

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 20, 2020

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1 **February 20, 2020**

2 **COURT OPENED** **(09:38 HRS.)**

3

4 **THE COURT:** Good morning.

5 **COUNSEL:** Good morning, Your Honour.

6 **THE COURT:** Ms. Rossignol, could you return to the
7 stand, please?

8

9 **LYSA ROSSIGNOL, still sworn, testified:**

10

11 **THE COURT:** Good morning. When we adjourned yesterday
12 afternoon, Ms. Rossignol was testifying. She was under oath.
13 She still is under oath. I think we're ready for cross-
14 examination. Ms. Ward or Ms. Grant?

15

16 **CROSS-EXAMINATION BY MS. GRANT**

17

18 **MS. GRANT:** Thank you. Hi, Ms. Rossignol. My name is
19 Melissa Grant and I represent, along with my colleague, Lori
20 Ward, the Attorney General of Canada and the various federal
21 entities that interacted with Mr. Desmond.

22 So I just have a couple of questions for you and some

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 points of clarification. You gave us a lot of information
2 yesterday. So I just want to go through some of that and see if
3 we can clarify just a couple of points of questions that I had.

4 So just to start, could you, in your own words, describe
5 the concept of continuous eligibility?

6 **A.** When somebody has a firearms license, the continuous
7 eligibility means that their license is under eligibility ... is
8 under ... the FIP events would be the ones that would be
9 considered their continuous eligibility. So anytime there's an
10 event or any time there's an interaction with police or an
11 interaction with agencies that we should be made aware of, if
12 there's a file that's created, coded correctly, then we would be
13 made aware of and then it would be matched to the licensed
14 client.

15 **Q.** Okay. So even though the license itself is valid
16 potentially for five years with the extension period, there's
17 always a possibility that that could be revoked at some point.

18 **A.** Absolutely.

19 **Q.** So just to talk a little bit more about the FIP. So
20 Firearms Interest Police. Our understanding is that it's
21 essentially a database within CPIC. Does that ...

22 **A.** The Firearms Interest Police files are created by the

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 policing agencies when they create their ... When they have the
2 interactions with the individuals, they would create their
3 files. And then whenever their files are created, they code
4 them. And whatever code they put, they also put in whether it's
5 a Firearms Interest Police file. And that talks to our system
6 to say, This is a possible match to a client with a firearms
7 license.

8 Q. Okay. So is it fair to say that a FIP is essentially
9 a pointer to a police file?

10 A. Yes.

11 Q. Okay. And "UCR", we mentioned that yesterday. Does
12 that stand for "uniform crime reporting"?

13 A. Yes.

14 Q. Okay. And those particular codes refer to **Criminal**
15 **Code** offences?

16 A. Yes.

17 Q. Okay. And then you talk about Section 5 events. So
18 those are Section 5 under the **Firearms Act**. Is that right?

19 A. No. Well, Section 5 under the **Firearms Act**. Yes.
20 Yes, it would be.

21 Q. Okay. And our understanding, and I don't know if you
22 have any information about this, is that about 450 of 2,000

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 possible codes will auto-generate a FIP. Does that sound right
2 to you?

3 **A.** I wouldn't be able to answer that one.

4 **Q.** Okay.

5 **A.** Yeah.

6 **Q.** And just to talk about some of the terms that we were
7 using yesterday. So terms like "valid", "revoked", "expired"
8 and "under extension period". Those are legal status-type
9 terms. Right?

10 **A.** Those are for a license, yes.

11 **Q.** Okay. So the terms of the license. So then the terms
12 "under review" or "revocation suggestion received", those terms
13 are CFIS terms. Is that right?

14 **A.** Yes.

15 **Q.** So those are like "system status" or "states".

16 **A.** Yes.

17 **Q.** So "under review" is not a licensing term.

18 **A.** It's a status of the license so that where ... the
19 person can still get a transport permit if they're moving. They
20 can still change their address. But they can't, if they were
21 purchasing a restricted firearm and needed ... it would stop it
22 just because their license is not valid. So it's just a matter

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 of we're reviewing their license whether or not they can still
2 maintain their license.

3 Q. So that refers to sort of an administrative process.

4 A. Yes.

5 Q. Okay. So we've seen the phrase and it's in ... If we
6 could pull up Exhibit 133. So that's, Ms. Rossignol, an email
7 from you. And where you say "license placed back to valid".
8 So, based on our discussion, my understanding is that the
9 license itself legally was still valid, but system-wise, it was
10 under review. Is that fair?

11 A. Well, it was under review because we were reviewing
12 the files that we had gotten from policing agencies.

13 Q. Right.

14 A. So the license is under review. It's being reviewed
15 whether or not there's any public safety risk with the person
16 having a firearms license. So now once we complete a file
17 review, we return the license back to valid.

18 Q. Okay. So if people were using CFIS during your
19 investigation, they would see that the license is under review.

20 A. Yes.

21 Q. You talked about that yesterday. So I guess we
22 referred to it as maybe a safeguard.

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 **A.** Yes.

2 **Q.** That somebody is checking the system. Okay.

3 I think you covered these yesterday at different points,
4 but I was wondering if you could provide us with your view on
5 what safeguards exist in the system with respect to intimate
6 partner violence and how there are checks and balances for that
7 particular issue.

8 **A.** When an individual applies for a firearms license, if
9 the spouse or partner does not sign the application, it is
10 indicated on the application that we will contact the spouse to
11 verify. And I'm sure it's on the application. If you look up
12 ...

13 **Q.** Yeah. If we could bring up Exhibit 130, and page 19,
14 in particular.

15 **A.** Yeah. Just before the signature of the spouse, it
16 says: "If the signature of your former spouse, common-law or
17 conjugal partner is not provided, the Chief Firearms Officer has
18 a duty to notify them of your application."

19 So whether it's a current spouse or former spouse, if they
20 don't sign or we have the information, we will contact them to
21 verify to see if they're aware. This is for New Brunswick. We
22 will confirm that they are aware of the firearms license

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 application if they have any concerns. And just confirm their
2 information and go on with that.

3 The other option is if there's ... we do have a public
4 safety line - most of the provinces will have one - that anybody
5 that has a concern can call. But, again, we're not enforcement.
6 So we will ask them, if they're in imminent danger, to contact
7 the police. But we will take their information and follow up
8 with them.

9 In New Brunswick, there's also a new **Act** under the partner
10 violence. It's with emergency intervention orders that are
11 issued for intimate partners, that we will be notified ...
12 anyone. And any time there is an order that is issued, we are
13 notified. And we enter them in CFIS so that if the person has a
14 firearms license, we review it. If they don't, we still enter
15 it like a prohibition order so that if they ever apply, we are
16 able to review it.

17 **Q.** Okay. And I think you mentioned yesterday that a
18 spouse cannot be a reference.

19 **A.** No.

20 **Q.** And previous conjugal partners are also contacted
21 potentially?

22 **A.** Yes.

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 **Q.** And in terms of other checks that you do, there's a
2 court matters check.

3 **A.** Yes.

4 **Q.** So in thinking about intimate partner violence, are
5 there things that might come up in that that would be of concern
6 to you?

7 **(09:47:57)**

8 **A.** Well, what we do is when they do the background check,
9 those are all part of that. So the background check will check
10 anything. Any files that have been done throughout Canada. So
11 if there's any files that need to be reviewed, we'll review it.

12 Court matters is also through JISNB. So if there's
13 anything in there, we'll see it. But, also, court matters
14 reflects any information provided from any other jurisdiction.
15 So if we have anything there, we will look at them and see what
16 it is.

17 **Q.** So would something like a peace bond come up in that
18 particular type of search?

19 **A.** Peace bond, prohibition order, probation order.
20 Anything that would say ... If it says "not to possess any
21 firearm" that's a prohibition order in itself.

22 **THE COURT:** Excuse me. So does an emergency

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 intervention order trigger a review the same way a FIP does?

2 **A.** Yes.

3 **THE COURT:** Thank you. A peace bond?

4 **A.** If we're advised, yes.

5 **THE COURT:** A recognizance that didn't necessarily
6 result in a direction not to possess firearms?

7 **A.** If they're under a recognizance, there's a file. So
8 we should be notified so that we review it.

9 **THE COURT:** So on each of those occasions, you would
10 change the status of the license to "under review" ...

11 **A.** Yes.

12 **Q.** ... and you would conduct your review just like it was
13 a FIP.

14 **A.** Yeah.

15 **THE COURT:** Thank you. Sorry, Ms. Grant.

16 **MS. GRANT:** Oh, that's okay. And I noticed one of the
17 checks is something called a "prohibition order on spouse". Can
18 you explain what that is?

19 **A.** Yes. So whenever an applicant applies, we verify to
20 see if the spouse ... like, it's just an extra check that we do
21 to see if the spouse has a prohibition order or not, so that if
22 they do, we verify to see, okay, what it is. And so that if

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 they do have a prohibition order, that firearms are not kept in
2 the house where a person is prohibited. So we verify. And if
3 they don't, then we just override it and move on. And if they
4 do, then the application of the client is assigned to an area
5 firearms officer to let them know that the client who is
6 applying, their spouse has a prohibition order against them.

7 **Q.** Can we just go back to that Exhibit 130, page 19,
8 please? Thank you. So if we go down to, yeah, the big block
9 letters there that say, "If you have any safety concerns about
10 this application, please call 1-800-731-4000." So what is that
11 number?

12 **A.** That is the Canadian Firearms Program Central
13 Processing site in Miramichi. That is the calling center for
14 all of Canada. That is the main number for any province in
15 Canada.

16 **Q.** So any person in Canada, or I suppose outside of
17 Canada, can call this number to report a public safety concern.

18 **A.** Yes.

19 **Q.** I know you said earlier that, you know, if it's an
20 emergency, you would call the police, kind of call 9-1-1. But
21 anyone can call this and express a concern. Or they could call
22 your office.

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 **A.** Well, when they call that number, they'll ask. If
2 it's New Brunswick ... like the system will know which province
3 they're calling from and we'll redirect them or they'll say, If
4 you know the extension. Like our office extension number is
5 6000. So it'll be directed to our number. And the automated
6 will say, "If this is a public safety call, press ..." the
7 number. And as soon as they press it, it'll come to us right
8 away. And that line is answered automatically by one of our
9 staff so that we can address it.

10 **Q.** Okay. And in your testimony yesterday, you mentioned
11 that sometimes you have received calls from doctors.

12 **A.** It's mostly notices from doctors.

13 **Q.** Notices.

14 **A.** Yeah. Emails or fax indicating that they have
15 concerns.

16 **Q.** Okay. And have you received calls or emails or faxes
17 from family members of people who have licenses?

18 **A.** Those are usually from the public safety line.

19 **Q.** From the public safety line.

20 **A.** Yes.

21 **Q.** And in the public safety line as well, are there calls
22 received from spouses or intimate partners of people with

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 firearms licenses?

2 **A.** Yes.

3 **Q.** And public safety. I think you said yesterday, those
4 types of concerns are prioritized by your office.

5 **A.** Yes.

6 **Q.** In terms of the investigation.

7 **A.** Yes.

8 **Q.** So it's fair to say that if you received a call about
9 a public safety concern involving the potential for intimate
10 partner violence, you would take that seriously.

11 **A.** Any one of those ones are assigned right away and the
12 area firearms officers start doing their review.

13 **Q.** Yesterday I think you noted that you and your team are
14 not doctors. Right?

15 **A.** Yes.

16 **Q.** And your AFOs and provincial firearms officers have
17 law enforcement backgrounds.

18 **A.** Just the area firearms officers.

19 **Q.** Thank you. So is it fair to say that you rely on
20 their expertise when they choose to make an assessment about
21 whether someone poses a safety risk?

22 **A.** Yes.

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 **Q.** Our understanding, and I know you weren't here for the
2 testimony of one Constable Richard who was in New Brunswick
3 doing an investigation, but it's our understanding that police
4 officers have access to something called the Canadian Firearms
5 Registry Online. Are you familiar with that?

6 **A.** CFRO. Yeah.

7 **Q.** CFRO. Yeah.

8 **A.** Mm-hmm.

9 **Q.** And that that is within CPIC.

10 **A.** Yes.

11 **Q.** So that officers have access to the same type of
12 license information - valid, expired, under extension, review or
13 revoked - that is in CFIS.

14 **A.** Yes. But it doesn't tell them whether it's under
15 review or revocation suggestion received.

16 **Q.** Right, because it's not CFIS.

17 **A.** Yes.

18 **Q.** Yeah. All right. Yesterday we talked about something
19 called "PAIN" which is interesting. We understand that that
20 actually stands for "Public Agent Identification Number".

21 **A.** Yes.

22 **Q.** Does that make sense?

LYSA ROSSIGNOL, Cross-Examination by Ms. Grant

1 **A.** Yes.

2 **Q.** Okay. And our understanding - I'll just ask you if
3 this sounds right - but is that it's a number that's given to
4 public agents by the Registrar of Firearms ...

5 **A.** Yes.

6 **Q.** ... to allow them to record their agency firearms. So
7 like sidearms and service firearms.

8 **A.** To register their side- ... yeah.

9 **Q.** Right.

10 **A.** To register part of that. And also any firearms that
11 they seize.

12 **Q.** Any firearms that they seize are taken into protective
13 custody.

14 **A.** Exactly.

15 **Q.** Okay. So you would agree that as firearms
16 investigators, you have discretion to contact essentially anyone
17 that you think might be able to help you with your
18 investigation.

19 **A.** Yeah.

20 **Q.** So I think you mentioned some yesterday. Doctors,
21 police. And I think you mentioned references as well?

22 **A.** Yes.

LYSA ROSSIGNOL, Cross-Examination by Mr. Anderson

1 Q. And family members and spouses.

2 A. Yes.

3 Q. I think just one final question. You know, I'm
4 thinking about issues like drivers' licenses and people being on
5 the road, and assuming that they are properly licensed and
6 properly insured, you rely on clients to be truthful in their
7 applications. Correct?

8 A. Yes.

9 Q. And you rely on them to essentially obey the law.

10 A. Yes.

11 Q. And that if eligibility criteria change or they move,
12 you expect them to advise you of that.

13 A. Yes.

14 Q. Thank you, Ms. Rossignol. Those are all my questions.

15 **THE COURT:** Mr. Anderson?

16

17 **CROSS-EXAMINATION BY MR. ANDERSON**

18 (09:56:12)

19 **MR. ANDERSON:** Thank you, Your Honour. Good morning, Ms.
20 Rossignol. My name is Glenn Anderson. I'm here for the
21 Attorney General of Nova Scotia.

22 I understand from your evidence yesterday that vendors are

LYSA ROSSIGNOL, Cross-Examination by Mr. Anderson

1 able to verify validity of a license by contacting the Canadian
2 Firearms Program?

3 **A.** Yes.

4 **Q.** And they can do that by two methods currently. The 1-
5 800 number and the web services.

6 **A.** Yes.

7 **Q.** The business web services.

8 **A.** Yes.

9 **Q.** Online. Is it your understanding that Bill C-71 will
10 now make that verification from the Firearms Program mandatory?

11 **A.** Yes.

12 **Q.** And you said yesterday that your office has access to
13 PROS. Was that an RCMP grant of access to PROS to your Firearms
14 office or is that access attached to a particular officer?

15 **A.** No. It was an agreement signed by the CFO at the
16 time, and the Canadian Firearms Program, and that we would get
17 access to PROS. And it's given to certain firearms officers.

18 **Q.** Okay. So not just firearms officers who happen to be
19 RCMP and that gives them the access to PROS?

20 **A.** No.

21 **Q.** The access is to the office itself.

22 **A.** Yes.

LYSA ROSSIGNOL, Cross-Examination by Mr. Anderson

1 **Q.** Okay. Thank you. Now your office has jurisdiction
2 over licenses for applicants and license-holders residing in New
3 Brunswick?

4 **A.** Yes.

5 **Q.** And your office performs investigations of New
6 Brunswick residents' applications and renewals?

7 **A.** Yes.

8 **Q.** And for New Brunswick residents triggered by FIP
9 events.

10 **A.** Yes.

11 **Q.** And that's for events that occur in New Brunswick or
12 in other jurisdictions in Canada?

13 **(09:58:00)**

14 **A.** If a New Brunswick resident does an event in another
15 province, the other provinces usually will do the investigation
16 and then advise us of their results.

17 **Q.** So in terms of the investigation that the other
18 provinces or jurisdiction may do, is that obtaining the police
19 report and forwarding it to your office?

20 **A.** They'll do the police report. If there's any other
21 information needed, they'll gather that information and then
22 provide it to us.

LYSA ROSSIGNOL, Cross-Examination by Mr. Anderson

1 **Q.** And they provide it to your office to allow you to
2 conduct an investigation and determine whether a change of
3 status of the license is required?

4 **A.** Well, the license would already be under review once
5 we're notified that there's an investigation or that an event
6 had been received. And then once we receive the information
7 from the other jurisdiction, a review would be made whether or
8 not there was any public safety risk in that person maintaining
9 their firearms license.

10 **Q.** Right. And that review is done by your office.

11 **A.** The final review. Yes.

12 **Q.** Okay. Now in terms of CFIS, so the database, other
13 firearms offices are able to see New Brunswick residents' files
14 on CFIS, aren't they?

15 **A.** Whatever information we've inputted, yes.

16 **Q.** Right. And their access on CFIS, if it is a, say,
17 Nova Scotia Firearms Office, it's a "read only" of the New
18 Brunswick clients' files, is it?

19 **A.** Yes.

20 **Q.** So I believe you described it yesterday as a courtesy.
21 If there's a FIP event in another province, that that firearms
22 office would obtain the RCMP report and forward it to your

LYSA ROSSIGNOL, Cross-Examination by Mr. Anderson

1 office.

2 **A.** The way we've been doing it between all of our
3 jurisdictions, the federal jurisdictions and the provincial is
4 that if I get a Firearms Interest Police file in New Brunswick
5 but the resident, the client, resides in another province ... is
6 I will advise the other province. We will gather all the
7 information here in New Brunswick and then forward it to the
8 province of the client's residence.

9 **Q.** Okay.

10 **A.** The only province that we don't do that is Quebec.

11 **Q.** All right. Now I understand that on March 1st, 2016
12 ... so you were reviewing Corporal Desmond's file and you
13 noticed the November 18th FIP event that occurred in Nova
14 Scotia.

15 **A.** Yes.

16 **Q.** What is the mechanism? So I gather you're in a client
17 file, Corporal Desmond's file. That's the process that you
18 would have engaged on March 1st to see the Nova Scotia November
19 18th event?

20 **A.** So when I get notified that my firearms officer have
21 completed a file what I do is when I open CFIS you see the
22 client's information and then there's tabs for their address,

LYSA ROSSIGNOL, Cross-Examination by Mr. Anderson

1 their license information, the privileges that they have, their
2 history, which is the type of firearms they have. And then
3 there's a tab called "Events". So under that tab there's, like,
4 five tabs which has court matters, events regarding firearms
5 license, but the first one is events regarding any Firearms
6 Interest Police files that are there.

7 So I noticed that there was one and then when I scrolled
8 over I saw that it hadn't been investigated yet.

9 Q. And what was it that you saw? And we're talking about
10 the November 18th Nova Scotia incident. So under the Events tab
11 you see this particular event from November 18th.

12 A. I see the numbers. The Event tab does not provide us
13 the case number. It just provides us with the seven numbers of
14 the Firearms Interest Police file. So it would have given me
15 the 6184442, which is the event ID number. And then when you
16 scroll over on that screen it tells you whether it's a match, a
17 potential match, or reviewed.

18 **THE COURT:** I'm going to stop you for a second.

19 A. Yeah.

20 **THE COURT:** So can you tell us what document you're
21 referring to so we can bring it up so that everyone can follow
22 it, please?

LYSA ROSSIGNOL, Cross-Examination by Mr. Anderson

1 **A.** Absolutely. 133, page 2.

2 **THE COURT:** Page 2? Thank you.

3 **A.** Yes.

4 **THE COURT:** So you were ...

5 **A.** At the top it says the event ID number. I that's the
6 first thing that we would see when I open the tab for event. It
7 would just be that number.

8 **THE COURT:** That's the 6184442.

9 **A.** Yes.

10 **MR. ANDERSON:** All right, so you're looking at the Event
11 tab, and is this a drop down that lists the events?

12 **A.** The screen is pretty big. So there's room for a lot
13 of events to be put under it. So if there's one, two, three you
14 can see them all. And then if you scroll over on the screen you
15 can see if it's been reviewed, if it's a potential match, or it
16 tells you on that screen whether or not it needs to be reviewed.

17 **Q.** Okay, so how does that compare to Exhibit 133 that
18 we're looking at now?

19 **A.** This exhibit is actually a printout from our federal
20 site. It's called Cognos, and once a Firearms Interest Police
21 file has been reviewed you can't see it in CFIS what it means.
22 So you have to print out this page. So you have to go into

LYSA ROSSIGNOL, Cross-Examination by Mr. Anderson

1 another system to print out the page of the Firearms Interest
2 Police file. So I would have to go into the system Cognos and
3 put the number 6184442 to get this printout.

4 Q. So is the only thing that comes up on CFIS is the
5 event ID number?

6 A. Yes.

7 Q. I see. So then you have to go into the Cognos, and
8 this is the printout you'd get of that event.

9 A. The system is a little bit confusing in itself there,
10 but you can look up to see. If it says "Reviewed", you can't
11 look it up in CFIS. If it says, "Potential match", there is
12 another screen that you can go on CFIS to look up the event, but
13 the best one is this one here; is to go into Cognos and print it
14 off.

15 Q. All right. So Exhibit 133 is what you would have
16 printed off on March 1st, 2016?

17 A. Yes.

18 Q. And so maybe we could scrol^l down a little bit.

19 **THE COURT:** I'm going to ask you what Cognos. C-O-G-N-
20 O-S?

21 A. Yes.

22 **THE COURT:** Do you know what stands for?

LYSA ROSSIGNOL, Cross-Examination by Mr. Anderson

1 **A.** No. It's a federal RCMP system that we can access all
2 databases regarding businesses, licenses.

3 **THE COURT:** That's fine.

4 **MR. ANDERSON:** So I see at the bottom of Exhibit 133 that
5 there's entries in April, April 18th ...

6 **A.** Yes.

7 **Q.** ... 2016. So that entry wouldn't have shown up, I
8 gather, on March 1st.

9 **A.** No.

10 **Q.** So on March 1st what would you have seen on the Cognos
11 printout regarding the November 18th event?

12 **A.** The first block of information at the top. The case
13 number, the date of birth, the event date, expiry date, the
14 individual name, the agency ID number, the surname, the sex, and
15 then under the second block, whenever we put a comment those are
16 generated. And then the second part, the third block, I would
17 have only seen the comment from December 12th, 2015.

18 **Q.** All right, so you wouldn't have any details of what the
19 event was as of March 1st.

20 **A.** No.

21 **Q.** So as I understand your evidence is that upon noticing
22 this event; that you contacted the Nova Scotia Firearms Office.

LYSA ROSSIGNOL, Cross-Examination by Mr. Anderson

1 **A.** Yes.

2 **Q.** And your purpose was to follow up on the disclosure
3 and the disclosure was the Nova Scotia Firearms Office obtained
4 a copy of the RCMP occurrence report.

5 **(10:08:00)**

6 **A.** They had made a request for the 3825. So yes.

7 **Q.** Right. And your purpose in requesting that is to
8 allow you to investigate Corporal Desmond's file, I gather.

9 **A.** Yes.

10 **Q.** Okay. Those are my questions. Thank you, Ms.
11 Rossignol.

12 **A.** Thank you.

13 **THE COURT:** Ms. Whitehead?

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

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

16 **MR. MACDONALD:** Thank you, Your Honour.

17

18 **CROSS-EXAMINATION BY MR. MACDONALD**

19 **(10:08:50)**

20 **MR. MACDONALD:** Good morning, Ms. Rossignol. I'm Thomas
21 Macdonald. I'm the lawyer for Ricky and Thelma Borden, who were
22 the parents of Shanna Desmond and the grandparents of Aaliyah,

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 and also Sheldon Borden, their son, who was Shanna's brother and
2 Aaliyah's uncle.

3 I just wanted to get a little bit of background first. You
4 mentioned yesterday, if I have it right, to Mr. Murray, you
5 started working at the firearms office while you were going to
6 university?

7 **A.** Yes.

8 **Q.** What degree did you end up with after your university
9 experience?

10 **A.** Bachelor of Applied Art and Criminal Justice.

11 **Q.** Okay, and you've been with the Firearms Department
12 since?

13 **A.** Yes. Well, I was with Public Safety before.

14 **Q.** Yes.

15 **A.** And I took a leave of absence for two years while I
16 finished my degree.

17 **Q.** Okay, and as Chief Firearms Officer, who would your
18 boss be, the Minister of Public Safety in New Brunswick?

19 **A.** Yes.

20 **Q.** Okay. Who is that, by the way, at the moment?

21 **A.** Carl Urquhart.

22 **Q.** Okay. Now what documents did you review before you

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 came to Nova Scotia to give your evidence at this Inquiry? What
2 would you have to look at to prepare?

3 **A.** Well, we reviewed the documents that were provided by
4 Mr. Russell and Mr. Murray.

5 **Q.** Yes.

6 **A.** And also Mr. Desmond's applications and documents that
7 we had availability.

8 **Q.** And when you say the documents that were provided by
9 Mr. Russell and Mr. Murray you're also including the documents
10 that your Department, your office, would have provided to the
11 Inquiry?

12 **A.** Yes.

13 **Q.** So for example, Joe Roper's tertiary investigation
14 report has attached to it the Dr. Paul Smith letter. You would
15 have reviewed those, right?

16 **A.** Yes.

17 **Q.** And you would have reviewed the November 18th, 2015
18 FIP, the second ... the FIP that came from New Brunswick?

19 **A.** From New Brunswick? Yes.

20 **Q.** Sorry, that came from Nova Scotia to New Brunswick.

21 **A.** Yes.

22 **Q.** Yes. And the document that you produced yesterday,

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 the firearms license comments history, that computer printout,
2 you would have reviewed that as well?

3 **A.** Yes.

4 **Q.** Now I noticed this morning when you came to the stand
5 you were carrying a blue binder, which I see in front of you on
6 the desk with materials. What are those materials?

7 **A.** Those are the same material, just my notes.

8 **Q.** Okay, and is there anything in that blue binder that
9 you've not produced to the Inquiry?

10 **A.** No.

11 **Q.** Okay. Did you have occasion to discuss what we're
12 going to call this morning the Desmond matter with Joe Roper?

13 **A.** No, actually, because he met with the legal counsel
14 when they came to New Brunswick and then after that he went on
15 vacation.

16 **Q.** No, but I'm saying internally in your office. Have
17 you ever discussed this matter with Joe Roper?

18 **A.** When the file was completed, yes. When Mr. Desmond
19 passed away Joe Roper was no longer working with our office.

20 **Q.** Okay.

21 **A.** So we advised him and when we realized that there was
22 going to be an inquest, we advised him also.

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 Q. You advised him what?

2 A. That there was going to be an inquest.

3 Q. Okay, so I'm just a little unclear. Are you saying
4 that Mr. Roper was not there in January 2017 when Mr. Desmond
5 passed away?

6 A. No, not that I recall. But the CFO at the time might
7 be able to answer that.

8 Q. Sure, but I'm asking you as the Chief Firearms Officer
9 ...

10 A. Yeah, absolutely.

11 Q. ... of New Brunswick. So I just want to be clear.
12 Have you discussed this Inquiry matter, the Desmond matter, with
13 Mr. Roper? You. Have you discussed it with him, ever?

14 A. Not that I recall, no.

15 Q. Okay. So then when he gives evidence here in the
16 months or weeks to come, if you were to listen to that evidence
17 you are hearing it for the first time. Is that fair?

18 A. Yes.

19 Q. Okay. Now you know that in August, August 29th, 2019,
20 Mr. Russell, Inquiry counsel, sent a letter to your office asking
21 for information and then on October 23rd, 2019 there was an
22 order from Judge Zimmer directing that information be provided.

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 You're familiar with those two things?

2 **A.** Yes.

3 **Q.** Is there any information as a result of the letter and
4 the order that your office has refused to provide to the
5 Inquiry?

6 **A.** No.

7 **Q.** Okay. I want to take you to Exhibit 132, please. You
8 can tell me when you're there, ma'am, and then I'll ...

9 **A.** Yeah.

10 **Q.** Oh, you are? Okay. So that's a January 9, 2017
11 email, Derek Eardley to you, and he's forwarding an email from
12 Rob O'Reilly to himself.

13 **A.** Yes.

14 **Q.** All right. Okay. You've seen this before.

15 **A.** Yes.

16 **Q.** Rob O'Reilly, he's the director, I guess, within the
17 RCMP of the Canadian Firearms Program? Something to that
18 effect?

19 **A.** Yes, he was the Canadian director, yes.

20 **Q.** Do you know, ma'am, whether he is an RCMP officer or
21 is he a civilian employee?

22 **A.** I wouldn't be able to answer that one.

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 **Q.** Okay. I notice in the first page, the first
2 paragraph, and he's writing, obviously to Mr. Eardley. And Mr.
3 Eardley was the Chief Firearms Officer at the time?

4 **A.** Yes.

5 **Q.** Okay. "Derek, below is my (that's his wording) ...
6 the draft narrative for the briefing note I'm doing for the
7 Minister." Is it your understanding that the minister is the
8 Minister of Justice for Canada?

9 **A.** Yes.

10 **Q.** Is that who he's referring to?

11 **A.** Minister of Public Safety, yes.

12 **Q.** Okay. For Canada.

13 **A.** Yes.

14 **Q.** Right. Okay. So this is a draft note.

15 **A.** Mm-hmm.

16 **Q.** Do you know whether your office ever received the
17 finalized memorandum - well, I guess it's called a briefing note
18 - that was sent by Mr. O'Reilly to the Minister?

19 **A.** No. Mr. Eardley might be able to answer that but not
20 that I'm aware of.

21 **Q.** Okay. At the bottom of that first page there's a
22 paragraph that begins, "On November 18th ..." Do you see that

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 paragraph?

2 **A.** Yes.

3 **Q.** So I'm not going to read the whole thing, but the last
4 line of the paragraph, there's a sentence: "Delays in
5 disclosure by police resulted in the information only being
6 received by the CFO on 14 April 2016." It's his memo, and I get
7 that. But it was sent to your boss at the time and your boss
8 sent it to you. What do you take that to mean? Were there
9 delays that the New Brunswick Firearms Office identified in
10 police sending information?

11 **A.** From this, the only thing I get from that is that we
12 did not get the information from the RCMP in question until
13 April 14, 2016.

14 **Q.** And did that in any way, in your view, preclude the
15 process where ultimately we know New Brunswick reinstated Mr.
16 Desmond's license?

17 **A.** I'm not sure. It would depend on the information when
18 we got it.

19 **Q.** So I'm going to suggest to you it didn't, though, did
20 it?

21 **A.** No.

22 **Q.** Yes. So I want to take you to Exhibit 135, and tell

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 me when you're there, please.

2 **A.** I'm there.

3 **Q.** Okay, so this is Mr. Roper's tertiary investigation
4 report, and that's on page 1, the bottom half of the page. Top
5 half of the page says, "Request for tertiary investigation", and
6 on the left-hand side, "PFO, L. Rossignol." That was you at the
7 time. Correct?

8 **A.** Yes.

9 **Q.** So you're requesting Mr. Roper to do a tertiary
10 investigation? Is that what that means?

11 **A.** Yes.

12 **Q.** And is it fair to say at that time you were Mr.
13 Roper's boss?

14 **(10:18:02)**

15 **A.** No.

16 **Q.** Were you his superior?

17 **A.** No.

18 **Q.** So ...

19 **A.** I was a coworker.

20 **Q.** But a coworker with the power to direct him to do an
21 investigation.

22 **A.** The provincial firearms officers forward investigation

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 report to the area firearms officers. That's their
2 responsibility.

3 Q. Yes.

4 A. That's their roles.

5 Q. Yes.

6 A. And the area firearms officer, upon receipt, do the
7 investigation. So they're not supervisors or directing them.
8 They're not higher up or anything like that. So Mr. Roper gets
9 the report, does the investigation.

10 Q. So you're not directing him to do the investigation
11 but you're requesting? Is that fair?

12 A. That an investigation is needed on this file.

13 Q. So it's a request?

14 A. Yeah.

15 Q. Okay. So I'm just going to hit some what I consider
16 to be highlights of the tertiary investigation report that Mr.
17 Roper did, and so just going through it, there's a reference to:

18 He (meaning Mr. Desmond) was going to do
19 harm to himself. He was going to use a
20 firearm, was on his way to the garage which
21 is where they are stored. He's a veteran
22 and has PTSD. He told her to say goodbye to

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 their daughter and he would see her in
2 heaven.

3 The next line, "Very depressed." The next line, "Driven to
4 the hospital." Then Mr. Roper refers to the Medical Assessment
5 By a Physician Form signed and stamped by Dr. Smith. "Non-
6 suicidal and stable, no concerns for firearms usage and
7 appropriate license." And he says he's checked the box
8 indicating, you know, "I have no concerns." And then ends his
9 investigation report with: "At this time, the license is being
10 reinstated."

11 And then if you could turn - at least in the copy I have -
12 over two pages. We have the actual Mental Assessment By
13 Physician Form. Do you see that, ma'am?

14 **A.** Yes.

15 **Q.** Yeah, and so that's Dr. Smith's form and you've seen
16 this before, of course.

17 **A.** Yes.

18 **Q.** Okay. Can you help me under the "Comment" section?
19 I'm looking at two lines. The first line begins with a capital
20 as in, "Non-suicidal". The second line begins with not capital
21 letters, small F for "for". Would you call that a sentence? Is
22 it, like, one sentence?

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 **A.** Yes.

2 **Q.** Okay. That's what I thought, too ...

3 **A.** Yeah.

4 **Q.** ... and I wasn't quite sure how your office would
5 treat it. So Dr. Smith has the sentence and says ... could you
6 read it for me? I can read most of it, but I know Mr. Murray
7 asked you to do that yesterday. But if you'd indulge me and
8 read it again, please.

9 **A.** "Non-suicidal and stable. No concerns for firearm
10 usage and with appropriate license."

11 **Q.** Okay, and he has the box ticked, "No, I have no
12 concerns that the applicant named above may pose a safety risk
13 to himself or others above." Right?

14 **A.** Yeah.

15 **Q.** Okay. So now when Mr. Roper did the report you then,
16 upon receipt of that, I take it, must have had some concerns
17 because you did a review? Is that fair?

18 **A.** No. What I do is I just review to make sure that all
19 the signatures, all the CFIS is completed. That's what I do to
20 make sure that everything has been checked off, completed.

21 **Q.** So what was the delay? Why have the license under
22 review and not just go with Mr. Roper's recommendation then to

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 approve it?

2 **A.** Well, he put it back to valid on February 29th.

3 **Q.** Yes.

4 **A.** But then when I received the confirmation on March 1st
5 - because I get an email to say, I put it back to valid - I put
6 it back under review on March 1st because I noticed that there
7 was another event that hadn't been reviewed.

8 **Q.** Correct. And that was your decision as opposed to Mr.
9 Roper's? Correct?

10 **A.** Yes.

11 **Q.** Okay. And I'm sorry, you were then a provincial
12 firearms officer?

13 **A.** No, I was the operations manager in 2015.

14 **Q.** Operations manager. And as operations manager you had
15 the discretion to put it under review?

16 **A.** Yes.

17 **Q.** Okay. So now let's turn to Exhibit 133, please, and
18 are you there?

19 **A.** Yes.

20 **Q.** Yeah, so this is the email to you from Ms. Campbell?
21 Dianne Campbell?

22 **A.** Page ...

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 Q. I'm looking at the first page of the email and then it
2 ends up with the November 18th FIP. Do I have the exhibit
3 number wrong, perhaps? Excuse me for one second.

4 Page 3, perhaps.

5 A. Yes.

6 Q. Okay, so who is Dianne Campbell again?

7 A. She's from the Nova Scotia Firearms Office.

8 Q. And what's her title? Or what was her title?

9 A. I think she was the acting operations manager at the
10 time.

11 Q. Okay, so then you receive the November 18th, 2015 FIP
12 and you reviewed it. Correct?

13 A. Yes, I received the information, yes.

14 Q. Yeah, and the information. Now again, I'm just
15 highlighting certain ... So this is the November 18th FIP and
16 what's your understanding? Would you tell me again, please?
17 Explain the definition of FIP. What does FIP mean?

18 A. It's a Firearms Interest Police file.

19 Q. Okay, and so we see in the first paragraph Shanna
20 Desmond was calling Guysborough Detachment in the second
21 paragraph, and again I'm highlighting. Just left the ...

22 **THE COURT:** Sorry, I'm going to stop you for a second

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 there.

2 **MR. MACDONALD**: Sorry, Your Honour.

3 **THE COURT**: Which page are you on?

4 **MR. MACDONALD**: It's on the bottom, page 2 of 3, and it
5 would be the actual Protected B. It begins, "RCMP/GRC H
6 Division."

7 **A.** Page 5, Your Honour.

8 **THE COURT**: So we do have the exhibit. It's Exhibit 133
9 and the page numbers are on the top-left corner of the pages. I
10 don't know if the document you're working from has ...

11 **MR. MACDONALD**: It doesn't, I'm afraid.

12 **THE COURT**: It does not? All right.

13 **MR. MACDONALD**: But page 5 is where I am right now, Your
14 Honour. Your page 5.

15 **THE COURT**: Our page 5. All right, so because yours is
16 a little different than ours you just have to give us time to
17 get caught up to make ...

18 **MR. MACDONALD**: Of course.

19 **THE COURT**: ... certain we're all on the same page ...

20 **MR. MACDONALD**: Yes.

21 **THE COURT**: ... so we called the document up for
22 everyone to see. Thank you.

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 **MR. MACDONALD**: Thank you. So ma'am, in the second
2 paragraph it says:

3 Just left the military in June/July with
4 medical discharge. Left for PTSD,
5 depression, in a manic state. OCC advised
6 that the complainant, Shanna Desmond, his
7 aunt (we know Shanna was his wife, of
8 course) called to request a wellness check
9 on him.

10 Then in the middle paragraph it refers to going to St.
11 Martha's Hospital in Antigonish and then the last ... sorry, in
12 the last paragraph but about five up from the bottom:

13 Shanna advised that she fears that harm may
14 come. Not sure to him or someone else. She
15 advised that he has access/been prescribed a
16 medical marijuana license for his illness.

17 So you see this after Nova Scotia sends it to you and now
18 you're talking it's March. Correct?

19 **A.** In April.

20 **Q.** April, sorry. Did this document give you any concern?

21 **A.** No, because, well, I read the whole thing, the
22 following page 6 also.

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 **Q.** Yes, and tell me about page 6.

2 **A.** The second paragraph where:

3 Spoke with ... who advised Desmond has been

4 manic several times. Not threatening to

5 hurt himself or others but has so in the

6 past. Has stopped taking medication.

7 Unknown if he was going to see doctors about

8 PTSD.

9 So the third paragraph:

10 Met with Desmond in his aunt's residence,

11 Sarah MacEachern, where was home at the

12 time. Explained to Desmond why I was there

13 to ensure he was doing all right and that he

14 was getting treatment he needed, as his

15 family was concerned. Desmond was calm and

16 lucid, advising he had come to Guysborough

17 to visit his estranged wife and daughter,

18 who was staying nextdoor with family, and

19 also to do some hunting. He stated he does

20 get manic episodes, including today, due to

21 his mental health but knows how to handle

22 them by avoiding conflict. He advised that

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 he stopped taking certain meds after
2 consulting his doctor, Dr. Paul Smith and
3 Dr. Matthews in New Brunswick, and on
4 medicinal marijuana only until he goes back
5 to Oromocto for follow up next week.
6 Desmond displayed no signs of being in
7 danger to himself or others. Advised he
8 would call police if he felt he was
9 deteriorating and needed assistance.

10 **Q.** So, ma'am, when I see that it looks to me like what
11 that is saying is that Mr. Desmond is saying that he's managing
12 himself, his condition, if I can put it that way. Is that fair?
13 Do you understand what I'm saying? Did you take that from this
14 ...

15 **A.** No.

16 **Q.** No? Okay. What is it here that gave you the
17 confidence in not holding up the application further?

18 **A.** Well, because the event occurred in November, and the
19 one that we investigated was also in November and we had gotten
20 the medical dated in February from Dr. Smith.

21 **Q.** Yes.

22 **A.** Who stated no issues. So we took that there was no

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 other problem and he was still being followed by Dr. Smith. So
2 that's why the license was returned to valid.

3 Q. Ma'am, can you point me to somewhere that it says that
4 he's still being followed by Dr. Smith?

5 **(10:28:00)**

6 A. Just the fact that he put down that after consulting
7 his doctors, Dr. Paul Smith and Dr. Matthews, in New Brunswick.

8 Q. Okay, so it's fair, then, to say that perhaps the
9 turning point for you in putting this license back to valid was
10 Dr. Smith's letter?

11 A. Yes.

12 Q. Okay. So as I understood it. I don't need you to go
13 to the firearms license comments history unless you feel you
14 need to, but four days after you get the information from Nova
15 Scotia you put the license back to valid. Is that correct?

16 A. Yes.

17 Q. Okay. Now it's true though, isn't it, rather than put
18 it back to valid after four days and after seeing that Nova
19 Scotia information you had the discretion, the office had the
20 discretion through you, to keep it under review if you chose to
21 do that. Correct?

22 A. Yes.

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 Q. You've said, I believe, that the Dr. Smith letter was
2 the factor that turned things for you?

3 A. Well, because we had an updated medical notice.

4 Q. Yes. But would you ...

5 A. With no issues.

6 Q. Sure, but would you agree with me - if you need to go
7 back to it and look, we can - that's a one-sentence assessment.

8 A. Yes.

9 Q. With a box checked.

10 A. Yes.

11 Q. It was possible for you, you had the discretion, to
12 ask Mr. Desmond to get an update, a second update from Dr.
13 Smith, wasn't it?

14 A. Yes.

15 Q. And it would have been possible for you to say to Mr.
16 Desmond, or someone on your behalf, Also, we want a
17 psychiatrist's letter. Could have asked for that. Correct?

18 A. Yes.

19 Q. Okay. Any reason you didn't?

20 A. No.

21 Q. Okay.

22 **THE COURT:** I'm sorry, I have a question for you. When

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 Mr. Roper was looking at the ... was doing the review with
2 regard to the later, November 5th ...

3 **A.** Yes.

4 **THE COURT:** ... and his decision to get that report from
5 Dr. Smith, correct?

6 **A.** Yes.

7 **THE COURT:** He would have had the entire file available
8 to him and he would also have been able to read, at least have
9 access to it if he chose to, he would be able to see the earlier
10 correspondence of Dr. Joshi in relation to when it was reviewed
11 and that medical information that was required because of the
12 not checking the boxes for the personal history?

13 **A.** Yes.

14 **THE COURT:** Okay. Do you know whether you ever had a
15 discussion with Mr. Roper about whether he looked at that or saw
16 that or was aware of it?

17 **A.** I didn't have a ... I don't remember having a
18 discussion with Mr. Roper about that but as I indicated
19 yesterday, any time we do a review of a client's file we always
20 look at previous ...

21 **THE COURT:** Reviews?

22 **A.** Yes.

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 **THE COURT:** Thank you.

2 **MR. MACDONALD:** Ma'am, I noticed yesterday and Mr. Murray
3 took you to a form I'll call it, well it was a form. So New
4 Brunswick now has an updated medical assessment form since the
5 one that was used in this Desmond matter, correct?

6 **A.** Yes.

7 **Q.** Can you give me the timeline in terms of when that
8 form would have begun to be used in New Brunswick?

9 **A.** 2017.

10 **Q.** When in 2017 and take your time?

11 **A.** I think I mentioned it yesterday.

12 **Q.** You may have, would it be January 2017?

13 **A.** I believe it was February. February 2017.

14 **Q.** So fair to say a month after Mr. Desmond killed
15 himself and his family, New Brunswick put in a new form?

16 **A.** Yes.

17 **Q.** Was the new form put in as a result of the Desmond
18 incident?

19 **A.** I wasn't the CFO at the time so I don't know.

20 **Q.** You are now though. You know, ma'am, have a history
21 of it or knowledge of whether it was put in or not?

22 **A.** No.

LYSA ROSSIGNOL, Cross-Examination by Mr. Macdonald

1 Q. Okay. You never asked?

2 A. No.

3 Q. Okay. Who would have that information?

4 A. CFO Eardley.

5 Q. Okay. And he's going to give evidence here?

6 A. Yes.

7 **MR. MACDONALD:** Okay. Those are my questions. Thank you
8 very much, Ms. Rossignol.

9 A. Thank you.

10 **THE COURT:** We have that as an exhibit, do we not?

11 **MR. MURRAY:** Yes.

12 **THE COURT:** And what's the ...

13 **MR. MACDONALD:** It's Exhibit 126, Your Honour.

14 **THE COURT:** 126? I have a question but I'll come to it
15 later. It's in relation to one of the additional documents,
16 127, but we'll come back to that. Ms. Miller?

17

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

19 **(10:34:25)**

20 **MS. MILLER:** Good morning, Ms. Rossignol, my name is Tara
21 Miller, we met yesterday. I represent Brenda Desmond through
22 her personal representative and also share representation with

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 Mr. Macdonald, who just asked you questions, with respect to
2 Aaliyah Desmond.

3 I tried to look to see if there's a mission statement or a
4 mandate for the New Brunswick Chief Firearms Office, I couldn't
5 find one. Are you aware if one exists?

6 **A.** It would be under the GNB site, on the public safety
7 site.

8 **Q.** Yeah, so what I found was: "Provincial firearms
9 officers are responsible for supporting safe communities by
10 managing ownership, purchase, movement, and use of firearms
11 within the province, the administration of federal firearms
12 legislation." Would that be it?

13 **A.** Yes.

14 **Q.** Okay. And certainly as I listened to your evidence
15 and Section 5 of the **Firearms Act** addressing eligibility of a
16 person to hold a licence, it's based on safety criteria for
17 themselves and for the other, that's correct?

18 **A.** Yes.

19 **Q.** And my sense is that there's a very strong mandate in
20 your office for public safety and is it fair to say that because
21 you have that strong mandate, you would err on the side of
22 caution when you're assessing things and delivering safety and

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 ensuring safety for the public?

2 **A.** Yes.

3 **Q.** I wanted to go through some forms and my friend, Mr.
4 Macdonald, touched on one but I'm going to start with P123,
5 which is Exhibit 123 and this is, as I understand your evidence,
6 the application form that is required in all provinces whether
7 they have opted in or out of the federal program?

8 **A.** Yes.

9 **Q.** Anybody in Canada who's applying for a possession and
10 acquisition licence under the **Firearm Act** has to fill out this
11 form?

12 **A.** Yes.

13 **Q.** Regardless of province?

14 **A.** Yes.

15 **Q.** And this is the current form, I think 2018-03-01 is
16 what we see at the bottom left-hand corner?

17 **A.** I think so, I'm not sure.

18 **Q.** Okay.

19 **A.** They update them on the Canadian Firearms webpage.

20 **Q.** How does that form get changed when it does get
21 changed? Does it get changed at a national level, at the
22 federal level, or does it get changed individually in provinces?

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **A.** Those are RCMP forms so they're all changed federally
2 at the Canadian Firearms Program.

3 **Q.** Okay. So there's no ability for an individual
4 province, even if it's opted out of the national system, to
5 alter these forms?

6 **A.** No, not the federal forms.

7 **Q.** Okay. So that is 123. I'm going to get you to go
8 Exhibit 126. This is, as you just indicated with my friend, Mr.
9 Macdonald, and you said yesterday, this is a newer form that has
10 been developed and it came into place in February of 2017. You
11 don't know why it came into place at that time, if it was in
12 response to Mr. Desmond?

13 **A.** It came into place within our office because we were
14 using our own form at that time.

15 **Q.** Okay.

16 **A.** So we decided, the CFO at the time decided to use, to
17 go to the federal form because procedures, we can use our own
18 procedures for opt-ins/opt-outs ...

19 **Q.** Yes.

20 **A.** ... for certain steps but we're now using the federal
21 form.

22 **Q.** So this was a federal form that was always in place

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 for provinces that would have been under the federal system?

2 **A.** Yes.

3 **Q.** And you, in New Brunswick, having opted out of the
4 federal system, didn't use that form until 2017?

5 **A.** Yes.

6 **Q.** Okay. So all other provinces would have been
7 following this and would have been ... that had remained in the
8 system, would have been using this form to your knowledge?

9 **A.** I have no idea.

10 **Q.** Okay. But in any event, as I understand your
11 evidence, this is a form that existed under the federal system
12 in New Brunswick, you did not need to use that form ...

13 **(10:38:03)**

14 **A.** Exactly.

15 **Q.** ... but in February of 2017 you made the decision in
16 New Brunswick to actually use this form which captures more
17 detailed information?

18 **A.** Yes.

19 **Q.** Okay. Could you tomorrow or next month in New
20 Brunswick decide to go back to the old system if you wished to?

21 **A.** It's all about public safety and information so it's
22 more or less information gathering so we always look at is it

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 warranted to change the forms or to change and if it's already
2 invented ...

3 Q. No need to reinvent the wheel?

4 A. Exactly.

5 Q. I appreciate that but my question was if New Brunswick
6 decided, for whatever reason tomorrow, into the future to go
7 back to a different form or to not use this federal form, you
8 would be able to do that?

9 A. Yes.

10 Q. Whether or not you decide that that was prudent is
11 another issue?

12 A. Yes.

13 Q. Okay, fair enough. Your evidence yesterday was that
14 on a federal RCMP application form, unless an applicant says yes
15 to a personal history question, there's really no way for the
16 firearms officers in the system to know if that's accurate, is
17 that correct?

18 A. Correct.

19 Q. Okay. And, in fact, the involvement of the area
20 firearm officer with Corporal Desmond's case initially when he
21 went to renew his firearm licence ...

22 A. Yes.

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 Q. ... and a reference check alerted the Area Firearms
2 Officer Roper to the fact that there was a history?

3 A. Exactly.

4 Q. So but for that reference check, you would never have
5 known ...

6 A. No.

7 Q. ... is that fair to say?

8 A. Exactly.

9 Q. And you wouldn't have known unless, I guess, until the
10 first FIP came into your system?

11 A. Exactly.

12 Q. Which was under the **Mental Health Act**?

13 A. Exactly.

14 Q. Okay. You indicated yesterday and you went through
15 the tertiary report what AFO Roper did for that very first
16 tertiary investigation, and he indicated that he spoke to
17 Corporal Desmond and asked him why he hadn't disclosed this
18 information and Corporal Desmond had told him that it was
19 because his wife had told him that the question didn't apply, do
20 you recall that?

21 A. Yes.

22 Q. I don't want to mischaracterize it ...

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **A.** No, no.

2 **Q.** ... but that's consistent with what you recall? We
3 can look at it if you need to but is that fair to say?

4 **A.** From the comment, it looks like him and wife felt that
5 it didn't apply to him.

6 **Q.** Right. So did ... and you may not know this and we'll
7 ask Mr. Roper but would Mr. Roper then have called Shanna
8 Desmond to confirm that with her?

9 **A.** I wouldn't know that.

10 **Q.** Okay. Would you expect that that would have been a
11 reasonable thing for him to do, to call the spouse who's been
12 indicated by the other spouse who's under investigation who's
13 saying, Well, I got this sort of direction from my wife, do you
14 think that's a reasonable thing for that investigator to do?

15 **A.** It all depends on the file so I don't want to put
16 words into Area Firearms Officer Roper's mind.

17 **Q.** But erring on the side of caution, it wouldn't be
18 unreasonable ...

19 **A.** No.

20 **Q.** ... to discuss that step to have been taken because
21 certainly that's within the purview of the area firearm officers
22 to contact spouses for information, correct?

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **A.** They can, absolutely.

2 **Q.** His Honour asked yesterday about, you know, trying to
3 get more information about a person's mental health status and I
4 think his question was following up with doctors for an update
5 on mental health and the question was put to you that manpower
6 might be an issue but there'd be no real reason not to get to do
7 that but for the manpower issue. Something less ... I mean
8 another option that occurred to me, is whether or not it would
9 be of any value for your folks when evaluating licences to have
10 the applicant provide the name and address and length of
11 treatment with a certain physician, would that be of value?

12 **A.** Yes, absolutely.

13 **Q.** And taking that one step further, would it be of value
14 in terms of building a robust system focused with a strong
15 mandate on public safety, so once a license has been granted,
16 for notification to be given to that treating physician?

17 **A.** Absolutely.

18 **Q.** So that the doctor knows whether or not a firearm
19 licence is in the possession of their patient or client?

20 **A.** Absolutely.

21 **Q.** Okay, thank you. And, in fact, there are
22 jurisdictions that are doing that?

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **A.** Yes.

2 **Q.** I understand that in New Zealand, I think, they've
3 recently introduced legislation for that. Are you aware of
4 that?

5 **A.** Yes.

6 **Q.** Thank you. From your evidence, once the firearm
7 possession licence is granted, there's only a few things that
8 would then trigger your office's involvement after that?

9 **A.** Yeah.

10 **Q.** And that would be a FIP?

11 **A.** Yes.

12 **Q.** It would somebody calling the public safety line?

13 **A.** Yes.

14 **Q.** The 1-800 number that you talked about. It would be a
15 doctor faxing or emailing or calling with some concerns.

16 **A.** Yes.

17 **Q.** Would there be any other ways that you could
18 reasonably expect a file to come back into your office for
19 review for this ongoing eligibility other than those three
20 things?

21 **A.** Also police officers could call and let us know that
22 they're looking into a file ...

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 Q. Okay.

2 A. ... looking into a client so we would look at it for
3 sure.

4 Q. Okay. Is there anywhere that currently exists now
5 that a medical practitioner can go and check to see if their
6 patient has a valid firearm licence?

7 A. A system? Not that I'm aware of.

8 Q. Okay. So could a doctor, a psychiatrist, a family
9 doctor, call the 1-800 line to say, I'm just wondering if Tara
10 Miller, my patient, has a firearm licence?

11 A. Absolutely.

12 Q. And if they did call in, would that information be
13 disclosed to them from the central processing site which would
14 then get transferred over to you?

15 A. Exactly, it would probably be transferred to the
16 jurisdiction that they're calling from or they need the
17 information from and then it would be reviewed to see what they
18 needed.

19 Q. So your evidence is that a doctor could make an
20 inquiry ...

21 A. Yes.

22 Q. ... to confirm whether or not their patient has a

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 firearm licence and what the status of that is?

2 **A.** Yes.

3 **Q.** I'm going to move on into FIPs. You talked yesterday
4 and certainly the draft briefing note that we looked at
5 yesterday and again today, Exhibit 132, that indicated that your
6 office's ability to do investigations is relying largely on the
7 correct coding and scoring of occurrences at the police level?

8 **A.** Yes.

9 **Q.** Fair enough?

10 **A.** Yes.

11 **Q.** And as I understand the coding and scoring, there are
12 several ways that that comes about?

13 **A.** Yes.

14 **Q.** It would be the police when they generate occurrence
15 reports, certain occurrences will automatically trigger a FIP?

16 **A.** Yes.

17 **Q.** And I think Ms. Grant asked you this morning about
18 there's 2,000 codes and maybe 450 of them would trigger a FIP
19 but you didn't know the numbers there ...

20 **A.** Exactly.

21 **Q.** ... but that's what we're talking about, right?

22 **A.** Yes.

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **Q.** These are sort of auto-generated?

2 **A.** Yes.

3 **Q.** Okay. And the mental health issue is an auto-
4 generated FIP?

5 **A.** Yes, as long as it's not marked "assistance to the
6 public".

7 **Q.** Okay. And what happens if it's marked "assistance to
8 public?"

9 **A.** We don't get those.

10 **Q.** You don't get those, okay. So there's those auto-
11 generated FIPs. I understand that chief firearms officers,
12 provincial firearms officers, and area firearms officers can
13 also enter a FIP, they can also create one, is that fair to say?

14 **A.** No.

15 **Q.** Based on information, no?

16 **A.** No.

17 **Q.** Okay. I'm going to, and this is a dated report so
18 that's the source of this, and I'm going to give you the actual
19 report. It's a 2001 report from the Office of the Privacy
20 Commissioner, any familiarity with that report?

21 **A.** No.

22 **Q.** Okay. I'm just going to read you a paragraph and

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 again with the caveat I know you're not familiar with it and
2 it's a dated report.

3 **MR. WILLIAMS**: Your Honour, I wonder if a copy of that
4 document could be put in front of my client if counsel is going
5 to make reference to a document.

6 **MS. MILLER**: I only have one copy, Your Honour. I
7 certainly don't mind reading it and then giving it to the
8 witness. I just wanted to clarify my understanding from this
9 document that chief firearm officers, area firearm officers can
10 actually generate a FIP and just your evidence on that point.

11 **THE COURT**: Well, read the passage if you could.

12 **MS. MILLER**: Yes.

13 **THE COURT**: And then ...

14 **MS. MILLER**: Yeah, okay.

15 **THE COURT**: ... hand the document to Ms. Rossignol. So
16 maybe just give us a reference to the document, the page of the
17 document so that it'll be part of the record, please.

18 **MS. MILLER**: So as I understand this document, it's a
19 2001 report, Review of the Personal Information Handling
20 Practices of the Canadian Firearms Program from the Office of
21 the Privacy Commissioner. The page that I have the reference at
22 is 15 of 66 and the heading is "Firearm Interest Police FIP".

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 And so I'll read the entire paragraph. The point I'm looking at
2 is the very last sentence:

3 The FIP database was created in 1998 to meet
4 the objective of Section 5 of the **Firearms**
5 **Act** by flagging those individuals who may be
6 ineligible to hold a licence. The RCMP is
7 the custodian of the FIP database while the
8 policy and management center for FIP
9 (collection, quality control, operational
10 costs, and effectiveness) resides with the
11 Canadian Firearms Center under the DOJ. The
12 chief firearms officers across Canada have
13 selected a list of police incident reporting
14 codes that are used to populate the FIP
15 database to satisfy the provisions of
16 Section 5 of the **Firearms Act**. There are
17 over 900 enforcement agencies across Canada
18 that feed information for flags in FIP via
19 the National Police Services network. In
20 addition, flags in FIP are sometimes entered
21 by program officials (example: spousal
22 concerns entered by CFOs, FOs, AFOs, et

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 cetera).

2 **(10:48:41)**

3 That's the reference that I was referring to, Ms.
4 Rossignol. If I may, Your Honour ...

5 **THE COURT:** Certainly.

6 **MS. MILLER:** ... give this copy to the witness.

7 **A.** Okay.

8 **THE COURT:** I think what I'm going to do, Ms. Miller, is
9 I'm going to ask you to provide a copy of that for the Inquiry
10 and when we get it, it's going to be marked as the next exhibit
11 number because it has been specifically referred to and will be
12 part of the record so we'll have a copy of it as well.

13 **MS. MILLER:** Thank you, Your Honour. Would you like the
14 entire report or just this section from the report?

15 **THE COURT:** Just the section that you've referred to,
16 that's all. We'll just take that one page that you have there
17 or a clean copy of it if it's marked up and make it available to
18 the Inquiry and then we can make copies available for counsel.
19 It'll be ingested into the database as well.

20 **THE CLERK:** It will be Exhibit 139.

21 **EXHIBIT P-000139 - REVIEW OF THE PERSONAL INFORMATION HANDLING**
22 **PRACTICES OF THE CANADIAN FIREARMS PROGRAM**

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **THE COURT:** So for the record Ms. Rossignol is looking
2 at what will be Exhibit 139.

3 **MS. MILLER:** Ms. Rossignol, you've had a chance ...

4 **A.** Yeah.

5 **Q.** ... to take a look at that. Is that news to you that
6 at least in terms of that report, there's an understanding that
7 in certain areas, the chief firearms officer, provincial
8 firearms officer, and the area firearms officers could enter
9 FIPs?

10 **A.** To create a FIP is through CPIC so, yeah, this is new
11 to me absolutely.

12 **Q.** Okay.

13 **A.** We do create reports that will be matched to a
14 firearms licence like when we enter a file under court matters
15 ...

16 **Q.** Yes.

17 **A.** ... that will create a file but it's not ... that
18 wouldn't be called a FIP event.

19 **Q.** Okay, thank you. So I'm going to go back to my
20 initial question. Creation of FIPs can come from the automatic
21 occurrence generation when the police enter information. We've
22 talked about this reference that suggests that there's some

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 ability within the firearms office to create them. And then,
2 thirdly, as I understood your evidence, the police can also
3 manually enter a FIP from their end if it's not going to auto-
4 generate?

5 A. Yeah.

6 Q. That's fair, okay. I wanted to take you to two other
7 exhibits and this is Exhibit 87 and exhibit 88. I'll start with
8 Exhibit 87, I think that's probably ... Do you have that in
9 front of you?

10 A. Yes.

11 **EXHIBIT P-000087 - REPORT - NOVEMBER 28, 2015 - DESMOND AND NS**
12 **SEIZED FIREARM**

13 Q. So this is an occurrence detail generated in Nova
14 Scotia in relation to an incident on November 28th and if we
15 look at occurrence type, it says **Firearms Act** - Other
16 Activities. Is this something that you understand, Ms.
17 Rossignol, would have or should have generated a FIP?

18 A. Normally, yes.

19 Q. Okay. Based on the actual occurrence type?

20 A. Yes.

21 Q. Okay. And to your knowledge, and you've reviewed this
22 file, you're not aware of any other FIPs other than the New

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 Brunswick one and then the Nova Scotia one from earlier in
2 November?

3 A. Exactly.

4 Q. So this, your evidence is that this occurrence type
5 should have generated another FIP?

6 A. Yes.

7 Q. But there's no evidence of that?

8 A. No.

9 Q. And it should have generated a FIP automatically?

10 A. Yes.

11 Q. Okay, thank you. And if we can turn to Exhibit 88,
12 this is another occurrence detail from the same date with the
13 occurrence type indicating disturbing the peace/causing a
14 disturbance, 175(1) **Criminal Code**. What's your position on
15 whether or not this occurrence type would have or should have
16 generated a FIP?

17 A. I'm not sure because I don't have the list of the UCR
18 codes.

19 Q. Okay. But you know for certain that **Firearms Act**
20 would have and should have. Any explanation, based on your
21 experience, as to why that wouldn't have generated a FIP, the
22 firearms?

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **A.** No.

2 **Q.** The FIP codes, they exist somewhere in a document I
3 would assume?

4 **A.** The FIP codes, you mean the UCR codes?

5 **Q.** The UCR codes?

6 **A.** Yes.

7 **Q.** Universal Crime Reporting?

8 **A.** Yes.

9 **Q.** Okay. And that would tell us which codes trigger a
10 FIP and which codes don't?

11 **A.** Yes.

12 **Q.** Okay. And how does one go about accessing that
13 listing?

14 **A.** Through the RCMP Canadian Firearms Program.

15 **Q.** Okay, thank you. So that's where we would (inaudible
16 - cough) that document we'd be able to see whether or not, for
17 example ...

18 **A.** Yeah.

19 **Q.** ... the disturbing the peace would be a code that
20 would trigger or should trigger a FIP?

21 **A.** Yes.

22 **Q.** Okay, thank you. I'm going to talk more specifically

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 about FIPs in New Brunswick. I understood your evidence to be
2 yesterday that in terms of your office, although there's over
3 14,000 applications for a firearm licence a year, in your office
4 reviews were about 3,600 in 2019?

5 **A.** Yeah.

6 **Q.** For those firearm licences, okay. And those reviews
7 would involve all of the folks in your office at differing
8 levels, I guess, or would it just strictly be related to area
9 firearm officers who would be participating in reviewing the
10 3,600?

11 **A.** No, it would be provincial firearms officers and area
12 firearms officers and operations manager assisting at the same
13 time.

14 **Q.** And I think I also heard you indicate in your evidence
15 yesterday that yearly there about 80 to 100 tertiary
16 investigations that happen in your office?

17 **A.** If I remember correctly that was what is currently
18 ongoing.

19 **Q.** Currently ongoing?

20 **A.** Yes.

21 **Q.** Okay. Do you know how many tertiary investigations
22 generally your office would deal with in a year?

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **A.** Probably out of like the 3,600 reviews that we do,
2 probably more than half of those go to the area firearms
3 officers.

4 **Q.** Okay. And those would include FIPs?

5 **A.** No.

6 **Q.** So those would be separate?

7 **A.** Those are applications.

8 **Q.** Those are applications, correct.

9 **A.** Those are applications.

10 **Q.** But FIPs also create tertiary investigations?

11 **A.** Yes.

12 **Q.** Yes, okay. And that's my question, of those tertiary
13 investigations you said there's 80 to 100 ongoing right now, but
14 of the tertiary investigations in your office on an annual basis
15 between reviewing the licences and the FIPs, how many would you
16 say you'd have generally on a yearly basis, if you can?

17 **A.** Probably with the four area firearms officers you're
18 probably looking at, I don't want to ballpark it too much but,
19 you know, 4 or 500 a year, give or take.

20 **Q.** Okay.

21 **A.** Probably more.

22 **Q.** How many FIPs would you receive in New Brunswick?

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **A.** A year?

2 **Q.** A year.

3 **A.** It all depends on the year, probably 3 or 4,000.

4 **Q.** And those, as I understood your evidence,
5 automatically on a daily basis, the FIPs that are received come
6 into your office?

7 **A.** Yes.

8 **Q.** And then they have to be reviewed?

9 **A.** Yes.

10 **Q.** To see if they're matched?

11 **A.** Yes, because out of those 3 or 4,000, right away some
12 of them could be not a match, could be a duplicate ...

13 **Q.** Right.

14 **A.** ... so you have to get rid of those automatically.

15 **Q.** Okay. So that would reduce the number?

16 **A.** Exactly.

17 **Q.** But once it's been matched, it's not a duplicate, it's
18 not a mismatch, once specifically matched, is it automatically
19 that it goes to a tertiary investigation at that point?

20 **A.** Yes.

21 **Q.** Okay. And you say they'd probably be about half of
22 the 3 to 4,000 that would end up as validly matched?

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **A.** Give or take, yeah.

2 **Q.** Okay. So once a FIP is generated it goes into your
3 queue, somebody reviews it to see if it's matched and is that
4 somebody you?

5 **A.** Yes, mostly.

6 **Q.** Okay. And was that you in 2015?

7 **A.** It was me and the previous operations manager.

8 **Q.** Okay. And so we know that this FIP was generated in
9 New Brunswick from a November 27th incident. When would you
10 have expected it to have shown up in your office?

11 **(10:58:00)**

12 **A.** It depends because at one point FIPs were generated,
13 it took about three or four days to be generated once it was
14 entered but then there was some changes into CPIC so that it was
15 generated as soon as they entered the file, we got them pretty
16 much within 24 hours.

17 **Q.** Okay. So do you know in November/December of 2015
18 whether you were getting them within three or four days or
19 within 24 hours?

20 **A.** No, I wouldn't be able to answer that one.

21 **Q.** Okay. But the outer end of the window would be three
22 or four days at that time?

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **A.** Give or take, yeah.

2 **Q.** Okay. And when they come into your system, how
3 quickly are they reviewed in your system?

4 **A.** We try to review them on a daily basis, we try, that's
5 the goal.

6 **Q.** I think you said right now there's about 100 in the
7 backlog?

8 **A.** Yes.

9 **Q.** Okay. And then once they're matched then they're
10 automatically put into the area firearm officer's queue?

11 **A.** We create a tertiary investigation, we match it, put
12 the licence under review and notify the firearms officers.

13 **Q.** Okay. And until it's assigned to an area firearm
14 officer and until it's actually matched, is it fair to say that
15 the only entry in the system would be licence revocation
16 suggested?

17 **A.** No, until it's matched, a licence is valid. The only
18 thing that is showing would be under CFIS, the Event tab, there
19 would be the event number there.

20 **Q.** Okay. So we know that this incident in New Brunswick
21 happened November 27th. From your report and your evidence, it
22 looks like December 21st you sent it to score as a request?

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 **A.** Yes.

2 **Q.** Does that help you understand when it would have been
3 matched or when this would have been opened up in your office?
4 Is it possible it was up to three weeks after the date of the
5 incident?

6 **A.** It could be.

7 **Q.** And that is as a result of backlog?

8 **A.** Yes.

9 **Q.** Okay. And then it was sent December 29th to the area
10 firearm officer and that's when the licence was changed to under
11 review?

12 **A.** Absolutely.

13 **Q.** Okay. And until that point in time, if Corporal
14 Desmond had gone into a Canadian Tire or a gun store and
15 presented his firearm licence and the vendor then picked up the
16 phone and called the 1-800 number or went on the business web,
17 until December 29th would there have been any flags put up for
18 the vendor to not sell him a firearm?

19 **A.** No.

20 **Q.** Okay. Just a few more questions, Ms. Rossignol. What
21 happens when a vendor does call the 1-800 number or goes on the
22 business web line and is told that the license is not valid? Is

LYSA ROSSIGNOL, Cross-Examination by Ms. Miller

1 there any trigger in place from your office to follow up with
2 the individual who's out looking to buy a gun that would have
3 triggered the inquiry from the vendor?

4 **A.** Once the buyer ... normally, people that want a
5 firearm will follow up themselves because they'll want to know
6 why their firearms license is under review or not valid. So
7 they will contact our office directly and want ... because
8 usually they're not happy, so they'll want to know. So then
9 that way we follow up for sure. The business is not told that
10 the license is not valid. They're just advised that the buyer
11 needs to contact the Chief Firearms Office.

12 **Q.** Okay. Is there anything, though, internal to your
13 system that then triggers a process ...

14 **A.** No.

15 **Q.** ... to follow up on why this license inquiry from a
16 business that's registered to sell a firearm has asked?

17 **A.** No.

18 **Q.** Okay. Okay. Thank you, Ms. Rossignol. Those are my
19 questions.

20 **A.** Thank you.

21 **MR. RODGERS:** Thank you.

22

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

CROSS-EXAMINATION BY MR. RODGERS

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(11:02:09)

MR. RODGERS: Ms. Rossignol, good morning, and I'm Adam Rodgers and I'm representing Corporal Desmond's personal representative.

So I have a few questions for you, as well. And just to ... I guess to set up the questions in a way, Ms. Rossignol, just to say that this Inquiry is generally not about assigning liability but, rather, seeking improvements and answers. So that's the spirit in which I'm asking these questions. Okay?

I just want to identify what might be some soft spots in the process here. And one would be on the application. I'll start with the application itself. So you would agree, Ms. Rossignol, that it's possible certainly that an applicant may not answer honestly when they're asked the list of questions and these are in Exhibit 123 about whether they have a mental health condition or, indeed, the questions on criminal records, the applicant may not answer honestly. Is that fair to say?

A. Yes.

Q. Okay. And so the protection against that, in a way, is the fact that the application calls for references.

A. Yes.

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 **Q.** And so the references ... if the applicant doesn't
2 answer honestly, we hope that the reference will answer for
3 them. Correct?

4 **A.** Yes.

5 **Q.** Okay. But then, of course, the reference person ...
6 individuals, may not answer honestly either or they may be
7 unaware of a particular individual's health condition. Is that
8 also fair to say?

9 **A.** Possibly.

10 **Q.** Okay. Here in this case with Corporal Desmond, we
11 were I guess the system was somewhat fortunate in that he
12 messed up on his application. At one point, put his wife as his
13 reference and then had to come up with a new reference who ended
14 up answering that question and identified that Corporal Desmond
15 had been diagnosed with PTSD?

16 **A.** Yes.

17 **Q.** Are the answers to the questions on criminal records,
18 are those verified?

19 **A.** When we do the background check, if there's anything
20 that will pop up, that's where things will appear. If there's a
21 case that's been investigated, that's ... if their client ever
22 went to court, that's where we would see him.

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 **Q.** And so you say on a background check. So you receive
2 an application. It has the standard answers, "no" to
3 everything, and that's fine. Is that something that is every
4 single time done, a background check on the individual to verify
5 those answers?

6 **A.** Well, they're done ... the new applicants are done
7 automatically. Background checks is done automatically. The
8 renewals, they're under eligibility checks automatically,
9 continuously.

10 **Q.** And so, in other words, if somebody lied about not
11 having a criminal record, that would be picked up in the
12 background check on ... in each case?

13 **A.** Yes.

14 **Q.** And that's the case now and was that the case in 2015
15 and '16?

16 **A.** Well, he was in ... he already had a license.

17 **Q.** He already did. Yes.

18 **A.** Yes.

19 **Q.** So at the time of his application, that ... is that
20 process in place or is that a new process?

21 **A.** No. That was already in place.

22 **Q.** So is the ... and you may ... you didn't design the

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 form, I understand, but is one of the purposes in asking that
2 question to determine whether the applicant is going to be
3 truthful?

4 **A.** I wouldn't be able to tell you that one.

5 **Q.** Okay. One of the ... I guess the question comes
6 around to, Would you see another way that answers ... I mean if
7 the criminal record check ... okay. That's verified. The other
8 answers with respect to mental health conditions and other ...
9 do you see another step where that might be verified so that we
10 know that the answer is an honest answer?

11 **A.** One of the suggestions that might be worthwhile is on
12 the personal history question 16(d) is to add "PTSD" also on
13 there.

14 **Q.** Yeah. Or like my learned friend Ms. Miller suggested,
15 once somebody has applied for a license, that there's some sort
16 of automatic notification given to their family doctor or some
17 sort of medical practitioner, that that's been the case?

18 **A.** Absolutely.

19 **Q.** Okay. I want to ask you then next about the firearms
20 ... the PAL card, firearms license versus the computer system.
21 So if somebody walks into a vendor and has a firearms license,
22 license to purchase ... purchase and acquisition, so they

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 present this to the vendor and the vendor is supposed to call in
2 and check on the validity of that license. Correct?

3 **A.** Yes.

4 **Q.** Okay. Now we've ... there's been some discussions
5 about they're supposed to, they don't always do, and ... but
6 that's the rule. They're supposed to call in. How often are
7 operations audited to determine whether, in fact, they've been
8 making those phone calls and they can verify that they've done
9 so?

10 **A.** I'm not sure.

11 **(11:08:00)**

12 **Q.** Is it tracked to ... you know, is every time a vendor
13 calls in ... if Canadian Tire or Bass Pro Shops or a small
14 operator calls in is that tracked to say, Okay, well, we've ...
15 Geez, we've received 150 calls, yet we've issued 400 licenses.
16 Those don't seem ... is that analysis undertaken on a regular
17 basis?

18 **A.** We could always find out from the central processing
19 site how many calls they got from a certain business. We could
20 probably get that from them. But it's not given to us other
21 than just by monthly calls or monthly ... that's not provided to
22 us.

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1 **Q.** Okay. And now under the proposed new legislation, as
2 I understand it, the vendors are supposed to ... they're
3 obligated to keep proof that they've made that contact. Is that
4 your understanding of the proposal?

5 **A.** That is my understanding, yeah.

6 **Q.** Okay. So that does that strike you as being a better
7 system, that at least they have to ... they have to keep proof
8 that they've made those contacts?

9 **A.** That are public safety.

10 **Q.** Would you see a need for going a step further if the
11 business ... if they're not being audited or they don't think
12 they've being audited, is there a more stringent level of proof
13 that you could see them having to establish?

14 **A.** Well, we do ... the Provincial Firearms Office in New
15 Brunswick, we do audit our business. Not in the sense of
16 checking how much calls they are making currently, but we do
17 inspect our businesses on a yearly/bi-yearly just to see how
18 they're doing, making sure that everything is legal.

19 **Q.** Okay. And is there, as far as you're aware, a
20 systematic approach to auditing operations to see if they've
21 complied with these requirements to call in?

22 **A.** Right now, no.

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 Q. Okay.

2 A. We can follow up for the restricted and prohibited
3 just because ...

4 Q. Yeah.

5 A. ... that is done ... that is automatic. But non-
6 restricted, because they're not registered firearms, so those
7 are a little harder to follow.

8 Q. Okay. Now when a business does call in they get an
9 answer right away. Correct? Now I understand your evidence
10 that they may not get the exact status. But if there's a
11 problem, they have to tell the person trying to buy, You need to
12 call.

13 A. Yes.

14 Q. Okay. And they can access that either through the 1-
15 800 number of the business web service.

16 A. Yes.

17 Q. And now ... so they get an answer right away. The
18 police, when they call, they have to call the firearms office to
19 get a certain answer? Is that ... I think that was your
20 evidence yesterday.

21 A. Well, they can find out from ... like on CFRO. They
22 can do the PWS, like the PAIN system. They can look that up

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 also.

2 Q. Yes.

3 A. But they can get as ... more information from our
4 office about a client license.

5 Q. Okay. So from what I understood yesterday was that
6 they can get some information from the computer system but in
7 order to get the complete answer in a ... you know, an answer in
8 which they could have confidence, they would have to call the
9 firearms office.

10 A. We recommend that before they provide ... they return
11 a firearms to a client ...

12 Q. Yes.

13 A. ... to contact us to make sure that their license has
14 been returned valid and that we have completed our review of
15 their license.

16 Q. Okay. So that's on the back end if they're trying ...
17 if they were considering returning a firearm ...

18 A. Yes.

19 Q. ... they would make that call.

20 A. Yeah.

21 Q. Okay. It strikes me, Ms. Rossignol, that the Bass Pro
22 Shops' clerk might be able to get better information more

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 quickly than the RCMP officer.

2 **A.** They only thing they get, the buyer does ... the
3 business does not get any information regarding the client
4 themselves. They only get whether the license is valid or not.

5 **Q.** Okay.

6 All right. Now I want to talk a little bit about the
7 tertiary investigations. And as I understand it ... okay, so
8 this is a federal system but it's generally each province that
9 runs their own system internally. Correct?

10 **A.** The system itself is federally run, but each province
11 has their own practice of doing their investigation, of doing
12 their procedures. Yes.

13 **Q.** Okay. And then ... so if an individual has moved or
14 if they've traveled to another province and had an incident in
15 that province, the second province may start an investigation,
16 notice that a person resides in New Brunswick and ... so they
17 make the phone call to say, Listen, we've started an
18 investigation. Here's the information. That's ... I think you
19 described it as a courtesy call?

20 **A.** We do it mostly by emails, but we'll ... they'll
21 advise me that they ... receiving a FIP event, a Firearms
22 Interest Police file and they'll gather all the information for

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 the file itself and then they'll forward me the completed
2 report.

3 Q. Okay. And that's how it should happen, but there's no
4 ... if I could put it, there's no guarantee that that will
5 happen. And we saw here in this case that, in fact, it didn't
6 happen right away with one of the November 2015 incidents. So
7 that do you see that as a gap that might be tightened up with
8 the system where perhaps instead of that being a courtesy call
9 or something that is supposed to happen, that somehow it happens
10 automatically?

11 A. There's always room for improvement.

12 Q. Yeah. So that if something popped up in a computer
13 system in Nova Scotia relating to a New Brunswick ... and if
14 there was an investigation already taking place in New
15 Brunswick, that somehow those would automatically be linked?

16 A. That's why we also have access to PROS now, so we can
17 access all the RCMP files across Canada.

18 Q. Thank you, Ms. Rossignol. Now when there's a tertiary
19 investigation and somebody is, you know, required to get medical
20 confirmation of their condition or their eligibility or
21 appropriateness of them having a license, a physician is meant
22 to fill out these forms. We see the forms here. There's not

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 much detail in them, of course. We've gone through. Is that a
2 common issue in these forms, that the doctors seem to be
3 reluctant to either fill them out or provide much detail?

4 **A.** It depends on the doctor.

5 **Q.** Some doctors fill in the whole box?

6 **A.** Some do.

7 **Q.** Okay. Do you know whether doctors get paid for this
8 service or is it something ... is there a reason why they might
9 be reluctant to add more detail or provide a report or more
10 detail?

11 **A.** Wouldn't have a clue.

12 **Q.** You don't know whether the ...

13 **A.** No.

14 **Q.** ... doctors ... whether that's something that's funded
15 through ...

16 **A.** No.

17 **Q.** ... the medical system? Now under the new form, I
18 understand there's more questions about the doctor's interaction
19 with the individual and the length of time the doctor has been
20 treating the individual. Is that fair to say?

21 **A.** Yes.

22 **Q.** Under the old system, there wasn't. There was just

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 this sort of the broader question of, Do you think this person
2 is appropriate?

3 **A.** Yes.

4 **Q.** So under the older system, there was no ... from the
5 Firearms Office perspective, you wouldn't know so much what the
6 doctor knew when they filled out the form.

7 **A.** Yes.

8 **Q.** Wouldn't be clear if they had access to other medical
9 information or really what information they had.

10 **A.** Correct.

11 **Q.** Have you noticed under the last two-and-a-half - three
12 years with the new form, that doctors have been more expansive
13 in filling out the forms or has it just been the same doctors
14 are doing a good job and others aren't?

15 **A.** No. We're getting more completed forms. Absolutely.

16 **Q.** Okay. Do you attribute that to the new form or is
17 there anything else that may have prompted that?

18 **A.** I'm not sure.

19 **Q.** Now when an analysis is done, these tertiary
20 investigations ... here, we had a case where the first letter
21 came from Dr. Joshi, who is a psychiatrist, and then the second
22 letter from Dr. Smith, the general practitioner. Is there any

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 concern when that takes place when I'd say more specialized
2 insight perhaps into mental health from one doctor and then less
3 specialized is the next letter? Is there any question asked as
4 to why the first doctor wasn't re-consulted or if there's any
5 ... does that raise any flags for the Firearms Office?

6 **A.** No.

7 **Q.** Now I have to ask you ... I know you just answered a
8 series of these questions, Ms. Rossignol, but I wasn't quite
9 clear on the distinction if ... over the course of the year, I
10 think you said you have 4 to 500, possibly more matched ... were
11 they matched FIPs that generated a tertiary investigation?

12 **(11:18:03)**

13 **A.** Mm-hmm. Yes.

14 **Q.** Okay. So of the 3000 - 4000 a year, I think you said
15 maybe half of those have some kind of analysis done. But then
16 when it's narrowed down to check the names, there may be
17 duplications or there may be the wrong names or ... and it
18 narrows down to that 4 or 500, maybe 600 a year?

19 **A.** So when we ... probably out of the bunch that we get,
20 half of them, give or take, we can probably delete ... exclude,
21 I guess, is the word ...

22 **Q.** Mmm.

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 **A.** ... because they're not a match, or missing
2 information, or they've already been reviewed, they're a
3 duplicate, so we can ... the person doesn't have a license, so
4 we can exclude them ... so we can get rid of them. And then it
5 leaves us with the ones that need to be reviewed.

6 **Q.** Okay. So if we narrow that down to the ... I'll give
7 it a little breathing room with maybe 5 to 600 a year, and
8 you've got your four AFOs that are reviewing these, would you
9 agree that perhaps ... and I think you've identified that these
10 are a top priority for the office, these files, these tertiary
11 investigations?

12 **A.** (No audible response.)

13 **Q.** Would you foresee that a gold standard approach to
14 those might be, It comes in today, it's dealt with today. Would
15 that be an ideal circumstance for the Firearms Office to be able
16 to turn that around that quickly to establish whether the
17 person's license should be adjusted?

18 **A.** In an ideal world, yes.

19 **Q.** Okay. Now that ideal world may not be reachable, but
20 I want to ask a few questions as to how it might be, okay, Ms.
21 Rossignol? So I understand there's some administrative work to
22 narrow that down to make sure that it's a legitimate fit that

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 generates a legitimate investigation. So we've gotten to that
2 point. So what happens at that point? Is it that the AFO reads
3 and reviews the FIP and the file that is ... the file material
4 that's already in the office?

5 **A.** Once it's assigned to them?

6 **Q.** Yes.

7 **A.** Once it's assigned to them, what they do is they open
8 their ... the tertiary investigation. They look up the file to
9 see if it's an RCMP file or a police file ... municipal file.
10 Then if it's a municipal file, they have to request disclosure
11 and wait until the disclosure comes in. If it's an RCMP file,
12 they'll look up the disclosure to see what it is and then
13 contact the client, mention that it's ... If they need a
14 medical, they'll request a medical, make their comments, and
15 wait until the medical comes in. If the person is going to
16 court for a reason whatsoever, they'll put their comments and
17 wait until the court is decided. The license is placed under
18 review as soon as we matched it, so we have to wait until the
19 process is complete or we get the information that we requested
20 for it.

21 **Q.** Okay. So there's some due process there, of course,
22 to make sure that it's a fair decision and you get the

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 disclosure from the police and the medical information
2 eventually. So that certainly would take some time.

3 **A.** Yes.

4 **Q.** Some number of weeks, perhaps, even. But at the point
5 where the license is under review, at that point the individual
6 with ... the license holder would not be able to legally
7 purchase a firearm, correct, once the license is under review?

8 **A.** Yes.

9 **Q.** Okay. So let's narrow in on what it takes to get to
10 that point. The tertiary investigation gets established, I
11 guess. Then it has to be assigned to a area firearms officer.
12 They take a quick look at the ... they take ... they read the
13 FIP that's on the file. There is information already in the
14 file. Correct? There's the application in the FIP?

15 **A.** No. It just tells him the license number, the case
16 number, the individual. That's it.

17 **Q.** So where's the FIP at that point?

18 **A.** It's under the client's license with the case number,
19 and they have to look up what is the case number.

20 **Q.** Okay. So the firearms officer, if they were doing
21 nothing else and they just received this message, Here's the
22 name, they could access that FIP right away. Correct?

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 A. If you go to ... just a second here, Exhibit 135, page
2 one, please.

3 Q. Yes.

4 A. So they get an email with this attached. And the
5 "Subject" line would have the client's last name, first name,
6 date of birth. And this is what he would get up until the
7 comment midway that says, "Tertiary Investigation Report".

8 Q. Okay.

9 A. He would get all of that at the top. Right now,
10 because we have access to PROS, they're the ones doing the
11 review of ... they do the search on the RCMP files. They are
12 the ones looking at it. So ...

13 Q. So the ... sorry. The AFO is doing the search on the
14 ...

15 A. Exactly.

16 Q. Okay.

17 A. So where it says, FIP number 6187445, the type where
18 it says **Mental Health Act** and the date, those two would be
19 unknown currently because we're assigning them a Firearms
20 Interest Police file. We don't know what it is, so we're
21 putting "unknown". And then the PFO comments would just be
22 exactly the same to say event matched to license and assigned to

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 which area firearms officer, license placed under review. So
2 when he or she gets that, they would open it. If it's an RCMP
3 file, they check under PROS to see what the file is and what
4 review they need to do. If it's a municipal police file, they
5 make their notes, they send a request to get the disclosure from
6 the municipality.

7 Q. Okay. So the initial information received by the AFO
8 is then these top two kind of chart-looking areas.

9 A. Yes.

10 Q. And do they ... sorry. Do they get the PFO comment
11 section?

12 A. Yes.

13 Q. Okay. So they ... that identifies that there is a FIP
14 event, gives the number and the case number and the license
15 number. Okay.

16 A. Yes.

17 Q. At that point ... so they haven't ... the AFO hasn't
18 read the FIP yet.

19 A. No.

20 Q. At this point because they don't have it. Is the
21 license under review at that point?

22 A. The comment indicates license placed under review.

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1 Yes, it is.

2 Q. Okay. So ... Okay. So that process of assigning it
3 to an AFO, once that's assigned, even before they've read the
4 FIP, even before they've received the disclosure, the license is
5 under review and the person can't buy a firearm.

6 A. Exactly.

7 Q. So then the question is then ... so we're narrowing it
8 even further, I guess, back to when the license is under review.
9 It's a matter of having it assigned to the AFO.

10 A. It's a matter of reviewing the FIP that you receive to
11 make sure it's a match and then creating the tertiary so you can
12 put the license under review.

13 Q. Okay. So the question of initially reviewing the FIP
14 and making sure that it's a match, that's where ...

15 A. The license ...

16 Q. That's where the resources perhaps need to be focused
17 in order to make sure that that process happens quickly rather
18 than over days or weeks?

19 A. Sure.

20 Q. Okay. Thank you. Do you have any sense, Ms.
21 Rossignol, if ... what kind of resources, how many people would
22 need to be assigned to that task in order for that gold standard

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 of when it comes in, it's matched, that work is done and all
2 done in the same day?

3 **A.** It would ... I would have to evaluate the numbers that
4 are coming in daily with the numbers of workload, other
5 workload.

6 **Q.** Yeah. So you could see if that was ... if that gap
7 was closed, that that would create a system where basically as
8 soon as the FIP was entered into the system, within a very short
9 period of time, perhaps even a day, the license would be placed
10 under review and any RCMP officer or a police officer might be
11 able to obtain that information.

12 **A.** Absolutely.

13 **Q.** Okay. All right. Well, thank you, Ms. Rossignol.
14 Those are the questions I had. Appreciate it.

15 **A.** Yeah.

16 **THE COURT:** Mr. Hayne?

17 **MR. HAYNE:** Yes. Thank you.

18 **THE COURT:** Mr. Hayne, just before you begin, it's
19 almost 11:30 and I know the witness has been on the stand for a
20 couple of hours this morning. And I know that there's some
21 documents I want to make a copy of myself. So let's take the
22 morning break now before you start. All right? And then, Mr.

LYSA ROSSIGNOL, Cross-Examination by Mr. Rodgers

1 Williams, in the event that you have any follow-up questions,
2 I'll give you the opportunity as well. So we'll take a break
3 and come back maybe about 15 minutes or thereabouts. Thank you.

4 **COURT RECESSED (11:27 HRS)**

5 **COURT RESUMED (11:54 HRS)**

6 **THE COURT:** Mr. Hayne.

7 **MR. HAYNE:** Thank you, Your Honour.

8

9

CROSS-EXAMINATION BY MR. HAYNE

10 **(11:27:39)**

11 **MR. HAYNE:** Ms. Rossignol, my name is Stewart Hayne, I'm
12 counsel to various physicians that have encountered Mr. Desmond
13 and, in this particular instance, the most relevant physician
14 would be Dr. Paul Smith. So I have a few questions for you.

15 Exhibit 130, if we could just turn to that, and,
16 specifically, page 24, and so this is the application of
17 Corporal Desmond from 2014 that resulted in the license that was
18 later reviewed, is that correct?

19 **A.** Yes.

20 **Q.** Okay. And on page 25 of that, which, at the bottom
21 there's the place where the current conjugal partner is required
22 to sign and that's signed by Shanna Desmond, correct?

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 **A.** Yes.

2 **Q.** And it's not dated there, but then if we go to page
3 27, Shanna Desmond is also listed as the second reference,
4 signed and dated there, also from the 2014 date?

5 **A.** Yes.

6 **Q.** And as we heard earlier, having the current conjugal
7 partner or spouse be used also as a reference was impermissible
8 and then that resulted in the matter being reviewed ultimately
9 by Area Firearms Officer Roper, is that right?

10 **A.** No. It was the central processing site, when they
11 would do the data capture of the application they noticed that
12 the current spouse was one of the references and they sent him a
13 notice to, for the missing information, which would be page 31.

14 **Q.** Right, okay, I understand. So then that resulted in
15 the new reference being submitted in place of Shanna Desmond
16 because having her as the reference was impermissible, correct?

17 **A.** Yes.

18 **Q.** Okay. And it was that second reference, when called,
19 that disclosed that Corporal Desmond had PTSD, although that
20 reference, as I understand it, said they didn't have any
21 concerns, that ultimately resulted in a medical assessment being
22 requested for this application?

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 **A.** Yes.

2 **Q.** And that medical assessment was completed by Dr.
3 Joshi and we saw that earlier. He is a psychiatrist, correct?

4 **A.** Yes.

5 **Q.** Okay. And I don't need to take you to it but it did
6 say that Dr. Joshi noted ultimately in AFO Roper's report ...
7 Let me take a step back. The medical assessment form, to some
8 degree, was illegible, leading to AFO Roper to contact Dr.
9 Joshi.

10 **A.** Contacted the applicant, who made contact with the
11 doctor, and then the area firearms officer and Dr. Joshi were
12 able to communicate with each other.

13 **Q.** And then Area Firearms Officer Roper included some
14 narrative that he received from Dr. Joshi and put it into his
15 report, correct?

16 **A.** Yes.

17 **Q.** And that included the reference that he had been
18 seeing Corporal Desmond for four and a half years?

19 **A.** Yes.

20 **Q.** Okay. And then subsequent to that, those events,
21 the license was then placed under review due to a FIP arising
22 from an RCMP event in New Brunswick on November 27th, 2015,

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 correct?

2 **A.** Correct.

3 **Q.** Okay. And that event, as you understand it, or at
4 least when the materials arose from a call from Shanna Desmond
5 to the RCMP due to concerns that she had in respect of Lionel
6 Desmond, is that your understanding?

7 **A.** Yes.

8 **Q.** Okay. And then that, in the ordinary course, then -
9 we talked about the matching process and all of that sort of
10 stuff but, ultimately, that went to AFO Roper and he conducted a
11 tertiary investigation?

12 **A.** Yes.

13 **Q.** Okay. And if we go to Exhibit 135, there's the form,
14 and then we know from the materials, and you've testified about
15 this, that AFO Roper then requested a medical assessment and
16 that's sent by letter to Corporal Desmond and then a form was
17 returned filled out by Dr. Paul Smith?

18 **A.** Yes.

19 **Q.** Okay. So you were asked some questions about this
20 earlier, but my question is slightly different. Is there any
21 policy or practice within your organization to request a medical
22 assessment from the same doctor who provided an earlier medical

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 assessment in respect of the same application or same
2 individual?

3 **A.** No.

4 **Q.** Okay. And that wasn't done in this case, right?

5 **A.** No.

6 **Q.** Okay. And, again, similar to a question my friend
7 asked, if an earlier assessment is provided by a specialist, for
8 example, a psychiatrist, is there any policy or practice within
9 your organization to require a subsequent medical assessment to
10 be also completed by that same type of physician, in this case a
11 psychiatrist?

12 **A.** No.

13 **Q.** Okay. So I just wanted to return, sort of keep on
14 the theme of that review that was commenced, and that review
15 ultimately led to the license being returned to a valid status
16 by AFO Roper on February 29th, 2016?

17 **A.** Yeah.

18 **Q.** Okay. And then, as part of your ordinary duties,
19 you did subsequent checks and then noted that there was an
20 earlier FIP that wasn't considered, that being the FIP from Nova
21 Scotia.

22 **A.** Noticed that there was another event that was still

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 showing under the client's license, yes.

2 Q. Okay. And that event, you obtained disclosure of
3 that event and learned that that was the result of an event in
4 Nova Scotia from November 18, 2015?

5 A. Yes.

6 Q. Okay. And then you, as part of that disclosure, and
7 I'll just take you to Exhibit 133, page 6, and then you were
8 taken to this earlier and you read extensively, I think, from
9 the paragraph that starts at 17:15 hours.

10 A. Yes.

11 Q. And you read the sections relating to Mr. Desmond
12 being calm and lucid, that he had come to visit his estranged
13 wife and daughter and to do some hunting. You read that he does
14 get manic, including today, due to his mental health, but knows
15 how to handle them by avoiding conflict. You read the reference
16 to stopped taking certain medications after consulting his
17 doctors, Dr. Paul Smith and Dr. Matthews, in New Brunswick, that
18 he was on medical marijuana, follow-up, et cetera, and then no
19 signs of being a danger to himself or others, and Desmond
20 advised he would call police if he felt that he was
21 deteriorating and needed assistance. Now that's Sergeant
22 Maccallum's synopsis of his encounter with Mr. Desmond and you

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 read that to us earlier. It's fair to say that you took some
2 comfort in Sergeant Maccallum's report of that event, correct?

3 **A.** Yes.

4 **Q.** And that formed part of your overall assessment,
5 correct?

6 **A.** Yes.

7 **Q.** Okay. And that particular, I'll call it the Nova
8 Scotia FIP, if I may, that particular Nova Scotia FIP event, you
9 understood, after reviewing those materials, was generated as a
10 result of an RCMP event from Shanna Desmond calling the RCMP
11 over concerns of Lionel Desmond's behaviour, is that fair?

12 **(12:04:22)**

13 **A.** Yes.

14 **Q.** Okay. And I've reviewed the materials, correct me if
15 I'm wrong, but are you able to say ... my question, I guess, is
16 are you able to say whether you or Area Firearms Officer Roper
17 contacted Shanna Desmond as part of either his tertiary
18 investigation or report or your subsequent review?

19 **A.** I did not. I'm not sure about AFO Roper.

20 **Q.** From your understanding, though, part of your role is
21 to review AFO Roper's tertiary investigation report, correct?

22 **A.** Part of my role was to review and make sure that all

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 the check boxes are ticked and the CFIS information is entered.
2 From the comments entered in CFIS it doesn't say, in CFIS and
3 under his tertiary investigation, there's no comment that he
4 contacted Shanna but I'm not sure. He'd be able to answer that
5 one.

6 Q. Certainly. And you have no reason to believe
7 otherwise, is that fair?

8 A. That's fair.

9 Q. Okay. And so I guess my question is is there any
10 policy or practice within your organization to contact the
11 spouse in relation to any event resulting in a FIP?

12 A. There is. Every file is different, every situation
13 is different, so the area firearms officer will, when doing
14 their review of the event or a review of the case, will contact
15 the individuals necessary to contact and will speak to the
16 client or the spouse or the neighbours, references, whoever they
17 need to in order to make a sound decision.

18 Q. Right. So it's the judgment call of the area
19 firearms officer as to who they may contact, right?

20 A. Yes.

21 Q. Okay. And outside of that, using their judgment to
22 make the appropriate investigation, is there any policy or

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 practice to contact the person who was the source of the
2 information that resulted in the FIP? For example, in this
3 case, although Shanna Desmond also happened to be Mr. Desmond's
4 spouse, but if it was a neighbour, for example, is there any
5 policy or practice to contact that person or do you simply rely
6 upon the RCMP report?

7 **A.** It depends on the situation.

8 **Q.** Okay.

9 **A.** So the RCMP firearms officers will use their
10 judgment. That's what their backgrounds are. That's why we
11 hire them.

12 **Q.** Okay. And same ... would you just give the same
13 answer, then, with respect to any policy or practice in terms of
14 contacting the spouse or a reference if the source of the event
15 information leading to the FIP was one of the people listed on
16 the application form being the spouse or a reference?

17 **A.** Yes.

18 **Q.** There is a practice to do that?

19 **A.** We would use the policy as what we've been doing.

20 **Q.** Which is to use the judgment to determine whether
21 that's appropriate or not?

22 **A.** Yes.

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 **Q.** Okay. So I'd like to turn now to Dr. Smith's medical
2 assessment that was furnished in response to the request of AFO
3 Roper. That's Exhibit 135, at page 3. And earlier you were
4 asked, either you offered or were asked but, ultimately, you
5 agreed that something along the lines of that, in your
6 assessment ... Let me take a step back. When you learned about
7 the Nova Scotia FIP subsequent to AFO Roper's tertiary
8 investigation, you placed the matter under review again and
9 sought disclosure of the Nova Scotia FIP, correct?

10 **A.** Yes.

11 **Q.** Okay. So the ... and then once you got that
12 disclosure, you'd already looked at Sergeant Maccallum's report
13 about that event but you also said something along the lines of
14 a turning point in returning the license to valid status was Dr.
15 Smith's medical assessment.

16 **A.** That we had gotten a medical assessment following the
17 November 1 ... November event from New Brunswick. We had gotten
18 a medical in February of 2016.

19 **Q.** Right. So the assessment ... you were comfortable
20 with the assessment because it was conducted after the events
21 that you were considering?

22 **A.** Yes.

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 **Q.** Okay. But is it fair to say, though ... You said
2 earlier that Sergeant Maccallum's report was part of your
3 assessment, so it's fair to say that the assessment in
4 combination ... the medical assessment of Dr. Smith in
5 combination with your whole review of the file, including
6 Sergeant Maccallum's report, led you to place the license back
7 into valid status?

8 **A.** Correct.

9 **Q.** Okay. And so we heard, you just said it was the fact
10 that the medical assessment was after the events that was part
11 of your consideration. If you can just scroll up to the top of
12 page 3 there. At this point you had awareness of the November
13 27th, 2015, New Brunswick RCMP event, you also had awareness of
14 the November 18, 2015, RCMP even in Nova Scotia, and is it fair
15 to say, though, that although Dr. Smith's medical assessment
16 occurred after both of those, as far as you know it was based on
17 this form and Dr. Smith being advised of only one of those two
18 events, being the November 27th, 2015, RCMP event?

19 **A.** That's what's indicated on the form, November 27,
20 2015.

21 **Q.** And you had no knowledge other, one way or the other,
22 whether Dr. Smith had knowledge of both of those events or just

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 the one that was presented on the form?

2 **A.** That's the only one that's written on the form.

3 **Q.** So my question is about your knowledge, to your
4 knowledge, you didn't know whether Dr. Smith had knowledge of
5 just the event on the form or knowledge of both events?

6 **A.** Correct.

7 **Q.** Okay. And would you agree with me that it's
8 possible, I know you're not a physician, but just generally, in
9 considering that medical assessment form, is it ... would you
10 agree that it's possible that Dr. Smith's assessment may have
11 been the same or different if he had been given knowledge of
12 both RCMP events?

13 **MR. WILLIAMS:** I hate to object but I think that's a
14 question more properly put to Dr. Smith, what Dr. Smith would
15 have done, would have thought, would have acted on. This
16 witness is just being called to speculate on a medical matter.
17 But it is an inquiry, so, I mean ...

18 **THE COURT:** Well, I appreciate that, Mr. Williams. I
19 also appreciate that Mr. Hayne, as a prelude to asking the
20 question, has left the door wide open for this witness to
21 respond I really can't say, and it seems to me that ... I'll let
22 the question go as presently formatted. So go ahead, Mr. Hayne.

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 **MR. HAYNE**: Certainly. And maybe when I recast, when I
2 restate the question I may phrase it in a better way, but Your
3 Honour's point ...

4 **THE COURT**: The bottom line, the question you're going
5 to put to the witness is whether or not she'd have any idea
6 whether Dr. Smith would have given the same recommendation if
7 he'd been aware of the facts and circumstances that resulted in
8 that November 18th FIP.

9 **MR. HAYNE**: Right. And it's fair that you don't know
10 what his assessment would have been if he'd had that
11 information?

12 **A.** I can't say.

13 **Q.** Okay. Just one more area of questioning. Ms. Miller
14 asked you whether a doctor could call and obtain the status of
15 an individual's firearms license, and I think your answer was
16 something to the effect of that they would ... that call would
17 go to the central processing site and then they would refer to
18 the particular province and we would find out what was needed.
19 So I was a little bit unclear as to what happens, what would
20 happen, to your understanding, in that type of circumstance,
21 particularly with privacy issues that may be at play. So I'm
22 just going to follow up on that and maybe re-ask the question.

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 From your understanding, can a doctor call either the central
2 processing site or through you and obtain the status of an
3 individual's firearms license?

4 **A.** It's up to the doctor to call.

5 **Q.** No, I know, but if a doctor calls, would that
6 information be provided by, for example, by your office?

7 **(12:14:00)**

8 **A.** We would provide the ... We would make sure that it
9 is a doctor that's calling, just like we do with a police
10 officer, get their badge number, get their information, and then
11 find out what it is that they require. Most doctors don't call,
12 just because of the **Privacy Act** probably, I don't know, I'm not
13 a doctor, and they usually send us a notice to say if they have
14 any concerns.

15 **Q.** Right. So in the absence of providing a notice with
16 concerns, and it's just, I just want to get clarity, if a doctor
17 calls, you get in touch with the doctor, they identify
18 themselves as a doctor, perhaps they identify themselves as the
19 doctor for this particular individual and say, Can you just tell
20 me if their license is valid or not, would your office provide
21 that information?

22 **A.** I would ask if they have any concerns.

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 **Q.** Right. But I'm just saying if they didn't raise any
2 concerns, or even if they did, let's just take both examples, if
3 they didn't raise any concerns, they're just curious, would your
4 office ...

5 **A.** Why do they need the information? That would be my
6 question.

7 **Q.** Right.

8 **A.** If they have concerns, they could provide us the
9 information and we would review it.

10 **Q.** Right.

11 **A.** If they have no concerns, no information can be
12 provided.

13 **Q.** Okay. So say they have concerns, they call and say,
14 I've got concerns about this patient, they're acting
15 erratically, or whatever the case may be, I've got concerns
16 about access to firearms, do they have a valid license? Do you
17 just take that information and then do the appropriate review
18 and say thank you for your concern or do you ... will you report
19 to them, Well, actually their license is valid or it's under
20 review or they don't have a license, or whatever the case may
21 be.

22 **A.** They'll send us something in writing, they all do,

LYSA ROSSIGNOL, Cross-Examination by Mr. Hayne

1 and then we will advise them that we will look into it, for
2 sure. But we will also advise them that if the person is not a
3 client, does not have a license, there's nothing we can do.

4 Q. Right, I understand. So in the context where they
5 send you something in writing listing their concerns, the only
6 response they will get is, essentially, We will look into it?

7 A. We will review and make the appropriate ... we'll
8 take the appropriate steps.

9 Q. Okay. And that's the extent of it. You don't tell
10 them whether they have a license or whether it's under review,
11 you just say, Thank you for the information, we're going to
12 review it?

13 A. Exactly.

14 Q. Okay. Thank you. Those are my questions.

15 **THE COURT:** Mr. Williams, do you have any questions?

16

17

EXAMINATION BY MR. WILLIAMS

18 (12:16:58)

19 **MR. WILLIAMS:** I reluctantly ask this question but I'll do
20 it, anyway.

21 Is there one person in Miramichi, with the Firearms Office
22 in Miramichi that would have the information pertinent to this

LYSA ROSSIGNOL, Examination by the Court

1 heading "Refusal/Revocation Decision Criteria", and it reads:
2 "The following circumstances will result in revocation of a
3 firearms license or refusal of a firearms license application."
4 Then there's a number of points and there's a heading of
5 Violence, and when you turn to the next page there's a bullet
6 point "Mental Health supported by negative medical assessment
7 identifying client as a risk". Risk of what?

8 **A.** If a medical assessment comes back with the doctor
9 indicating that he or she does not support or does not feel that
10 the person should have a firearms license or is a public safety
11 risk.

12 **Q.** So what about a risk of suicide?

13 **A.** If the doctor puts it on there that there is a risk.

14 **Q.** Okay. But you don't ... If the word "risk" doesn't
15 come up in the medical report, it's not something that you would
16 go back and you ask about?

17 **A.** It all ...

18 **Q.** So for ...

19 **A.** Sorry.

20 **Q.** Sorry. So, for instance, you know, there's mental
21 health issues, a person has firearms, they're under review for
22 instance. You say what's the risk of suicide or do you use the

LYSA ROSSIGNOL, Examination by the Court

1 words what's the risk of self-harm, do you use the words, you
2 know, what's the risk of harm to the community or others, family
3 members or otherwise. Considering you have the word "risk"
4 there, do you actually ask about risk?

5 **A.** On the new medical form it's a lot more the risk to
6 self-harm, the risk to others and doctors will complete the
7 section. If the firearms officer is not satisfied, we will
8 contact the doctor to get more information to explain, to
9 elaborate.

10 **Q.** All right. And have you, from a policy point of view
11 or practical operation point of view, discussed the issue of
12 risk. So, for instance, is low risk of suicide sufficient to
13 make a decision or low risk of harm to others in the community
14 or do you have to have a no risk assessment? I just need to
15 know if you've ever discussed that?

16 **A.** Yeah.

17 **Q.** You have?

18 **A.** Yes.

19 **Q.** And what standard would you apply?

20 **A.** It all depends. We always look at what the doctor
21 comes back with and depending, and we talked about this
22 yesterday, that depending on what the file, the case that we

LYSA ROSSIGNOL, Examination by the Court

1 received, the area firearms officer will review all of it, the
2 police file, the medical, and if they're not satisfied with the
3 information provided or they're not happy or clear into a
4 decision to say, No problem, I feel satisfied that this person
5 is eligible to hold a firearms licence, they will revoke the
6 licence based on all the information that they have in front of
7 them. They will contact the client to say why. They'll explain
8 to them that the risk, there's too much of a risk at this time
9 for public safety, to give it a year or two to get, you know,
10 maybe just their health or their mental health needs to be
11 stabilized.

12 Q. So when you talk about giving it a year or two, you're
13 not going to renew or you're going to deny the application ...

14 A. Yes.

15 Q. ... and invite them to return with perhaps more
16 updated medical information ...

17 A. Exactly.

18 Q. ... if their situation changes?

19 A. Exactly.

20 Q. That's how you do it or you anticipate doing it that
21 way.

22 **(12:23:54)**

LYSA ROSSIGNOL, Examination by the Court

1 Yesterday you and I had a discussion about the present
2 Section 23 of the **Firearms Act** and briefly about the proposed
3 amendments to the **Firearms Act** in Bill C-71 and I understand
4 that although C-71 has royal assent, it doesn't come into effect
5 until there's an Order-in-Council?

6 **A.** Exactly.

7 **Q.** And I think we have the current Section 23, can we
8 bring that up, of the **Firearms Act**. I think we have paper
9 copies for everybody then. Oh, there it is.

10 Now the questions or the discussion we had yesterday was in
11 relation to vendors and whether or not a vendor would, the
12 vendor that's standing at the counter and the person wants to
13 buy a non-restricted firearm, he's on the counter, they ask for
14 the purchaser's possession and acquisition licence, it's handed
15 over, photograph matches, it is current as in it's not expired.
16 So the present situation, Section 23 would say:

17 A person might transfer a non-restricted
18 firearm, if at the time of the transfer,
19 (a) the transferee holds a licence
20 authorizing the transfer to acquire and
21 possess that kind of firearm. (So that's
22 the scenario that I created, my

LYSA ROSSIGNOL, Examination by the Court

1 hypothetical.)

2 (The next) The transferor (the vendor) has
3 no reason to believe that that transferee is
4 not authorized to acquire or possess that
5 kind of firearm.

6 So there's no information that comes to the attention of
7 the vendor that they should ask any questions other than looking
8 at the licence?

9 **A.** Section 23.1(1) is the voluntary request to the
10 registrar.

11 **Q.** So that's a voluntary request?

12 **A.** Yes.

13 **Q.** So 23.1(1) says:

14 (The) transferor referred to in section 23
15 may request that the Registrar inform the
16 transferor as to whether the transferee, at
17 the time of the transfer, holds and is still
18 eligible to hold the licence referred to in
19 paragraph 23(a) and if such a request is
20 made, the Registrar or his or her delegate,
21 or any other person that the federal
22 Minister may designate, shall so inform the

LYSA ROSSIGNOL, Examination by the Court

1 transferor.

2 So it's a may. If he has reason to believe or they have
3 reason to believe that there is some eligibility issue, they may
4 call and get the information, correct?

5 **A.** Correct.

6 **Q.** Would you agree that the word "may" does not make it
7 mandatory?

8 **A.** Correct.

9 **Q.** The next section, subsection (2) of Section 23.1 goes
10 on to say among other things, that "... neither the Registrar
11 nor his or her delegate nor a designated person shall retain any
12 record of a request made under subsection (1)." Correct?

13 **A.** Correct.

14 **Q.** So there's no record kept of that?

15 **A.** No.

16 **Q.** The new provision, the proposed provision, that's a
17 paper copy I think we have. Can we just pass that? Do you have
18 a copy of that one? All right. So there's a paper copy and it
19 goes on to talk about in Section 23, first off, subsection (5)
20 in C-71 declares that:

21 Sections 23 and 23.1 of the **Act** are replaced
22 by the following: (and then there's the

LYSA ROSSIGNOL, Examination by the Court

1 title **Authorization to Transfer Non-**
2 **Restricted Firearms.**)

3 Section 23.1: A person may transfer (one or
4 more) non-restricted firearm(s) if, at the
5 time of the transfer,

6 (a) the transferee holds a licence
7 authorizing the transferee to acquire and
8 possess a non-restricted firearm. (It's
9 kind of the same as the scenario that I had
10 proposed.)

11 (b) the Registrar has, at the transferor's
12 request, issued a reference number for the
13 transfer and provided it to the transferor;
14 and

15 (c) the reference number is still valid.

16 So in the new scenario, the transferor, the vendor, will in
17 fact have to get a transfer number from the registrar, correct?

18 **A.** Correct.

19 **Q.** And there's other portions of that where the
20 transferee has to provide the transferor with sufficient
21 information as may be requested by the registrar. So presumably
22 at that point there is actually a confirmation through that

LYSA ROSSIGNOL, Examination by the Court

1 process by the registrar with regard to the status and validity
2 of the licence?

3 **A.** That's the reference number.

4 **Q.** So it can be valid, not valid, or if it happens to be
5 under review, the registrar presumably would have access to his
6 status apart from the legal status but that administrative
7 status as well?

8 **A.** Yeah.

9 **Q.** Okay. Now apart from vendors like Canadian Tire, for
10 instance, or what used to be Cabela's, I don't know if it's Bass
11 Pro or maybe it's the other way around, from your understanding
12 they, as a matter of practice, call, do they, to determine what
13 the status of the licence is presently?

14 **A.** Or they'll use the business web.

15 **Q.** Or they'll use the business web, okay. But the way I
16 read the legislation, a vendor who chooses to not do that isn't
17 obliged to do it?

18 **A.** Correct.

19 **Q.** Unless you, as the CFO in this province, do you have
20 the ability to give a direction to all vendors to do that, apart
21 from what the **Act** may require?

22 **A.** We've been requesting the businesses to contact

LYSA ROSSIGNOL, Examination by the Court

1 because a person that has a firearms licence valid in their hand
2 does not mean that it's valid.

3 Q. Exactly. But you give a direction that requires them
4 to do it or is it a suggested practice?

5 A. They've been directed to contact to verify the
6 validity of the licence. We've asked all businesses to verify
7 the validity of licences.

8 Q. And my last question is this. There was an event, if
9 we take them in chronological order, there was a November 18,
10 2015 in Nova Scotia that you didn't get the information with
11 regard to that for some period of time but eventually you had
12 the opportunity to review the information attached to the FIP,
13 correct?

14 A. Correct.

15 Q. So that was an event from November 18, 2015, correct?

16 A. Correct.

17 Q. There was also a November 27, 2015 event in New
18 Brunswick?

19 A. Correct.

20 Q. And Mr. Roper, he would have reviewed that information
21 and you saw his commentary with regard to his investigation in
22 the tertiary investigation report, correct?

LYSA ROSSIGNOL, Examination by the Court

1 A. Correct.

2 Q. And you had the report from Dr. Smith dated February
3 23, 2016, correct?

4 A. Correct.

5 Q. Now we know that earlier in 2014 or it may have been,
6 the exact date escapes me, but you had a medical report when the
7 initial application was under review or the renewal was under
8 the review and Mr. Roper had a discussion with Dr. Joshi,
9 correct?

10 A. Correct.

11 Q. And we know that there it was reported that Dr. Joshi
12 had been seeing Mr. Desmond for four and a half years, correct?

13 A. Correct.

14 Q. Dr. Joshi's a psychiatrist, I can't recall whether
15 that was noted in there or not.

16 A. I don't recall.

17 Q. Okay. So if you look at Exhibit 115, please. So this
18 is a document that has a date on it, page one has a date on it
19 from December 15, 2015 and it's entitled "Recommendation for
20 Ste. Anne Stabilization/Treatment Residential Program".

21 **(12:34:13)**

22 A. Yes.

LYSA ROSSIGNOL, Examination by the Court

1 **Q.** I don't know if you've seen it before or not, have
2 you?

3 **A.** No.

4 **Q.** All right. I just want to put it into that same
5 timeline. So you have your November 18th event, your November
6 27th event, you have this letter that was written December 15th
7 so that's post both of those two FIP events ...

8 **A.** Correct.

9 **Q.** ... but it's just slightly before the letter of Dr.
10 Smith. And the second page of the letter reads in part and I
11 might add that it's in relation to Lionel Desmond, that should
12 be clear, and it's directed to the Operational Stress Injury
13 Clinic or it's from there. We are all aware that Dr. Joshi was
14 attached to that Operational Stress Clinic in Fredericton, New
15 Brunswick and this letter is from that and signed by Dr.
16 Murgatroyd who is also a treating psychologist and Dr. Joshi as
17 well. It reads in part:

18 This is a letter to strongly recommend the
19 admission of the above client to Ste. Anne's
20 Stabilization Residential Unit. The client
21 is diagnosed with chronic PTSD quite severe,
22 major depressive disorder, co-morbid alcohol

LYSA ROSSIGNOL, Examination by the Court

1 use, currently in remission. He does have
2 chronic pain. He is prescribed medical
3 marijuana but is aware and agreeable to your
4 admission criteria of no medical marijuana
5 usage. Client continues to struggle with
6 disabling symptoms of PTSD that directly
7 affects his social and occupational
8 functioning.

9 The goals of admission are for a medication
10 reassessment, improving his coping skills,
11 increasing his structure in daily
12 activities, and psychosocial rehabilitation.
13 Once stabilized, client will have outpatient
14 follow-up with his psychologist and
15 psychiatrist here at the OSI clinic. He
16 does not have a family physician. He is
17 medically fit.

18 I'm going to get to the next line in a minute, okay. So it
19 indicates that, and this is being written December 15th, that he
20 does not have a family physician. Now I realize you didn't have
21 this information. So in the context of all that you did know
22 and you get the psychiatrist at the OSI clinic in December with

LYSA ROSSIGNOL, Examination by the Court

1 this view of Mr. Desmond and you've got the letter of Dr. Smith
2 April 23rd expressing the view of Mr. Desmond and particularly
3 in the context of not having a family physician, how would that
4 affect your thinking about whether or not Mr. Desmond was a
5 person that was still suitable to possess a firearms licence?

6 **A.** If our office would have been privy to this letter, it
7 would have changed the outcome of his licence.

8 **Q.** And the reason I raise it perhaps is to bring into
9 focus the issue of the value of updating the ongoing current
10 medical information from all sources.

11 **A.** Absolutely.

12 **Q.** And just to be complete, the next line of it
13 reads: Client is not actively
14 suicidal or homicidal, he is not a risk for
15 aggression or violence, there are no present
16 legal issues.

17 (It goes on to read) The client has
18 significant problems functioning in daily
19 living which impacts his social and
20 occupational functioning. His social
21 network is limited. Client is motivated to
22 engage actively in treatment process and

LYSA ROSSIGNOL, Examination by the Court

1 would highly benefit from psychosocial
2 intervention.

3 So there appears to be a real current need for
4 interventions at that point in time to create stability. I know
5 I asked you the question but I think what your answer would have
6 been or was would be self-evident before I even ask so I thank
7 you for turning your attention to it anyway.

8 So thank you, that's all the questions I have. I don't
9 know if anyone would like to follow-up based on that. No?
10 Thank you then. Ms. Rossignol, thank you very much for your
11 time, we very much appreciate the information you've been able
12 to provide to us.

13 **A.** Thank you.

14 **WITNESS WITHDREW (12:40 HRS)**

15 **THE COURT:** Counsel, I think we're going to break for
16 lunch. When we come back I think we're going to hear from Mr.
17 Eardley.

18 **MR. MURRAY:** Yes, Your Honour, we're going to be calling
19 Derek Eardley. I think his evidence will be significantly
20 briefer than Ms. Rossignol's.

21 **THE COURT:** All right, thank you then. I think we're
22 going to hear from Constable MacDonald following Mr. Eardley?

LYSA ROSSIGNOL, Examination by the Court

1 **MR. RUSSELL:** That's correct, Your Honour, yes.

2 **THE COURT:** All right, thank you, Counsel. We'll come
3 back at 1:30 then.

4 **COURT RECESSED (12:41 HRS)**

5 **COURT RESUMED (13:34 HRS.)**

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

7 **MR. MURRAY:** Thank you, Your Honour. We're calling
8 Derek Eardley.

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1 **DEREK EARDLEY sworn, testified:**

2
3 **THE COURT:** You'll be referred to some documents that
4 will come up on the monitor. There's also paper copies in front
5 of you in the various binders, so if you prefer a paper copy
6 feel free to help yourself to the copy. Thank you.

7

8 **DIRECT EXAMINATION**

9

10 **MR. RUSSELL:** Mr. Eardley, can you state your name for the
11 record, please.

12 **A.** Derek Eardley.

13 **Q.** And how do you spell your first and last names, sir?

14 **A.** D-E-R-E-K E-A-R-D-L-E-Y.

15 **Q.** Thank you. And how are you employed, sir?

16 **A.** Province of New Brunswick.

17 **Q.** And what is your current role with the Province of
18 New Brunswick?

19 **A.** I'm the Regional Director for Community Services.

20 **Q.** All right.

21 **A.** Which involves Probation and Victim Services for the
22 province in our region.

DEREK EARDLEY, Direct Examination

1 **Q.** Okay. Probation and Victim Services are under that
2 umbrella in New Brunswick?

3 **A.** Yes.

4 **Q.** At some point in your career I believe you were the
5 Chief Firearms Officer for the Province of New Brunswick?

6 **A.** I was, August 2014 until July of 2017.

7 **Q.** August of 2014 to July of 2017?

8 **A.** Right.

9 **Q.** So just shy of three years?

10 **A.** Well, it was, yeah, it was July 31st I started my new
11 role, so it was all of the month of July.

12 **Q.** Okay. And what was your background coming to the
13 office of the Chief Firearms Office in the Province of New
14 Brunswick?

15 **A.** Employment-wise or education-wise?

16 **Q.** Employment-wise, I guess I'm thinking of.

17 **A.** I started in '95, basically, in Corrections, several
18 roles in there including supervising; and then in 2002 I went to
19 the Probation Office, I was a probation officer for a few years
20 and then supervised there, until 2010; four and half years of
21 Policy in the same Public Safety Department; and then I was
22 Chief Firearms Officer for three years.

DEREK EARDLEY, Direct Examination

1 **Q.** All right.

2 **A.** In 2014, and then the last couple of years I've been
3 doing this.

4 **Q.** So your work with the Province of New Brunswick
5 involved, I guess, Corrections and Public Safety but not,
6 strictly speaking, Firearms, is that ...

7 **A.** No, that's correct, just those three years.

8 **Q.** Okay. So there would have been a little bit of a
9 learning curve, I guess, for you as Chief Firearms Officer?

10 **A.** It was, admittedly, six months to a year before I
11 felt comfortable.

12 **Q.** Yes.

13 **A.** It was a completely different program.

14 **Q.** Right.

15 **A.** As you would have heard some testimony from Lysa,
16 that CFIS program, Cognos, working with CPIC and everything, all
17 those programs together, to learn those takes some time.

18 **Q.** Right.

19 **A.** I didn't work with them on a daily basis either.

20 **Q.** Okay.

21 **A.** Because I did not get involved in the actual daily
22 operations of licensing.

DEREK EARDLEY, Direct Examination

1 **Q.** Okay. So I'll ask you about that.

2 **A.** Okay.

3 **Q.** The policy work that you did prior to coming to the
4 CFO, did that touch on any firearms issues at all?

5 **A.** No, because firearms is a federal, federal
6 legislation. We only dealt with the provincial **Acts** under Public
7 Safety.

8 **Q.** Right.

9 **THE COURT:** Can I stop you just for a second, Mr.
10 Murray. I think, Mr. Eardley, what I'm going to do ...

11 **A.** Too far away?

12 **THE COURT:** If you'd just, you know, just pull it
13 forward. Thank you.

14 **MR. MURRAY:** The Chief Firearms Program, we've heard,
15 obviously, is a Federal program but it is administered,
16 obviously, in the Province of New Brunswick by the Chief
17 Firearms Office.

18 **A.** Correct.

19 **Q.** And did you have any involvement in that when you were
20 doing the policy work prior to coming to the CFO?

21 **A.** No, I did not.

22 **Q.** All right. So there's a certain, I guess, well, you

DEREK EARDLEY, Direct Examination

1 said it, a certain learning curve, and there were a number of
2 programs and databases and so forth that you had to become
3 familiar with when you took over the role of CFO?

4 **A.** Some of them, yes, but, again, I did not get involved
5 in the daily operations of licensing.

6 **Q.** All right.

7 **A.** Especially that part. I did, later on, get more
8 involved in the shooting ranges.

9 **Q.** Yes.

10 **A.** That's one of the other avenues of our program,
11 simply to take care of some of the stress level and the workload
12 from the PFOs and AFOs, as you would have heard.

13 **Q.** So the structure of the Firearms Office when you were
14 there, there was a CFO, who was yourself?

15 **A.** That's right.

16 **Q.** There was an operations manager?

17 **A.** Yes.

18 **Q.** And who were the operations managers while you were
19 CFO?

20 **A.** So there was one lady, her name was Sharon Crawford,
21 and she was there - I was there three years - I think it was the
22 first year and then she retired, and then Lysa was promoted into

DEREK EARDLEY, Direct Examination

1 acting manager and, eventually, went through a competition and
2 then became the full-time manager, operations manager.

3 Q. Okay. And apart from an operations manager there
4 were provincial firearms officers and area firearms officers?

5 A. That's correct. There were three PFOs ... Is that
6 okay if I refer to them as that, PFO and AFO?

7 Q. Sure.

8 A. Three PFOs, four AFOs, and at the time I got there
9 there was one ASL, support staff. During the time I was there
10 we got two and then one went out, so it was always up and down
11 as far as staff goes.

12 Q. Right. And the responsibilities of each of those
13 individuals while you were CFO, what was the responsibility, as
14 you understood it, of the operations manager?

15 A. Of the operations manager?

16 Q. Yes.

17 A. She took care of all of the daily operations of that,
18 of that program.

19 Q. So that would include licensing ...

20 A. Licensing, shooting ranges. Under section 29, I
21 believe it is, of the **Firearms Act**, a CFO has ultimate refusal,
22 relocation powers on any of the shooting ranges, so they have to

DEREK EARDLEY, Direct Examination

1 do that particular task. But the PFO, not the operations
2 manager, but the PFO would do some of the information from the
3 ranges and get all of the ... Some ranges would actually ask for
4 certain shooting activities and then we would suggest to them
5 what they needed to get inspected. Documents would come in from
6 ... The PFO would set that up for the CFO, and then the CFO
7 would review and approve or not.

8 **Q.** Okay. Back to the operations manager, licensing.

9 **A.** Yeah.

10 **Q.** Investigations, would that be ...

11 **A.** Yes.

12 **Q.** Would those be overseen, I guess, by the operations
13 manager?

14 **A.** That's correct

15 **Q.** All right. And all of the PFO duties would be
16 overseen by the operations manager?

17 **A.** And the support staff.

18 **Q.** Okay. All right. The various databases that we've
19 heard referred to here, such as CFIS ... well, let's take that
20 one, in particular. Would you have access to that database
21 typically in your duties as CFO?

22 **A.** Access, yes, but ...

DEREK EARDLEY, Direct Examination

1 **Q.** Would you have occasion to access it?

2 **A.** I would not need to because the operations manager
3 would take care of any oversight on any of the PFOs' work or the
4 AFOs' work.

5 **Q.** Okay. And in terms of, specifically, investigations,
6 the tertiary investigations that we've heard about, those were
7 conducted by area firearms officers?

8 **A.** Correct.

9 **Q.** And can you tell the inquiry, in New Brunswick at the
10 time that you were CFO, how those were distributed or how that
11 work was done by the various AFOs.

12 **A.** I know that they got it from the PFO and that the
13 operations manager had oversight of each file that went to the
14 AFO, so she could review it - I say "she" because it was Lysa -
15 she could review it when the file was complete, so the PFO to
16 the AFO, with Lysa cc'd, copied into the email, and then the
17 final oversight with Lysa.

18 **Q.** Typically, would you have occasion to review or sign
19 off on any of the investigations that were done in the CFO
20 office?

21 **A.** Not sign off, but every three or four months we tried
22 to get the AFOs, who are, I think she said that they were in

DEREK EARDLEY, Direct Examination

1 Saint John, Moncton, and Bathurst, one was in the Fredericton
2 office, but we'd try to get them to come to our office,
3 basically, just to discuss any challenges that they'd been
4 experiencing. And during those types of conversations I would
5 ask, Do you guys have any files to review, let's do them all
6 together. But it wasn't a normal practice to do that.

7 **Q.** Okay.

8 **A.** They would be signed off by the AFO and then given to
9 Lysa and she'd review it just to make sure the i's were dotted,
10 t's crossed, that kind of stuff, and that things were done.
11 They would have the ultimate sign-off on that.

12 **(13:43:57)**

13 **Q.** So on those occasions when you would meet with the
14 operations manager and AFOs and discuss any ongoing cases or
15 anything of interest, that was a periodic thing or would it
16 happen only on occasion, is that, do I understand you correctly?

17 **A.** We tried to get them quarterly.

18 **Q.** Quarterly.

19 **A.** Yeah. It was more for, just to make sure that
20 everybody was doing things consistently.

21 **Q.** Okay. So your role as the CFO, I assume, involved
22 issues of budgeting and organization, things like that?

DEREK EARDLEY, Direct Examination

1 **A.** Human resources, information sessions for shooting
2 range executives. Each range, club member or club had an
3 executive and they had a range associated, so I would do
4 information sessions. I only did a few and I did, talking to
5 DNR, Natural Resources, who take care of the safety course, the
6 non-restricted safety course. I would have the authority to
7 approve and refuse and revoke authorizations, I guess, for each
8 instructor.

9 **Q.** Okay.

10 **A.** That came to me. And as far as the restricted safety
11 course, we did that out of our office and I interviewed and
12 approved and refused or revoked privileges for any of those
13 instructors, as well.

14 **Q.** So the safety courses for non-restricted were done by
15 Natural Resources in New Brunswick?

16 **A.** That's right, on behalf of the CFO of the province.

17 **Q.** Right. And for restricted firearms, that was done
18 out of your office?

19 **A.** Right.

20 **Q.** Okay. Who would do those?

21 **A.** Who would do?

22 **Q.** The restricted firearms safety course. You had

DEREK EARDLEY, Direct Examination

1 people retained to do that, did you, or ...

2 **A.** Firearms enthusiasts.

3 **Q.** No, I mean, who would do the ... who would instruct
4 the course?

5 **A.** Firearms enthusiasts.

6 **Q.** Okay.

7 **A.** Yeah, people who have experience with firearms that
8 we determined would become good instructors.

9 **Q.** Right.

10 **A.** They've gone through courses. We have a training
11 session for them to make sure that they follow the program
12 accordingly.

13 **Q.** Right.

14 **A.** But it would be people who simply applied.

15 **Q.** Right.

16 **A.** Why they want to do this, they want to pass on their
17 knowledge, that type of stuff.

18 **Q.** Right. Okay. And so then I think you said this and
19 Ms. Rossignol said it, the approval of shooting ranges, that's
20 something that couldn't be delegated by the CFO, you had to do
21 that yourself?

22 **A.** That's correct.

DEREK EARDLEY, Direct Examination

1 **Q.** All right. And in your role as CFO, would you have
2 much contact with the central processing site in Miramichi?

3 **A.** No. No.

4 **Q.** Would you have any reason to have contact with anyone
5 there?

6 **A.** I can't recall. Like I've been away for two and a
7 half years but I can't recall any reason why ... I know if
8 anybody from our office would have done that, it would have been
9 our operational manager.

10 **Q.** Right. Okay. We've had some reference, at least,
11 to one policy document regarding tertiary investigations. Would
12 you be involved in the development of policies for the CFO for
13 the office?

14 **A.** We would have looked at policies. Now that one was
15 the same as when I got in there. I think it's probably the
16 same. I don't think it's been amended since I was, in the three
17 years that I was there.

18 **Q.** Okay. And so that's Exhibit 127, just if you wanted
19 to have reference to it. It would be in the binder there in
20 front of you.

21 **A.** Yeah.

22 **Q.** Appreciating it's been some time since you've been

DEREK EARDLEY, Direct Examination

1 there, but do you recall if you, during your time as CFO, if you
2 made any particular changes to that or if that document remained
3 the same during the time that you were there?

4 **A.** I think it remained the same, and the last amendment,
5 as it indicates here, was July 2012, a couple of years before I
6 got in.

7 **Q.** Yes. All right. While you were there, I believe, if
8 I'm following the dates correctly, there was a change in the
9 office. Previously, we've been told, to access information from
10 RCMP files it was necessary to have an RCMP officer seconded
11 into the CFO's office and, subsequently, there was access to the
12 PROS system granted to the Firearms Office. Do you recall that
13 and were you involved in that?

14 **A.** Okay, so it was Constable Hachey.

15 **Q.** Um-hmm.

16 **A.** He was, that was an MOU with the RCMP before I got
17 there. It continued on and I think I signed an MOU during my
18 time to keep him on for three or four more years.

19 **Q.** Okay.

20 **A.** We had access to the RCMP system through him.

21 **Q.** Right. The change was not made during your time,
22 though, to have direct access to it?

DEREK EARDLEY, Direct Examination

1 **A.** So aside from Denis - I did not recall this, this was
2 a conversation with Lysa, she actually reminded me - right
3 before, I think it was the month I left maybe, I'm not a hundred
4 percent sure, but we signed an MOU for access to PROS.

5 **Q.** Okay. But it didn't come into play while you were
6 there?

7 **A.** No.

8 **Q.** Okay. Can you just give us a sense, while you were
9 there, and I appreciate again time has passed and your memory of
10 numbers and workload may be a little inaccurate now, but there
11 were, we've heard that there are applications that obviously
12 come to the CFO, for various reasons, and there are also FIPs.
13 Do you recall if there was any kind of a backlog when you were
14 there?

15 **A.** When I went in, at first there was. I can't really
16 remember the exact number but something around, in the hundreds,
17 like, 400 perhaps, somewhere around there, for applications.

18 **Q.** Yes.

19 **A.** That had to yet be looked at.

20 **Q.** Yes.

21 **A.** Which could have been at the PFO level or the AFO
22 level, depending on what they were, what happened with them.

DEREK EARDLEY, Direct Examination

1 With the personal history questions maybe some of them did or
2 did not, so that would have elevated it. And the FIPs were, I
3 think, around 150, 200 that had not yet been addressed.

4 **Q.** Okay. And what, if any, steps did you take to
5 address those or what was your ...

6 **A.** So one of the other roles in my being the Director of
7 the Firearms Program is to come up with the branch work plans,
8 branch work plans with KPIs, key performance indicators.

9 **Q.** Yes.

10 **A.** And one of the ones that I put on our branch work
11 plan was the FIPs, simply because when I realized what a FIP was
12 and that there could be something in the system to be
13 investigated that wasn't yet looked at, it could be somebody who
14 maybe shouldn't have a firearms license, so we put them on with
15 target dates, and within that one year when I decided, like when
16 I made the decision to do it, which was in my first year, or
17 second year, sorry, it was the second year, we eventually got
18 down to a day-by-day review of those FIPs.

19 **Q.** All right.

20 **A.** Applications, however, started to get a bigger
21 backlog, simply because the resources in the office did not
22 allow us to do everything that there was to do in the office on

DEREK EARDLEY, Direct Examination

1 time.

2 Q. Right.

3 A. But we prioritized to say FIPs have to go, they have
4 to be the ones to be looked at, at least first or second.

5 Q. Right.

6 A. And I don't know where that landed in 2017, but I
7 know we were almost day to day, so FIP in and then FIP to PFO or
8 AFO to investigate within a day or two.

9 Q. All right. And that was your goal ...

10 A. That was the goal, yeah.

11 Q. Right. I want to ask you, Mr. Eardley - specifically
12 we're here obviously about the Lionel Desmond situation and his
13 various tertiary investigations. Were you aware of any of the
14 investigations that related to Lionel Desmond? I mean did you
15 have specific knowledge of them while you were ... while they
16 were happening?

17 A. No, I was not.

18 Q. Okay. When did you become aware of the incident that
19 happened here on January 3rd, 2017?

20 A. I believe it was the 4th or the 5th when I saw it in
21 the media, and we looked up Lionel Desmond's name, and I asked,
22 I think, the operations manager at the time, Lysa, to look at

DEREK EARDLEY, Direct Examination

1 the name, and we realized it was our licensee in New Brunswick.

2 Q. Okay. When you heard about it, the reason that you
3 wanted to check, were you aware that he had been a resident of
4 New Brunswick, is that why he was of particular interest, to see
5 if he was a client or ...

6 A. Well, yes. When we found out that he was a New
7 Brunswick licensee, he was our responsibility, so I wanted to
8 look to see what it was in the details of the file.

9 Q. All right.

10 A. Because I wasn't aware of any of it leading up to it.

11 Q. Okay.

12 A. Simply because the operational manager and the area
13 firearms officers would have taken care of any investigations.

14 Q. All right. And I believe Ms. Rossignol prepared a
15 summary for you. If we can look at Exhibit 131.

16 **EXHIBIT P-000131 - FIREARMS OFFICE SUMMARY RE LIONEL DESMOND**

17 Do you recall if that's the summary that she prepared for
18 you?

19 A. Yeah.

20 Q. All right. And that was at your request, was it?

21 A. It was.

22 Q. And as a result of this and because Lionel Desmond

DEREK EARDLEY, Direct Examination

1 was a client of the CFO in New Brunswick, I believe there was
2 some other contact you had with other individuals with respect
3 to the file; in particular, I'm thinking of ... If you could
4 look at Exhibit 132.

5 **(13:54:03)**

6 **A.** Oh, Rob O'Reilly?

7 **Q.** Yes.

8 **A.** Yes, the Director of the Program.

9 **Q.** And who did you understand Rob O'Reilly ...

10 **A.** He was the director of the program, the Canadian
11 Firearms Program nationally.

12 **Q.** Okay. And you had some contact with Mr. O'Reilly
13 and, in particular, the email here seems to relate to Mr.
14 O'Reilly creating briefing notes for the Federal Minister?

15 **A.** Correct.

16 **Q.** And that would be the Federal Minister of?

17 **A.** I think it was Public Safety and maybe Emergency
18 Preparedness.

19 **Q.** Okay.

20 **A.** I can't remember the actual title.

21 **Q.** Right, okay. So the exhibit we have is actually your
22 email to Lysa Rossignol sharing the email from Rob O'Reilly to

DEREK EARDLEY, Direct Examination

1 you.

2 **A.** Right.

3 **Q.** And so you had this email and I think he was asking
4 you or your office to determine if the information in it was
5 accurate?

6 **A.** That's correct.

7 **Q.** All right.

8 **A.** Which is why I sent it to Lysa, to make sure.

9 **Q.** Okay.

10 **A.** So that the Federal Minister would have the correct
11 information.

12 **Q.** Right, okay. So that was vetted by Ms. Rossignol in
13 your office?

14 **A.** Yeah.

15 **Q.** Okay. And then you responded to Mr. O'Reilly?

16 **A.** I must have, but it's not on this email so it must
17 have been by phone.

18 **Q.** Okay. All right. There are a couple of things that
19 are noted in it that I'm going to ask you if you can recall if
20 these were particular issues. I'm looking at page 2 of the
21 email under "Strategic Considerations". One of the things that
22 Mr. O'Reilly raises in this is improper coding of occurrences in

DEREK EARDLEY, Direct Examination

1 police records management system. He says: "...will continue
2 to affect the information available to CFOs in making informed
3 decisions around client eligibility to hold firearms licenses."

4 To your recollection, was that an issue when you were CFO?

5 **A.** I heard it was.

6 **Q.** Okay.

7 **A.** It wasn't anything that I was directly looking into a
8 system to see that they're making mistakes. It wasn't about
9 that. It was about seeing, hearing that police were going to
10 situations and however they coded them could or could not
11 generate a FIP. That's kind of the extent of it.

12 **Q.** So ...

13 **A.** Just an example, and I'm not saying this happened,
14 this is an example, it could be a mental health call and they
15 code it, I think it's called "assistance to general public", and
16 assistance to general public, if they coded it that way, won't
17 generate a FIP, but if they did it as a **Mental Act** one, that
18 would.

19 **Q.** Right.

20 **A.** I don't know the coding and I don't know what they do
21 in their police cars or how they code stuff, so I can't speak to
22 that.

DEREK EARDLEY, Direct Examination

1 **Q.** To the best of your recollection ... I appreciate
2 that the coding is a police function, I understand that.

3 **A.** Right.

4 **Q.** And the codes are not your creation. But was there
5 any, I guess, information or any kind of communication with
6 policing agencies to impress upon them the importance of good
7 coding so that the information comes to you?

8 **A.** Yes. In one of these, we'll call them quarterly
9 meetings that we tried to arrange with the AFOs ...

10 **Q.** Yes.

11 **A.** We came up or, actually, one of my AFOs actually came
12 up with a PowerPoint presentation that's probably 25 or 30
13 slides to ... It's all information on the whole Firearms Program
14 and what we do, and part of that was coding. And they were
15 tasked to going around to a couple, at least every, like through
16 their work performance, two or three agencies a year each, and
17 they just keep doing that, ongoing, and I believe that's ongoing
18 to this day, but I'm not aware.

19 **Q.** Okay.

20 **A.** And so they would go over all this coding, they would
21 go over shooting ranges, they would go over licensing, they
22 would go over FIPs, they would talk about all of that.

DEREK EARDLEY, Direct Examination

1 **Q.** Okay. The other strategic consideration that's
2 mentioned in Mr. O'Reilly's email: "CFOs currently place a top
3 priority on addressing all mental health information received;
4 however, most interactions with medical practitioners do not
5 come to their attention unless self-disclosed by the client."

6 **A.** Correct.

7 **Q.** That, I take it, also was a concern, an ongoing
8 concern, I guess?

9 **A.** Yes. I think that's nationally.

10 **Q.** Right. That's not just unique to New Brunswick,
11 obviously?

12 **A.** No.

13 **Q.** That's with all programs?

14 **A.** Right.

15 **Q.** Okay. Were there any particular steps that you can
16 recall having been taken at the time to address that or any ways
17 to address the proper acquisition of medical information?

18 **A.** So I believe it was February, Lysa mentioned that
19 earlier, but that the medical form that we had when I got into
20 the position was the one that was used, that you would have
21 seen, and then I think it was February, I think it was February
22 2017 we came up with the idea - probably one of these quarterly

DEREK EARDLEY, Direct Examination

1 meetings again with the AFOs - to use the RCMP version.

2 Q. Okay. And we have that marked as an exhibit, it's
3 126. So the form that we had looked at that - you can look at
4 the paper one there, as well.

5 A. No, you can go ahead.

6 Q. ... that was used in Lionel Desmond's case was the
7 older form that was used by your office?

8 A. That's correct.

9 Q. And in 2017, early 2017, February, you think you
10 moved to the RCMP form, which is marked as Exhibit 126?

11 A. Correct.

12 Q. That form, to your knowledge, was that form used by
13 other CFO offices in the country or do you know or do you
14 recall?

15 A. This is the RCMP one, so all of the opt-out
16 provinces...

17 Q. Obviously, the opt-out ones would, yes.

18 A. Would all use this. I'm not a hundred percent sure
19 if any of the opt-ins would use it or if they have their own.

20 Q. Okay. The document, the RCMP form which is marked as
21 126, it's more, I guess, comprehensive, it's longer than the
22 form that was previously used. What was the thinking in

DEREK EARDLEY, Direct Examination

1 adopting this form?

2 **A.** More information could be gleaned from it and be
3 required to be inputted into it ...

4 **Q.** Okay.

5 **A.** ... than our form, than the form that we had been
6 using.

7 **Q.** Right. Okay.

8 **A.** And it was also to be consistent, as much as we could,
9 with the rest of the country. At least the five RCMP-led
10 provinces.

11 **Q.** Right. Okay. Obviously that change, as best you
12 recall the date, came after the Desmond incident. Did that play
13 any role in the decision-making?

14 **A.** It did. It did.

15 **Q.** Okay. Was that the sole driver or were there other
16 considerations?

17 **A.** We had talked about medical forms. And I'm trying to
18 remember. It could be for a few months, perhaps, like
19 periodically, on changing forms. And I know we changed the
20 requirement to bring it back 30 days. It used to be 90 days.

21 **Q.** Right.

22 **A.** And actually either amend our form or adopt this form.

DEREK EARDLEY, Direct Examination by Mr. Murray

1 So after this particular incident, yes, it was definitely a big
2 driver of the change.

3 Q. And to your recollection, did you have any other
4 involvement in any changes or modifications of procedure or
5 policy after the Desmond incident?

6 A. I can't recall. I'm not thinking that I was, but I
7 can't recall.

8 Q. And you left the office in July of 2017?

9 A. July 31st was the first day of my new role.

10 Q. Right.

11 A. Right.

12 Q. Okay. And you haven't had any involvement with the
13 Firearms Office since you moved onto your new role?

14 A. No.

15 Q. All right. Thank you, Mr. Eardley. Those are all the
16 questions I have.

17 **THE COURT:** Thank you. Ms. Ward?

18 **MS. WARD:** We have no questions for this witness.

19 **THE COURT:** Thank you.

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

21 **THE COURT:** Mr. Anderson? No questions? Thank you.

DEREK EARDLEY, Cross-Examination by Mr. Macdonald

1 Ms. Whitehead?

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

3 **THE COURT:** Mr. Macdonald?

4

5 **CROSS-EXAMINATION BY MR. MACDONALD**

6 **(14:02:30)**

7 **MR. MACDONALD:** Thank you, Your Honour. Good afternoon, Mr.
8 Eardley. You were here this morning. You heard me introduce
9 myself to Ms. Rossignol, I think?

10 **A.** I did.

11 **Q.** So I'm the lawyer for the Borden family. So, look, my
12 question is you heard me address with Ms. Rossignol about what I
13 will call the new medical form in New Brunswick.

14 **A.** Okay.

15 **Q.** We know from her evidence that she believes it came
16 into force in February of 2017, a month or so after the Desmond
17 tragedy. Did it come in as a result of that incident?

18 **A.** I can't say for sure if it was a hundred percent but
19 it was certainly a driver of our change.

20 **Q.** Thank you very much.

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

22 **MS. MILLER:** I have no questions, Your Honour.

DEREK EARDLEY, Cross-Examination by Mr. Macdonald

1 **THE COURT:** Thank you.

2 **MR. RODGERS:** No questions, Your Honour.

3 **THE COURT:** Thank you. Mr. Hayne?

4 **MR. HAYNE:** No questions.

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

6 **MR. WILLIAMS:** Nothing, Your Honour.

7 **THE COURT:** All right. Mr. Eardley, I don't have any
8 questions either. So I'd like to thank you very much for your
9 time. Appreciate you coming to assist us. You're free to go.
10 Thank you.

11 **A.** Thank you.

12 **WITNESS WITHDREW (14:03 HRS.)**

13 **MR. WILLIAMS:** May I withdraw, Your Honour?

14 **THE COURT:** Yes. Thank you, Mr. Williams.

15 **MR. WILLIAMS:** Thank you.

16 **THE COURT:** I understand that there had been some
17 discussion about calling Mr. Hand as well?

18 **MR. MURRAY:** Yes. Your Honour, we spoke with Mr. Hand
19 and I think, unless counsel has some significant reservation
20 about this, it's not our intention to call Mr. Hand at the
21 present time. I think his evidence would be not necessary on
22 the Inquiry at this time.

DISCUSSION

1 (14:04:05)

2 **THE COURT:** All right. Thank you. So Mr. Hand is
3 present?

4 **MR. HAND:** Yes, Your Honour.

5 **THE COURT:** Mr. Hand, thank you for your time. We
6 appreciate you coming here today and even though you weren't
7 called, I know that you were of some assistance in providing
8 information to counsel in preparation of the Inquiry, and that's
9 appreciated.

10 **MR. HAND:** You're welcome.

11 **THE COURT:** Thank you.

12 **MR. HAND:** Thank you, Your Honour.

13 **THE COURT:** Thank you, Mr. Murray.
14 Mr. Russell?

15 **MR. RUSSELL:** Yes, Your Honour. I'm just checking to see
16 if Constable Len MacDonald has returned. Perhaps you could have
17 him brought in?

18 **THE COURT:** Could we have Constable MacDonald, please?
19 Constable MacDonald, could you come forward, please? Just
20 stand by the witness stand there for a moment, please? You'll
21 be given an opportunity to either make a declaration or swear an
22 oath. Your choice.

1 **CST. LEONARD MACDONALD, affirmed, testified:**

2

3 **THE COURT:** Cst. MacDonald, during the course of some
4 questions, you might be referred to some documentation. The
5 documentation will come up on the ... You can push that
6 microphone back if it's too close there. The information will
7 come up on the monitor in front of you. As well, the documents
8 will also be available in the binders in front of you. Hard
9 copies. If you'd rather look at a hard copy of a document, just
10 open it up and have a look, as you see fit. All right? Thank
11 you.

12 Mr. Russell?

13

14

DIRECT EXAMINATION

15 **(14:05:30)**

16 **MR. RUSSELL:** Good afternoon, Cst. MacDonald.

17 **A.** Good afternoon.

18 **Q.** Thank you for coming this afternoon. I'm wondering if
19 you can state your full name and your occupation, sir?

20 **A.** Leonard MacDonald, police officer.

21 **Q.** And how many years have you been employed as a Police
22 Officer?

1 **A.** I'm in my 16th year with the Royal Canadian Mounted
2 Police.

3 **Q.** And, Officer, currently which detachment do you belong
4 with?

5 **A.** Antigonish.

6 **Q.** Antigonish? And how long have you been with that
7 detachment?

8 **A.** Three months.

9 **Q.** And, Officer, in 2015, do you recall which detachment
10 you might've worked with?

11 **A.** I believe that I would've been either in the Canso or
12 Guysborough Detachment. I can't say for sure. I've had a lot
13 of detachments in my time.

14 **Q.** Okay. And I'm just going to get a general overview
15 and we'll get into details. But you are familiar with someone
16 by the name of Lionel Desmond.

17 **A.** I am.

18 **Q.** And you did have interactions with Lionel Desmond in
19 the past, prior to today?

20 **A.** I have. Yes.

21 **Q.** And, Officer, I'm just going to pull up an exhibit.
22 Again, it'll be either in the binder or on the screen in front

CST. LEONARD MACDONALD, Direct Examination

1 of you. Exhibit 87.

2 Officer, this would be ... it says page 1. We can zoom in
3 if it makes it easier as well. And I can give you a moment to
4 find it in the binder, if that's easier.

5 **THE COURT:** I think it might be in binder number 2.

6 **MR. RUSSELL:** If you could take just a quick look at, in
7 particular, pages 1 through 9. I take it you are somewhat
8 familiar with that document?

9 **A.** I am.

10 **Q.** And that reports to be an occurrence report and an
11 RCMP report much of which was completed by you?

12 **A.** Yes.

13 **Q.** And it dealt with a previous occurrence. And on the
14 front page, if we look at the top, it indicates, on page 1,
15 "Report number 2015-153920".

16 **A.** Yes, sir.

17 **Q.** And so, Officer, I'm just wondering, very briefly and
18 below it indicates an occurrence time. It says, "November 27th,
19 2015." And then it says, "12 hrs." And then "11-28-2015.
20 09:30 hrs." But below it, it has a reported time of November
21 28th, 2015. 19:34." Are you able to explain what the "reported
22 time" means, or purports to be, as a rule, I guess?

CST. LEONARD MACDONALD, Direct Examination

1 **A.** Yeah. Within the PROS - that would be on the primary
2 page - some officers fill those in. Some just take whatever is
3 punched there. Generally, my practice, since using PROS, which
4 is probably midway through my time with the RCMP is I'll adjust
5 the occurrence time. That's not always typical of what's in
6 there as when it happened. Sometimes ... but the reported time,
7 to my knowledge, and that I can't change, is when it comes
8 through to Dispatch Center.

9 **Q.** When sort of a call comes in, I guess.

10 **A.** Yes.

11 **Q.** Okay. So the call roughly would've come in, according
12 to this, would've been at 19:30 hrs?

13 **A.** Yes. And I would've adjusted the occurrence time,
14 thinking it happened within that period of time before.

15 **Q.** Okay. And I understand, Officer, that you had been
16 the particular officer - I guess I'll use the phrase - assigned
17 to investigate what the occurrence was?

18 **A.** I was the only one working that day.

19 **Q.** Okay. And when you get the notification, it's from
20 Dispatch, I assume.

21 **A.** Yes.

22 **Q.** And are you given any information as to who's actually

CST. LEONARD MACDONALD, Direct Examination

1 calling in the complaint on that day?

2 **A.** I am.

3 **Q.** And who was it?

4 **A.** Lionel Desmond.

5 **Q.** And, Officer, just, I guess, the first group of
6 information in which you become aware, what are you notified
7 that this occurrence is about? What information are you
8 getting?

9 **A.** It's a disturbance file.

10 **Q.** Okay. And does it indicate the nature of the
11 disturbance or the nature of the complaint?

12 **A.** It does. Again, in the summary I'll receive, and I
13 believe I was in the car that day, I'll receive a dispatch ... I
14 refer to it as a dispatch ticket, they'll dispatch over one
15 dispatch system called "CIIDS". That's acronym C-I-I-D-S. I
16 have no idea what it stands for. That'll give a very brief
17 idea. What's attached to that is a mapping system to tell me
18 where it is and give me the opportunity to do CPIC checks very
19 quickly.

20 PROS is also available to me in the car and that summary
21 will come up. It'll basically come up as a lot of acronyms,
22 abbreviations, general information. I think it's pulled from

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1 CIIDS directly into PROS. I'll typically change that. Some
2 other officers leave it as-is. I'll typically change that so
3 it's something another officer can actually utilize.

4 **Q.** Okay. And so, Officer, what information do you get
5 access to about the nature of this complaint right away? Who is
6 it involving, I guess? What was it?

7 **A.** Most certainly, obviously, the complainant, unless
8 they're ... in this case, they weren't ... Pardon me. The
9 subject of the complaint, I guess, depending on the complaint,
10 victims, witnesses.

11 **Q.** And this particular call itself, what was the subject
12 of the complaint here? We know the caller was Lionel Desmond
13 but what was the nature of his complaint? Why was he calling
14 the RCMP that day as it was relayed to you?

15 **A.** I've got to apologize because I'm ... Mr. Desmond's
16 call wasn't the ... There was two calls that came in back-to-
17 back that day.

18 **Q.** Yes.

19 **A.** So Mr. Desmond's wasn't the actual disturbance call.
20 That was the one from Mr. Borden.

21 **Q.** Yes.

22 **A.** Mr. ... is a property dispute, I guess, or ... To be

CST. LEONARD MACDONALD, Direct Examination

1 quite candid with you, I ... obviously, the dispatch came in as
2 "police assistance" and I changed it to the occurrence I typed
3 myself.

4 Q. Okay. So I know we'll get into the Borden call,
5 because I understand there were two calls, and we'll talk about
6 that one. But this particular call that was initiated by Lionel
7 Desmond, what was the subject of his complaint that was relayed
8 to you?

9 A. The subject of the complaint when I spoke to him is
10 ...

11 Q. Yes.

12 A. ... a property dispute. He came from Oromocto and he
13 came ... wanted his ... some property. I don't remember what
14 that property was. And his concern was a firearm.

15 Q. And did you get any sense of where he was when he was
16 making this complaint?

17 A. Nextdoor to the Borden home.

18 Q. Okay. So in terms of the nature of the complaint
19 itself, prior to responding, do you ever reach out to Lionel
20 Desmond and have a conversation with him to get to ...

21 A. I do.

22 Q. Okay. And if you recall how that call is initiated?

CST. LEONARD MACDONALD, Direct Examination

1 I'm assuming it's initiated by you to him?

2 **A.** I did. Yes.

3 **Q.** So what are some of things you had discussed with Mr.
4 Desmond prior to arrival?

5 **A.** Just asked him what's going on. He tells me. His
6 wife and him had an argument over she had taken a gun that he
7 came to collect, and some property, and he wanted it back.

8 **(14:14:03)**

9 **Q.** Did you get a sense of how long ... do you recall how
10 long this call roughly was?

11 **A.** It was under five minutes.

12 **Q.** And I appreciate it's over the phone, so you're not
13 interacting with him directly, but did you get any sense, by the
14 tone of his voice, the nature in which he was speaking, how he
15 seemed at the time?

16 **A.** Like everybody, they're excited at the beginning.
17 Some days I'm good and some days I'm bad. Some days I make it
18 worse and some days I can bring them down. And that day, he
19 came down. Not him, in particular, but ...

20 **Q.** His mood, I guess.

21 **A...** his mood came down.

22 **Q.** Okay.

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1 **A.** Yeah.

2 **Q.** So, I guess, and I don't want to put words in your
3 mouth at all, so is it fair to say that when you initiated the
4 call and you're first talking to Lionel Desmond and getting the
5 circumstances of the complaint, his demeanour, I guess, we'll
6 call it, was a little different by the time you ended the call,
7 I guess?

8 **A.** Yes. I mean you're asking me ... I had knowledge of
9 Mr. Desmond before that call came in.

10 **Q.** And we'll get into that. Yes.

11 **A.** And so how I speak to him, my intention is to speak to
12 him to get an idea of how my response is going to be. I had a
13 clearly outlined response of how I was going to respond to a
14 call with Mr. Desmond before I got any complaint from him. So I
15 felt, after having that discussion with him, that I could hold
16 off and wait for somebody to come along with me. So, yeah, he
17 came down. I was very comfortable with waiting.

18 **Q.** Okay. When you say he "came down", you mean sort of
19 his mood ...

20 **A.** Demeanour.

21 **Q.** ... came down and ...

22 **A.** Yeah.

CST. LEONARD MACDONALD, Direct Examination

1 Q. ... he was a little more calm, I guess.

2 A. Yeah.

3 Q. And would you say that he's ... at the beginning,
4 would you describe him as agitated or how would you describe ...

5 A. Yeah. Agitated ...elevated. It's tough to tell over
6 the phone.

7 Q. That's right.

8 A. I've never spoken to the man. You get there and
9 that's just an excitable person and he's elevated. I know he
10 was elevated because by the time I finished the conversation, he
11 was not as elevated.

12 Q. That's right. And you indicated, I guess ... you said
13 you were ... prior to making the call, you were somewhat
14 familiar and you gained a little bit of information about Lionel
15 Desmond. I guess what sort of information was that and where
16 did you kind of get that information?

17 A. You mean prior to this day?

18 Q. I guess prior to ...

19 A. Receiving that complaint?

20 Q. Yeah.

21 A. Staff Sergeant ... or Sergeant Maccallum, at the time,
22 had sent out an email just advising about Mr. Desmond. I don't

CST. LEONARD MACDONALD, Direct Examination

1 remember the contents of it or the context of it but I ... on
2 occasion, you'll see those come from different parts of the
3 province, from different areas. Sometimes they send them
4 province-wide, sometimes just within districts. If it's
5 happening in Yarmouth, I'd generally give it a quick look over
6 and it's not really my concern. But this was within our
7 district and it concerned people that may be in our district, so
8 I gave it ... so I looked. And I knew my response would
9 typically be that I would probably take somebody along, if I had
10 that luxury.

11 **Q.** Okay. And so is it possible ... and I know it's tough
12 to sort of recall in detail. You indicated there was maybe an
13 email that you saw or a report or something that you saw that
14 Maccallum might have sent out. Do you remember what the
15 contents of that was or ...

16 **A.** I don't remember. There was an email but, no, I don't
17 remember the exact contents. Basically along the lines that Mr.
18 Desmond was a veteran of Afghanistan, suffered from post-
19 traumatic stress disorder and that there was some marital
20 discord. And that's pretty much all I remember about it. And
21 you don't really have to put much more in that.

22 **Q.** Is it sort of typical that police in a local area

CST. LEONARD MACDONALD, Direct Examination

1 might share these sort of alerts and information or ...

2 **A.** Sure.

3 **Q.** Is it possible ... and I know ... I appreciate it's
4 been some time ago. Is it possible that you might have got that
5 information from an RCMP report on PROS that Sergeant Maccallum
6 had completed as opposed to Sergeant Maccallum sending out an
7 email to detachment members? I just want to sort of clarify.

8 **A.** Well, you could say anything is possible but I will
9 say this. I don't, as a practice ... I can't remember the last
10 time I've gone into anybody else's file that didn't concern me.
11 So I'd have no reason to be in any of Sergeant Maccallum's files
12 or anybody else's files. So, as I recall, email. But maybe
13 somebody directed me to it and that's how I got it. But any
14 other time I've done it, it's been through an email.

15 **Q.** Okay. And did you get a sense of when Sergeant
16 Maccallum's interaction with Lionel Desmond had been? Was it
17 recent to this ...

18 **A.** It had ...

19 **Q.** ... particular call?

20 **A.** Recent. I mean it wasn't ... it wasn't months and
21 months. Maybe a month before. But it's not something I even
22 saved, so ... but it's something that I had noted. It was

CST. LEONARD MACDONALD, Direct Examination

1 fairly fresh.

2 Q. Okay. And so at any point sort of either prior to the
3 phone call or prior to your ultimate in-person interaction with
4 Lionel Desmond, did you ever sort of look up ... I know you said
5 you usually don't go into files, but did you ever look up Lionel
6 Desmond past occurrences on PROS to see if there were any
7 preexisting ...

8 A. I don't recall.

9 Q. Okay. I'm just going to show you, just to see if you
10 do recall ... it was Exhibit 83? Exhibit 83 or ... yeah. Could
11 you turn to the second page, perhaps? This, Officer ... and I
12 appreciate that I may have never seen this before. If we could
13 scroll down. This is an RCMP report. Constable Arbour from the
14 New Brunswick RCMP, from November 27th, 2015, so a day prior to
15 you responding to the call from Lionel Desmond.

16 There was an indication here that they had responded to a
17 complaint from Lionel Desmond ... if we could look to page two,
18 perhaps? It talks about Lionel Desmond had made a number of
19 texts to his wife, Shanna Desmond, back in Nova Scotia on
20 November 27th and made some suicidal comments and he ultimately
21 was taken to the hospital. Had you ever seen this report
22 before?

CST. LEONARD MACDONALD, Direct Examination

1 **A.** Yeah. Let me be clear. When we were speaking
2 earlier, that's ... with respect to Sergeant Maccallum's report?

3 **Q.** Yes. Okay.

4 **A.** Yeah. This, I read in ... sitting in the truck while
5 I was on the phone with him.

6 **Q.** Okay. So ...

7 **A.** Or just prior to getting on the phone with him.

8 **Q.** Okay. So you would have ... prior to calling or
9 during your call with Lionel Desmond, you would have looked at
10 this report?

11 **A.** Yes.

12 **Q.** And you would have gained the knowledge of what that
13 occurrence was from the day before.

14 **A.** Yes.

15 **Q.** Okay. If we could look to ... I guess just prior to
16 getting there ... so at any point during your interactions with
17 Lionel Desmond ... and we will get to the details of the in-
18 person. But at any point in your interactions with him, whether
19 on the phone or in person, did he ever indicate to you that the
20 day prior, he had an incident involving threats of suicide that
21 warranted police intervention?

22 **A.** No. When we arrived ... I spoke with Mr. Desmond the

CST. LEONARD MACDONALD, Direct Examination

1 phone. There wasn't any mention of that at the time. When we
2 arrived at the scene, Mr. Desmond spoke with Corporal O'Blenis
3 the entire time. Steve and I had resolved that that's how we
4 were going to do it. He was going to chat with him and I was
5 going to chat with Ms. Desmond.

6 **Q.** Okay. So directly to you, he had never made any
7 comment about just yesterday, you know, RCMP in New Brunswick
8 attended my residence. I was taken to the hospital.

9 **A.** No.

10 **Q.** There was no discussion of that. And there was no
11 discussion with you ... between you and Lionel Desmond regarding
12 him making threats of suicide?

13 **A.** No.

14 **THE COURT:** Sorry, Constable. You spoke to Mr. Borden?

15 **A.** Sorry, Mr. Desmond.

16 **THE COURT:** Or Mr. Desmond?

17 **A.** Yes.

18 **THE COURT:** I'm sorry. So Lionel Desmond ... at the
19 scene. So Lionel Desmond spoke to ...

20 **A.** Corporal O'Blenis.

21 **THE COURT:** ... Corporal O'Blenis.

22 **A.** Yes.

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1 **THE COURT:** And you spoke to ...

2 **A.** To Ms. Desmond.

3 **THE COURT:** Okay. Sorry.

4 **A.** Mrs. Desmond.

5 **THE COURT:** My misunderstanding. Thank you.

6 **MR. RUSSELL:** I will get to that, Your Honour. I believe
7 that you would have had ... I believe you did have some
8 interaction with Lionel Desmond regarding the firearm but ...

9 **A.** Absolutely.

10 **Q.** ... I'll get to that discussion. If we could turn to
11 Exhibit 31. And if we could turn to perhaps page ... oh, we'll
12 leave it there. If you could zoom in down to "Summary"? Keep
13 going.

14 **(14:24:16)**

15 So, Officer, this is an occurrence report as it involves
16 ... if we could turn to page two. Just one page. Just one
17 moment, Your Honour. And that is Exhibit 31. Looking for
18 Constable (sic) Maccallum's report. I apologize, Your Honour.

19 **THE CLERK:** Thirty-two.

20 **MR. MACDONALD:** Exhibit 32. I was one off. Officer, this
21 is a report prepared by Sergeant Maccallum regarding an
22 occurrence November 18, 2015, so approximately a week or so

CST. LEONARD MACDONALD, Direct Examination

1 prior to your involvement where he had responded to a wellness
2 concern regarding Lionel Desmond as initiated by his wife,
3 Shanna Desmond. Were you familiar with this report at any
4 point?

5 **A.** Not with the report, itself; the ensuing email, yes.

6 **Q.** The email. The contents of it?

7 **A.** Yes.

8 **Q.** Okay. And, Officer, I believe you might have put a
9 plan in place prior to attending to meet Lionel Desmond in
10 person on that day?

11 **A.** Yeah.

12 **Q.** And what sort of plan did you put in place?

13 **A.** The typical. I called for backup. Corporal O'Blenis
14 wasn't immediately available, which isn't out of the ordinary
15 given the cell phone coverage. I believe it was Constable
16 Farrell in Sherbrooke. She started making her way across but it
17 would be a long time. I called Constable Reid. He was on days
18 off. He was able to come out but before he got dressed, I got a
19 call back from Corporal O'Blenis and he was en route.

20 **Q.** And I guess typically and in this particular case, you
21 said you referred to the plan as ... you call it "backup". Why
22 ... what's going through your mind when you're making this plan?

CST. LEONARD MACDONALD, Direct Examination

1 Why was there the necessity for backup?

2 **A.** I believe it was because it was potential for it to be
3 a violent situation, given the email or the warnings about Mr.
4 Desmond.

5 **Q.** Okay. So the fact that there was ... you had sort of
6 prior knowledge of Lionel Desmond may have some issues with his
7 mental health, would that factor in?

8 **A.** Sure.

9 **Q.** Was there a domestic sort of theme to the call, would
10 you say?

11 **A.** Yes, the domestic theme to the call. But there are
12 lots of factors. This ... we don't work in Halifax or even down
13 the highway corridor. If given the circumstances where I'm
14 going to a call where there's not good cell coverage, I'll call.
15 There's any number of factors and they were all part of my
16 decision-making process at this time. If I get outside of the
17 vehicle and I can't get in touch with somebody ... lots of times
18 we have radio dead spots, so I take people along or at least
19 have them on their way, to be safe.

20 **Q.** So the geographical nature or the rural nature of ...

21 **A.** Yes.

22 **Q.** ... where you're going factors in, as well?

CST. LEONARD MACDONALD, Direct Examination

1 **A.** Of course.

2 **Q.** And the fact that the complaint sort of ... is
3 initiated by Mr. Desmond had been about the subject matter of a
4 dispute over a firearm or ownership of a firearm or taking of a
5 firearm, did that factor into the plan of having backup present?

6 **A.** Absolutely.

7 **Q.** So when you first arrive, do you recall how long it
8 took you to sort of get at the scene from initiated ... the
9 first call to ...

10 **A.** No, I don't. I know I staged on the top of ... or I
11 refer to as Meagher's Hill, or close to it. Waited for Steve
12 there. I just resolved that in case that anything escalated or
13 changed, that I was just a moment away. But given the fact that
14 everybody was calm and that's the way it panned out, that I just
15 waited for Steve to come and we went.

16 **Q.** And you described sort of two residences, I guess,
17 side by side.

18 **A.** Yes, sir.

19 **Q.** One was the Borden residence?

20 **A.** Yes.

21 **Q.** And one was the residence where Lionel Desmond was at?

22 **A.** Yes, sir.

CST. LEONARD MACDONALD, Direct Examination

1 **Q.** And I understand that you had some interactions with
2 Lionel Desmond while there in person.

3 **A.** I did.

4 **Q.** If you could tell us a bit about what your interaction
5 was with Lionel Desmond on that day when you arrived.

6 **A.** As I recall, just ... nothing specific when I first
7 got out of the vehicle. There would have been a typical
8 introduction, Hey, I'm going to go chat with Shanna about what's
9 going on and Steve is going to talk to you here. And then at
10 that time I just would have walked over, let Steve know that I
11 was available if he needed me. I do recall Steve and Mr.
12 Desmond immediately started talking, but Steve is a very nice
13 guy, easy-going guy. People take to him quick. So they were
14 friendly. I felt comfortable with that. And then I moved on to
15 ... up to the Borden home.

16 **Q.** And so at any point while you're on the scene and you
17 see him interacting with the other officer, did you notice
18 anything about Lionel Desmond that could be described as perhaps
19 aggressive, angry or agitated that you noticed?

20 **A.** If I had, I wouldn't have left Steve.

21 **Q.** Okay. Did you notice whether or not or were you able
22 to say whether Lionel Desmond may have been under the influence

CST. LEONARD MACDONALD, Direct Examination

1 of any substances, alcohol or drugs?

2 **A.** Didn't appear.

3 **Q.** Sorry?

4 **A.** Didn't appear to be.

5 **Q.** Okay. Did you recall if Lionel Desmond again relayed
6 the concern about the firearm? Did he make those ... any
7 comments about what was happening?

8 **A.** Yeah. He wanted the firearm. I mean that was the
9 whole crux of his call. I'm not sure that the others ... I
10 didn't even make note of what the other property was. I believe
11 I told him that was ... I wasn't concerned. That was civil.
12 But the firearm, I didn't give ... make any indication that I
13 would give it back because knowing what I knew from the other
14 file he wasn't getting it back from me if she, indeed, had it.
15 So, yeah ... no, we just ...

16 **Q.** So you had some sort of conversation with him about
17 the firearm and you said some other property that you can't
18 really recall of any significance that might have been taken?

19 **A.** Yeah. He ... well ... and I only remember that simply
20 ...

21 **Q.** Yeah.

22 **A.** ... because it was in the call itself. I don't deal

CST. LEONARD MACDONALD, Direct Examination

1 with people's property in marital disputes. That's for civil
2 action. I just don't get involved. I'm very firm on that. I
3 tell them that on the onset.

4 Q. And do you recall conveying that sort of information
5 to Lionel Desmond about ...

6 A. Absolutely.

7 Q. ... the fact that, you know, marital property is not
8 something that the police get involved with?

9 A. Yes.

10 Q. And you recall relaying that to him?

11 A. Yeah. Not when I first arrived. That would have been
12 at the end of our ... at the end of the call when I left the
13 scene ... before I left the scene.

14 Q. Yes. How did he appear to sort of take that news when
15 you were saying, Look, it's marital property. It's not
16 something we're going to get involved in dividing up.

17 A. He ... yeah. Okay. He was just very factual. You
18 know, I didn't ... don't mince words. I don't come at it
19 sideways. I just told him, Here's how it's going to happen.
20 It's just not going to happen. He was fine with that.

21 Q. And you said earlier, when he first sort of relayed
22 his complaint on the phone, that his mood seemed to be different

CST. LEONARD MACDONALD, Direct Examination

1 and then it became more calm, I guess, by the end of the phone
2 call. How did he appear during your interactions with him while
3 you were on the scene?

4 **A.** Calm.

5 **Q.** Did he seemed heightened or agitated in any way?

6 **A.** He was calm.

7 **Q.** And so you have a conversation with Shanna Desmond.

8 Do you recall where that conversation took place?

9 **A.** In the kitchen in the Borden home.

10 **Q.** So what do you recall about the first part of the
11 conversation? I guess how does this unfold?

12 **A.** To be quite candid, the details of the conversation, I
13 don't have a lot of recollection of them. You know, I remember
14 her telling me about what was happening, what had happened in
15 Oromocto or what ... at least how she relayed it with the day
16 before, and that she was told by Corporal (sic) Arbour to secure
17 ... there was never ... I told her, probably right off the bat,
18 I wasn't interested in any of the property and I wasn't going to
19 deal with that. But insofar as the firearm, she told me that
20 Corporal Arbour had told her to secure it.

21 **Q.** And when you're speaking to Shanna Desmond, is anyone
22 else present for the conversation?

CST. LEONARD MACDONALD, Direct Examination

1 **A.** No, I don't recall anybody being there. No. And
2 there could have been. So they maybe moved from one part of the
3 house to the other but nobody was standing with us.

4 **Q.** And, certainly, do you recall if Lionel Desmond was
5 present at any point when you spoke to Shanna Desmond?

6 **A.** No, absolutely not. He and Steve were in the other
7 ... at the other property beside the two marked cars.

8 **Q.** And was there a particular reason perhaps why you
9 spoke to Shanna Desmond separate and apart from Lionel Desmond
10 that day?

11 **A.** Yeah. Absolutely. She didn't want him there. Mr.
12 Borden didn't want him there. And, obviously, he probably
13 sensed that because he didn't go over there.

14 **(14:34:06)**

15 **Q.** Okay. And ...

16 **A.** To my knowledge he didn't, anyway.

17 **Q.** And at any point that you're there, did he seem to
18 make any efforts to get to where Shanna Desmond was?

19 **A.** Absolutely none.

20 **Q.** So you indicate she talks ... Shanna Desmond tells you
21 a little bit about the day before and Oromocto RCMP. Do you
22 recall sort of details of what she said had happened outside of

CST. LEONARD MACDONALD, Direct Examination

1 she was instructed to gather up another gun?

2 **A.** That's about it. That's ... we never delved into a
3 ton about it. She was instructed to. She told me where ... I
4 asked her where it was. She told me who she gave it to. I
5 remember telling her that that was one of his concerns was that
6 that firearm be secured. I was very clear to her that I was
7 going to take possession of it, that I wasn't going to give it
8 back to him. But his concern was that she didn't have it, for
9 whatever reason. I suspect ... well I don't know why he didn't
10 want her to have it, but I told him, you know ...

11 **Q.** But ...

12 **A.** ... when I left that she wasn't going to have it.
13 Everybody was happy.

14 **Q.** So, in your view, you formulated the opinion that
15 someone was going to have it, but it was going to be nIt either
16 one of them.

17 **A.** Yeah. And they were both satisfied with that.

18 **Q.** Okay. And during your conversation with Shanna
19 Desmond, did she get into any details about the text messages
20 she had received the day before? Do you recall?

21 **A.** I don't recall. No.

22 **Q.** At any point ... so she indicates to you where the

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1 firearm is?

2 **A.** Yeah.

3 **Q.** Do you recall where she said it was?

4 **A.** With a friend, Mr. Gero.

5 **Q.** Was there any specific mention of perhaps why the
6 firearm wasn't with the father?

7 **A.** Yeah. She told me that Corporal Arbour of the
8 Oromocto RCMP, told her to secure it.

9 **Q.** Okay. And how did she seem, her overall demeanour,
10 when you're speaking with her that day?

11 **A.** She was calm; you know, almost like she'd gone through
12 this, like she ... you know, like she had gone through this
13 before. She could ... she was calm. I remember her as an
14 intelligent woman, fairly confident. I'll sometimes go to ...
15 particularly on the East Coast, I'll go to homes and people seem
16 a little bit intimidated by the police or they'll just do
17 whatever I tell them. She's not that. She wasn't that. But
18 polite. She was ... but ... she was calm, but she was firm too.
19 She knew what she ... you know, what was going to happen.

20 **Q.** Did you get any sense that she was reluctant to convey
21 or share information with you while you were there?

22 **A.** Well, I spoke ... I ... obviously I'm there about the

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1 property. But it's not hard to tell that there's marital
2 discord. I mean if they're getting along, I'm not there. So
3 she wasn't saying a whole lot about the relationship, so ... I
4 mean I obviously made some suggestions about seeking help from
5 Victim Services or the agency that I use.

6 Q. And you say "agency" you use. What agency was that?

7 A. I've had the most results with the Naomi Society,
8 excellent partner. I've never had, actually, any ... in any
9 division that I've worked in, any partnership that works as well
10 as that one.

11 Q. And so in terms of that, so this conversation you
12 mention about the Naomi Society, do you bring that up with
13 Shanna Desmond?

14 A. I do. Yeah. We talk about it. I ask her ... I just
15 can't refer her over to it. I have to ask her permission for
16 that.

17 Q. Yes.

18 A. Even so much that I have a little card that the
19 division requires me to read that to and ... read it to her. I
20 carry pamphlets with me ... little cards with me with their
21 phone numbers on it, generally on my ... back of my notebook,
22 and I'll hand her one of those as well.

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1 **Q.** And do you recall explaining to her that day what
2 Naomi Society is, what it does, why it's there?

3 **A.** Yeah. She, in fact, knew of the Naomi Society and
4 what it was about.

5 **Q.** So how did you come to that conclusion that she knew?

6 **A.** She told me.

7 **Q.** Okay. So you started to, I guess, describe what it
8 was and what it was there for and then she indicated that she
9 knew?

10 **A.** Yes.

11 **Q.** How far into your description of what the Naomi
12 Society ... how far into, I guess, the information before she
13 indicated that she knew?

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

15 **Q.** And what is the Naomi Society?

16 **A.** Naomi Society ...

17 **Q.** In ... I know.

18 **A.** They're a women's victim services group that ...
19 primarily for women of ... in relationship to violence in
20 relationships. And, you know, they'll do anything from safety
21 plans to helping women get out of situations, linking them up
22 with Victim Services, with shelters. You know, I really

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1 couldn't name one thing. They do a ton. They'll do just
2 whatever they have to to make sure that person is safe.

3 **Q.** That's fair. Did you, in your conversation with her
4 that day, get any sense from her or did she indicate in any way
5 that she was in fear of Lionel Desmond or at risk of any sort of
6 domestic violence?

7 **A.** No. She wasn't in any fear at all. She didn't accept
8 it. She ... I'll qualify that. Obviously she's not walking
9 over there and talking to him, so there must be some sense of
10 fear. But, no, she wasn't doing any ... felt that she needed
11 the protection of the RCMP or she needed protection or help in
12 the Naomi Society or anybody else. She took the card. She took
13 the information and she told me that if she needed them she'd be
14 in touch with them, but that was it.

15 **Q.** So, Officer, I guess an officer with your experience,
16 was there a particular reason why you felt it appropriate in
17 those circumstances to provide her the information with a
18 resource for a group such as the Naomi Society? What went into
19 that process, sort of why did you ... why did you do that?

20 **A.** The background of my career has been all rural
21 policing, has been smaller spots, much smaller than this. My
22 training is in British Columbia and I was required to give those

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1 cards, not obviously the Naomi Society but similar reference.
2 It's what I know to do. But it's ... very rarely does anybody
3 say they're going to take it at that time. Just I give that
4 information and they have it. They just heard it. They've got
5 it ... that card and maybe a moment when it's right for them,
6 they'll do that. So I give them out often. Not always when
7 it's a call, not always when it's a call about violence in
8 relationships. I have Ms. Castle from the Naomi Society on both
9 my personal phone and my work phone and we speak at length about
10 potential people that could use her help without, obviously, any
11 privacy issues. And so this is just one of those times.

12 **Q.** So if this had have been a situation where Shanna
13 Desmond revealed to you ... this is going to sound silly, but
14 she revealed to you that a neighbour stole a bicycle from her
15 yard, would you have handed her one of those cards?

16 **A.** Not unless it was her husband and she (sic) hit her on
17 the way by. No.

18 **Q.** Okay. So in a general sense, because there was some
19 sort of domestic disagreement and some friction there, is that
20 what sort of prompted you to give her that information?

21 **A.** Yeah. It's the totality of everything. You look at
22 the email from Sergeant Maccallum prior. You look at what had

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1 happened that day, what had happened the day before. Yeah.

2 That's ... I think that's a prudent action.

3 **Q.** Okay. And was there anything that sort of ... I guess
4 did you at any point in your interaction with her ever just come
5 right out and ask, Are you fearful or ...

6 **A.** I don't recall if I did. I may have asked her if ...
7 I most certainly would have asked her ... I'm certain I asked
8 her at the time if he did any threats or any ... Did he threaten
9 you, was he ... any physical contact, anything like that. And
10 none was reported, but she didn't say that either. There was no
11 order that I was aware of in place at that time that prevented
12 them from being ... there was no law broken, nothing that gave
13 me the ability to arrest Mr. Desmond for a breach or anything of
14 that nature.

15 **Q.** And how did she appear after you sort of ... you
16 advised her what was going to happen with the firearm and you
17 weren't going to get involved in dividing up marital property
18 and you provided her with that information about the Naomi
19 Society, how did she seem at the conclusion of your
20 conversation?

21 **A.** Seemed satisfied. We were going to talk the next day,
22 anyway. She didn't have possession of the firearm. She ... as

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1 she was directed by Corporal Arbour to secure it, so she secured
2 it with a friend, so Mr. Desmond wouldn't have any access to it.

3 **(14:44:08)**

4 **Q.** Was there ever any discussion ... and I apologize,
5 Your Honour, it's a bit leading. Was there ever any discussion
6 about a peace bond process?

7 **A.** Yes.

8 **Q.** And what was that and how did it come about?

9 **A.** Again, it would just be part of my regular process.
10 I'll offer that information up to people. But I believe
11 actually ... no. She ... Ms. Desmond had asked me about the
12 information. And it is very ... so it's not a terribly complex
13 process. I instructed her how you go about it, where to start
14 that process. It's a little different in this province than
15 what it was in British Columbia. Typically, I would start the
16 process in British Columbia. Here, it has to be started by the
17 ... didn't have to be started, but typically started by the
18 victim or the complainant.

19 **Q.** And you say she initiated the questions about a peace
20 bond?

21 **A.** Yes.

22 **Q.** Did she say kind of why she was ... I mean a peace

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1 bond obviously presumes not wanting contact and an order of no-
2 contact. Did she explain why she was looking for that or did
3 you canvass with her?

4 **A.** No, actually, that would be fairly obvious. I didn't
5 think I would have to ask that question but I don't recall
6 asking her why.

7 **Q.** And you did provide her with the information of how
8 she would go about it?

9 **A.** Yes.

10 **Q.** And did she appear to understand the process?

11 **A.** Yeah.

12 **Q.** So I'm going to ask you a little bit about ... you
13 indicated your plan for the gun was to ultimately seize it, but
14 prior to getting to that, after you speak to Shanna Desmond do
15 you ever again speak to Lionel Desmond?

16 **A.** I do.

17 **Q.** And where do you speak to him? Where do you go to
18 speak to him?

19 **A.** The same spot where he met us when we pulled up. He
20 was there talking with Steve. As I recall, I spoke with Steve
21 briefly about what my plan was and then we both went and talked
22 to him. And we chatted. I told you, you know, probably I would

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1 assume I reasserted the part about the property but that I told
2 him, Listen, here's how it's going to go. I know that she was
3 directed to take the firearms the day before, you're not going
4 to get it back either way, so Shanna doesn't have it.

5 And why he didn't want her to have it, I don't know. So
6 she doesn't have it. I'm going to take possession of it, It's
7 going to be in the Guysborough Detachment and it'll be returned
8 to you if somebody says you can have it, and if not it'll be
9 with us until such time as I'm directed on where I'm going to
10 put it.

11 **Q.** How did he appear to take that news?

12 **A.** Fine.

13 **Q.** Was there any discussion with him about, you know, You
14 may be not wanted around? Or was there any discussion about
15 where he was going to go or whether he should be staying there
16 or any sort of indication?

17 **A.** And I don't recall. I don't recall. I'd be
18 speculating if I said anything. I don't recall that.

19 **Q.** Any sort of general discussion with him about maybe
20 what his plans are or how he's doing or anything like that?

21 **A.** No. Left that with Steve. If Steve had an issue, he
22 would have ... Steve had 30 years' experience with the RCMP. He

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1 would let me know if there was something that we had to address.
2 Steve had been talking with him the whole time. He knows what
3 was happening there. I had faith in him. He would cover that
4 off.

5 Q. If we could go to Exhibit 88. If we could zoom in a
6 little bit and scroll down. Thank you.

7 You indicated earlier, you said there was a second call
8 that came in, and I just want to take a look at this particular
9 occurrence. It's a dispatch type. It's called "disturb the
10 peace". Report time is indicating at November 28th, 2015 at
11 20:00 hours. So that's approximately a half hour after the
12 previous call that we went over?

13 A. Mm-hmm.

14 Q. Is this the one you were talking and referring to from
15 Mr. Borden, Richard Borden, as the complainant?

16 A. Yes.

17 Q. What information did you have about that particular
18 complaint that came in about a half-hour later?

19 A. Very little. I don't even believe that I called Mr.
20 Borden on that knowing that I was going for the same matter. I
21 resolved that I would speak to Mr. Borden when I got there.

22 Q. What was the nature of his complaint?

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1 **A.** Disturbance, that Lionel was yelling at the house.

2 **Q.** All right.

3 **A.** Yeah.

4 **Q.** And do you ever recall speaking to Mr. Borden
5 regarding what Lionel was doing that day?

6 **A.** No, I don't believe we did speak. I didn't see him at
7 the house. It would be my assumption that if I'm at his home,
8 and he was at his home, that he'd want to speak to me then about
9 it. If he wanted to pursue the matter he would have as well.

10 **Q.** Do you recall if one of these two homes was his
11 residence?

12 **A.** Yes.

13 **Q.** Yes?

14 **A.** Yes.

15 **Q.** And that's where ...

16 **A.** The one where Shanna was.

17 **Q.** The one where Shanna was.

18 **A.** Yeah.

19 **Q.** But do you recall seeing Richard Borden there?

20 **A.** I don't. I had been to Mr. Borden's, you know, other
21 times regarding other matters, but I don't recall if we spoke
22 that day. I'd say we didn't, no.

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1 **Q.** And do you recall ever sort of asking Shanna or anyone
2 that day what was ... The report came in that he was yelling at
3 the Borden residence. Did you follow up to see what was the
4 yelling about? What was it connected to?

5 **A.** As I mentioned to you before, this is the exact same
6 event for which two files had occurred. So I had no reason to
7 ask the questions twice. It's the exact same event.

8 **Q.** So you understood the yelling from Lionel Desmond was
9 in relation to the firearm?

10 **A.** Without looking at the times there, I'm going to say
11 that the call's dispatch came in within ten minutes, 15 minutes.

12 **Q.** Yes?

13 **A.** I'm just guessing at that, but this is the same call.

14 **Q.** Okay.

15 **A.** I'm not working in Halifax where I could be just
16 around the block. This ...

17 **Q.** Yeah.

18 **A.** Yeah.

19 **Q.** Did Shanna indicate to you that there was any yelling?

20 **A.** Oh absolutely, yeah.

21 **Q.** She did indicate that?

22 **A.** Yeah.

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1 **Q.** Did she kind of elaborate in terms of the ... and did
2 she say who was doing the yelling?

3 **A.** No. It really had no ... in my mind, had no bearing
4 on it. This was with the property and him yelling about the
5 property. For some reason, he was doing it from a distance. So
6 ...

7 **Q.** Okay. Was he yelling at all, or did you see him
8 yelling at all, when you got there?

9 **A.** No. He was inside the neighbouring house when I
10 arrived.

11 **Q.** And I believe you described him as calm during your
12 entire time you were there.

13 **A.** Absolutely.

14 **Q.** If we could turn to page 4 of Exhibit 87. If we could
15 scroll down.

16 So Constable MacDonald, this appears to be, again, an
17 extension of your report. This is November 29th. So we're the
18 day after you responded and interacted with Shanna Desmond and
19 Lionel Desmond. What sort of takes place on November 29th the
20 next day? What are you doing?

21 **A.** I go to the place where she told me the gun was, and
22 there's not a whole lot to it. Guy knows I'm coming, Mr. Gero.

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1 He's got the gun ready. It's locked. I mean he was handing it
2 over to a police officer. I would assume he has it all ready to
3 go. And take it, put it in the car, and take it back to Canso
4 with me.

5 Q. At the bottom it says SUI. What does that mean?

6 A. Still Under Investigation.

7 Q. And there's four bullets there. So is this something
8 that you would have entered?

9 A. That's always my practice until the file is concluded,
10 which I'll just put another acronym, CH. SUI, the file remained
11 there and then I'll give myself a list of things to do. So my
12 supervisor has some confidence that I have an idea of what's
13 going on. They can review what my planned actions are and if
14 they suggest any additional, then they'll add them.

15 Q. So these are sort of tasks you had created for
16 yourself? Is that a fair way of doing it?

17 A. Yes.

18 Q. So the first one. I'll just refer to them. "Secure
19 firearm at Guysborough Detachment." That's pretty obvious, I
20 take it. "Ensure firearm listed to detachment PAIN."

21 A. Yeah.

22 Q. What's that?

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1 **A.** Often at Supreme ...

2 **Q.** I know.

3 **A.** It's an inventory number. Every government building
4 or detachment will have that number, and any property seized
5 specifically, any firearms seized, will have the property, the
6 physical property, the detachment listed, and those firearms are
7 added to that. It's an inventory for the federal government, as
8 it described to me of all the firearms in their possession with
9 police.

10 **(14:54:08)**

11 **Q.** And so at some point do you follow up with this task
12 and log the firearm into the PAIN system, I guess?

13 **A.** I don't log it in. Constable Sparks is the PAIN
14 coordinator, I guess. So he would log it in. It's a small
15 detachment. Eventually I get it into the ... I have to get it
16 into the temporary locker in Guysborough where Sergeant
17 Maccallum has the only access key for the main locker. Once
18 it's in there he'll advise Constable Sparks. Constable Sparks
19 will probably pull it to verify it and then verify the serial
20 number, verify the firearm, and then enter it into PAIN. That
21 can be accessed by, I believe, the firearms officer as well.

22 **Q.** And is this standard practice for you if you seize a

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1 firearm, one of the tasks you want to do is have it logged in
2 the system?

3 **A.** Yes.

4 **Q.** Then the next bullet it says, "Liaise with Lloyd
5 Carter on proper disposition of firearm." Who is Lloyd Carter?

6 **A.** Lloyd Carter is the typical firearms officer that I
7 would work with in Nova Scotia.

8 **Q.** Do you recall if you ever did liaise with him?

9 **A.** No, I don't. I know at some point I transitioned to
10 using the firearms officer in New Brunswick, given that I felt
11 my only role with this file was to secure that firearm. I
12 didn't feel it was appropriate that she had been directed just
13 to secure it herself. So in securing it, essentially, at this
14 point, it's an assist file for the Oromocto Detachment, and
15 that's how I expressed it to them, I'm just going to hold this
16 until you guys are done with your investigation. Because at
17 some point they just had asked Ms. Desmond to secure it until
18 they were done their investigation.

19 **Q.** So sort of assuming a scenario where the Oromocto
20 occurrence the day before didn't happen, you got there, Shanna
21 Desmond indicates to you, Look, by the way, he has this firearm,
22 I don't want to give it to him, I have concerns. In that

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1 scenario would you have liaised with Lloyd Carter?

2 **A.** Yeah, absolutely.

3 **Q.** And why?

4 **A.** But it would be a different progression in my file.

5 My file would be a different file altogether because we'd be
6 asking ... She'd have to give me some idea why. It has to be
7 something criminal to why I would want to take his firearm and
8 ...

9 **Q.** Naturally, yes.

10 **A.** ... then we'd have to move from there. But I would
11 use Lloyd Carter because he's my guy.

12 **Q.** Okay, and so I guess just to be clear, so you didn't
13 use Lloyd Carter because you saw this as sort of an extension of
14 a firearm was seized sort of at the direction of what was
15 happening in New Brunswick the day before. Is that fair or ...

16 **A.** Yeah, I'd be speculating in saying whether I spoke to
17 Lloyd or not about it. I don't recall and I never made note of
18 it so I would suggest that, that was a decision I made on my
19 own, and with the Oromocto Detachment. You know, whether I told
20 them that's the way I was going to do it or whether we had
21 resolved to do that together.

22 **Q.** And I notice conveniently the next bullet you say,

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1 "Liaise with Oromocto RCMP to determine their concerns for the
2 return of the firearm in Guysborough RCMP care." So one of your
3 tasks is you're going to follow up with New Brunswick, I take
4 it.

5 **A.** Yes.

6 **Q.** And so do you have any plans of returning this firearm
7 until you get some clear indications from what's happening in
8 New Brunswick?

9 **A.** Absolutely not.

10 **Q.** And why is that?

11 **A.** Because I just don't feel I can. They seized one for
12 a reason. Unless somebody's going to tell me the reason why
13 they seized that one and ask for the other one to be secured,
14 nobody's getting it.

15 **Q.** Okay. If we could turn to page 5. Again, so we have
16 some activity here on your file, November 30th. So another next
17 day. So three days in a row. It talks about a temporary locker
18 where it would later be secured.

19 **A.** Yeah.

20 **Q.** And I notice the first task that you had listed
21 previously, which indicated to secure the firearm, had you
22 secured it at this point? Task is no longer ...

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1 **A.** Yeah, so it's not stored in the temporary locker in
2 Guysborough. I can't physically move it into the main locker.
3 It's just a process to maintain exhibits. So that's done. Just
4 one thing comes off the list. The list can grow, like when one
5 thing is done and one thing comes off.

6 **Q.** And typically in your practice as an RCMP officer,
7 when you create a file - and I notice you create quite a running
8 log of tasks of days and entries - is that something that you
9 typically do?

10 **A.** Despite how other officers manage their files, the way
11 I've been trained to use PROS is each day is supposed to be a
12 separate general report, or if you're assisting officers, a
13 separate supplementary report. So I do it that way.

14 **Q.** Still on page 5. If we scroll down. December 4th.
15 What's taking place on December 4th?

16 **A.** I call Shanna and let her know what's up.

17 **Q.** And it indicates you left a message for Shanna
18 Desmond?

19 **A.** Yeah, the ...

20 **Q.** And ... sorry, I didn't mean to cut you off there.

21 **A.** Yeah. Firearms is the issue, right? That's the issue
22 that she called. Whether it's for her own safety or Mr.

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1 Desmond's safety, his access to that was her concern with both
2 of them and was the concern for the Oromocto RCMP. So this is
3 something, again, that was pounded into me in British Columbia
4 and it's something that's often mentioned to me from Ms. Castle
5 at the Naomi Society is updating people. I'm no different. If
6 I have a complaint with the bank or the motorcycle shop,
7 probably one of the most frustrating things is not hearing back.

8 **Q.** And so you felt it important a few days later to reach
9 out to Shanna Desmond, leave her a message about what was taking
10 place?

11 **A.** What had happened, the gun is secure, I'm in touch
12 with Oromocto, and that's how it'll run.

13 **Q.** And I note that you don't have an opportunity to speak
14 to her but you do leave a message for her. On that particular
15 date, if you did speak to her and there were any sense that she
16 had additional concerns would you have sort of dealt with them?

17 **A.** Absolutely.

18 **Q.** If we could turn to page 6. December 22nd, there's
19 more activity as it relates to this occurrence, and in
20 particular the firearm. What's taking place here on December
21 22nd?

22 **A.** I'm reviewing the Oromocto file.

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1 **Q.** Do you recall what your purpose was for looking at the
2 Oromocto file from November 27th?

3 **A.** I want to get up to date on things. I want to know
4 what's going on. As I recall, I'd be off for a couple months,
5 early January. Early, mid January. So I want to get things in
6 order to know what was happening with the firearms. So I had
7 the file listed at least for my supervisors, but anybody who'd
8 be taking over the file, so they'd have direction on what to do.
9 So do that.

10 **Q.** So when you're looking at the Oromocto file on
11 December 22nd are you sort of under the impression that if
12 something is happening with the firearm or any new developments
13 that that file would have been updated in a way that you would
14 have been able to see?

15 **A.** Yes.

16 **Q.** And is that typical?

17 **A.** No, but I guess you got to look.

18 **Q.** Okay.

19 **A.** Yeah.

20 **Q.** And is this the PROS system that you're using to see
21 what's going on in New Brunswick?

22 **A.** Yes. There's some agencies that I'll have to seek

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1 direct contact with; Halifax, anything in British Columbia, or
2 my city polices. Anything in Ontario. I like taking different
3 calls, but with PROS in the Maritimes with the RCMP I should be
4 able to find everything I need there and then, if not, then I
5 can reach out after that.

6 Q. All right, so we're still on page 6. If we could
7 scroll down. So there's a period of time where there's no
8 activity but I believe you said you were off for a little bit?

9 A. I was out of the country, yes.

10 Q. Out of the country? And that was in January?

11 A. January through to mid-March. Mid, late March.

12 Q. Okay, so you come back and you make another entry,
13 April 21st. Or April 13th, I apologize. There appears to be
14 some activity. What's going on then?

15 A. So April 13th?

16 Q. Yeah, it says you ...

17 A. Yeah, as my recall, there wasn't a whole lot done with
18 the file. Or at least my file. Steve had asked me to get on it
19 right away, and so I got in touch with Joe Roper.

20 Q. Who had asked you to kind of get on it right away?
21 Who did you say?

22 A. Sorry, Corporal O'Blenis.

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1 **Q.** Corporal O'Blenis? All right. And so at this point
2 we see a reference to Joe Roper?

3 **(15:04:01)**

4 **A.** Yes.

5 **Q.** It says, "License review being handled by Joe Roper."
6 Where do you get that information from?

7 **A.** I don't recall whether I picked that up off of the
8 Oromocto file. I would have to say it's the Oromocto file
9 unless his name was published specifically for the Oromocto area
10 online and I don't know those numbers to be available like that.
11 So I would say I picked it up off the Oromocto file.

12 **Q.** And you reach out to Joe Roper by phone, I believe?

13 **A.** Left a message. He got back to me that day.

14 **Q.** Next, page 7. In your running log there appears to be
15 activity on April 21st. What do you have noted on April 21st?

16 **A.** I got an email from Mr. Roper letting me know about his
17 decision and what to do with the firearm.

18 **Q.** So at this point, I guess, and throughout the process,
19 you're deferring to New Brunswick to sort of make a decision as
20 to what they're doing with their firearm and it's ultimately
21 going to impact what you're going to do with yours?

22 **A.** Nothing at the scene would give me any reason to with

CST. LEONARD MACDONALD, Direct Examination

1 my file. So their file was the reason that the firearms were
2 seized in the first place. So, yeah, they're the lead agency on
3 the investigation and my role in this is to secure that firearm
4 and hold it until I'm directed otherwise.

5 Q. And you ...

6 A. If I received any information I would share that with
7 them, of course, and then I would act on it as I need to do.

8 Q. And you indicate that he advised you by email a number
9 of things. What does he tell you? It might make it easier if I
10 ...

11 A. Yeah. I'll have to look at the email, but that he was
12 reinstating the firearm license. He directed me to give the
13 firearm back and that he had spoken with a doctor. I don't
14 recall the doctor's name. The doctor said that it was - I'm
15 paraphrasing here - a one-time thing and they had no concerns.

16 Q. If we could look at Exhibit 90. This might make it a
17 little easier, Officer. You can zoom in.

18 **EXHIBIT P-000090 - APRIL 8, 2016 EMAIL FROM-NB FIREARMS OFFICER**

19 **JOE ROPER**

20 This appears to be an email from Joe Roper to you, Len
21 MacDonald, April 18th, 2016, 10:49. I can just read that email
22 to you:

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1 Hi, Len. Just wanted to confirm a file
2 number from Nova Scotia. 2015-1494158. I
3 assume this is the file number created when
4 you seized the Savage Edge serial number
5 8078347 as a result of Mr. Desmond's actions
6 here in New Brunswick? Mr. Desmond
7 submitted a medical assessment form by a
8 physician that advised he was of sound mind
9 and what happened was an isolated incident.
10 His firearms license was reactivated, and as
11 such, you can return the firearm seized by
12 you. Thanks, Joe.

13 Is that an accurate ...

14 **A.** I entered that into the file, yeah.

15 **Q.** Okay, and this is the actual ...

16 **A.** That's a PDF ...

17 **Q.** I ...

18 **A.** So, PDF copy of the email.

19 **Q.** PDF copy of the email. Did you speak to Joe Roper by
20 phone after receiving this email?

21 **A.** No.

22 **Q.** Okay. And you understood that they had done their

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1 assessment, as it indicates he was medically cleared, I guess.
2 There was a medical assessment. So it'd be that he could
3 possess firearms.

4 **A.** Yeah. I didn't feel there was any question in his
5 email. He gave me pretty solid direction on ...

6 **Q.** Okay.

7 **A.** ... where I go with it.

8 **Q.** There's one part in the email where he says: "I just
9 want to confirm that (and he references a file number and then
10 he says) I assume this is the file number created when you
11 seized the file as a result (I mean he describes a rifle) ... as
12 a result of Mr. Desmond's actions here in New Brunswick." Do
13 you know what he's referring to? I know you can't get in his
14 mind but can you ...

15 **A.** I don't. I don't know. My understanding is that Mr.
16 Roper has access to all the files. So whether he referenced my
17 file or not and I really never made note of that.

18 **Q.** Okay.

19 **A.** To my knowledge, I only had one firearm and that was
20 it and ...

21 **Q.** Mm-hmm.

22 **A.** ... I don't know any other Lionel Desmonds. I'm the

CST. LEONARD MACDONALD, Direct Examination

1 only Len MacDonald in the RCMP. So I think there's enough there
2 to say that that was the gun.

3 Q. Okay. Since you're there I just want to confirm
4 something really quick. If we could look at Exhibit 88. So we
5 know that there were two occurrence files created as a result of
6 your involvement on November 28th. This is the complaint as
7 initiated by Richard Borden and it has a report number of 2015-
8 1539308.

9 A. Mm-hmm.

10 Q. So can we assume that that wasn't the file being
11 referred to by Mr. Roper in his email?

12 A. No.

13 Q. As well, if we could turn to Exhibit 87. If we could
14 scroll up. Do you have 87? Again, this was the first call from
15 November 28th of the two occurrences from the same date. This
16 is the one where Lionel Desmond had initiated the call.

17 A. Mm-hmm.

18 Q. That file number was 2015-1539202.

19 A. Mm-hmm.

20 Q. So again we can assume ...

21 A. That's not it.

22 Q. ... that's not it. And I realize that, you know, this

CST. LEONARD MACDONALD, Direct Examination

1 wasn't a report generated by you. I'm going to show you a
2 report that was created by Sergeant Addie Maccallum from the
3 week prior, and that was exhibit number ... if I could have one
4 moment. 33. If you could zoom in a little bit. Scroll down.
5 I apologize. I said Addie Maccallum. It would be Sergeant
6 O'Blenis. This was a report from the November 18th occurrence
7 the week prior to yours and we have a file number of 2015-
8 1494158, which you would agree appears to be a match to the file
9 referenced by Joe Roper.

10 **A.** Yes.

11 **Q.** Were you aware that when Roper sent the email back to
12 you that when he was referring to the file that he assumed was
13 generated as a result of you seizing the guns on November 28th,
14 that he was actually referencing the file that occurred the week
15 prior to you? At the time were you aware of that?

16 **A.** No, I wasn't at the time aware of that, but at the
17 onset, probably roadside while I was waiting for Corporal
18 O'Blenis it's my normal practice. I'll link all those files
19 within my file. If he opened that one, my file, both of my
20 files, would be attached to that. Any file that I felt was
21 relatable in Mr. Desmond's past when I looked at it, I would
22 just ... it's not hard to do. Slide them over and attach them

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1 as a related file.

2 Q. At the time when receiving that email is it fair to
3 say that you sort of assumed that Roper had access to all of
4 those files?

5 A. Yes.

6 Q. And you know what FIPs are. Firearm Interest to
7 Police?

8 A. Yes.

9 Q. Do you know if a FIP was generated for either of those
10 two occurrences November 28th in Nova Scotia?

11 A. If they were? No. As far as I knew, that would be
12 something that we'd develop in the scoring.

13 Q. Yeah.

14 A. I don't delve into that a whole lot. I do my best to
15 score my files appropriately. I believe they were, and then if
16 they're not, everything I do it under supervision and then
17 that's reviewed and if it's missed it would be listed as a
18 firearms file, which would ...

19 Q. At any point in your conversations, whether it's by
20 email or by phone, with Joe Roper do you ever convey to him the
21 details of the events of November 28th?

22 A. I don't recall. I don't recall the conversation with

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1 Mr. Roper in any detail anyway.

2 Q. Do you recall if Mr. Roper had ever asked you, Tell me
3 a little bit about Lionel Desmond and your interactions with
4 Lionel Desmond?

5 A. I don't recall. If he did he would have got the same
6 as what you did today.

7 Q. And do you recall if he ever asked a similar question
8 of, Tell me about any sort of local detachment involvement with
9 Lionel Desmond in the past? Do you recall if there was
10 anything?

11 A. I don't recall him asking that.

12 Q. Okay. If you could turn to page 7 of Exhibit 87. So
13 we have an entry here, April 21st, by you in this sort of
14 running log of your reports. It references the email that you
15 had received. If we could scroll down. So after you received
16 that information from Joe Roper is this accurate to say on April
17 22nd you started to reach out to Lionel Desmond about returning
18 the firearm?

19 **(15:14:37)**

20 A. Yes.

21 Q. And were you successful at contacting Lionel Desmond?

22 A. I don't recall if I was successful initially. Phone

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1 numbers had changed but, in any event, he wasn't living in the
2 area. It was going to get mailed back to Oromocto Detachment
3 and they would return it to him.

4 **Q.** Okay. And so ultimately if we look to page 8 and we
5 scroll down. Keep going down.

6 Okay, so we see an entry by you May 10th, 2016. There's
7 some discussion about the firearm and being sent off to New
8 Brunswick?

9 **A.** Yeah, this is just administrative stuff, how I'm going
10 to package it up. I resolved with Sergeant Maccallum that we
11 were going to send ... a firearm is dismantled as is possible
12 and then the keys with any locking apparatus in a separate
13 envelope and we're going to Purolate them to the detachment.

14 **Q.** So ultimately did you get any confirmation the firearm
15 was ever returned to Lionel Desmond?

16 **A.** I think I did, yeah. Whether I noted that or not.

17 **Q.** Okay.

18 **A.** We got confirmation that it was delivered to Oromocto.

19 **Q.** Okay.

20 **A.** So after that I'm not going to pester people to do it.

21 **Q.** As well, Officer, I just want to conclude with a few
22 questions. November 28th, you had some information about Lionel

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1 Desmond that day and you indicated that there was no sort of
2 criminal activity for you to really intervene other than seize a
3 firearm at the request of New Brunswick. But you certainly
4 appeared to have some knowledge about him being in the military,
5 some marital discord, some mental health issues.

6 Did you turn your mind to whether you would initiate any
7 action of seeking a prohibition order?

8 **A.** No. I looked at this as I was assisting to the
9 Oromocto Detachment. They were the lead on this. Given what I
10 collected as evidence, when I spoke to Shanna, when I spoke to
11 Mr. Desmond, if I had something to add to that I would have let
12 Oromocto know. If I didn't feel that it was being handled
13 appropriately I probably would have discussed that option, but
14 no, I didn't.

15 **Q.** Okay. Are you familiar with a process in the **Criminal**
16 **Code**, 117, where an officer can make an application directly to
17 a Provincial Court judge that it's not desirable or in the
18 interests of the public for somebody to possess firearms and you
19 can initiate that action on your own? Are you familiar with
20 that sort of process?

21 **A.** I am.

22 **Q.** And are you familiar, in your experience, as an

CST. LEONARD MACDONALD, Direct Examination

1 officer, how one of those comes about? Is it a direction from a
2 superior that sort of suggests it? Or is it initiated by the
3 investigator? Who would initiate that process?

4 **A.** In my experience, I could initiate it. I've never had
5 an occurrence where anybody's told me I couldn't at least start
6 a process that I felt necessary. Not within the RCMP. If I was
7 directed to do it? Simple, you do it, or you don't get paid.

8 **Q.** Had you ever made one of those applications in the
9 past to a Provincial Court judge?

10 **A.** I don't recall. I may have in British Columbia but I
11 don't recall ever doing it in Nova Scotia.

12 **Q.** Are you familiar with officers you worked with whether
13 or not they, in other contexts, had made those applications?

14 **A.** No, but if I needed guidance on something like that I
15 could have reached out to any number of people and found that
16 information.

17 **Q.** And at the time did you ever ... and clearly, what you
18 did was very diligent and detailed and reached out to New
19 Brunswick. It was in the hands of a firearms officer. I'm just
20 curious if at any point you sort of considered whether or not
21 you would sort of take on your own initiative and say, You know
22 what, not even going to involve the Firearms Office, perhaps

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1 it's not desirable in the interests for him to possess them, or
2 for the public for him to possess them, and I'm going to make
3 that application myself? Did you ever consider that?

4 **A.** Well, as explained before, the evidence from my
5 interactions with Mr. and Mrs. Desmond that day, everything that
6 happened, there wouldn't have been enough there. There wasn't
7 enough for me to even seize the firearm had it not been for the
8 day before.

9 Through the process of Oromocto's investigation, Mr.
10 Roper's investigation, the Firearms Registry, they didn't
11 develop any significant information to be able to do that. So
12 for me to justify that ... I'd have nothing to justify that to a
13 judge.

14 **Q.** Okay. That's fair. No further questions. Thank you.

15 **THE COURT:** Thank you. Ms. Ward?

16 **MS. WARD:** If we could defer to the end of the questioning,
17 Your Honour.

18 **THE COURT:** Okay. Mr. Anderson?

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

20 **THE COURT:** Ms. Whitehead?

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

22 **THE COURT:** Mr. Macdonald?

CST. LEONARD MACDONALD, Direct Examination

1 **MR. MACDONALD:** Thank you, Your Honour. I do have a few
2 questions.

3

4

CROSS-EXAMINATION BY MR. MACDONALD

5 **(15:20:42)**

6 **MR. MACDONALD:** Good afternoon, Constable MacDonald. So I'm
7 Tom Macdonald, the lawyer for the Borden family, Shanna's mother
8 and father and brother, Sheldon, and share co-counsel with Tara
9 Miller of Aaliyah Desmond.

10 When you received the email from the New Brunswick Firearms
11 people and you knew that the firearms were to be returned did
12 you have any concern about them being returned?

13 **A.** No.

14 **Q.** If you had had concern, as a hypothetical, what could
15 you do as a local community RCMP officer if you had disagreed
16 for whatever reason with the New Brunswick Firearms Officer's
17 decision? How would you elevate that, if you could, within your
18 organization?

19 **A.** I could start that in-house with Corporal O'Blenis,
20 Sergeant Maccallum. Really, any aspect of the RCMP. I've
21 always been supported in those kind of actions. They'd listen
22 to me, and particularly when it comes to firearms they would

CST. LEONARD MACDONALD, Cross-Examination by Mr. Macdonald

1 hear me out and see that I have my questions answered before I
2 went back.

3 Q. And would your path, if you thought it proper, be one
4 where you would look to trigger a **Criminal Code** section 111
5 prohibition order where the firearms would be taken as a result
6 of possible danger to himself or others? Is that a path?

7 A. In that hypothetical? Yes.

8 Q. Okay. Yes, within the context of a hypothetical.
9 Right, and is that path still available to the RCMP today in
10 similar situations if needed?

11 A. In other files?

12 Q. Yes.

13 A. Yes.

14 Q. Yeah.

15 A. Yes.

16 Q. Okay.

17 A. As far as I know, yeah.

18 Q. Sure. I'm not asking you to speak for the RCMP I'm
19 asking as an officer who's in community policing within the
20 RCMP, just your own understanding, that's all.

21 I don't need you to turn to it but I know in one of your
22 general reports it ended with ... and this is in May of 2016,

CST. LEONARD MACDONALD, Cross-Examination by Mr. Macdonald

1 after the word comes about confirmation that the firearm had
2 been returned. Then it says "matter for conclusion".

3 **A.** Yeah.

4 **Q.** Does that mean, in plain language, the RCMP file was
5 closed?

6 **A.** No, I'm just trying to get my supervisor to close it
7 for me, yeah.

8 **Q.** Okay.

9 **A.** Yeah. Yeah.

10 **Q.** All right, and was it closed?

11 **A.** I'd have to check the rest of the file but ...

12 **Q.** Sure.

13 **A.** ... basically I'm asking for permission and at that
14 time they generally let me know if I got more to do, and if not,
15 then that's their decision whether to close it.

16 **Q.** Okay. So when I heard your evidence today I was
17 struck by the experience you had in community policing in a
18 sense across the country, BC and now here. So you've heard the
19 situation. You're familiar with what brings us to the Inquiry.

20 As a serving police officer, do you have any suggestions
21 you could make to the Inquiry in terms of these types of
22 situations in terms of other levels of protection? That's my

CST. LEONARD MACDONALD, Cross-Examination by Mr. Macdonald

1 word, not your word. But that could be put in place or anything
2 that could be done just to try to guard against these situations
3 if there is something that comes to your mind.

4 **A.** I haven't given that thought actually.

5 **Q.** Understood.

6 **A.** Yeah.

7 **Q.** Those are my questions. Thank you very much.

8 **(15:24:00)**

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

10 **MS. MILLER:** Thank you, Your Honour.

11

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

13 **(15:24:39)**

14 **MS. MILLER:** Constable MacDonald, my name is Tara Miller.
15 I represent Brenda Desmond through her personal representative,
16 and as my friend indicated, I share representation with him of
17 Aaliyah Desmond.

18 What is a FIP?

19 **A.** I'm not great with acronyms but Firearms Interest
20 Person.

21 **Q.** Okay, and when you hear that as an RCMP officer and
22 you see it on a file what does it tell you is happening within

CST. LEONARD MACDONALD, Cross-Examination by Ms. Miller

1 an occurrence?

2 **A.** Firearms are related to this person in more of a sense
3 than your average hunter pulled over to the side of the road
4 type of deal.

5 **Q.** Okay. Does it tell you, or do you understand when you
6 see a file with the FIP code on it, that the firearms office is
7 going to be involved to investigate it?

8 **A.** I don't look to what the firearms office does. I look
9 at those for myself. I'm not really kind of understanding what
10 you're asking me here, but ...

11 **Q.** I'm trying to get an understanding.

12 **A.** ... do I understand it? I understand that when I ...

13 **Q.** Yeah, I'm trying to get an understanding of what you
14 understand the FIP means when you, as a police officer, see it
15 on an occurrence file.

16 **A.** Selfishly, I guess, I would think that's there for me,
17 to let me know.

18 **Q.** Okay.

19 **A.** Yeah.

20 **Q.** Is it fair to say you don't really have any
21 understanding of the interplay between the FIP coding and
22 triggering action by the firearm office?

CST. LEONARD MACDONALD, Cross-Examination by Ms. Miller

1 **A.** No, I don't have any knowledge of that.

2 **Q.** Okay. So if I tell you that when a file has been
3 coded as a FIP, as we have come to learn, it triggers an
4 investigation by the Chief Firearm Office, and certainly that's
5 what had happened in New Brunswick following the occurrence the
6 day before your involvement?

7 **A.** Yeah, there's all kinds of things that happen behind
8 the scenes, with all kinds of different files for me, that I'm
9 not aware of. But I'll take your word for that.

10 **Q.** Okay. When you looked at this file, sorry, you gave
11 us your evidence that you travelled to the Borden residence but
12 prior to that you had this email from Sergeant Maccallum that
13 had given you some insight into who Corporal Desmond was and you
14 also had looked at the PROS system to see what had happened the
15 night before in New Brunswick? Is that correct?

16 **A.** Yes.

17 **Q.** Okay. So correct me if I'm misstating any of this.
18 You knew that he had had an occurrence. There had been
19 something that had happened in Nova Scotia that generated
20 Sergeant Maccallum's email to let you know that he had a stress
21 injury and PTSD. Correct?

22 **A.** Yes.

CST. LEONARD MACDONALD, Cross-Examination by Ms. Miller

1 Q. And you knew that the night before he had been
2 detained under the **Mental Health Act** in New Brunswick for an
3 occurrence relating to PTSD?

4 A. Yes.

5 Q. Okay. Did you know that he had made suicidal threats?

6 A. I don't recall whether that was ...

7 Q. Okay. You were aware of the marital discord.

8 A. The yelling kind of set me off on that, yeah.

9 Q. Yeah, and I think in your file you used "based on the
10 domestic theme of the current occurrence." Those are your words
11 in your report?

12 A. Yeah. I wouldn't reach out to think that it was
13 domestic assault. Domestic theme is ...

14 Q. Domestic theme.

15 A. Yeah.

16 Q. Yeah.

17 A. That it was ...

18 Q. Mm-hmm.

19 A. ... husband and wife, yeah.

20 Q. And you knew that a gun had been seized by the New
21 Brunswick police the night before.

22 A. I did.

CST. LEONARD MACDONALD, Cross-Examination by Ms. Miller

1 **Q.** Okay. Did it cause you any concern that less than 24
2 hours before all of these things had happened in New Brunswick
3 resulting in him being arrested under the **Mental Health Act** and
4 his gun being seized, and now he had shown up in Nova Scotia
5 looking for another gun, did that cause you any concern?

6 **A.** Of course it caused some concern but if you're
7 suggesting that it's something that's abnormal, no.

8 **Q.** Okay. He never told you that he was there to get the
9 gun for hunting.

10 **A.** No.

11 **Q.** No. You would have recorded that in your notes if
12 that had been the case.

13 **A.** Yeah. I don't know that I would have or not, but
14 sure.

15 **Q.** Okay. You don't have any recollection of him telling
16 you that the reason he had come to Nova Scotia was to get a gun
17 to go hunting.

18 **A.** No.

19 **Q.** Okay. Thank you. Those are all my questions.

20 **THE COURT:** Mr. Rodgers?

21 **MR. RODGERS:** Thank you, Your Honour.

22

CST. LEONARD MACDONALD, Cross-Examination by Mr. RodgersCROSS-EXAMINATION BY MR. RODGERS

1
2 (15:29:04)

3 MR. RODGERS: Constable MacDonald, just a couple of
4 questions. You've already answered some of the ones I had in
5 mind. When you're trying to find out if somebody has a valid
6 firearms license what's the step that you take?

7 **A.** Nine times out of ten I'm in the car. I get in touch
8 with OCC and they do it for me.

9 **Q.** Okay, so ...

10 **A.** Yeah.

11 **Q.** ... OCC is your operations center?

12 **A.** Radio, yeah.

13 **Q.** Okay. And is that generally information that you're
14 able to obtain fairly quickly?

15 **A.** Almost ... not always as quick as you want it, but
16 yeah, they usually have it to me in ten to 15 minutes of running
17 it.

18 **Q.** When you were speaking with Corporal Desmond you
19 indicated first that he was a little elevated and then he was
20 calm after you talked to him for a little while. Is there
21 anything from that, anything from your training or any advice
22 that you would have as far as how to deal with somebody in a

CST. LEN MACDONALD, Cross-Examination by Mr. Rodgers

1 mental health ... well, I don't know if he was in a mental
2 health crisis. I don't want to say that, but that's in that
3 kind of elevated state. Are there ways that you do that or is
4 it just sort of person by person?

5 **A.** I have no particular training in diagnosing people.
6 So it's just a person-by-person. It's a field thing, I guess,
7 if you think people are having a hard time.

8 **Q.** Okay. No, those are all the questions I have. Thank
9 you.

10 **THE COURT:** Mr. Hayne?

11 **MR. HAYNE:** No questions.

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

13 **MS. WARD:** No questions, Your Honour.

14 **THE COURT:** Thank you. Mr. Russell, anything further?

15 **MR. RUSSELL:** Nothing further, Your Honour.

16 **THE COURT:** All right. Thank you, and Constable, I
17 don't have any questions for you either. So I would like to
18 thank you for your time. I know you were here a couple times,
19 and I appreciate your patience. Thank you, and you're free to
20 go. Thank you.

21 **WITNESS WITHDREW (15:31 HRS.)**

22 **THE COURT:** Mr. Murray?

CST. LEN MACDONALD, Cross-Examination by Mr. Rodgers

1 **MR. MURRAY:** I believe those are the witnesses that we
2 have for today, Your Honour.

3 **THE COURT:** All right. Thank you. So what do we have
4 planned for Monday for a start?

5 **MR. MURRAY:** Dr. Smith from New Brunswick is scheduled
6 for Monday and the other standing matter that Your Honour was
7 going to deal with.

8 **THE COURT:** All right. Thank you. I may say, Counsel,
9 that I know we have Dr. Smith and sometime approximate, I think,
10 to 3 o'clock or thereabouts I'm going to deal with ... give or
11 take a bit. I'm going to deal with another application for
12 standing. It would not engage any of you directly but I will
13 deal with that Monday afternoon.

14 All right, so thank you, Counsel. We'll adjourn, then,
15 till Monday at 9:30. Thank you.

16

17 **COURT CLOSED (15:31 HRS.)**

18

19

20


21

22

23

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

(Registration No. 2006-16)

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DARTMOUTH, NOVA SCOTIA

February 21, 2020