

CANADA

PROVINCE OF NOVA SCOTIA

IN THE MATTER OF THE
FATALITY INVESTIGATIONS ACT
S.N.S. 2001, c. 31

THE DESMOND FATALITY INQUIRY

TRANSCRIPT

HEARD BEFORE: The Honourable Judge Warren K. Zimmer

PLACE HEARD: Guysborough, Nova Scotia

DATE HEARD: February 18, 2020

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INDEXFebruary 18, 2020PageCST. STEVEN RICHARD

Direct Examination by Mr. Russell	6
Cross-Examination by Ms. Miller	88
Cross-Examination by Mr. Rodgers	110
Cross-Examination by Ms. Grant	117
Examination by the Court	121

CST. BURNS ANDERSON

Direct Examination by Mr. Russell	129
Cross-Examination by Ms. Miller	163

EXHIBIT LIST

<u>Exhibit</u>	<u>Description</u>	<u>Page</u>
P-000082	Notes and Reports - Cst. Richard NB - `7 November 27, 2015 and Seized Firearms	
P-000083	NB RCMP Reports - November 27, 2015 - Suicide Threat and Seized Firearms	8
P-000085	Emails from NB Firearms Officer J. Roper - May 12, 2016	78
P-000033	Two-Page Report Past Occurrence - November 18, 2015	102
P-000086	RCMP Occurrence Report - Lionel Desmond, November 25, 2016	130
P-000122	Report Generated by RCMP Dispatch	141
P-000088	November 28, 2015 report complaint From Richard Borden	153

1 February 18, 2020

2 COURT OPENED (09:38 HRS)

3

4 THE COURT: Good morning.

5 COUNSEL: Good morning, Your Honour.

6 THE COURT: Mr. Murray? Mr. Russell?

7 MR. RUSSELL: Yes, Your Honour. The next Inquiry witness
8 would be Constable Steven Richard.

9 THE COURT: Constable Richard.

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1 **CST. STEVEN RICHARD, sworn, testified:**

2

3 **THE COURT:** Constable Richard, at some point in time
4 you're likely to be referred to some exhibits. They will appear
5 on the monitor in front of you but also in the two volumes of
6 material in front of you there's also paper copies of the same
7 exhibit if you'd like to have a look at paper copy as well.

8 **A.** Okay. Thank you.

9 **THE COURT:** All right, thank you. Mr. Russell?

10

11

DIRECT EXAMINATION

12

13 **MR. RUSSELL:** Good morning, Constable Richard.

14 **A.** Good morning.

15 **Q.** Could you state your full name for the Court, please.

16 **A.** Yes. Constable Steven Robert Richard.

17 **Q.** And what's your occupation, sir?

18 **A.** I'm a constable, general duties officer, with the
19 Royal Canadian Mounted Police and I'm currently stationed in
20 Oromocto, New Brunswick.

21 **Q.** And how long have you been an RCMP officer?

22 **A.** Since September 2008.

1 Q. So I'm wondering in 2015 where were you stationed?

2 A. In Oromocto, New Brunswick.

3 Q. And I understand in 2015 you might have had an
4 interaction or contact with Lionel Desmond?

5 A. Correct.

6 Q. And that's the purpose for which we're here today?

7 A. Correct.

8 Q. Officer, I'm wondering if you could take ... before I
9 get there, prior to the interaction in 2015, would you have had
10 any previous contact or involvement with Lionel Desmond?

11 A. I had not.

12 Q. And do you recall the date in 2015 when you had
13 contact with Lionel Desmond?

14 A. It would have been November 27, 2015.

15 **EXHIBIT P-000082 - NOTES AND REPORTS - CST. RICHARD NB -**
16 **NOVEMBER 27, 2015 AND SEIZED FIREARMS**

17 Q. Officer, I'm wondering if we could take a quick look,
18 and we'll be referring to it throughout your evidence, at two
19 exhibits. The first, Exhibit 82, and in particular there are
20 two pages, if we could look to page 2 very briefly. Do you
21 recognize this document?

22 A. Yes.

CST. STEVEN RICHARD, Direct Examination

1 Q. And what is it, sir?

2 A. It would be notes.

3 Q. And these are notes made by you?

4 A. Correct.

5 Q. Do you recall when you made these particular
6 handwritten notes?

7 A. It would have been the same day as the incident.

8 **EXHIBIT P-000083 - NB RCMP REPORTS NOVEMBER 27, 2015 - SUICIDE**
9 **THREAT AND SEIZED FIREARMS**

10 Q. As well, if we could look at Exhibit 83, but in
11 particular pages 3 and 4. If we could look at page 3 first. Do
12 you recognize that particular document?

13 A. Yes, that would be my report in regards to the
14 incident.

15 Q. And if we could look at page 4.

16 A. That as well.

17 Q. And that's the conclusion, the last page of your
18 report?

19 A. Of the first report, yes.

20 Q. If we could go back to the first page. At the top it
21 indicates "report time" and there's a date November 28, 2015 and
22 there's no time, and then there's an enter time, same date and

CST. STEVEN RICHARD, Direct Examination

1 2:18 in the morning. If we could look at page 3, sorry.

2 Do you see that, Officer, "report time" and "enter time"?

3 **A.** Yes. So once the incident was done that's the time I
4 would have got back to the office and created the report and
5 began typing it.

6 **Q.** So you would have made your report at 2:18 in the
7 morning of November 28th?

8 **A.** Correct.

9 **Q.** If we could leave it there. If we could scroll down
10 perhaps at the ... and that will be ... that's fine.

11 So, Officer, do you recall when this first occurrence came
12 in on November 27th?

13 **A.** It was around 10:20 p.m.

14 **Q.** And do you recall, generally, did you receive the
15 occurrence call yourself or was the information relayed to you?

16 **A.** It was relayed to me that there was a report of a
17 suicidal male. I took the call. So as soon as you take a call,
18 you get dispatched on your laptop, there's a computer in the
19 car, and that's the first ... that first paragraph is the
20 information you receive initially.

21 **Q.** So as it relates to this first paragraph, you
22 indicated the information that was relayed to you on shift that

CST. STEVEN RICHARD, Direct Examination

1 particular date, what information did you receive through, I
2 guess, was it dispatch?

3 **A.** Through a dispatch, yes.

4 **Q.** What information was given to you initially through
5 dispatch?

6 **A.** So exactly that first paragraph. That's just
7 copy/pasted from what was in my computer. Do you want me to
8 read it out or ...

9 **Q.** Well, I'm wondering if you could indicate some of the
10 things that were provided to you.

11 **A.** So I was informed that there was a report of a
12 suicidal male. The subject of the complaint was a Lionel
13 Desmond, 31 years old. That he had been texting his wife that
14 he was heading into the garage. There was information that he
15 was a veteran who suffered from PTSD. Dispatch indicated it was
16 unknown if there was any drugs or alcohol involvement.

17 SOC had hunting rifles in the garage and told complainant
18 to tell his daughter that he would see her in heaven. And I was
19 provided his cell phone number. And it was mentioned that the
20 last text received by the complainant, Shanna Desmond, was five
21 minutes prior to receiving the dispatch ticket.

22 **Q.** You indicated at one point in the report SOC is a

CST. STEVEN RICHARD, Direct Examination

1 veteran. What does "SOC" stand for?

2 **A.** Subject of complaint.

3 **Q.** And you understood that to be who?

4 **A.** Lionel Desmond.

5 **Q.** At the end of that it says: "Last text received five
6 minutes ago. Last one sent 'It was time to go'."

7 So in relation to the call, did you understand it was a
8 recent occurrence? This is occurring ...

9 **A.** That it was happening kind of ... the last message was
10 received five minutes prior, that he was saying it was time to
11 go.

12 **Q.** Okay. So, Officer, when you received that information
13 was there any sort of RCMP plan put in place and, if so, what
14 was it and who did it involve?

15 **A.** After speaking to Shanna Desmond, there was a plan put
16 in place to ... I forget exactly how many members there were,
17 there was at least four of us that approached the residence.
18 Two approached from the rear of the residence and me and my
19 partner approached from the front of the residence to make
20 contact with Desmond.

21 **Q.** And did you and the other officers who attended, did
22 you get together to come up with that particular plan?

CST. STEVEN RICHARD, Direct Examination

1 **A.** Yes, we came up with the plan that Corporal Nick
2 Arbour was kind of in charge of making the plan, himself and his
3 partner approached the rear of the residence. The plan was to
4 approach the rear of the residence with their C8 carbine, which
5 is the police rifle, because there was mention of a possible
6 rifle involvement. So they approached via the rear of the
7 residence and myself and my partner were going to try to
8 approach from the front to get a visual to see if we could see
9 any type of movement within the residence and then go from
10 there.

11 **Q.** So prior to attending and during the time period where
12 you discussed sort of a plan to approach what, if any, concerns
13 did you have about attending the scene?

14 **A.** Just your regular concerns. That there was mention of
15 a firearm involved which was a rifle, there was mention of ...
16 especially policing in a military community we deal with a lot
17 of PTSD situations and depression. And from experience, these
18 people can act in many different ways, from violent to
19 cooperative. It's unknown basically until you make contact with
20 this person how he's going to be behaving.

21 I didn't have any personal knowledge nor did really my co-
22 workers have any involvement with Mr. Desmond so there was a lot

CST. STEVEN RICHARD, Direct Examination

1 of ... those were the factors basically at hand. But he was
2 saying his goodbyes so he had possibly intentions of committing
3 suicide.

4 **Q.** So you indicated that the original caller was Shanna
5 Desmond. And so prior to attending Desmond's ... or where
6 Desmond had been residing, did you have any contact or
7 communication with Shanna Desmond?

8 **A.** Yes, it would have been close to around the 10:20 mark
9 because as soon as I got that initial dispatch ticket I called
10 her right away just to get more details in regards to what he
11 was saying, what had transpired, any history type of situation.

12 **Q.** And when you spoke to her, how did she appear during
13 the conversation with you?

14 **A.** She was just very concerned for him. She was
15 mentioning that he had been going ... he was recently being
16 released from the military and he was severely depressed, that
17 he had did tours in Afghanistan and since then he wasn't ... he
18 was no longer the same type of person he was.

19 Then she mentioned the text messages that he had been
20 sending say his goodbyes, that he was going into the garage.
21 And she had concerns because it's in the ... she knew that it
22 was in the garage where he kept his firearms.

CST. STEVEN RICHARD, Direct Examination

1 (09:48:00)

2 Q. Did she express any concerns as it relates to her
3 personal safety?

4 A. I don't believe so. I don't recall. It was more so
5 her concern for his well-being.

6 Q. And did you understand where she had been residing at
7 the time you spoke to her?

8 A. She was residing in Nova Scotia.

9 Q. Did she convey to you the contents of the text
10 messages that she had been receiving?

11 A. Yes. She had stated that he was saying his goodbyes
12 and that he'll be resting in peace. To tell his daughter that
13 he loved her and that he would be going into the garage.

14 Q. Did she comment at all about the status of the
15 relationship between the two of them at the time?

16 A. I knew they were still somewhat together but she said
17 the relationship was rocky. But I knew ... she did mention that
18 he did make trips to Nova Scotia to visit her so there was still
19 some form of relationship between the two at that point.

20 Q. And you say the description was rocky. Can you
21 elaborate further what ...

22 A. Just that since he was back from tour said he had a

CST. STEVEN RICHARD, Direct Examination

1 lot of issues with PTSD and depression, some anger issues, anger
2 outbursts so the relationship wasn't the healthiest at that
3 point. But from my understanding they were still together to
4 some degree.

5 Q. And so you indicated that she provided you the
6 information about anger outbursts, his mental health as well as
7 the issues within the relationship that you described as rocky.
8 Did you explore with her during that phone call whether or not
9 there had been any past occurrences of domestic violence,
10 whether it be physical, mental, emotional?

11 A. I'm not sure if we discussed domestic violence. Like
12 I said, her main focus in the whole conversation was his well-
13 being and he's making reference that he's possibly going to
14 commit suicide like right at this moment.

15 Q. And I understand that the call came in, the complaint
16 came in as he was going to commit suicide and it was in
17 reference to himself, there was no indication of threats or harm
18 to her. But is that something you may typically explore when
19 you know it's sort of a domestic context as to whether or not
20 he's any threat or risk to her?

21 A. Like I said, in regards to this situation I don't know
22 if we touched on that, but the main focus at that point in time

CST. STEVEN RICHARD, Direct Examination

1 was his well-being because we wanted to get there before
2 something happened. So I didn't ... I forget how long I spoke
3 to her for, approximately ten minutes maybe, but our main
4 concern was to get as much detail as possible, this person is
5 possibly suicidal, let's get to the residence and hopefully get
6 there before anything happened.

7 **Q.** Was there any discussion with her ... did it come to
8 your attention that they shared a ten-year-old daughter? Was
9 there any ...

10 **A.** There was mention of a child but we didn't go into
11 details of how many kids they had or anything like that.

12 **Q.** Do you remember the context in which she brought up
13 that they had a child?

14 **A.** Only that he mentioned that he was saying goodbye to
15 his daughter and that he would see her in heaven type of
16 situation but we didn't go into details about children.

17 **Q.** So in your sort of assessment, was there any sort of
18 ... did you turn your mind to whether or not there was any need
19 to sort of discuss with her any sort of resources that were
20 available to her for her own maybe safety plan?

21 **A.** Not at the time being, no.

22 **Q.** So how far was Desmond's residence that you indicated

CST. STEVEN RICHARD, Direct Examination

1 was in New Brunswick? How far away were you when you were
2 dispatched?

3 **A.** I forget exactly where I was when I was dispatched but
4 I know I was in the general area because when I called her back
5 prior to attending the residence I was probably less than a
6 kilometer away parked at a convenience store just kind of around
7 the corner nearby.

8 **Q.** And so are you able to estimate how long between the
9 call and arrival at Desmond's residence?

10 **A.** Between the time the call came in and I would have
11 arrested him under a Mental Health that was approximately a half
12 hour, so 20 minutes, approximately, from the moment the call was
13 received to the moment I got there ...

14 **Q.** About 20 minutes?

15 **A.** ... and made contact with him.

16 **Q.** So you made contact with him at his residence, was
17 there anyone else present at his residence when you got there?

18 **A.** He was in the residence by himself.

19 **Q.** And how did you come into contact with him, I guess?
20 How did you end up introducing yourself or how did that first
21 interaction come about?

22 **A.** Like I mentioned, my co-workers were approaching the

CST. STEVEN RICHARD, Direct Examination

1 residence by the rear and me and my other partner was going to
2 approach from the front to try to get visual on Mr. Desmond.

3 As I was approaching on an angle, I could see his ... a
4 perfect silhouette of a male within the residence that was like
5 standing in front of the doorway, probably 20 feet from the
6 door, and as soon as I saw him I could see that he had nothing
7 in his hands, no firearm or anything, so I thought it would be a
8 good time to make contact. So I just knocked at the door and
9 kept a visual on him until he approached the door.

10 **Q.** Had your firearm been drawn at this point?

11 **A.** No.

12 **Q.** And, to your knowledge, you mentioned that there were
13 other officers and there was a reference that there was another
14 firearm that the officer was in possession of?

15 **A.** Yes, the two officers at the rear of the residence had
16 their police-issued C8 carbine rifle, but they had no contact
17 with Desmond at that point.

18 **Q.** Okay.

19 **A.** They were kind of like hiding at the back of the
20 residence.

21 **Q.** So he wouldn't have been aware of their presence?

22 **A.** No, he would not.

CST. STEVEN RICHARD, Direct Examination

1 **Q.** So I guess, overall, how were you greeted by Mr.
2 Desmond? Did he appear surprised that you were there or ...

3 **A.** No. He opened the door, he was very calm. He had
4 that look on his face that he knew why you were there. So I
5 advised him why I was there in regards to the messages that he
6 had sent Shanna and he agreed. He confirmed that he had sent
7 those messages to her.

8 **Q.** So just before we kind of get into that, so overall
9 how would you describe you were greeted by Mr. Desmond? How did
10 he appear when you first spoke to him?

11 **A.** Very calm, mellow, maybe a little down/sad looking but
12 very cooperative.

13 **Q.** At any point during your interaction with him at the
14 residence, did he appear aggressive or agitated?

15 **A.** From the moment I dealt with him until the end of my
16 dealings with him not at one point was he ever aggressive. He
17 displayed the same type of behaviour throughout the whole
18 dealings with Mr. Desmond.

19 **Q.** So when you have the conversation with him, does he
20 sort of ... I guess, how does it unfold? Do you immediately
21 start asking him questions or does he immediately start telling
22 you information?

CST. STEVEN RICHARD, Direct Examination

1 **A.** I don't remember exactly how it went but I remember
2 mentioning the reason why I was there in regards to the messages
3 that he had sent to Shanna. He confirmed that he did send those
4 messages to her. And around that point I had asked him if he
5 was suicidal or if he had any intentions which he told me he did
6 not.

7 **Q.** And specifically when you said you reviewed the
8 messages, did you review the content of those messages, the
9 reference to see his daughter in heaven?

10 **A.** I don't think we went into specifics, just the fact
11 that I was aware of the messages that he had been sending Shanna
12 and then he confirmed that he had been sending her those
13 messages.

14 **Q.** And, in particular, did you make reference to the fact
15 that he made indications that he had planned suicide or is ...

16 **A.** I don't remember. I don't recall if we brought that
17 up, but I did ask him if he was suicidal.

18 **Q.** And then he ultimately said?

19 **A.** He was not.

20 **Q.** So I guess, Officer, when you receive that
21 information, you have him confirming basically what he had sent
22 in a text to his wife, which was all indications that he was

CST. STEVEN RICHARD, Direct Examination

1 going to commit suicide and then when you asked him he said no.
2 At the time, were you aware of sort of the opposing information?

3 **A.** Mm-hmm. Which is common in our type of dealings with
4 people. Sometimes people admit right away that they're
5 suicidal, some people it's ... the messages might be moreso a
6 cry for help to get brought to a hospital to look, but in this
7 type of situation he just said he was not so ...

8 **Q.** And so did you ...

9 **A.** And at no point did he ever mention that he was
10 suicidal to me.

11 **Q.** And so faced with you have the information that he
12 confirms that he sent that and made those comments and then you
13 also have him saying, No, I'm not suicidal, did you at that
14 moment accept one version over the other or how did you approach
15 that opposing information?

16 **A.** I accepted the version that there was enough evidence
17 there to support that this person is possibly suicidal at the
18 moment.

19 **Q.** Did you turn your mind to whether or not perhaps it
20 would be in his best interest and maybe the public's best
21 interest that he seek medical assistance?

22 **A.** Yes.

CST. STEVEN RICHARD, Direct Examination

1 **Q.** And how did you approach that subject with Mr.
2 Desmond?

3 **A.** Since he was so cooperative with me I asked him
4 upfront if he was willing to go to see a doctor in regards to
5 what was transpiring and he agreed that he wanted to go see ...
6 get medical assistance.

7 **Q.** Did there appear to be any sort of reluctance or
8 resistance from Mr. Desmond to that idea of seeing a doctor?

9 **A.** None whatsoever.

10 **Q.** I'm just going to ask you some general questions about
11 your observations and interactions with Mr. Desmond while you
12 were at his residence.

13 **(09:58:03)**

14 Overall, how would you describe his demeanour in
15 interacting with you through the point of first contact to the
16 suggestion about going to the hospital?

17 **A.** He was calm, collected, and cooperative.

18 **Q.** How did his voice sort of appear to you when he's
19 answering these questions? Did you make any particular note?

20 **A.** No, he was just calm.

21 **Q.** Did he appear to sort of ... you've interacted, I
22 guess, with a lot of people in a lot of different circumstances

CST. STEVEN RICHARD, Direct Examination

1 in your career.

2 **A.** Right.

3 **Q.** That's fair. I guess you've interacted with people
4 that were high on drugs?

5 **A.** Mm-hmm.

6 **Q.** People that have been extremely aggressive?

7 **A.** Yes.

8 **Q.** Perhaps people at times that didn't make a whole lot
9 of sense?

10 **A.** Correct.

11 **Q.** So did Mr. Desmond appear to have a comprehension of
12 what's going on here during the conversation with you?

13 **A.** He appeared to have a clear mind and there was no
14 signs of any alcohol or drug use whatsoever from Mr. Desmond.

15 **Q.** Did you pick up any sort of sense that he was ... I
16 know and I appreciate you can't get in his mind, but did he show
17 any sort of outward signs of being under any sort of stress or
18 that sort of thing?

19 **A.** No, he was just very calm.

20 **Q.** So what did he say, if anything, were his issues that
21 he was having with respect to his mental health?

22 **A.** What he told me?

CST. STEVEN RICHARD, Direct Examination

1 **Q.** Yes.

2 **A.** Just that he had did tours in Afghanistan and that he
3 was suffering from depression and PTSD and he was in the process
4 of being discharged from the military because of such.

5 **Q.** Did he elaborate further in terms of the details of
6 his depression, about how long it might have been there or ...

7 **A.** I don't recall.

8 **Q.** What about his post-traumatic stress disorder, the
9 PTSD?

10 **A.** I know he made reference that it was in regard to his
11 tour in Afghanistan.

12 **Q.** And did he talk about different sort of symptoms or
13 how it was affecting him in any way?

14 **A.** I don't recall.

15 **Q.** And do you recall if you sort of asked him to get in
16 to sort of details of the extent to which he was depressed or
17 had PTSD?

18 **A.** I don't think we did.

19 **Q.** Did you get into any sort of conversation with him as
20 to perhaps why he reached out to his wife and indicated that he
21 was going to go into the garage with a gun, say his goodbyes?

22 **A.** I don't believe we did.

CST. STEVEN RICHARD, Direct Examination

1 Q. Was there a particular reason why you didn't maybe
2 canvass that with him a little bit?

3 A. Throughout the whole ... I was with him for
4 approximately, I would say, two or three hours from the moment I
5 arrived to his residence, to hospital, to bringing him back home
6 and we just had general discussions between the two of us.

7 From my perspective, I had all the grounds I needed to
8 bring him before a physician to be assessed at that point. In
9 regards to the type of conversations we had it was just general
10 conversations. I don't remember specifics of what we were
11 discussing.

12 Q. Did, at any point, you get the sense that he was
13 reluctant or resistant to the idea of sharing information with
14 you?

15 A. None whatsoever. From my career as a police officer
16 over the last 11 years, he was one of the most, I would say,
17 straightforward, calm type of person that I've ever arrested
18 under the **Mental Health Act**.

19 Q. Okay. And I guess a follow up to that, in your career
20 as an RCMP officer, are you able ... I know you can't put a
21 specific number on it, it's probably something you don't keep
22 track of, but in a general sense are you able to say how many

CST. STEVEN RICHARD, Direct Examination

1 people you arrested under the **Mental Health Act** in New
2 Brunswick?

3 **A.** I wouldn't even be able to give you close to a number
4 but it's significant.

5 **Q.** Are we talking 100 people?

6 **A.** In the ballpark, that would possibly make sense.

7 **Q.** And so and you described your interaction with Lionel
8 Desmond as one of the more straightforward, easy to deal with
9 people ...

10 **A.** Type of person, yeah, from his demeanour and just the
11 type of person to sit and talk. Like just waiting to see the
12 doctor we just sat in the quiet room at the hospital and just
13 had general conversations just between the two of us.

14 **Q.** Sorry, just so I get it straight, and I realize I'm
15 leading a bit, Your Honour, but ... so in terms, say, in
16 particular people you responded to in some form of mental health
17 crisis or sort of a wellness check context, you're saying that
18 Lionel Desmond was one of the more straightforward, easy to deal
19 with people in that context?

20 **A.** He was, correct.

21 **Q.** Were there any signs to you that perhaps he had may
22 been consuming any substances, alcohol or drugs?

CST. STEVEN RICHARD, Direct Examination

1 **A.** There was no signs of any.

2 **Q.** If we could look to your report. If you can just
3 scroll down a little bit, we'll stop there. It says, "22:54
4 RTC", that's right to counsel?

5 **A.** Correct.

6 **Q.** So: "Right to counsel. Police caution provided to
7 Lionel Desmond. He stated he understood and did not wish to
8 speak to a lawyer."

9 **A.** Correct.

10 **Q.** So you place him under arrest?

11 **A.** Correct.

12 **Q.** So I just want to make clear, was this in any part a
13 criminal investigation?

14 **A.** At no point in time was it a criminal investigation.
15 Based on the information I had, based on the dispatch ticket,
16 speaking to Shanna and speaking to Lionel Desmond, I had enough
17 grounds there to arrest Mr. Desmond under the **Mental Health Act**
18 to be brought in to be assessed by a physician.

19 **Q.** And what was your understanding of the test under ...
20 you talk about New Brunswick and I realize they have different
21 legislation or similar legislation in Nova Scotia. What was
22 your test for placing someone under arrest under the **Mental**

CST. STEVEN RICHARD, Direct Examination

1 **Health Act?**

2 **A.** What do you mean?

3 **Q.** I guess you can't just place anyone and everyone ...

4 **A.** No.

5 **Q.** ... under arrest under the **Mental Health Act.**

6 **A.** So it was basically based on the grounds that I had
7 reason to believe that Mr. Lionel Desmond was a threat to
8 himself or others at that point in time.

9 **Q.** And, in particular, did you believe he was a threat to
10 himself?

11 **A.** Correct.

12 **Q.** And did you believe at any extent that he may be a
13 threat to others?

14 **A.** There was no indication for me to believe that he was
15 a threat to other people.

16 **Q.** Did he say anything to you that would have suggested
17 that he was a threat to other people?

18 **A.** Never.

19 **Q.** Do you recall if he was placed in handcuffs at the
20 time you placed him under arrest?

21 **A.** I don't believe he was. I remember patting him down
22 inside his residence before exiting the residence but I strongly

CST. STEVEN RICHARD, Direct Examination

1 believe he was not placed in handcuffs.

2 Q. And in your reasoning as a trained officer, would
3 there be any particular reason why in this circumstance you
4 wouldn't place him in handcuffs?

5 A. Technically you should, however, Mr. Desmond, after
6 being searched he had no weapons on anything on him, he was
7 completely cooperative from the get-go so I felt I had no
8 concerns of not putting him in handcuffs.

9 Q. Ultimately, he's taken to the hospital as you
10 indicated?

11 A. Correct.

12 Q. Are you with him during the transport to the hospital?

13 A. I'm with him the entire time, yeah. I am the one who
14 drove him to the hospital.

15 Q. Okay. And is that in a marked police cruiser?

16 A. Correct.

17 Q. And you're driving obviously?

18 A. Correct.

19 Q. Do you recall where he's placed in the cruiser?

20 A. He was in the back seat.

21 Q. And your approach with Lionel Desmond on that
22 particular date, were you mindful and aware, I guess, that your

CST. STEVEN RICHARD, Direct Examination

1 actions could maybe exacerbate or increase perhaps symptoms that
2 he was having?

3 **A.** Correct.

4 **Q.** And I guess if you can expand on that.

5 **A.** Especially when you're dealing with someone who has
6 known mental health problems, not just PTSD or depression but
7 any type of mental health problems, they could be in the calmest
8 state and within minutes they could be irate or manic or
9 depressive and a lot of it could have to do on your type of
10 approach and your type of presence within this person.

11 Usually if you're a type person like I am who's very calm
12 and collected type of person usually it helps reflect and
13 they're often the same type of person, especially if there's no
14 signs of drugs and alcohol.

15 **Q.** Okay. I'm going to move a little bit to prior to the
16 details of the hospital. Are you aware if any firearms are
17 actually at Desmond's residence that day?

18 **A.** I was advised by Corporal Nick Abor that he had seized
19 a rifle from Lionel Desmond's residence.

20 **Q.** Do you recall what type of rifle that was?

21 **A.** It was a Savage .223 rifle.

22 **Q.** And you indicated that that was in the garage?

CST. STEVEN RICHARD, Direct Examination

1 **A.** Correct. It was locked in a case, I believe. I know
2 it was stored properly.

3 **Q.** All right. Aside from the one firearm that was in the
4 garage, were there any other firearms found at the scene?

5 **A.** At the scene, no.

6 **Q.** And I understand that perhaps you may have also in
7 your conversations with Constable (sic) Arbour, did you give him
8 any further directions as to the approach that he should take
9 from that point?

10 **(10:08:04)**

11 **A.** I advised him that he should contact Shanna Desmond.
12 I forget where the information came to light, it might have been
13 in conversation with her but there was indication that there was
14 ... he had other firearms at her residence. And so I advised
15 Corporal Arbour to contact her and have those stored so Mr.
16 Desmond could not have access to them for the time being.

17 **Q.** Go ahead.

18 **A.** For the time being.

19 **Q.** And in terms of her residence, you understood that to
20 be in Nova Scotia?

21 **A.** Correct.

22 **Q.** And to your knowledge did Constable Arbour contact

CST. STEVEN RICHARD, Direct Examination

1 Shanna Desmond?

2 **A.** He did.

3 **Q.** Did you, at any point, get any conversation (sic) as
4 to whether or not she, in fact, did secure firearms in Nova
5 Scotia?

6 **A.** I was made aware that she did secure a firearm by
7 Corporal Arbour.

8 **Q.** If you could look at perhaps page 2 of the report.
9 Page 2, sorry. If you could scroll down, this is Constable
10 Arbour's report. I realize that you didn't make it but I know
11 you did speak to him. There's a reference in the last line, he
12 indicates: "I also told her to gather the other two firearms he
13 owns and secure them somehow. She said she will." There's a
14 reference to two other firearms. Are you able to indicate where
15 that information may have come from that there was more than one
16 in Nova Scotia?

17 **A.** I don't recall. I'm assuming it came from my
18 conversation with Shanna Desmond before I attended the residence
19 because that's the only point in time I ever talked to her but I
20 specifically ... I'm uncertain.

21 **Q.** During this process do you know if anyone ever seized
22 Lionel Desmond or inquired as to whether Lionel Desmond had a

CST. STEVEN RICHARD, Direct Examination

1 possession acquisition license? I guess you know what a
2 possession acquisition license is?

3 **A.** Yes. I knew he had a possession acquisition license
4 at the time he owned firearms.

5 **Q.** And my understanding is that's a card that you show
6 and display to purchase firearms or carry firearms?

7 **A.** Correct.

8 **Q.** Do you know if anyone ever seized that possession
9 acquisition License, the physical license, from Lionel Desmond?

10 **A.** I don't believe it was.

11 **Q.** And Officer ...

12 **A.** I did not.

13 **Q.** Okay. And, Officer, in the normal course of these
14 sort of circumstances, as a trained officer, when you're seizing
15 firearms, is that something officers do, as well, is they take
16 it a step further and seize the actual physical licence?

17 **A.** They can but we can also run queries to check on the
18 status of someone's firearms license. Kind of like a driver's
19 license, you have it on you but your license might still be
20 suspended. It goes the same for a firearms license. You can
21 just run a query and it will tell you if it's an active or
22 expired license.

CST. STEVEN RICHARD, Direct Examination

1 **Q.** So, typically, in your experience, and I know you
2 can't speak for all officers, but in your experience do you
3 typically see officers seize the physical license along with
4 firearms or, no, mostly just the firearms?

5 **A.** It's either/or. It's usually the firearms, and if
6 they have their card handy, we can seize it, as well. Some
7 people don't even know where their cards are. But it's ... the
8 main concern is seizing the firearm.

9 **Q.** And just, Officer, and I'm certainly not trying to
10 suggest that this had any impact in this particular scenario,
11 but can you maybe appreciate that it may be advisable to perhaps
12 seize that physical copy, that physical license?

13 **A.** Yeah, it could be.

14 **Q.** I guess in a scenario where you'd be suspended,
15 technically, by the Chief Firearms Officer, but can you see a
16 scenario where you're suspended in the computer database but you
17 flash your card to purchase a firearm?

18 **A.** I could see that.

19 **Q.** And perhaps that would be more reason to suggest
20 seizing the actual physical copy?

21 **A.** Correct.

22 **Q.** So, Officer, I'm going to ask you a little bit about

CST. STEVEN RICHARD, Direct Examination

1 the hospital. So do you recall, if you'd look at page 3 of the
2 report, just scroll down, do you recall the time you might have
3 left Desmond's residence for the hospital?

4 **A.** We left his residence at 22:56 hours and we arrived
5 at the hospital at 23:08 hours.

6 **Q.** So during the time of leaving the scene and arriving
7 at the hospital which is just, I believe, according to this,
8 12 minutes?

9 **A.** Yeah, approximately that.

10 **Q.** So in the 12 minutes of transport between Desmond's
11 residence and the hospital are you having any conversations with
12 him?

13 **A.** I don't recall if we did, and I usually try not to,
14 because it's just so difficult hearing someone speak behind the
15 divider.

16 **Q.** Was there anything notable about Lionel Desmond in
17 the police vehicle between his place and the hospital?

18 **A.** No, he was just sitting there.

19 **Q.** So you arrive at the hospital at 23:08. Do you know
20 when he is first seen by someone at the hospital?

21 **A.** Triage would have been around 23:20. That's when
22 triage would have finished and he was placed in a quiet room.

CST. STEVEN RICHARD, Direct Examination

1 **Q.** And in that 12 minutes between arrival and you talk
2 about admitted to triage, any conversations with Lionel Desmond
3 that you can recall?

4 **A.** Specifically, no.

5 **Q.** Anything notable about his demeanor or actions or ...

6 **A.** Like I said, from the moment I arrived at his
7 residence to bringing him home, his demeanor always stayed
8 exactly the same.

9 **Q.** And you indicated it stayed the same, so was there
10 ever any change in his demeanor the entire time you were with
11 him?

12 **A.** No.

13 **Q.** Did there appear to be any sort of change in his ...
14 the outward signs of his emotional state?

15 **A.** No.

16 **Q.** Or did there appear to be any sort of change in his
17 expression of what he was going through or dealing with?

18 **A.** None whatsoever.

19 **Q.** Do you recall approximately what time he was
20 ultimately assessed or seen by a doctor at the hospital?

21 **A.** At 1:10 a.m. he was assessed by the doctor.

22 **Q.** Were you present for the actual assessment?

CST. STEVEN RICHARD, Direct Examination

1 A. No, I, for privacy reasons, I stepped out of the
2 room.

3 Q. Do you recall how long this sort of assessment took?

4 A. Based on my notes it would be 20 minutes or less.

5 Q. Did you have, ultimately, a conversation ... Do you
6 recall the name of the doctor, I guess, that might have assessed
7 him?

8 A. Dr., I think it's pronounced Ginn.

9 Q. And did you have any sort of follow-up conversation
10 with Dr. Ginn as it relates to what's going on, what's the plan?

11 A. Due to privacy concerns and the **Privacy Act** usually
12 they only tell us if the person is being released or they're
13 being held under the **Mental Health Act**.

14 Q. And what did Dr. Ginn advise?

15 A. He advised me that Mr. Desmond was being released.

16 Q. During his being advised, you being advised that he
17 was released, do you recall any other sort of information that
18 might have been conveyed to Lionel Desmond while at the
19 hospital?

20 A. He was advised that someone was going to go get him a
21 card for Mobile Crisis if he needed someone to talk to. I
22 believe it was a nurse brought him the card, gave it to him, and

CST. STEVEN RICHARD, Direct Examination

1 then we were free to go.

2 Q. So when this card, you said a Mobile Crisis card, do
3 you remember what is that, what was it?

4 A. It's basically just a phone number that you can call
5 if you're having any type of crisis or need someone to speak to.
6 It's not really a suicide hotline but kind of down those effects
7 and they can help talk you through some things and advise you if
8 you need to be brought to a hospital or not. And if you have
9 concern for someone, they can also contact the police in regards
10 to a conversation they had with someone, if they were concerned
11 that the person they were talking to over the phone might need
12 to be brought before a physician to be assessed.

13 Q. Do you recall if that was explained to him at the
14 time at the hospital or was he just provided a card and, This is
15 the Mobile Crisis...

16 A. He was provided a card. I don't think they went into
17 great detail.

18 Q. Do you think perhaps it may have been beneficial to
19 him to have the content sort of explained?

20 A. It would have been, and it may have been, I just
21 don't recall.

22 Q. Okay. If you look at page 2 - and again this is,

CST. STEVEN RICHARD, Direct Examination

1 Constable Arbour's Report, but I just want to get your
2 understanding of it. If we look at the second last paragraph, I
3 guess it's one line, Constable Arbour indicates: "I contacted
4 the Mobile Crisis Unit. They will meet Constable Richard and
5 the individual at the hospital." You're with Lionel Desmond at
6 the hospital. Do you remember if there was a Mobile Crisis Unit
7 ...

8 **A.** If there would have been someone, it's usually just
9 one person and I don't recall specifically if they came to see
10 us or not.

11 **Q.** Is that something you would have perhaps remembered
12 if somebody was there? Would they normally introduce themselves
13 to you and say ...

14 **A.** Yes, they would have. I don't recall if that ever
15 took place.

16 **Q.** Okay. Do you recall, outside of yourself, the triage
17 nurse and, ultimately, the doctor, and then the nurse,
18 ultimately, that delivers the card, do you recall anyone else
19 interacting with Lionel Desmond during your time at the
20 hospital?

21 **(10:18:06)**

22 **A.** No, I do not.

CST. STEVEN RICHARD, Direct Examination

1 **Q.** And if that was the case, would that have normally
2 made it into your notes or report?

3 **A.** It could have. It depends on how ... It's not really
4 something that would have been significant but it's also
5 something that I may have written down. But just because it's
6 not there doesn't mean it didn't happen, I just don't recall.

7 **Q.** And who transported Lionel Desmond back to his
8 residence?

9 **A.** I did.

10 **Q.** And it was that particular morning, I guess?

11 **A.** Yeah, I dropped him off at ... I don't know it's
12 written there. So we left the hospital at 1:30, so by quarter
13 to 2 in the morning I would have been dropping him off,
14 approximately.

15 **Q.** Did you have any conversations with him while you
16 were driving back to his residence from the hospital?

17 **A.** I don't recall specifically.

18 **Q.** Did he express to you anything about what took place
19 at the hospital, if he had any concerns or issues?

20 **A.** No. The only thing is he thanked me for everything
21 once he got to his residence. Basically, I give him best wishes
22 and hope everything works out for him and he just carried on

CST. STEVEN RICHARD, Direct Examination

1 into his residence.

2 Q. Did he make any inquiries to you or discuss ... Was
3 he aware, I guess, that his firearm was seized from the
4 residence?

5 A. I believe so. I don't recall exactly when but
6 Corporal Arbour may have told him before we had left the
7 residence for the hospital, but I don't remember specifically at
8 that point in time if he knew.

9 Q. Do you remember if he made mention to you at all or
10 made any inquiries during this period of time about the status
11 of his firearm and if he could get it?

12 A. I don't recall.

13 Q. And again would that be something, if he did, if he
14 had made inquiries about his firearm during this period of time,
15 is that something, generally, that you would have noted in your
16 notes and report?

17 A. Possibly.

18 Q. And why would that be?

19 A. Just to document that he was looking for his
20 firearms.

21 Q. And would that normally have raised any concerns with
22 you?

CST. STEVEN RICHARD, Direct Examination

1 **A.** Specifically, not really. At no point in time did he
2 mention that he was going to use a firearm to commit any type of
3 offence towards someone else or himself. There was never a
4 mention of using it. The only mention that was said is he was
5 going into the garage where ... He never mentioned the firearm
6 was there. He just said he was going into the garage and that's
7 when Shanna Desmond related to me that he keeps his firearms in
8 the garage. But there was no mention ever that the firearm was
9 ever going to be used for anything.

10 **Q.** But just generally, in terms of your ultimate, you
11 know, you gather up all the information from all the sources and
12 then you kind of start to draw inferences from the information
13 you gather, is it fair to say that you understood this
14 occurrence to be, this is a man that was going to commit suicide
15 or he indicated it to his wife that he was going to?

16 **A.** Correct.

17 **Q.** And the inferences and understanding that you
18 gathered from the evidence in the garage, the firearm being
19 there, was that he perhaps was going to commit or indicate that
20 he was going to commit suicide by way of a firearm?

21 **A.** There was no indication that it was that but there
22 was still a probability that that could have taken place.

CST. STEVEN RICHARD, Direct Examination

1 **Q.** Okay.

2 **A.** Because the firearm was in that location.

3 **Q.** So after you dropped off Lionel Desmond ... You
4 indicated that you had spoke to Shanna Desmond before you
5 attended, gathered information. Did you, after you dropped him
6 off, and I realize it's an early morning hour, did you at any
7 point then reach out to Shanna Desmond to give her an update as
8 to what took place?

9 **A.** I know Corporal Arbour did, but I don't know at what
10 time he would have followed up with her because I had asked him
11 to.

12 **Q.** Okay. I'm going to ask you a little bit about the
13 process surrounding your interactions with the firearm that was
14 seized in New Brunswick. If we could turn to ... We're already
15 there. At the very bottom of page 4 of your report there's a
16 note that says SUI and a colon.

17 **A.** It stands for "still under investigation".

18 **Q.** So this note that you made, it says: "Update Firearms
19 Center on seized gun, return firearm."

20 **A.** Correct.

21 **Q.** So still under investigation, I'm assuming, means a
22 task yet to be completed?

CST. STEVEN RICHARD, Direct Examination

1 **A.** Correct.

2 **Q.** So what did you have left to do after this occurrence
3 and you dropped Lionel Desmond back off at his residence?

4 **A.** The only thing still outstanding was the status of
5 the firearm that was in our possession, so that's why I
6 indicated to update the Firearms Center in regards to the
7 firearm being seized, and the return firearm is in reference to
8 the process of returning the firearm. Is it going to go to Mr.
9 Desmond? Is it going to be seized and destroyed? It was still
10 pending.

11 **Q.** And I appreciate that it's sort of a quick, short
12 note.

13 **A.** Mmm.

14 **Q.** On its face where it says "return firearm", is that
15 you had already made a plan that he was going to get his firearm
16 back?

17 **A.** No. I could see how it could be perceived as that,
18 but it's just a point form as return firearm process, so is it
19 going to Mr. Desmond, is it going to be destroyed, based on the
20 firearms officer's investigation.

21 **Q.** And at the time what was your understanding of ...
22 You say: "Update Firearms Center on seized gun." What was your

CST. STEVEN RICHARD, Direct Examination

1 understanding of the role of the Firearms Center and what role
2 that was going to play in this?

3 **A.** Their role is to investigate matters like this and
4 they're the ones that determine if a person is fit to have an
5 active firearms license or could have it revoked or suspended
6 type of situation, so that comes from the firearms officer.

7 **Q.** And at any point, your understanding at the time,
8 were you prepared to return a firearm to Lionel Desmond before
9 hearing back from them?

10 **A.** No, never.

11 **THE COURT:** I'm sorry, could you ask that question
12 again.

13 **MR. RUSSELL:** I guess, so at any point at, during this
14 time when you make that entry, did you plan to ever return the
15 firearm to Lionel Desmond without consulting that Firearms
16 Center?

17 **A.** I never planned on returning the firearm until
18 hearing back from the firearms officer in reference to the
19 status of his firearms license.

20 **Q.** And we're going to get into the status of his
21 firearms license a little bit and so you sort of understand that
22 they become engaged and involved?

CST. STEVEN RICHARD, Direct Examination

1 **A.** Okay.

2 **Q.** I will get to that. If we could look to page 5 of
3 the report. So I guess the first entry you made where you said
4 you were going to engage the firearms office and do the follow-
5 up there was November 28 of 2015. Would you agree the next
6 entry in your report appears to be December 9th of 2015?

7 **A.** Correct.

8 **Q.** So approximately two weeks later. And then what do
9 you indicate you're going to do on December 9th?

10 **A.** That during my next day shift, that I would try to
11 make contact with the Firearms Center for feedback on returning
12 the firearms license ... on the process of returning Desmond's
13 firearm.

14 **Q.** So approximately two weeks had passed since you had
15 indicated that this is my plan, consult Firearms Center
16 regarding what's going to happen with the firearm, two weeks has
17 passed, and then you indicate I'm going to do it on my next day
18 shift.

19 **A.** Correct.

20 **Q.** Why the two-week period? Why the two-week wait
21 period, do you recall?

22 **A.** I don't recall. I could have been tied up on other

CST. STEVEN RICHARD, Direct Examination

1 occurrences, I could have been working night shifts, I could
2 have been on vacation, training, many factors.

3 Q. And, again, it's written in a way that sort of
4 contemplates process of returning Desmond's firearm.

5 A. Correct.

6 Q. Again, are you sort of ... The way that that's
7 written, it seems to imply that you're going to ... the plan is
8 I'm going to give him his firearm back. Was that the case?

9 A. No. It was looking for feedback on the process of
10 returning it, so was it, like I said a while earlier, Is it
11 going to be returned to him? Is it going to be seized and
12 destroyed, pending what the Chief Firearms Officer says?

13 Q. Okay. So just below it, the next log entry we see
14 from you, it says January 2nd of 2015. Now is it possible that
15 that should be January 2nd, 2016?

16 A. Correct, that's a typo.

17 Q. That's a typo. So between December 9th, 2015, we now
18 are at December (sic) 2nd, 2015, which is approximately a month
19 later, or a month and a half later since November, you have, you
20 indicate: "Writer has been unable to make contact with Firearms
21 Center as of yet."

22 **(10:28:00)**

CST. STEVEN RICHARD, Direct Examination

1 **A.** Correct.

2 **Q.** Had you tried to contact the Firearms Center or you
3 just hadn't done it at that point?

4 **A.** I don't recall. I believe I had tried, without
5 success, but I didn't write specifically every time I would try
6 to make contact.

7 **THE COURT:** Let me stop you just for a second, Mr.
8 Russell.

9 **MR. RUSSELL:** Yes, Your Honor.

10 **THE COURT:** Constable, when you talk about contacting
11 the Canadian Firearms Center, are you talking about the Canadian
12 Firearms Center itself as a specific place, a specific entity,
13 versus the Chief Firearms Officer's office, or is it the same
14 place, the same people?

15 **A.** Not the same place, same people, but it's all linked
16 one into another, I guess.

17 **THE COURT:** So when you contact the Canadian Firearms
18 Center, do you have some expectation that they would contact the
19 Chief Firearms Officer?

20 **A.** They actually had advised me at one point to contact
21 the Chief Firearms Officer for the Province, because they're the
22 ones that do the investigations in regards to the status of

CST. STEVEN RICHARD, Direct Examination

1 possession acquisition licenses.

2 **THE COURT:** Sorry, I just may have gotten ahead of your
3 evidence.

4 **A.** That's okay.

5 **THE COURT:** Mr. Russell?

6 **MR. RUSSELL:** So, Officer, I guess what exactly are you
7 looking for when you're saying I'm going to contact the Firearms
8 Center? What information are you waiting to get from them that
9 you need before you make the decision about the firearm?

10 **A.** Because from my experience I'm aware that during
11 these types of situations, that people's firearms license
12 usually gets suspended or pending a review, usually, an
13 investigation on behalf of the New Brunswick Chief Firearms
14 Officer for myself, as I'm in New Brunswick, and they review,
15 like, the person's status, if their firearms license should be
16 suspended, revoked, or if it should remain active, if it was
17 suspended to being reinstated as active. They're the ones that
18 take care of those types of investigations.

19 **Q.** So that's the information you're looking to see ...

20 **A.** Correct.

21 **Q.** ... is if it's under investigation of any sort?

22 **A.** Make sure it was under investigation and then

CST. STEVEN RICHARD, Direct Examination

1 determine, after the course of their investigation, what's going
2 to transpire, depending on their decision.

3 Q. So before we move forward and similar to something
4 His Honor had asked, your understanding of the office, I guess,
5 when you're saying Firearms Center in New Brunswick, do you
6 understand there may be multiple offices?

7 A. The actual Firearms Center, I believe there's one,
8 but then I know there's the provincial Chief Firearms Officer,
9 who works in part with the Firearms Center, has separate
10 offices, but where and how many I'm not aware.

11 Q. Okay. So you know that there's a provincial Chief
12 Firearms Office?

13 A. Correct.

14 Q. And you know that there's a Firearms...

15 A. Canadian Firearms Center.

16 Q. Canadian Firearms Center. Who are you reaching out to
17 during this period of time? Are you reaching out to the office
18 of the Chief Firearms Officer?

19 A. Specifically, I was looking for the provincial Chief
20 Firearms Officer, because I knew they are the ones that do the
21 investigations.

22 Q. Okay. So that's who you're trying to make contact

CST. STEVEN RICHARD, Direct Examination

1 with?

2 **A.** Correct.

3 **Q.** So, Officer, I guess, at this point, January 2nd,
4 2015, we're about a month and a half out since the occurrence.
5 In your mind at the time was there any particular urgency for
6 you to find out can Lionel Desmond possess firearms or acquire a
7 firearm?

8 **A.** There was no hurry because I knew his firearms were
9 in safekeeping, I knew I had one and that the ones in Nova
10 Scotia were taken away from his access.

11 **Q.** I guess in line with that, as well, though, however,
12 is you took the ones he had ...

13 **A.** Correct.

14 **Q.** But you didn't have knowledge as to whether or not
15 his ability to acquire another one could still be out there?

16 **A.** I don't recall if I knew the status of his license at
17 that point in time.

18 **Q.** Is it fair to say that you didn't because you're
19 asking actually for the information?

20 **A.** Say that again?

21 **Q.** Is it fair to say that you didn't know the status of
22 his ability to acquire a firearm because you're actually seeking

CST. STEVEN RICHARD, Direct Examination

1 that information?

2 **A.** Correct.

3 **Q.** At the bottom of this page 5 of the report, below the
4 entry you made about still waiting to make contact on January
5 2nd, there's a note in black, in sort of bold, and it looks to
6 be made ... is that made by a Corporal Hansen?

7 **A.** Yes, that would have been my supervisor at the time.

8 **Q.** So what note did the supervisor make on your file,
9 your police running note?

10 **A.** He indicated on January 5th, 2016, that he reviewed
11 the file and DD - that stands for diary date - so diary date.
12 "To speak with Firearms Officer, as it would not be advisable to
13 return this firearm to Desmond."

14 **Q.** Is this typical that you see the supervising officer
15 going into an investigating officer's reports and making notes
16 of tasks?

17 **A.** Correct. Usually, it's every two weeks. Every
18 investigation needs to be reviewed by a supervisor, and if they
19 have any types of comments or concerns they usually write it at
20 the end of your report, or in a separate sub-report type of
21 situation.

22 **Q.** Do you recall if you had any contact or conversation

CST. STEVEN RICHARD, Direct Examination

1 with Corporal Hansen regarding this firearms process?

2 **A.** I don't recall. I don't believe so.

3 **Q.** Is there any way ... Were you aware of that entry
4 being made at the time?

5 **A.** At the actual time, probably not, just whenever I was
6 back into that, when I would open that file to work on it again
7 I would have noticed it at some point but, specifically when, I
8 don't know.

9 **Q.** So I'm just trying to gauge ... So the supervisor
10 makes an entry, says it's not advisable for Lionel Desmond to
11 have a firearm or to return a firearm to Lionel Desmond, there's
12 a diary date set that the Firearms Officer has to be contacted,
13 it's made by a supervisor.

14 **A.** Mm-hmm.

15 **Q.** How is that information conveyed to you as the
16 investigating officer? Because you indicated you don't see it
17 until you may open the file?

18 **A.** Correct.

19 **Q.** Was there any process in place that says, Look, I
20 made an entry, I'm your supervisor and I made an entry on your
21 file, this needs to be followed up with? How is that conveyed
22 to you?

CST. STEVEN RICHARD, Direct Examination

1 **A.** Usually you're not made aware until you open it up
2 again, unless it's, if it's priorities that need to happen,
3 like, asap kind of situation, you might get an email saying that
4 such and such file, please review my comments type of situation.
5 But not in this case. It's whenever I would have opened up the
6 file again for to work on it that I would have noticed Corporal
7 Hansen's comments on the file.

8 **Q.** So you don't recall any sort of ...

9 **A.** I do not.

10 **Q.** So conceivably, had you not opened this file, you
11 wouldn't have been made aware that the supervisor was saying not
12 to return a firearm, a diary date has to be set for ...

13 **A.** Correct.

14 **Q.** Officer, I'm just going to ask you your understanding
15 of something that's referred to as a FIP or a Firearms Interest
16 to Police. What is your understanding of what a FIP or firearms
17 interest to police is?

18 **A.** As a frontline member like myself, I don't really
19 have any involvement with that. However, there's certain types
20 of occurrences or if a firearm is linked to a specific file, we
21 have a firearms liaison officer within the RCMP who somehow does
22 a query, these files come to his attention, where he usually

CST. STEVEN RICHARD, Direct Examination

1 writes a brief summary and sends it off to the Chief Firearms
2 Officer as an FYI, and then they decide if they want to, if
3 they're going to do an investigation of that part. But
4 personally, from my end, I don't have any involvement with that.

5 **Q.** So certainly correct me if there are any differences
6 between 2016 and today, but as the investigating officer would
7 you agree, and in this particular case you would agree that
8 perhaps you have the most information as it relates to the
9 person in question and the circumstances surrounding perhaps
10 whether or not the urgency of taking their firearm, is that
11 correct?

12 **A.** Correct.

13 **Q.** So in 2016 and today, do you have any input as to
14 whether a flag is put on a file, an RCMP file of any sort, that
15 says "not advisable for him to have firearms"?

16 **A.** There is such a flag.

17 **Q.** And what is that?

18 **A.** It's just a flag ... So as soon as we query the
19 person there would be an indication that there's a flag on the
20 person and that would be indicated. And that would come from
21 when our firearms liaison officer would do his review and flag
22 the file and then send off his assessment or his summary to the

CST. STEVEN RICHARD, Direct Examination

1 Firearms Officer. I'm not fully aware of how the exact way of
2 process transpires, I don't have a specific involvement on that
3 side of things.

4 **Q.** So is there any mechanism in which the investigating
5 officer who has the information in real life, in 3D, they
6 interact it, that they have an influence over whether a flag
7 gets put on a file or on a particular person?

8 **A.** Correct.

9 **Q.** Do they have ...

10 **A.** Correct, yeah, I could ... Basically, I can also
11 contact the liaison officer, who is, I believe, Sergeant Denis
12 Hachey. If there's any type of firearms related questions or
13 concerns, it would be relayed through him and then a decision
14 would be made if a flag should be put. Usually it's made in
15 correspondence with him, because he's basically, like, our
16 firearms expert in that aspect.

17 **(10:38:03)**

18 **Q.** And in this particular case you noted that you had
19 concerns about Lionel Desmond's re-acquisition of his firearms
20 or acquiring other firearms. Did you reach out to Constable
21 (sic) Hachey and say that you might need to look into this?

22 **A.** I did not, and I'm not sure what the timeframe - I'd

CST. STEVEN RICHARD, Direct Examination

1 have to look at his report - however, usually not too long after
2 an occurrence takes place that involves a firearm or such, a
3 report is added to the file from Hachey himself, from doing his
4 queries on how he comes about this information, but there was a
5 report put on my file from Hachey.

6 **Q.** So do you see any merit perhaps in - and I realize
7 you're busy and I understand it - but in circumstances where
8 there is such a liaison officer between RCMP and the Chief
9 Firearms Office, that there's any benefit in sort of immediately
10 you reaching out to that liaison officer and saying, Look, I had
11 this investigation yesterday or today, here's the information,
12 please look into it?

13 **A.** It was never brought up in this matter, and there was
14 never ... There was never a reason for urgency in this specific
15 situation, because, like I said before, there was never a
16 mention of a firearm being used. It was seized, basically, as
17 a precautionary measure at that point in time.

18 **Q.** I appreciate that there was never a mention that he
19 was going to actually use a firearm, but you would agree with me
20 that there was a real concern that he might?

21 **A.** There was a possible concern.

22 **Q.** And when there is a possible concern, would you agree

CST. STEVEN RICHARD, Direct Examination

1 with me that perhaps there's ... If there's a reason for you to
2 reach out to the Chief Firearms Office, would you say there's
3 equally a reason for you to reach out to Hachey, who's the
4 liaison officer?

5 **A.** Yes and no. Basically, reaching out to the Chief
6 Firearms Officer, myself, it was just basically bypassing
7 Hachey, who would have contacted them himself. I just wanted to
8 get in touch them to check on the status of his license because
9 I knew Mr. Hachey would be doing up his report and forwarding
10 it up to the provincial Firearms Officer.

11 **THE COURT:** Mr. Russell, excuse me. So Corporal Hachey,
12 he's physically located where, in the detachment office?

13 **A.** I believe it's Sergeant Hachey. I'm not sure.

14 **THE COURT:** Sorry.

15 **A.** No. He's ... I'm not even sure where he's located.
16 He's somewhere within the Province. We don't have physical
17 dealings with him.

18 **THE COURT:** You wouldn't ...

19 **A.** I ...

20 **THE COURT:** You wouldn't contact him directly? For
21 instance, in this instance where you're talking about a firearms
22 liaison officer, so he's liaison between a member such as

CST. STEVEN RICHARD, Direct Examination

1 yourself who's involved in investigations and creating reports
2 and collecting information. Does he review your reports just in
3 the normal course of business or is there something that you
4 direct to his attention so that he can review it and then report
5 on to the provincial Chief Firearms Officer? Is that how it
6 works?

7 **A.** Usually, he ... like I said, he does some form of
8 query within the system. I'm not sure exactly what the process
9 is. But certain type of files are flagged specifically,
10 especially if there's a firearms that's linked to our police
11 file.

12 **THE COURT:** Flagged by him or flagged by you?

13 **A.** It would be flagged ...

14 **THE COURT:** Or flagged by the system?

15 **A.** ... because there's ... if there's a firearm linked to
16 the ... if there's a firearm linked to an occurrence like this
17 one is specifically, he could query ... I don't know what ...
18 the type of queries he does, but it's flagged on his end showing
19 that there's a firearm attached to an occurrence. Because of
20 such, he will review that actual occurrence and make a decision
21 from there what's the process he's going to do. Sometimes if
22 it's a criminal investigation, he might add a report to the file

CST. STEVEN RICHARD, Direct Examination

1 indicating that such and such in charges should be recommended.
2 In this type of situation because they were seized for mental
3 health purposes, he wrote up a summary and sent it off to the
4 provincial Firearms Officer for review.

5 **THE COURT:** So his function is to review your files ...

6 **A.** Correct.

7 **THE COURT:** ... the RCMP files ...

8 **A.** Correct.

9 **THE COURT:** ... and then he makes the determination ...

10 **A.** Based on the circumstances.

11 **THE COURT:** He looks at it all and then he makes the
12 decision whether or not something should be referred to the
13 provincial Chief Firearms Officer ...

14 **A.** Correct.

15 **THE COURT:** ... for investigation or review or whatever
16 might happen there.

17 **A.** Correct.

18 **THE COURT:** All right. Thank you. Sorry, Mr. Russell.

19 **MR. RUSSELL:** If we can turn to page ten of the report ...
20 scroll down just a little bit. Officer, it would appear as
21 though the next entry you make is February 2nd, 2016.

22 **A.** Correct.

CST. STEVEN RICHARD, Direct Examination

1 **Q.** And what sort of task do you indicate has to take
2 place here?

3 **A.** To make checks that determine the status on Desmond's
4 firearms license.

5 **Q.** And "still under investigation", indicates what?

6 **A.** Still under investigation, to confirm the status of
7 his possession acquisition license and to deal with the firearm
8 as in is it being returned, is it being seized and destroyed.

9 **Q.** So, Officer, we're now approximately three months out
10 since the occurrence.

11 **A.** Correct.

12 **Q.** And at this point ... I guess two-and-a-half months,
13 we'll say, a little over ... or two months three weeks, are you
14 in possession of knowledge of whether or not Lionel Desmond can
15 possess a firearm at this point?

16 **A.** Specifically, I'm not ... I don't recall. I don't
17 recall if I spoke with anyone at that point. There's no
18 indication that I had.

19 **Q.** Are you making any attempts, do you recall, in that
20 two-and-a-half or two- and three-week period to contact Chief
21 Firearms Office to see if you can get that information?

22 **A.** Yes. I do recall ... I don't remember specifically

CST. STEVEN RICHARD, Direct Examination

1 how many attempts, but I did have a hard time getting ahold of
2 someone just because people weren't available or I was working
3 night shift or away type of situations. It wasn't before
4 February 8 that I made contact with someone.

5 Q. And, Officer, typically when you have a situation such
6 as this and you're reaching out to the Chief Firearms Officer's
7 office in New Brunswick, this was 2016, is this typical that
8 there's quite the delay between you actually making contact as
9 the investigating officer with somebody from the Firearms
10 Office?

11 A. It's common. It depends on the type of situation, but
12 it's not something that's unheard of.

13 Q. So it's common perhaps for an over-two-month period
14 before you get any information?

15 A. Correct.

16 Q. And I realize ... but it is relevant to sort of ask
17 the questions and I realize it didn't occur here, but can you
18 envision a scenario where you are looking to see whether or not
19 the person of interest has the ability to acquire firearms?
20 That's correct?

21 A. Correct.

22 Q. Do you have any concerns with respect to perhaps the

CST. STEVEN RICHARD, Direct Examination

1 delay, from an investigator's standpoint, that somebody that you
2 dealt with two-and-a-half months ago could maybe have a valid
3 license still and go out and acquire another firearm?

4 **A.** It could have been a possibility if his license wasn't
5 under review.

6 **Q.** So do you have any concerns with respect to ... from
7 an investigator's standpoint, the delay in getting provided with
8 that relevant information?

9 **A.** For this specific situation, no, because there was no
10 mention ever of a firearm being used for anything.

11 **Q.** I appreciate that. But, in general, do you have any
12 concerns that the delay may be an issue or concern?

13 **A.** It could be, but not in this specific situation.

14 **Q.** Okay. In terms of finding out whether or not somebody
15 has a valid possession acquisition license ... I'm assuming
16 that's what a "PAL" is?

17 **A.** Correct.

18 **Q.** And this is the actual license that somebody can use
19 to acquire a firearm?

20 **A.** Correct.

21 **Q.** As an RCMP officer in 2016 and today, is there any way
22 that you could have someone of interest, for whatever reason,

CST. STEVEN RICHARD, Direct Examination

1 that you can go on a system as an investigator to see whether or
2 not somebody has a valid possession acquisition license?

3 **A.** I can do a query based on a person to determine the
4 status of his firearms license, correct, through the Canadian
5 Firearms Centre.

6 **Q.** Okay. So you can do a query yourself through the
7 Canadian Firearms Centre and what information can you get on
8 your own?

9 **A.** It'll definitely tell me if it's active or expired.

10 **Q.** Will that system that you have access to tell you
11 whether or not a license is under review or why it's under
12 review?

13 **A.** I believe so.

14 **Q.** So my question is, I guess, during this process you
15 seemed to be waiting to get information from the Chief Firearms
16 Officer. Could you have gotten that information on your own?

17 **A.** Like I said, there's more than likely a delay because
18 from our aspect it goes through the Chief Firearms Officer. The
19 Chief Firearms Officer, once he puts it under review or if he
20 determines it's reinstated, he would make contact with the
21 Firearms Centre. So me specifically going to the Canadian
22 Firearms Centre, it still could have been an investigation being

CST. STEVEN RICHARD, Direct Examination

1 completed by the Chief Firearms Officer. Because even if it was
2 active at that end, it could have been still under
3 investigation.

4 **(10:48:15)**

5 **Q.** Okay.

6 **A.** It's not updated in the system correctly.

7 **Q.** Yeah. I'm just trying to get an understanding of ...

8 **A.** Yes.

9 **Q.** ... this ...

10 **A.** It's pretty ...

11 **Q.** ... why ...

12 **A.** ... accurate but there could be a reason that I ...
13 you could still query someone and it might say it's accurate
14 when, in fact, it's in the process of being reviewed. It just
15 hasn't been updated yet. But that ...

16 **THE COURT:** If it had been ...

17 **A.** When it ...

18 **THE COURT:** If it's under review on the date that you
19 check, it would show that it was under review. But it wouldn't
20 show you if it had subsequently ... would not necessarily show
21 you that it was now under review as a result of these events?

22 **A.** That's the thing. I don't know if it would

CST. STEVEN RICHARD, Direct Examination

1 automatically ... it would be a good question for the Chief
2 Firearms Officer. Because I don't know, when he decides
3 something is under review, is it automatically uploaded into the
4 system? I have no idea.

5 **MR. RUSSELL:** So I guess ... I take it ...

6 **THE COURT:** Thank you.

7 **MR. RUSSELL:** ... from your evidence that you have some
8 concern with respect to if you did a search yourself to have
9 access to the Canadian Firearms Centre, what they indicate what
10 their status is, that it may not always be accurate because ...

11 **A.** Correct.

12 **Q.** Because the Chief Firearms Officer in the Province may
13 be doing an investigation that you don't know about.

14 **A.** Correct. And because there was a mental health
15 involvement, I knew that there was going to be an investigation
16 taking place based on the New Brunswick Chief Firearms Officer,
17 based on the circumstances, to determine if he was basically
18 mentally fit to have an active firearms license.

19 **Q.** Do you see any benefit in perhaps you having access to
20 the system as it relates to the Chief Firearms Office so you
21 could go on there and see what, if anything, they're doing as it
22 relates to an individual's ability to possess firearms?

CST. STEVEN RICHARD, Direct Examination

1 **A.** It would be beneficial and, like I said, maybe as soon
2 as he puts it under review it's automatically updated in our
3 system, but I'm not aware ... that will be a question for the
4 Firearms Officer. But if that's the case, if there is a slight
5 delay, it would be beneficial to have the information directly
6 from the Chief Firearms Officer from the province.

7 **Q.** And in your understanding, can you get the information
8 from the Chief Firearms Office database without reaching out to
9 them to provide the information?

10 **A.** I cannot. That's why I had to complete an affidavit
11 to request that information from them.

12 **Q.** Okay. And page 11, if we could zoom in at the top,
13 there's an entry from February 8th of 2016. What takes place on
14 February 8, 2016?

15 **A.** That's the day I was able to make contact with the
16 Chief Firearms Officer's office and I spoke to one of the
17 secretaries, Lise, who informed me that the Firearms Officer
18 that was working out of that office was currently away. But she
19 advised me that I needed to complete an affidavit request to get
20 information on the status of Mr. Desmond's license, so she
21 forwarded me the document to fill out, which was an affidavit
22 request.

CST. STEVEN RICHARD, Direct Examination

1 **Q.** So during the period of time that you're trying to
2 reach out to the Chief Firearms Office in New Brunswick for
3 information about Lionel Desmond's possession acquisition
4 license, did you know that you had to complete a request for
5 affidavit form?

6 **A.** This was the first time I ever had to do that.

7 **Q.** Okay. But had anyone ever told you that up until this
8 point?

9 **A.** No.

10 **Q.** And at that point, how many years had you been an
11 officer?

12 **A.** Since '08. Seven-and-a-half years-ish.

13 **Q.** So you received this form, I guess, at some point.

14 **A.** I believe she emailed it to me, possibly.

15 **Q.** If we could look at Exhibit 37, page 7. We could zoom
16 in maybe just a little bit. Do you recognize this document?

17 **A.** Yes, I do.

18 **Q.** And what is it?

19 **A.** That is the affidavit request form that was forwarded
20 to me by the Provincial Firearms Office to fill out to get the
21 affidavit with the information in regards to the status of his
22 firearms license.

CST. STEVEN RICHARD, Direct Examination

1 **Q.** Okay. If we could scroll down? A bit more. And we
2 see a signature. Is that your signature?

3 **A.** Correct.

4 **Q.** And we see a date of February 12th, 2016.

5 **A.** Correct.

6 **Q.** Is that the date you filled out the request for the
7 affidavit?

8 **A.** That's the date I filled it out and it was sent back
9 to them on the 12th of February.

10 **Q.** And "back to them", you mean sent to who?

11 **A.** The provincial Firearms Office.

12 **Q.** If we could scroll up to the top of that form ... up
13 further. And I realize that this isn't a form that is under
14 your control. This is a form you were provided with to get
15 access to information.

16 **A.** Correct.

17 **Q.** But there's a line there that says ... the third line
18 down from the top it reads, "The Chief Firearms Office may only
19 release information regarding New Brunswick residents." What do
20 you understand that to mean?

21 **A.** That the information that they're going to provide me
22 is only ... they can only release information in regards to

CST. STEVEN RICHARD, Direct Examination

1 someone that resides in the Province of New Brunswick.

2 Q. And your understanding ... and I realize it's not this
3 particular case, but the information and how you gain access to
4 it is important. If somebody was from Ontario and you, as an
5 investigator, needed to find out whether or not they had a valid
6 possession acquisition license or whether it was under review,
7 who do you contact?

8 A. I would have contacted either the provincial or the
9 Canadian Firearms Centre itself to see who I should contact in
10 regards to this.

11 Q. So you wouldn't have known.

12 A. In the end, it's all linked to the Canadian Firearms
13 Centre, but there's different branches as in like New Brunswick
14 provincial Firearms Officer.

15 Q. So what would your ...

16 A. More than ... I contacted the Canadian Firearms Centre
17 or the provincial office to see who I should contact; if it's
18 not them, then who. And they would have that contact
19 information for me.

20 Q. So you would contact New Brunswick to then find out
21 who you contact.

22 A. Who I should contact. Correct.

CST. STEVEN RICHARD, Direct Examination

1 **Q.** If we could look to Exhibit 83 and page 11. So we see
2 an entry, February 20th of 2016. What takes place at this
3 point?

4 **A.** That's the date I received the affidavit from the
5 Chief Firearms Officer indicating that Lionel Desmond's firearms
6 license was currently under review pending an investigation and
7 that I was going to follow up with them in relation to this
8 review.

9 **Q.** So if we could turn to Exhibit 37, page 9? And do you
10 recognize this affidavit?

11 **A.** Yes, I do.

12 **Q.** And what is the affidavit?

13 **A.** That is the affidavit that I received after filling
14 out that request from the Provincial Firearms Officer.

15 **Q.** If we could scroll down. And you agree it's dated
16 February 15th, 2016?

17 **A.** Correct.

18 **Q.** So, Officer, we're approximately three months between
19 occurrence and ultimately receiving the answer to your question.

20 **A.** Correct.

21 **Q.** And your question was what?

22 **A.** What was going to be the status of his license after

CST. STEVEN RICHARD, Direct Examination

1 an investigation. Because I knew an investigation was going to
2 take place. I just wanted to see what the outcome was going to
3 be, to determine what I would do with the firearm.

4 Q. And at this point, you're on the understanding that
5 what's taking place?

6 A. A review from the provincial Chief Firearms Officer.

7 Q. Officer, I'm going to ask you a similar question to
8 what I'd asked earlier. Does it typically take three months for
9 an investigator to reach out to the Chief Firearms Officer in
10 the province with a straightforward question of, What's the
11 status of his firearms license? Does it typically take three
12 months to get that answer?

13 A. It could take a week, it could take three months. It
14 just ... it all depends on the circumstances, if they're
15 available, if I'm available, shifts.

16 Q. Based on the information you had, were you aware of
17 whether or not Nova Scotia might have had their own review being
18 conducted?

19 A. I wasn't aware.

20 Q. Did it cross your mind as to whether or not they were?

21 A. It never did because I was made aware that ... I was
22 made ... full intentions aware that Mr. Desmond was a resident

CST. STEVEN RICHARD, Direct Examination

1 of New Brunswick at the time.

2 **Q.** I'm going to ask you sort of a broad question, as
3 well. This process where you are trying to contact the Chief
4 Firearms Office and you're asked to fill out a form and you send
5 in the form and you get the affidavit, sometimes as in this case
6 it takes upwards of three months, do you see that as any sort of
7 barrier from an investigative standpoint?

8 **(10:58:09)**

9 **A.** Yeah, it is.

10 **Q.** And what sort of barrier does that cause you, as an
11 investigator with the RCMP?

12 **A.** It would be nice to be able to just do a quick query
13 on our system or a quick phone call and find out the status on
14 one's firearms license instead of going through this process.

15 **Q.** If we could turn to page 11 of Exhibit 83? And we're
16 now ... there's an entry by you on February 26, 2016.

17 **A.** Correct.

18 **Q.** So what's happening on February 26, 2016?

19 **A.** I contacted the Firearms Officer's Office to determine
20 the status of the license and that's when I spoke to the
21 secretary, who is Lysa Rossignol. She informed me that the
22 investigation had been turned over to the Chief Firearms

CST. STEVEN RICHARD, Direct Examination

1 Officer, Joe Roper, and to follow up with him in a few weeks
2 pending his investigation on the status of the license.

3 Q. So February 26, is this the first time you're given
4 the name of the person that's conducting the firearms review?

5 A. Correct.

6 Q. You indicated earlier that Cst. Hachey, one of his
7 roles was to summarize the officer's ... in this case, your
8 report and relay that on ... this was 2016, relay that on to the
9 Firearms Office?

10 A. Correct.

11 Q. And your understanding ... have you seen those types
12 of reports before?

13 A. Yes.

14 Q. And they're summaries. Correct?

15 A. Correct.

16 Q. And by "summary", do they contain all the information
17 in an RCMP file?

18 A. No, just the important pertaining information usually.

19 Q. In your experience as an RCMP officer, has the
20 Firearms Officer conducting an investigation on behalf of the
21 Chief Firearms Office ever reached out and contacted you for
22 your input as the investigating officer?

CST. STEVEN RICHARD, Direct Examination

1 **A.** This specifically or in general?

2 **Q.** In general.

3 **A.** I don't believe ever.

4 **Q.** And in this particular case, did the Firearms Officer
5 Roper ever reach out to you as the investigating officer for
6 your perhaps insight or information as it relates to doing a
7 review of Lionel Desmond's license?

8 **A.** To me personally, no.

9 **Q.** Do you see any benefit in, as an investigating
10 officer, the one that's on the scene, the one that interacts
11 with the accused, the one that completes the file usually ...

12 **A.** Correct.

13 **Q.** ... do you see any benefit in you having an
14 opportunity to speak directly with the Firearms Officer that's
15 conducting the review?

16 **A.** Completely, yes.

17 **Q.** And why is it beneficial?

18 **A.** Just to discuss all the information at hand, what took
19 place, what transpired. Not just in this case. I'm speaking in
20 general. For any type of occurrence that they're doing an
21 investigation on, it should be relaying to the lead investigator
22 in regards to that matter.

CST. STEVEN RICHARD, Direct Examination

1 **Q.** Do you think that may be more beneficial than having
2 somebody summarize everything you did and then put it over to
3 the officer?

4 **A.** I believe, initially, the summary is fine just to make
5 them aware, but part of their investigation, it would be
6 beneficial for them to follow up with the police.

7 **Q.** So you indicated that you personally have never been
8 contacted by a firearms officer conducting a review of someone
9 ...

10 **A.** I have not.

11 **Q.** ... when you're the investigator. Are you aware of
12 any other officers you worked with and I appreciate some you
13 might not know about, obviously, but are you aware of any
14 examples where the Chief Firearms Officer or the firearms
15 officer in the office has ever reached out to the investigator?

16 **A.** I am not.

17 **Q.** If we could turn to page 12. If we can scroll down
18 just a little bit. So previous to this part of your report, the
19 last entry was February 26, 2016 where you're advised that
20 Officer Roper is in the process of reviewing or doing the
21 investigation in terms of his license. There's an entry now
22 from May 12, 2016 and there appears to be maybe correspondence

CST. STEVEN RICHARD, Direct Examination

1 between you and Firearms Officer Roper.

2 **A.** Correct.

3 **Q.** What's happening here?

4 **A.** I don't remember exactly what I would have messaged
5 him but I'm assuming I sent him an email because that would be a
6 reply copy/paste from an email in regards to finding out the
7 status of his investigation, and that was his reply where it
8 starts with, "Hi, Steve ..."

9 **Q.** Okay. What does he say took place?

10 **A.** He says:

11 Hi Steve. Mr. Desmond has submitted medical
12 information from his physician who has
13 advised he is now not a threat to himself or
14 others. As a result, his firearms license
15 was reinstated. He can now possess
16 firearms. If you require anything else, you
17 can give me a call at (and he gives his
18 phone numbers and says) Thanks. Joe.

19 And it's signed Joe Roper.

20 **Q.** So there's an indication that a medical information
21 was provided by his physician and Desmond wasn't a threat to
22 himself or others. Was that ever shared with you as an

CST. STEVEN RICHARD, Direct Examination

1 investigating officer?

2 **A.** That's all that was shared with me is that message.

3 **Q.** So you didn't know what that medical form had said?

4 **A.** No, I ...

5 **Q.** And you indicated previously that you were never asked
6 for your input in this ...

7 **A.** I was not.

8 **Q.** And I note, as well, did Officer Roper reach out to
9 you to tell you this or did you reach out to him to get that
10 information?

11 **A.** He never reached out to me. I'm the one that reached
12 out to him and that's the only correspondence I had with him.

13 **Q.** And so you finally, I guess, get your final answer, is
14 it fair to say, May 12, 2016?

15 **A.** Correct.

16 **Q.** And that's approximately six months after the
17 occurrence.

18 **A.** Correct.

19 **Q.** Just have one moment, Your Honour.

20 **EXHIBIT P-00085 - EMAILS FROM NB FIREARMS OFFICER J. ROPER - MAY**

21 **12, 2016**

22 If we could turn to Exhibit 85? If we could zoom in.

CST. STEVEN RICHARD, Direct Examination

1 Scroll down to probably the bottom third of the page. Okay. We
2 can leave it there. There was a reference to emails that were
3 exchanged back and forth or messages between you and Officer
4 Roper. Do you recognize this?

5 **A.** Yeah. It looks like it would have been the emails.

6 **Q.** And it appears as though the email is ... there's one
7 at the very bottom dated May 11, 2016 at 2:21.

8 **A.** Correct. That's when I would have been reaching out
9 to him to determine the status of the investigation.

10 **Q.** And then there's a reply, May 12, 2016 at 10:08 a.m.

11 **A.** Correct. And that's the copy/paste that's in my
12 report.

13 **Q.** And is that when his reply was sent?

14 **A.** Correct.

15 **Q.** In terms of Mr. Desmond's firearm that was seized in
16 New Brunswick, do you have knowledge as to whether or not that
17 was ultimately returned?

18 **A.** It was. It was either on May 12th or May 13th.

19 **Q.** And do you recall who did the return?

20 **A.** Our exhibit custodian, Derek Lingley, who ... he takes
21 care of all exhibits seized from us.

22 **Q.** If we could look to Exhibit 83, page 12? Sorry.

CST. STEVEN RICHARD, Direct Examination

1 Exhibit 37, page 2 and 3. So page three. Sorry. So this
2 document says, "Property Disposal Receipt". What is that?

3 **A.** That's when an exhibit is returned or destroyed.

4 **(11:08:03)**

5 **Q.** And we see a signature there that says "Lionel
6 Desmond".

7 **A.** Correct.

8 **Q.** And there's a description of a rifle that was returned
9 and it's dated May 13, 2016.

10 **A.** Correct.

11 **Q.** Was this the firearm that was seized from Lionel
12 Desmond in November?

13 **A.** Correct.

14 **Q.** So, Officer, I realize that you have a role as an
15 officer who investigates crimes and circumstances surrounding
16 mental health and the public interest ultimately. And I realize
17 that that interacts with the roles and duty of the Chief
18 Firearms Officer and you often work hand in hand.

19 **A.** Correct.

20 **Q.** But do you understand sort of, as an RCMP officer,
21 your duty remains in the public interest and the safety and
22 security of everyone that you interact with?

CST. STEVEN RICHARD, Direct Examination

1 **A.** Correct.

2 **Q.** Separate and apart.

3 **A.** Correct.

4 **Q.** Are you aware of ... and, I apologize, I don't have it
5 in front of you. There's a section in the **Criminal Code** that
6 allows officers to make applications directly to Provincial
7 Court to seize firearms and request prohibition orders. Are you
8 familiar with that?

9 **A.** Correct.

10 **Q.** And are you familiar with the process that if an
11 officer is of the view that it's not ... the words are
12 "desirable in the interest of the safety of the person or
13 others", you can make that application?

14 **A.** Correct.

15 **Q.** Have you ever made those applications in the past?

16 **A.** Correct. I have, yes.

17 **Q.** You have?

18 **A.** Yes.

19 **Q.** And what sort of scenarios did you make those
20 applications?

21 **A.** Many, but specifically like a domestic situation where
22 a mention of a firearm was being used or situations where

CST. STEVEN RICHARD, Direct Examination

1 firearms were used in the commission of an offence type of
2 situations.

3 Q. And you realize that this process can be initiated
4 separate and apart from whatever the Firearms Office is doing in
5 the province.

6 A. Yes, correct.

7 Q. So it sort of leaves it in your hands to ...

8 A. For that process, yes.

9 Q. For that process. In this particular case, you
10 understood that Lionel Desmond had some mental health issues.

11 A. Correct.

12 Q. And, in particular, he admitted he had depression,
13 post-traumatic stress disorder.

14 A. Mm-hmm.

15 Q. Yes?

16 A. Correct, yes.

17 Q. You understood that he had spent a period of time in
18 the military.

19 A. Correct.

20 Q. You understood that his wife had been concerned about
21 him.

22 A. Mm-hmm.

CST. STEVEN RICHARD, Direct Examination

1 Q. Yes?

2 A. Yes.

3 Q. You understood that the relationship, to your
4 knowledge, wasn't perfect in the sense that there were some
5 issues that were sort of lingering between the two of them.

6 A. Correct.

7 Q. And you had an understanding that he highly suggested
8 he was going to commit suicide.

9 A. On that day, yes.

10 Q. Yes. Was there a particular reason why you decided
11 not to go the route of Section 111 of the **Criminal Code** where it
12 may not be desirable and in the interests of the safety of
13 Lionel Desmond or others to possess a firearm and seek a
14 prohibition order perhaps that way.

15 A. Like I said before, based on the circumstances, there
16 was never mention of a firearm being used, to me from Desmond
17 himself, from speaking to Shanna Desmond. There was never
18 mention of a firearm being used, nor threats of a firearm ever
19 being used. There was just indications that we have a potential
20 suicidal person who is going to a room where the firearm is
21 being stored but there was never a mention, at any point in
22 time, that a firearm was going to be used.

CST. STEVEN RICHARD, Direct Examination

1 So, specifically, I had no concerns to complete a
2 prohibition order. I thought the review from the Chief Firearms
3 Officer was sufficient based on the circumstances.

4 **Q.** So is it your understanding or your position that in
5 order to make one of these applications, you have to have
6 somebody that's making specific reference directly to using a
7 firearm?

8 **A.** Specifics, I'd had to review in the **Criminal Code**, but
9 based on the totality of the information I had at the time, I
10 had no concerns pending to review with the firearms officer.

11 **Q.** Did you ever turn your mind to making such an
12 application when you were waiting approximately three months to
13 get the answer from the Firearms Office in New Brunswick?

14 **A.** No, there was not. And I knew at that point that the
15 firearms that he possessed, I had either in my possession or
16 someone else had in their safe keeping.

17 **Q.** Officer, as an RCMP officer, you have access to
18 something called "PROS"?

19 **A.** Correct.

20 **Q.** And PROS is a database where RCMP investigations or
21 response calls, they get uploaded into a system.

22 **A.** Correct. And that's where we write our reports and

CST. STEVEN RICHARD, Direct Examination

1 all other occurrences are on there except for the Province of
2 British Columbia.

3 Q. And can you access reports made by RCMP officers in
4 another province?

5 A. Yes, I can. If it's on PROS, except for British
6 Columbia, and I think there's one or two places in Nova Scotia,
7 in the Halifax region, that don't use PROS, but everywhere else
8 in Canada, we do for RCMP.

9 Q. In November 27th of 2015, the date you responded to
10 the threat of suicide, I'm going to call it, by Lionel Desmond
11 ... you take him to the hospital.

12 A. Yes.

13 Q. Were you aware that approximately 11 days previous,
14 that there had been an occurrence in Nova Scotia where Shanna
15 Desmond had contacted the RCMP?

16 A. Yes, I was aware, and that they had followed up with
17 Mr. Desmond, and in the end of the investigation that I believe
18 there was no concerns and he wasn't arrested or brought to be
19 assessed.

20 Q. So did you have access to that RCMP report that
21 occurred in Nova Scotia approximately ten days before your
22 encounter?

CST. STEVEN RICHARD, Direct Examination

1 **A.** Yes, I would have.

2 **Q.** And what do you recall of that particular report or
3 occurrence that happened in Nova Scotia?

4 **A.** The only thing I remember is there was mental health
5 concerns and that police attended, and after speaking to all
6 parties involved, including Lionel Desmond, that there was no
7 concerns for him to be brought before a physician at that time.

8 **Q.** Were you aware that Shanna Desmond had conveyed
9 information to the RCMP in Nova Scotia at that time that she
10 reported Lionel Desmond had been manic throughout the day off
11 and on? Do you recall that?

12 **A.** I don't recall.

13 **Q.** But if it was in the report, you would've seen it?

14 **A.** Correct.

15 **Q.** And do you recall her saying that she's unsure of, but
16 he could be a risk to himself or others?

17 **A.** If it was in the report, yes.

18 **Q.** Officer, armed with that information as well, you have
19 two occurrences, did you ever consider perhaps that there's
20 enough information here that it's not desirable or in the public
21 interest for Lionel Desmond to possess firearms, enough for you
22 to go to court and make such an application?

CST. STEVEN RICHARD, Direct Examination

1 **A.** No. I found that the process through the provincial
2 Firearms Officer was sufficient based on these circumstances
3 because I knew he was going to do a full review of his status in
4 regards to mental health and police involvement and et cetera on
5 his aspect.

6 **Q.** Thank you.

7 **A.** That's what ... okay.

8 **Q.** No further questions, Your Honour.

9 **THE COURT:** Ms. Ward?

10 **MS. WARD:** Your Honour, could we defer our questioning of
11 this witness to the end?

12 **THE COURT:** Yes. Mr. Anderson?

13 **MR. ANDERSON:** No questions, Your Honour.

14 **THE COURT:** Okay. Mr. Macdonald?

15 **MR. MACDONALD:** No questions, Your Honour.

16 **THE COURT:** And I know that Ms. Whitehead is here for
17 Mr. Rogers. Ms. Whitehead?

18 **MS. WHITEHEAD:** No questions, Your Honour.

19 **THE COURT:** Thank you. Ms. Miller?

20 **MS. MILLER:** Your Honour, I do have a few questions. I'm
21 wondering if we can just take a short break and I'll be concise,
22 then, in my questions.

CST. STEVEN RICHARD, Direct Examination

1 **THE COURT:** Absolutely. So let's take a break.
2 Constable, just so we keep it formal, you're under oath. You
3 know the rule with respect to ...

4 **A.** Yes.

5 **THE COURT:** ... when in the middle of your testimony
6 then. Thank you.

7 We'll adjourn for 15 minutes or thereabouts then. Thank
8 you.

9 **COURT RECESSED (11:17 HRS)**

10 **COURT RESUMED (11:39 HRS)**

11 **THE COURT:** Ms. Miller?

12

13 **CROSS-EXAMINATION BY MS. MILLER**

14

15 **MS. MILLER:** Thank you, Your Honour. Constable Richard,
16 my name is Tara Miller. I represent Brenda Desmond through her
17 personal representative and also Aaliyah Desmond, Corporal
18 Desmond's daughter. I share representation of her with my
19 friend Mr. Macdonald.

20 You shared with us your involvement in the November 27,
21 2015 occurrence that took place in Oromocto that you were
22 involved in, the call to Corporal Desmond's residence, your

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 interaction with Shanna Desmond. I understand and we appreciate
2 that Shanna was in Nova Scotia calling to alert RCMP in New
3 Brunswick ...

4 **A.** Correct.

5 **Q.** ... about what was going on with Corporal Desmond in
6 New Brunswick. Your evidence earlier this morning was that you
7 understood that the couple had a rocky relationship, you
8 understood that they were somewhat together, in your words that
9 the relationship was not the healthiest?

10 **A.** Correct.

11 **Q.** Is that fair?

12 **A.** Correct.

13 **Q.** You also understood that there was at least a gun ...

14 **A.** Yes.

15 **Q.** ... in the residence where Corporal Desmond was
16 staying and you came to find out that there were other guns in
17 the Nova Scotia home as well, correct?

18 **A.** Correct.

19 **Q.** If Shanna Desmond and Aaliyah Desmond had been
20 resident with Lionel Desmond in Oromocto when you went there
21 that day, I appreciate they weren't but if they were, would you
22 have done anything different in terms of your investigation and

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 how you handled things, specifically with respect to addressing
2 domestic violence?

3 **A.** I don't believe so.

4 **Q.** Would you have had any concerns for the safety of
5 Shanna Desmond and Aaliyah Desmond given your knowledge that
6 there was a rocky relationship, the relationship was not the
7 healthiest, he had PTSD, depression, and that he was making
8 threats to himself, at least himself with the presence of guns?

9 **A.** Correct. There was no indication that there was any
10 type of domestic violence whatsoever. There was no mention on
11 her part or his part.

12 **Q.** Okay. So the fact that the family was not actually
13 physically resident ...

14 **A.** It didn't change anything.

15 **Q.** ... in the home didn't impact ...

16 **A.** No, it did not.

17 **Q.** ... and in hindsight you're saying it wouldn't have
18 impacted what you would have done?

19 **A.** Correct.

20 **Q.** Okay. My understanding is that your seizure of his
21 gun, at least on November 28th, was triggered by your assessment
22 that there was a valid reason to arrest Lionel under the **Mental**

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 **Health Act** as he was an imminent threat to himself?

2 **A.** Correct.

3 **Q.** Okay. And that's what triggered your seizure of the
4 gun on that day?

5 **A.** Correct.

6 **Q.** And also triggered the seizure of his guns in Nova
7 Scotia?

8 **A.** Correct.

9 **Q.** Okay. You seized his guns and my friend, Mr. Russell,
10 covered with you that you didn't seize his firearm licence ...

11 **A.** No.

12 **Q.** ... his possession to acquire a firearm?

13 **A.** I did not, no.

14 **Q.** Okay. And is there any reason why you wouldn't have
15 done that?

16 **A.** To be honest, I don't recall if he had one on him or
17 if we even asked him about it. The main concern was to seize
18 the actual firearms on scene.

19 **Q.** Fair enough. But if you seize someone's firearms,
20 they go to the hospital, they're released, it's entirely
21 conceivable that the very next day they can go to the store and
22 buy another gun or on a subsequent date with the firearms

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 possession licence?

2 **A.** Possibly, correct.

3 **Q.** Is it ever, in your experience as an RCMP officer, has
4 there ever been a situation where you've had a similar call to
5 go to someone's home but you make the determination, I'm not
6 going to do an arrest under the **Mental Health Act**, there's no
7 imminent harm and yet you still seize firearms?

8 **A.** I can't think of any specific situations. It's
9 usually a situation like this or a criminal investigation.

10 **Q.** So is the seizure of the firearms triggered by the
11 arrest under the **Mental Health Act**?

12 **A.** Correct.

13 **Q.** Okay. Your evidence was that from your perspective,
14 initiating the complaint, if I will, on to the Canadian Firearms
15 Center was something that was going to be done by Sergeant
16 Hachey?

17 **A.** Correct.

18 **Q.** He was your firearms liaison, he was the RCMP firearms
19 liaison officer, correct?

20 **A.** Correct.

21 **Q.** Okay. You were asked briefly about what this firearm
22 of interest to police, the FIP, what does that mean to you when

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 you see that on a file?

2 **A.** That it's been flagged in regards to the person's
3 involvement in relation to firearms.

4 **Q.** Okay. And who's flagged it?

5 **A.** Specifically I'm not 100 percent sure. I believe it's
6 Sergeant Hachey but specifically and specifically for this
7 situation, I'm not sure.

8 **Q.** Okay.

9 **A.** It is not myself.

10 **Q.** It's not you ...

11 **A.** No.

12 **Q.** ... that creates this flag ...

13 **A.** No.

14 **Q.** ... this FIP on the occurrence file? So just for
15 clarity, when we look at Exhibit 83 at page three, when we look
16 in the top box, RCMP/GRC/J which I understand is the New
17 Brunswick division, shows when it's printed. It says occurrence
18 under the **Mental Health Act**, other activities, and then we see
19 FIP. So is that ... was that FIP flagged as of the date of the
20 call, Constable Richard, or do you have a sense of when that
21 would have been entered?

22 **A.** I do not know.

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 **Q.** Okay. But as I read this report it looks like it was
2 flagged as a firearm of interest to police?

3 **A.** Eventually, yes.

4 **Q.** From early on?

5 **A.** Correct.

6 **Q.** Could have been as early as November 27th?

7 **A.** Possibly. The exact date I'm not aware.

8 **Q.** And once that FIP is flagged or the person's
9 involvement in firearms is flagged, what's your understanding of
10 what happens then with the "system", the larger system?

11 **A.** I know that the liaison officer, Mr. Hachey, gets
12 involved. He reviews the occurrence, he writes up a summary and
13 forwards it off to the provincial Firearms Officer's office for
14 them pending their review.

15 **Q.** Okay. So is it Sergeant Hachey that flags the file
16 with the FIP or is it somebody else who does that?

17 **A.** I'm not certain.

18 **Q.** But either way, once he gets involved ...

19 **A.** It gets flagged and then it goes to them from Mr.
20 Hachey.

21 **Q.** Okay. And perhaps the FIP is what flags it for
22 Sergeant Hachey?

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 **A.** Possibly, possibly.

2 **Q.** Okay. And then he actions it on further to the
3 Canadian Firearms Center?

4 **A.** Yes, basically an FYI, this is an occurrence that took
5 place in our jurisdiction and here's information for your guys'
6 involvement, process, investigation purposes.

7 **Q.** It would trigger their involvement?

8 **A.** Yes, correct.

9 **Q.** To your understanding?

10 **A.** Correct.

11 **Q.** And so the Canadian Firearms Center is a national
12 body?

13 **A.** Correct.

14 **Q.** But it is actioned at least in New Brunswick by a
15 provincial Firearms Officer?

16 **A.** Correct.

17 **Q.** Okay. My friend, Mr. Russell, took you through the
18 timing and the steps that you took and the dates and whatnot but
19 if we look at page 5 of your ... sorry, if we look at page 4 of
20 your initial report from November 27/November 28, your intention
21 at that point was to update the Firearms Center on a seized gun?

22 **A.** Correct.

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 **Q.** Okay. And then if we look at page 5, November 9th,
2 this again you're in the process of contacting Canadian Firearms
3 Center for feedback on the process of returning Corporal
4 Desmond's firearm?

5 **A.** Correct.

6 **Q.** So this is a bit of theoretical question but as I
7 understand your evidence, it wasn't until February that you were
8 given the information from the Firearms Center that you had to
9 fill out a request for an affidavit?

10 **A.** Correct.

11 **Q.** Okay. But assuming that you had known that on
12 December 12th, okay, let's assume you knew that and you had
13 filed that request for information on December 12th, I'm going
14 to get you to look at another exhibit, Constable Richard. If we
15 can go to Exhibit 37 and this is page 9 of that exhibit which is
16 the affidavit that ultimately you received back in February. Do
17 you see that?

18 **A.** Yes.

19 **Q.** So again my scenario is that assuming that on December
20 9th you have sent the request for this affidavit and then let's
21 assume you get it. As I read paragraph 6 of this affidavit, the
22 information that you're looking for is that Corporal Desmond's

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 firearm licence was placed under review pending an investigation
2 on December 29, 2015?

3 **A.** Correct.

4 **Q.** So is it possible that had you asked for that
5 information early in December and they responded in a timely
6 fashion within a day or two, you would not have been able to
7 capture whether or not this matter was under investigation.
8 Based on this affidavit it looks like it didn't get placed under
9 investigation until December 29th.

10 **A.** If I would have been in contact with them I'm assuming
11 that would have triggered an investigation at that point
12 whenever I would have made contact with them.

13 **Q.** Okay. So you had not made contact with them until
14 February ...

15 **(11:49:00)**

16 **A.** Correct.

17 **Q.** ... but we know from this affidavit that an
18 investigation had been started on December 29th?

19 **A.** Correct.

20 **Q.** Okay. So that investigation would have been
21 presumably triggered by somebody else's inquiries?

22 **A.** Correct. If I remember correctly, in the file was a

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 report from Hachey and it was in December as well that he would
2 have did up his report.

3 Q. Okay. But you'll agree with me that based on the
4 information you got in February, Corporal Desmond's licence was
5 not placed under review until December 29th?

6 A. Correct.

7 Q. Thank you. And as I read this affidavit, I don't see
8 any information which says what his licence is under review for.
9 It doesn't reference your occurrence, is that fair to say?

10 A. Correct.

11 Q. So you have no idea, you assume it could have been
12 your occurrence but you don't actually know based on this?

13 A. Specifically no, I don't not.

14 Q. And there's no way for you to check in any kind of
15 database or system for cross reference?

16 A. That's all I can get from them is that document there.

17 Q. Okay. You were asked earlier if you were aware of the
18 earlier occurrence involving Corporal Desmond in Nova Scotia on
19 November 18, 2015?

20 A. Correct.

21 Q. And you said you would have been because that
22 information would have been entered in the RCMP database called

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 PROS?

2 **A.** Correct.

3 **Q.** You said something that tweaked my interest. You said
4 all ... I think you said all RCMP information is entered into
5 PROS with the exception of the entire Province of British
6 Columbia?

7 **A.** And certain places in Nova Scotia but specifically
8 where in Nova Scotia I'm not aware.

9 **Q.** Okay.

10 **A.** I think it's in Halifax Region possibly, don't quote
11 me on that but ...

12 **Q.** Okay.

13 **A.** ... definitely British Columbia.

14 **Q.** So if you're looking for information or any RCMP
15 officer's looking for information in this national RCMP database
16 called PROS, you're not going to see anything from BC and you're
17 not going to see things from certain regions of Nova Scotia?

18 **A.** If I'm only using PROS, that's correct.

19 **Q.** Right. And where would you go if you're looking to
20 cover BC and the other regions of Nova Scotia?

21 **A.** There's another search you can do within PROS, it's
22 called a PIP search, the actual words that it stands for I

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 forget offhand. I can do queries for any other province as well
2 and if there's an occurrence related to a person it will give me
3 like a brief summary of it and if I require further information,
4 usually you have to get ahold of that actual agency itself, but
5 under your typical query it will not come up.

6 Q. So it's another layer ...

7 A. Another layer.

8 Q. ... for you to dig into?

9 A. Correct.

10 Q. Another person that you have to contact even when you
11 do get into it?

12 A. Correct.

13 Q. Within the RCMP?

14 A. It's not readily available to me.

15 **THE COURT:** I'm sorry, Ms. Miller, what's the acronym,
16 PIP?

17 A. Yeah, I think, something information portal, police
18 information portal, I believe.

19 **THE COURT:** Is it P-I-P?

20 A. Yes.

21 **THE COURT:** Thank you. Sorry, thank you.

22 **MS. MILLER:** And do you know if municipal policing

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 agencies, so for example the Halifax Regional Police Department,
2 do they upload information to PROS?

3 **A.** I would need to do a PIP search.

4 **Q.** You would find that information through the PIP
5 search?

6 **A.** Correct. So specifically in my area since I police
7 the territory next to Fredericton City Police, it's often we
8 have to do PIP searches to see if there's any occurrences a
9 kilometer away from the situation because their jurisdiction is
10 there and they use a different system ...

11 **Q.** Right.

12 **A.** ... so just my typical query it would not come up
13 unless I did a PIP search.

14 **Q.** And when you do a PROS search or a PIP search, how are
15 you searching, are you searching by an occurrence number or are
16 you searching by an individual's name?

17 **A.** PIP usually says specifically an individual's name and
18 date of birth.

19 **Q.** And in PROS what are you searching for?

20 **A.** I can search telephone numbers, names, occurrences,
21 addresses.

22 **Q.** Okay. So after your involvement with Corporal Desmond

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 in Oromocto on November 27th/28th, did you ever go back into
2 PROS and/or PIP and do any more recent searches as you continued
3 to work on Corporal Desmond's file and the issue with access to
4 firearms and his firearm licence, did you ever go back in and
5 search again?

6 **A.** No, I don't recall if I did or not.

7 **Q.** You told us that you were aware of the November 18th
8 occurrence and we see information relating to that at Exhibit 31
9 of our materials and Exhibit 32 and as well Exhibit 33. We'll
10 have those brought up for you.

11 **THE COURT:** Which one would you like first, Ms. Miller?

12 **MS. MILLER:** Yeah, let's start with Exhibit 33, Your
13 Honour.

14 **EXHIBIT P-000033 - TWO-PAGE REPORT PAST OCCURRENCE, NOVEMBER 18,**
15 **2015**

16 **Q.** And this as I understand it is a general report which
17 would have been entered into PROS by the officers involved in
18 the November 18th Nova Scotia mental health check, is that what
19 you understand when you take a look at this document?

20 **A.** Correct.

21 **Q.** And is this the document or one of the documents that
22 you would have reviewed when you searched through PROS?

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 **A.** I don't recall if I read all the reports but basically
2 when you open a file there's a summary, a capturing of what took
3 place and based on reading that summary, if it touches on
4 everything that I'm looking for, I may not need to dig deeper
5 into the file on a piece-by-piece basis. This specific file I
6 don't remember if I read the whole file or if I just read the
7 summary.

8 **Q.** Okay. So I'm going to get us to go to Exhibit 31 and
9 you had just indicated that there was a bunch of information but
10 you'd start with your current summary?

11 **A.** Correct, which would be that blurb at the bottom where
12 it says "Summary" on this document.

13 **Q.** Okay. So Exhibit 31 is titled "Occurrence Summary"
14 and you're referencing at the very bottom of the page under
15 Summary?

16 **A.** Correct.

17 **Q.** Would you have read the entire document or just the
18 summary itself?

19 **A.** The summary itself. When we look at it in the system
20 it doesn't exactly look like this for the layout. There's
21 different tabs for like officers involved, vehicles, individual
22 persons involved, there's all different tabs but under the main

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 occurrence tab I would see that, the occurrence type and the
2 summary and the dates that it would have taken place so that
3 summary would be on the main page.

4 **Q.** So would you also have seen that this is flagged as a
5 firearm of interest to police as well?

6 **A.** On the main page I may not have.

7 **Q.** That information may not have been available to you on
8 the main page that you would have looked at?

9 **A.** Yeah, specifically I can't say for sure ...

10 **Q.** Okay.

11 **A.** ... I'd have to see it again in person.

12 **Q.** So were you aware, Constable Richard, that this
13 November 18, 2015 Nova Scotia occurrence had triggered an
14 investigation into Corporal Desmond's firearm through the Nova
15 Scotia ...

16 **A.** No, I was not aware.

17 **Q.** ... Chief Firearms Officer system. And I asked you
18 earlier if after your involvement with Corporal Desmond on
19 November 27th/28th, if you had done any further review and
20 search of PROS and/or PIP to see if there had been any updates
21 and you said you don't recall?

22 **A.** I don't recall if I did or not.

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 **Q.** We know that there were further occurrences,
2 specifically two on the same day, November 28th, the morning you
3 would have dropped Corporal Desmond off. We know that there
4 were two occurrences recorded on November 28th, one when
5 Corporal Desmond traveled to Nova Scotia.

6 **A.** I recall that one. There was a situation where he, I
7 believe it was the day after my occurrence or one or two days
8 after, there was some kind of argument with I believe Shanna's
9 father, that he was looking for his firearms that were taken.

10 **Q.** Yes, that was one of the occurrences.

11 **A.** Okay.

12 **Q.** There was an earlier occurrence or at least, I
13 apologize, if we mischaracterized, but there was another
14 occurrence on that same day where Lionel himself had actually
15 called the police to complain that Shanna had taken his gun.
16 Were you aware of that complaint that was lodged with the Nova
17 Scotia ...

18 **A.** I wasn't specifically aware if it was two separate
19 ones but I was aware that he had went there looking for his
20 firearms.

21 **Q.** Okay. So when you had contact last with him in
22 Oromocto on November 27/early November 28, you bring him home,

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 he's released from the hospital, you say his demeanor hasn't
2 changed the entire time, he had an understanding that his guns
3 had been confiscated. We then know within 24 hours he's
4 traveled to Nova Scotia, he has called the police on his wife to
5 complain about her seizing guns. You knew that that ... did you
6 tell him that his guns in Nova Scotia were going to be
7 confiscated as well?

8 **A.** I don't recall.

9 **Q.** So he's gone from Oromocto to Nova Scotia to seek out
10 guns whether he knew or not that the RCMP had directed Shanna to
11 secure them. Is that a red flag for you after this incident
12 where you had arrested him under the **Mental Health Act**, would
13 this have been a red flag for you?

14 **A.** I don't know if he specifically traveled ... there's
15 no reason to believe that he specifically traveled there looking
16 for firearms as far as I'm aware and as a police officer with
17 limited experience, not just in firearms but in any type of
18 domestic relationship type of situation, if any type of
19 belongings whatsoever is taken, this is a typical type of
20 outcome, people get angry, frustrated when someone takes their
21 belongings that belong to their possession.

22 **Q.** Right.

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 **A.** Not just firearms in general.

2 **Q.** But you knew from your interaction with Corporal
3 Desmond the day before that his gun was seized ...

4 **A.** Correct.

5 **Q.** ... because he was deemed to be an imminent threat to
6 himself. I appreciate that you didn't make an assessment to
7 others but you knew that the day before, correct?

8 **A.** Correct.

9 **(11:58:58)**

10 **Q.** And you know that the day that he was released from
11 hospital that you dropped him off at 1:45 in the morning, he
12 makes his way back to Nova Scotia and gets into an altercation
13 with his wife specifically about what she's done with his guns
14 and was that ...

15 **A.** I'm not aware if there was an altercation between the
16 two.

17 **Q.** A verbal altercation ...

18 **A.** Okay.

19 **Q.** ... for certain and then we also know that on that
20 same day, Shanna's father called the police to advise of
21 Corporal Desmond ...

22 **A.** That I'm aware of, yes.

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 Q. ... yes, that's the one you had referred to earlier?

2 A. Yes.

3 Q. So there are two occurrences recorded with the police
4 the day that you bring him home, the day that he's released from
5 the hospital. Is there any ... are you aware of that, following
6 up on the status of his guns?

7 A. I don't know at what point I was made aware of that.

8 Q. Okay.

9 A. I don't think it was that day, it could have been
10 weeks or so, specifically I'm not sure.

11 Q. You don't know when ...

12 A. No, I'm not.

13 Q. ... you became aware of that? And is it your evidence
14 that knowing of these two occurrences as you do now and the
15 verbal altercations at least that occurred, the calls to the
16 RCMP, would those have been a red flag for you to perhaps
17 initiate filing the prohibition motion under Section 111 of the
18 **Criminal Code**?

19 A. No, because like I said, based on my entire dealings
20 with Shanna and Lionel, there was never mention of a threats of
21 firearms whatsoever and I do recall, now that we're mentioning
22 it, speaking to him at the hospital, we did talk about hunting

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 at one point and that he had mentioned that he would like to
2 have his firearms for hunting because I remember I didn't speak
3 to him specifically but I remember at one point in time he had
4 called the office because the secretary had informed me that Mr.
5 Desmond was looking for, it was like a month after the incident,
6 he was looking for his firearms because he wanted to go hunting
7 at one point.

8 **MS. MILLER:** Okay. All right, those are my questions.
9 Thank you very much, Constable Richard.

10 **THE COURT:** I might just add, at some point in time, Mr.
11 Russell, it seems to me that when the RCMP dealt with Mr.
12 Desmond back in Nova Scotia following having the argument that
13 he had with his wife over that firearm, did he not mention to
14 the officer who attended for that investigation that he was back
15 in Nova Scotia and he was planning on doing some hunting?

16 **MR. RUSSELL:** He did mention that, Your Honour. That did
17 come up in the conversation.

18 **THE COURT:** As well?

19 **MR. RUSSELL:** Yes, it did.

20 **THE COURT:** That would seem to be somewhat consistent
21 with what he may have said to Constable Richard?

22 **MR. RUSSELL:** Yes, Your Honour.

CST. STEVEN RICHARD, Cross-Examination by Ms. Miller

1 **THE COURT:** Or followed up with a query about his
2 firearms for hunting as well.

3 **MR. RUSSELL:** Correct.

4 **THE COURT:** I take it that evidence would come from?

5 **MR. RUSSELL:** Constable Len MacDonald, Your Honour, I
6 believe.

7 **THE COURT:** Constable MacDonald, all right. My
8 understanding we might have Constable MacDonald perhaps
9 tomorrow?

10 **MR. RUSSELL:** That's the plan, Your Honour, yes.

11 **THE COURT:** That's the plan. All right, so that would
12 be a follow-up for Ms. Miller as well, I guess, at that time so
13 thank you. Mr. Rodgers.

14

15 **CROSS-EXAMINATION BY MR. RODGERS**

16 **(12:02:15)**

17 **MR. RODGERS:** Thank you, Your Honour. Constable Richard,
18 Adam Rodgers, and I'm representing Corporal Desmond through his
19 personal representative. I have a few questions for you.

20 Just following up on a question that my friend Ms. Miller
21 asked about his licence, Corporal Desmond's licence had not been
22 placed under review until December 29th of 2015 and so that's

CST. STEVEN RICHARD, Cross-Examination by Mr. Rodgers

1 approximately just over a month after the incident was reported.
2 So would it be your understanding that Corporal Desmond would be
3 able to go and purchase a firearm at that point where his
4 licence wasn't under review for approximately a month after the
5 incident?

6 **A.** I believe so. I believe it was active at the moment I
7 dealt with him until then.

8 **Q.** Okay. I want to bring you back in to the night of the
9 27th and your attendance at Corporal Desmond's residence. You
10 said he was there by himself and you attended, I think, around
11 20 after 10 or so and you were with Corporal Desmond then for
12 the next several hours?

13 **A.** Correct.

14 **Q.** Can you maybe elaborate, Constable Richard, on what
15 kind of things, you know, you were talking to him for a few
16 hours, what kind of topics you covered, what was he interested
17 in, was it talking about RCMP things, military experiences, what
18 was he talking about?

19 **A.** Hard to remember everything, it was just general
20 conversation between us. He talked about having a daughter,
21 talked about going into the military and losing some friends
22 over there, how difficult it was but he didn't go into specific

CST. STEVEN RICHARD, Cross-Examination by Mr. Rodgers

1 details of things he'd dealt with in the military. I remember
2 at one point he did mention that he had interest at some point
3 in his life of becoming a police officer but it was just general
4 conversation.

5 Q. In your experience now, just on that, in 11 years of
6 being an RCMP officer, have you seen former military personnel
7 join the RCMP and have you served with any?

8 A. Several.

9 Q. It seems like it wouldn't be an uncommon path?

10 A. No, it's not.

11 Q. So he was interested in that and questioning maybe,
12 What do you do every day and What's the job like, that sort of
13 thing?

14 A. Exactly.

15 Q. Okay. Do you think perhaps he appreciated the
16 opportunity to talk to somebody?

17 A. You could tell he did, he was a very friendly person.
18 He's the type of person I would talk to in public on a normal
19 day, he was just a nice guy to talk to. His demeanor was
20 normal, you could tell he was like down and sad a bit but he was
21 very friendly.

22 Q. Did you have any sense that perhaps this was unusual

CST. STEVEN RICHARD, Cross-Examination by Mr. Rodgers

1 for him, that maybe he wasn't having an opportunity to just
2 socialize with other people? Did he mention anything of that
3 nature?

4 **A.** No.

5 **Q.** Okay. So you've described how you interacted at his
6 home, you drove him, just the two of you in the vehicle to the
7 hospital, and then there was a period of time of approximately
8 about two hours where he was triaged and then he was waiting to
9 see Dr. Ginn or waiting to see somebody?

10 **A.** Yes.

11 **Q.** And you were still with him during that time?

12 **A.** Correct.

13 **Q.** Okay. Was it just the two of you? I know there was
14 other officers involved but were there other people around as
15 well?

16 **A.** I know at one point in that evening I had an auxiliary
17 member with me but I don't recall if he was at the hospital or
18 not.

19 **Q.** Okay.

20 **A.** It was definitely me and Desmond most of the time,
21 just the two of us.

22 **Q.** I'll ask you, you weren't in the room with Corporal

CST. STEVEN RICHARD, Cross-Examination by Mr. Rodgers

1 Desmond and Dr. Ginn during their interaction?

2 **A.** I was not.

3 **Q.** Did Dr. Ginn ask you any questions, your opinion, what
4 happened, what brought him here, any introductory kind of
5 inquiries?

6 **A.** In this specific situation I don't recall. I recall
7 usually what happens is when we bring someone to the hospital,
8 we give all that information to the triage nurse. If the doctor
9 has any further questions they ask us before assessing the
10 person but I don't recall if Dr. Ginn asked me any questions.

11 **Q.** And judging by your notes, it appears that the
12 assessment lasted about 20 minutes or less, is that correct?

13 **A.** Yeah, that's typical.

14 **Q.** That's typical, okay. That was my next question. Is
15 that unusual, it seems like not very long to assess somebody
16 that's ...

17 **A.** No, it depends on the circumstances. It's usually
18 that's what takes place and if the doctor had believed the
19 person needs to be seen by a psychiatrist, they'll tell us that
20 a psychiatrist is going to come see that person, then the
21 psychiatrist would come and do that assessment if the doctor
22 basically didn't want to do the assessment or there was some

CST. STEVEN RICHARD, Cross-Examination by Mr. Rodgers

1 uncertainty, he would bring in a psychiatrist but it's not
2 uncommon for the physician to do the entire assessment on his
3 own and give us the answer based on if they're going to be held
4 or if they're going to be released.

5 **Q.** Okay. When you say not unusual, can you give us a
6 sense in maybe over the course of a month how often you bring
7 somebody to the hospital under mental health circumstances?

8 **A.** It varies. Me specifically or just in general because
9 working in Oromocto, policing the largest or one of the largest
10 military bases in Canada, we deal with a lot of active and
11 discharged or retired military personnel. We have a large
12 number of mental health complaints. I would say it's not
13 specifically bring to the hospital but on a daily occurrence
14 there's some form of mental health-related occurrences, not
15 always military but it's a daily occurrence almost that we would
16 deal with mental health.

17 **Q.** Well, in Oromocto and as you say, there's a large
18 community there of active and retired or combat personnel on
19 medical leave as well?

20 **A.** Correct.

21 **Q.** In your experience, and this isn't specific to
22 Corporal Desmond, but is it often the case that these

CST. STEVEN RICHARD, Cross-Examination by Mr. Rodgers

1 individuals are living on their own? What's the common
2 complaint, I guess? What's the common circumstance?

3 **A.** Like the common circumstance as to why we're being
4 called there?

5 **(12:09:02)**

6 **Q.** Yes.

7 **A.** It's usually someone calling on their behalf or
8 themselves that they're in a state where they're a danger to
9 themself or others, that they're suicidal, or some form of
10 domestic violence situations usually, something along those
11 lines.

12 **Q.** Okay. And often you would end up taking the person to
13 the hospital to be assessed?

14 **A.** Depending on the circumstances.

15 **Q.** You make that judgement call yourself?

16 **A.** Correct.

17 **Q.** Did Corporal Desmond or do you recall whether Corporal
18 Desmond spoke to you on the way back to his place about what the
19 doctor said, what their interaction was like?

20 **A.** I don't believe he did.

21 **Q.** Now, Constable Richard, you gave your evidence on the
22 complexities and the delays involved in getting information from

CST. STEVEN RICHARD, Cross-Examination by Mr. Rodgers

1 Firearms in that situation. Could you compare that to us, say,
2 for example, to doing a criminal record check on somebody?

3 **A.** Mm-hmm.

4 **Q.** How complicated or simple is that?

5 **A.** I can input your name and date of birth and your sex
6 into a system and I could have your criminal record instantly.

7 **Q.** Yeah. Just like that.

8 Okay, thank you, Cst. Richard. Those are all my questions.

9 **A.** Thank you.

10 **THE COURT:** Mr. Hayne?

11 **MR. HAYNE:** No questions, Your Honour.

12 **THE COURT:** Thank you. Ms. Ward?

13

14 **CROSS-EXAMINATION BY MS. GRANT**

15 **(12:11:35)**

16 **MS. GRANT:** Thank you, Your Honour. Cst. Richard, my
17 name is Melissa Grant and I represent the Attorney General of
18 Canada.

19 Just to clarify about the FIP issue that we've kind of
20 discussed a little bit this morning, and I know it's not your
21 area of expertise, but is this something that sort of goes, to
22 your understanding, goes on behind the scenes? That you're not

CST. STEVEN RICHARD, Cross-Examination by Ms. Grant

1 involved in actually making a FIP?

2 **A.** I believe so.

3 **Q.** And would you have anything to contradict or clarify
4 if I were to say that certain occurrence codes are what generate
5 the FIP?

6 **A.** I believe so but I can't say for certain.

7 **Q.** Okay. And just to clarify what, to your mind, is an
8 occurrence code?

9 **A.** However you score the occurrence. So we score
10 occurrences ... as in this case, it's scored as a **Mental Health**
11 **Act**, so it's based on what happened. So we score it as an
12 assault, uttering threats, criminal harassment. Whatever the
13 case may be.

14 **Q.** And then when you say "score", like, does that mean
15 you have a certain number of options that you can code a file?

16 **A.** Correct.

17 **Q.** Okay. And then you'd have to choose one of those that
18 you think is best suited?

19 **A.** Best suited for that situation.

20 **Q.** Okay. So would it be your understanding that
21 irrespective of whether you reached out to the Firearms Centre
22 or officer, that they would receive knowledge of this file?

CST. STEVEN RICHARD, Cross-Examination by Ms. Grant

1 **A.** Correct.

2 **Q.** I appreciate sometimes it takes a while, we've
3 discussed, to get information from the firearms Office, but ...

4 **THE COURT:** I'm sorry. I'm going to stop you Ms. Grant.
5 Can you back ...

6 **MS. GRANT:** Okay.

7 **THE COURT:** You asked the question ... I missed
8 something. So you asked him whether or not it was his
9 understanding whether he reached out or not that the firearms
10 liaison officer or the Chief Firearms Officer?

11 **MS GRANT:** The Firearms Centre or the Firearms Officer.
12 That the purpose of the FIP is to auto-generate that.

13 **THE COURT:** Okay. So when you talk about "Firearms
14 Centre", you're talking about the Canadian Firearms Centre
15 versus the CFO versus the firearms liaison officer? Because I
16 think we're talking about three separate entities here.

17 **MS. GRANT:** Yeah. Sorry. And my question was sort of
18 directed to Cst. Richard. So what his understanding would be
19 that if there was a FIP on a file that ...

20 **THE COURT:** You said, "whether he reached out or not".
21 So can we ask the question this way? "Whether you reached out
22 to anyone or not and that a file generates a FIP, do you know

CST. STEVEN RICHARD, Cross-Examination by Ms. Grant

1 who it goes to?"

2 **A.** I know at that point that Sgt. Hachey, the liaison
3 officer, does his report and forwards it off to the firearms
4 officer.

5 **THE COURT:** Okay.

6 **A.** That's all I know.

7 **THE COURT:** Otherwise, do you know how a FIP would get to
8 the CFO's office?

9 **A.** I do not.

10 **THE COURT:** Or what the process is within the CFO's office
11 to ...

12 **A.** I believe that's the only way, but I could be wrong.

13 **THE COURT:** Okay.

14 **MS. GRANT:** Thank you.

15 **THE COURT:** I'm sorry to interrupt, Ms. Grant. I just
16 wanted to clarify it in my own mind which entity he was talking
17 about, so thank you.

18 **MS. GRANT:** Thank you, Your Honour.

19 So appreciating that sometimes it takes awhile to get
20 information, but you have no control over how long it takes a
21 CFO to conduct an investigation. Correct?

22 **A.** Correct.

CST. STEVEN RICHARD, Cross-Examination by Ms. Grant

1 **Q.** Okay. And in this particular case, a firearm would
2 not have been returned to Lionel Desmond until and unless you
3 had received the okay from the CFO. Correct?

4 **A.** Correct.

5 **Q.** Are you aware that firearms officers are supposed to
6 be checking validity of a PAL acquisition license before selling
7 a firearm?

8 **A.** Correct.

9 **Q.** Okay. And that there's a "1-800" number associated
10 with that.

11 **A.** Correct.

12 **Q.** And my friend, Mr. Russell, explored with you the
13 potential benefits of having access to more information for the
14 CFO. Are you aware that the CFO currently does have access to
15 PROS?

16 **A.** I do not know what he has access to.

17 **Q.** Okay, thank you. Those are my questions. Thank you.

18

19

EXAMINATION BY THE COURT

20 **(12:16:06)**

21 **THE COURT:** You were just asked a question about a
22 vendor checking the validity of a license by calling a "1-800"

CST. STEVEN RICHARD, Examination by the Court

1 number. Are you aware of such a process?

2 **A.** The actual process that they ... I know they contact
3 someone. Specifically where ... It's kind of like, example -
4 if I pull you over and you have a driver's license on you, that
5 doesn't mean it's valid. I have to do a query on my end to
6 confirm validation. When selling a firearm, you need to confirm
7 if a license is active or not. The actual process or who they
8 contact, that I do not know.

9 **Q.** And your knowledge of that comes from the **Act** or a
10 regulation or where does that come from?

11 **A.** Just from I'm aware myself from purchasing firearms on
12 my own.

13 **Q.** Okay. Does anyone else have any questions? I have a
14 couple that I might ask Cst. Richard.

15 Mr. Russell, do you have anything further?

16 **MR. RUSSELL:** Nothing, Your Honour.

17 **THE COURT:** All right, thank you.

18 When you query on CPIC, there was a time, as I understand
19 it, when there was a Canadian Firearms Registry. All firearms
20 were registered there, including non-restricted firearms. Long
21 guns, for instance.

22 **A.** Correct.

CST. STEVEN RICHARD, Examination by the Court

1 **Q.** Okay. When you did your CPIC, did CPIC automatically
2 check the Firearms Registry to see if there was firearms
3 registered to an individual?

4 **A.** Usually, those queries, it's done through our
5 dispatch, so we contact them, give them the name and date of
6 birth and they do the query and they'll let you know the status
7 and if they have anything registered to them. But, currently,
8 through the Canadian Firearms Centre, it's only restricted
9 firearms that are tracked.

10 **Q.** So when you call in for a check, would they also do a
11 check through the Canadian Firearms Centre automatically ...

12 **A.** If I ... only ...

13 **Q.** ... without you requesting it?

14 **A.** Some may, but it's not a guarantee.

15 **Q.** All right.

16 **A.** If that's specifically what you're asking for, you
17 would ask for it.

18 **Q.** So when you see ... before you went to that call on
19 November 27th, somebody would've done a CPIC check?

20 **A.** Correct.

21 **Q.** Would they have done a Canadian Firearms Centre check
22 as well, considering it was a firearm call?

CST. STEVEN RICHARD, Examination by the Court

1 **A.** Considering, it would've been up to the dispatcher to
2 do it at that point. Was it specifically done? I can't say for
3 sure.

4 **Q.** All right. And beyond that now ... and there are,
5 apart from PROS or a PIP query, those would be the only other
6 databases that you can go to generally.

7 **(12:19:22)**

8 **A.** PROS, PIP and CPIC.

9 **Q.** And CPIC are generally the ones.

10 **A.** Correct.

11 **Q.** Okay. And whether a person has that possession
12 acquisition license, that information is not ...

13 **A.** You've got to specifically ...

14 **Q.** It's not contained in any of those three locations.

15 **A.** No. No.

16 **Q.** You have to ...

17 **A.** I believe you can do it yourself on CPIC, but I always
18 do it through our dispatch. But just a typical CPIC query on
19 your name and date of birth, it's not going to tell me.

20 **Q.** Is there a CPIC screen that you can go to that will
21 tell you if a person has a possession acquisition license?

22 **A.** I believe it's a special query within CPIC you can do.

CST. STEVEN RICHARD, Examination by the Court

1 **Q.** Mm-hmm.

2 **A.** But I always do it through our dispatch.

3 **Q.** So you ... all right. So that information is
4 available through a CPIC screen.

5 **A.** Correct, which will tell me if it's active, expired,
6 and it'll tell me if he owns any restricted firearms. It no
7 longer tells you about specifics on non-restricted firearms.

8 **Q.** Mm-hmm. So it'll tell you if it's active or if it's
9 expired and what restricted or prohibited firearms they might
10 own.

11 **A.** It'll tell you which restricteds they own but it won't
12 give you a list of non-restricted anymore.

13 **Q.** All right.

14 **A.** Since the ...

15 **Q.** It'll give you prohibited, though, I would assume.

16 **A.** Correct. Just non-restricted, it won't.

17 **Q.** All right. But that screen won't tell you whether or
18 not a license is under review?

19 **A.** I can't say for certain.

20 **Q.** You don't know?

21 **A.** It'll definitely tell you if it's expired or active.

22 **Q.** Mm-hmm.

CST. STEVEN RICHARD, Examination by the Court

1 **A.** Review, I'm not sure.

2 **Q.** Apart from making an application for an affidavit to
3 determine whether or not a license is ... what the status of a
4 license through the Chief Firearms office to determine, for
5 instance, if it's under review, that's the only way to get that
6 information, is it?

7 **A.** Correct.

8 **Q.** As far as you know?

9 **A.** That's as far as they made me aware, yes. They told
10 me to fill that out to get the information.

11 **Q.** All right. So that's the only place you can go to to
12 determine if there's a review.

13 **A.** As far as I'm aware, yes.

14 **Q.** As far as you're aware.

15 **A.** Correct.

16 **Q.** I appreciate that.

17 **A.** Yeah.

18 **Q.** Wherever the limitations are.

19 **A.** Correct.

20 **Q.** Thank you. Any questions following those? No?

21 **MR. RUSSELL:** No, Your Honour.

22 **THE COURT:** Thank you. Thank you, Cst. Richard. You're

CST. STEVEN RICHARD, Examination by the Court

1 free to go. Thank you for your time.

2 **A.** Thank you.

3 **Q.** Appreciate it. I take it those are your own notes
4 you're taking back?

5 **A.** Yes.

6 **Q.** Thank you.

7 **MR. RUSSELL:** Yes, Your Honour. We had planned to call
8 two officers, Burns Anderson and Cst. MacDonald. However, Cst.
9 MacDonald is not available. We wouldn't mind taking a moment to
10 speak to Cst. Burns Anderson. It's been a while since we
11 actually spoke to him. I'd like to just sort of review the
12 types and areas that we wish to cover. I know it's almost
13 12:30. I don't know if it's an appropriate, perhaps, time to
14 take a break. Counsel will be able to follow up with him during
15 that break.

16 **THE COURT:** All right. I think it's a good time to have
17 a break then, so we'll adjourn for lunch and come back at 1:30
18 and I understand that we just have the one witness this
19 afternoon?

20 **MR. RUSSELL:** That's correct, Your Honour, yes.

21 **THE COURT:** So it might be a bit of a shorter afternoon
22 then and I think we still have a full day for tomorrow.

CST. STEVEN RICHARD, Examination by the Court

1 **MR. RUSSELL:** Yes.

2 **THE COURT:** If I understand. A very full day, actually.

3 Thank you. We'll adjourn to 1:30. Thank you.

4 **COURT RECESSED (12:24 HRS)**

5 **COURT RESUMED (13:40 HRS.)**

6 **THE COURT:** Thank you.

7 **MR. RUSSELL:** Yes, Your Honour, the next witness would be

8 Constable Burns Anderson.

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1 **CST. BURNS ANDERSON**, affirmed, testified:

2

3 **THE COURT**: Constable, during the course of the Inquiry
4 and questioning you will be referred to some documents that will
5 appear on the monitor in front of you. There will also be hard
6 copies in the volumes that are there, as well, so feel free to
7 have a look at the paper copies, if you like. And I understand
8 there is an additional exhibit, P122, that may have come from
9 the Constable's hands today through the Inquiry counsel, so we
10 have that, as well.

11 **A.** Thank you.

12 **THE COURT**: Thank you.

13

14 **DIRECT EXAMINATION**

15

16 **MR. RUSSELL**: Good afternoon, Officer.

17 **A.** Good afternoon.

18 **Q.** Could you state your full name for the Court, please.

19 **A.** Burns Robert Anderson.

20 **Q.** And how long have you been an RCMP officer?

21 **A.** Since 2003.

22 **Q.** Currently where are you stationed, I guess, which

1 detachment?

2 **A.** Canso, Nova Scotia.

3 **Q.** And in your history as an RCMP officer, have you
4 spent time in other provinces?

5 **A.** Yes, in Saskatchewan and Newfoundland.

6 **Q.** 2016, which detachment, I guess the end of the year,
7 November of 2016, which detachment were you working for?

8 **A.** Canso.

9 **Q.** And Canso detachment covers what sort of geographical
10 area?

11 **A.** We're part of Guysborough District. Canso and
12 Guysborough offices form the east side of the Guysborough
13 District. We cover from Upper Big Tracadie south all the way
14 to Canso and over to Pirate Harbour.

15 **Q.** Typically, Officer, how many RCMP officers could
16 there be on shift at any sort of given day for that geographical
17 area?

18 **A.** You would have ... on a day shift you would have one
19 constable on the east side, one on the west, and usually the
20 sergeant would be working a day shift, as well.

21 **Q.** And would the same thing apply for back shift?

22 **A.** No. On a back shift you'd just have the, usually

CST. BURNS ANDERSON, Direct Examination

1 it's just one constable per side. Sherbrooke would have one and
2 one covering Guysborough/Canso. There may be occasions where
3 there's two people on the Guysborough/Canso side, one at each
4 office.

5 Q. I'm wondering if we could look at Exhibit 86.

6 **EXHIBIT P-000086 - RCMP OCCURRENCE REPORT, LIONEL DESMOND,**
7 **NOVEMBER 25, 2016**

8 Maybe we could zoom in a little bit. Officer, are you
9 familiar with this particular document?

10 A. Yeah, that is the PROS occurrence report for a
11 complaint from November 2016.

12 Q. Are you familiar with someone by the name of Lionel
13 Desmond?

14 A. I am.

15 Q. And did you have any sort of communication with
16 Lionel Desmond, according to this report it indicates November
17 25th, 2016?

18 A. I did.

19 Q. Officer, prior to November 25th, 2016, did you have
20 any contact or communication with Lionel Desmond?

21 A. No.

22 Q. And since November 25th, 2016, had you had any

CST. BURNS ANDERSON, Direct Examination

1 contact or communication with Lionel Desmond?

2 **A.** Only after he was deceased.

3 **Q.** Okay. And that would have been on January 4th, I
4 believe ...

5 **A.** Yes.

6 **Q.** ... and 2017?

7 **A.** Yes.

8 **Q.** So, Officer, I'm just going to ask you a little bit
9 about this particular report. So this report, who would
10 generate this occurrence, the occurrence details?

11 **A.** Part of the occurrence details would be generated by
12 our dispatch system, and then after the file's been dispatched,
13 worked on, and cleared, it's my job to go in and add the subject
14 entities and update the occurrence myself.

15 **Q.** So this report, if you look at the top, it says
16 Dispatch Type - Police Assistance; Occurrence Type - Well-being
17 Check.

18 **A.** The Dispatch Type comes from the dispatchers, and the
19 Occurrence Type would be something that, after I'd determined
20 what the substance of the complaint would be, that I would
21 change that myself. It would be blank when it comes from
22 Dispatch. I add that.

CST. BURNS ANDERSON, Direct Examination

1 **Q.** So you would have recorded this occurrence as a well-
2 being check?

3 **A.** Correct.

4 **Q.** And it says Occurrence Time - November 25th, 2016, at
5 19:49, which is 7:49 p.m. Is this the time of the actual call
6 for the reported incident?

7 **A.** I believe it is, yeah. The reported time would be
8 generated by Dispatch.

9 **Q.** All right. And this would be the reported time?

10 **A.** Yes.

11 **Q.** It says Place of Offence, it indicates an address
12 here in Lincolnville. Was this the residence of Lionel Desmond?

13 **A.** I believe it was.

14 **Q.** And it says Source - Phone.

15 **A.** That means that Mr. Desmond phoned the complaint in.
16 Other possibilities would be, like a front counter complaint,
17 911, but this was, like, a phone call that came through the
18 regular ... If you phone the RCMP office after hours you'd be
19 put through a system that goes to Dispatch for non-emergency
20 complaints, so the source would be just a regular phone call.

21 **Q.** So this was a non-emergency phone call?

22 **A.** Yes.

CST. BURNS ANDERSON, Direct Examination

1 Q. It says Priority - Routine.

2 A. Yes.

3 Q. Who would have indicated that it was a routine
4 priority?

5 A. Dispatchers.

6 Q. So I guess if it came in as a 911 call, that would
7 have indicated otherwise?

8 A. Not necessarily. Sometimes people use 911
9 inappropriately to report things that may be important to them
10 but not technically an emergency.

11 Q. That's fair.

12 A. Some of the dispatchers may still mark it as routine
13 based on the information.

14 Q. And ultimately, it says Clearance Status, is it you
15 that ultimately enters the result of the clearance status?

16 A. That's right.

17 Q. And that's after you conclude your, is it fair to
18 say, investigation or ...

19 A. Yes.

20 Q. And here it says Completed, Solved, Non-Criminal.

21 A. Yes.

22 Q. So do you receive the initial call that comes in from

CST. BURNS ANDERSON, Direct Examination

1 Lionel Desmond?

2 **A.** No, the initial call goes through our Dispatch Center
3 in Truro.

4 **Q.** And you're relayed the details of that call, I guess?

5 **A.** Yes.

6 **Q.** On this date what details were you provided regarding
7 the call made by Lionel Desmond?

8 **A.** That he was reporting that his wife Shanna had, was,
9 he felt, overdue coming home from a shopping trip that she had
10 taken to the city, and he was worried that something may have
11 happened because some time had passed since he'd heard from her.

12 **Q.** And was there any other information provided to you
13 at the time?

14 **A.** On this newer document that's the information that
15 was given to me. It says that she was given a ride, I believe,
16 to a rental car agency to go on this shopping trip, by her
17 father, and there's no other, you know, pertinent information
18 was given, just that she was overdue returning home from a
19 shopping trip.

20 **Q.** That's the information that's conveyed to you?

21 **A.** Yes.

22 **Q.** So what, if any - and we'll get into the newer

CST. BURNS ANDERSON, Direct Examination

1 document that you just referenced in a moment - but you
2 indicated ... So you have that information. Do you make contact
3 with Lionel Desmond?

4 **A.** I did.

5 **Q.** And how do you contact him?

6 **A.** Over the phone.

7 **Q.** What conversation do you have with Mr. Desmond when
8 you phone him back?

9 **A.** It was very brief. He, you know, I just phoned back
10 and introduced myself to him and to get more information and at
11 that time he indicated that he had heard from her in the
12 meantime between him making the phone call to the dispatchers
13 and my returning his phone call, that she was safe and had
14 returned home and that there was, you know, she was not overdue.
15 I think she was avoiding him and she was kicking him out, their
16 marriage was over.

17 **Q.** And when you say the word "safe", did he use the word
18 safe?

19 **A.** I can't say that he used the word safe. The
20 indication was that she was not ... You know, he reported her,
21 basically, as missing, overdue, and he indicated that that was
22 not the case any longer. I can't say he said she was safe.

CST. BURNS ANDERSON, Direct Examination

1 **Q.** So you say when you call him back he adds in
2 additional information that, other than he had managed to get
3 ahold of her and, in your words, safe, she was safe, but then he
4 adds in he was packing his bags and that the marriage was over?

5 **A.** Yeah.

6 **Q.** How does that come about, does he initiate that
7 information?

8 **A.** Yes, he did.

9 **Q.** And when he says ... How long would you say this
10 whole telephone call was between you and Mr. Desmond on this
11 date?

12 **(13:50:05)**

13 **A.** I don't recall exactly but very brief, you know, a
14 minute. Just it was a quick phone call. You know, it's
15 basically what the summary says is the information that he gave
16 me, and once there was no longer a need, I guess, for me to
17 search for Shanna, then I considered the matter was finished.

18 **Q.** When he, you said, indicated that their marriage was
19 over and she was kicking him out, that he was packing his bags,
20 how did he appear when he conveyed or sound when he conveyed
21 that information to you?

22 **A.** To me, he sounded very, I guess, sad, what you would

CST. BURNS ANDERSON, Direct Examination

1 expect, knowing now what happened or what happened before that,
2 but just based on what happened that night, it was, he sounded
3 as though somebody who had just been told by his wife that, you
4 know, the marriage was ending, he sounded very down.

5 **Q.** Did you get any sense of whether or not or did he
6 express that he was frustrated with hearing this news and
7 frustrated with the scenario that he was packing his bags and
8 leaving?

9 **A.** No, I didn't sense any frustration, just sadness.

10 **Q.** So, Officer, I guess my question is did that general
11 description, and I realize it was a brief phone call, but the
12 fact that, one, you have a man that's reporting that his wife
13 was overdue that was to return home and he's concerned, and the
14 next minute he's basically saying the marriage is, she told me
15 the marriage is over, I'm packing my bags, moving out, did the
16 whole nature of the call seem odd or strange to you at the time?

17 **A.** I wouldn't say the nature of the call was strange
18 because that's not, you know, a totally abnormal complaint to
19 receive, somebody concerned about somebody who's overdue. I
20 guess it would be abnormal that the conclusion of that would be,
21 Oh, it turns out our marriage is over. Normal times it's that,
22 you know, the person ends up being at somebody else's house that

CST. BURNS ANDERSON, Direct Examination

1 was unexpected or a car breakdown. You know, usually there's a
2 simple solution, but I guess the conclusion for the return
3 information to be, Oh, as it turns out our marriage is over,
4 it's unusual.

5 **Q.** Did you, at the time, give any sort of consideration
6 to whether the call as it was reported that, She's overdue to
7 return home, I'm concerned, did you ... And then it was followed
8 up with this information, did you formulate any sort of view as
9 to whether or not his initial complaint about her not arriving
10 home was legitimate? Did you get a sense whether it was a
11 legitimate concern or whether this was maybe a product of
12 frustration with the circumstances between him and his wife?

13 **A.** No. I got the indication it was legitimate. She was
14 traveling with their child, as well, so, you know, I could see a
15 legitimate concern for them being, I believe, several hours
16 overdue to return home. You know, I'd be concerned if I was in
17 his shoes.

18 **Q.** Did you ask him to perhaps elaborate further on maybe
19 why he was suddenly telling you, I'm packing my bags, I'm moving
20 out, she told me it's over?

21 **A.** I didn't. He was just forthcoming with that
22 information as an explanation as to why he hadn't heard from

CST. BURNS ANDERSON, Direct Examination

1 her.

2 Q. It's indicated here ... And so do you ultimately ever
3 go to Lionel Desmond's address where he was calling from?

4 A. I did not.

5 Q. How far is his place, where he's calling from, from
6 where you are at the time?

7 A. It'd be an hour's drive.

8 Q. There's the entry at the very end of it, it says, "No
9 need for police. Shanna was fine." Is that an entry that you
10 made, "No need for police?"

11 A. Yes.

12 Q. So you deemed it was unnecessary to attend?

13 A. Yes.

14 Q. Did it, at any point, sort of cross your mind that
15 perhaps - you know, he had indicated that he spoke to her and
16 that she was fine - did it ever cross your mind that perhaps
17 maybe you should get her information, reach out and perhaps
18 speak to her directly?

19 A. Not at the time. As I previously said, I felt his
20 attitude on the phone and the complaint was, it seemed like made
21 out of legitimate concern, and so without any other information
22 to indicate something else going on, I didn't find it necessary.

CST. BURNS ANDERSON, Direct Examination

1 **Q.** Officer, I wonder if this is probably the best time
2 to refer to Exhibit 122. It's something you provided me just
3 prior to court going back into session. I wonder if we could
4 bring that up on the ...

5 **THE CLERK:** It's not able to be displayed. It hasn't
6 been ...

7 **MR. RUSSELL:** Oh.

8 **THE COURT:** It's not there. I'm sorry, we'll all be
9 working from paper copies, please.

EXHIBIT P-000122 - REPORT GENERATED BY RCMP DISPATCH

11 **MR. RUSSELL:** Okay. You have a paper copy in front of
12 you, Officer?

13 **A.** I do.

14 **Q.** And this, in total, is a five-page document, and,
15 Officer, I'm wondering if you could indicate what this document
16 is.

17 **A.** This is a printout of information that's contained,
18 it's within an RCMP PROS file, but it's generated by call-takers
19 and dispatchers. It's included with the dispatch that you get
20 almost as background information. I can't modify what's written
21 here. It's just ... it's basically the work that's done by the
22 call-takers and the dispatchers in taking and dispatching a

CST. BURNS ANDERSON, Direct Examination

1 complaint. All that information is recorded within the PROS
2 system, kind of kept for future reference but it's not ...
3 doesn't form part of the investigation side of it, if that makes
4 sense.

5 **Q.** So you indicated that a complaint came in and it was
6 Lionel Desmond calling in from a specific number that's
7 recorded. This document here is generated by who, I guess, in
8 the RCMP system?

9 **A.** Call-takers and dispatchers.

10 **Q.** All right. And would the contents and details of
11 what's here in this document ever be conveyed to you as the
12 investigating officer assigned the task?

13 **A.** Yes. Yeah, the call-takers and dispatchers will take
14 people's information and they'll run - I don't do their work,
15 but they do it well and they, I would say, almost always run the
16 names and dates of birth of people, whether they're the victims,
17 complainants, or the subject of a complaint, they'll run those
18 through various databases and report back to us anything that we
19 may need to know in the field to help with decision-making or
20 risk management, things like that.

21 **Q.** And what are some sorts of things that a dispatcher
22 running the name, you know, the caller or the complainant, would

CST. BURNS ANDERSON, Direct Examination

1 relay information to you to assist you? What kind, what are
2 some examples of information that's passed on to you from a
3 dispatcher?

4 **A.** They'll run CPIC checks to see if people have any
5 street enforceable conditions, like prohibitions, probation, any
6 warrants. They'll relay back people's, often their firearm
7 status. They'll do CFRO checks for you.

8 **Q.** What's a CFRO check?

9 **A.** Canadian Firearms Registry Online. That was ... I
10 had the benefit of listening to Constable Richard's testimony
11 and he touched on that, where the long gun registry was
12 scrapped, so that's where all firearms used to be registered
13 there. Now it deals exclusively with restricted, prohibited
14 weapons.

15 **Q.** Okay.

16 **A.** But they'll check, firearms license statuses will
17 come back with those checks, as well. So they routinely run all
18 those checks on everybody that they speak to and the subject of
19 the complaint that the person's calling about and report back
20 anything that they feel like you might need to know.

21 **Q.** So something, for example, if there was a prior
22 interaction between a particular individual, let's just say

CST. BURNS ANDERSON, Direct Examination

1 Lionel Desmond, and the name is searched and the date of birth
2 and if there was a prior interaction with the RCMP from an
3 earlier date and a FIP, or Firearm Interest to Police was
4 generated, is that some information that would be located and
5 passed on to the investigator dispatched to the call?

6 **A.** Yes.

7 **Q.** What about reference to specific previous file
8 numbers or occurrences?

9 **A.** They likely would not just give a file number when
10 dispatching a complaint. They might just say that somebody was
11 flagged as Firearm Interest to Police, and it won't necessarily
12 say why. If you're interested, as the investigator, in knowing
13 why, you can ask the dispatchers to do kind of a deeper dive
14 into the PROS system to look up those previous files and get
15 more information for you or, if time permits, you can do that
16 yourself.

17 **Q.** And this particular exhibit, 122, this was the, I
18 guess, report or information that the dispatcher or operator was
19 able to sort of retrieve, I guess?

20 **A.** Yes.

21 **Q.** If we can look to page 3, and I know that these
22 reports aren't the easiest to read, on page 3 of the report,

CST. BURNS ANDERSON, Direct Examination

1 perhaps the twelfth line down from the top, it says "Query
2 possible hits for person", and then below it it has "SNME
3 Desmond G1: Lyle".

4 **(14:00:31)**

5 **A.** Yes.

6 **Q.** What is that?

7 **A.** That is the information that the dispatcher used to
8 run a CPIC query for who they felt was the complainant on this
9 particular occurrence. It's, if you could reference back to
10 page 1, on People, you'll see Desmond, Lyle.

11 **Q.** Yes.

12 **A.** About three-quarters of the way down. Without being
13 there and speaking to the person, I can only imagine that the
14 call-taker, when he gave his name, heard Lyle as opposed to
15 Lionel, and that's the information that they used to run the
16 query.

17 **Q.** And I note that previously on Exhibit 86, if we could
18 bring that up, and in summary it starts with, "Lyle Desmond
19 called in that his wife ..."

20 **A.** Yes.

21 **Q.** So is this telling us that when the call came in it
22 was recorded as coming in as a Lyle Desmond?

CST. BURNS ANDERSON, Direct Examination

1 **A.** That's right.

2 **Q.** And this report is telling us when the dispatcher did
3 their search as they normally do, they searched for Lyle
4 Desmond?

5 **A.** That's right.

6 **Q.** And if we look at line 18, where it says Query
7 Firearms Interest to Police, Sex - Male, line 19 says Maximum
8 Score Possible - 28.

9 **A.** Yes.

10 **Q.** What does that mean?

11 **A.** CPIC results are given a numerical value based on the
12 amount of information that was input, so the more information,
13 the more characters that are entered, the stronger or the higher
14 that number would be. So if you were to query myself as Burns
15 Robert Anderson with my birth date 1980-05-25, that might have a
16 value of 50, because there's a full given name and a full date
17 of birth, sex would be given as male, and you'll get results
18 based on the possible value that you've entered. So Lyle
19 Desmond with 83-11-21 as the birth date entered has a possible
20 score of 28. And so the dispatcher is going to look at the
21 results that they get and compare them to the possible value.

22 **Q.** And in this case, the next line, it says Score - 9.

CST. BURNS ANDERSON, Direct Examination

1 **A.** Yes.

2 **Q.** So the score came back as a 9.

3 **A.** Yes.

4 **Q.** What is the significance of a score of a 9 out of 28?

5 **A.** A score of a 9 out of 28, basically, tells you that,
6 based on the information you've put into CPIC, the result that
7 you're looking at, where it says number 1, is not the person
8 that you just searched, because it's only 9 out of a possible
9 28.

10 **Q.** All right. And below that, we then have the name
11 Lionel Desmond, Date of Birth - 1983 November 21, Age 33, and
12 directly below it we have Firearms Interest to Police.

13 **A.** Yes.

14 **Q.** And then there's a number of references of dates and
15 times as it relates to that FIP. So do you recall when you got
16 that dispatch call, were you provided with this information?

17 **A.** They wouldn't report to me a FIP on a 9 out of a 28.

18 **Q.** And why is that?

19 **A.** Because it's not a high enough number that ... They
20 wouldn't feel that it's a possible match.

21 **Q.** All right.

22 **A.** A 28 in itself isn't a huge score to start with, so

CST. BURNS ANDERSON, Direct Examination

1 when you only have a 9 out of that possible 28, it's probably
2 not going to register with them that this is one and the same
3 person.

4 **Q.** So on this date, November 25th, 2016, when you had
5 received the call from Lionel Desmond, and we now know that
6 there were FIPs or references to FIPs involving Lionel Desmond,
7 you would not have had that information?

8 **A.** That's correct.

9 **Q.** And you would not have had it due to the fact that
10 the score of such a level that it was sort of unreliable in the
11 sense that it would, in fact, be accurate?

12 **A.** Exactly.

13 **Q.** And we'll move to the information that's contained
14 here, whether or not it would have impacted in your overall
15 assessment. But we'll move to that later.

16 So, Officer, when you had this quick phone call with Lionel
17 Desmond and he indicates those things to you, are you aware that
18 he had prior occurrences with the or interactions with the RCMP
19 on previous occasions?

20 **A.** I was not aware.

21 **Q.** And, Officer, those previous occurrences, as a rule,
22 would have been uploaded to the PROS system?

CST. BURNS ANDERSON, Direct Examination

1 **A.** Certainly would have, yes.

2 **Q.** And you would have had access to those?

3 **A.** Yeah. I can't... I wouldn't ... Depending on where I
4 was, not instantaneously, but could have gained access to those,
5 yes.

6 **Q.** And Officer, when you're on the phone with we now
7 know Lionel Desmond, did you understand that you were speaking
8 to Lionel Desmond as opposed to Lyle?

9 **A.** I did, yes.

10 **Q.** You did. Okay. Was there a particular, based on
11 what you were told; one, that he was concerned his wife was
12 overdue to return home; two, about the packing the bags and
13 moving out - you said he said it kind of with a low sort of
14 voice - is there a particular reason why maybe you didn't say,
15 I'm going to check to see who Lionel Desmond is and whether or
16 not there was any prior involvement with our detachment or
17 others?

18 **A.** I don't know if I could say there's any particular
19 reason that I didn't, other than to say, based on speaking to
20 him and just the information that I had, I didn't feel at that
21 time there was any reason to. There was no, you know, alarm
22 bells ringing or no indication that it was anything other than

CST. BURNS ANDERSON, Direct Examination

1 what it seemed to be. And I have encountered in the past, doing
2 this job, situations where you do, you know, often we deal with,
3 things end up being rather simple and you can deal with them
4 over the telephone or you might not meet people face to face.
5 But there's certain times where something doesn't quite feel
6 right and you feel like you should, you know, do a little bit
7 more digging into it. And I just didn't get that feeling this
8 time.

9 **Q.** Okay. And I'll follow up to that, in particular,
10 you're told, "He managed to get ahold of her," and this, I'm
11 reading off of the Occurrence Report. "He managed to get ahold
12 of her but was packing his own bags as she was kicking him out
13 and their marriage was over." Did you get a sense from what he
14 told you there that clearly things weren't going well in the
15 relationship and at this point in time they weren't going well?

16 **A.** Yes.

17 **Q.** Now, normally, Officer, would that be something - I
18 mean, I appreciate that RCMP and police officers are at
19 heightened alert as it relates to potential domestic violence -
20 did that give you any pause to say, Look, I might just dig a
21 little bit more here?

22 **A.** No. There wasn't any indication at that time that

CST. BURNS ANDERSON, Direct Examination

1 Lionel and Shanna were even in the same place. Had they been
2 and you felt like there was a need to attend even just to keep
3 the peace, that might have changed things. If any sort of
4 background noise during the phone call or any, as you mentioned,
5 tension in his voice or anger, then you might think, Well, maybe
6 I should stop by and just see what's up, but there wasn't any
7 indication that any of that was going on. He genuinely sounded
8 just sad. He spoke slowly, softly, with no, like, there was no
9 anger in his voice at all. He just sounded like someone had
10 come to the realization that ... You know, maybe he was
11 concerned, he obviously was concerned when he phoned the police,
12 but just that maybe there was some lost hope there, like, she
13 was overdue but now it's not that, she's leaving me. Like, it
14 was just sadness.

15 Q. Okay. And, Officer, I know we sort of live in a
16 world of kind of looking back and questions of what ifs, but,
17 and I don't mean to suggest that, but I'm going to show you
18 three separate occurrence reports that you indicated that you
19 weren't aware of on the date that you received this call.
20 First, I guess, if you could pull up Exhibit 32. And, Officer,
21 I'm not sure if you're familiar with all of the details of these
22 prior occurrence reports ...

CST. BURNS ANDERSON, Direct Examination

1 **A.** I'm not.

2 **(14:09:47)**

3 **Q.** No? So, essentially, if I could direct you here,
4 this is a report of Constable Addie Maccallum or, I believe,
5 Sergeant Addie Maccallum, November 19th, 2015. He reports that
6 on November 18th, 2015, he was nearing the end of his shift when
7 he had responded to a report that indicated that Lionel Desmond
8 had been manic several times that particular day. It indicates
9 he's not threatening to hurt himself or others but has so in the
10 past. He stopped taking medications and unknown if he was going
11 to see doctors about PTSD. It further continues that Sergeant
12 Maccallum did speak to him, that Lionel Desmond expressed - and
13 I know this is a long sort of monologue at you, but I've tried
14 to summarize the report - it indicates that Sergeant Maccallum
15 spoke to him, Lionel Desmond then indicates that he knows sort
16 of his, when he needs to seek help, essentially, and that he has
17 follow-up appointments with doctors next week. No further
18 action is taken, he's not taken to the hospital on that
19 occasion.

20 So that's one report. I understand you may be seeing that
21 for the first time?

22 **A.** I am.

CST. BURNS ANDERSON, Direct Examination

1 **Q.** I'm wondering if we could move to Exhibit 83. This is
2 a report, Officer, of Cst. Richard. We've heard his evidence
3 earlier this morning, November 27th of 2015, where Shanna
4 Desmond had called New Brunswick RCMP to indicate that she had
5 been texting with Lionel Desmond. He reported that he was
6 headed to the garage where he would normally keep firearms, that
7 he was known to keep firearms, that he had advised Shanna
8 Desmond to tell his daughter that he would see her in heaven.
9 There was a last text message five minutes ago. She had
10 expressed concern that he may harm himself.

11 You heard on that occasion that the RCMP took him to the
12 hospital.

13 **A.** Yes.

14 **Q.** And finally, Officer, I want to summarize another
15 occurrence, Exhibit 88. I promise, Your Honour, there is a
16 question to this. I just want to make sure that ...

17 **THE COURT:** Sure.

18 **MR. RUSSELL:** ... the officer has the information.

19 **EXHIBIT P-000088 - NOVEMBER 28, 2015 COMPLAINT REPORT OF RICHARD**

20 **BORDEN**

21 So on this particular date, Officer. This is the day after
22 the New Brunswick incident. There are two particular

CST. BURNS ANDERSON, Direct Examination

1 complaints, calls, I guess, to the RCMP. The first is from
2 Lionel Desmond himself. Lionel Desmond is reporting that he
3 wants his firearms and a number of other personal effects that
4 have been taken by Shanna Desmond, and the second is from Shanna
5 Desmond's father, Richard Borden, and he indicates in his report
6 that the estranged spouse - that's Lionel Desmond - of his
7 daughter is on the neighbouring property yelling at his home.
8 He indicates that Desmond is trying to locate a firearm his
9 daughter had secured at the request of police.

10 Officer, and I appreciate now knowing, and that was a lot
11 put to you. Had you looked up on PROS and became aware of those
12 particular past occurrences and police files, and knowing what
13 you now know as it relates to the past hints at sort of the
14 relationship not going well between Desmond and Shanna, and
15 ultimately the mental health issues as it relates to Lionel
16 Desmond would you perhaps have spoke to Lionel Desmond at
17 greater length or attended his residence on that day?

18 **A.** If I knew all of that ...

19 **Q.** Yes.

20 **A.** ... prior to speaking to him that evening I would have
21 asked more questions of him, about his own state. He did sound
22 sad, not manic or these other behaviours that are described in

CST. BURNS ANDERSON, Direct Examination

1 these reports but perhaps just to check in with him to see, if
2 he has this sort of history, how is he handling what's going on?
3 Based on these reports and what happened that night, I don't
4 think my concern for her would have been any higher, as even
5 these reports don't contain any threat against her even though
6 there's mention of firearms. As we heard Cst. Richard testify,
7 there was some talk about hunting and the timing of the third
8 report is, I guess, the most troubling thing, that it occurred
9 the day after he was released from the hospital in Fredericton.

10 **Q.** Yes.

11 **A.** But I would time more time speaking to him to try to
12 gauge whether a visit to see him was necessary to see how he's
13 doing with the news that he says he just received. I don't
14 think that based on that and this, my concern for her would have
15 been any greater than it already was.

16 **Q.** And a similar question. Knowing what you now know
17 about those past occurrence reports, would you have perhaps
18 called her directly to get her views on the whole situation that
19 day, whether it be her own interpretation of what was happening
20 or any concern she may have had for Lionel Desmond?

21 **A.** In hindsight probably, yes, based on all of that
22 information.

CST. BURNS ANDERSON, Direct Examination

1 **Q.** And on this particular day were you aware of whether
2 or not Lionel Desmond had firearms in his possession?

3 **A.** I had no indication.

4 **Q.** And did you have knowledge as to whether or not Lionel
5 Desmond had a possession acquisition license that allowed him to
6 obtain firearms?

7 **A.** No, because the queries were ran as Lyle Desmond. Can
8 we refer to that document again?

9 **Q.** Yes, yes, for sure, and that was Exhibit 122.

10 **A.** On the fourth page there's a long paragraph that
11 starts below the bold "Message".

12 **Q.** Yes? Just for Your Honour, page 4, middle of the
13 page. It indicates, "Message".

14 **THE COURT:** Thank you.

15 **MR. RUSSELL:** Proceed, Officer.

16 **A.** They are a little convoluted with the letters and
17 numbers that indicate basically CPIC message addresses, and
18 you'll see the query was ran as possible hits for CFIS Desmond,
19 Lyle, with that birth date, and the number one hit comes back
20 again as Lionel Desmond showing a valid firearms license on this
21 date. But again, that would not have been indicated because of
22 the mistake made in hearing his name. So there was no

CST. BURNS ANDERSON, Direct Examination

1 indication on this day whether or not he had a valid license or
2 not because it simply wasn't run properly.

3 **Q.** And, Officer, had you been provided with information
4 on that date that Lionel Desmond had previous FIPs on previous
5 occasions and he had a valid possession and acquisition license,
6 had you known that information, would you have proceeded any
7 differently than what you did on this particular date?

8 **A.** I can't say for sure that I would proceed differently.
9 What I can say is that that information is given to us so that
10 we can make a risk assessment, and without having all of the
11 information from those reports, and information about the
12 Firearms Interest to Police, I can't say that the same risk
13 assessment would have been made. It's impossible to say if I
14 would have done anything any differently based on the phone
15 call.

16 If these reports indicated any sort of indication of
17 domestic violence, and then this report came in the way that it
18 did, I can say that would likely change the response. Then you
19 would feel, even though he's saying she's okay, if there's an
20 indication that there had been problems in the relationship in
21 the past it might change the risk assessment. Because you might
22 feel the need to see her in person and just verify.

CST. BURNS ANDERSON, Direct Examination

1 **Q.** And typically, Officer, have you received calls of a
2 similar nature in the past? I know two calls aren't going to be
3 identical, but have you received similar calls like this?

4 **A.** Well-being checks ...

5 **Q.** Yes.

6 **A.** ... like overdue travelers? Yes.

7 **Q.** And your practice as an RCMP officer, do you routinely
8 kind of do your own search, the name, to see if there's any
9 running files, past history involving the detachment or RCMP?

10 **A.** Those types of checks usually come, you know, you
11 would say after the dust settles. We rely a lot on our
12 dispatchers, and I would say in my experience this is really a
13 one-off. The work that they do, they don't usually make
14 mistakes. So when they're taking complaints and getting names
15 of people initially they'll run your CPIC checks because that's
16 going to have the most information, like I said, for those risk
17 assessments, whether or not somebody's violent, whether they're
18 a Firearms Interest to Police. Ideally, those things are going
19 to be flagged on CPIC and the dispatchers are going to know that
20 information instantly.

21 So then when you see something that catches your interest
22 that's when you'll start asking the dispatchers to check PROS.

CST. BURNS ANDERSON, Direct Examination

1 The system is called CAD, computer-aided dispatching.

2 Q. Yes.

3 **(14:59:58)**

4 A. It keeps history on addresses, too. So had there been
5 ten prior complaints at 15375 Highway 16 they would have said
6 there was, you know, numerous previous complaints at that
7 address.

8 Q. And in this particular case, when do you first sort of
9 realize, Okay, I'm not calling Lyle Desmond, I'm speaking to
10 Lionel Desmond?

11 A. It would have been during the phone call. I can't,
12 you know, recall verbatim what was said ...

13 Q. Yes.

14 A. ... but my normal practice would be phone rings, Hi,
15 can I speak with Lyle Desmond? I'm sure at that point he would
16 have corrected me.

17 Q. So even after concluding your phone call with him when
18 you realize, Okay, now we're talking about somebody different in
19 the sense of it's relayed to me, it was Lyle, now I know it's
20 Lionel, did it cross your mind to perhaps double-check back with
21 either dispatch or yourself to see of any prior involvement or
22 concerns that were on the RCMP database?

CST. BURNS ANDERSON, Direct Examination

1 **A.** I can't say that I had that thought at that time.

2 **THE COURT:** You had an address or local address.

3 **A.** Within the county, but ...

4 **THE COURT:** Within the county?

5 **A.** ... I'm in Canso.

6 **THE COURT:** Right, but ...

7 **A.** And this address is basically on the county line with
8 Antigonish County.

9 **THE COURT:** All right.

10 **A.** So it's about an hour away.

11 **THE COURT:** And I'm just looking at page 4 and under the
12 message when it was talking about residence address, 6 Coastal
13 Street, Oromocto West, New Brunswick.

14 **A.** Yes.

15 **THE COURT:** And I saw some place. One of the other
16 documents showed a file from J Division. That's New Brunswick?

17 **A.** It is.

18 **THE COURT:** J is New Brunswick. Would you have noticed
19 that this came up as a New Brunswick address for Lyle Desmond
20 ... or sorry, Lionel Desmond?

21 **A.** No, because the dispatchers were searching for a
22 subject that they felt was Lyle Desmond. Nothing with Lionel

CST. BURNS ANDERSON, Direct Examination

1 Desmond would have been relayed to me at all.

2 **THE COURT:** Okay.

3 **A.** Because as far as they were ...

4 **THE COURT:** Oh, I see. All right.

5 **A.** As far as they were concerned, Lionel Desmond had
6 nothing to do with this matter.

7 **THE COURT:** So this exhibit, P122, the information
8 that's contained in here, this would never have come to you.
9 This is something that was simply in their records that you had
10 printed out?

11 **A.** Yes. There's one button on the computer screen on the
12 PROS system that will allow me to read the dispatch event, it's
13 called.

14 **THE COURT:** Okay.

15 **A.** And that's where this information is contained. It's
16 the information taken and checked by our dispatchers at the time
17 of receiving complaints.

18 **THE COURT:** Right.

19 **A.** And they're only going to relay to me the things that
20 they feel are pertinent to the occurrence that they're giving
21 out.

22 **THE COURT:** All right. Thank you. Sorry, Mr. Russell.

CST. BURNS ANDERSON, Direct Examination

1 **MR. RUSSELL:** Oh, that's all right, Your Honour. I'm
2 pretty much concluded.

3 So, Officer, was there anything in this phone call, the
4 brief interaction with the information you had with Lionel
5 Desmond, that would have caused you to ever maybe ask the
6 question whether or not this person should possess firearms? Or
7 are there firearms at the residence?

8 **A.** This occurrence?

9 **Q.** Yes.

10 **A.** Absolutely not.

11 **Q.** And why not?

12 **A.** Because this occurrence, there was no indication of a
13 disturbance, an argument, violence. There was no reason to
14 believe firearms were involved. Based on the information I was
15 given by our dispatchers, and the conversation that I had with
16 him, it came in as a well-being check and that's what it seemed
17 like it was.

18 **Q.** No further questions for the officer, Your Honour.

19 **THE COURT:** Thank you. Mr. Anderson?

20 **MR. ANDERSON:** No questions, Your Honour.

21 **THE COURT:** Thank you. I know that Ms. Ward is going to
22 defer. Ms. Whitehouse?

CST. BURNS ANDERSON, Cross-Examination by Ms. Miller

1 Q. Okay, so I appreciate that.

2 A. I should add I can't say never. It wasn't.

3 Q. It wasn't.

4 A. Had that score not been a nine, had it been closer to
5 28 but not ...

6 Q. Right.

7 A. ... nine, they might have said possible hit.

8 Q. Okay.

9 A. But in this case, nothing was ...

10 Q. Okay, so on page 3 what they do identify with respect
11 to Lionel Desmond are two occurrences. Is that fair to say?

12 A. It looks ...

13 Q. The first one appears to be, if you look midway
14 through the page, OCCD ...

15 A. Yeah.

16 Q. ... 2015-11-28?

17 A. Yes.

18 Q. Expiry 20-11-28? First of all, what does the expiry
19 date mean? Do you know?

20 A. Records that we keep have what we call a purge date.

21 Q. Okay.

22 A. So if you're on a probation order for a period of 12

CST. BURNS ANDERSON, Cross-Examination by Ms. Miller

1 months the expiry date's going to show up 12 months from the day
2 that the probation started.

3 Q. Okay.

4 A. So his lag, I guess you would call it, as a Firearms
5 Interest to Police was for that time period to expire 2020-11-
6 28.

7 Q. Right, and then the second one. So that's case number
8 2015-5440?

9 A. Yes.

10 Q. Is that right? And then the second one is another
11 Firearms of Interest to Police. It's occurring 2015-11-28 and
12 then with the expiry date of 2020-11-18. And that's case number
13 2015-4158?

14 A. Okay. Yes.

15 Q. So is the only information that captured here are PROS
16 records that are flagged as Firearm Interest to Police?

17 A. Yes.

18 Q. Okay. That was my question, because we know that
19 there were two other occurrences, and my friend took you through
20 them. They're at Exhibit 87 and Exhibit 88. So two other
21 occurrences, and I didn't see them captured in this exhibit,
22 P122, and my question was, where are they? But is it because

CST. BURNS ANDERSON, Cross-Examination by Ms. Miller

1 this document, P122, only pulls the Firearm Interest to Police
2 information?

3 **A.** I can't speak to how or why things end up on CPIC in
4 that sense.

5 **Q.** Mm-hmm.

6 **A.** Or, as you heard Cst. Richard, as far as what
7 occurrence types qualify for Firearms Interest to Police flag.
8 I can't speak to that. What I can say is that at the time of
9 this document ...

10 **Q.** Mm-hmm.

11 **A.** ... being entered, which would be November of 2016 ...

12 **Q.** Mm-hmm.

13 **A.** ... those were the two entries that had already been
14 made. I don't know who enters them. Like, obviously it says
15 Guysborough County District as the owner.

16 **Q.** Right.

17 **A.** Which means the records manager within our office is
18 responsible for entering things on CPIC. She certainly doesn't
19 determine what. She just does the work.

20 **Q.** Okay.

21 **A.** But I can't say what qualifies and how those expiry
22 dates are determined, what ends up on CPIC and what doesn't.

CST. BURNS ANDERSON, Cross-Examination by Ms. Miller

1 **Q.** Okay. Because we know by November of 2016 there are
2 actually four occurrences that take place in November of 2015
3 and only two of them have shown up on this document.

4 **A.** Right.

5 **Q.** And that was my question, if you have any
6 understanding as to why.

7 **A.** If I had to make an educated guess the PROS occurrence
8 types generate the FIP.

9 **Q.** Yeah.

10 **A.** And whatever the scoring was, those occurrence types,
11 only two of those must have qualified to have entry.

12 **Q.** Okay. Thank you. That was my question.

13 **THE COURT:** Mr. Rodgers?

14 **MR. RODGERS:** Thank you, Your Honour. I have no questions
15 for this witness.

16 **THE COURT:** All right. Thank you. Mr. Hayne?

17 **MR. HAYNE:** No questions, Your Honour.

18 **THE COURT:** Thank you. Ms. Ward?

19 **MS. WARD:** We have no questions, Your Honour.

20 **THE COURT:** Thank you. Mr. Russell, anything further?

21 **MR. RUSSELL:** Nothing in re-direct or follow up, Your
22 Honour.

CST. BURNS ANDERSON, Cross-Examination by Ms. Miller

1 **THE COURT:** All right. Thank you. And I asked all my
2 questions by interrupting Mr. Russell so I don't have any
3 questions either.

4 Thank you for your time, Constable. Appreciate it. You're
5 free to go. If you have an exhibit that belongs to us before
6 you go I might ask you to leave it. Thank you.

7 **WITNESS WITHDREW (14:29 HRS.)**

8 **MR. RUSSELL:** Yes, Your Honour. Originally, as noted
9 earlier, we had intended to call Cst. MacDonald, who is not
10 available today. We anticipate he will be here tomorrow. It
11 certainly would have used up the rest of the afternoon, but I'll
12 turn it over to Mr. Murray for the roadmap as to where we're
13 headed.

14 **(14:30:00)**

15 **THE COURT:** I was just going to ask. Thank you. Mr.
16 Murray?

17 **MR. MURRAY:** Your Honour, we have three individuals from
18 Fredericton coming tomorrow from the New Brunswick Chief
19 Firearms Officer office. So that's Lysa Rossignol, Derek
20 Eardley, and Chris Hand.

21 **MR. MURRAY:** And that will obviously take the bulk of the
22 day tomorrow and I suspect might run into the next day.

DISCUSSION

1 **THE COURT:** All right. Is there value in scheduling ...
2 well, let me put it this way. And Cst. MacDonald is likely to
3 be here tomorrow for ...

4 **MR. RUSSELL:** As Mr. Russell said, we anticipate he'll be
5 here tomorrow and I don't know, where he's local, whether we
6 would want to call him tomorrow.

7 **THE COURT:** What we'll do, I expect to see Cst.
8 MacDonald tomorrow and we can have a discussion in relation to
9 his circumstances at that time and maybe just after we conclude
10 for the day, Ms. Ward, we'll have a discussion. If you could
11 stay for a couple minutes? Thank you.

12 All right. Thank you, then. So we'll adjourn for the day.
13 We'll recommence tomorrow at 9:30. All right. Thank you.

14 **COURT ADJOURNED (14:32 HRS.)**

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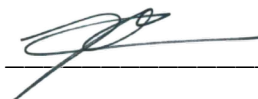
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CERTIFICATE OF COURT TRANSCRIBER

I, Margaret Livingstone, Court Transcriber, hereby certify that the foregoing is a true and accurate transcript of the evidence given in this matter, **re Desmond Fatality Inquiry**, taken by way of electronic digital recording.



Margaret Livingstone

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