

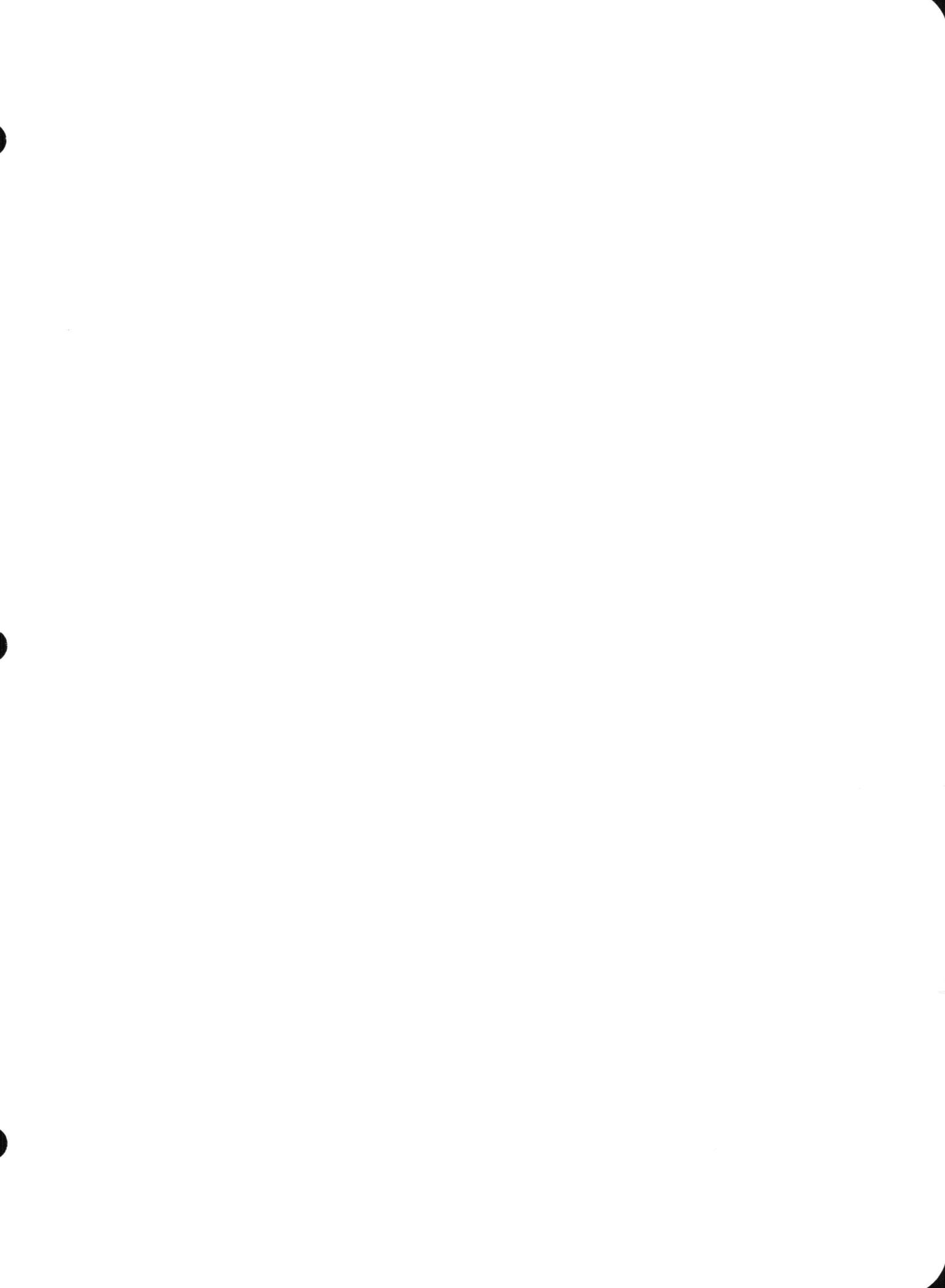
I N D E X

VOLUME 18

DOCUMENTS RELATING TO  
1971 R.C.M.P. INVESTIGATION -----PAGES 1 - 31

DOCUMENTS RELATING TO  
ROY N. EBSARY -----PAGES 32 - 89

**MEDIA POOL COPY**



1

ROYAL CANADIAN MOUNTED POLICE  
OUTGOING MESSAGE FORM

TIME OF RECEIPT	FILE NUMBER	DRAFTER'S NAME <b>DLB</b>	TIME OF DISPATCH <i>RCM 2 281</i>
	BRANCH, SECTION, ETC. <b>CIB READERS</b>	ROOM NO.      TEL. NO.	
PRECEDENCE FOR ACTION ADDRESSES <b>PRIORITY</b>	PRECEDENCE FOR INFORMATION ADDRESSES <b>PRIORITY</b>	DATE <b>17-11-71</b>	SECURITY CLASSIFICATION <b>UNCLAS</b>
FROM <b>H DIV</b>			
TO <b>F DIV</b>			
INFO <b>SYDNEY SUB-DIV.</b>			
ORIGINATOR'S REFERENCE NUMBER <b>4532/3</b>	REUR CIB2481 PSE HAVE POLYGRAPH EXAMINER CONTACT INSP.E.A. MARSHALL AT AREA CODE 902, PHONE # 539-5710.		

SIGNATURE OF PERSON RELEASING MESSAGE

TIME RELEASED (TIME OF SIGNATURE)

**D.J. WARDROP    SUPT. OFFICER I\*C CIB**I  
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1. FILE NUMBER, BRANCH or SECTION, DRAFTER'S NAME, etc. - To be filled in by the originator to facilitate prompt handling of a reply or query regarding the message. This information is not transmitted.
2. PRECEDENCE - Indicates to COMCENTRE the relative order in which messages are to be transmitted.
  - (a) FOR ACTION ADDRESSES - Enter precedence assigned to all action addressees, i.e., DEFERRED, ROUTINE, PRIORITY, OPERATIONAL IMMEDIATE or EMERGENCY.
  - (b) FOR INFORMATION ADDRESSES - Enter precedence assigned to all information addressees - usually DEFERRED.
3. TO - Enter all action addresses. Local abbreviations are not to be used if addressee is outside the Force.
4. INFO - Enter all information addresses. In multiple address messages (same message to more than one addressee), addressees to be designated either ACTION or INFORMATION.
5. ORIGINATOR'S REFERENCE NUMBER -
  - (a) Enter originator's reference number. It will be transmitted as first word of text of message.
  - (b) A message sent in reply to an incoming message MUST whenever available, contain a reference to and quote the Originator's number of that incoming message, i.e. HQ 127 Re Your 462.

2

RLMP2 367

8 7871

4725/10

RCMP MEX MCIS

62 HFX NOV17  
214 PRIORITY OFF NOV17 UNCLAS

MCIS HALIFAX

NPSIC 42593/20 REUR MCLS 4720/10 ROY NEWMAN ESPARY FPS 399634A C/R  
9/4/70 SYDNEY NS (1) BREACH OF LCP SEC 85 FINED 10 DLRS AND COSTS  
1/D 10 DAYS (2) POSS OF CONCEALED WEAPON 83QC FINED 100 DLRS 1/D 2  
MONTHS UNABLE TO ASSOC JAMES MACNEIL WITH FPS FILE NO 0/S WANTS

COMM

Rump 2 36+

PRIORITY HFX NOV17 UNCLAS

SYDNEY S/DI V

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

RCMP HQ HFX  
PRIORITY HFX NOV17 UNCLAS

SYDNEY S/DIV

MCIS4725/10 ATTN INSP MARSHALL RE PHONE CONVERSATION BETWEEN  
SGT BURGESS AND YOURSELF ROY NEWMAN ERSARY FPS 399634A C/R  
9-4-70 SYDNEY NS (1) BREACH OF LCA SEC 85 FINED 10.00 DLRS AND  
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100.00 DLRS 1/D 2 MOS UNABLE TO ASSOC JAMES MACNEIL WITH ANY  
FPS FILES THIS SECTION OR COMMR OTT NO O/S WANTS  
MCIS HALIFAX

TOP SECRET BY 17-11-71



4  
"F" Division  
C.I.B.

RCMP 373 010-6

RCMP 373

UR NO. \_\_\_\_\_  
STRE NO. \_\_\_\_\_

UR NO. 71 Poly 25  
STRE NO. \_\_\_\_\_

Regina, Sask., 30 Nov 71.

CONFIDENTIAL

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

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

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

1. James William MacNEIL
2. Roy Newman EBSARY

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

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

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

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

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

*rep. Marshall*

10 1971

71 Poly 25

30 Nov 71.

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

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

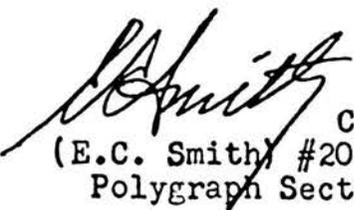
CONCLUSIONS:

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

REMARKS:

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

DISTRIBUTION:

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

TO - AU

THE COMMISSIONER  
Le Commissaire

C.O. \_\_\_\_\_ DIV.  
Commandant  
O.C. \_\_\_\_\_ S/DIV.  
Commandant  
I/C \_\_\_\_\_ DET.  
C/d

FROM - DU

THE COMMISSIONER  
Le Commissaire

C.O. \_\_\_\_\_ DIV.  
Commandant  
O.C. \_\_\_\_\_ S/DIV.  
Commandant  
I/C \_\_\_\_\_ DET.  
C/d

oic "H" DIV CTS 'F' DIV Polygraph Soc

6

30 4/22 11

HQ FILE NO. - Dossier de la "D.G."

DIV. FILE NO. - Dossier de la di

S/DIV. FILE NO. - Dossier de la s/di

DET. FILE NO. - Dossier du dét.

71 Poly 25

CORRESPONDENCE DATED  
Ci-joint le rapport en date du

30 Nov 71 ATTACHED

- INFORMATION - Renseignements
- ACTION - Suites
- ENCLOSURES - Pièces jointes

DIARY DATE REQUEST - DEMANDE DE LA DATE D'AGENDA

TO BE EXTENDED TO \_\_\_\_\_ FOR REASON INDICATED  
Sera prolongée jusqu'au \_\_\_\_\_ Pour les raisons indiquées

- FINE & COSTS PAID - Amende et frais payés \_\_\_\_\_
- FURTHER ENQ. NEG. - Autres recherches nulles
- AWAITING INSTRUCTIONS - Dans l'attente de directives
- TRIAL DATE NOT SET - Date du procès non fixée
- ADJOURNED TO - Renvoyée au \_\_\_\_\_
- DISPOSITION OF EXHIBITS - Disposition des pièces à conviction
- UNABLE EXECUTE WARRANT (SUMMONS) - Impossibilité d'exécuter le mandat (sommations)
- AWAITING PAYMENT OF FINE & COSTS - Dans l'attente du paiement de l'amende et des frais
- REPORT OVERDUE - Rapport en retard

OTHER REASONS/REMARKS - Autres raisons ou remarques

RCMP2 282

RCMP 352

OTHER FILE REFERENCES. REF. AUTRES DOSSIERS:	DIVISION "H"	DATE 21 Dec. 71	RCMP FILE REFERENCES. REF. DOSSIERS GRC:  7
	SUB-DIVISION-SOUS-DIVISION C.I.B.		
	DETACHMENT-DÉTACHEMENT		

RCMP 352

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

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

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

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

17 November 71

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

RE:  
OBJET:

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

PAGE

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RIMP2 352

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

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

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

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

John Lawrence PRACTICO (Age 16 Years)

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

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

P. 1112 352

## 6. continued.

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

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

Terrence GUSHUE (Age 20)

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

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

RE  
OBJET:

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

PAGE 4

RCMP 2 352

7. (continued)

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

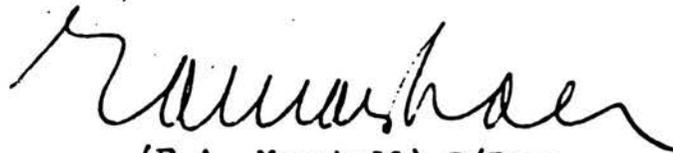
23 NOV 71

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

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

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

11. CONCLUDED HERE



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

RTN RTN C.I.B. 82-02-02 UNCLAS

C.O. "C" DIVISION  
ATTN: INSP. W.L. HOLMES  
DRUG SECTION

D.P. Christen, Supt.,  
Officer i/c C.I.B.

"H" DIV.

CIB 60/3

*Not sent  
E.C. Smith did polygraph*

CHIEF MACINTYRE, SYDNEY CITY POLICE, CONTACTED THIS H.Q.  
AND ADVISED A DONALD MARSHALL WAS CONVICTED OF THE MURDER  
OF SANDY SEALE IN 1971. DURING THE INVESTIGATION, A SUSPECT  
ROY EBSARY WAS GIVEN A POLYGRAPH EXAMINATION. PLEASE ADVISE  
WHETHER OR NOT YOU RECALL IF YOU CONDUCTED THIS EXAMINATION,  
AND IF SO, IF YOU REMEMBER THE RESULTS. IF POSITIVE, PLEASE  
ADVISE YOUR PHONE NUMBER SO CHIEF MACINTYRE CAN CALL YOU IN  
THIS CONNECTION.

*PIA file re Donald MARSHALL,  
Murder, Sydney, N.S.  
71 May 28*

NO RECORD  
MAY 28 1978

*+ record Sandy SEALE  
Roy EBSARY*

*BPIA  
8212102*



rcmp 106

February 2, 1982

Sydney Police Department  
City Hall Building  
Sydney, N.S. BLP 6H7

ATTENTION: Chief John McIntyre

Dear Sir;

RE: Donald Marshall  
Murder, Sydney, N.S.

This will confirm our telephone conversation of this date with reference to the above murder.

In 1971 I was a member of the Royal Canadian Mounted Police and stationed on the Polygraph Section at Regina, Saskatchewan. During the month of November that year I received a call from Supt. E. A. Marshall of Halifax, N.S. to assist him with reference to the Marshall murder. Supt. Marshall is now stationed at R.C.M.P. Headquarters at Ottawa, Ontario.

As a result of that request I attended at Sydney, N.S. on 23 November 1971 and my personal ledger shows that I gave polygraph examination to two persons on that date in this regard. It indicates that I examined one J.W. MacNeil and rendered an indefinite opinion as to his truthfulness. It also shows that I examined one R.N. Ebsary and rendered a truthful opinion when he denied committing the murder in question.

I have no other records of my involvement in this matter and I would assume that the R.C.M. Police at Regina would have destroyed the file after a five year period as that was their policy at that time.

My memory of this particular file is quite clear because I use to be stationed in Nova Scotia prior to entering the polygraph program and I remember that the Sydney trip was the first time I returned to Nova Scotia after leaving in July of that same year.

Supt. Marshall advised that One Donald Marshall had been convicted earlier that year of murdering a Negro chap in the park at Sydney, Nova Scotia. The offence had been investigated by your Department and prosecuted by one Donald McNeil. Sometime after the conviction was handed down by the court, one J. W. McNeil came forth and advised that the wrong man had been convicted as he alledged that he saw one R. N. Ebsary commit this murder rather than Marshall. That information had been reported to the Nova Scotia Attorney's General Department and they asked the R.C.M. Police to look into the matter.

It was decided between Supt. Marshall, Supt. Gardiner (O.C. then of Sydney Sub-division of the R.C.M. Police) and myself that we should first examine MacNeil on the story he was giving to the police. I recall that I found him to be a very difficult polygraph subject and I was not able to obtain polygraph charts that I could properly interpret. I therefore had to render an indefinite opinion.

Following that examination, I examined Ebsary on his denial of the murder. I was satisfied that his charts were truthful when he denied involvement and so rendered that opinion.

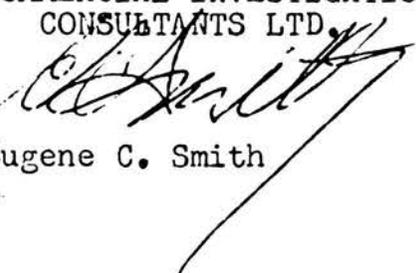
The results of Ebsary's polygraph examination were given to Mr. Donald MacNeil and it is my understanding that he so advised Donald Marshall's lawyer and give him the opportunity to submit his client to the examination. It is also my understanding that Marshall, through his lawyer, declined the examination.

The foregoing concluded my involvement in this particular matter and I must confess that the subject never crossed my mind again until you called this date.

I trust that the information I have provided will be of some assistance to you. Should you have any further questions, please don't hesitate to contact me again at (506) 849-2049.

Yours truly,

COMMERCIAL INVESTIGATIONS &  
CONSULTANTS LTD.



Eugene C. Smith

ECS:vs

*R 1012 293*

SECURITY CLASSIFICATION - DE SÉCURITÉ
URGENT
OUR FILE / NOTRE RÉFÉRENCE
71H-010-6
YOUR FILE / VOTRE RÉFÉRENCE
DATE
82-02-26

Commissioner, Ottawa

Attn: D.C.I.

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

SUBJECT  
OBJET

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

Attached for your information is copy of report dated 71-12-21, together with copy of polygraph report dated 71-11-30, which briefly outlines the circumstances of this case which was investigated by the Sydney City Police, as well as the involvement of this Force.

Also attached is copy of message received from Sydney Sub-Division on the 82-02-24, wherein you will note there is a possibility that MARSHALL, who was convicted and sentenced for the murder, may not have been responsible. A full investigation is being made into the murder by Sydney G.I.S., and a copy of their report will be forwarded upon receipt.

If it is determined there has been a miscarriage of Justice and MARSHALL is innocent, there will no doubt be considerable publicity. We are, therefore, advising you of the circumstances, as it is possible the publicity will affect the Force in view of our involvement at this time.

You may also wish to advise Supt. E.A. MARSHALL of the recent disclosures which have been made in this case.

D.F. Christen, Supt.,  
Officer i/c C.I.B.

Encl.  
DLB/lmm

REV  
40

*1A*  
*82-02-26*  
*L113*

21 Dec. 71

C.I.B.

RCMP 352

RE  
OBJET:

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

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

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

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

17 November 71

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

16  
Donald MARSHALL, Jr.  
Non-Capital Murder (Sec. 206(2)) C.C.,  
Sydney, N. S.  
(Sydney City Police Case)

Rimp2 352

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

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

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

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

John Lawrence PRACTICO (Age 16 Years)

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

6. continued.

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

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

Terrence GUSHUE (Age 20)

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

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

RE  
OBJET

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

PAGE 4

RCN 2 352

7. (continued)

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

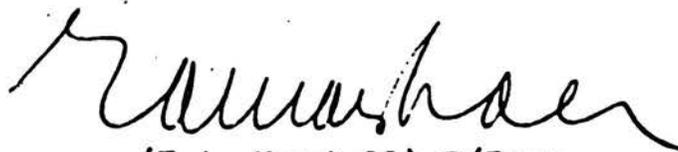
23 NOV 71

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

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

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

11. CONCLUDED HERE



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



"F" Division  
C.I.B.

RCMP 373

UR NO. \_\_\_\_\_  
STRE NO. \_\_\_\_\_

UR NO. 71 Poly 25  
STRE NO. \_\_\_\_\_

Regina, Sask., 30 Nov 71.

CONFIDENTIAL

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

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

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

1. James William MacNEIL
2. Roy Newman EBSARY

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

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

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

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

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

*rep. Marshall*

10 1971

71 Poly 25

30 Nov 71.

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

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

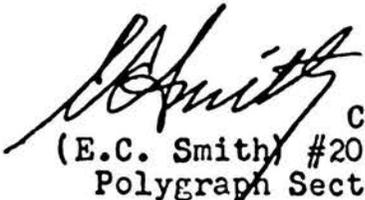
CONCLUSIONS:

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

REMARKS:

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

DISTRIBUTION:

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

71H-010-6

The Officer i/c C.I.B.

FORWARDED 83-11-15. In view of the recent developments in this case, I intend on sending an investigator to obtain statements from Supt. E.A. MARSHALL, Rtd., and ex-Cpl. E.C. SMITH, who were responsible for the RCMP investigation and Polygraph Test in 1971. The reason for this decision is:

- 1) EBSARY has now been convicted for the death of Sandy SEALE.
- 2) Chief MacINTYRE, while giving evidence at this trial, has stated that this Murder investigation was turned over to the RCMP in 1971 after MacNEIL — came forward with new evidence concerning EBSARY. —
- 3) It has still not been decided, but the Government could still call for a Public Enquiry into the original investigation.

From reviewing the files, it appears that our investigators only spoke to MacNEIL and EBSARY as well as Chief MacINTYRE and Crown Prosecutor Donnie MacNEIL. They also reviewed the City Police evidence from court transcripts and statements, however, did not conduct a new investigation or re-interview witnesses from the original trial.

In view of this, and unless advised to the contrary, I will have our investigators contact both Supt. MARSHALL, Rtd., who presently resides at Belle Isle, Annapolis County, N.S., and ex-Cpl. SMITH who resides at Rothesay, N.B., to determine what in fact they did do, so we may better answer any subsequent questions that could be asked at a Public Enquiry, the Attorney General, or others concerning our role in this area.

  
D.B. Scott, Insp.  
Commanding Sydney Sub/Division

● HANDWRITE - ÉCRIRE À LA MAIN

TO - À <i>C.O. CIBC (Readers)</i>	FROM - DE <i>Seeryan C.O.</i>	Date <i>8/3/25</i>
--	--------------------------------------	-----------------------

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

SUBJECT - SUJET

*Herald Marshall*

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

- ① On reviewing file I find:
  - Ⓐ file re-investigated at request of Sydney City Police - see notes of CIBC dated 8/3/24
  - Ⓑ D.C.I. was first notified & correspondence sent to him on 8/2/26 when Insp. Marshall's report was filed.
  - Ⓒ DAG ordered Sydney City Police to turn over all material re their investigation to us on 8/2/4120.
  - Ⓓ D.C.I. was not <sup>at all</sup> correspondence on file up to 8/2/6103.

Suggest we could send memo to DCI updating file to present and at some time advise the Solicitor General was enquiring as to our involvement in initial investigation & we could request P.Q. to inform Sir Wm that all that was done was for Insp. Marshall to review evidence & polygraph reports to give polygraph examinations.

Diary Date - Date d'agenda

Meeting Date - Date de réunion

P.A. - A.C.

Init./N°

S. H. Burgess

23

RM 12 331

I spoke to the D/C (ops) this  
date (83-12-05) and explained him that:

- (a) Insp Marshall was directed to proceed to  
Lydney by P.O. following a request for  
A.M. Dept. who were reacting to a  
request for the Brown, Foreman, & Davis tickets.
- (b) Insp Marshall did not do an investigation  
by examining the evidence in a well run  
psychological examination done.
- (c) Insp Marshall submitted his report and had no  
further role to play.

I received the above info from  
Insp Marshall direct via telephone.

No. more action necessary, & this  
end unless the media publishes anything  
of a contentious issue.

If you receive a call our response must

e: (1) No investigation done by force but we did  
examine the evidence over the place the job was  
done.

Advise me if there are other additional developments please  
12/05/83 12/06

BIN	
BD	

Classification
File No. - N° du dossier

RITE - ÉCRIRE À LA MAIN

TO - À <i>File</i>	FROM - DE <i>Carignan</i>	Date <i>33/12/06</i>
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- |  |   |  |   |
|--|---|--|---|
| <input type="checkbox"/> Comments<br>Commentaires            | <input type="checkbox"/> Action<br>Donner suite               | <input type="checkbox"/> Prepare Brief<br>Préparer un exposé | <input type="checkbox"/> Return with Current File<br>Retourner avec le dossier actuel |
| <input type="checkbox"/> Perusal and P.A.<br>Lire et classer | <input type="checkbox"/> Prepare Reply<br>Rédiger une réponse | <input type="checkbox"/> Make File(s)<br>Ouvrir un dossier   | <input type="checkbox"/> Check Records<br>Vérifier les dossiers                       |

SUBJECT - SUJET

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

*Ref attached A-5- On the 33/12/02 Solicitor General RAPLAN was in Halifax in connection with Crime Prevention Week and was interviewed on TV. During interview he was asked about involvement of Psg. Marshall of RCMP in initial investigation and Solicitor General advised C.C. 1 Sept. Report about case involvement was. As a result a review of file was made as noted on attached A-5 and D.C-1. D'après ce qui est indiqué sur C.C. le solliciteur général a demandé que le dossier soit...*

*No further action required*

Diary Date - Date d'agenda	Meeting Date - Date de réunion	P.A. - A.C.	
		Date <i>43/12/06</i>	Init./N° <i>3</i>

RE - OBJET:

Re: Roy Newman EBSARY  
Manslaughter  
Sydney, N.S.

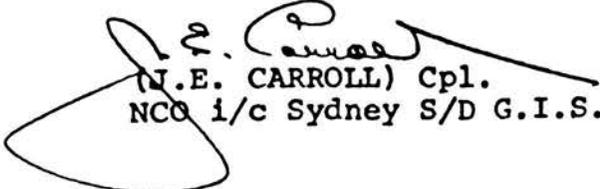
71-05-28/29

1. Further to my report dated 83-11-25 and footnote by O.C. Sydney Sub/Division in the above regard, be advised a patrol was made to Saint John, N.B., and Eugene Clair SMITH interviewed on 83-12-19, statement obtained, attached. He was permitted to review his polygraph report of 1971 and other correspondence pertaining to his involvement since he did not have personal notes, the file held in Regina where he was stationed in 1971 has been destroyed. SMITH stated the principle involved in polygraph is guilt feelings and if EBSARY showed no remorse from the incident, he would not be a good candidate for polygraph testing.
2. On 83-12-20 Supt. E.A. MARSHALL (Retired) was interviewed at his home near Bridgetown, N.S., he declined to give a statement but did discuss the investigation openly. The following is a resume of notes made during this discussion:

He recalled the trip to Sydney, met with Sgt. John MacINTYRE, was given a file or part of a file, some typed statements, was briefed on evidence by MacINTYRE, couldn't recall any contact with URQUHART, went back to Wandlyn Motel in Sydney after the tests on MacNEIL and EBSARY, went over details of case, (would have tested other people including MARSHALL, if he had a "gut" feeling something was wrong with MARSHALL's trial and the investigation,) had worked on many cases with MacINTYRE prior to this case, was not sure if MacINTYRE produced all the file, polygraph done by E.C. SMITH on 71-11-23, to best of recollection MacNEIL was uncertain, not sure if he was telling truth, called prosecutor, Donnie MacNEIL, that evening, he came to Wandlyn Motel, discussed results of the test, MacNEIL called someone in A.G.'s office, possibly Leonard PACE. Departed for Halifax, did not recall if MacNEIL contacted defence counsel, may have driven MacNEIL home, didn't read all of transcript.
3. It would appear EBSARY had no more concern for MARSHALL being incarcerated in 1971 than he has now and was - is still capable of acting out his fantasies which would greatly effect the pre-test interview and subsequent test. James MacNEIL was not

.../2

mentally strong at that time and remains in the same state. As a result of interviewing both SMITH and MARSHALL there can be no doubt they came to Sydney for the sole purpose of interviewing and polygraphing EBSARY and MacNEIL, no request for interrogation of other witnesses was made or anticipated and the Force's involvement terminated at the conclusion of the test. No further details regarding an appeal decision are known.

  
(N.E. CARROLL) Cpl.  
NCO i/c Sydney S/D G.I.S.

S.U.I.

D.D. 84-03-20

  
(T.E. BARLOW) S/Sgt.  
Sydney S/D P.C. Co-or.

c.c. O.C. Sydney Sub/Division

Statement of Eugene Clair SMITH (BD: 40-01-02)

27

Taken at Saint John, N.B., 9:25 on 83-12-19

1012 84

In November, 1971, I received a request to polygraph one James MacNEIL in Sydney, N.S., concerning the Donald MARSHALL murder case. I was in Regina, Sask., at the time, the request came from R.C.M.P. in Halifax. I met Sub-Inspector E.A. MARSHALL in Halifax and we flew to Sydney together. In Sydney we went to the Wandlyn Motel, I was briefed by MARSHALL as to the details of the City Police investigation, I did not see or meet John Mac INTYRE or Bill URQUHART who had investigated the case. MacNEIL came in around 9:30 that morning and I commenced the pre-test interview and the test was done. I found MacNEIL high-strung, very nervous, he appeared to be hung over, after the test I had the impression he was a person open to any suggestion and very easily lead and in fact admitted to me the story he gave me was false and maybe he was imagining things. Because of his character and the charts were indefinite, I officially recorded an indefinite opinion. A second man, Roy EBSARY was tested by myself later that afternoon, again I was briefed by MARSHALL. He was very much in control compared to MacNEIL and had a good command of the English language. He also had a better recall of the facts and had more details of the night in question. I considered him a good candidate for polygraph. I was satisfied from the pre-test interview and charts that EBSARY was truthful. The essence of a polygraph is guilt feelings and the way an individual reacts to questions put to him during an examination. If EBSARY had no guilt feelings as to his involvement that night he would not have responded to the pertinent examination questions. Following the examination the results of the tests were given to the late Donald MacNEIL, Crown Prosecutor, and I understand he advised MARSHALL's lawyer, I also understand MARSHALL refused polygraph testing.

E.C. SMITH

9:58 A.M. 83-12-19

Witness: Cpl. J.E. CARROLL

Statement of Eugene Clair Smith 28  
B.S. 40-01-02 Stefan at Saint John, N.B.  
925 83-12-19

RCMP 214

In November 1971 I received a request to paraphrase one James MacNEIL in Sydney, N.S. concerning the Donald MARSHALL murder case. At that time the request came from R.C.M.P. in Halifax. I met Sub. Inspector E. A. MARSHALL in Halifax and we flew to Sydney together. In Sydney we went to the Stanley Hotel. I was briefed by MARSHALL as to the details of the City Police investigation, I did not see or meet John MacMURRAY or Bill WRIGHT who had investigated the case. MacNEIL came in around 9:30 that morning and I commenced the pre-test interview and the test was done. I found MacNEIL high-strung, very nervous, he appeared to be hung over, after the test I had the impression he was a person open to any suggestion and very easily led and in fact admitted to me the story he gave me was false and maybe he was imagining things. Because of his character and the charts were indefinite, I officially recorded an indefinite opinion. A second man, Ray EBERRY was tested by myself later that afternoon, again I was briefed

by MARSHALL. She was very much in control composed ~~to~~ <sup>with</sup> MacNAB and had a good ~~command~~ <sup>command</sup> of the English language. De Salvo had a better recall of the facts and had more details of the night in question. I considered him a good candidate for polygraph. I was satisfied from the pre-test interview and charts that ESSARY was truthful. The essence of a polygraph is slight feelings and the way an individual reacts to questions put to him during an examination. ESSARY had no slight feelings as to his involvement that night he would not have ~~and~~ responded to the pertinent examination questions. Following the examination the results of the tests were given to the late Donald MacNAB Crown Prosecutor and I understand he advised MARSHALL's lawyer. I also understand MARSHALL refused polygraph testing.

Witness: J. E. Powell

957.

*[Signature]*  
 9:58 AM  
 19 Dec 83

RCN-1284

*[Small circular mark]*

30  
I recall trip to Sydney, reviewed case  
it had got backing, had have looked other  
people - MARSHALL saw Mae INTYB, gave part  
of file, summarized statements, was briefed  
on evidence by Mae, can't recall URGART's  
involvement at that time, went back to Mabel  
& went over details, worked in many cases  
with Mae INTYB prior to this case, not sure  
if Mae gave all of file Polygraph, F.C. SMITH  
23 NOV 71, same, to best of recollection MOENEL  
was uncertain, not sure if he was telling truth.  
Read SMITH's statement, Moenel - inclusive, EBSAR  
done, believed to be telling truth, called Dannie  
Moenel that evening, came to Wanda Mabel  
Sydney, discussed results of test, Moenel  
called someone in AG's office, possibly heard  
of AEE? Departed for H.R. I don't recall if  
Moenel contacted defense counsel, may have  
driven Moenel home, didn't read all of court  
transcript.

RCM 2 54



O.C. Sydney Sub-Division

Officer In Charge C.I.B.

*RCMP 223*

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE / NOTRE RÉFÉRENCE 71H-010-6
YOUR FILE / VOTRE RÉFÉRENCE 82-77 82S-0042
DATE 84-01-06

SUBJECT / OBJET

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

I acknowledge receipt of your investigator's report, in this matter.

In the light of the investigator's gratuitous remarks in paragraph 3 of the report, as I understand the matter, nothing has altered the situation vis-a-vis MARSHALL-SMITH since 1971.

No further action should be taken and you should consider the matter closed at this time.

R.A. MacGibbon, Supt.,  
Officer In Charge C.I.B.

RAMacG:acy

75



RE: Roy Newman EBSARY - Manslaughter

82-02-22

First contact with EBSARY, 1017-1341 interviewed at R.C.M.P. office, Alexandra St., Sydney, by WHEATON & CARROLL. Returned to his home 1341, call from EBSARY to WHEATON 1645 requesting CARROLL come to his home, returned to 68 Falmouth Street, admission made, no statement.

82-02-23

To EBSARY home - CARROLL & WHEATON 1059, Warning given by WHEATON 1100, Understood, Statement obtained 1103, EBSARY requested meeting with MARSHALL family, meeting arranged for 1300, brought Donald MARSHALL, Sr. and wife to office, also EBSARY in semi-intoxicated condition, returned individuals home 1500 approx.

82-03-23

Met EBSARY at Probation Office, Sydney, N.S., with Cst. R.D. MacQUEEN, returned to his home, executed Search Warrant with Csts. MacQUEEN, ETTINGER, STOYEK, cassette tapes and diary seized. No one had conversation with EBSARY except CARROLL.

82-03-03

Seizure of basket and knives by WHEATON from EBSARY's previous residence - 46 Mechanic St., Sydney.

82-03-31

Seizure of blue trench coat, shirt and two gold wrap-around belts by Cst. D. HYDE at 68 Falmouth St., Sydney.

82-10-26

At 1330 EBSARY interviewed at 68 Falmouth Street as a result of a call from him re: DOYLE, phone bill in excess of \$2000.00, discussed EBSARY buying car, accident, DOYLE driving, CARROLL & BARLOW present, wanted to know where Gerard Francis DOYLE was, heard he was arrested in St. Peters, said, "Get him released and I'll give you the MARSHALL case," told by CARROLL inquiries would be made, no promises made, EBSARY intoxicated.

82-10-27

Inquiries made revealed DOYLE had already appeared in Arichat Court - enroute to N.S. Hospital, Dartmouth, for 30 day examination, called EBSARY 1000 and advised him nothing more could be done, EBSARY cried, said he would keep his word re: MARSHALL case, agreed to type a resume of what happened in Wentworth Park when SEALE was stabbed in 1971, CARROLL to meet with him 0930 on 82-10-28.

82-10-28

BARLOW & CARROLL to 68 Falmouth St., EBSARY had lost his glasses, couldn't see to type, he suggested a tape recording, agreed.

82-10-29

0850 - To EBSARY residence, BARLOW, CARROLL, EBSARY & Ronny - Present. CARROLL & BARLOW left, CARROLL returned 1115 with tape recorder and new tape, Donnie LANDMEYER present - departed prior to tape being made, letter and envelope to DOYLE completed by EBSARY before taping.

82-11-02

0930 - To EBSARY home with Cpl. HYDE, directed by EBSARY to 126 Rear Argyle St., rear of residence, dug up area 3' x 4' searching for knife as instructed by EBSARY, none found.

(J.E. CARROLL) Cpl.

RCMP 2 169

NAME EBSARY ROY ADDRESS R.126 Arville St. June 2, 1912 AGE

MARRIED SINGLE DIVORCED WEIGHT 150 HEIGHT 5'2 COMPLEXION Fair RELIGION M

NATIONALITY HAIR Grey EYES Blue FACE OCCUPATION Cook

DATE CHARGE GOODS VALUE DISPOSITION BOOK NO. MAGISTRATE

Apr 1 8, 1970 Sec. 85 L.C.A. \$10.00 and costs #52782 J.F. McDonald

Apr 11 8, 1970 Sec. 83 C.C. \$100.00 or two months #49439 Whitley

also: 7-2-58 Sec. 85 L.C.A. Admonished 7-2-58 Sec. 231(1) c.c. Probation 6 months #11129 R.R. MacIntyre

May 6, 1970 Sec. 76(2) L.C.A. \$10.00 and costs or 10 days #1929 O'Connell

Nov 5, 1982 Sec. 87 CC Nov 8- 6 mos. C. B. Carr Centre #1929 O'Connell

# Cape Breton Hospital

35

P. O. BOX 515

PHONE 539-3370

SYDNEY, NOVA SCOTIA

BIP 6H4

1002 + 05

March 23rd, 1982

Judge Charles O'Connell  
Court House  
Crescent Street  
Sydney, N.S.

RE: Mr. Roy Ebsary  
68 Falmouth Street  
Sydney, N.S.

---

Dear Judge O'Connell:

I saw the above mentioned, Mr. Roy Ebsary, at the request of the court on Monday, March 22nd, 1982. I had a rather long conversation with Mr. Ebsary, who in many ways is a rather charming old gentleman.

However, the offense with which he is charged is serious indeed and so I should concern myself with his fitness to plead and question of diminished criminal responsibility in this case. In view of the seriousness of the charge, I feel under a strong obligation to recommend to the court that Mr. Ebsary be referred to the Nova Scotia Hospital on a 30-day Warrant of Remand to establish not only his fitness to plead but also the question of diminished criminal responsibility.

Obviously, Mr. Ebsary is eccentric. I have no way of really knowing whether, in fact, most of the story he tells me about his past are true or untrue; whether, in fact, he was a "gun captain" in the British Navy or Royal Navy or whether, in fact, he is the possessor of a distinguished service medal, which he said was given to him personally by the late Sir Winston Churchill, or the Croix de Guerre apparently given by the late General DeGaulle. He also tells me that he was present at the sinking of the Bismark and so on.

Amongst other things, Mr. Ebsary claims to have written eight books, all on biblical matters, and tells me one is now in its third printing.

. . . . . 2/

Judge O'Connell

- 2 -

March 23rd, 1982

In general, I find his story quite bizzare but I also found him vague, somewhat deficient in recent memory, rather unsteady on his feet and with a tendency to fainting when he bends down. RIMP2 405

For several years he has been under the close medical supervision of Dr. Peter Cardew, who is, unfortunately, no longer a resident in this area.

I would therefore suggest, your Honor, that a copy of this letter be sent to the Psychiatric Forensic Unit, Nova Scotia Hospital so that certain tests could be done on Mr. Ebsary particularly, I think, a EEG under revealing conditions and a CAT Scan, if they feel this necessary.

Sincerely,



C. Donovan, M.D.  
Psychiatrist

CD/ew

c.c. Mr. Frank Edwards  
Crown Prosecutor

Mr. Al Nicholson  
Lawyer, Legal Aid

37  
NOVA SCOTIA HOSPITAL

RECEIVED

APR 27 1982

Nova Scotia

DRAWER 1004  
DARTMOUTH, N.S. B2Y 3Z9

April 26, 1982

NCIMP2 318

Mr. Gordon S. Gale  
Director, Criminal Section  
Attorney General's Department  
Provincial Building  
Halifax, Nova Scotia

Dear Mr. Gale:

RE: EBSARY, Roy Newman

The above-named individual was remanded to this Hospital by order of Magistrate Charles O'Connell of Sydney, N.S., dated the 30th day of March, 1982, for a 30 day period of observation pursuant to Section 543.2 1 of the Criminal Code of Canada.

We have examined this individual and conducted the necessary investigations.

Roy is a 70 year old separated male who was born and brought up at St. John's Newfoundland as the oldest of 12 children in the family (three boys and nine girls). His father was a seaman and a chief steward on a passenger liner. The mother was a housewife. Roy states that he was reared by his maternal grandmother. The grandmother's own son (Roy's uncle Samuel) had been killed in World War I and she adopted Roy as a substitute. Roy states that she gave him everything that he needed or wanted and he had a very happy childhood. About two years ago Roy's 'father' Albert called him and told him that he, Roy, was actually fathered by his uncle, Samuel. Albert died shortly after telling Roy about this. The mother had died a year before that.

Roy has a high school education. After completing high school he worked as a machine operator with a lumber company for eight years. Then he joined the Merchant Marine. He was in the Merchant Navy for approximately 20 years. He claims that he started as an apprentice seaman and achieved the position of captain or chief engineer. He also claims that during the war years he was in the Royal Navy and that he saw

RE: EBSARY, Roy Newman

action in the Atlantic as well as the Pacific Ocean. Many of these claims reflect a streak of grandiosity and are contradicted by objective accounts available to us. According to his wife he was never more than an assistant cook in the Navy. Following his marine career Roy worked as a cook at the Isle Royal Hotel. He has not been employed since 1959. He claims that he has spent most of his time since 1959 writing books. Again there is no objective evidence to support this claim which appears to be a figment of his grandiose mind.

Roy lived with his wife in a common-law relationship for many years before finally marrying her. Mrs. Ebsary had four children from a previous union and had two more children from Roy, a boy 27 and a girl, 22. The girl resides in Boston and the boy is living in the Sydney area.

Roy's wife describes him as a self-centered grandiose person who had a serious drinking problem since his teenage years. He was violent towards her as well as the children especially when he was drunk. She states that after the birth of their daughter their relationship deteriorated markedly. He started bringing home younger men and was angry when she questioned him about his relationship with them. She caught him in bed with these young men on a number of occasions but was afraid to confront him because of fear of reprisals. She eventually separated from him two years ago. Roy claims that even after their separation he maintained a friendly relationship with his wife but this assertion is disputed by the latter.

After the separation from his wife Roy moved to an apartment where he apparently indulged in his fondness for drinking and entertained similiarly inclined friends.

Roy is known as an eccentric old man in the community. He is said to have decorated his room like a ship. He tells everybody that he was a gunnery captain in the Royal Navy and was present at the sinking of "Bismark". He also claims that he was decorated personally by Winston Churchill and Charles De Gaulle and he has a number of war medals to support this claims. It is believed that these medals were bought in a pawn shop.

On examination, Roy presented as a white-haired male with a triangular, grey beard and a mustache. He wore black rimmed glasses which were patched up with adhesive tape. His hair was dishevelled. At the time of admission he was in considerable physical distress complaining of pain in

RE: EBSARY, Roy Newman

his stomach and other parts of his body. He was slow in answering questions and sometimes groped in his memory for long periods before answering them. His speech was coherent and well organized. However, as mentioned above, it was full of references to his accomplishments in the Royal Navy and in his writing career

Roy was able to give a reasonably detailed account of the circumstances leading to the alleged offence. He asserted his innocence and stated that he had had a couple of drinks of wine and was sleepy throughout the episode in question.

On being questioned Roy described "metaphysical" experiences in which he saw people that he had known in his past. These were not hallucinatory experiences as Roy believed that other people were capable of experiencing the same or similar parapsychological phenomena.

Subsequent investigations showed that Roy was suffering from chronic heart disease, chronic obstructive lung disease as well as stomach ulcers. Because of his age and the history of excessive drinking, special attention was paid to his neurological status. A neurological examination was within normal limits. An E.E.G. showed minor abnormalities which were consistent with but not diagnostic of Organic Brain Disease. A C.T. scan was done at the Victoria General Hospital on March 31, 1982 and this was reported as normal.

Although the above mentioned neurological investigations did not show substantial pathology, clinical observation during the 30 day period showed Roy's sensorium to be intermittently clouded. There were periods when he was lucid but on other occasions he showed disorientation to time as well as place and his memory of very recent events seemed to be grossly impaired. For example, one afternoon he did not remember that he had had a series of X-ray in the morning. His account of the happenings of recent past also varied from day to day. After careful analysis of these observations we came to the conclusion that Roy suffered from significant impairment of his brain functions. This conclusion was supported by psychological test results

In summary, Roy Ebsary is an elderly male who has presented a picture of Chronic Organic Brain Syndrome due

RE: ERSARY, Roy Newman

to alcoholism, senile brain disease, the cerebral effects of heart and lung disease or a combination of all these factors. Although Roy has many days when he is completely lucid, his sensorium cannot be reliably predicted to be clear on any given day. His grandiose stories, many of which are probably confabulated, add to the unreliability of his account. We believe that this instability of his mental state renders Roy incapable of giving a consistent account to his Defence Counsel and of following the court proceedings in a rational manner. We, therefore, consider him unfit to stand his trial.

The prognosis for restoration to fitness is not clear at this stage. It may be that much of the brain impairment is still reversible and after several months of being away from alcohol his sensorium will improve. On the other hand, it is quite possible that the combination of factors mentioned above will lead to further deterioration in his mental state. In view of the uncertainty of this prognosis as well as of the seriousness of the charges against Roy, we recommend that he should be returned to court for a judicial determination of the fitness issue.

His remand expires on April 29, 1982 and we recommend that he be removed from the hospital prior to that date.

Very sincerely yours,

  
Syed Naveed Akhtar, M.D. F.R.C.P.(C)  
Director, Forensic Service

SNA/mdh

OTHER FILE REFERENCES: REF. AUTRES DOSSIERS:	DIVISION "H"	DATE 83-01-21	RCMP FILE REFERENCES: REF. DOSSIERS GRC: 41 82-77 825-0042 714-010-6
	SUB-DIVISION / SOUS-DIVISION Sydney, N.S.		
	DETACHMENT — DÉTACHEMENT Sydney S/D G.I.S.		

RE: — OBJET: Donald MARSHALL, Jr.  
Non-Capital Murder, Sec. 206 C.C.C.  
Sydney, N.S. 71-05-28/29 Rump2 325

1. Further to report dated 82-05-20 in the above regard, be advised affidavits taken from main witnesses in this case by MARSHALL's counsel (ARONSON) in particular those of CHANT, PRATICO and MacNEIL were subsequently presented to the Nova Scotia Supreme Court at Halifax, N.S. in August, 1982.
2. On 82-12-01 MARSHALL appeared before the Court of Appeal at Halifax, N.S., at which time new evidence was presented by ARONSON through witnesses James MacNEIL, Donna & Greg EBSARY, A. EVERS, Patricia HARRISS and Maynard CHANT, this being the first time MacNEIL submitted evidence. MARSHALL also gave evidence but refused to admit he and SEALE were in the process of robbing EBSARY and MacNEIL on the night in question. During cross-examination by Crown Prosecutor F. EDWARDS, MARSHALL finally admitted to the contents of the statement he gave S/Sgt. WHEATON and myself at Dorchester, N.B. After two days of evidence the five Appeal Court Judges adjourned the matter to 83-02-16 for decision.
3. It should be noted EBSARY has since been acquitted by a local jury on the MUGRIDGE stabbing. This incident occurred in his Sydney home early in 1982 and a new trial was ordered after medical authorities found him "unfit" for trial. Since his release he returned to his former residence and drinking habits.
4. On 82-10-25 EBSARY made continued attempts to contact Frank EDWARDS in Sydney. EDWARDS refused to communicate with him in the event it concerned the MARSHALL case and requested someone from this office visit EBSARY. I interviewed him at his home on 82-10-26 and was asked to ascertain the circumstances surrounding the arrest and court appearance of one Gerard Francis DOYLE arrested at St. Peters, N.S. on 82-10-25. DOYLE and EBSARY met while inmates at the local Correctional Centre and he expressed a great desire to help the youth in any way possible, in exchange for this information, he stated he would supply the missing details to the MARSHALL case.
5. Inquiries made revealed DOYLE had already appeared in Arichat court and was remanded for thirty days observation in Dartmouth, N.S., on several charges. EBSARY was advised of the situation but decided to discuss the MARSHALL case anyway. He agreed to type his account of the events on the night he and MacNEIL were robbed but later stated his glasses had been smashed by a drunk and he could not see clearly to type, he suggested a tape recorder be supplied.

.../2

RE-OBJET:

Donald MARSHALL, Jr.  
Non-capital Murder, Sec. 206 C.C.C.  
Sydney, N.S. 71-05-28/29

2 CMP 2 325

6. On 82-10-29 I delivered to EBSARY a tape recorder and new cassette tape with the intention of leaving it with him, however, he agreed to dictate the details in my presence. The subsequent twenty minute recording describes how he and MacNEIL were walking through the park when approached by MARSHALL and SEALE. He describes defending himself by stabbing SEALE "in the guts" and MARSHALL in the arm when he came to SEALE's rescue. He said he used a small pocket knife which he buried in his backyard garden plot at Rear Argyle St., Sydney and agreed to show me the location.

7. ~~On 82-11-02 Cpl. D. HYDE and I with EBSARY dug up an area some 3' x 4' at the above address but could not find the knife.~~ While attending local court on another matter on 82-11-08 I met EBSARY who had just appeared before Sydney Provincial Court Judge C.A. O'CONNELL and entered a "Guilty" plea to possession of an offensive weapon. EBSARY was sentenced to six months at the local Correctional Centre same date and will be released on 83-03-08. This charge was laid by Sydney City Police following numerous threats of bodily harm by telephone from EBSARY to his son, Gregory. EBSARY tried to gain entry to his son's residence during the P.M. of 82-11-07 and had hidden a knife in a small mail box near the front door. Minutes after being sentenced EBSARY bragged to Ian MacNEIL, editor of the Cape Breton Post and brother of Crown Prosecutor Donald MacNEIL (deceased - prosecuted MARSHALL in 1971) he had stabbed MUGRIDGE and got away with it as well as stabbing SEALE and MARSHALL. EBSARY invited MacNEIL to further interview him at the Correctional Centre regarding these offences.

8. EBSARY is now scheduled for release on 83-03-08 and MARSHALL's next appearance is 83-02-16. It is the writer's opinion that Department of Justice officials may not be fully aware of the fact EBSARY, in spite of his age and physical-mental condition, is a very unpredictable, dangerous individual. When not in custody he entertains a local crowd of drunks, drug users, fellow inmates released as well as the homosexual youths. It is not uncommon for him to go without food for two weeks, drinking heavily every day, he is normally drunk by noon. When EBSARY is released in March he will resume his previous life style and there can be no doubt he will make further threats toward his son and family. These people live in constant fear EBSARY will molest their children while enroute to school.

S.U.I.

*P. E. Carroll*  
P. E. CARROLL) Cpl.  
Sydney Sub/Div. G.I.S.

D.D. 83-03-31

*P. E. B. S. Sgt. Ad.*  
(P. E. B.) S/Sgt.  
P.C. Co-or. Sydney Sub/Div. G.I.S.

RE-OBJET:

Donald MARSHALL Jr.  
Non-Capital Murder, Sec. 206, CCC  
Sydney, N.S. 71-05-28/29

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PAGE

RUMP2 325 3

CONT'd

The Officer i/c C.I.B.

FORWARDED 83-01-24 for your information. Para. 3 of Cpl. CARROLL's report should read, "this incident occurred in his Sydney home early in 1982, and a new trial was ordered after medical authorities had earlier found him unfit for trial". EBSARY, in the first instance, was found unfit for trial and then later he was found fit for trial and then was acquitted during a jury trial.

With reference to para. 6 of Cpl. CARROLL's report, it should be noted that EBSARY had just come off of a 10-day drinking bout and while listening to this tape recording you can see that he is telling you what he wants to tell you and is not being completely honest in all details. It is like he wants to admit to stabbing SEALE to get it off his conscience, but, he does not want to lose his freedom by making this admission, and therefore he distorts certain facts to leave you guessing.

My main concern at this point is for the safety of others should EBSARY be released prior to a decision being rendered by the Appeals Division of the Supreme Court of Nova Scotia. Should the Appeals Division see fit to dismiss the conviction against MARSHALL, then a charge of Manslaughter or Murder should be laid against EBSARY, as the investigator and the local Crown Prosecutor both feel that there are sufficient grounds to do so. I also concur with this decision. It is therefore requested that this Sub/Division be advised ASAP when a decision is handed down, so that the appropriate action can be taken at this point against EBSARY.

  
D. B. Scott, Insp.  
Commanding Sydney Sub/Division

WRITE - ÉCRIRE À LA MAIN

TO - A <i>Perusal</i>	FROM - DE <i>CIPBU</i>	Date <i>83-01-27</i>
--------------------------	---------------------------	-------------------------

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

SUBJECT - SUJET

*Donald Marshall Jr*

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

*Write back to O.C. Sydney A.P.D. and request he provide us with a transcript of the taped interview with Sgt Carroll. Also have another interview Mr. Ian MacNeil as well as anyone else present in court who heard Ebbary admit to shooting Dick and Marshall. Indicate we will make names known to A.C. Dept.*

*TH*

*Forward copy of this memo together with our correspondence to O.C. Sydney to A.C. Dept indicating Ebbary's mental condition and fascination with the news would suggest it is just a matter of time before he seriously or fatally injures someone. Ask them to advise once appeal court have rendered verdict may we be advised as to further action as soon as possible as to the further action to be taken this regard.*

*C*

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

*P (m) 22 272*

O.C. Sydney Sub-Division

Asst. Officer i/c C.I.B.

SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE / NOTRE REFERENCE 71H-010-6
YOUR FILE / VOTRE REFERENCE 82S-0042
DATE 83-01-28

SUBJECT  
OBJET

Donald MARSHALL, Jr.  
 Non-Capital Murder, Sec. 206 C.C.  
 Sydney, N.S. 71-05-28/29

-----

Report from Sydney Sub-Division G.I.S., with your forwarding memorandum, refers.

Would you please supply us with a transcript of the taped interview of EBSARY with Cpl. CARROLL. Also, have a member interview Mr. Ian MacNEIL, along with anyone else who was present in court who heard EBSARY's remarks admitting he stabbed MUGRIDGE and MARSHALL.

We will indicate your concerns to the Deputy Attorney General.

R.G. Zinck, Insp.,  
Asst. Officer i/c C.I.B.

83-01-28

OUR: 71H-010-6

The Deputy Attorney GeneralAttention: Mr. Gordon S. Gale

FORWARDED, together with report from our Sydney General Investigation Section and comments of the O.C. Sydney Sub-Division.

EBSARY's mental state and his fascination with knives would suggest it is only a matter of time before he seriously or fatally injures someone.

Once the Appeals Court have rendered verdict, may we be advised as soon as possible as to further action to be taken in this regard.

Halifax, N.S.  
83-01-28

D.F. Christen, Supt.,  
Officer i/c C.I.B.

01-28  
LM

*[Handwritten signature]*

RECEIVED  
JAN 20 1983



MEMORANDUM

NOTE DE SERVICE

TO  
À

Sydney Sub/Division P.C. Co-ordinator

FROM  
DE

The O.C. Sub/Division

*MEM 12 307*

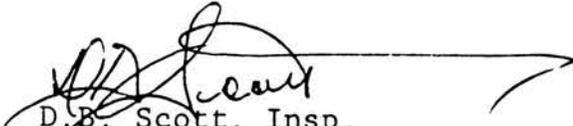
SECURITY CLASSIFICATION / DE SÉCURITÉ
OUR FILE / NOTRE RÉFÉRENCE 82S-0042
YOUR FILE / VOTRE RÉFÉRENCE 82-77
DATE 83-02-01

SUBJECT  
OBJET

Donald MARSHALL, Jr.  
Non-Capital Murder, Sec. 206, C.C.  
Sydney, N.S. 71-05-28/29

Attached for your information is correspondence from the Asst. Officer i/c C.I.B. requesting that a transcript of the taped interview with EBSARY be made available to their office, along with a statement from Mr. Ian MacNEIL and anyone else who may have heard EBSARY admit stabbing MUGRIDGE.

Please have this correspondence forwarded direct through this Sub/Division.

  
D.B. Scott, Insp.  
Commanding Sydney Sub/Division

## MEMORANDUM

## NOTE DE SERVICE

O.C. Sydney Sub-Division

Asst. Officer i/c C.I.B.

SUBJECT  
OBJET

Donald MARSHALL, Jr.  
Non-Capital Murder, Sec. 206 C.C.  
Sydney, N.S. 71-05-28/29

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Report from Sydney Sub-Division G.I.S., with your forwarding memorandum, refers.

Would you please supply us with a transcript of the taped interview of EBSARY with Cpl. CARROLL. Also, have a member interview Mr. Ian MacNEIL, along with anyone else who was present in court who heard EBSARY's remarks admitting he stabbed MUGRIDGE and MARSHALL.

We will indicate your concerns to the Deputy Attorney General.

*R.G. Linck*  
R.G. Linck, Insp.,  
Asst. Officer i/c C.I.B.

*Permit 100*  
SECURITY - CLASSIFICATION - DE SÉCURITÉ

OUR FILE/NOTRE RÉFÉRENCE

71H-010-6

YOUR FILE/VOTRE RÉFÉRENCE

82S-0042

DATE

83-01-28



DEPARTMENT OF ATTORNEY GENERAL NOVA SCOTIA

P. O. BOX 7 HALIFAX, NOVA SCOTIA B3J 2L6

Our File: 09-82-0236-08

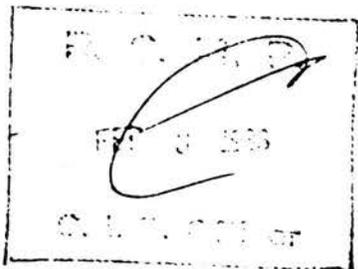
February 2, 1983

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

Re: Donald Marshall, Jr. Non-Capital Murder, Sec. 206 C.C. Sydney, N.S. 71-05-28/29 Your File: 71H-010-6

This will acknowledge your letter of January 28th.

I am fully aware that Ebsary presents a danger when he is at large. Unfortunately, there is nothing that can be done in regard to charging him with the murder of Sandy Seale until the Appeal Division have rendered their decision. We have no way of knowing when they will render that decision. If the Appeal Division quashes the conviction there is no problem and a charge will be laid against Mr. Ebsary forthwith. However, if the Appeal Division orders a new trial then the matter will have to be reviewed to determine whether the new trial is proceeded with or whether a stay is entered and Mr. Ebsary is to be charged.



Gordon S. Gale Director (Criminal)

GSG:jd

File C.O. 'H' Division Sydney N.S. Sent copy to C.C. Sydney H.T.M.

Handwritten initials/signature

OTHER FILE REFERENCES REF. AUTRES DOSSIERS:	50	DIVISION "H"	DATE 83-02-10	RCMP FILE REFERENCES: REF. DOSSIERS GRC: 82-77 - Our File 82S-0042 - Syd. S/D 71H-010-6 - H.Q. File
	SUB-DIVISION / SOUS-DIVISION Sydney, N.S.			
	DETACHMENT - DÉTACHEMENT Sydney S/D G.I.S.			

RE: - OBJET:

Donald MARSHALL, Jr.  
Non-Capital Murder, Sec. 206 C.C.C.  
Sydney, N.S. 71-05-28/29

*RM 328*

1. Further to my report of 83-01-21 and memo dated 83-01-28 from Assistant Officer i/c C.I.B. in the above regard, be advised MacNEIL was interviewed and a statement obtained, attached. It appears MacNEIL and City Editor, Angus MacDONALD, persuaded Deputy Sheriff Win HATCHER to remove EBSARY from the Court house holding cell on 82-11-08 and allow him to be interviewed prior to his departure to the local Correctional Centre. Sheriff Wayne MAGEE returned to the office and terminated the discussion.

2. MacDONALD, MAGEE and HATCHER have been interviewed, all confirm that MacNEIL was the only person to speak with EBSARY, the MUGRIDGE case was not discussed.

3. Due to pressure of other duties, it has not been possible to transcribe EBSARY's remarks of 82-10-29, a copy of this tape is enclosed in the event it can be done at your point.

S.U.I.

D.D.: 83-03-31

*(Signature)*  
(J.E. CARROLL) Cpl.  
NCO i/c Sydney Sub/Div. G.I.S.

(T.E.B.) S/Sgt.  
P.C. Co-or. Syd. Sub/Div. G.I.S.

c.c. O.C. Sydney Sub/Division

*AF & PFC 130*  
*I don't expect Cpl Carroll to personally transcribe tape, however they must have transcripts in the lock in I don't approve of the procedure in the lock in assumption here they are you look after them. Could all Sydney & work him if he can get to taped up & send in. I don't expect AF & PFC with carbon copy to follow.*

RCMP 177

83-03-08

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

71H-010-6

Attention: Mr. Gordon S. Gale

Re: Donald MARSHALL, Jr.  
Non-Capital Murder, Sec. 206 C.C.  
Sydney, N.S. 71-05-28/29

---

*all order*  
Please find attached, recent report from Sydney General Investigation Section. The transcript of the taped interview between Cpl. CARROLL and EBSARY is also attached.

R.G. Zinck, Insp.,  
Asst. Officer i/c C.I.B.

DCS/lmm  
Encl.

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

83-03-08  
CM  
[Signature]

OTHER FILE REFERENCES REF. AUTRES DOSSIERS:	52	DIVISION "H"	DATE 83-02-10	MULTI FILE REFERENCES REF. DOSSIERS GAC: 82-77 - Our File 82S-0042 - Syd. S/D 71H-010-6 - H.Q. File
		SUB-DIVISION / SOUS-DIVISION Sydney, N.S.		
		DETACHMENT - DÉTACHEMENT Sydney S/D G.I.S.		

RE: - OBJET:

Donald MARSHALL, Jr.  
Non-Capital Murder, Sec. 206 C.C.C.  
Sydney, N.S. 71-05-28/29

*R/M 328*

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S.U.I.

D.D.: 83-03-31

*(Signature)*  
(J. E. CARROLL) Cpl.  
NCO i/c Sydney Sub/Div. G.I.S.

(T.E.B.) S/Sgt.  
P.C. Co-or. Syd. Sub/Div. G.I.S.

c.c. O.C. Sydney Sub/Division

*AN: Mc 130*  
*I don't expect Cpl Carroll to personally transcribe tape, however they must have secretaries in the kitchen I don't expect of the procedure in the kitchen look after them. They are you Sydney & ask him if he can get it taped up & send in. I don't expect you & Mc with with tape to follow.*

Division "H"	Sub-Div - Sous-div Sydney
Detachment - Detachement Sydney S/O. FIS	
Re - Objet Re Donald MARSHALL Jr. New Capital murder Sydney, N.S. 71-05-28/29	

EXHIBIT REPORT No. N° DE RAPPORT SUR LES PIÈCES	
82-23	Page 4
OCCURRENCE No - N° D'INCIDENT	
Y-A 82-77	1-

to Cpl. I.E. CARROLL  
82-10-29 at Sydney, N.S. by taking possession  
of same from Roy ESBARY.

came into possession of the following described goods on  
suis entre en possession des objets décrits ci-après le

EXHIBITS LISTED BELOW ARE TO BE GIVEN ITEM NUMBERS IN CONSECUTIVE ORDER  
LES PIÈCES ÉNUMÉRÉES CI-DESSOUS RECEVRONT UN N° EN ORDRE CONSÉCUTIF

Item No N° de pièce	Description
1.	One 60 minute cassette tape.  I.E.C. Cpl. Entered in Court

CERTIFIED CORRECT - CERTIFIÉ CONFORME

Investigator - Enquêteur I.E. Carroll Cpl	Date 82-10-29	Exhibit Custodian - Resp. de pièces à conviction Carroll	Date 82-10-29
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Item(s) No(s) (s) de des pièces	Movement to Location Acheminement à l'endroit	Date	Recipient Destinataire	Initials (Witness) Initiales (Témoïn)
1	Enter in Court in witness	83/10/87		
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RELINQUISHMENT OF CLAIM

(The undersigned, having no desire to claim item(s) No.(s)

RENONCIATION À UN DROIT

Je, le soussigné, renonce à l'(aux) article(s) no(s)

..... hereby authorize the R.C.M.P. to dispose of the said item(s) on my behalf.

..... et j'autorise le G.R.C. à disposer dudit (desdits) article(s) en mon nom.

Signature	Date	Witness (Member) — Témoïn (Membre)
-----------	------	------------------------------------

This is the information and complaint of  
Cpl. J.E. CARROLL, A member of the R.C.M. POLICE  
of Sydney in the County of Cape Breton  
for and on behalf of Her Majesty the Queen, hereinafter called the  
Informant.

The Informant says that he has reasonable  
and probable grounds to believe and does believe that Roy Newman EBSARY

of Falmouth Street, Sydney  
in the County of Cape Breton at or near Sydney  
in the County of Cape Breton, Nova Scotia, on or about the  
28th day of May A.D., 19 71 ~~1971~~

Did unlawfully commit second degree murder on the person of  
Sanford SEALE, contrary to Section 218 (1) of the Criminal  
Code of Canada.

*Copy*

Sworn before me this 12th

day of May 1973 at Sydney  
in the County of Cape Breton

Cape Breton  
Province of Nova Scotia

*James E. Carroll*  
Informant

*8-3-65-12 change bill*  
*8-3-65-10 Decision Made.*

0093  
0057  
IC 14-0052  
18-0053

0041 ROUTINE SYD 83 AUG 04 UNCLAS

TO: OFFICER I/C CIB  
INFO: O.C. SYDNEY S/DIV

*B.F. on file ps*

S/117/4 REUR FILE 71H-010-6  
ROY NEWMAN EBSARY  
NON-CAPITAL MURDER 81 MAY 28/29  
\*\*\*\*\*

EBSARY COMMITTED TO STAND TRIAL AT PRELIMINARY HEARING THIS  
DATE IN SYDNEY, NS. ON REDUCED CHARGE OF MAN-SLAUGHTER. TRIAL  
DATE 83 SEP 06. RELEASED FROM CUSTODY; BAIL HEARING SCHEDULED  
FOR 83 AUG 08.

CPL. J.E. CARROLL  
NCG I/C SYD S/D GIS

04AUG83/14:39/26

*YPA  
83-08-08*

OP REV  
1140

OUTGOING MESSAGES



57

RCMP 2-341

MESSAGES SORTANTS

● INSTRUCTIONS ON REVERSE

● DIRECTIVES AU VERSO

Receipt - Heure de réception	File No. - N° de dossier 82-77	Drafter's Name - Nom du rédacteur Cpl. J.E. CARROLL	Time of Dispatch - Heure d'envoi
	Br. or Section - Sous-direction ou section Syd. S/D GIS	Phone No. - N° de téléphone 539-7121	
Precedence for Action Addresses Priorité pour suite à donner	Precedence for Infor. Addresses Priorité pour renseignements	Date 83-08-04	Security. CLASSIFICATION sécurité
FROM DE Sydney S/D G.I.S.			
TO A Officer i/c C.I.B.			
INFO. O.C. Sydney Sub/Div. POUR RENSEIGNEMENTS			

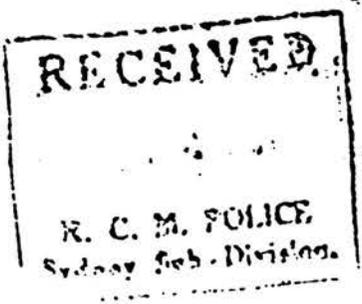
ORIGINATORS MESSAGE NO. \_\_\_\_\_ N° DU MESSAGE ORIGINAL

re: your file # 71H-010-6

Roy Newman EBSARY  
Non-capital murder 81-05-28/29

EBSARY committed to stand trial at Preliminary Hearing this date in Sydney, N.S. on reduced charge of man-slaughter. Trial date 83-09-06. Released from custody, bail hearing scheduled for 83-08-08.

Cpl. J.E. CARROLL  
NCO i/c Sydney S/D GIS



Signature of person releasing message de l'expéditeur	Time Released (time of signature) Heure d'expédition (heure de la signature)
--	---

OTHER FILE REFERENCES: REF. AUTRES DOSSIERS:	DIVISION "H"	DATE 83-08-09	RCMP FILE REFERENCES: REF. DOSSIERS GRC: 58	
	SUB-DIVISION / SOUS-DIVISION Sydney, N.S.			71H-010-6 82-77
	DETACHMENT - DÉTACHEMENT Syd. S/D GIS			82S-0042

RE: - OBJET:

Roy Newman EBSARY (BD: 12-06-02)  
Non-Capital Murder, Sec. 218 C.C.C.  
Sydney, N.S. 71-05-28/29

RIMP 2 338

1. EBSARY appeared in Sydney Court on 83-08-04 before Provincial Court Judge C.A. O'CONNELL at which time he was represented by Luke WINTERMANS of Sydney Legal Aid. Crown Prosecutor Frank EDWARDS called the following witnesses:

- (a) Donald MARSHALL, Jr.
- (b) James MacNEIL
- (c) Donna EBSARY
- (d) Cst. Leo MROZ
- (e) Dr. M. NAQVI

2. MARSHALL again refused to admit he and SEALE were in the park that night for the purpose of robbing anyone, he did eventually admit his statement given at Dorchester was accurate.

3. MacNEIL's evidence was weak and varied from a pre-trial interview with EDWARDS and myself the previous day. He earlier said he remembered EBSARY's daughter in the home when they arrived from the park and washed blood off the knife. He also described the knife as a jack-knife type with a folding blade.

4. Donna EBSARY described a conversation she heard between MacNEIL and her father concerning "a good job" EBSARY had just done in the park, she also saw a red substance being washed from the knife.

5. MROZ of Sydney City Police stated he attended the scene on the night of SEALE's stabbing, recognized him, escorted the ambulance to City Hospital, described the wound. During a pre-trial interview, MROZ informed EDWARDS and myself he observed three or more stab wounds in SEALE's abdomen, since there were no photographs taken in 1971 and no autopsy, it was not possible to find other records of these details. Dr. NAQVI's evidence during MARSHALL's trial referred to only one stab wound, Leo CURRY, ambulance driver and mortician, could only recall one chest wound when he prepared the body for burial. Inspector Richard WALSH of Sydney P.D. could only remember one wound when he and MROZ came upon SEALE. MROZ did not elaborate on the "wound" at this hearing.

6. NAQVI was cross-examined at length regarding his failure to treat SEALE's ruptured-nicked aorta which eventually caused him to bleed to death. He argued that he did in fact properly diagnose

.../2

RE-OBJET

Roy Newman EBSARY (BD: 12-06-02)  
 Non-Capital Murder, Sec. 218 C.C.C.  
 Sydney, N.S. 71-05-28/29

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PAGE

2

RCMP 338  
 cont'd

the injury, however, SEALE was in such poor condition (no blood pressure, great loss of blood, etc.) there was no hope of recovery. SEALE was given twenty-seven pints of blood but it exited through the severed aorta.

7. WINTERMANS in his summation suggested there was insufficient evidence for a jury, properly instructed, to convict EBSARY on murder, that if anything it could be manslaughter. He said there was no premeditation or intent, self-defence would be argued at a later date.

8. Judge O'CONNELL agreed with defence counsel and reduced the charged to manslaughter. It was considered by EDWARDS and myself that this charge could be reduced at some future date - by a higher Court. It is also felt Judge O'CONNELL may have reduced the charge for the wrong reasons, he apparently did not consider MacNEIL's evidence when he said there was no intent by EBSARY. Prosecutor EDWARDS is giving consideration to preferring an indictment of murder against EBSARY and is awaiting instructions in that regard. It now appears this case will be on the September docket of the Supreme Court in Sydney.

S.U.I.

*J. E. Carroll*  
 (J.E. CARROLL) Cpl.  
 NCO i/c Sydney Drug Section

D.D. 83-09-30

*J. E. Carroll*  
 (J.E. BARLOW) S/Sgt. A.C.A.  
 Sydney S/D P.C. Co-or.

c.c. O.C. Sydney Sub/Div.

83-08-12

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

09-82-0236-08

71H-010-6

Attention: Mr. Gordon S. Gale

Re: Roy Newman EBSARY (B: 12-06-02)  
Non-Capital Murder, Sec. 218 C.C.  
Sydney, N.S. 71-05-28/29

-----

An updated report submitted by Sydney General Investigation  
Section is attached for your information.

Reports will be forwarded as received.

R.G. Zinck, Insp.,  
Asst. Officer i/c C.I.B.

DCS/lmm  
Encl.

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

83-08-12  
CM  
S

OTHER FILE REFERENCES REF. AUTRES DOSSIERS:	DIVISION "H"	DATE 83-08-09	RCMP FILE REFERENCES REF. DOSSIERS GRC:  71H-010-6 82-77 82S-0042
	SUB-DIVISION / SOUS-DIVISION Sydney, N.S.		
	DETACHMENT - DÉTACHEMENT Syd. S/D GIS		

RE: - OBJET: Roy Newman EBSARY (BD: 12-06-02)  
 Non-Capital Murder, Sec. 218 C.C.C.  
 Sydney, N.S. 71-05-28/29 2 imp 2 338

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Roy Newman EBSARY (BD: 12-06-02)  
 Non-Capital Murder, Sec. 218 C.C.C.  
 Sydney, N.S. 71-05-28/29

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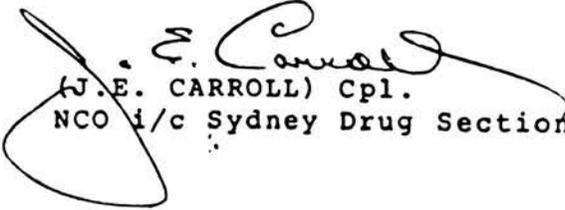
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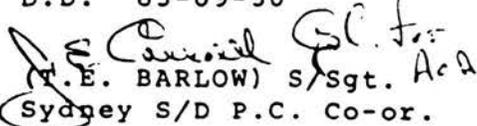
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S.U.I.

  
 (J.E. CARROLL) Cpl.  
 NCO i/c Sydney Drug Section

D.D. 83-09-30

  
 (T.E. BARLOW) S/Sgt. A.C.A.  
 Sydney S/D P.C. Co-or.

c.c. O.C. Sydney Sub/Div.

OTHER FILE REFERENCES: REF. AUTRES DOSSIERS:	DIVISION "H"	DATE 83-09-19	RCMP FILE REFERENCES: REF. DOSSIERS GRC:  71H-010-6 82-77 82S-0042	63
	SUB-DIVISION / SOUS-DIVISION Sydney			
	DETACHMENT - DÉTACHEMENT Sydney G.I.S. Section			

RE: - OBJET: Roy Newman EBSARY (BD: 12-06-02)  
Non-Capital Murder - Sec. 218 C.C.  
Sydney, N. S. 71-05-28/29 Rmp 339

AMENDED TO

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

1. Further to my report of 83-08-09, a local Grand Jury returned a "True Bill" against EBSARY on 83-09-06 after hearing evidence from MARSHALL, MacNEIL, and myself. Justice Lorne CLARKE set 83-09-12 for trial date and 83-09-09 for jury selection.

2. On 83-09-12, jurors Earl MacEACHERN, Gregory BORDEN, John T. BOUTILIER, Michael RAOUL (Foreman), Stephen HUTCHINSON, Sheila MacINTYRE, Roy HILLMAN, William HERMAN, Walter HICKEY, Leo KENNEDY, John BARRON and Michael PETERS were chosen and trial began. A motion for dismissal was made by Defence Counsel on the grounds EBSARY was guaranteed a speedy trial by the new Charter of Rights, eleven years was an unreasonable delay and the Crown had not brought this matter to trial as soon as possible. EDWARDS argued that no prosecution of EBSARY was possible until the N.S. Appeal Court acquitted MARSHALL and when that occurred, a charge had been laid same date. He further stated EBSARY's failing health had caused some delay in the matter being heard, also his failure to come forward to the authorities and admit his involvement. Justice CLARKE denied the motion but said EBSARY was under no legal obligation to come forward.

3. MARSHALL was the first Crown witness and, as in the past, was most reluctant to admit to his intentions of robbery that night; in fact, he stated when EBSARY and MacNEIL departed and then returned when MARSHALL called to them, he believed they were prepared for a fight and planned to "do them in". MARSHALL refused to answer questions from Defence Counsel regarding a lawsuit against the City of Sydney.

4. Cst. L. MROZ described the scene and SEALE's wound as he found it on 71-05-28. MacNEIL, Mary EBSARY and Donna EBSARY, followed by Dr. NAQUI, completed the Crown's case. NAQUI admitted to giving three different times of death for SEALE, his records were very brief and left much to be desired.

MARITIME CRIME . . . /2  
INDEX SECTION  
D-1  
EWS  
32922

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

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714-010-6

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RCMP 2 339

5. A second motion was then made by WINTERMANS, he asked the Court for a "direct verdict" of acquittal because the conduct of the accused was not excessive or unlawful in his own self-defence. This motion was also denied, no defence evidence was called.

6. In his summation, EDWARDS said the defence had to prove EBSARY feared death or grievous bodily harm and the defence of self-defence did not apply in the absence of this evidence. WINTERMANS stated EBSARY had no other choice than to defend himself under the circumstances and it was very unfortunate SEALE's death resulted. SEALE's parents attended this trial, they smiled and laughed openly at the evidence presented, MARSHALL is still "Guilty" in their minds.

7. During deliberation, the jury asked to have both MARSHALL and MacNEIL's evidence replayed, they also requested further instruction on Section 34 C.C., which deals with self-defence. After some five hours of deliberation, the Foreman announced they were unable to reach a unanimous decision. Justice CLARKE stated a new trial will be held in November, 1983, and dismissed the jury. As a point of interest, it should be mentioned Crown Prosecutor EDWARDS decided against using evidence relating to the knife and fibers seized from EBSARY's home because the N.S. Appeal Court found that evidence to be "speculative at best" and any subsequent appeal in this case will be heard by the same judges. EBSARY remains free but with some restrictions (2100 curfew, no alcohol or drugs, keep the peace, etc.) Due to the publicity this case has received, ninety-one jurors were screened before twelve were selected.

S.U.I.

D.D. 83-11-30

(J. E. CARROLL) Cpl.  
Sydney Sub/Division GIS

(T. E. BARLOW) S/Sgt.  
P.C. Co-ordinator

C.C: O.C. Sydney Sub/Division

40.12

# ROYAL CANADIAN MOUNTED POLICE

DIVISION <b>"K"</b>	SUB-DIVISION <b>Sydney</b>	DETACHMENT <b>Sydney GIS</b>	"HQ" FILE NO.	DATE <b>83-11-09</b>																																
DIVISION FILE NO. <b>71E-010-6</b>	SUB-DIVISION FILE NO. <b>82-77</b>	DETACHMENT FILE NO.	P.C.R. <b>83-09-19</b>	F.P.S. <i>RCMP 2 149</i>																																
DEFENDANT <b>Roy Newman EBSARY</b>		ADDRESS <b>68 Falmouth Street Sydney, N.S.</b>																																		
BIRTHDATE <b>12-06-02</b>	BIRTHPLACE <b>Newfoundland</b>	OFFENCE <b>Manslaughter, Sec. 217 C.C.</b>																																		
PLACE AND DATE <b>Sydney, N.S. 71-05-28/29</b>		TRIAL METHOD																																		
PLEA <input type="checkbox"/> GUILTY <input checked="" type="checkbox"/> NOT GUILTY	TRIAL PLACE <b>Sydney, N.S.</b>	<input checked="" type="checkbox"/> PART XVI <input type="checkbox"/> PART XVIII <input type="checkbox"/> PART XVII <input type="checkbox"/> PART XXIV		MAGISTRATE OR JUDGE <b>Justice R. MacLeod ROGERS</b>																																
DISPOSITION OF CHARGE AND DATE <b>CONVICTED: See Remarks 83-11-08</b>				C-2168 FORWARDED <input type="checkbox"/> YES <input type="checkbox"/> NO																																
INFORMATION LAID BY <b>Cpl. J. E. CARROLL</b>		<input type="checkbox"/> FINE & COSTS PAID INTO COURT	IF TIME TO PAY, BY WHAT DATE MUST PAYMENT BE MADE																																	
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COLLECTED FROM COURT <input type="checkbox"/> FINE <input type="checkbox"/> POLICE COSTS	CASH SHEET NO.	POLICE COSTS																																		
FORWARDING STAMPS		<input type="checkbox"/> VOLUNTARY APPEARANCE <input type="checkbox"/> ATTENDING COURT      \$ _____ <input type="checkbox"/> ARREST      \$ _____ <input type="checkbox"/> MILEAGE      \$ _____ <input type="checkbox"/> SERVING SUMMONS      \$ _____ _____ \$ _____																																		
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<p>1. Further to PCR 83-09-19, a second trial for EBSARY commenced at Sydney, N.S., on 83-11-04. WINTERMANS represented the accused and EDWARDS acted for the Crown. Witnesses called were as follows:</p> <table style="width:100%; border:none;"> <tr> <td style="width:30%;">MARSHALL</td> <td style="width:10%;">-</td> <td style="width:10%;">"</td> <td style="width:10%;">"</td> <td style="width:10%;">"</td> <td style="width:10%;">"</td> <td style="width:10%;">"</td> <td style="width:10%;">"</td> </tr> <tr> <td>MACNEIL</td> <td>-</td> <td>"</td> <td>"</td> <td>"</td> <td>"</td> <td>"</td> <td>"</td> </tr> <tr> <td>EBSARY (Mary)</td> <td>-</td> <td>"</td> <td>"</td> <td>"</td> <td>"</td> <td>"</td> <td>"</td> </tr> <tr> <td>EBSARY (Donna)</td> <td>-</td> <td>"</td> <td>"</td> <td>"</td> <td>"</td> <td>"</td> <td>"</td> </tr> </table> <p style="text-align:right;">. . . /2</p>					MARSHALL	-	"	"	"	"	"	"	MACNEIL	-	"	"	"	"	"	"	EBSARY (Mary)	-	"	"	"	"	"	"	EBSARY (Donna)	-	"	"	"	"	"	"
MARSHALL	-	"	"	"	"	"	"																													
MACNEIL	-	"	"	"	"	"	"																													
EBSARY (Mary)	-	"	"	"	"	"	"																													
EBSARY (Donna)	-	"	"	"	"	"	"																													
<input type="checkbox"/> CONCLUDED S.U.I. DIARY DATE _____ <div style="text-align:right;">SIGNATURE _____</div>																																				

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Roy Newman EBSARY - Manslaughter

2

RCMP 149

2. On 83-11-07, the trial resumed with Sydney Police Chief John MacINTYRE and Deputy Chief Michael MACDONALD giving evidence in a voir dire regarding a statement taken by them from EBSARY in 1971 in which he denied carrying a knife or stabbing anyone. Justice ROGERS ruled the statement to be admissable. The remaining witnesses were:

MROZ	- Same evidence.
CARROLL	- Taped interview with EBSARY, played in Court, typed transcripts given to jury.
NAQVI	- Same evidence, believed a knife blade with a minimum length of 3½" could have caused wound.

3. The Crown closed its case at this point; Defence Counsel then made a motion for a directed verdict of acquittal on the grounds the Crown had failed to show the cause of death, NAQVI's evidence was not admissable because he referred to hospital records, not his own personal notes, some notes made by other staff, had little recall of the incident. He also stated it was dangerous to leave the case with the jury bearing in mind a robbery was in progress and EBSARY was the victim, not the aggressor.

4. The Crown argued the motion was too late, objections should have been made when NAQVI gave his evidence, also the "self defence" issue must be placed before the jury. The motion was denied, no defence evidence called.

5. Summations were given during the A.M. of 83-11-08. EDWARDS made numerous references to the tape which indicated the accused was carrying a knife and prepared to "drop" anyone who bothered him. It was also conflicting with EBSARY's statement to Chief MacINTYRE in 1971. In his charge to the jury, Justice ROGERS when reviewing the evidence, referred to the recorded interview as a "damaging document".

6. After three hours of deliberation, the jury returned to the Courtroom with three questions:

. . . /3

Roy Newman EBSARY - Manslaughter

3

RCMP 149

- (1) Should they be concerned with EBSARY's assault on MARSHALL?
- (2) Were they to decide if EBSARY used excessive force?
- (3) Requested Court's instruction to jury re duty of members be repeated.

Justice ROGERS explained they had to examine the evidence and come to their own conclusions. A verdict of "GUILTY" was returned a half hour later, EBSARY was released on various conditions to appear for sentence on 83-11-24.

7. It should be noted Prosecutor EDWARDS presented this case in a most professional manner, his summation to the jury (ninety minutes) eliminated a large part of the defence arguments in advance since WINTERMANS had the final remarks to the jury. In view of the foregoing, a further report will be submitted when disposition is known.

S.U.I.

D.D. 83-11-30

(T. E. BARLOW) S/Sgt.  
P.C. Coordinator

(J. E. CARROLL) Cpl.  
i/c Sydney Sub/Div. GIS

Copy to O.C. Sydney Sub/Division

The Officer i/c C.I.B.

FORWARDED 83-11-15. In view of the recent developments in this case, I intend on sending an investigator to obtain statements from Supt. E.A. MARSHALL, Rtd., and ex-Cpl. E.C. SMITH, who were responsible for the RCMP investigation and Polygraph Test in 1971. The reason for this decision is:

- 1) EBSARY has now been convicted for the death of Sandy SEALE.
- 2) Chief MacINTYRE, while giving evidence at this trial, has stated that this Murder investigation was turned over to the RCMP in 1971 after MacNEIL came forward with new evidence concerning EBSARY.
- 3) It has still not been decided, but the Government could still call for a Public Enquiry into the original investigation.

From reviewing the files, it appears that our investigators only spoke to MacNEIL and EBSARY as well as Chief MacINTYRE and Crown Prosecutor Donnie MacNEIL. They also reviewed the City Police evidence from court transcripts and statements, however, did not conduct a new investigation or re-interview witnesses from the original trial.

In view of this, and unless advised to the contrary, I will have our investigators contact both Supt. MARSHALL, Rtd., who presently resides at Belle Isle, Annapolis County, N.S., and ex-Cpl. SMITH who resides at Rothesay, N.B., to determine what in fact they did do, so we may better answer any subsequent questions that could be asked at a Public Enquiry, the Attorney General, or others concerning our role in this area.

D.B. Scott, Insp.  
Commanding Sydney Sub/Division



Royal Canadian Mounted Police Gendarmerie royale du Canada

83-11-22

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

Your file    Votre référence

~~83-82-0311-09~~

Our file    Notre référence

71H-010-6

Attention: Mr. Gordon S. Gale

Re: Roy Newman EBSARY (B: 12-06-02)  
Manslaughter, Sec. 217 C.C.  
Sydney, N.S. 71-05-28/29

Attached for your information is a copy of Sydney  
General Investigation Section report dated 83-11-09.

EBSARY was convicted on 83-11-08 and is to be sentenced  
on 83-11-24.

  
R.G. Linck, Insp.,  
Asst. Officer i/c C.I.B.

Encl.

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

DEPT. OF THE  
NOV 24 1983  
ATTORNEY GENERAL

OTHER FILE REFERENCES. REF. AUTRES DOSSIERES:	DIVISION "H"	DATE 83-08-09	RCMP FILE REFERENCES. REF. DOSSIERS GRC: 70	
	SUB-DIVISION / SOUS-DIVISION Sydney, N.S.			71H-010-6 82-77
	DETACHMENT - DETACHEMENT Syd. S/D GIS			82S-0042

RE: - OBJET:

Roy Newman EBSARY (BD: 12-06-02)  
Non-Capital Murder, Sec. 218 C.C.C.  
Sydney, N.S. 71-05-28/29

*Rimp 2 338*

1. EBSARY appeared in Sydney Court on 83-08-04 before Provincial Court Judge C.A. O'CONNELL at which time he was represented by Luke WINTERMANS of Sydney Legal Aid. Crown Prosecutor Frank EDWARDS called the following witnesses:

- (a) Donald MARSHALL, Jr.
- (b) James MacNEIL
- (c) Donna EBSARY
- (d) Cst. Leo MROZ
- (e) Dr. M. NAQVI

2. MARSHALL again refused to admit he and SEALE were in the park that night for the purpose of robbing anyone, he did eventually admit his statement given at Dorchester was accurate.

3. MacNEIL's evidence was weak and varied from a pre-trial interview with EDWARDS and myself the previous day. He earlier said he remembered EBSARY's daughter in the home when they arrived from the park and washed blood off the knife. He also described the knife as a jack-knife type with a folding blade.

4. Donna EBSARY described a conversation she heard between MacNEIL and her father concerning "a good job" EBSARY had just done in the park, she also saw a red substance being washed from the knife.

5. MROZ of Sydney City Police stated he attended the scene on the night of SEALE's stabbing, recognized him, escorted the ambulance to City Hospital, described the wound. During a pre-trial interview, MROZ informed EDWARDS and myself he observed three or more stab wounds in SEALE's abdomen, since there were no photographs taken in 1971 and no autopsy, it was not possible to find other records of these details. Dr. NAQVI's evidence during MARSHALL's trial referred to only one stab wound, Leo CURRY, ambulance driver and mortician, could only recall one chest wound when he prepared the body for burial. Inspector Richard WALSH of Sydney P.D. could only remember one wound when he and MROZ came upon SEALE. MROZ did not elaborate on the "wound" at this hearing.

6. NAQVI was cross-examined at length regarding his failure to treat SEALE's ruptured-nicked aeorta which eventually caused him to bleed to death. He argued that he did in fact properly diagnose

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Roy Newman EBSARY (BD: 12-06-02)  
 Non-Capital Murder, Sec. 218 C.C.C.  
 Sydney, N.S. 71-05-28/29

Kenya 338  
 cont'd

the injury, however, SEALE was in such poor condition (no blood pressure, great loss of blood, etc.) there was no hope of recovery. SEALE was given twenty-seven pints of blood but it exited through the severed aorta.

7. WINTERMANS in his summation suggested there was insufficient evidence for a jury, properly instructed, to convict EBSARY on murder, that if anything it could be manslaughter. He said there was no premeditation or intent, self-defence would be argued at a later date.

8. Judge O'CONNELL agreed with defence counsel and reduced the charged to manslaughter. It was considered by EDWARDS and myself that this charge could be reduced at some future date - by a higher Court. It is also felt Judge O'CONNELL may have reduced the charge for the wrong reasons, he apparently did not consider MacNEIL's evidence when he said there was no intent by EBSARY. Prosecutor EDWARDS is giving consideration to preferring an indictment of murder against EBSARY and is awaiting instructions in that regard. It now appears this case will be on the September docket of the Supreme Court in Sydney.

S.U.I.

*J. E. Carroll*  
 (J.E. CARROLL) Cpl.  
 NCO i/c Sydney Drug Section

D.D. 83-09-30

*J. E. Carroll*  
 (J.E. BARLOW) S/Sgt. Aca  
 Sydney S/D P.C. Co-or.

c.c. O.C. Sydney Sub/Div.

OTHER FILE REFERENCES:  
REF. AUTRES DOSSIERS:

DIVISION

"H"

DATE

83-11-25

RCMP FILE REFERENCES:  
REF. DOSSIERS GRC:

71H-010-6

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82-77

82S-0042

SUB-DIVISION / SOUS-DIVISION  
SydneyDETACHMENT - DÉTACHEMENT  
Sydney Sub/Div GIS

RE - OBJET:

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

DEPT. ATT. GEN.

ATT:

DIV. FILE # 71H-010-6

DEC 6/83

1. Further to my report dated 83-11-09, EBSARY was sentenced to a term of five years at Dorchester Penitentiary by Justice R. MacLeod ROGERS at Sydney, N.S. on 83-11-24.

2. Defence Counsel WINTERMANS called Dr. P. CARDEW, local physician, to describe EBSARY's condition and ability to look after himself. A second witness, Mrs. R. STROWBRIDGE, who now resides with EBSARY, stated she cooks his meals, does his laundry and has to help him bathe. She admitted that EBSARY does help in the purchase of groceries, she also said she would continue to look after him if he was not incarcerated. WINTERMANS asked for a three-year suspended sentence for his client and reminded the court of EBSARY's three month pre-trial custody (on remand in hospital with broken neck). Justice ROGERS objected to defence counsel's description of some twenty medals EBSARY was wearing in court. He asked WINTERMANS if it was ever verified his client had been awarded any of these decorations, counsel stated he was only repeating what the accused had related to him. Just prior to sentence, EBSARY accused Justice ROGERS of running a "kangaroo court" and misleading the jury in his address. He also asked if he could take legal action against his family members whose remarks were quoted in his pre-sentence report and robbed him of everything including his character.

3. In passing sentence, Justice ROGERS quoted from the taped interview in which the accused showed no remorse or concern in 1971 or now, he was content to have MARSHALL "languish" in penitentiary, his conduct then could have mitigated sentence now but does not. The courtroom was heavily guarded and EBSARY was searched when he arrived due to a threat he made toward prosecutor EDWARDS. Appeal documents were signed by EBSARY prior to leaving court and are to be presented to the Appeal Court in Halifax, N.S., during the a.m. of 83-11-25.

S.U.I.

D.D. 84-03-20

*J. E. Carroll*  
(T. E. BARLOW) S/Sgt.  
P. C. Co-ordinator

*J. E. Carroll*  
(J. E. CARROLL) Cpl.  
i/c Sydney Sub/Division GIS

Copy to: O.C. Sydney Sub/Division

RCMP GRC

CONCLUSION OF CASE RAPPORT DE FIN  
F O R T 73 D'ENQU-TE RCMp2 253

DATE 8 Y-A 3 M 0 D 1 2

Division "H"		Detachment - Détachement Sydney Sub/Div. G.I.S.		HQ File No. - N° de dossier de la D.G.	
Defendant - Intimé Roy Newman EBSARY				Div. File No. - N° de dossier de la div. 71H-010-6	
Address - Adresse 68 Falmouth St., Sydney, N.S.				Det. File No. - N° de dossier du dét. 82-77	
Birthdate - Date de naissance 1 Y-A 2 M 0 D 6 0 D 2		Birthplace - Lieu de naissance Newfoundland		PCR - R.J.P. 84-11-21	
				FPS - N° FPS 399634A	
Is Defendant a Canadian Citizen? L'intimé est-il citoyen canadien?		<input checked="" type="checkbox"/> Yes Oui		<input type="checkbox"/> No Non	
Offence, Section, Act - Délit, article et loi Manslaughter - Sec. 217 CCC				Show Date of Entry. Indiquer la date d'entrée	
				<input checked="" type="checkbox"/> Photographed Photographié	
				<input checked="" type="checkbox"/> Fingerprinted & forwarded to "L" Dir. Empr. dig. prises & transmises à la dir.	
Place of Offence - Lieu du délit Sydney, N.S.				Y-A. M. D-J 7 1 0 5 2 8	
Plea - Plaidoyer <input type="checkbox"/> Guilty Coupable		<input checked="" type="checkbox"/> Not Guilty Non coupable		Court - Tribunal Supreme	
				Trial Method - Genre de procès XXVI	
Trial Place - Lieu du procès Sydney, N.S.		Information Laid by - Dénonciation faite par Cpl. J.E. CARROLL		Y-A. M. D-J 8 3 0 5 1 2	
Disposition of Charge - Règlement de l'accusation Convicted: See remarks				Y-A. M. D-J 8 5 0 1 1 7	

REMARKS - REMARQUES

1. Further to P.C.R.'s in the above regard, EBSARY's third trial in this matter commenced on 85-01-09 at Sydney, N.S., before Justice Merlin NUNN, Frank EDWARDS represented the Crown while Luke WINTERMANS appeared for the accused. Following the selection of the seven women - five men jury, a motion for dismissal was made by Defence Counsel on the following grounds:

- (a) Too long in bringing case to trial - violation of Charter of Rights.
- (b) MARSHALL has been compensated by the Government in excess of \$250,000.00.
- (c) EBSARY is not a property owner, therefore, is not being tried by a jury of his peers who are selected from the tax list.

These points were all argued successfully by EDWARDS and the trial resumed with S/Sgt. H.F. WHEATON being called as the first witness in a voir dire to introduce EBSARY's collection of knives and the tape recorded admission 83-10-29.

2. Csts. B. STOYEK, B. ETTINGER, R.D. MacQUEEN, Cpl. D. HYDE, S/Sgt. T.E. BARLOW and the writer were called on 85-01-10 regarding searches of the EBSARY home and contact with him, no defence evidence was called, however, WINTERMANS argued that his client's sanity was in doubt, certain inducements were offered by the investigators, and the wording of the police warning was not proper, it should read "anything you do say may be used against you" which would have placed EBSARY on his guard. EDWARDS again argued these points and Justice NUNN ruled there were no promises or inducements, the statement represents a mind operating, the warning was proper and the statement voluntary - admissible. The Court also ruled there was no violation of the Charter.

C.C. <input type="checkbox"/> Div. <input checked="" type="checkbox"/> S-Div. S-div. <input type="checkbox"/> HO D.G.		Other - Autre	Report Completed by - Rempli par <i>[Signature]</i>
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Roy Newman EBSARY (B: 12-06-02)

RCMP 253

3. On 85-01-11 witnesses Donald MARSHALL, Sr., Roy GOULD, Oscar SEALE and wife, Insp. Michael MacDONALD, Retired, and S/Sgt. H.F. WHEATON were called with reference to clothing worn by SEALE and MARSHALL, Jr. on the night in question and the delivery of same by MacDONALD (Sydney P.D.) to C.D.L. Halifax. WHEATON entered the knives seized from EBSARY's previous residence now occupied by Greg EBSARY, who gave evidence as to the storing of same in his basement some years ago. C/M Richard MacALPINE of C.D.L. Halifax testified he found no blood on any of the knives he turned them over to C/M A. EVERS at C.D.L. Sackville.

4. Maynard CHANT stated he saw MARSHALL on the night in question with a cut on his forearm, he also said he had been pressured by Sydney P.D. investigators into saying he saw MARSHALL stab SEALE, they would not believe him when he tried to tell the truth.

5. Donald MARSHALL, Jr., was the next witness for the Crown, his testimony changed from evidence in previous hearings regarding the attempted robbery of EBSARY and MacNEIL by he and SEALE, he denied this and said they planned to bum some money to buy liquor from a bootlegger. On cross-examination MARSHALL stated he had lied under oath in previous trials and that he had fabricated the robbery details in his statement to WHEATON and myself at Dorchester Penitentiary because no one was believing his true version. MARSHALL admitted he had received in excess of \$270,000.00 as compensation for nearly eleven years in prison. WINTERMANS suggested MARSHALL's name was a household word and he is now changing his story to make himself look like a saint.

6. The Crown argued that MARSHALL was actually saying what he said at his first trial in 1971-that he and SEALE walked through the Park, met two men, one of which was dressed like a priest and subsequently stabbed both youths. At this time EDWARDS advised the Court he would not be calling James MacNEIL although he was present should the Defence wish to call him, he requested Patricia HARRIS's name be added to the indictment as he intended to call her and had advised Defence Counsel several days ago. Strong objections were raised by WINTERMANS as HARRIS had not been called in the last two trials and he stated EDWARDS had not indicated his intention to call this witness, he said the Crown had an obligation to the Court in calling MacNEIL to ensure a fair trial.

7. The Court ruled that HARRIS was not to be called and that since MARSHALL's credibility was now suspect, MacNEIL must be called. Justice NUNN said he would call MacNEIL if no one else did. EDWARDS replied that unless ordered by the Court, he did not intend to call the witness. In answer to the Court's concern, EDWARDS said he had a lengthy interview with MARSHALL two days ago and as a result of that meeting he

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Roy Newman EBSARY (B: 12-06-02)

P. 253

chose to believe MARSHALL's evidence over parts of MacNEIL's. At this time WINTERMANS made a motion for a mis-trial, the motion was denied as the Jury had been dismissed and did not hear the discussion. The Court ruled that if MacNEIL was a truthful witness on two previous trials he should be called now. EDWARDS replied that his credibility had changed, however, NUNN stated it was not EDWARDS' concern - only his discretion. The Crown refused to call MacNEIL and the trial continued with Donna EBSARY being the next witness. She described the knife her father washed blood from on the night in question plus comments between MacNEIL and EBSARY. When examining the exhibits (knives) she identified # 8 as being identical to the one her father had that night, this was the one EVERS had found the most fibers on. Dr. M.A. NAQUI testified as he had in past trials describing SEALE's condition and the nature of the wound.

8. C/M A. EVERS testified as to receiving jackets worn by SEALE and MARSHALL in 1971, retaining samples of fibres from the linings and subsequently comparing those samples with fibres found on knives seized from EBSARY's home. Twelve fibres consistent with those from the two jackets were found on knife # 8, other fibres were found on other knives as well.

9. EBSARY's taped interview was then played by the writer and Court adjourned until the following morning when a transcript of Sydney P.D. Cst. L. MROZ's (now deceased) evidence was read into the record by Justice NUNN. At this point the case for the Crown was concluded. Defence Counsel again requested the Crown call MacNEIL and Mary EBSARY, he said the Crown was changing the facts to get a conviction which was unfair. In ordering the Crown to call Mary EBSARY and James MacNEIL for direct examination only, NUNN said the Crown must be neutral and could cross-examine witnesses on credibility, he would not allow the trial to continue without all relevant evidence being heard.

10. Mary EBSARY stated her husband had been mugged twice in recent months (1971), he was agitated when he arrived home just before midnight, MacNEIL was very excited, talkative. In cross-examination by WINTERMANS the witness stated MacNEIL said to her, "Roy did a good job on that fellow, he saved my life".

11. MacNEIL described leaving the State Tavern in Sydney and walking through Wentworth Park with EBSARY near midnight on 71-05-28, he believed the first notice he had of MARSHALL was when he came up behind his back, SEALE at this time was standing in front of EBSARY with his hands at his sides saying, "Dig man, dig". EBSARY placed his left hand on SEALE's right shoulder and said, "You want everything I got, I have something for you" and then made an upward motion with his

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Roy Newman EBSARY (B: 12-06-02)

RCMP 253

right arm towards SEALE's stomach. This concluded the Crown's case for the second time. EDWARDS' decision not to call MacNEIL was based on his failure to remember any conversation with SEALE and MARSHALL prior to the stabbing, the conversation was recalled by MARSHALL and EBSARY.

12. With the Crown's consent a transcript was read into the record of evidence given at a previous trial by Brian DOUCETTE, formerly of Sydney and now out of the area. This was a brief description of MARSHALL and another individual coming to his door around midnight on 71-05-28 asking for an ambulance, DOUCETTE saw a wound on MARSHALL's left arm which was not bleeding, he called Sydney P.D. instead of the ambulance.

13. The Defence then called Dr. Edward John RYBA, Sydney Optometrist who stated he examined the accused that morning (85-01-15) and found he is legally blind, he then attempted to describe EBSARY's vision in 1971 but on the objection of the Crown he was limited to saying his sight would have been better then, possibly 60% without glasses. It wasn't clear why this witness was called.

14. Rowena STROWBRIDGE of Sydney, N.S., was called next, she said she cooks meals for the accused and he was not wearing glasses in Court today because he had lost his glasses, it could not be determined why this witness was called.

15. The Defence then called Sydney Weather Office Supervisor, Frederick DECKER, who stated the weather at Sydney Airport Weather Station around midnight was overcast and foggy, similar weather over Cape Breton Island including Wentworth Park, Sydney. In cross-examination DECKER admitted this weather cleared from West to East moving on to Newfoundland and Sydney, being West of the Airport, could have cleared earlier. WINTERMANS was attempting to prove visibility in the Park that night was poor because of the fog and poor lighting.

16. David RATCHFORD, Sydney, N.S., actor and writer was the next witness, he intended to discredit the evidence of Donna EBSARY by giving a different account of what MacNEIL supposedly said on 71-05-28 when he and the accused returned home. He was not permitted to give this evidence as the proper groundwork was not laid by WINTERMANS.

17. Merle DAVIS, R.N., night supervisor at Sydney City Hospital recalled MARSHALL and SEALE arriving at the Hospital, MARSHALL's wound was not bleeding. The Defence at this point closed its case and summations given at the end of which WINTERMANS began crying. His remarks dealt with the matter of a robbery in progress and the issue of self-defence. The Crown reminded the Jury of EBSARY's intent to kill

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Roy Newman EBSARY (B: 12-06-02)

RCM 2 253

anyone who bothered him and was carrying a knife big enough to do the job - not a penknife as he suggests but one much longer and capable of protecting him. The accused did not call the police and report the matter, instead, he hid until 1982, he did not make a blind swipe at SEALE, it was a deliberate effort and the thought of preserving himself did not enter his mind.

18. In his charge to the Jury, Justice NUNN said there was no doubt EBSARY stabbed SEALE and MARSHALL and self-defence was an issue. He questioned the credibility of MARSHALL and in his brief remarks indicated EBSARY should not be convicted. When the Jury was dismissed Prosecutor EDWARDS lodged a strong objection to NUNN's charge saying the Court misinterpreted the evidence, it was most unfair and it would be impossible for the Jury to decide, he requested the recall of the Jury and re-charge them on the evidence. NUNN agreed and subsequently re-stated the Crown's theory on credibility of witnesses. The Jury asked what reference if any was made of the 1971 trial concerning conversation between MARSHALL "et al". The Court advised them that no conclusions could be drawn from that trial and there was sufficient evidence before them now.

19. After four hours deliberation, the Jury found EBSARY "Guilty" sentence to be passed on 85-01-30 @ 0930 hrs. WINTERMANS was visibly shaken by the verdict and after leaving the Courtroom threw his legal robes over the staircase and shouted, "There's no goddammed justice in the country, I quit" as he kicked his robes down the staircase to the ground floor. WINTERMANS has since made a public apology to Justice NUNN. EBSARY was released until 85-01-30, to report via telephone twice a week to Sydney P.D. at 1400 hrs., not to leave the City and to refrain from the use of alcohol and non-prescribed drugs.

20. On 85-01-30 counsel addressed the Court on sentence, EDWARDS stated EBSARY had two previous convictions regarding knives, has no remorse or concern for anyone involved in this incident, (this was also contained in the updated pre-sentence report) and he is dangerous outside the institutional life. It was also pointed out that Federal Institutions have adequate medical facilities for people like the accused. EDWARDS stated this case was closer to murder than manslaughter and if EBSARY was younger he would be asking for a sentence between fifteen and twenty years instead of five years.

21. Robert MacNEIL, Sydney Legal Aid, represented the accused, he said his client is now seventy-three, became a recluse for seven years after the 1971 incident, has been before the Court system since 1983, Oscar SEALE, father of victim, suggested EBSARY be given probation, suspended sentence with probation recommended.

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Roy Newman EBSARY (B: 12-06-02)

RCMP 253

22. EBSARY was sentenced to three years in a Federal Penitentiary, Justice NUNN in his remarks said EBSARY was under no legal obligation to come forward, however, he should have had a moral one to release MARSHALL from prison, he found it repugnant that he did not. No decision has been made to date regarding an appeal by EBSARY.

23. It should be noted a great effort has been put forward in this case by Prosecutor Frank EDWARDS, both in research and the actual Court presentation. I am personally aware of many evenings and weekend sacrificed to bring this matter to a second successful conclusion. It is suggested consideration be given to a letter of appreciation to EDWARDS and his Halifax superiors in view of his participation in this most unusual case.

Concluded Here:

(J.E. CARROLL) Cpl.  
NCO i/c Sydney S/D GIS

(T.E.B.) S/Sgt.  
Sydney Sub/Div. P.C. Co-or.

c.c. O.C. Sydney Sub/Division

MEMORANDUM

NOTE DE SERVICE

O.C. Sydney Sub/Division

P.C. Co-or. Sydney Sub/Div. G.I.S.

SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE / NOTRE RÉFÉRENCE 82-77
YOUR FILE / VOTRE RÉFÉRENCE
DATE 85-02-04

SUBJECT  
OBJET

Roy Newman EBSARY  
Manslaughter - Sec. 217 CCC  
Sydney, N.S. 71-05-28

FORWARDED: 85-02-04 for your information and attention.

2. This investigation was conducted by S/Sgt. WHEATON and Cpl. CARROLL and was largely completed at the time I arrived in this Sub/Division. During the time since I have been here, I have witnessed the great amount of effort and the conscientiousness of Cpl. CARROLL in his handling of this case and its being brought to a successful conclusion. Cpl. CARROLL has managed this case in a most commendable manner and in my humble opinion is deserving of a commendation as is S/Sgt. WHEATON. While I agree with Cpl. CARROLL's suggestion of a letter of appreciation for Mr. EDWARDS, the efforts and the professional manner in which our investigators conducted the case is most worthy of note. This was a highly publicized case nation-wide, few cases have been given such attention over so long a period of time. Over this time there has been virtually no criticism of the manner in which the R.C.M.P. re-investigated the matter. This, I feel is noteworthy and speaks well of the investigators' professionalism. Although a public enquiry may be in the future, I feel confident our re-investigation of this case will withstand any Court test.

3. It is, therefore, suggested that serious consideration be given to recommending a commendation for both S/Sgt. WHEATON and Cpl. CARROLL, irrespective of any future judicial proceedings.

(T.E. BARLOW) S/Sgt.  
Sydney Sub/Div. P.C. Co-or.

88



Correctional Service  
Canada

Service correctionnel  
Canada

Federal Information  
Bank Number  
N° de la banque  
fédérale de données

23231

7 FEBRUARY 1985

File:

Ottawa,

Chief of Police  
Sydney Police Department  
P.O. Box 730  
Sydney, N.S.  
B1P 6H7

Name and No.: EBSARY, Roy Newman  
Institution: Springhill Institution  
Birth date or age: 1912.06.02  
F.P.S. No.: UNKNOWN  
Date(s) and place(s) convicted: 30 January 1985 - Sydney, N.S.

Before:

Total Sentence: 3 Years  
Offences: Manslaughter

Dear Sir:

It would be appreciated if you could provide this office with a report of the circumstances surrounding the commission of the offence(s), together with your comments. See the back of this form for suggested report content.

If your Department or Detachment did not investigate the case, please forward this request to that which did. If unknown, please return this form.

Yours truly,

  
John D. MacDougall, M.S.W.  
District Representative,

Correctional Service of Canada  
2nd. Fl.  
50 Dorchester St.  
Sydney, N.S.  
B1P 5Z1

CSC/SCC 306 (Rev. 3/83) (NPB 108) cc:  
7530-21-029-2463

NPB - Mctn., N.B.  
CSC - Truro, N.S.  
Springhill Inst.  
File

Report direct to

Copy to H Div  
Sub-Div  
& file



49



Royal Canadian  
Mounted Police

Gendarmerie royale  
du Canada

81

RCMP 255

Your file    Votre référence

P.O. Box 1280  
Sydney, N.S.  
B1P 6J9  
85-02-14

Our file    Notre référence  
82-77

Mr. John D. MacDougall, M.S.W.  
Correctional Services of Canada  
2nd Floor  
50 Dorchester St.,  
Sydney, N.S.,  
B1P 5Z1

Re: Roy Newman EBSARY (B: 12-06-02)  
FPS # 399634A - PAROLE REPORT

Dear Mr. MacDougall:

During the late evening of 71-05-28 EBSARY and one James MacNEIL of Sydney, N.S., were returning home from a local tavern, EBSARY was at this time fifty-nine years of age, MacNEIL was twenty-five. As they walked home through Wentworth Park they met Donald MARSHALL, Jr. (Indian) and Sanford SEALE (Negro) both teenagers are from Sydney as well. EBSARY and MacNEIL later stated the two youths attempted to rob them during which time EBSARY stabbed SEALE in the stomach as he stood in front of him, un-armed and with his hands at his sides. MARSHALL had twisted MacNEIL's arm behind his back but left him to help SEALE after his scream, MARSHALL received a wound on his left forearm when EBSARY made a swipe at him. SEALE collapsed on the street and MARSHALL ran until he met someone he knew, a phone call was made minutes later for police and an ambulance.

EBSARY and MacNEIL continued on to EBSARY's residence where he washed blood from the knife blade in the presence of his daughter. SEALE and MARSHALL were taken to Sydney City Hospital where SEALE died later that day. An investigation by Sydney P.D. produced two witnesses who claimed they saw MARSHALL stab SEALE following an argument in the park, one witness was mentally handicapped and the other, on probation, said later he was pressured by police to corroborate the evidence of the other witness. MARSHALL was convicted on this evidence and an appeal denied.

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RCM 2 255

MARSHALL maintained his innocence for nearly eleven years in Dorchester Penitentiary before his case was reviewed and he was pardoned. On 83-05-12 EBSARY was charged by the writer for second-degree murder, however, at the preliminary hearing, Sydney Provincial Court Judge Charles O'CONNELL reduced it to manslaughter. EBSARY's first trial resulted in a hung jury on 83-09-12, a second trial occurred on 83-11-04 at Sydney, N.S., a conviction was registered on 83-11-08 and a sentence of five years imposed.

An immediate appeal was launched by EBSARY and a new trial ordered by the Appeal Court in Halifax, resulting in a third trial beginning on 84-01-09 at Sydney, N.S. A conviction was registered on 85-01-17.

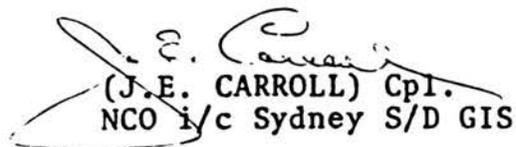
On 85-01-30 Justice Merlin NUNN imposed a sentence of three years stating EBSARY was under no legal obligation to come forward and clear MARSHALL but was certainly under a moral one and he found it repugnant that he did not.

In 1971 EBSARY was in the habit of carrying long-blade, home made knives on his person, a collection of ten were seized from his home during this investigation. He has been involved in one other stabbing incident which nearly resulted in death, witnesses later change their evidence and EBSARY was acquitted.

On 82-11-05 EBSARY was sentenced to serve six months as the result of a conviction under Sec. 87 CCC. This incident occurred after numerous threats were made by EBSARY to his son, Gregory. Sydney P.D. found EBSARY at his son's door with a knife in his possession. EBSARY is a "lay-preacher" in his own mind as well as a Captain in the Navy, visitors to his two-room apartment included a cross-section of released prisoners from the local correctional centre, homosexuals and drug users. EBSARY has been separated from his common-law wife for a number of years after she caught him in a situation with a gay, male boarder in the family home. He is also known to have had an intimate, physical relationship with his dog over past years.

EBSARY does not enjoy a good reputation in the community, in spite of his age and physical condition he is alert and still considered dangerous by many including his own family, his release on parole is not recommended.

(T.E. BARLOW) S/Sgt.  
Sydney S/D P.C. Co-or.

  
(J.E. CARROLL) Cpl.  
NCO i/c Sydney S/D GIS

c.c. O.C. Sydney Sub/Division

(9)



RCMP 200

O.C. Sydney Sub-Division

Asst. Officer i/c C.I.B.

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE / NOTRE RÉFÉRENCE 71H-010-6
YOUR FILE / VOTRE RÉFÉRENCE
DATE 85-02-26

SUBJECT / OBJET Roy Newman EBSARY  
Manslaughter - Sec. 217 CCC  
Sydney, N.S. 71-05-28

I agree with your suggestion that a letter of commendation is due S/Sgt. WHEATON and Cpl. CARROLL.

I would, however, suggest we wait until this matter is finally disposed of in court. At that time, we will ensure the appropriate action is taken in this respect.

Likewise, I feel our letter of appreciation to Crown Prosecutor Frank EDWARDS should be sent once the matter is finalized.

R.G. Zinck, Insp.,  
Asst. Officer i/c C.I.B.

DCS/bt

OP REV.  
38

*[Handwritten signature]*

RCM GRC

TRANSIT SLIP

FICHE DE SERVICE

84

BIN BD

Classification

File No. - N° du dossier

HANDWRITE - ÉCRIRE À LA MAIN

<p>TO - A</p> <p>Mr. E. MacNeil</p> <p>N.S. Police Commission</p>	<p>FROM - DE</p> <p>S/Sgt. T.E. Barlow</p> <p>Sydney RCMP</p>	<p>Date</p> <p>86-05-23</p>
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- |  |   |  |   |
|--|---|--|---|
| <input type="checkbox"/> Comments<br>Commentaires            | <input type="checkbox"/> Action<br>Donner suite               | <input type="checkbox"/> Prepare Brief<br>Préparer un exposé | <input type="checkbox"/> Return with Current File<br>Retourner avec le dossier actuel |
| <input type="checkbox"/> Perusal and P.A.<br>Lire et classer | <input type="checkbox"/> Prepare Reply<br>Rédiger une réponse | <input type="checkbox"/> Make File(s)<br>Ouvrir un dossier   | <input type="checkbox"/> Check Records<br>Vérifier les dossiers                       |

SUBJECT - SUJET

Donald Marshall - Roy Ebsary

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

Attached is a copy of report dated Apr 8th, 1970 respecting arrest of Ebsary. I could not find any other report related to this one, however, if you feel there is additional reports in that case please advise me and will look again. There is a lot of material and there may be something more there I did not see.



*FIB Copy*

Diary Date - Date d'agenda

Meeting Date - Date de réunion

Date

P.A. - A.C.

Init./N°

99

OFFICER	SUBJECT	CASE No.
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Rec 139

C O P Y

1970

April 8th  
11:30 P.M.

Rec. a call from Mrs. Ebsary, R. 126 Argole St. wanting the police to pick up her husband if they see him. He is supposed to be quite drunk and carrying a knife and is going looking for a Mr. Gratnik at 34 Charlotte St. who he had a falling out with today at work. Gave call to car # 1 & 3.

Signed: Cpl. J. MacKay

Re above call:

Searched the area and spotted Mr. Roy Ebsary at the corner of Charlotte & Townsend St. Stopped him & searched him & found a 12" butcher knife under his belt. Arrested him - Sec. 85 L.C.A. and Sec. 89 B C.C.

With him at this time was one Michael LeBlanc, 83 Townsend St. age 17. This boy works with Ebsary at the ~~Isle~~ Royal Hotel Isle. He said Ebsary had just called for him and they were going to see their boss, Tony Gratnick at 34 Charlotte St. They had an argument with him at work earlier. LeBlanc was allowed to go home - Knife tagged and left at desk.

Signed: P.C.'s Ed. McNeill and  
F. LeMoine

~~APPEARANCE IN COURT~~      Appeared in Court - Judge Gunn - April 9-70 -  
Sec. 83 C.C. - \$100.00

\*\*\*\*\*

RCMP 2

OTHER FILE REFERENCES REF. AUTRES DOSSIERS: 86	DIVISION "H"	DATE 85-06-25	RCMP FILE REFERENCES: REF DOSSIERS GRC: 71H-010-6 82-77  RCMP 205
	SUB DIVISION / SOUS-DIVISION Sydney, N.S.		
	DETACHMENT—DÉTACHEMENT Sydney S/D GIS		

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

1. Further to my report of 85-01-23 another appeal was entered by the defence on the conviction and sentence in this case, Prosecutor EDWARDS does not anticipate a decision before late fall or spring of 1986. In view of the foregoing another report will be submitted when more details are known.

S.U.I. (Exhibits & Appeal)

*J.E. Carroll*  
(J.E. CARROLL) Cpl.  
NCO i/c Sydney S/D GIS

D.D. 85-12-30

*T.E.B.* S/Sgt.  
Sydney Sub/Div. P.C. Co-or.

c.c. O.C. Sydney Sub/Div.

DEPT. ATT. GEN.  
ATT:  
DIV. FILE #

JUN 28

RCMP - HALIFAX N.S.

OP REV.  
2

*Handwritten notes and signatures*

OTHER FILE REFERENCES  
REF. AUTRES DOSSIERS

87

DIVISION

"H"

DATE

86-07-02

RCMP FILE REFERENCES  
REF DOSSIERS GRC

71H-010-6

82-77

pcr: 85-08-25

SUB-DIVISION / SOUS-DIVISION

Sydney, N.S.

DETACHMENT - DETACHEMENT

Sydney S/D GIS

RCMP 197

RE. - OBJET:

Roy Newman EBSARY  
Manslaughter  
Sydney, N.S.

71-05-28/29

1. Further to pcr dated 85-08-25, please be advised that this case went before the Supreme Court of Nova Scotia Appeal Division on 86-05-06. The appeal against his conviction was dismissed, however, the appeal against sentence was granted. The sentence was changed from three years to one year.

2. Another appeal has been entered by the defence on the conviction and sentence in his case. It is set for the Supreme Court of Canada and expected to be heard on 86-09-29. In view of the foregoing, another report will be submitted at that time.

D.D. 86-10-08



(R.O. PEDERSEN) Cpl.  
NCO i/c Sydney S/D GIS

(T.E.B.) S/Sgt.  
Sydney S/D P.C. Co-ordinator

c.c. O.C. Sydney Sub/Division

OTHER FILE REFERENCES: REF. AUTRES DOSSIERS:  P.C.R. 86-07-02	DIVISION "H"	DATE 86-11-03	RCMP FILE REFERENCES: REF. DOSSIERS GRC: 71H-010-6 82-77  RCMP 2 153
	SUB-DIVISION / SOUS-DIVISION Sydney, N.S.		
	DETACHMENT—DÉTACHEMENT Sydney S/D GIS		

RE: — OBJET:

Roy Newman EBSARY  
Manslaughter  
Sydney, N.S.

71-05-28/29

1. Roy Newman EBSARY's appeal to the Supreme Court of Canada was denied on 86-09-30. Subject has turned himself in at the Cape Breton County Correctional Center on 86-10-01 where he will be serving his one year sentence. His release date will be 87-05 03.

2. It is anticipated that due to the upcoming inquiry into this matter that there will be requests made to this office for information pertaining to this file. May instructions be issued as to what channels one is to go through should they wish to obtain any information on this matter.

D.D. 86-11-16

(T.E.B) S/Sgt.  
Sydney S/D P.C. Co-ordinator

*R.O. Pedersen*  
(R.O. PEDERSEN) Cpl.  
NCO i/c Sydney S/D GIS