witnesses and he told me he had lied at the preliminary hearing." Mr. Khattar said. "I immediately called the sheriff and

Crown Prosecutor Donald MacNeil into an office and the witness repeated the statement. Mr. MacNeil told him that all he wanted from him on the stand was the truth. I agreed with Mr. MacNeil and the matter was not discussed any further."

It was learned that Marshall has refused to apply for parole on the grounds that such a request could be interpreted as an admission of guilt.

Mr. Justice J. L. Dubinsky presided at the trial which lasted three days in a packed courtroom with heavy security.

The jury deliberated four hours before reaching a verdict.

Marshall, a son of Mr. and Mrs. Donald Marshall, one of Membertou's most respected families, had the support of his kin since the day he was sentenced. The parents have worked for years attempting to have the case re-opened.

SCOTIA, THURSDAY, MARCH 25, 1982

Federal Ruling May Be Sought On New Evidence

Federal Justice Minister Jean Chretien might be asked for a ruling on the fate of a Sydney man who has spent 11 years in Dorchester Penitentiary for a murder he may not have committed. Attorney-General Harry How said Wednesday

How was speaking in Halifax after the Cape Breton Post revealed that RCMP was going over old evidence and testimony relating to the conviction of Duhaud Marshall in Sydney in 1971.

Marshall, a Micmac, was accused of stabbing to death Sandy Seale in Wentworth Park.

Marshall, who was 17 at the time of his trial, proclaimed his innocence all through the trial and throughout the years he spent in the New Brunswick penitentiary.

He was sentenced to life by Mr Justice J. L. Dubinsky of the Nova Scotia Supreme Court.

The Post broke the Marshall story Wednesday. The newspaper said in a front page story that a two-month RCMP investigation places considerable doubt on the validity of the conviction of Marshall, son of one of the most respected families on the Member Lou Reserve.

The Post said new evidence may clear him of guilt in the knife slaying of Seale.

How confirmed that the RCMP investigation revealed new evidence which he will bring to the attention of the Supreme Court as soon as possible.

How, who said he had only heard about the matter Tuesday, said he would have no hesitation sending the matter on to Chretien if the results of a special RCMP inquiry into the killing show that the evidence was false or incomplete.

How said he had received an interim report from the RCMP which his department was considering. A more detailed report was expected shortly, but how could not say exactly when it would arrive.

The Attorney-General also indicated his officials and the police were attempting to determine if someone had lied during Marshall's trial and if the police could build a case, perjury charges would be laid.

He said in the legislature that allegations had been made to the police that someone had lied to the court during Marshall's trial.

"The allegations that they have been investigating were... that the evidence given in that trial was improper, if not perjury," How said.

The RCMP has been instructed to continue its investigation. Chretien has the option, once the facts are in, to order a

new trial or refer the matter to the Appeals Division of the Nova Scotia Supreme Court.

Simon Khattar, who defended Marshall, said one of the Crown's key witnesses had taken him aside during the trial and told the lawyer, he had lied at the preliminary hearing into the case.

The matter was not pursued, Khattar said, because the witness promised to tell the truth when he was given the oath. The witness, who was not identified, reverted to the story he gave at the preliminary hearing when he got on the stand, Khattar said.

Marshall, who refused parole from Dorchester on the grounds it would appear to be an admission of guilt, said two strangers approached him and Seale in Wentworth Park on the night of the murder. They said they were from Manitoba and were in the park looking for girls.

After asking for cigarettes and a light one of the strangers swung a knife at Seale, striking him in the stomach. Marshall testified at his trial that the stranger also swung at him, cutting his shoulder.

The two alleged assailants then fled, Marshall testified.

"I didn't stab Seale or lay hands on him" Marshall protested at his trial.

Ch-Herald, April 1, 1982

Munro will meet Marshall's lawyer

OTTAWA (CP) — Indian Affairs Minister John Munro has agreed to meet today with the lawyer representing a Sydney man released from prison earlier this week after serving an 11-year sentence for a murder he says he did not commit.

Munro said he expects the lawyer to ask the federal government to compensate Donald Marshall, now 28, who has been in Dorchester, N.B., federal penitentiary since being convicted of the 1971 stabbing death of a friend.

Marshall and his family have maintained his innocence since his arrest.

Munro said it is too early to say what remedies the government might be able to provide, but vowed his department will exercise its "special responsibilities to do what it can for humanitarian reasons."

Marshall, a native Indian, was released on parole Monday after RCMP revealed they had new evidence

about his conviction and were conducting an inquiry to determine its validity.

Nova Scotia Attorney General Harry How later told the provincial legislature that police were investigating allegations someone lied to the court during Marshall's original trial.

Munro called Marshall "one of the few unfortunate victims of the rare occurrence when our system breaks down."

"I can only say that when I was in Nova Scotia (last week) and heard about this, I was really seriously perturbed."

Munro is also arranging for the lawyer to meet Justice Minister Jean Chretien and Solicitor General Robert Kaplan, minister responsible for the RCMP.

Chretien has the authority to order a new trial or refer the matter to the appeals division of the Nova Scotia Supreme Court.

Marshall's Lawyer Meets With Justice Department Officials; No Word On Action

Halifax lawyer Stephen Aronson was in Ottawa Thursday meeting with Justice Department officials in an attempt to decide the fate of a client who spent 11 years in Dorchester Penitentiary for a crime he says he never committed.

Aronson went to Ottawa just three days after his client, Donald Marshall, 28, of Membertou, was released from prison after serving 11 years of a life sentence for non-capital murder.

The lawyer met in Ottawa with Justice Department lawyer Ron Fainstein.

Fainstein said he "spoke very generally" with Aronson about Marshall and had no immediate word on what action the government might take.

He said Ottawa would continue to look into the matter. If convinced some action is necessary the government has several options.

It can order a new trial, refer the matter to the Nova Scotia Court of Appeal, ask the court to give its opinion about any aspect of the case, or even grant a pardon - although that is highly unusual.

Earlier reports said that Aronson was to meet with Indian Affairs Minister John Munro and Solicitor General Robert Kaplan, but the meetings were with department officials.

Marshall was sentenced to life in prison in 1971 following his conviction by a Supreme Court jury of the stabbing death of his friend Sandy Seale of Westmount who was 17 at the time.

Marshall, son of Grand Chief Donald Marshall and Mrs. Marshall, maintained his innocence during the trial and the 11 years he spent in prison. He claims that one of two men he and Seale met in Wentworth Park the night of May 28, 1971 killed his friend.

Marshall's family also maintained his innocence and say new evidence uncovered by RCMP will prove that Marshall didn't kill Seale.

The case reached the House of Commons Wednesday when Munro said Marshall's lawyer would meet government officials in Ottawa. He said he expects Aronson to ask Ottawa to compensate his client for the 11 years he spent in prison.

The minister said it was too early to say what remedies the government might be able to provide but vowed his department will exercise its "special responsibilities to do what it can for humanitarian reasons."

Meanwhile, Attorney General Harry How says the RCMP were investigating allegations that someone lied to the court during Marshall's original trial.

While Aronson was in Ottawa, Marshall was in Halifax awaiting the next move he hopes will lead to his freedom. Marshall is in a half-way house under day-parole.

Marshall wants his name cleared because "I suffered long enough, my friend, for somebody's mistake."

The Cape Breton Post files show that Marshall and Seale were in Wentworth Park the night of May 28, 1971 when both suffered stab wounds. Seale later died in hospital while Marshall recovered.

During his trial, Marshall said that one of two men he and Seale met in the park that night stabbed his friend in the stomach.

He testified that he and Seale, his friend of three years, were talking in the park when approached by the two men. The men claimed to be from Manitoba and asked the youths for cigarettes and wanted to know if there were any women in the park.

Next the older of the men said "we don't like niggers or Indians" and pulled a knife from his pocket. He said the man drove the knife into Seale's stomach, and slashed him on the arm.

The prosecution had two eyewitnesses. One was 16-year-old John Pratico who testified that while drink-

ing beer behind a bush near Crescent St. he heard Marshall and Seale arguing. He said he saw Marshall pull out a shiny object and stab Seale.

Another witness was Maynard Chant of Louisbourg. He said he was on his way to catch a bus when he noticed John Pratico crouched behind a bush and watching two people on Crescent St.

According to the court transcript, Chant testified that "one fellow, I don't know, hauled something out of his pocket - anyway, maybe - I don't know what it was. He drove it toward the left side of the other fellow's stomach."

At that point, Chant fled to a nearby street and a few minutes later Marshall ran up to him.

Under direct examination by Crown Prosecutor Donald MacNeil, Chant conceded that it was the youth who had stabbed Seale who met him on the nearby street. But under cross-examination he admitted "no, I'm not sure," that he had seen Marshall earlier on Crescent St.

Meanwhile How indicated Thursday his sympathy for compensation payments for persons wrongfully in prison, and he hinted that he might be willing to explore the idea further in the case of a 28-year-old Sydney man now under investigation.

How's statement came in response to a question from Vince MacLean the Liberal MLA for Cape Breton South in the Nova Scotia Legislature. MacLean had asked for updated information on the actions of the Attorney General regarding Donald Marshall, a Micmac Indian from Sydney who has claimed he was wrongfully imprisoned for murder.

How said his department is waiting for the completion of an RCMP investigation involving the examination of certain objects and the interrogation of witnesses from the original trial and others who have since come to light.

Cape Breton Post April 2, 1982 P.1.

Chronicle-Herald

April 7, 1982

How expects Marshall case report shortly

THE CANADIAN PRESS

Nova Scotia Attorney-General Harry How says he expects to receive a report on the Donald Marshall case within a few days from Chief Prosecutor Frank Edwards of Cape Breton.

The report, based on an ongoing RCMP investigation, will recommend if any other persons should be charged with the murder of Sandy Seale, How said.

Marshall, now 28, and son of one of the most prominent families on the Membertou Indian Reserve on the outskirts of Sydney, was a 17-year-old youth when he was found guilty in 1971 of non-capital murder in the stabbing death in Sydney's Wentworth Park. He and his family have maintained from the start that he is innocent.

RCMP re-opened the investigation last month when new evidence came to light. Roy Newman Ebsary, 70, of Sydney, who was charged with assault causing bodily harm in a recent stabbing that seriously injured another man, told a Sydney radio station he knows who stabbed Seale but he won't tell. Earlier, Ebsary also had allegedly told fellow roomers that he knew what happened to Seale. Hearing of this, Marshall wrote Ebsary a letter in January asking him to tell what he knows.

Ebsary is currently in the Nova Scotia Hospital for a 30-day mental examination pending trial on the recent stabbing.

He was not a witness during Marshall's 1971 trial.

Marshall testified in his own defence that he and Seale, a 16-year-old black, were friends and that they were talking in the park after a dance when they were approached by two men who looked like priests. The men asked them for a cigarette and a light, then said they were from Manitoba and asked if there were any girls in the park, Marshall testified.

Then, he said, one of the men said, "We don't like niggers or Indians" and stabbed Seale in the stomach. Marshall said he ran away from the assailants.

Only one witness testified to actually seeing Marshall stab Seale, and that was a 16-year-old youth who was drinking in the bushes at the time and admitted to being drunk.

After testifying at the preliminary hearing that he saw Marshall stab Seale, the youth told the Crown prosecutor and the defence lawyer outside court that he had lied on the stand because he was afraid. The Crown prosecutor urged him to tell the truth during the actual trial, but when called to testify he reverted to his original story that Marshall had done it.

Defence lawyers brought out the witness's admissions of the story, but the jury still found Marshall guilty. He was sentenced to life imprisonment.

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Final Decision On Donald Marshall Affair Awaits Settlement Of Two Crucial Matters

Two crucial matters remain to be settled before a final decision is made on the Donald Marshall murder controversy, Attorney General Harry How told the Post Friday night.

The RCMP investigation has turned its attention to interviewing a witness who now resides in another country and certain articles must be examined by scientific methods.

Mr. How would not disclose the name of the witness except to say permission must be received from police officials of the country to initiate a questioning process.

Donald Marshall, now 28, was released from Dorchester Penitentiary after the Post carried a story that a two-month RCMP investigation indicated that Marshall was innocent in the knife-slaying of Sandy Seale, 16, of Westmount on a chilly evening on May 28, 1971 in Wentworth Park.

He was sentenced to life in prison and was released to a half-way house in Halifax March 29 after serving almost 11 years of his term.

The Post has also learned the alleged murder weapon has been found by RCMP after at-

tempts were made for years to find the knife in the park. Even park waters were drained in an effort to find the weapon.

Marshall has maintained his innocence from the day he was sentenced during a three-day trial in Sydney. He also made an appeal in the Nova Scotia Supreme Court.

Several witnesses, it was learned, have given statements to RCMP claiming they lied at the Supreme Court trial.

One of the witnesses, Mar-nard Chant, revealed to a reporter he told Sydney detectives a phony story because he was frightened during a two-hour police interrogation a few days after the trial.

Justice officials in Ottawa, who have received the RCMP report, say it appears a map has identified himself and "has supplied evidence of his own guilt."

C. M. Rosenblum, QC, Marshall's defence lawyer and one of the best criminal barristers in the province, said last night he was "shocked" by the turn of events.

"I want to know what caused witnesses to lie under oath," Mr. Rosenblum said. He said

Marshall wrote several letters to him from Dorchester claiming his innocence.

"What the hell do I have to do to get out of here," Marshall said in a recent letter. "I'm innocent and nobody will listen."

Mr. How would not disclose in an interview he would make a decision in the case, possibly within a week or so.

"I have read Crown Prosecutor Frank Edward's report and there's a couple of questions we have to ask on this one," Mr. How said. "RCMP also have been requested for a small bit of additional information."

Commenting on the discovery of a weapon, Mr. How would say only "there is a suggestion of this."

A key witness in the investigation appears to be 70-year-old Roy Ebsary, a familiar figure on city streets who claims he is an ordained clergyman and a commander.

He is now being examined at the Nova Scotia Hospital following stabbing of another man about two months ago. He was convicted by Judge Charles O'Connell.

Ebsary has said publicly that he holds the key in the case. He



Rosenblum
"Surprised"

also claimed he is an ordained priest in the "Universal Life Church".

Marshall always stuck to the story that two men "who looked like priests" had stabbed Seale and cut him (Marshall) on the arm. "I studied the Bible all my life," Ebsary recently told a reporter in his dilapidated home on Falmouth St. "If you call me a liar, you'll die in your tracks."

He said he had all the answers in the Seale case and they stay here, he said while pointing to his heart. "I want to see Marshall out and I'm going to do it my way."

Mr. How said there were two options open to him: He could have the conviction set aside or turn the case over to the Supreme Court Appeal Division.

"I am heartened that we have a judicial system in this country that provides justice can be done" even in cases like this.

Marshall is reported to be adapting well to his new life in the Halifax half-way house. He has his freedom during the day but has all his meals and sleeps at the house.

Adjusting to the restaurants and streets of Halifax is an overwhelming experience for him after spending more than a third of his life in Dorchester, a friend said.

Meanwhile newspapers across the country have given considerable space to the case; The Toronto Star said in a recent editorial that if Marshall is innocent, he should be unhesitatingly awarded a generous financial compensation.

"Of course there can be no value placed on 11 lost years of a man's life," The Star said. "Lost opportunities, lost pride and personal anguish do not trace easily into currency."

Cape Breton Post
April 10, 1982

Chit Herald

Evidence points to new suspect in 1971 murder

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By ALAN STORY

Special to The Globe and Mail

SYDNEY, N.S. — The RCMP has gathered enough evidence to charge a new suspect for the 1971 murder of a Sydney youth that resulted in an Indian teen-ager being sent to prison for 10½ years.

Without revealing the suspect's name, Nova Scotia Attorney-General Harry How said yesterday: "We have very strong suspicions about another suspect."

Donald Marshall Jr., the Micmac Indian originally found guilty by a jury of the 1971 murder, was released on day parole from Dorchester Penitentiary on March 29. Mr. Marshall, now 28, has maintained his innocence.

The Sydney police department and the RCMP were given information in 1974 about the suspect's alleged role in Sandy Seale's murder but failed to act.

The RCMP finally reopened the investigation of the case two months ago and a report by Sydney's General Investigative Section indicates that Mr. Marshall is innocent.

That investigation has also uncovered the alleged murder weapon, a knife, and a second Sydney man who allegedly accompanied the suspect on the night of the murder.

During the November, 1971, murder trial, Mr. Marshall testi-

fied he was talking with 16-year-old Sandy Seale, his black friend of three years, in Wentworth Park on May 28, 1971 at about 11 p.m. Two men dressed in long blue coats approached them and started a conversation filled with racial slurs.

Then, Mr. Marshall testified, the older of the two men stabbed Mr. Seale in the stomach and slashed his arm.

Fibres from Mr. Seale's clothing and Mr. Marshall's were found on the alleged murder weapon.

The RCMP is interviewing the suspect's daughter, who lives outside Canada.

The exhibits used as evidence during the trial were kept by the RCMP crime laboratory in Sackville, N.B., and could be used again in a second trial.

It is not yet clear when the suspect will be charged with Sandy Seale's murder.

Stephen Aronson of Halifax, Mr. Marshall's lawyer, said it will be at least two weeks before the federal Department of Justice informs him of its decision on Mr. Marshall's original conviction.

While legal experts and Mr. How have said a suspect could be legally charged before Mr. Marshall is found innocent, a trial of anyone else would likely be delayed until Mr. Marshall is exonerated.

Under Section 617 of the Crimi-

nal Code, the Minister of Justice can order a new trial or refer the matter to an appeal court. Mr. Marshall's conviction was appealed in 1971, but that appeal was turned down.

Mr. Aronson says he would prefer the federal Cabinet grant his client a free pardon, which would declare him innocent of the murder. "Why drag Junior through another year and a half of trials after all he has been through?" he asked in an interview yesterday.

If Mr. Marshall is exonerated, it would be the first time in Canada that a murder conviction has been overturned after a person has served a long prison term. Mr. Aronson and one of Canada's top criminal lawyers in Toronto, who did not want to be identified, said the case was without precedent.

Mr. Marshall was convicted primarily by the eyewitness testimony of one 16-year-old youth who was drunk at the time of the murder and who had been a psychiatric patient of the Nova Scotia Hospital, less than a month before the trial began.

His mother has said he should not have been called as a witness, and his psychiatrist was reportedly shocked that the youth's testimony was believed.

RCMP investigators are asking how Sydney police officers obtained statements from this youth and other witnesses about the murder.

One witness, John Practico, recently told a Sydney reporter: "The police went out to get Marshall." Another witness has alleged he was pressured by the Sydney and Louisbourg police to concoct a story.

A Sydney man who has known the suspect for eight years says he went to the Sydney Police Department and the RCMP in 1974, gave them the suspect's name and evidence allegedly linking him with Sandy Seale's murder. "But ... they already had their man behind bars," the local resident, who did not want to be identified, said in an interview on Friday.

The Union of Nova Scotia Indians also gave the suspect's name to police in June, 1981, but the police again refused to reopen the case then. It was reopened after December, 1981.

However, Attorney-General How said yesterday he had "not even considered" an investigation of the role of the Sydney Police Department in convicting Mr. Marshall "We've never investigated the investigators before."

Harry Porter, chairman of the Nova Scotia Police Commission, said that, if his agency conducts an investigation, it would likely include a public hearing "so that the air can be cleared."

Weapon used in Seale murder may have been found

SYDNEY (CP) — The Cape Breton Post says RCMP have found a weapon believed to be the one used in the stabbing death of Sandy Seale, a 14-year-old youth.

Although Donald Marshall, now 28, was convicted of the murder in 1977, no weapon was ever found, even after four lakes in a park where the murder occurred were drained.

The Post said in its Saturday edition that provincial Attorney General Harry How says "there is a suggestion" RCMP have discovered a weapon that may have been used in the stab-

bing. But the attorney general would not confirm it.

RCMP officials investigating the murder were unavailable Saturday.

Marshall, of the nearby Membertou Reserve, was released from prison March 29 after serving 11 years of a life sentence for non-capital murder. He is on day parole, living in Halifax.

He was released after it was learned RCMP turned up evidence that throws his murder conviction in doubt.

How said Monday he expected a report from the chief prosecutor for Cape Breton within a few days. The report, based on the RCMP investigation, will recommend whether any other persons should be charged with Seale's murder.

The Post says justice department officials in Ottawa have received the report and it indicates a man has supplied evidence of someone else's involvement.

Meanwhile, How said RCMP have asked a foreign government for permission to interview

a witness to the killing who now lives outside Canada. How, who did not name either the witness or the country, also said new evidence obtained by RCMP must be examined by scientists.

Several witnesses at the Marshall trial say they have given false statements to RCMP and that they lied in Nova Scotia Supreme Court.

The Post says one witness, Maynard Chant, said he gave police a phoney story because he was frightened during interrogation a few days before the trial.

Chronicle
Herald

April 12, 1982

Micmac case may set series of precedents

Globe and Mail April 12, 1982

Special to The Globe and Mail

SYDNEY, N.S. — In coming months, the Donald Marshall case and its many spinoffs may establish a number of legal precedents and give opponents of capital punishment the specifics to support their point of view.

If Mr. Marshall is cleared of the May, 1971, murder of Sandy Seale — and a Sydney police report has indicated he is innocent — legal experts say he will be the first Canadian found not guilty of a murder charge after serving a long prison term.

In the past, there often wasn't a second chance. Convicted murderers were usually executed and some countries, notably Britain and the United States, have provided several examples of the classic miscarriage of justice: executing the wrong man.

The most famous case occurred in Britain. Timothy Evans was convicted of murder and hanged in 1954 but was later vindicated when another person named Christie was found guilty of the murder.

As for the Canadian experience, Ottawa sociologist David Chandler, writing in his 1978 text, *Capital Punishment*, concluded: "No Canadian case of executing the wrong person has been demonstrated."

That's not to say everyone is convinced. Critics have pointed to the contradictions surrounding the case of Wilbert Coffin, who was charged and convicted in the murder of one of three American hunters killed in the Gaspé region of Quebec in 1952.

The guilt of 14-year-old Steven Truscott for the 1959 rape and murder of a 12-year-old girl has also been questioned.

The Truscott case was a near-miss; his sentence to be hanged was later commuted to life imprisonment. He is now out of prison. But neither man was officially found innocent or pardoned by the federal Cabinet.

If Mr. Marshall is cleared, the Government has promised to pay compensation for his 10½ years behind bars.

"I don't know what yardsticks we will use," says Nova Scotia Attorney-General Harry How. "It might be an arbitrary lump sum based on a loss of earnings, plus a couple of other factors."

Justice Department Decision On Marshall Case Due "Soon"

By JOHN CAMPBELL
Staff Writer

Micmac News says a federal justice department decision in the case of Donald Marshall Jr. is expected within a couple of weeks.

But Marshall's lawyer, Steven Aronson won't put a date on it, and Ottawa sources say justice officials are equally vague about how or when the situation will be resolved.

The native peoples' newspaper came out yesterday with an editorial by associate director Brian Douglas, who acknowledged that the case was a difficult one for Justice, but predicted a decision within a couple of weeks.

But Aronson told a Post reporter that "you know as much as I do," when asked when a decision could be forthcoming. The Post's Ottawa Bureau sources meanwhile would only say that RCMP inquiries into various aspects of the case "will take a little time to complete."

The sources did confirm that the options open to the federal justice people, should new evidence warrant it, would include a new trial, reference to the Nova Scotia Court of Appeal, or even a pardon. Justice Department lawyer Ron Farnstein has described a pardon as a possibility — although it would be highly unusual.

But a pardon is the solution favored by Mic-

mac News, if new evidence is enough to clear Junior Marshall of the May, 1971 murder (of Sandy Seale), and an RCMP report supports his innocence.

Anything less than a pardon, says the editorial, would be "loathsome, and a further failure of the system to protect the interests of the innocent."

The paper acknowledges that the case is a difficult one, without precedent insofar as no Canadian murder conviction has ever been overturned after a person has served so long a prison term.

The question of restitution and compensation must also be addressed if Marshall is declared innocent, and those questions are also without precedent, says the editorial.

The editorial also calls for an inquiry to "clear the air" on questions regarding the Sydney Police Department's handling of the case.

The RCMP investigation, now in progress was undertaken at the request of city police authorities, who felt an independent probe would be proper in light of the fact that they had handled the original investigation.

Marshall, now 32, is living at a half-way house in Halifax, on day parole and enjoying limited freedom after 11 years in Dorchester Penitentiary.

Cape Breton Post May 14, 1982 ✓

Report Completed On Marshall Case

HALIFAX (CP) — The RCMP have completed a report on the case of Donald Marshall, who was kept in prison for 11 years for a crime he may not have committed. Attorney General Harry How of Nova Scotia said Thursday.

The report will be sent to federal Justice Minister Jean Chretien, who is expected to make a ruling within a few weeks.

Marshall, 28, was convicted 11 years ago of stabbing a young friend to death in a park at Sydney. He maintained throughout his trial that he was innocent and during his time in prison at Dorchester, N.S., campaigned for his release.

Reports from Sydney indicated someone else may have confessed to the murder, but no clear public information on that suspicion has appeared.

Marshall, a Micmac Indian, was released from prison earlier this year and is living in a half-way house in Halifax. How said he was not sure of the terms of Marshall's release — whether he was on special parole or if he had been freed because he had served long enough.

How said Chretien has a variety of options in the case including release and pardon for Marshall or a new trial could be ordered.

It isn't clear whether Marshall will have any legal recourse against the government. How said it was doubtful Marshall could sue, but said some sort of voluntary payment in compensation might be arranged.

How declined to give any details of the report he sent to Chretien.

Chretien

Thursday, May 27, 1983 THE MAIL-STAR 5

Precedent payment not yet ruled out

OTTAWA (CP) - The federal government has never made an ex gratia payment to a person imprisoned for a crime he didn't commit, Solicitor General Robert Kaplan said Wednesday.

But that doesn't rule out the possibil-

ity that one might be made, he said, referring to the case of Donald Marshall of Sydney, N. S., who has just been released after spending 11 years in prison for a murder he didn't commit.

Cape Breton Post May 27, 1982 p

Marshall Case "Regrettable"

The federal government has never made an ex-gratia payment to a person imprisoned for a crime he didn't commit, Solicitor General Robert Kaplan said Wednesday.

At a justice committee meeting, Liberal MP Bud Cullen asked Kaplan if there was any chance of such a payment to Donald Marshall of Sydney, who spent 11 years in prison for a crime he may not have committed.

Kaplan, terming the Marshall case "regrettable", said he has checked and found no federal precedent for such a payment.

But he didn't rule out a federal payment, indicating that the decision is up to Justice Minister Jean Chretien.

He said he is trying to find out whether there was any precedent for a provincial payment, as the Marshall case was "primarily the responsibility of the province."

May 31, 1982 p.4

Cape Breton Post

Marshall Case Under Review

Federal Justice Minister Jean Chretien said in Sydney on the weekend that he has begun reviewing the Donald Marshall case, but wouldn't commit himself to a decision on the affair.

Marshall, 29, of Membertou, was sentenced to life imprisonment in 1971 for the slaying of Westmount resident Sandy Seale. However, a police investigation is reported to have brought new evidence which casts in doubt Marshall's guilt. As a result, Marshall was released in March from Dorchester Penitentiary to a halfway house in Halifax, where he

is awaiting the outcome of the probe.

Chretien, in Cape Breton to meet members of the legal profession and attend the founding meeting of the Inverness North Liberal Association, said that whether or not some kind of action — either release or a new trial — resulting from the police investigation, will be left in the hands of the Nova Scotia Attorney-General.

The minister said a decision is also being held up because the government has no clear policy on whether people in such situations should be awarded compensation.

No decision on Marshall, Ottawa says

Special to The Globe and Mail

SYDNEY, N. S. — An official in the office of federal Justice Minister Jean Chretien said last night that no final decision has been reached on whether to grant Donald Marshall a free pardon or to ask the Nova Scotia Court of Appeal to review the controversial case.

Contradicting an announcement yesterday afternoon in the Nova Scotia Legislature by Attorney-General Harry How, the official, after checking with Mr. Chretien, said the issue was "still in the discussion stage."

Mr. How had said that Mr. Chretien had requested the appeals court review.

Mr. Marshall, a Micmac Indian from Membertou Reserve in Sydney, N. S., was convicted of murder in November, 1971, in the stabbing of his friend, Sandy Seale, and spent 10½ years in prison until he was paroled on March 30.

However, a recent RCMP report concluded that Mr. Marshall is innocent of the murder.

Mr. Marshall's lawyer had requested that he be given a free or royal pardon. Unlike a normal or conditional pardon, a free pardon, which is rarely given in Canada, means that the state recognizes that a convicted person never committed the offence he was charged with. Mr. Marshall's family had expected a free pardon and is upset about the delay.

Appeal court to hear Marshall case

A man who has served more than 10 years in prison for a murder which he may not have committed is going to be allowed another day in court to present his case.

Attorney-General Harry How told the House on Thursday federal Justice Minister Jean Chretien has chosen to have the case of Donald Marshall Jr., of Sydney, heard by the appeal division of the Supreme Court of Nova Scotia.

The attorney-general said the federal minister made his decision after having the case referred to him three weeks ago by the province. Mr. How promised his department would give speedy attention to preparing all necessary documentation for the hearing.

Mr. Marshall was 17 years old when he was con-

victed in the fall of 1971 of the murder of a 16-year-old Sydney youth. He spent the last 11 years in prison but last fall the RCMP re-opened his file when serious doubts began to surface about Marshall's guilt.

He was released from prison on parole earlier this year and is now living at a provincial community centre in Halifax.

H JUN 11 1982

Chronicle - Herald

June 11, 1982

Chretien still considering options in Marshall case

By PETER DUFFY

Staff Reporter

The next move in the Donald Marshall Jr. case still rests with federal Justice Minister Jean Chretien, says Attorney General Harry How.

Mr. How deferred to his federal counterpart Friday following confusion which arose Thursday because of an announcement he had made in the legislature.

The attorney-general had told the House Mr. Chretien had decided to let the matter be heard by the appeal division of the Nova Scotia Supreme Court, something the justice minister immediately denied.

In an interview, Mr. How said he and his staff had misinterpreted a Telex received from Ottawa Thursday.

The indication was he (Mr. Chretien) was proposing to take the matter to the appeal division," Mr. How said.

What the federal message actually said was that Mr. Chretien has two options open to him: one to let the appeal division handle a review of Mr. Marshall's case; the other to have the appeal division consider the matter and offer the justice minister guidelines for his decision.

"Apparently, he has not yet chosen between these two options, but the wording interpretation we gave it (the telex) was that he had," Mr. How said.

The subject of the confusion, Mr. Marshall, was jailed in 1971 at the age of 17 after being found guilty of the murder of a 16-year-old in a Sydney park.

Doubt has now arisen over Mr. Marshall's guilt and the RCMP have been investigating the case. While this is going on, Mr. Marshall has been released on parole and is living at a government community centre in Halifax.

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ACROSS CANADA

**Chretien asked
about N.S. man
jailed 11 years**

OTTAWA (CP) — Justice Minister Jean Chretien told the Commons yesterday he hopes to decide by the end of the week whether anything can be done about a Cape Breton man who spent 11 years in prison for a murder he says he didn't commit. Mr. Chretien said he has been reviewing the case of Donald Marshall with Nova Scotia Attorney-General Harry How but has yet to make a decision. Mr. Marshall, a 28-year-old Micmac Indian, was released from Dorchester Penitentiary in New Brunswick in April after an RCMP investigation that uncovered evidence to support his innocence. Mr. Marshall has consistently maintained his innocence in the 1971 stabbing of a young companion in a park in Sydney.

Chronicle - Herald

June 17, 1982

Marshall case will go to N.S. Supreme Court

OTTAWA (Staff) — Federal Justice Minister Jean Chretien caused an uproar in the Commons Wednesday when he announced the Nova Scotia Supreme Court's Appeal division will review the 1971 murder charge against Mikmac Indian Donald Marshall.

In a rarely used procedure, Mr. Chretien asked that Mr. Marshall's case be reopened in light of new evidence. The minister's department said the reference is only used when there are "compelling indications . . . of a miscarriage of justice."

Mr. Marshall was jailed in 1971 at the age of 17 for the murder of 16-year-old Sandy Scale in a Sydney park.

The RCMP are investigating the case because

of doubts about the guilt of Mr. Marshall, who is on parole and living at a government community centre in Halifax.

Mr. Chretien announced the provincial court reference under questioning Wednesday from Russell MacLellan (L-Cape Breton the Sydneys).

The response had another Nova Scotia MP — Halifax West PC Howard Crosby — Immediately on his feet.

Mr. Crosby demanded to know why the justice minister did not supply the information on the Marshall case before the Commons a day earlier. "I directed a question yesterday to the minister of justice concerning the same question," Mr. Crosby said on a point of order.

"It is difficult for me to understand . . . how

the minister of justice could possibly not know 24 hours ago that he was going to take this course of action."

Commons Speaker Jeanne Sauve said she could not intervene in the matter. "It is not for me to judge whether the minister did not know one thing one day and happened to know it the next day."

Wednesday marked the second occasion Mr. Chretien has been attacked for giving what opposition MPs claim are less-than-candid answers to questions.

Last month, Newfoundland MP John Crosbie charged Mr. Chretien had deliberately misled the Commons over the government's intentions concerning a Supreme Court reference on the offshore issue.

Marshall free on bail

By MERLE MACISAAC

Staff Reporter

Donald Marshall Jr., convicted at the age of 17 and imprisoned 11 years for a murder in Sydney, he denies committing, is free on bail pending the outcome of his appeal.

Chief Justice Ian MacKeigan granted bail, no cash or sureties required, in a brief Supreme Court appearance by Marshall's lawyer Stephen Aronson in Halifax Thursday.

A new hearing into the 1971 stabbing death of Marshall's friend, Sandy Seale, was ordered by Justice Minister Jean Chretien in a June 19 letter to the province's chief justice.

Mr. Chretien's decision followed an RCMP re-investigation into the case originally handled by Sydney city police which is said to reveal fresh information about the stabbing in Sydney's Wentworth Park.

Marshall was released on day parole in March and, according to his lawyer, was spending two nights a week at Carleton Centre — a Halifax half-way house. Technically he was still in custody and serving his life term.

Crown prosecutor Frank Edwards and Mr. Aronson agreed Thursday to an Oct. 5 date, when the matter will again come before the courts — on that occasion the appeal court will hear a defence application to introduce the new evidence aimed at showing Marshall did not do the May 28, 1971, stabbing.

A jury, after evidence from two eyewitnesses who said they saw the stabbing, convicted Marshall of second-degree murder after a trial in November, 1971.

The appeal follows an RCMP re-investigation of the case originally handled by Sydney police.

Because the province's appeal court dismissed an appeal launched immediately after the conviction, only the justice minister's intervention could bring the matter back before this court.

Marshall did not appear for the bail hearing, which was attended by his father, Donald Marshall Sr., grand chief of the Atlantic Council of Micmac Indians, who travelled to Halifax from Cape Breton Wednesday night.

Later Thursday afternoon, Donald Marshall Jr., eluding media, arrived at the prothonotary in the law courts and signed a written undertaking to surrender himself into custody on the yet-to-be-determined date of his appeal.

The surrender is an appeal procedure proscribed by the Criminal Code.

He was reported in good spirits by friends who lunched with him and has adjusted "remarkably well" to life on the outside, according to his lawyer.

Mr. Aronson said he has been active, socially and in sports, and has been doing some work and some limited travel.

His movements inside the province are considerably less restricted with Thursday's granting of bail.

Assuming the appeal court rules it will hear the fresh evidence in October, another date will be set to actually hear it in a trial-like situation.

The court of appeal may proceed straight to a verdict, or order the new evidence transcribed, added to the appeal factums, and set another date for the appeal argument.

Three possible verdicts could follow the appeal, an upholding of the conviction, the ordering of a new trial or an acquittal of Donald Marshall.

Chronicle - Herald

July 7 / 1972

Marshall case resolution process begins

By MERLE MacISAAC
Staff Reporter

Final resolution of the Donald Marshall case, a potentially lengthy process, began Thursday with Marshall's lawyer appearing in Supreme Court for instructions on how new evidence will be handled.

Stephen Aronson, counsel for the Cape Breton man who, at 17, was convicted of a murder he claims he did not commit, indicated Thursday that when he reappears before Chief Justice Ian MacKeigan on July 29 he will seek bail pending appeal for his client.

Technically, Marshall, who was released from penitentiary in March after serving 11 years in prison, is still in legal custody and serving his life sentence at a Halifax half-way house.

On the basis of testimony from two eye-witnesses, a jury, on Nov. 8, 1971, found Marshall guilty of second-degree murder in the stabbing death of 16-year-old Sandy Seale.

Testifying on his own behalf at the trial, Marshall said the stabbing was done by one of two men dressed like priests.

After an RCMP re-investigation, and discussions between the attorney-general's department and Ottawa, Justice Minister Jean Chretien officially reopened the case in a June 18 letter citing "evidence subsequently gathered... which appears to be relevant to the issue whether Donald Marshall Jr. is guilty of the crime of which he stands convicted."

From indications in court Thursday, the case will go through several distinct stages, mutually agreeable to Crown and defence counsel.

On July 29, Mr. Aronson will give Chief Justice MacKeigan an idea of how much new evidence he intends to adduce, and of what nature, whether oral or by affidavit.

Also on July 29, a date will be set for a court hearing — not likely until this fall — on the merits of the new evidence, and how much of it should be heard by the appeal court.

Subpoenas, where necessary, will be ordered by the court and those witnesses will give their evidence, subject to cross-examination in a trial-like situation.

In the case of affidavit evidence, the Crown has the right to cross-examine the individual who took the affidavit.

Depending on the cogency of the new evidence, the appeal court, at that point, may render a decision after short legal argument, or, the court could order transcripts be made of the new evidence, that they be added to the entire appeal factum with full appeal argument to be heard at a later date.

The factum will include transcripts from the original trial before Mr. Justice J.L. Dubinsky in 1971, as well as any exhibits from that trial.

Under the Criminal Code section 617 referred to by Mr. Chretien in his June 18 letter, once new evidence is adduced the appeal takes on the characteristics of a normal conviction appeal — the court may either dismiss the appeal, acquit Donald Marshall or order a new trial.

Chief Justice MacKeigan, Thursday informed defence and Crown lawyers that Mr. Chretien's letter will suffice as notice of appeal and instructed Mr. Aronson to begin assembling his appeal factum.

Cape Breton Post Aug. 10, 1982 p. 4

Notice Of Intent Served

Sydney City Solicitor Mike Whalley yesterday confirmed the city had been served with a notice of intended action from Donald Marshall Jr.'s lawyer Steven Aronson of Halifax.

Whalley said the notice names "the city and certain employees."

Asked the basis of the notice Whalley said it was not disclosed on the document.

The solicitor would provide no further information concerning the document except to say that "whatever happens, the city is not liable. No matter what they prove or disprove."

Whalley stated the city had been named in a suit almost two years ago but the Supreme Court of Nova Scotia found it not responsible. The suit at the time charged city responsibility when a policeman wounded a man with a gunshot.

He said the provincial court's decision was based on a Supreme Court of Canada ruling which stated a municipality cannot be held liable for the action of its policemen because their duties are not only in the municipal realm but pertain also to federal and provincial statutes.

Police Officials Deny Witnesses Pressed Into Making Statements

HALIFAX (CP) -- Police officials in Sydney, N.S., deny statements made last month by two witnesses at a 1971 murder trial that they were pressed by police into admitting they had witnessed the killing.

Maynard Vincent Chant, 25, and John Louis Pratico, 27, testified in 1971 that they had witnessed the stabbing of 16-year-old Alexander Seale in a Sydney park.

Donald Marshall, 16 at the time, was convicted of the murder.

Now, the Nova Scotia Supreme Court, on orders from Justice Minister Jean Chretien, will review the case beginning Oct. 5.

Marshall had served 11 years in prison when he was released earlier this year pending the appeal.

Chant and Pratico said in affidavits signed July 15, 1982, that they were pressed by Sydney police detective Sgt. John MacIntyre and Sgt. William Urquhart into admitting to witnessing the stabbing.

However, in affidavits of their own, MacIntyre, now Sydney police chief, and Urquhart, now chief of detectives in the city, said there was no pressure in obtaining original statements.

Urquhart says no one made any threats or promises or offered any inducements to Chant or Pratico to give statements to police or testify in a particular manner.

One person who witnessed the interrogation of Chant was Wayne Magee, Cape Breton County sheriff, who was chief of Louisbourg town police at the time of Seale's murder. Magee backs Urquhart's statement with an affidavit of his own.

MacIntyre says in the affidavit that Chant was not pressured to make either of two statements concerning the murder or to alter his court testimony.

MacIntyre said he did not believe some of Pratico's remarks in a May 30, 1971, statement and told Pratico in a second interview five days later that "I wanted the truth, whereupon he, Pratico,

voluntarily recited the facts set out in Exhibit D, a second statement."

Another affidavit filed with the Nova Scotia Supreme Court by a Sydney psychiatrist says Pratico is an unreliable witness.

In an affidavit signed July 14, 1982, Maynard Vincent Chant, who was 14 at the time of the murder, said some of his original statement to police and trial testimony was false.

Chant said in the affidavit that "I gave a statement to the Det. Sgt. John MacIntyre and (then Sgt. William) Urquhart knowing its contents were not true, because of pressure from the said MacIntyre and Urquhart who insisted I had witnessed the Seale murder, although in fact I had not witnessed same."

In the original trial, Chant testified to seeing a person in the park take something out of his pocket and drive it into the left side of a second person.

Claims Threatened

Another witness, John Louis Pratico, 16 years old at the time of the murder, said in a July 15, 1982, affidavit that he was threatened by the same two police officers into stating he had witnessed the murder.

"I stated I had witnessed the murder of Sandy Seale as a result of MacIntyre accusing me of having been a witness and threatening to jail me unless I stated I did witness the murder and I was further informed by MacIntyre and Urquhart as to what I had purportedly witnessed of the murder and agreed, out of fear with them," Pratico's affidavit said.

At the original trial, Pratico testified he saw Marshall and Seale arguing in the park and later saw Marshall plunge a shiny object toward Seale's stomach.

MacIntyre is now chief of police for the city of Sydney and Urquhart is inspector in charge of the Sydney police detective section.

Cape Breton Post
August 19, 1982

Cape Breton Post
August 28, 1982

... City Solicitor
Mike Whalley had little success in stopping the release of affidavits in the Marshall case. Under the Freedom of Information Act the documents can be made public whether or not they eventually are read into the court record at any subsequent hearing or trial. A couple of the Supreme Court judges were reported dismayed that the affidavits were made public, particularly where the media used only portions of some of the documents.