



CLEAR-PATH SOLUTIONS, INC
Investigations Services

SAINT JOHN POLICE FORCE – HISTORICAL HOMICIDE SUMMARY REPORT

SJPF File 1984-1293
The George Leeman murder investigation



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PREFACE

This police file review is a process of analyzing and evaluating various police reports and related materials that are associated with a specific crime, the 1983 murder of George Leeman. It involves a comprehensive examination of the information contained in the police files, including witness statements and other pertinent documents that were available to the reviewer at the time. This review aims to determine if the investigation was conducted thoroughly and properly and to identify any missteps or omissions by the investigators at the time. The review will also inform if procedural issues existed germane to the outcome of the 1984 homicide police investigation.

QUALIFICATIONS

The reviewer's qualifications were submitted in a curriculum vitae before this review.

LIMITATIONS

Important limitations impacted this file review. The file was disorganized, challenging the reviewer's ability to locate specific documents. Some of the police reports were not very detailed, some lacked context or insightful commentary explaining the investigators' actions. The investigation's flow and narrative were not cohesive, making it very challenging to follow and understand the investigators' actions and thought processes. Some witness statements could not be located, no Prosecutor Information Sheet was completed or a detailed Crown Brief presenting the evidence and facts against Robert Mailman and Walter Gillespie. Equally, there was no case management system in place to provide an inventory of the documents, and as such, it is impossible to know what else may be missing from the file.

All available reports, documents, and correspondence including materials from Legal Counsel for the Saint John Police Force. (Solicitor Client Privilege Applies) were reviewed to gain a better understanding. However, the scope of this report is specific to the police investigation, with some consideration of legal materials prepared after the criminal investigation was concluded. The recantations by the two Crown witnesses are not part of this review. The only exception was for materials that held an investigative value, such as the alibi evidence presented by the two men, Mailman and Gillespie.

The findings and conclusions provided in this report are presented in the context of the Laws and applicable Saint John Police Force (SJPF) policies that were in place in the 1980s. These conclusions do provide comparisons to the current policing environments to provide a modern perspective on things.

ERRORS AND OMISSIONS

Errors and omissions refer to mistakes, inaccuracies, or oversights that may occur when creating a report or document. These mistakes can range from minor typographical and spelling mistakes to factual inaccuracies and omissions of relevant information. This investigative report has been prepared with utmost care and attention to detail. However, CPS acknowledges that errors, omissions, or inaccuracies may still exist in the information presented herein.

INTRODUCTION

This report aims to present an objective and accurate understanding of the facts regarding the police actions taken, including issues germane to the 1984 investigation. The report is divided into sections considered part of the investigative process or relevant considerations to the exoneration of Rober Mailman and Walter Gillespie. The report also provides a series of findings and conclusions for each section, where applicable, before making a final overall conclusion. The review utilized the services of a retired polygraph and statement analysis expert as part of its process.

Furthermore, two retired members of the Saint John Police Force who took part in the 1983 police investigation were also interviewed.

This summary report is a condensed version of the lengthier and more detailed report and outlines some of the essential information captured in the full report. The findings and conclusions are presented in the context of the laws, policies, and the policing environment of the 1980s with comparisons to modern-day regulations. This report excludes any confidential informant information protected under *the Informer Privilege*.

Saint John Police Force – File 1984-1293

BACKGROUND

The following is a condensed outline of the police investigation referencing what are believed to be established facts of this investigation.

On November 30, 1983, at approximately 4:00 PM, the body of a deceased male was discovered in a wooded area near Hawthorne Avenue Extension, in a location known as Rockwood Park in Saint John, New Brunswick. The body was found by a civilian witness who had no further involvement in the investigation. Police from the Saint John Police Force (SJPF) arrived at the scene at approximately 5:15 PM to begin their investigation. They identified this location as one of two crime scenes related to the case. The deceased was found lying on his left side, with parts of his body and clothing charred by fire. Visible injuries included wounds to the skull and face, as well as cuts to the right forearm. The coroner and a pathologist examined the body on-site and declared the individual deceased at 6:20 PM. A rectal temperature reading of 40°F, compared to the air temperature of 50°F, suggested that the death had occurred roughly 24 hours earlier. The body was transported to the morgue for further examination at 6:45 PM. The SJPF Forensics unit thoroughly documented and searched the crime scene, collecting evidence, though the murder weapon was not located. Officers also conducted neighborhood inquiries as part of the investigation.

On December 1, 1983, the deceased male was positively identified as George Gilman Leeman of 24 Paddock Drive, Room #5, Saint John, N.B. The landlord of the deceased's residence contacted the police to report the individual as missing. A detective confirmed the identification, noting a bad smell in the room but no visible signs of a struggle. An autopsy performed on December 1, 1983, confirmed the cause of death as severe head trauma resulting from a fractured skull.

On December 8, 1983, an eyewitness provided a statement that they saw George Leeman on November 29, 1983, between 08:00 p.m. and 09:00 p.m. They remembered that Leeman had a lot of money on him. However, that witness was interviewed again on January 23, 1984, stating they may have been mistaken about that date. By all accounts, that witness was the last person to have interacted with George Leeman before his murder.

On January 18, 1984, the principal eyewitness was interviewed by police and stated that they witnessed the murder of George Leeman. They said it happened on November 29, 1983, at 04:30 p.m. The weather on

November 29, 1983, for the City of Saint John was a combination of rain, snow at times, and fog. On January 19, 1984, the principal eyewitness took the police to the last house on Coronation Street and showed them where George Leeman was murdered. This was the second crime scene in the case (Crime Scene #2). The location was secured and searched for evidence. Police seized pieces of clapboard which contained what appeared to be blood in a splattered formation. No murder weapons were found at this location.

On January 19, 1984, Walter Gillespie and a female suspect were arrested and charged with second-degree murder. On January 21, 1984, Robert Mailman was arrested and charged with second-degree murder. The murder weapons were never found and the conveyance used to transport the victim's body was never established.

On March 26, 1984, the female suspect pleaded guilty to manslaughter and agreed to testify as a Crown witness. On March 27, 1984, Robert Mailman and Walter Gillespie's first trial ended with a hung jury. On May 11, 1984, the two men were convicted for the George Leeman murder.

POLICE POWERS

In 1984, Robert Mailman and Walter Gillespie were convicted of second-degree murder in Saint John. Forty years later, a New Brunswick judge confirmed their innocence. Gillespie and Mailman were found not guilty by Chief Justice Tracy Dewart on Jan. 4, 2024, after Public Prosecution Services advised the court that it would not be presenting any evidence. To better understand the circumstances regarding the evidence and the detectives' theory surrounding the case, the review considered what police powers were in place in 1984 governing their legal authorities.

THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

The Charter came into force on April 17, 1982. Moreover, Section 8 - Search or seizure, which affords everyone the right to be secure against unreasonable search or seizure. According to the Supreme Court of Canada, the purpose of section 8 is to protect a reasonable expectation of privacy.

The review found that there were no legal applications sought throughout this investigation that would have required the police to articulate their grounds to believe why a place, thing, conveyance, or receptacle needed to be searched. The police relied on a person's consent according to police reports.

THE JUVENILE DELINQUENTS ACT

The Juvenile Delinquents Act SC 1908, c 40 was a law passed by the Parliament of Canada to improve its handling of juvenile crime. The act established procedures for the handling of juvenile offenses, including the government assuming control of juvenile offenders. It was revised in 1929 and superseded in April 1984 by the Young Offenders Act (YOA).¹

This Act is mentioned in this report because it was the Act that was in place when police were dealing with young offenders in 1984 until its replacement by the YOA. The principal witness was a teenager and was the subject of police investigative and interviewing methods utilized to solicit his cooperation. The principal witness statements were not recorded, and his parents were not present according to the police reports.

There is still no legal obligation for police to contact a young person's parent or guardian when they are considered witnesses to an investigation.

In present time, as a safeguard, police will typically video record a witness statement for better accuracy when investigating serious offenses.

Section 715.1 (1) Criminal Code of Canada: In any proceeding against an accused in which a victim or other witness was under the age of eighteen years at the time the offense is alleged to have been committed, a video recording made within a reasonable time after the alleged offense, in which the victim or witness describes the acts complained of, is admissible in evidence if the victim or witness while testifying, adopts the contents of the video recording unless the presiding judge or justice is of the opinion that admission of the video recording in evidence would interfere with the proper administration of justice.²

CONFIDENTIAL POLICE INFORMANTS

A thorough examination of the use of police informants by the SJPF investigators including any guiding policies.

CONCLUSION

The review found that police informants were utilized and influential in this investigation. The findings are protected under *the Informer Privilege*.

¹ https://en.wikipedia.org/wiki/Juvenile_Delinquents_Act

² <https://laws-lois.justice.gc.ca/eng/acts/C-46/section-715.1>

WITNESS PROTECTION

Witness protection is for individuals whose safety may be at risk because they have helped the police or the courts. They can be victims, compromised informants, police agents, or independent witnesses who receive a threat of intimidation or violence. Referred to as "protectees", they can be from anywhere in Canada or even abroad.

The Witness Protection Program Act, S.C. 1996, Assented to 1996-06-20 -- An Act respecting the establishment and operation of a Federal Program for the protection of certain persons providing information or assistance and respecting the protection of persons admitted to certain Provincial or Municipal Protection Programs.³

The RCMP administers the Federal Witness Protection Program (WPP), as directed in the Witness Protection Program Act (WPPA). Any police force in Canada or abroad can ask for assistance from the Program. The RCMP has full-time, dedicated witness protection units spread out across Canada, and employs WPP Coordinators (who are RCMP police officers with specialized training to provide these services). Section 14 (1) The Commissioner may enter into an agreement --(a) with a law enforcement agency to enable a witness who is involved in activities of the law enforcement agency to be admitted to the Program⁴.

FINDINGS

The review found significant information gaps in the police file related to this aspect of the investigation.

CONCLUSION

Despite the information gaps, the review concluded that the SJPF entered into a witness relocation effort with their principal witness. This decision was likely to ensure the protection and availability of this witness for court. Before the ascension of the WPPA in 1996, police services were solely responsible for protecting witnesses faced with risks of intimidation or violence because of their cooperation.

Protecting witnesses through the WPP in today's policing environment provides transparency and better accountability. Police services still have autonomy on how they wish to proceed, they are not obligated to utilize the WPP. Furthermore, a witness must agree to be relocated, therefore, such decisions require careful consideration and legal counsel to mitigate the risks. It is highly improbable that this situation could re-occur

³ <https://laws-lois.justice.gc.ca/eng/acts/w-11>

⁴ <https://laws-lois.justice.gc.ca/eng/acts/w-11>

in modern times because of the legal obligations of the police to provide, at the very least, an inventory of all the information in their holdings to the Crown and the defense. There are still limitations, however, on how much information will be disclosed as part of a witness protection agreement.

The scope of these conclusions is specific to the guiding principles of witness protection, i.e. the WPP, physical relocation, court attendance, and financial compensation for life management.

MAJOR CASE MANAGEMENT

MODERN CASE MANAGEMENT PRINCIPLES

Major cases refer to investigations that are more serious due to the nature of the criminal offenses, size, and complexity. They require the application of Major Case Management (MCM) principles to be properly managed. MCM is a methodology for managing major cases that provides accountability, clear goals and objectives, planning, allocation of resources, and control over the speed, flow, and direction of the investigation. Most police services manage major cases following the principles of MCM. The methodology of MCM encompasses many guiding principles and depending on a service's policies and procedures, these principles may vary. Generally, the following principles are standard to the MCM methodology:

- ✓ The Command Triangle,
- ✓ Managerial Considerations,
- ✓ Crime-solving Strategies,
- ✓ Communications
- ✓ Legal Considerations

A key and fundamental principle is the Command Triangle. The roles within the Command Triangle are the following: Team Commander, Primary Investigator, and File Coordinator. Although each role has clear responsibilities, a collaborative relationship between roles is maintained while preserving independence and accountability.

Electronic Disclosure

Policing services typically handle major and complex cases through some type of electronic disclosure system. These technological advancements allow investigators to catalog and link information, as well as evidence in such a way that it is easily accessible for analysis and disclosure. These MCM E-Systems also provide for better

accountability and independent control mechanisms which were not available in the 1980's. Internal audits can be performed to verify, assess, or critique a police investigation at any stage in the investigation.

FINDINGS

In 1983, there were no major case management principles in place as defined as they are nowadays. There was no Command Triangle with key positions such as Team Commander, Primary Investigator, and File Coordinator; such management concepts did not exist. The lead investigator was typically responsible for all aspects of the file including meeting all legal obligations to the Crown prosecutor.


The filing system for this case was banker boxes with a cataloging system using file jackets with specific identifiers, such as names of witnesses, polygraph reports, Ident reports, etc., to separate the various sections of the investigation. The file jackets were in different colors to further identify their contents. This was a common and widely used case management system for homicides and complex police investigations in the 1980's and 1990's.

To better understand the standard operating procedure utilized by the SJPF on major cases, in 1983, the reviewer was able to interview one of the investigators involved in the case. The interviewee explained that the lead investigator was responsible for the file and provided tasks to supporting investigators. There was very little information shared with the supporting investigators, and no meetings or briefings were held to update them. The subjects of interest in the case were almost always interviewed exclusively by the lead investigator.

The current state of this file has significant information gaps, documents such as witness statements, forensic reports, a crown brief outlining the evidence, or an index ledger to navigate the file are some examples of missing documents from the file.

CONCLUSION

The review found that the case management principles used in this investigation were considered standard operating procedures at that time. Electronic disclosure systems only became available in the mid-1990s. Furthermore, it was common for the lead investigator to oversee and control all aspects of a file regardless of scope and complexity. The review concluded that this type of file governance contributed negatively to the outcome of this investigation.



A key takeaway is that in today's policing environment, MCM principles are essential for serious and complex investigations, and require a team approach to meet the public interest. In modern times, it would be unlikely that one investigator would be the team commander, lead investigator, and file coordinator. These principles require robust policies and training to ensure strong accountability, and adherence to mitigate the risk of outcomes such as this one from happening again. Furthermore, MCM provides a more robust system for cataloging information, searching capabilities, linking subjects and documents showcasing their involvement, and an efficient vetting and controlled disclosure process.

DISCLOSURE

The landmark Supreme Court of Canada (SCC) decision of 1991, *R vs Stinchcomb* fundamentally changed the rules that governed what the police and Crown prosecutors were obligated to disclose to defense counsel. The Stinchcomb Rule as it is often referred to legally requires that the accused in criminal cases has a constitutional right to full and complete disclosure of the Crown's case. The Crown therefore has a legal obligation to disclose all relevant information in its possession.

Before the SCC Stinchcomb decision, the disclosure obligations of the police in Canada were governed by the common law principles of disclosure and the Crown's duty to disclose all relevant and non-privileged information and evidence to the accused. However, no statutory or constitutional requirement mandated prosecutors or police to disclose information to the defense. The disclosure obligations were left to the discretion of the prosecutor and the police, and they were expected to provide full and timely disclosure of all relevant and non-privileged information and evidence to the accused. The defense had to request disclosure and demonstrate that the information or evidence was relevant and helpful to their case. Failure to disclose could result in the exclusion of evidence or a mistrial. However, the extent and scope of disclosure were often the subject of debate, particularly in cases of complex or voluminous evidence.

FINDINGS

The elements of non-disclosure considered were in part the financial payments made to the principal witness as a cooperating witness under police protection. There was no indication that other materials related to this subject were withheld from the accused. The Witness Protection section of this report provided the findings from the review.

The other elements of non-disclosure related to a key figure in the investigation and conviction of M. Mailman and M. Gillespie.

CONCLUSION

The review could not determine how the police managed the file disclosure to the Crown and the defense. No case management reports were found capturing what was disclosed and what was held back. There was no Crown brief, Can Say evidence reports, or a file inventory with an index system. Despite that, in 1984, there was no legal requirement for police and the Crown prosecutor to disclose all the file-related information to the defense. However, since Stinchcombe, police and prosecutors must fully disclose all file materials. In more complex cases, they must provide an inventory of the file and indicate what information was held back from the defense. For complex investigations, the ability of police to meet these obligations relies on Major Case Management principles to plan, organize, and manage the file as explained in this report. This ensures accountability, accuracy, transparency, and trustworthiness in a police service.

FORENSIC IDENTIFICATION SECTION (FIS)

Forensic evidence in police investigations provides objective and scientific information that can help establish facts, link suspects to the crime scene, identify perpetrators, corroborate, or refute statements from suspects and/or witnesses, and ultimately contribute to the resolution of criminal cases in a court of law.

The technical and scientific nature of Forensic Identification Services (FIS) investigations comes with specific requirements for notetaking, reporting, and quality assurance. They also use specific forms and specialized templates to capture their involvement and findings for a file.

FINDINGS

This homicide investigation utilized the services of the SJPF Forensic Identification Section (FIS) to assist with the collection and analysis of evidence found at both crime scenes. The FIS was also utilized to conduct searches of suspect vehicles as directed by the lead investigator.

The lead FIS investigator prepared detailed reports explaining their involvement throughout the investigation. The reports were accurate with time stamps and clear articulation of their actions, interactions, and for what purpose. The lead FIS investigator testified at both trials and the available transcripts of their testimony which were considered for this review.

The FIS reports were well documented, and notes of the crime scenes were well maintained. The notes were comprehensive and accurate and included information on the case number and caption; the arrival time; who

was present at the scene; observations about the scene; actions taken, or results obtained, and the departure time.

A police witness who worked with the FIS at the time was interviewed for this review and provided the following information from memory:

- They recalled attending both crime scenes where the victim was found and Coronation Street where the murder happened.
- They did not interact directly with the homicide investigators; the senior FIS supervisor was responsible for that. They did not have any insights as far as suspects or police theories were concerned.
- They interacted with the pathologist during the autopsy which was documented in the police reports.
- They recalled that none of the forensic evidence seized directly linked the accused to the crime.
- They believed that the blood found on the clapboard where the murder took place on Coronation Street was sent to the lab for analysis.

CONCLUSION

The significance of the forensic evidence in this case was specific and almost exclusive to the circumstances of the victim's death, i.e. cause of death, wounds on the victim, locations, etc. Based on the FIS reports there were sufficient details explaining the actions of the FIS police officers at various points in the investigation. The findings and the articulation were detailed and specific to the facts. However, it is difficult to ascertain if the forensic evidence could have refuted the investigator's theory given the direction the investigators took to solve this case.

The FIS adhered to standard operating procedures and policies. The nature of forensic science provides very prescriptive directions for the collection, handling, and analysis of evidence. The SOPs that were in place in 1983 were not considered for this review because the quality of the reports prepared by Constable Holt clearly showed that she was meticulous with the police exhibits evidencing her adherence to FIS protocols.

Some challenges were encountered given the current state of the file. Information gaps exist for certain reports on lab results for some of the DNA evidence seized in the case. However, the review found that overall, the FIS adhered to its Standard Operating Procedures, and it was unlikely that they contributed to the false conviction of these two men. The Written Submissions dated January 4, 2024, of Robert Mailman and Walter Gillespie by their counsel presented in the Court of King's Bench of New Brunswick did not point to any failures or shortcomings related to the FIS.

INTERVIEW AND INTERROGATION METHODS

The interview and interrogation techniques employed by the police are systemic approaches used to gather information from individuals involved or associated with a crime. Interviews typically involve non-confrontational questioning to elicit facts and details. Interrogations involve more direct and probing questioning aimed at obtaining confessions or extracting critical information from suspects.

The information gained from those interviewed as witnesses, suspects, or others provides an insightful understanding of what the investigators knew at the time and how they acted on this knowledge.

The review examined all available witness statements obtained during the investigation. These documents offered insightful information and were critically analyzed for their investigative value, especially any incriminating and/or exculpatory facts/evidence.

The findings included:

- A probative effort that was lacking with certain key witnesses.
- Most of the witness statements were not conducted to seek a pure version account; the investigators utilized closed-ended questions as far as their approach was concerned.
- The statement structure was not always comprehensive; to understand the Who, What, When, Where, Why, and How as to provide a full account of the witness perspective.
- Critical discrepancies were found with specific witnesses.
- Some statements from key witnesses were reviewed by a Statement Analysis expert who highlighted several areas of concern.

POLYGRAPH INTERVIEWS

A Polygraph Expert reviewed the interviews/reports prepared by the Polygraph operator and noted certain areas of concern. The expert advised that the opinions expressed were based on the limited information available for this file.

ALIBI EVIDENCE

Robert Mailman and Walter Gillespie testified at their trials that they were in the process of repairing a 1972 Buick Skylark and had gone to purchase a part for the windshield wipers. The defense called witnesses to corroborate their alibi. They also produced an invoice dated November 29, 1983, showing paid cash, \$1.20 for one part. The part description is illegible with no time stamp on the invoice.

One of the defense witnesses was interviewed during the investigation, but there was no information about the alibi evidence. There were no notes, reports, or statements in the police file regarding the evidence provided by these supporting witnesses. The investigators were unaware of the alibi evidence at that time.

The alibi evidence was investigated after the first trial. Police collected invoices for the car part business where the windshield wipers were purchased. A timeline was established regarding the number of customers who attended that business on that day. The police interviewed two witnesses who were in attendance around the same time as Mailman and Gillespie. Their evidence collectively established their attendance (date and time approximately) at the business supported by copies of the invoices they received. Their attendance was short, and they did not identify other patrons in their statements. Each statement was two pages long, and the detective took a pure version statement with no follow-up questions. The parts manager also provided a statement, however, that interview was conducted over the phone and captured in a report that was not dated, or time stamped. The information collected from this individual did not provide any information that conclusively refuted the alibi.

On April 27, 1984, the FIS examined the 1972 Buick Skylark, more specifically, the driver's side windshield wiper, and determined that it was in fairly new condition.

CONCLUSION

Alibi evidence can be seen as a threat or an opportunity for a police investigation. It affords time to review the facts and the evidence, re-interview certain key witnesses, and identify other likely suspects. In this case, the police did not pursue the alibi evidence fully.

It was difficult to assess the value of the alibi evidence largely due to the absence of documents capturing the witnesses' testimonies or detailed police reports. The current state of the file further complicated this effort. The FIS confirmed that the 1972 Buick Skylark had a new wiper, and a receipt evidencing the purchase. The review concluded that similar to the investigators' handling of the key witness, they were negligent with the alibi evidence.

FINAL CONCLUSION

The policing environment in Canada during the 1980s was marked by significant shifts in law enforcement practices and evolving legal and societal expectations. During this period, police forces began adopting more professionalized approaches and standardization of procedures because of significant changes in Law. However, these shifts were somewhat incremental in the beginning insofar as their immediate effects against relied-upon investigative methods commonly utilized by police in the early 1980s. As such, the findings and conclusions presented in the full report and its summarized version, objectively considered the policing environment of the early 1980s for context and for comparison to modern-day policing practices.

Before January 18, 1984, the murder investigation lacked solid evidence against any specific suspect, yet police initially focused their suspicion on the accused, a bias that shaped their investigative efforts. By December 1983, tunnel vision had taken hold, leading the investigators' efforts in their pursuit of the accused despite the absence of tangible evidence connecting them to the crime. The investigation yielded little progress from the day the victim's body was discovered, and a judicial review later highlighted factors common to wrongful convictions. These issues, compounded by the investigative practices and the legal framework of the 1980s, ultimately led to the exoneration of the accused in 2024.

The failure of this investigation is largely attributed to police tunnel vision, defined as a negligent and narrow focus that distorts the interpretation of evidence and actions. The detectives relied heavily on a witness whose cooperation and statements were inconsistent and lacked corroboration. Today, such outcomes are less likely due to significant changes in Law, rigorous policies governing law enforcement practices, increased checks and balances, and the arm's-length relationship between police and the Crown. While no system is infallible, the transparency and accountability embedded in modern investigative processes provide safeguards against similar failures. Seeking early guidance from Crown counsel at the onset of a serious investigation is considered a best practice for ensuring objectivity, fairness, and maintaining public trust in law enforcement.

End of report.

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