





Doug Rutherford

POSITION      A D M

Experience.

Relationship with Minister of Justice

Ron Fainstein: Explain relationship

Fainstein Notes.

Have discussed matter with Fainstein

Explain procedure for pardon applications:

Frequency received:

Procedure for handling:

Involvement of RCMP:

How often granted:

Options Available: 5. 617

5. 683

610  
613

Explain differences:

Marshall Case:

FIRST INVOLVEMENT: FAINSTEIN &amp; ARONSON

ARONSON Ltr: April 13, 1982  
 31117  
 Vol 31/38

① Refer back to p. 36

①A Is this a correct statement?

①B Why.

①C i) Saw this report? Identify which  
 one! conclusion of police force?

34/69  
 34/59

34/66

ii) Can see first report of RCMP  
 prepared in 1971.

①D Discuss this with A-G Dept.  
 Shall concern?

①E ①F Any discussion?

Why would Fed. be concerned with compensation?

(4)

(2) why not give Atkinson copy  
of RCMP report

(3) Evidence of a crime? Call for  
investigation by Police? who  
should order this to be done.

(4) Agree with this conclusion?

(5) Appears to be most appropriate  
remedy given conclusion of whaton?  
Gale? Dept. of Justice?

(5)

- (6) Was this view confirmed with Dale  
Apple with his comments?
- (7) Was Atorson involved in decision.

What done by Dept. after receipt of  
Atorson ltr. and review of documents  
forwarded?

Refer Feinstein diary notes.

(6)

How - Christian May 17/82 31/54

Saw this letter. Asked to comment?

Did Dept. of J. request such a letter?

① Innocence of a convicted person has been established?

② Concern for Marshall?

③ Reason for this comment. Interest that all evidence (beliefs included) be introduced?

④ Learning toward a pardon.



6

31/56 Did he discuss with  
Gale?

Did he discuss with Meekegan?  
31/62  
what? usual?

31/62 ① Review these notes

② Discussion with Aaron?  
why? what discussed?

Fees !!

(7)

31/63

Would he have prepared  
this letter for signature by Minister  
who prepared reference? who  
had input.

① In detail.

Could this issue have been raised?

Why allow A-G Dept. to decide?

Was there discussion of compensation?

~~copy to~~  
Intention for Atkinson to be given  
all materials in possession of Dept?  
Discuss with Dale?

8

31/64 Refer to S. 613 &  
discuss options.

31/67 who drafted? why not tell  
Aronson all info. to be made  
available to him?

(9)

<sup>31</sup>  
7/6/71

Did he read this? Was  
he concerned? Give copy  
to RCMP.

Any contacts with A-G Dept.  
as reference moving forward.

Any discussion concerning the  
adversarial nature of the proceeding  
which was set up

How Aronson would have to carry the  
ball? Would he expense \$ for  
Marshall.

Any reports or the Reference  
proceeded?

Receive copy of Decision of  
Appeal decision? Read it?

Did Court consider there had  
been a miscarriage of justice??

Decision:

4/114

125

129

141

143, 44 &

no evidence from Police

no comment on why Court Justice & Harrow did.

Defense Counsel did not have

copies of all statements

RCMP post investigation 121  
122

Entire blame on Marshall & no miscarriage of  
justice

Letter of Transmittal? See it before?  
 when does Court " or many  
 factors leading to miscarriage  
 of justice"

Letter referring to some decision?

( Refer to quote from Parker Poston  
 found in FE 64  
 Does he agree? )

any possibility of appeal?

Next step. Discussions with  
 A-G Dept. officials.

Compensation

30/26 Did he see this? aware  
of this covenant? Even  
applied to his knowledge.  
Is it correctly quoted?

Was his Department involved  
in drafting the response to Atkinson?

30/29

- ① Only evidence Court considered  
N.B. was Mitchell?  
Had been known to Sydney Police,  
RCMP & A.G. since 1971?
- ② Damaging effect of these  
gratuitous comments by Court!!  
Feds. also blaming the entire  
thing on Marshall.  
(Sentence for robbery v. 11 years)

- ③ what "fact" newly discovered.  
How did Marshall contribute, even  
in fact, to non-disclosure of  
this fact?

Posing the luck!!

- ④ no reference to initial RCMP  
investigation?  
Refer to Marshall evidence that  
his "bitch-up" resulted in Marshall  
spending all the time in jail.  
Would this change his opinion or  
advice given to Minister?



E. ALAN MARSHALL, by Mr. Spicer

1 Q. And even if you were right, how can you form the idea --  
2 indicate that McNeil formed the idea based on his drinking  
3 and subnormal intelligence? Are you a psychiatrist?

4 A. No, sir, just a policeman.

5 Q. People who have "subnormal intelligence" are capable of  
6 telling the truth?

7 A. Yes, sir.

8 Q. But you say here:

9                   ...McNEIL, because he had been  
10                   drinking...

11 There's no evidence of that:

12                   ...and because of his subnormal  
13                   intelligence, formed the idea that  
                  EBSARY had in fact stabbed SEALE...?

14 A. I can't recall why I said that, sir.

15 Q. If I understand your testimony correctly since yesterday, sir,  
16 in summary, you read only what was given to you?

17 A. Correct, yes, sir.

18 Q. You relied whole-heartedly on the explanations given to  
19 you by the original investigators?

20 A. I relied very heavily on them.

21 Q. Yes, you conducted no independant investigation of your own?

22 A. Not -- no, sir.

23 Q. Did not follow up on any of the clues or the warning signals?

24 A. No, sir.

25 Q. That should and were apparent to you in the material?

E. ALAN MARSHALL, by Mr. Spicer

1 A. Yeh.

2 Q. You never asked for the entire file?

3 A. Not that I recall.

4 Q. And you didn't have any idea what the whole picture really  
5 was?

6 A. The whole complete picture, no sir.

7 Q. No. I submit to you, sir, that if you'd done at least some of  
8 those things, you might have discovered the truth?

9 A. In 1987, I can that, yes, sir.

10 Q. And you know that in 1971, that's what you ought to have done?

11 A. Yes, sir.

12 Q. And at the time you completed this review, Junior Marshall  
13 had been gaol for a couple of weeks?

14 A. Yes, sir.

15 Q. And if you'd done your job properly and discovered the truth,  
16 that might have been the only time he spent in gaol, isn't  
17 that true?

18 A. Yes, sir.

19 Q. You were described, sir, by Doug Wright, Assistant Commissioner  
20 of the R. C. M. P., at page 5280:

21 (as)...probably one of your better  
22 or supposedly one of your better  
investigators.

23 And you have to agree with me, sir, you sure weren't that  
24 in connection with this investigation?

25

30/33 Dec. 13, 1983

Was this given to him by  
Minister of Justice.

Would he be asked to draft a reply.

Refer to p. 37 & enclosed portion  
38, 39

any other communication?

Vol 32/285 what is this about?  
Nov. 29/83

32/330 discussion with Galt.  
Feb 23/84

~~Vol 33/56~~

Compensation

(15)

Vol 33/565A

why did Feds. pay 1/2?

previous deal? only input  
into amount? approach?

Principles?

Task Force Report - Bergstedt

✓ David Ratchford

Age - 38

Occupation: Actor

✓ History in Sydney?

When leave?

✓ Growing up:gangs

Indians

Black

Treatment

of minorities by

Police.

Date

Indian

Black

girls

Relationship

Donna Ebsary: ✓

Crying

Don't tell anybody

Wor't believe you.

Vendetta?

Independent recollection

Action by he & Donna:

Asked for detectives: Story

Urgent: M<sup>re</sup> Intyre in Room.

attitude: abrupt abusive?

Case is closed. We have our man. Good Day.

Independent Recollection

✓ Sgt. Green: Called & come to house. told the

story: His expressed ~~after~~ assessment

of Donna's Story. His reported action

Independent recollection.

✓ Who else contacted? M<sup>re</sup> Neil Rosenblum  
Press. Why.

Spring 1974 - 1981

How contact made with Roy Elson. Why?

Describe Roy generally: Terrible memory.  
✓ Manner of dress. ✓ Seen Before? ✓  
Relaxed?

Relationship with Donna. ✓

✓ Agreement to write Book of Roy's life. ✓  
Sum of check

Audio tape

Exhibit

Videotape

Exhibit 25

Others present. Purpose. Rehearsal  
Transcript 104-105 236-37

Discuss topic with Roy on other  
occasions. Circumstances?

after 1<sup>st</sup> time ever say ~~the~~ anything other than he stabbed  
Seale in stomach with pocket knife.

Ever say he saw anything other than  
he saw Marshall run away after he  
cut him.

Book: Purpose. what in it. ✓  
when completed (1983) ✓  
Reference to Murder? Besnick

Attempts to publish.

Copy to Police? RCMP?

Can see Roy violent? Explain circumstances. Who present (Coster)

Contact by RCMP 1982. Fix date (4 days after he started in Sydney)

Conversation with Canall: willing to help now as you were back in 1984?

Contacted Donna. taped conversation  
any other contact.

Interview butrio about mail

Date contact.

MOE ROSENBLUM and SIMON KHATTAR

What interviews were conducted with witnesses prior to trial for Patricia Harriss? Confirm that she dated Maynard Chant after the event when she was working as a waitress at Grub Steak restaurant in Louisbourg. Did they discuss the Marshall case in any way.

Refer him to the letter from Smith to MacIntyre found on page 8 of Volume G-3 and have him comment on the suggestion that he was aware of the results of the polygraph tests and had been offered the opportunity to have Marshall submit to a test.



DAVID RATCHFORD

Refer him to the statement from Dollimount.  
Also to the statement from Donna Ebsary.



INSPECTOR SCOTT

Refer him to the narrative contained on Supt. Christen's report found on pages 21 and 22 of Volume G-3.









Misc Wholly

Experience

✓ Role as City Solicitor

Police Commission ✓

✓ City Council - Stipendiary Magistrate

1971



Knowledge:

John MacIntyre:

Wm Urquhart

Don McNeil

Chief of Police of the day:

Gordon MacLeod

believe, that Mike MacDonald gave to you in 1982?

1 A. In the statement and in narrative conversation he had with  
2 me, yes, sir.

3 Q. The statement, I believe, is quite short. It simply says that  
4 MacIntyre refused to come that night. Was there anything in  
5 the narrative with Detective MacDonald that would indicate  
6 that Mr. MacIntyre was under pressure from his chief of the  
7 day?

8 A. Yes, sir. Former deputy chief, I believe, and upon retirement  
9 Mike MacDonald, Red Mike, told me that on the way over in  
10 the car the morning, that morning the chief was extremely  
11 upset with John MacIntyre...

12 Q. I'm sorry, "on the way over in the car," what morning are we  
13 talking about?

14 A. We would be talking, I believe, sir, the morning after Seale  
15 was stabbed because he was stabbed about midnight. Later  
16 on in that morning, say, eight o'clock, I took it, there was a  
17 trip where Red Mike picked up the chief and went to...

18 Q. Picked up the chief, which...

19 A. The former chief of police, Gordon MacLeod, and went to the  
20 MacIntyre residence and wrote, he was quite upset with John  
21 MacIntyre for not coming out and indicated to, told him that  
22 he was even thinking of firing him if he didn't do his job more  
23 thoroughly. So that is, that together with what was in the  
24 statement.

25

1 of the investigation?

2 A. You'd have to ask him, sir, I can't recall.

3 Q. Uh-hum. While we're speaking about Red Mike MacDonald,  
4 you...and I'll ask you to repeat, if you don't mind, your  
5 recollection of this conversation concerning the drive in the  
6 car with the Chief of Police the next morning. As best you can  
7 and in all the detail that you can.

8 A. Now, I say the next morning, I believe it was the next  
9 morning. It may have been the next afternoon. I  
10 don't...didn't...I can't pin the exact time, but I know the drive  
11 took place. He picked the Chief up, from what he told me, and  
12 he drove over to John MacIntyre's home and in route the  
13 Chief expressed his displeasure and said that. .

14 Q. Expressed his displeasure at what?

15 A. At John not coming out.

16 Q. Yes.

17 A. And that if this continued he might even consider firing him.

18 Q. If what continued?

19 A. His not adhering to duty.

20 Q. Uh-hum.

21 A. And, that the Chief got out of the car. I asked him, "Did you  
22 go out and go in too and did you hear the conversation that  
23 took place between John MacIntyre and the Chief?" and he  
24 said no, he didn't, that the Chief got out and talked to him and  
25 then got back in the car and continued on and then some time

✓ Knowledge of Seale Murder.

Investigation:

✓ Threat to fire ~~the~~ M<sup>rs</sup> Intyre by  
See Transcript.  
Wheaton

Red Neck town: See Transcript  
Wheaton. ALONSON

Refer 4146 - newspaper article

Black Section of City?

✓ Indian Section of City? 1969 First Agreement

School Agreement

1<sup>st</sup> Constable - John M<sup>CI</sup>

1 conversation, I don't know.

2 Q. Is that your normal practise, sir, that the complainant in an  
3 investigation is kept advised as to the progress?

4 A. Yes, sir.

5 Q. Right at the top of page 2 it appears to be a note from Mr.  
6 Aronson after following your initials, it says, "A redneck  
7 atmosphere in Sydney." Do you know if that's...you made that  
8 comment to Mr. Aronson?

9 A. I recall that comment, because in Mr. Aronson's first  
10 interview with me he used that expression.

11 Q. Mr. Aronson did.

12 A. Mr. Aronson did, that there was a redneck atmosphere in  
13 Sydney. I had been stationed in Sydney between 1973 and  
14 1975 and I very much enjoyed my time in Sydney and very  
15 much enjoyed the people of Sydney. I disagreed with him  
16 that there was a redneck atmosphere in Sydney in 1971 in  
17 the first meeting. By the April meeting I had talked to  
18 educators in the town, I had talked to lawyers, doctors,  
19 merchants I knew who were present in 1971 and I learned  
20 that, in fact, Mr. Aronson was right. There was a rednecked  
21 atmosphere.

22 A. What does that phrase mean to you? A. That there was  
23 some racial problems in the City. Redneck being a  
24 connotative of the southern United States sort of thing. And,  
25 that in point of fact, when I did this investigation I found that

*Aronson - 'intolerant'*

1 these people indicated to me that there was racial problems  
2 in the City of Sydney in 1971 and if Mr. Aronson made a note  
3 of it it was probably because I said, "You were right, Stephen."

4 Q Uh-hum. You mentioned having discussions with doctors,  
5 lawyers, educators.

6 A. Yes, sir.

7 Q Did you approach these people with the idea of getting a  
8 feeling for what the atmosphere was in Sydney in 1971?

9 A. These would be people I knew socially or through my work,  
10 lawyers at the courthouse, school teachers, neighbours,  
11 who...you try to draw a cross-section of opinion and you put it  
12 to them, "What was it like here in 1971 being a school teacher  
13 in Sydney Academy?" and they would tell you.

14 Q Can you tell us the type of information you received that led  
15 you to change your opinion about the redneck atmosphere?

16 A. Well, this was the post-Martin Luther King period. This was  
17 the period in society of the hippy generation, if you will,  
18 when our young people became very mobile. This was a  
19 period in Sydney, so I was told, and I have every reason to  
20 believe I was told correctly, when there were problems in  
21 Wentworth Park. That citizens felt that they couldn't safely  
22 walk through the park. There were white-black feelings in  
23 the Sydney Academy from a teacher I spoke to. There...it was  
24 a turbulent time, I think if one looks reflectively at society as  
25

1 a whole, and it was turbulent time in the City of Sydney in  
2 that regard.

3 Q. Uh-hum. What was the colour of the people that you spoke  
4 to?

5 A. I beg your pardon, sir.

6 Q. What was the colour of the people that you spoke to?

7 A. The colour of the people I spoke to. White, blacks, one black  
8 chap I knew in Whitney Pier and native Indians.

9 Q. You spoke to native Indians.

10 A. Yes, sir.

11 Q. How many?

12 A. I recall speaking to Mr. Marshall, Donald Marshall, Sr. I recall  
13 speaking to Roy Gould who ran a newspaper.

14 Q. Did you speak to them with a view to getting their opinions  
15 on the atmosphere in Sydney?

16 A. This would generally, as I suppose is my style be it right or  
17 wrong, in conversation I would meet these people and this  
18 would be in my mind because I didn't agree with Aronson in  
19 the first instance. And, I wanted to find out what it was like.  
20 I knew what it was like when I came in '73.

21 Q. Uh-hum.

22 A. But I didn't know what it was like there in 1971 and I  
23 wanted particularly to know what was going on down around  
24 that park area. So, in conversation with these people I would  
25 mention it or bring it up and they would give me their

1 opinion and I would just sort of sift through and try to draw a  
2 form of opinion of my own.

3 Q. What was the situation in your opinion in 1973 to '75 when  
4 you were there?

5 A. '73-'75 we were still in, if you will, the hippy generation, but  
6 it was...the racial attitude of white versus black versus native  
7 I didn't really see it in Sydney at that time. It was more of a  
8 peace and love generation at that time and it...I didn't  
9 personally notice any great confrontations or I certainly did  
10 drug work down around the park area and in the back  
11 parking lots of the taverns of Sydney, et cetera, et cetera, and  
12 I didn't notice any great racial bigotry, to be quite honest  
13 with you, sir.

14 Q. So, do I understand that you formed the opinion that there  
15 was a change from 1971 to...

16 A. Yes, sir.

17 Q. ...1973?

18 A. Yes, sir.

19 Q. And from what you are telling us your opinion was it would  
20 be a fairly abrupt change?

21 A. Yes, sir.

22 Q. Fairly noticeable.

23 A. Yes, sir.

24 Q. In the course of your looking into Mr. Marshall's case, did you  
25 form any opinions on whether or not Mr. Marshall's race or



1 Mr. Seale's colour or race played any part in the way the  
2 investigation or prosecution was conducted or the conviction  
3 entered?

4 A. It's very difficult to answer that as one was not there.  
5 Are...you're asking me my opinion.

6 Q. Did you have occasion to form any opinion during the course  
7 of your investigation? The reason for asking is when you  
8 were speaking to Mr. Aronson you...you're speaking of  
9 matters of race and tension in 1971. And, I wonder why you  
10 would mention that if you feel it was somehow relevant to  
11 Mr. Aronson's...

12 A. Oh, the reason I mentioned it is that it was brought up by Mr.  
13 Aronson in the first place and then in...later on I brought it up  
14 that he was probably quite right. That's the reason. It was a  
15 point brought up by Mr. Aronson that went along, if you will,  
16 with his letter of complaint and verbally to me. So, it was a  
17 matter I had in my mind as I was looking into this.

18 Q. Yes.

19 A. But for me to know what the jury was thinking in 1971 or  
20 what the Judge was thinking or what the police, it's very  
21 difficult to say not having been there and not being on...

22 Q. Well, you talked to a number of witnesses.

23 A. Yeah.

24 Q. A number of policemen were interviewed. You made mention  
25 yesterday of a comment that...one comment that Chief

1 MacIntyre made to you. Was there anything at all that came  
2 up in your investigation that would lead you to believe one  
3 way or the other that Mr. Marshall's race and Mr. Seale's  
4 colour was a relevant factor in Mr. Marshall's conviction?

5 A. My opinion now, sir.

6 Q. Based on your investigation.

7 A. Based on my investigation, is that it did play some part. Now,  
8 how great a part I really don't know. But I believe there was  
9 some part played, yes.

10 Q. And are you able to give us the basis to that opinion?

11 A. As you just said, from my interviews, from my discussions  
12 with Chief MacIntyre, from my investigation of this thing, this  
13 crime, from my speaking to various levels and strata of  
14 society in Sydney.

15 Q. Other than the comment yesterday you attributed to Chief  
16 MacIntyre in speaking of Dr. Virick, were there any other  
17 comments or statements made by Chief MacIntyre that would  
18 support your opinion you just gave us?

19 A. I cannot honestly recall any comments by Chief MacIntyre  
20 relative to blacks. I can recall general impressions that I  
21 received from the Chief in relation to Indians and I don't  
22 think he particularly cared for Indian people. But the Chief  
23 also, for instance, Margaret Pratico, when I brought it to his  
24 attention that...about John not knowing about the murder  
25 until he heard it on the radio, his answer was, "You can't

1 to the Attorney General's Department previous to our  
2 conversation on April the 14th.

3 Q. And do you know if they referred to statements that they had  
4 taken from witnesses?

5 A. They did, yes.

6 Q. Did you see any of the statements?

7 A. I may have seen some of the statements.

8 Q. See them to read them?

9 A. Yes. I don't think, I'll perhaps try and clarify that. I may  
10 have seen one or two of the statements that witnesses had  
11 given to the RCMP. But I certainly did not see the entire  
12 report or given the opportunity to read through the entire  
13 report.

14 Q. Were you given any copies of any of the statements?

15 A. No.

16 Q. Any copies of any extracts of the reports?

17 A. No.

18 Q. The note at the top of page 2 suggests, I think, that you met  
19 them from 8:45 to, I think, 12:40.

20 A. That's correct.

21 Q. About four hours.

22 A. Four hours.

23 Q. And the following note says, "H.W. I think a redneck  
24 atmosphere in Sydney. Pressure and tension racial in 1971.  
25 But cleared by MacNeil's post." Do you recall discussing with

1 Staff Wheaton the matter of racial tension and the redneck  
2 atmosphere?

3 A. Yes.

4 Q. What was the context of that discussion?

5 A. The context began, I had mentioned in my earlier testimony  
6 that I had met with Wheaton and Carroll in Sydney in  
7 February 8th or 9th and during that discussion I had  
8 mentioned the fact that perhaps Sydney, in 1971, was a bit of  
9 a redneck town. And at the time Wheaton disagreed with me.  
10 Coming back to the evening of April the 14th, it was then that  
11 Harry Wheaton indicated to me that he was of the inclination  
12 that perhaps Sydney, in 1971, was a redneck town.

13 Q. Were these your words or his words?

14 A. The way it came out, it was as if he was agreeing with me  
15 that in 1971 Sydney was a redneck town.

16 Q. What do you mean by "redneck"?

17 A. Intolerant.

18 Q. And on what do you base that?

19 A. My own experiences in, well there's two points. One, it was in  
20 part to be the provocative in our original discussion. The  
21 second factor was that I had had some considerable  
22 experience in dealing with Native people, both in Cape Breton  
23 as well as in mainland Nova Scotia. And generally I found the  
24 attitude towards Indians in Cape Breton to be quite poor and  
25 quite intolerant.

1 Q. Without necessarily getting into names at least at this stage,  
2 can you give us some specifics of the, why you would reach a  
3 conclusion about an intolerant attitude towards Natives?

4 A. As much from historical research as from actual experience.  
5 And when I speak about historical research I had occasion, in  
6 a number of the cases I was involved with with Native  
7 people, particularly with respect to land claims in Cape  
8 Breton, to understand the history of the development of the  
9 reserve system in the Province of Nova Scotia and the loss of  
10 reserve lands to settlers who were coming into Cape Breton  
11 largely in the period around the 1830s, 1840s when the  
12 original reserves were set up in Cape Breton. That there was  
13 a significant amount of squatting. That efforts by the Indians  
14 to try and maintain their land rights, efforts on the part of  
15 missionaries and priests from Indian people in Cape Breton to  
16 Provincial officials in Halifax, were not successful. That the  
17 Province did not attempt to protect reserve lands. That the  
18 settlers in Cape Breton were, caused problems for, for  
19 example, the sheriff, who attempted to enforce, to remove  
20 squatters from the land. In Sydney itself, the case of re  
21 Sydney Indian Reserve 1917, I think it was 1917 Exchequer  
22 Court Reports, which dealt with the expropriation of an Indian  
23 reserve in Sydney, Cape Breton. The reason for the removal  
24 of the reserve, or the desire to expropriate was to get rid of  
25 the Indians from the City of Sydney.

Any involvement in TRIAL: ✓

✓ Aware of Jim MacNeil episode Nov. 1/71

1 Discussion D. MacNeil

✓ Any knowledge Marshall case until 1982.

John M<sup>or</sup>I brought letter to him

✓ Knowledge of Webster?

✓ Knowledge of re-investigation?

Discussions E Frank Edwards.

17/3 Feb 23/82 17/9 answer of this  
pt by chief

17/5 P. Harris: Knowledge of her.  
answer her statements

17/8 F.G. ever Tell you or chief this  
in your presence  
would Police Comm. be interested  
in this?

17/9 Ever told of this?  
who first hear of it?

17/10 Investigation of Sydney Police.  
Ever told of this?  
Police concern.

✓ Advice instruction from A-G to  
Sydney Police - Mayor. 16/222

✓ any previous incident? m<sup>or</sup>I upset!!  
Why necessary? Investigation

Instructions to m<sup>or</sup>I re listing of mat'l.



(7)

O'Reilly girls: ever hear of them?  
when? circumstances?

may see discussion

8/94  
Vol 34/87

17/12 Purpose of meeting?

what being discussed.  
tone of meeting?

what pr. did City want to  
be taken

when first see F.E. notes? any  
errors?

why Wheaton Mem.

Pressure to FE.  
whether Transcript

STAFF SGT. WHEATON. EXAM. BY MR. ORSBORN

- 1 Q Did you discuss the file either formally or informally with any  
2 of superiors in Halifax when you arrived in Halifax?
- 3 A. Not that I can recall, sir, no.
- 4 Q Uh-hum. Referring to Mr. Edwards' notes, Volume 17 at page  
5 12. Volume 17, page 12, there is reference to a meeting on  
6 July 12th, 1982, I would assume in Sydney. It refers to "my  
7 office" meaning Mr. Edwards' office. "Present: John  
8 MacIntyre, Mike Whalley, H. Wheaton," and I guess Mr.  
9 Edwards.
- 10 A. The date of that meeting was what, sir?
- 11 Q July 12th of '82.
- 12 A. Oh, yes, yeah. I attended that meeting, sir, yes.
- 13 Q Did you return to Sydney for that meeting?
- 14 A. I believe so. I may still have been there at that time. I think  
15 I was still there. I didn't leave Sydney actually until the  
16 children were out of school, so it would have been the end of  
17 June, first part of July. So, I was still there when that meeting  
18 took place.
- 19 Q And what is your understanding of the purpose of that  
20 meeting?
- 21 A. The purpose of that meeting there was a lot of unanswered  
22 questions. We were still waiting for something from the  
23 Attorney General's Department. I was leaving...
- 24 Q Sorry. Still waiting for something from the Attorney General's  
25 Department with respect to what?

1 Q. "With respect to the allegations then of Chant." What did you  
2 understand the allegations of Chant to be?

3 A. That Chief MacIntyre had put words in his mouth in the 4th  
4 of June statement particularly and that he did not see the  
5 murder and the reason he said he did see the murder was  
6 due to pressure and threats by Chief MacIntyre. He then  
7 gave Chief MacIntyre a statement and was told he should  
8 stick to it or he would be charged with perjury and things of  
9 this nature.

10 Q. Now, in the meeting, who put these allegations to Chief  
11 MacIntyre? Was it Mr. Edwards or yourself?

12 A. Mr. Edwards.

13 Q. Did Chief MacIntyre respond with respect to Chant?

14 A. The...yes, he did. The meeting...the meeting was held, if you  
15 will, in two parts, as I recall it. It was convened about  
16 approximately eleven o'clock, ran until lunch time. We broke,  
17 went to lunch, then came back after lunch. Now, I don't have  
18 the times recorded but that's the way I recall the meeting. In  
19 the morning part of it, if you will, the Chief basically couldn't  
20 remember, couldn't say, you know, if two... Chant's two  
21 statements, why take two statements, this sort of thing and so  
22 on. The same with Pratico, same with Harriss, as I recall the  
23 meeting without having read this. But that's how I recall it.  
24 Then after lunch both he and Mr. Whalley became much more  
25 aggressive toward Mr. Edwards and...

1 Q. Aggressive in what sense?

2 A. Well, the meeting was polite and cordial, if you will, in the  
3 morning and in the afternoon it became heated. The Chief  
4 adopted an attitude of "How dare you heap scorn on this fine  
5 gray-haired man," sort of thing.

6 Q. What...

7 A. Mr. Edwards, you know, or Frank. And, it became aggressive  
8 to the point where there was no point pursuing the meeting  
9 and the meeting was terminated. In the afternoon portion of  
10 it though when asked specific pointed questions in regards to  
11 Chant, Pratico and Harriss, the Chief then said that Donald C.  
12 MacNeil had been told everything, Donald C. MacNeil had been  
13 made aware of this and that, the next thing, and that is my  
14 impression of the meeting, sir.

15 Q. Uh-hum. Were you present for the entire sessions, both  
16 morning and afternoon?

17 A. I left toward the end of the afternoon session to go the  
18 washroom and when I come back Mr. Whalley and the Chief  
19 were standing over Mr. Edwards and there was finger  
20 pointing going on and so on. And this was right at the end of  
21 the meeting.

22 Q. Standing over Mr. Edwards. Was Mr. Edwards seated?

23 A. He was seated, yes, sir.

24 Q. I see. Any shouting?

25 A. Voices were loud. I wouldn't say shouting, but aggressive.

July 21 17/14 Did he square  
with Coles? why?  
Details

Magee: Did he Tell  
Wheaton to interview Magee?  
✓ Had to persuade him?  
Premier discussions with Magee?  
Becker?

Did he review affidavits?  
✓ MacI & U satisfied with  
accuracy & truth of everything  
in them

Ef 131 Vol. 36 / 25

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E. 131

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.

1983

1984

17/14

July 22

Refer to L.C.M.P. report?

See it before?

Assume of Wheaton view

that Man I should be

investigated?

28/7 if req'd



Ever speak to Oscar Seale?

why?

17/14

See (w)

17/16

(w)

(10)

action against City

3/1/89 90

what done?

advice?

Investigation by Police Commission?



Ud 31



CITY OF SYDNEY  
P O BOX 730  
SYDNEY NOVA SCOTIA  
B1P 6H7

July 30, 1982

AUG 4 - 1982

Mr. Stephen J. Aronson, Esq.  
Aronson, MacDonald  
Barristers and Solicitors  
277 Pleasant Street, Suite 305  
Dartmouth, Nova Scotia

Re: Marshall vs City of Sydney

Dear Mr. Aronson:

I wish to acknowledge receipt of the Notice of Intended Action regarding the above which was forwarded to the City Clerk under date of July 28, 1982.

I wish to advise you that I am authorized to accept service on behalf of any and all of the intended defendants in this matter.

Yours very truly,

Michael G. Whalley  
Solicitor

MGW:cae

*Discussion with AG  
Rept. re this action?*

IN THE MATTER OF: An Act to Incorporate City of Sydney, S.N.S. 1903, c. 174, as amended.

- and -

IN THE MATTER OF: DONALD MARSHALL, JUNIOR;

Intended Plaintiff

- and -

THE CITY OF SYDNEY, a body corporate, and JOHN F. MacINTYRE and WILLIAM URQUHART;

Intended Defendants

NOTICE OF INTENDED ACTION

TAKE NOTICE that the above-mentioned Intended Plaintiff intends to commence proceedings in the Supreme Court of Nova Scotia, Trial Division, sitting at Sydney, County of Cape Breton, in the Province of Nova Scotia, against the City of Sydney and John F. MacIntyre and William Urquhart, employees of the said City. The cause of action will be for negligence, false and malicious arrest, malicious prosecution, defamation, false imprisonment and abuse of process committed by the Intended Defendants in the investigation and prosecution of the Intended Plaintiff in connection with the Sanford Seale murder investigation. (A)

DATED at Dartmouth, Nova Scotia, this 25<sup>th</sup> day of July, A.D. 1982.

Intended Plaintiff: Donald Marshall, Junior  
Place of Abode: Halifax, County of Halifax, Province of Nova Scotia.  
Solicitor for Intended Plaintiff: Stephen J. Aronson, 277 Pleasant Street, Dartmouth, Nova Scotia.

# Reference Hearing

17/15 Are these accurate

✓ agree no point in calling  
 Police? Were Police present?  
 / Misconception of justice?

17/16 agree re Police

17/16 Section "go to my grave"

Chief ever express similar  
 opinion to him?

17/17 Chief even Tell him about  
Commonwealth "author of our  
misfortune"

17/18 wholly used. Did City  
know F.E. to take a  
particular px. Blome  
Marshall for conviction?

Press for Inquiry on behalf of City?

✓ Any involvement in compensation?

Seek release of city to be included?

Vol 3 8/25 - look at this. what referred to?

Parterson ✓

Serinity - charges under John M<sup>cc</sup>I.

wholly

1971: Put unheated evidence re red neck atmosphere in Sydney

Chief threatening to file Mac I

1982 Police Commission interest in investigating allegations of wrongdoing did they

His involvement in reference

Discussion Mac Gee ✓

Unpublished

Mac I

Don McNeil

17/3 Feb. 27/82 ever told by F.E. that Mac I must be questioned

Kept briefed by Mac I as RCMP work carried out.

17/4 March 1 aware of this by Chief

17/7 Apr. 19 aware of meeting - Gale, holding brief of statements

17/8 ever told this by F.E.

17/10 Apr. 19 Investigation focus on City Police

17/12 Chief concerned about being investigated

17/12 why not be present  
why violation there  
Bureau on F-E (violation evidence)

17/14 Meeting - Doctor Coles or anyone in  
A-6 Dept. re issue of confidentiality  
Review in detail

17/15 re reference

17/16 ~~before~~ See "W"

17/18 "W"

Civil action against City by Marshall

17/83 Marshall's trouble & Human Rights

Vol 38/25 what being referred to

# Sydney Police

## Current Practices

Hiring : Used to be Grade X  
Minimum. May have been  
aldermanic input.

APA  
when changed ✓ ✓  
Today: Graduate Holland College  
or equivalent or experience

~~Racial Minorities - Affirmative Action~~

✓ TRAINING : USED to be - Given Flashlight  
+ COFFS & SENT OUT

Today :

Continuing ed



Structural Setup:

Then: Police - Deputy  
Sgt - Detectives

call for re-structuring

Today / Chief - Deputy  
Insp. - Admin  
Insp. - Patrol  
Insp. - Criminal Investigation  
Staff Sgt

Supervision & APPRAISAL OF Performance

Police Comm.

Ident Section ✓  
Detective "

Promotion:

Then: Seniority

Com. Police College

Today:

✓ When & who introduced.

Relationship Detective + Patrolman.

Then: Keep Separate

Now: Briefing at time of shift ✓

mentorship  
cross-cultural  
Training ✓

Investigation Major Crime:

Then - Ad-lib

Today: ✓ Secure Scene - when

Ident. ✓  
witnesses

✓ Co-ordination - by whom

Search of Area - when

Canvass of neighbourhood - when

Statements.

Interviewing Minors:

How Policed?

Medical Examination.

Victims Clothing

(4)

## Records

Explain System + Differences

Use Ebsary Example (Vol 16/1)  
(Vol 18/34)

what changes req'd

Relationships:

### RCMP:

Services ✓

Personnel ✓

Co-operation ✓

CROWN:

INVESTIGATION & Sweeping Information

Conflict - Example - no names

5

Before Preliminary

Provide info to Crown:

Crown Sheet  
Statements  
File

Mombourquette:

Refer Frank evidence

Aware of other witnesses

Why discarded

Theory of Police - Crown

When & how advised of RCMP  
involvement.

Co-operation

2<sup>nd</sup> TRIAL -  
Theory of Crown - RCMP

(6)

Meeting AG Officials & Crown

Purpose

Result

Relationship A-G Dept.

Police Comm. /

Shoplifting Case. ✓

Other interference ✓

Minorities: Hiring

Affirmative Action

Intention if ANY

Black area of Sydney  
Then Now

## Mombouquette

What investigation carried out. How many people investigated. - interviewed

Everyone in area?  
Friends - relatives?

The Sunday witnesses were called at TRIAL<sup>2<sup>nd</sup></sup>  
R.C.M.P. had same theory as Police on  
22<sup>nd</sup>.

Meeting Prosecutor.

R.C.M.P.

Statement & admissions of accused put it  
at Saturday night. (22<sup>nd</sup>)

who requested R.C.M.P. re-investigate  
(July 15/85)

## Purpose OF Meeting:

- a) Failure to disclose ~~info.~~ to Crown information in possession of Police
- b) Failure to interview important witnesses. eg. Paper bag
- c) Providing unclear or incomplete info to Crown - eg. Taxi loop said to be checked & revealed nothing. In fact only reviewed particular period. A further review disclosed a call to the address of telephone
- d) Providing info. to media - autopsy results
- e) Refusal to co-operate and obtain aerial photos.

1 MR. EDWARDS

2 Yes.

3 COMMISSIONER EVANS

4 Is that frequent in your experience that the police hold back  
5 reports?

6 MR. EDWARDS

7 I wouldn't say "frequent" but it has happened and the  
8 example I used yesterday is the classic dramatic example, where  
9 the police, in fact, had had a statement from one of these ladies  
10 who had seen the victim the day after she was supposed to be  
11 dead but had dismissed it as irrelevant. And the only reference  
12 that had been made to me prior to the trial was in an afternoon  
13 interview I had with them pre-trial and one of the investigators  
14 had said, "Gee, the rumours going around about this," he said,  
15 "There's even people saying, you know, she was alive a day or so  
16 later." And I said, "Well, did you check them out?" and he said,  
17 "Yes," and that was the end of it.

18 COMMISSIONER EVANS

19 Well, it's not unusual for the police instead of staying in  
20 their investigative area to want to pop over into your area which  
21 is the prosecution area, and they hold back things, and of course  
22 the defence suffers from that situation.

23 MR. EDWARDS

24 Yes. That's a real problem because it's all right for me to  
25 say I'm going to give full disclosure, but how do I know that I've



Staff Sgt  
Comm. Crime  
Toronto

Supt J Dui  
Fredrickson

Murray Wood

Terry Ryan

SIS Sydney  
based in Sydney  
Experience req'd

Sub-dir at time  
Described

Left May 29 - 9:30 - 11  
went to Sydney Police Str. not sure why,  
not sure why he went there

re Stebbing in Wentworth Park early a.m.  
his date

2 yards Seal & Marshall - conversation  
Edward MacNeil & Det. McIntyre.

Feeling at his time - Marshall was responsible  
& incident happened on a result of argument  
between Seal & Marshall.

mentioned Putney Park incident two weeks  
previous where knife was used. Doubt or  
his time to be no connection. only description rec'd  
2:30 a.m. May 15 - from Marshall was  
a man 45/50 years & Grey Hair

Notes likely made shortly afterwards

Can't say whether one or 2 conversations

Terry  
May 31 8:30 a.m. - 5 P.m.

what description obtained?  
from whom?

9:45 a.m.

Ident Sect!!

In detail  
Vol 16/90  
why no response.

aware of  
above notes

May 30

9-10:30 a.m.

Office - discussion Et McNeil & Wynn young  
both Sydney Police etc. Stabbing & resulting  
murder. Both of opinion Marshall  
responsible.

Offered two names of possible state suspects

May 31 -

June 1 - 4 P.M. Boys & Knife case.

June 3 - both

(See any statements obtained  
by police.)

✓ Chief McIntyre - opinion of?

Don McNeil - experience with

Police RCMP inexperience in 1971  
Procedures used in 1971  
Constables! In detail

by G-15. or  
Juvies

Autopsy

RCMP

Nothing

Hour to hour. Record interviews

Experience & nature? Blacks.

Different Treatment.

acquire relief 1971

1982

16/90

SGT. WHEATON

On page 27 of Volume G-3 reference is made to a call from Doucet to the police. What police records was he looking at to make this statement? He refers to three police vehicles being dispatched to the scene. Where does he get this information?

On page 28 he refers to the fact that Patricia Harriss says she saw Marshall and Seale together on Crescent Street.

