

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: Port Hawkesbury, Nova Scotia

DATE HEARD: March 23, 2021

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1 March 23, 2021

2 COURT OPENED (09:29 HRS)

3

4 THE COURT: Good morning.

5 COUNSEL: Good morning, Your Honour.

6 THE COURT: We have Mr. Roper and Mr. Williams. Am I
7 correct?

8 MR. ROPER: Morning. Yes.

9 THE COURT: Good morning, gentlemen.

10 MR. WILLIAMS: Good morning, Your Honour.

11 THE COURT: Good morning. Mr. Murray, are you going to
12 conduct the direction examination?

13 MR. MURRAY: Yes, Your Honour.

14 THE COURT: All right. So, Mr. Roper, before we begin,
15 we would normally have a witness sworn. You'll be given some
16 options by the Clerk here.

17 A. Yes, Your Honour.

18

19

20

21

22

1 **JOE ROPER, sworn, testified:**

2 **THE COURT:** Mr. Murray?

3

4 **DIRECT EXAMINATION**

5

6 **MR. MURRAY:** Thank you. Good morning, Mr. Roper. How
7 are you today?

8 **A.** Great, thank you.

9 **Q.** As we go through this, Mr. Roper, if, at any point,
10 you have difficulty hearing me or I have difficulty hearing you,
11 or we freeze up, we'll just let the other person know and we'll
12 try and fix the problem.

13 **A.** Okay, that's great.

14 **Q.** Okay. First of all, can you tell the Inquiry your
15 name, please?

16 **A.** My name is Joe Roper.

17 **Q.** And, Mr. Roper, how are you currently employed?

18 **A.** Okay, we're froze up there.

19 **Q.** All right.

20 **A.** I'm sorry, I couldn't hear you.

21 **Q.** That's okay. I'll try that again. I was asking you
22 how you're currently employed.

1 **A.** I'm retired.

2 **Q.** Okay. And I understand you retired a couple of years
3 ago? Is that correct?

4 **A.** Yeah, I retired in 2017. January 4, 2017.

5 **Q.** All right. And prior to your retirement, how were you
6 employed?

7 **A.** I was employed by the Province of New Brunswick,
8 Department of Public Safety, as an area firearms officer.

9 **Q.** All right. And how long did you hold the position of
10 area firearms officer?

11 **A.** January 2010 until January 2017, so seven years.

12 **Q.** Okay. And just by way of background, prior to
13 beginning work as an area firearms officer, how were you
14 employed?

15 **A.** I spent 32 years with the Saint John Police Force.

16 **Q.** Okay. And can you give us a sense, in those 32 years
17 of policing with the Saint John Police Force, what the nature of
18 your duties were?

19 **A.** The last 14 years, I worked in Major Crime doing
20 general investigations. Prior to that, I worked in JFO which is
21 a joint forces operation with the RCMP doing drug
22 investigations.

JOSEPH ROPER, Direct Examination

1 **Q.** All right. And I understand you also had
2 responsibility for training, I think, while you were with the
3 Saint John Police, did you?

4 **A.** Yes. I was the sergeant in charge of our training
5 section for four years.

6 **Q.** And you were a firearms instructor as well, were you?

7 **A.** Yes.

8 **Q.** All right. So you retired from the Saint John City
9 Police. When did you retire from the Saint John City Police?

10 **A.** January 2009.

11 **Q.** Okay. So you started with the ...

12 **A.** No, I'm sorry, December 2009.

13 **Q.** I see.

14 **A.** And I started with the Firearms Office the following
15 month in January.

16 **Q.** Okay. All right. So if you could turn your mind
17 back. I know you've been out of that office now for four years
18 or so, but can you turn your mind back and I'll ask you, as you
19 recall it, what the responsibilities of the various people who
20 worked in the office were at that time.

21 So we've heard from some of the individuals who worked in
22 the New Brunswick office of the chief firearms officer, but can

JOSEPH ROPER, Direct Examination

1 you give us a sense who was there and what their roles were?
2 Perhaps first with the CFO, who was the CFO when you were there
3 - the chief firearms officer?

4 **A.** Over the seven years, I went through four different
5 chief firearms officers. When I left, I believe Derek Eardley
6 was the chief firearms officer. Lysa Rossignol was in charge of
7 operations and she had a support staff, mainly provincial
8 firearms officers, in the office in Fredericton. I worked in
9 the satellite station which was in, at the time, I believe it
10 was in Quispamsis in the Rothesay Regional Police Force office,
11 and I was responsible for an area that ran from Sussex, New
12 Brunswick, down to St. Stephen border, up to McAdam, and
13 included Oromocto.

14 **Q.** All right. So I'll ask you about your own
15 responsibilities in just a moment. So you had a CFO or chief
16 firearms officer. You mentioned Ms. Rossignol who was the
17 operations manager, and then you mentioned provincial firearms
18 officers and area firearms officers. So, as you recall it, what
19 was the responsibility of each of these individuals, starting
20 first with the chief firearms officer?

21 **A.** Well, in my understanding, it was the chief firearms
22 officer, he signed off on all of our, all the reports, the

JOSEPH ROPER, Direct Examination

1 licensing of businesses, as well as individuals.

2 Q. Yes.

3 A. And he ran, basically ran the office and communicated
4 with Ottawa and had any dealings with them. He was responsible
5 for that part.

6 Q. All right. And you said ... and we've heard from the
7 operations manager, Ms. Rossignol. What did the operations
8 manager do?

9 A. She was responsible for running the office in
10 Fredericton and she managed the chief fire- ... or not the chief
11 fire- ... she managed the area firearms officers. She delegated
12 files to the area firearms officers based on their location and
13 I communicated mostly with Lysa Rossignol in my duties.

14 Q. Okay. And you said there were both provincial
15 firearms officers and area firearms officers. What was the
16 difference between a provincial firearms officer and an area
17 firearms officer?

18 A. Well, my understanding was the provincial firearms
19 officers were in the office in Fredericton and they initially
20 took the tertiary investigations that were received from the
21 Miramichi and they reviewed them. If they could do any work on
22 them, they would do that in the office and, if not, they would

JOSEPH ROPER, Direct Examination

1 assign them, through Lysa, to the area firearms officers.

2 Q. Okay. So when you said "Miramichi", was that the
3 central processing centre in Miramichi?

4 A. Yes, it is, yes.

5 Q. Okay. Do you recall how many provincial firearms
6 officers there were?

7 A. No, I don't. There was two for sure, but other than
8 that, I'm not really sure. No, I can't say.

9 Q. Okay. And the provincial firearms officers, you said,
10 were in Fredericton at the head office, is that correct?

11 A. Yes. Yes.

12 Q. Okay.

13 A. Yes.

14 Q. So the area firearms officers, I understand, were
15 spread out a bit by way of geography. Is that correct?

16 A. That's right. There was one that looked after the
17 Moncton area, there was one up north, and there was one in
18 Fredericton that looked after the northwestern part of the
19 province.

20 Q. Okay. And then ...

21 A. And then myself.

22 Q. So four in total?

JOSEPH ROPER, Direct Examination

1 A. Yes.

2 Q. Okay. So you said a few moments ago, you made some
3 comments about the area that you were responsible for. What was
4 your geographic area?

5 A. It was Sussex, down Highway 1 and to Number 2, which
6 included Saint John, all the way down to St. Stephen and up all
7 along the New Brunswick border to McAdam, and across over to
8 Oromocto, and back down to Saint John.

9 (09:40)

10 Q. Okay. So a large geographic area?

11 A. Yes, it was.

12 Q. And in your area, you said it included Oromocto, and
13 would it include Gagetown as well?

14 A. Yes, it would.

15 Q. Okay. So as an area firearms officer, what were your
16 responsibilities?

17 A. I had several responsibilities. I did inspections on
18 businesses to ensure that they were abiding by the rules and
19 regulations of the **Firearms Act**. I also did tertiary
20 investigation reports on individuals who made application for a
21 firearms license, but if there was a problem with their
22 application, then the tertiary was forwarded to me and I would

JOSEPH ROPER, Direct Examination

1 do an investigation of it.

2 Q. Okay. So if there was a problem with an application
3 for a firearms license, can you give us a sense of what types of
4 problems would go to an area firearms officer for investigation
5 and what types of issues could be dealt with by the provincial
6 firearms officers?

7 A. My understanding, that the provincial firearms
8 officers would look after, if an applicant didn't sign something
9 on the application or if there was something minor on the
10 application that they could fix by telephone, they would do
11 that. And my responsibility as an area firearms officer, I
12 would do a more in-depth investigation, especially if there was
13 a violation under the **Firearms Act**, or a domestic incident, or
14 if there was mental health problems.

15 Q. All right. And those are the types of issues that
16 would require a more in-depth investigation, would they?

17 A. Yes, they would.

18 Q. All right. So let me ask you a couple of questions
19 about that. You said, If there was a mental health issue. Can
20 you give us a sense of what those types of issues would be that
21 would give rise to the need for a tertiary investigation done by
22 an AFO?

JOSEPH ROPER, Direct Examination

1 **A.** On the application for a firearms license, there's a
2 set of questions that the applicant has to answer and if they
3 indicate that there is some ... there has been some mental
4 health problems in the past, then it would go directly to
5 Fredericton and it would be assigned to an area firearms
6 officer. And, in my case, on receipt of that, I would send a
7 medical assessment form via registered mail to the applicant
8 asking that he submit the form to his doctor and his doctor
9 would make a recommendation on whether or not he is fit to hold
10 a license for firearms.

11 **EXHIBIT P-000123 - APPLICATION FOR POSSESSION AND ACQUISITION**
12 **LICENSE UNDER THE FIREARMS ACT**

13 **Q.** Okay. So what I'd like to do is ask that an exhibit,
14 Exhibit 123, be brought up and we'll see if you're able to read
15 it at your end. And maybe we can just zoom into the top of that
16 document. So is this one of the applications that an individual
17 might have filled out for a possession and acquisition license
18 under the **Firearms Act**?

19 **A.** Yes, it appears to be.

20 **Q.** Okay. And perhaps we can go over to the second page
21 and to the section that's entitled "Personal History". You said
22 a moment ago that individuals who filled out these applications

JOSEPH ROPER, Direct Examination

1 had to answer certain questions that might disclose, for
2 example, mental health issues. Are these included in the
3 "Personal History" section of the application?

4 **A.** Yes, they are, in 16(d). "During the past five years,
5 have you threatened or attempted suicide or have you suffered
6 from or been diagnosed or treated by a medical practitioner for
7 depression and alcohol or drug substance abuse, behavioural
8 problems, or emotional problems?"

9 **Q.** Okay. So if a person were to answer "yes" to one of
10 those questions, would that trigger a tertiary investigation by
11 an AFO?

12 **A.** Yes, it would.

13 **Q.** In all cases?

14 **A.** To my knowledge, yes.

15 **Q.** Okay. What about the other questions in the "Personal
16 History" section, 16? Do you know if answering "yes" to any of
17 those other questions ... I don't know if you can read them
18 there or not, but would any of those ...

19 **A.** Yeah.

20 **Q.** ... have ...

21 **A.** Any of those questions that are answered with a "yes"
22 would trigger a tertiary investigation.

JOSEPH ROPER, Direct Examination

1 **Q.** All right. And if an individual were to answer "no"
2 to those, but it came to the attention of the office of the
3 chief firearms officer that the answer should have been "yes",
4 would that trigger a tertiary investigation as well?

5 **A.** Yes, it would.

6 **Q.** All right. Now, I'm sorry, you said this a moment
7 ago. The types of things that would trigger a tertiary
8 investigation, apart from the "Personal History" questions in
9 the application, what other types of things would cause you to
10 have to do a tertiary investigation?

11 **A.** If there was a domestic incident. Let me just ...
12 domestic, anything related to firearms, or if there was spousal
13 abuse or it was reported to the office that there were ... a
14 spouse calls and reports the individual, it would start a
15 tertiary investigation.

16 **Q.** All right. And, in your work, were you familiar with
17 the phrase "firearms interest police" or "FIP"?

18 **A.** Yes, I am.

19 **Q.** And I'm guessing you were familiar with that term,
20 both through your work as an AFO and as a police officer.

21 **A.** Yes.

22 **Q.** Okay. Can you just give us a sense what your

JOSEPH ROPER, Direct Examination

1 recollection was of that process of creating FIPs and how those
2 might impact your work?

3 **A.** As a police officer, when you completed a report,
4 there was ... you scored the report a certain way on the form
5 that you submitted on the computer. The way that you coded that
6 offence would automatically generate what's called a FIP, which
7 is "firearms interest to police". A lot of people, or a lot of
8 officers, would sometimes incorrectly code something and
9 sometimes we wouldn't get the FIPs unless the local detachment
10 would actually make contact with us and advise us of an
11 incident. Then we'd go back and have a look at the file. He'd
12 provide us the file number, we'd go back and have a look at the
13 file.

14 But that's how the FIP is generated. It's the way it's
15 coded when it's put on the computer.

16 **Q.** All right. And there are certain incidents that would
17 attract the attention of police then that would create a FIP,
18 and, obviously, some that wouldn't. Is that correct?

19 **A.** Yes, that's right.

20 **Q.** So if the police were to have attended for a
21 particular investigation and coded that work properly and it was
22 a particular type of investigation that would create a FIP, do

JOSEPH ROPER, Direct Examination

1 you have a recollection of how that FIP would come to the
2 attention of a CFO's office?

3 **A.** Most of the police systems are intertwined with the
4 firearms system which is in Ottawa, and I've forgotten the name
5 of the system right now off the top of my head, but what happens
6 is the firearms system would pick up on that FIP and it would
7 generate a ... well, it would generate a FIP and it would be
8 sent to the location, wherever that may be in the country, and
9 then it's processed down and eventually ends up on my desk.

10 **(09:50)**

11 **Q.** Okay. And the database that you were referring to a
12 moment ago, would that have been CFIS or the Canadian Firearms
13 Information System?

14 **A.** Yes, exactly. Canadian Fire, yes.

15 **Q.** Okay. So, for example, if a police officer were to
16 code a particular event, would it be CPIC? Would that be where
17 the coding would go from their end?

18 **A.** I'm not a hundred percent sure, but I believe it is,
19 yes.

20 **Q.** Okay. Irrespective of that, whichever database the
21 police were using, it would communicate with CFIS and eventually
22 make its way to you.

JOSEPH ROPER, Direct Examination

1 A. Yes.

2 Q. All right.

3 A. Yes.

4 Q. When a FIP is created and it originates in your area
5 as an AFO, would that give rise to a tertiary investigation?

6 A. If it's a violation of the **Firearms Act** or one of
7 those things we talked about earlier, mental health or domestic,
8 then yes, it would end up on my desk.

9 Q. Okay. So not all FIPs necessarily gave rise to a
10 tertiary investigation?

11 A. No. It's my understanding that all the FIPs ended up
12 in tertiary investigations.

13 Q. Okay. All right. So you said that when information
14 came to the office of the CFO, either through a FIP or an answer
15 to a question on the application form that required a tertiary
16 investigation by an AFO, it would make its way to you by way of
17 the operations manager?

18 A. Yes.

19 Q. Okay. When you worked in the New Brunswick CFO office
20 ... well, let me back up. I assume, when an investigation, or a
21 tertiary investigation, is referred to you, you open a file and
22 you're working on it for a period of time. Is that correct?

JOSEPH ROPER, Direct Examination

1 **A.** Okay. Can I just get you to stop there?

2 **Q.** Yes.

3 **A.** Can you repeat that? You froze up.

4 **Q.** Sure. Are we doing okay now? Are you able to hear me
5 okay?

6 **A.** Yeah, you're doing okay now. You just, at the start,
7 you froze up and I missed the first of it.

8 **Q.** Okay. When a tertiary investigation is referred to
9 you, how would you deal with that? Would you open a file and
10 have an open file while you conducted the investigation?

11 **A.** Yes, I'd open a file on my computer and any comments
12 that I'd make would go into CFIS as well, but I'd complete the
13 tertiary investigation, forward it back to Fredericton, and make
14 my comments on CFIS.

15 **Q.** Okay. So the comments that you would make, would all
16 of the comments that you would make, or the information you
17 gathered, make its way onto CFIS?

18 **A.** Yes, most of it. It would be in the form of the
19 tertiary investigation report. That's what I'd complete on the
20 form and I'd also send on or copy on to CFIS.

21 **Q.** Okay. And when you did your work as an AFO, do you
22 have a recollection of how many files you might have opened at

JOSEPH ROPER, Direct Examination

1 any given point in time?

2 **A.** Now ... When I first started back in 2010, I had 500
3 files the first year. I had that whittled down, and by the time
4 I left in 2017, I believe I had little more than a hundred files
5 ... active files.

6 **Q.** Okay. And do you have a sense of what a good number
7 of open files for an AFO would be?

8 **A.** Well, they were all open. Any file that we received,
9 we'd open them. They'd have a number with them, so, yeah. So
10 all the files that I received were open files.

11 **Q.** I guess, then, active investigations?

12 **A.** Yes, as active investigations.

13 **Q.** How many active investigations would be appropriate
14 for an AFO?

15 **A.** Well, ideally, it would be under a hundred, but we
16 were, like I said, I had, for years, I had more than a hundred
17 files active at any one time.

18 **Q.** Okay. So when you got a tertiary investigation, and,
19 obviously, it would depend on what the issue was, I appreciate,
20 but what type of an investigation would you do? Who would you
21 speak to? What other sources of information might you go to?

22 **A.** Well, part of my investigation right away would be to

JOSEPH ROPER, Direct Examination

1 ... back in the day, if there was an RCMP file attached to the
2 tertiary investigation, I would have to seek that information
3 out through our liaison officer who was an RCMP officer in our
4 Fredericton office. So I would send him a request for
5 information on that file and he would look the file up on PROS.
6 He would send me a summary of the file so I'd know what the
7 incident was about.

8 **Q.** Okay. And that's if it was an RCMP investigation?

9 **A.** Yes, that's if it was an RCMP investigation. As a
10 former member of the Saint John Police Force, I could go to
11 their office and I could actually read the files in their
12 office. If not, I had a liaison in their office and they would
13 con- ... or not contact me. I'd contact them and they would
14 either forward me the report or they would, if it was small and
15 brief, they would read it over the phone to me.

16 **Q.** Okay. So ...

17 **A.** And that's the same with the Kennebecasis Regional.

18 **Q.** Okay. So ...

19 **A.** The same with the Kennebecasis Regional Police.

20 **Q.** Okay. All right. So with respect to the RCMP
21 investigation, you made reference to a database called PROS.
22 That's the database used by the RCMP, is it?

JOSEPH ROPER, Direct Examination

1 **A.** Yes.

2 **Q.** P-R-O-S?

3 **A.** I'm sorry, you've broken up there.

4 **Q.** Yeah, you did too.

5 **A.** Never got your question.

6 **Q.** Yeah. No, I was just asking you about the PROS
7 database. It's an acronym, is it? P-R-O-S?

8 **A.** Yes.

9 **Q.** Okay. So at the time that you were an area firearms
10 officer, you didn't have direct access to PROS?

11 **A.** No, I didn't, no.

12 **Q.** Do you have an understanding now of whether AFOs have
13 access to PROS or not?

14 **A.** My understanding is they do.

15 **Q.** Okay. At the time that you were doing your job, you
16 said you had to make a request and fill out a form that would go
17 to an RCMP liaison who would then give you the information?

18 **A.** Yes, that's right. I'd fill the form, forward it on
19 to Fredericton and, you know, I'd wait for their reply on the
20 information.

21 **Q.** Okay. And we've heard a number of a form called a
22 3825. I think I have the number right. Is that the form that

JOSEPH ROPER, Direct Examination

1 you would fill out?

2 **A.** Yes.

3 **Q.** Okay.

4 **A.** Yes, it is.

5 **Q.** And the RCMP liaison officer to whom you would send
6 this form, that person was in the office of the chief firearms
7 officer?

8 **A.** Yes, he had an office within our office.

9 **Q.** Okay. Now, then you said, for the other police
10 agencies, you obviously had a relationship with the Saint John
11 City Police, and you mentioned the Kennebecasis Police. Were
12 there other police agencies in your area?

13 **A.** No, there wasn't. It was the RCMP and the two
14 municipal police forces - Saint John and Kennebecasis Regional.

15 **Q.** Okay. So if you got a summary ... and, again, this is
16 all ... I was asking about the tertiary investigation. This is
17 if the police were involved. When you'd get the summary from
18 the police, if you needed more information or you felt you
19 needed more detail, were you able to get that? And how would
20 you do that?

21 **A.** Yes. In Sussex, Hampton, St. George, I could visit
22 the RCMP and, in some cases, I would actually talk to the

JOSEPH ROPER, Direct Examination

1 investigating officers. Oromocto, I spoke on the phone. And
2 for Base Gagetown, if it was a military matter, we were not
3 allowed access to any of their files. And we did speak with the
4 military police, but they were forbidden from releasing any
5 information to us.

6 Q. Okay. So if it was a military police investigation,
7 you could talk to those military police officers?

8 (10:00)

9 A. Yes, I could.

10 Q. But they weren't able to give you, like paper
11 information.

12 A. No, they weren't able ... no, they weren't able to
13 release information to us.

14 Q. Were they able to give you information verbally?

15 A. It's my understanding that they were prohibited under
16 their bylaws that they weren't allowed to release any
17 information with regards to an investigation that they were
18 conducting. If it was serious enough, they would tell us that
19 it involved a firearm but they wouldn't give us any more
20 information. It was very limited.

21 Q. Okay, all right. Apart from police agencies, like the
22 RCMP and the Saint John City Police, were there other sources of

JOSEPH ROPER, Direct Examination

1 information that you would go to when you conducted your
2 tertiary investigation?

3 **A.** I'd use our provincial system, JIS, which would give
4 me any summary conviction offences or court matters, dates, et
5 cetera. And again, CPIC. I'd use CPIC and basically that was
6 it.

7 **Q.** The CPIC system then would have criminal convictions,
8 would it, under the **Criminal Code**, or other federal legislation?

9 **A.** Yes, it would.

10 **Q.** And the JIS system would have summary conviction or
11 provincial offences.

12 **A.** That's right.

13 **Q.** Okay. And would you have access to CFIS itself when
14 you were conducting a tertiary investigation to see, for
15 example, if there were earlier investigations.

16 **A.** Oh, yes, I would.

17 **Q.** Okay. Now one of the things you said could trigger a
18 tertiary investigation is a disclosure by the applicant about,
19 for example, mental health issues or spousal issues. Would you
20 talk to the applicant themselves when you were doing a tertiary
21 investigation?

22 **A.** At some point, yes.

JOSEPH ROPER, Direct Examination

1 **Q.** Would that be in all cases or would it depend?

2 **A.** I guess it would depend. Most cases, though, I tried
3 to make contact.

4 **Q.** Okay. And what about family members or, in
5 particular, spouse of an applicant, would you talk to those
6 people?

7 **A.** In some cases.

8 **Q.** When would you want to speak to a spouse?

9 **A.** Mostly in domestic dispute situations, or if someone
10 refused to sign that or if they didn't sign the application, I'd
11 contact them and find out what was going on.

12 **Q.** Okay. You had made reference to checking the JIS
13 system for court dates and so forth. Would you ever have
14 occasion to seek out court documents, probation orders, or even
15 speak to a probation officer?

16 **A.** Yes, I would.

17 **Q.** Okay, and what kind of information would you get from
18 those conversations?

19 **A.** I would try to get the sense ... I'd tell them why I
20 was speaking to them, of course, and what was their feeling,
21 especially a probation officer, on the individual having a
22 firearms license.

JOSEPH ROPER, Direct Examination

1 **Q.** Okay. And I don't know ... I know for certain
2 applications, perhaps for all applications, applicants have to
3 complete a safety course. Would you ever look at that
4 information, the instructors at a safety course?

5 **A.** Yes, I've spoken to the actual instructors to get
6 their take on the individual as well.

7 **Q.** Okay. And you said a moment ago that, or earlier in
8 your evidence that, and obviously we'll talk in more detail
9 about this, but you would seek out medical information if it was
10 appropriate to do so?

11 **A.** Yes.

12 **Q.** Okay. Did you have policies or guidelines that
13 assisted you when you were conducting tertiary investigations?

14 **A.** Yes, I did.

15 **Q.** Okay, and ...

16 **A.** And those guidelines, we used to have quarterly
17 meetings and we would discuss them and we'd make changes to them
18 if we felt they were needed.

19 **Q.** All right, and we have, I think, one copy of a set of
20 policy and procedures for tertiary investigations which are
21 marked as Exhibit 127. Perhaps we can just bring those up
22 briefly. Maybe we can just zoom into the top. Would this be

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1 the types of policy and procedure document that you would follow
2 in conducting a tertiary investigation?

3 EXHIBIT P-000127 - NEW BRUNSWICK CHIEF FIREARMS OFFICE - POLICY
4 AND PROCEDURES

5 A. Yes, they would.

6 Q. All right. So perhaps just while we have these up, I
7 can go to the second page and just to 2.1. Just under "License
8 Status", we've heard some information about this last year from
9 the operations manager, or from Ms. Rossignol, but section 2.1
10 says: "Prior to files being referred to an area firearms
11 officer for tertiary investigation, the client has been screened
12 for eligibility failures by a provincial firearms officer." So
13 that's what you referred to earlier about issues maybe with the
14 application that could be dealt with administratively by a
15 provincial firearms officer?

16 A. That's right.

17 Q. And then the second part of that says: "Licensed
18 clients subject to a tertiary investigation for a Section 5
19 occurrence, have the license status of under review." So, first
20 of all, section 5, that's Section 5 of the **Firearms Act**, is it?

21 A. That's right.

22 Q. Okay, and do you know what Section 5 of the **Firearms**

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1 **Act** deals with?

2 **A.** It's been a while so I ...

3 **Q.** I appreciate that.

4 **A.** No, I can't say right off the top of my head.

5 **Q.** Right. Would it relate, though, to some of the issues
6 that are addressed in Section 16 of the application, the
7 personal history question?

8 **A.** Yes, I believe, yes.

9 **Q.** Now do you have a recollection of what it meant for a
10 person's license to be placed "under review"?

11 **A.** Well, their license was placed under review on the
12 system. There was no notification to the client that their
13 license was under review unless a CFO ... or not a CFO, but a
14 provincial firearms officer or myself made contact with them, it
15 would say it was under review on CFIS, but that's the only that
16 you would see that.

17 **Q.** Okay, and so where that status of under review would
18 be noted would be on the CFIS system, CFIS?

19 **A.** Yes.

20 **Q.** Okay. So if a person's license was placed under
21 review, if you're able to say this, I appreciate this may not
22 have been specifically your area, but if a person's license was

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1 placed under review, they may not have been aware of it and
2 their license was not formally revoked at that point. It was
3 simply in this category of under review?

4 **A.** That's right. They had no way of knowing their
5 license was under review, like I said, unless they were
6 contacted and told that there was an investigation and, in fact,
7 their license was placed under review.

8 **Q.** Okay. And others would not know not either, other
9 than if they had some access to CFIS, is that correct?

10 **A.** That's correct, yes.

11 **Q.** Such as vendors ... firearms vendors.

12 **A.** That's right.

13 **(10:10)**

14 **Q.** Just on the policy document that we were looking at,
15 just below that, 2.2, I think makes reference to some of the
16 sources of information that you made reference to accessing when
17 you were conducting your investigation. So obviously the
18 database is CFIS, JIS, and CPIC. The document makes reference
19 to municipal police forces, RCMP and, over the page, medical,
20 which again, is more relevant to us here and we'll talk about as
21 we go forward. But the medical section says: "Where the
22 Section 5 referral relates to mental health issues, the AFO will

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1 initiate a medical assessment request using the approved medical
2 assessment forms. The medical assessment request will be sent
3 to the client using the appropriate mail tracking service."

4 So if it was necessary for you to gather medical
5 information, there was a form, was there, that you would use
6 that would be sent to the client?

7 **A.** Yes, there was a specific form that we use, a medical
8 assessment form, and that was sent to the client via registered
9 mail and he was given 30 days to complete the form and have it
10 sent back either to the office or to me directly. And if the 30
11 days expired and I didn't hear from the client, I would try and
12 contact them and, if they requested more time, I never turned
13 anyone down asking for more time. And it was, I think it was 90
14 days, not 30 days.

15 **Q.** 90 days, all right.

16 **A.** Yes.

17 **Q.** And we're going to look at some of those documents but
18 just going back to the investigative practices section that we
19 were on there, in Exhibit 127, under the section, "Investigation
20 Practices", the document says: "License and application
21 eligibility decisions will be supported by documentation of the
22 following: medical assessment, interviews, court documents,

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1 file disclosures, CFIS information, any other relevant
2 information."

3 Beyond what we've discussed, the various sources of
4 information, any other sources that you might go to or any other
5 areas you might seek out information?

6 **A.** Off the top of my head, no, there's nothing else that
7 I would use. Like I said, it's been a while so ...

8 **Q.** No, that's fine. And the last part of that section
9 says: "The AFO will prioritize work to focus on highest risk
10 clients." You had a variety of open investigations, open
11 tertiary investigations. Did you prioritize the various
12 investigations that you were doing?

13 **A.** Yeah, I tried to. You know, if there was any weapons
14 involved, I certainly would prioritize those. If there was
15 suicide attempts, those would also be prioritized. Or again, if
16 there was domestic violence against a spouse, they were again
17 prioritized.

18 **Q.** And that's something that you would do yourself, was
19 it, to kind of ...

20 **A.** Yes, it was.

21 **Q.** Triage or prioritize the files as you saw them most
22 ... the ones that were most urgent.

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1 **A.** Yes.

2 **Q.** Okay. As you conducted your tertiary investigations,
3 would you speak to other area firearms officers or your
4 operations manager? Just, I guess, to discuss files and ...

5 **A.** Yeah, we'd, especially the ... Most times we spoke
6 with another AFO, if we were going to revoke a license, I'd
7 certainly speak with another area firearms officer and seek
8 their advice or their opinion, I guess. That was basically the
9 only time that ... Or if the file was very difficult and we were
10 having a hard time making a decision on a revocation.

11 **Q.** So most often, the most difficult decisions were
12 revocations, were they?

13 **A.** Yes, they were.

14 **Q.** All right. Now, obviously, if a person applies either
15 for a license in the first instance or for a renewal and a
16 tertiary investigation is triggered, you would be making a
17 decision about whether to renew or to grant a license. You
18 might also be making a decision about whether to revoke a
19 license. So you could be looking at either of those issues, I
20 guess, could you?

21 **A.** Yes, that's right.

22 **Q.** As an area firearms officers, if you revoked a

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1 license, could you be called on to attend court to defend that
2 decision?

3 **A.** Yes, all our decisions were appealable and I've been
4 in court, I probably was in court once a year, sometimes twice,
5 to defend my decisions.

6 **Q.** Okay. And provincial firearms officers, as I
7 understand it, did not attend court but AFOs did, is that the
8 process?

9 **A.** That's right. The revocations were completed by the
10 AFOs. The CFOs are the provincial firearms officers, as far as
11 I know, didn't do revocations.

12 **Q.** Okay. And, ultimately, when you made a decision on a
13 file, either to grant a license or to revoke a license, was that
14 signed off by anyone?

15 **A.** Yes, it went through the chief firearms officer. He
16 signed off on it.

17 **Q.** Would that be for any decision you made or just for
18 revocations?

19 **A.** As far as I know, the chief firearms officer tried to
20 stay up to date with our files. So I know for sure the
21 revocations definitely would review and it was my knowledge that
22 he reviewed a lot of the files.

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1 Q. All right.

2 A. To what extent, I don't know.

3 Q. Okay. All right. And when you required medical
4 information, I think we have Exhibit 129, we have one of the
5 forms that you would forward. I'll get you to just have a look
6 at it. Maybe we can just zoom into the top. Is this the type
7 of form that you would use to seek information from a physician
8 about an applicant?

9 **EXHIBIT P-000129 - FORM - MEDICAL ASSESSMENT BY PHYSICIAN**

10 A. Yes, it is.

11 Q. Did that form change over the period of time that you
12 were working as an AFO?

13 A. Yes, it did. We would have quarterly meetings and
14 we'd discuss several things and one of them was the medical
15 assessment form and I started changing the form myself by
16 putting in brackets. If you would just scroll down a little
17 bit. In the comments, I started putting in "required" and
18 trying to spark some comments from the doctors because most of
19 the times we weren't getting any comments from the physicians.
20 They would just check the box, sign it, and send it in. So that
21 was the first thing I did.

22 The next change was the ... We started letting the doctor

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1 know what the issue was. So we would put "at issue". And in
2 this case it'd say the client has answered the personal history
3 questions on the application advising he is being treated for
4 anxiety with medication. So, in the earlier form, none of that
5 information was there. They's just get this blank form with the
6 first two checked boxes in the comments and the signature. And
7 I didn't feel we were getting enough information and we were
8 hoping to spark more information by changing the form somewhat
9 to add "at issue" and asking them to make a comment.

10 Q. Okay. You felt that more information from the doctor
11 who might be answering that question would be helpful in your
12 investigation.

13 A. Yes, very.

14 Q. All right. During the time that you were an area
15 firearms officer, I understand that you did conduct tertiary
16 investigations that related to applications by Lionel Desmond,
17 is that correct?

18 A. That's right.

19 **(10:20)**

20 Q. All right, perhaps we can look at what I believe is
21 the first of those. Turn to Exhibit 136. We can perhaps zoom
22 in at the top of that document. Do you recognize the document,

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1 first of all, that's on page one of Exhibit 136?

2 **EXHIBIT P-000136 - REQUEST FOR TERTIARY INVESTIGATION -**
3 **SEPTEMBER 22, 2014**

4 **A.** Yeah, I have a copy of it here in front of me.

5 **Q.** Okay, very good. So, first of all, just in general,
6 this document is called "Request for Tertiary Investigation".
7 Do you know what that document is and have you seen them before?

8 **A.** Yes, those were the tertiary investigations reports
9 that were submitted to CFIS and that was a form that was used by
10 the area firearms officers to complete a report and also to get
11 any information to begin their investigation.

12 **Q.** So when a tertiary investigation would be, I guess,
13 assigned to you or directed to you, is this the document that
14 you would first receive?

15 **A.** Yes, it is.

16 **Q.** Okay. And I neglected to ask you before but the
17 tertiary investigations would be assigned to AFOs on what basis?
18 You mentioned that there were geographic regions. Is that how
19 they would be assigned?

20 **A.** Yes, they were.

21 **Q.** So if, for example, a FIP event occurred in your
22 region, would that be assigned to you?

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1 **A.** Yes. If the FIP happened ... say the FIP happened in
2 Bathurst but the client resided in Saint John, I would still
3 receive the tertiary investigation report and I would seek
4 disclosure from the AFO in Bathurst, if there was a Bathurst
5 Police Department was involved. The AFO in that area would seek
6 the disclosure from the Bathurst Police Department and forward
7 it to me.

8 **Q.** Okay, so it was more an issue of where the license
9 holder or applicant actually resided?

10 **A.** Yes, that's right.

11 **Q.** Okay, all right. So this particular request for
12 tertiary investigation, perhaps we can go through it again a
13 little bit with you. At the top of the document, there is, it
14 would appear, a PFO or, I assume that's provincial firearms
15 officer, noted a "B. Hogan". Do you recall that person?

16 **A.** Yes, that's Provincial Firearms Officer Bernie Hogan.
17 He worked in the office in Fredericton. Did you want me to just
18 go through the form?

19 **Q.** Perhaps you can, yeah, go through it and tell us a
20 little bit about what's in it and what information you would
21 draw out of it.

22 **A.** The date it was forwarded, okay, the date it was

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1 forwarded was September 22nd, 2014 and the DFO was myself. It
2 gives the applicant's name, his address, his contact
3 information, his date of birth. And then in "Type of Work
4 Assignment", it tells you what the situation is. So this was a
5 possession acquisition license renewal. So the applicant had a
6 firearms license but he was renewing his license. So it gives
7 you his application number, the application and license number
8 in the ... right beside it. So the application number and then
9 below that, his license number. And then below is the PFO
10 comments. So it says it's a PAL application. It was assigned
11 to me and at issue was a reference indicated applicant has PTSD
12 that was not diagnosed two years ago. And then the body of the
13 report is my investigation.

14 **Q.** Okay, so the reason that this was referred to you, I
15 take it then, is that Lionel Desmond's address at the time was
16 in Oromocto and that was your area, is that correct?

17 **A.** That's right.

18 **Q.** At the top of the page again, or in the boxes, there's
19 a box that says "FIP Event" and, on this application, it's
20 blank. I take it then that there was no FIP event that caused
21 this tertiary investigation to be started?

22 **A.** That's right. There was no police intervention so,

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1 therefore, there was no FIP.

2 Q. Okay. Had there been a FIP, obviously, would it have
3 had a number assigned to it?

4 A. Yes, it would.

5 Q. Okay, and would the ... Go ahead.

6 A. That's generated by CFIS. That's generated by CFIS.

7 Q. Yes.

8 A. FIP number.

9 Q. And, obviously, there would have been police
10 involvement, had there been a FIP. Would there have been
11 something that would have told you what police agency or what
12 detachment dealt with the individual, if there had been a FIP?

13 A. Yes, the ORI is the code for what detachment would
14 have submitted the FIP.

15 Q. And then that would allow you to be able to know who
16 to contact to get information.

17 A. That's right.

18 Q. Okay. So you have, when you receive this, there are
19 PFO comments and you've referenced them. It says PAL
20 application number. So every application then has a number
21 assigned to it, I take it, does it?

22 A. Every application has a number assigned, yes.

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1 **Q.** Assigned to NB AFO J. Roper. "ES, found issues." Do
2 you know what ES stands for?

3 **A.** No, I'm not sure, no.

4 **Q.** We've heard about individuals who work at the
5 Miramichi at the Central Processing Centre called "enhanced
6 screening". Might that be what ES stands for?

7 **A.** Okay, yeah. Yes, exactly.

8 **Q.** Okay.

9 **A.** I should also point out, too, that in the occurrence
10 number where we were talking about the FIPs and the ORI, if the
11 ORI was from Nova Scotia, then I would have to send a request to
12 the police or the office manager, and she would send a request
13 on to ... email on to Nova Scotia to the Chief Firearms office
14 in Nova Scotia for disclosure on that number. I just wanted to
15 clarify.

16 **Q.** Sure, that's your recollection of the route, I guess,
17 that the information would come back to you. You would go to
18 your operations manager, who would go to the CFO for the other
19 province, who would then contact the police agency in that
20 province?

21 **A.** That's right.

22 **Q.** Okay. All right, so back to our documents. It says:

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1 "ES found issues. Reference indicated applicant has PTSD and
2 was diagnosed about two years ago." So when you apply for a
3 license or a renewal, you have to provide people who can act as
4 references for you?

5 **A.** Yes. You have to provide two references and they
6 can't be your spouse or significant other.

7 **Q.** Okay. Now back to our ... We don't have to bring it
8 up but back to the Section 16 on the application, the personal
9 history questions. In your experience, would a diagnosis of
10 PTSD, would that be something that would normally elicit a "yes"
11 answer to the personal history question regarding mental health?

12 **A.** Yes, for sure.

13 **Q.** So it would qualify as one of the diagnoses in
14 category 16(d), I think it was, on the application form.

15 **A.** You know, in hindsight, when you look at the question,
16 it talks about all sort of disorders. It doesn't specifically
17 say PTSD.

18 **Q.** Right.

19 **A.** But it's a behavioural issue and it was seen as a
20 medical condition.

21 **Q.** Okay. Perhaps we can just bring up 123 again and
22 we'll just have a quick look at it.

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1 (10:30)

2 So 16(d) says:

3 During the past five years have you
4 threatened or attempted suicide or have you
5 suffered from or been diagnosed or treated
6 by a medical practitioner for depression,
7 alcohol, drug or substance abuse,
8 behavioural problems or emotional problems.

9 So I see what you're saying, the categories are somewhat
10 general on that application form?

11 **A.** That's right.

12 **Q.** It was your expectation though that a person who was
13 diagnosed with post-traumatic stress disorder would normally
14 answer yes to ... or should have answered "yes" to those
15 questions?

16 **A.** Well, yes, that's correct.

17 **Q.** Okay. Now your area of responsibility geographically
18 you said was Oromocto or included Oromocto and Gagetown. In the
19 years that you worked as an AFO, did you see applicants with
20 diagnoses of post-traumatic stress disorder? In other words,
21 was that unusual or is that something that you would see with
22 some regularity?

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1 **A.** No, I saw that quite regular especially from Gagetown
2 area.

3 **Q.** Okay. So amongst soldiers or veterans who had been in
4 the CAF?

5 **A.** Yes. Yes.

6 **Q.** All right. And was that something that was of
7 particular concern to you? Can you give us a sense of how you
8 might view post-traumatic stress disorder when you were doing
9 your job?

10 **A.** Back in when I was doing the job, it was just being
11 diagnosed, I guess, PTSD, there was another acronym for it. But
12 it was in the early stages, but it was a mental health problem,
13 and it was quite prevalent from applicants from Base Gagetown.

14 **Q.** Right. And when you became aware that a person had
15 that diagnosis, would that always elicit an investigation if
16 they were applying for a firearm or a renewal.

17 **A.** Okay, you froze there.

18 **Q.** Right. Okay. No, I said when an app- ...

19 **A.** Can you repeat that?

20 **Q.** I will. When an applicant or when you become aware of
21 that diagnosis of post-traumatic stress disorder, would that
22 normally or always elicit a tertiary investigation or cause you

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1 some concern?

2 **A.** Yes, it would.

3 **Q.** All right. On the document the "Request for Tertiary
4 Investigation" page 1 of 136, at the bottom of that in the
5 larger box there's a section called "AFO Comments". So I take
6 it those are your comments are they?

7 **A.** Yes, they are.

8 **Q.** Would you keep running notes as you did your work,
9 adding as you went along, or would you complete this document at
10 the end? How would you do it normally?

11 **A.** I normally had a file and I would write on the file
12 folder any notes and then in the end I would put it together in
13 this report.

14 **Q.** Okay. And those comments, the AFO comments, those are
15 the comments that you said would ultimately find their way on to
16 CFIS, on to the Canadian Firearms Information System?

17 **A.** Yeah. If you notice down on the bottom of the form it
18 says "CFIS updated" and it's got an "x" in it. So that meant
19 that I would have updated CFIS prior to forwarding this tertiary
20 report to Fredericton. I would also check "CPIC" and "JIS".

21 **Q.** Okay. So the fact that those boxes, JIS and CPIC, are
22 checked that meant you checked those databases?

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1 **A.** That's right.

2 **Q.** Okay. So in this case you received this information
3 that ... and it appears to have come from one of Lionel
4 Desmond's references that, in fact, he had a diagnosis of PTSD.
5 So knowing that, what did you do as part of your tertiary
6 investigation?

7 **A.** Well, to expediate things I immediately sent him a
8 medical assessment form via registered mail.

9 **Q.** Okay. So that would be step number 1, would it, where
10 it was a medical issue or a mental health issue?

11 **A.** Yes.

12 **Q.** Okay. So we can go over to page 4 of Exhibit 136.
13 There's a letter here that appears to be addressed to Lionel
14 Desmond dated September 23rd, 2014, and your signature is at the
15 bottom. Is this the letter that you sent to Lionel Desmond?

16 **A.** Yes, it is.

17 **Q.** Okay. So you sent it the next day after his ...

18 **A.** And on his application ... yes, the day after I
19 received the tertiary I forwarded the letter.

20 **Q.** Right.

21 **A.** I'd check it on CFIS, the application, and I noted in
22 his application that he answered the personal history question

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1 16(d) as "no", he didn't have any mental health problems. And I
2 informed him that I thought he wasn't being truthful when he
3 answered the personal history question and it was a violation of
4 Section 106 of the **Firearms Act**. And I told him that I'd be in
5 touch with him at some point to explain this inaccuracy prior to
6 granting his licence.

7 **Q.** Okay. So the letter that you sent to Lionel Desmond
8 obviously there's information in that that's specific to him.
9 Was that kind of the standard form of letter that you would send
10 when you were sending information like this or were the letters
11 different every time?

12 **A.** The letters ... for me, the letters were different
13 every time because I tried to make them as personal as I could
14 if there was something I wanted to say in them, which in this
15 case not only ... I wanted him to know that we were reviewing
16 his application and the reason why.

17 **Q.** Okay. And it was your intention based on what you
18 said in the letter, to contact him directly and speak to him
19 personally?

20 **A.** Yes, that's right.

21 **Q.** Okay. Your letter indicates that you were enclosing
22 the physician's form or the attached medical assessment, and

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1 that it was your expectation that it would be returned within 90
2 days. Does that 90 days come from anywhere or is that just kind
3 of a practice that developed?

4 **A.** No, that was just the practice. We didn't want to end
5 up hanging on to a file for a year waiting for a medical
6 assessment form, so we put the 90 days down to try to expediate
7 it. But like I said earlier, if we didn't hear from them after
8 90 days I would try and get in contact with them. Most cases I
9 did and they would ask for an extension. If they were having
10 trouble getting in to see their doctor or there was always a
11 legitimate excuse as to why they didn't meet the 90 days. And
12 like I never, ever refused a request, so ...

13 **Q.** Sure. Some applicants might be ... obviously have
14 some legitimate difficulty getting to see their doctor to have
15 the form filled out and so forth?

16 **A.** Yes. There was the odd occasion where I would try and
17 get ahold of someone and they wouldn't answer their phone or I
18 couldn't ahold of them, I'd send them another letter asking them
19 to respond, to call. And I have revoked the licence or refused
20 the licence based on them not contacting me.

21 **Q.** Okay. So when you would send the letter with the 90-
22 day turnaround, would you diary date that file to come back to

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1 your attention in 90 days?

2 **A.** Yes, I would.

3 **Q.** Okay. And so if the person ultimately was not
4 cooperative and seemed to be refusing to provide information of
5 a medical nature that you required, you could actually revoke a
6 licence on that basis or refuse to grant an application?

7 **A.** That's right.

8 **Q.** Okay. The information that was forwarded or the
9 letter and attached medical assessment form was sent by
10 registered mail, was that the standard way that you would send
11 the information to an applicant?

12 **A.** Yes, that way we could verify that they actually did
13 receive the assessment form. If we had to go to court, we could
14 prove that they were in receipt of the assessment.

15 **Q.** Because this issue that gave rise to the investigation
16 was of a mental health or medical nature obviously you've sent
17 the medical assessment form, would you have sought out other
18 information beyond the medical form or was that kind of the
19 primary basis of your investigation?

20 **(10:40)**

21 **A.** That was kind of the primary base of my investigation.
22 It depends on how much information I received initially. If

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1 there was ... if the spouse had called or if the spouse had
2 interviewed and they said that there was major concerns or ...
3 that would be included in the investigation report.

4 Q. Okay. So in this case, initially all you had received
5 was this concern raised by the reference, is that correct?

6 A. That's right.

7 Q. Okay. So in Exhibit 136, page 5, it appears attached
8 to the letter you sent a blank medical assessment by physician
9 form.

10 A. That's right.

11 Q. Is that the form that you sent along with the letter?

12 A. It is.

13 Q. So this form, the form that appears to have been
14 attached to the letter, you had signed it and dated it September
15 23rd, 2014?

16 A. That's right.

17 Q. Okay. A couple of things about the form and the
18 questions. So, there are two boxes there that say:

19 Yes, in accordance with Section 52(b) and
20 Section 52(c) of the **Firearms Act**, I have
21 concerns that the applicant named above may
22 pose a safety risk to him/herself or others

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1 and it is not in his/her interest to possess
2 firearms.

3 The other box says:

4 No, I have no concerns that the applicant
5 named above may pose a safety risk to
6 himself/herself or others.

7 So basically, a medical doctor was given two choices, is
8 that correct? They either check "yes" or "no"?

9 **A.** That's right.

10 **Q.** In the "Comment" section, you mentioned earlier that
11 you had added the word "required". In your experience, even
12 after that word was there, were you getting details from doctors
13 or would you receive forms that often just had one or other box
14 checked?

15 **A.** No, we never really got a lot of comments.

16 **Q.** Okay. So it was more the exception than the rule that
17 you would get comments?

18 **A.** That's right.

19 **Q.** All right. And in your letter to ... in this case Mr.
20 Desmond, Lionel Desmond, and in general it would appear there
21 isn't a requirement of a particular type of doctor filling out
22 the form. Do I understand that correctly?

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1 **A.** Right, we don't specify. It could be a psychologist,
2 it could be a family doctor. It's not specific, no.

3 **Q.** Did that cause you concern that you may get an opinion
4 from a doctor who really didn't have a lot of background with
5 the applicant or didn't have expertise?

6 **A.** Well, it was expected ... I guess in my mind, sure I'd
7 like to see a psychologist in every case, but in some cases they
8 weren't seeing a psychologist, they were just going to their
9 family doctor and they were using the Base doctor. A lot of
10 them used the Base doctor, right, and so they were aware of
11 their condition. But yeah, it would have been nice to have a
12 psychologist comment for sure.

13 **Q.** If you got one of these forms back from a doctor with
14 very little information on it and you had additional questions
15 or concerns of a medical nature, would you contact the doctor?

16 **A.** Yes, I would.

17 **Q.** Do you recall how often you might have contacted
18 medical professionals who filled out these forms?

19 **A.** I probably called once a month to a doctor ...

20 **Q.** Okay. And were they generally receptive ...

21 **A.** ... and ask them additional questions.

22 **Q.** Were they generally receptive and would give you

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1 information or not?

2 **A.** They're very, very hard to reach. It was repeated
3 phone calls, they weren't easy to contact, but when you did get
4 them on the phone they seemed to be very receptive. I never had
5 any issue with them. The only issue I had was trying to reach
6 them.

7 **Q.** Right. And after speaking to a doctor, did you ever
8 ... you know, was there ever a case where you felt like you
9 really needed a medical opinion from a different doctor or an
10 additional opinion?

11 **A.** No, I was firm in my decision. So if that was the
12 case I would have done something else. But no, any of the
13 decisions I made I didn't think there was a problem so ...

14 **Q.** No, I guess what I meant was in reaching your
15 decision, were you generally satisfied with one doctor's opinion
16 or were there cases where you said, you know, I really want to
17 hear from two doctors?

18 **A.** No, I've never done that, no.

19 **Q.** Okay. So you sent the blank form to Lionel Desmond
20 and you received a document back which I think is page 6 of
21 Exhibit 136.

22 **A.** Yes.

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1 **Q.** So on this form maybe we can zoom in to the middle, it
2 looks like the box that's ... the "no" box is checked, and at
3 the bottom there's a physician's name ostensibly printed and
4 signed and a date. When you received this back, did you first
5 of all know who the doctor was that had signed it?

6 **A.** Well, first of all (inaudible - audio) read that. I
7 couldn't read it. I couldn't make out head nor tail what it was
8 or what it said. No, it was even hard to read the date.

9 **Q.** Right. Okay. So it appears to be November 4th, 2014,
10 but ... if I'm reading that correctly but that's not ... that
11 wasn't clear to you either, was it?

12 **A.** No, it wasn't.

13 **Q.** So you get this form back, did it come in the mail or
14 did it come from Lionel Desmond or do you recall?

15 **A.** This was hand delivered, I believe, to the office, the
16 Chief Firearms' office in Fredericton.

17 **Q.** Okay.

18 **A.** Because I remember getting a phone call from either it
19 was Lysa or one of the ... maybe it might have been the
20 receptionist saying that Mr. Desmond had visited the office and
21 had delivered the medical assessment form.

22 **Q.** Okay. So it ultimately makes it way to your hands or

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1 in your file. What did you do when you received it? If you
2 want ...

3 **A.** I immediately contacted Mr. Desmond.

4 **Q.** Okay.

5 **A.** I contacted Mr. Desmond and advised him that it wasn't
6 acceptable; that I couldn't make out the signature or any of the
7 information on the form. He explained that it was Dr. Joshi
8 that he was seeing and he would try and get in touch with him
9 again and have him call me.

10 **Q.** Okay. And if we want to refer back to the AFO
11 comments on the first page of 136, you have an entry there about
12 halfway down in your comments. It says: "On December 2nd,
13 2014, Mr. Desmond called and explained that the doctor was in
14 and was expecting my call."

15 So you had spoken to Lionel Desmond prior to this
16 conversation on December 2nd, had you, about the form?

17 **A.** Yes, I did.

18 **Q.** Okay. All right. In fact, I think just before that
19 there's a note that explains that. It says: "As a result, I
20 called and explained this to Mr. Desmond. He explained that
21 this is ... the doctor is Dr. Joshi and it was November 4th had
22 spoke to the doctor and had him sign and fill out the form. He

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1 advised he would contact the doctor and have him contact me."

2 So did you, in fact, have a conversation with Dr. Joshi?

3 **A.** Yes, I did. I called him on December 2nd, 2014, and
4 he wasn't available right then but he would call me back. And
5 he did call me back and I had a conversation with Dr. Joshi
6 about Mr. Desmond.

7 **Q.** Okay. And that was a telephone conversation then
8 obviously?

9 **A.** Yes.

10 **Q.** Did you know Dr. Joshi? Had you spoken to him before
11 or had you dealt with him on any other files?

12 **(10:50)**

13 **A.** Yes. Yes. Yes, I had dealt with him on several
14 files, many files, and I had spoken to him in the past.

15 **Q.** Okay. And so did you know his specialty? What he
16 was? What type of a doctor he was?

17 **A.** Yeah, he was a psychologist.

18 **Q.** Okay. I think he's actually a psychiatrist.

19 **A.** Psychiatrist. Psychiatrist, yes. Excuse me.

20 **Q.** Okay.

21 **A.** He's a psychiatrist.

22 **Q.** And did you know at the time where he worked?

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1 **A.** He had a clinic in Fredericton.

2 **Q.** Okay. And you said you dealt with him a number of
3 times. What types of clients had you dealt with Dr. Joshi for?

4 **A.** I would say 95 percent of them are all military.

5 **Q.** Okay. So what was the nature of your conversation
6 with Dr. Joshi? What did you tell him and what did he tell you?

7 **A.** Well, basically I asked him, you know, what he was
8 treating him for and explained to him that the application was
9 making application for a firearms license and what was his take
10 on Mr. Desmond being in possession of firearms and having access
11 to firearms. And, as I say in the report, he advised me he's
12 been treating him for four and a half years and he had him
13 medicated. He said he had no psychosis and has never mentioned
14 self-harm or any violent ideation.

15 **Q.** Okay. So you obviously had from the reference, that
16 he had had a diagnosis of post-traumatic stress disorder. Do
17 you recall if Dr. Joshi had told you what Lionel Desmond was
18 diagnosed with?

19 **A.** He mentioned that it was PTSD. I don't recall exactly
20 how the conversation went down but he was aware that it was
21 PTSD. And my main concern again was self-harm, any violent
22 ideation or was he a threat to himself or others.

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1 **Q.** Okay. Are those questions that you would specifically
2 ask a doctor such as you did ... or such as Dr. Joshi?

3 **A.** Yes, I did.

4 **Q.** Okay. Just back to the diagnosis. Did Dr. Joshi tell
5 you anything else about what he may have been diagnosed with?

6 **A.** No, he didn't.

7 **Q.** Okay. Would you normally ask if there were other
8 diagnoses such as depression or substance abuse or anything like
9 that?

10 **A.** No, I relied mostly on the doctor to explain to me
11 what the condition was, what he was going through. Again, my
12 main concern was was he a harm or a threat to himself or others.

13 **Q.** Right. The doctor had said to you that he had been
14 treating Lionel Desmond for four and a half years, which is
15 longer than the reference had suggested Lionel Desmond had
16 suffered from PTSD. Was that of concern to you or did that
17 surprise you?

18 **A.** No, it didn't surprise me.

19 **Q.** Okay. And was it your understanding that he was
20 treated for PTSD for four and a half years?

21 **A.** Yes.

22 **Q.** Okay. The doctor had said to you that he had Lionel

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1 Desmond medicated. Would you normally get any information about
2 the types of meds that an applicant might be taking and what
3 they might be for? What symptoms or what they might be designed
4 to treat?

5 **A.** No, I didn't.

6 **Q.** Okay. What did you take from the fact that the doctor
7 said that he had him medicated?

8 **A.** That he was being medicated for PTSD, which was ... I
9 assume was depression. A lot of depression.

10 **Q.** Okay. Did you have any concerns about what might
11 happen if Lionel Desmond were not medicated or if he stopped
12 taking his medications?

13 **A.** I believe that was a question that I asked Dr. Joshi.
14 I know I had a conversation about the medicine he was taking
15 but, to be honest with you, I can't recall how the conversation
16 went.

17 **Q.** Okay. Obviously, if somebody is medicated for four
18 and a half years they have an ongoing condition. Did you talk
19 to the doctor at all about his compliance with his meds; that
20 is, like whether he was good to take his medications or whether
21 he would stop at times?

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

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1 **Q.** Okay.

2 **A.** I could have, I don't recall, though.

3 **Q.** Right. More generally, is that the type of thing that
4 you might talk to a doctor about?

5 **A.** Certainly the medication I'd certainly talk to him
6 about and, yeah, that would be one of my concerns.

7 **Q.** Okay. Now the doctor said that he had not had a
8 diagnosis of psychosis and that he, Lionel Desmond, had not
9 mentioned self-harm or any violent ideation. Would you ask a
10 doctor specifically about whether somebody had had suicidal
11 ideation or had attempted suicide?

12 **A.** Yes, I would.

13 **Q.** Okay. And ...

14 **A.** He had no psychosis in that ... yeah, I asked him
15 specifically about psychosis and he said there was no psychosis.
16 He wasn't hallucinating or ... There was nothing like that.

17 **Q.** Okay. And you asked specifically about suicidal
18 ideation and self-harm?

19 **A.** Yes.

20 **Q.** Okay. Do you recall anything else about your
21 conversation with Dr. Joshi?

22 **A.** No, I don't.

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1 **Q.** Okay. In your AFO comments you said that you also
2 spoke at some length with Lionel Desmond himself about his PTSD
3 I guess.

4 **A.** Yeah, I talked at length to him about the answer that
5 he provided on the application where he said that ... he said
6 that he didn't have any mental health problems. And his
7 explanation was that PTSD wasn't specific on the form and he
8 discussed it with his wife and didn't feel that it applied to
9 him in this case. And I agreed with that explanation and I
10 accepted his version of why he answered the question with a
11 "no".

12 **Q.** Okay. And that conversation with Lionel Desmond, do
13 you recall was that after your conversation with Dr. Joshi?

14 **A.** No, that was when he called about the ... or when I
15 called him about the form not being acceptable. I had the
16 conversation with him then.

17 **Q.** Okay. In this case, again, you've mentioned that you
18 checked the databases that are noted there. Was there any other
19 investigation here with respect to this renewal?

20 **A.** No, there was nothing else that I completed that I can
21 recall. When I talked to him I asked him about his wife, what
22 she was feeling about the PTSD. I also asked him if he was

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1 working. And that's all I can recall about the conversation I
2 had with him.

3 Q. Okay.

4 A. He was very pleasant on the phone. He was easy to
5 deal with. That's all I can say about it.

6 Q. Okay. And where he referenced his wife and she had
7 some involvement in this, would there have been any reason to
8 speak to her directly about the situation and his application?

9 A. No, I didn't think so. I reviewed the file and I saw
10 that initially he had her down as a reference and she also
11 signed the application. So I didn't think there was an issue
12 there at the time.

13 **(11:00)**

14 Q. Okay. She acted as a reference initially, and I think
15 that was not allowed and a different reference had to be found?,
16 is that correct?

17 A. That's right, yes.

18 Q. That was something that happened before the tertiary
19 investigation got to you, though, correct?

20 A. That's right, but it was all on CFIS and I had a look
21 at that prior to.

22 Q. Okay. His application in this occasion was for both a

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1 restricted and a non-restricted firearm. Did that make any
2 difference to you, or does that ...

3 **A.** That's right.

4 **Q.** Does that impact on the investigation at all?

5 **A.** Well, I took it a little more serious that he was
6 going to have a handgun. I assumed it was going to be a
7 handgun, which is ... yeah, it was ... it made a difference. I
8 was a little more thorough in that I talked to him at length
9 about the firearms. But, like I said, he gave me no indication
10 at all that there was a problem.

11 **Q.** Okay, so after you do your investigation, so
12 ultimately it's for you to put on the box whether the
13 application is approved or refused and so forth. You make that
14 decision. Correct?

15 **A.** That's right.

16 **Q.** And on page 2 of Exhibit 136 you ultimately checked
17 "approved" for this application?

18 **A.** That's right.

19 **Q.** The second page of the "Request for Tertiary
20 Investigation" has your signature and a date of December 2nd,
21 2014. Is that when the decision would have been made to renew
22 the license?

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1 **A.** Yes.

2 **Q.** Okay.

3 **A.** Yes, it would.

4 **Q.** What was your understanding of what would happen, or
5 what did happen, when you completed that form, approved his
6 application? Where would it go?

7 **A.** It would ... the processing centre in Miramichi would
8 see that it was approved and they would issue the license.

9 **Q.** Okay, and your whole document would go or ...

10 **A.** My comments would go on CFIS.

11 **Q.** Okay. I may not have asked you at the beginning of
12 this, but did you, prior to doing this tertiary investigation,
13 did you know Lionel Desmond or had you had any contact with him
14 prior to September of 2014?

15 **A.** Prior to ... no.

16 **Q.** Prior to the first tertiary investigation. You hadn't
17 had any contact with him?

18 **A.** No.

19 **Q.** Okay.

20 **A.** No. This would be the first time I've had contact
21 with him.

22 **Q.** Right. Okay. So you complete the form. You send it

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1 off. Was this a case that you had to speak to any other AFOs or
2 the operations manager or anyone about it?

3 **A.** No.

4 **Q.** Okay. You subsequently then had contact another time
5 with Lionel Desmond with respect to another tertiary
6 investigation, and this one, I think, is marked as Exhibit ...
7 or the documents related to it are marked as Exhibit 135.

8 **EXHIBIT P-000135 - REQUEST FOR TERTIARY INVESTIGATION -**
9 **DECEMBER 29, 2015**

10 **A.** Yeah, 29th of December 2015.

11 **Q.** Okay, so we have the request for ...

12 **A.** In this case there was a FIP (inaudible - audio).

13 **Q.** Okay, so we have the request for tertiary
14 investigation here relating to the second involvement from
15 December 29th, 2015. On this occasion the request for tertiary
16 investigation has Lysa Rossignol as the provincial firearms
17 officer, but she wasn't actually a provincial firearms officer,
18 is that correct?

19 **A.** No, she was a provincial firearms officer as well.

20 **Q.** Okay, so she had that designation as well?

21 **A.** That's right.

22 **Q.** Okay. Understood. Now the ... on this occasion it's

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1 forwarded to you on December 29th, 2015 again because Lionel
2 Desmond is still living in the Oromocto area, which is in your
3 area of investigation.

4 **A.** Yes.

5 **Q.** Okay. Now on this occasion the boxes that say, "Type
6 of Work Assignment" on this occasion it says "FIP event". So in
7 this case there was a FIP event?

8 **A.** Yes, there was on November 27th, 2015 RCMP were
9 involved and they created a file and their NKO number is there,
10 which is the Oromocto RCMP. And the license is matched to Mr.
11 Desmond and his license was placed under review and the tertiary
12 investigation was forwarded to myself.

13 **Q.** Okay, so again, as we discussed earlier, when a FIP
14 event is created there is a number assigned to it, and that
15 number is noted on the file, is it? Or on the form?

16 **A.** Yes, it is. It's the one in the first column there,
17 6187445.

18 **Q.** Okay, and in the middle box there ... maybe we can
19 even zoom in on it a little bit where ... yeah, right there. It
20 says, "Type" **Mental Health Act**. So we spoke a moment ago about
21 the coding that gives rise to a FIP, or a firearms interest to
22 police events. The descriptor, I guess, in this case was a

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1 mental health event or a **Mental Health Act** event? Is that what
2 I take from that?

3 **A.** Yes, it was.

4 **Q.** Okay, so if police were to respond to an investigation
5 where an individual was suffering from some mental illness it
6 would be coded in a way that would potentially create or should
7 create a FIP event? Do I understand that correctly?

8 **A.** That's my understanding, yes.

9 **Q.** Okay. The date of this event is noted as November
10 27th, 2015, and beside that is a case number. Whose case number
11 would that be?

12 **A.** That would be the RCMP's case number.

13 **Q.** Okay, so that would be the RCMP file number. So this
14 is an RCMP matter?

15 **A.** Yes, it is.

16 **Q.** And the last column "ORI". And it has a series of
17 letters and numbers, NK10111. What do those refer to?

18 **A.** Those refer to the detachment or the area where the
19 file is generated from.

20 **Q.** Okay. And in this case you knew that to be a
21 particular detachment of the RCMP, did you?

22 **A.** Yes, I did.

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1 Q. And which one was it again, sorry?

2 A. It's either Fredericton or Oromocto.

3 Q. Okay. At the time I assume you ...

4 A. I believe it's Oromocto, yeah.

5 Q. Okay. You were fairly familiar with those numbers?

6 You would see them with some regularity, would you?

7 A. Yes, I'd see them quite often, yes.

8 Q. Okay. Again, the information that you received would
9 be ... basically would it ... the information that was in the
10 small middle box on the form that starts with PFO comments?

11 A. Yeah, that "PFO Comments". So the event is the FIP
12 number and it relates to the RCMP number and the ORI.

13 Q. Right.

14 A. And the event is matched to the license, which was Mr.
15 Desmond's license, and it was assigned to myself. And she's
16 just telling me that the license was placed under review. And
17 she has also, in advance, sought disclosure and she's attached
18 that disclosure to the file.

19 Q. Okay, so there was additional information that was
20 attached to that request for tertiary investigation?

21 A. Yes.

22 Q. Do you recall what that was?

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1 **A.** It's exactly what's in the ... that I've disclosed in
2 the tertiary investigation report. I would have probably copied
3 that and placed it in there.

4 **Q.** Okay, so at this time, again, because this was an RCMP
5 investigation, did you have to go through that process of
6 contacting the RCMP officer who was in the CFO's office to get
7 the summary?

8 **(11:10)**

9 **A.** In this particular case the officer manager, Lysa
10 Rossignol, had done that. She had requested that for me and she
11 attached it to the form.

12 **Q.** Okay, but, again, your office or the CFO office had to
13 go through that liaison officer to get the information.

14 **A.** Oh, yes. We would have had to go through the liaison,
15 definitely. Yeah, any RCMP file, as crazy as it sounds, we had
16 to go through the liaison officer. We had no access at all to
17 the RCMP files.

18 **Q.** All right, so in the "AFO Comments" - perhaps the
19 first three paragraphs there - would that have been the
20 information that you would have received ultimately from the
21 RCMP about what happened on November 27th?

22 **A.** Yes. Like I said, I would have copied that into the

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1 file.

2 Q. Okay.

3 A. So it would have been the disclosure I received from
4 our liaison officer in the office in Fredericton and I copied
5 and pasted that onto the report.

6 Q. Okay. This event that gave rise to the FIP was from
7 November 27th, 2015. In this case the request for the
8 investigation is forwarded to you on December 29th of 2015. So
9 about a month later. Was that of concern to you, the time in
10 between the FIP event and it being assigned to you?

11 A. Yes, it was.

12 Q. Okay.

13 A. I don't know what the delays were, but sometimes we
14 wouldn't receive disclosure ... or not disclosure, we wouldn't
15 receive the FIPs for quite some time.

16 Q. All right. And was this typical, like a month delay?

17 A. I wouldn't say it was typical but it happened quite a
18 bit.

19 Q. Okay. So you get this request for tertiary
20 investigation. First of all, do you recall Lionel Desmond from
21 your earlier interaction with him a year before?

22 A. Yes.

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1 **Q.** You did recall him?

2 **A.** Yeah, I would have looked the file up right away,
3 looked his license up, and would have seen the investigation I
4 completed earlier a year ago.

5 **Q.** Okay, so you look him up on CFIS, would you?

6 **A.** Yes, I'd find that on CFIS.

7 **Q.** Okay. Prior to looking him up on CFIS, I'm curious.
8 Did his name stand out to you when you first received this? Did
9 you remember him right off?

10 **A.** No. I probably had gone through a hundred or more
11 clients since him. Initially I don't think the name stood out
12 to me, no.

13 **Q.** Okay.

14 **A.** Once I read the file it refreshed my mind, yes.

15 **Q.** Okay.

16 **A.** I remembered it.

17 **Q.** So I'll just make reference to them, the "AFO
18 Comments". So this would be the information you receive:

19 Disclosure received from the RCMP indicates
20 that on the 27th of November 2015 police
21 received a call from a female. Her husband
22 had sent her some text messages saying he

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1 was going to do harm to himself. He told
2 her he was going to use a firearm and was on
3 his way to the garage, which is where they
4 were stored. He is a veteran and has PTSD.
5 He told her to say goodbye to their daughter
6 and he would see her in heaven. Police
7 attended at the residence. Our client met
8 with them and said he did not have any
9 intention of hurting himself but that he is
10 very depressed. He is concerned for his
11 well being. He was driven to hospital,
12 where he was seen by a doctor. After a
13 while the doctor said he was fine to go
14 home. Police drove our client home, gave
15 him a business card for him to call if he
16 experienced further problems and concluded
17 this matter at this time.

18 So that's what you knew of what had happened on November
19 27th. Is that the total amount of information you had?

20 **A.** That's right.

21 **Q.** So on the basis of that information what action did
22 you take?

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1 **A.** Well, immediately sent the medical assessment form to
2 our physician.

3 **Q.** Okay. And that's because the information disclosed of
4 PTSD and depression and suicidal ideation?

5 I don't know if you froze there.

6 **A.** Yes, that's ... well, it was ... no, it's a medical
7 assessment by a physician. So it was standard, any mental
8 health issues we would send a medical assessment form, and this
9 is just standard procedure for me to send a medical assessment
10 form.

11 **Q.** Okay, so again, you sent a cover letter and the blank
12 medical assessment form by way of registered mail? Is that the
13 way you went about it?

14 **A.** Yes. Yes.

15 **Q.** Okay. I think on page 4 of Exhibit 135 is your cover
16 letter, which was sent to Mr. Desmond in this file.

17 **A.** Yes.

18 **Q.** Is that the letter that you sent to Lionel Desmond?

19 **A.** Yes, it is.

20 **Q.** And that was sent on January 20th, 2016?

21 **A.** Yes, it was.

22 **Q.** Okay, and the information ... you, I guess, summarized

JOSEPH ROPER, Direct Examination

1 the information that you had in the letter to Mr. Desmond.
2 Again, that was ... was that standard to give him information
3 about what your concerns were or what gave rise to the
4 investigation?

5 **A.** Yes, it was.

6 **Q.** Okay.

7 **A.** Yeah.

8 **Q.** And on page 5 of that document we have the "Medical
9 Assessment By Physician" form that was forwarded to Mr. Desmond
10 to be completed. This document is a little different than the
11 one you had sent a year before. There appear to have been some
12 changes made. For example, reason for assessment is more
13 comprehensive and it's at the top of the file ... or top of the
14 form I should say.

15 **A.** Yeah, it was a little longer narrative and the wording
16 changed a little bit. We put reason for assessment and we also
17 added the physician stamp.

18 **Q.** Yes.

19 **A.** Because we get sometimes ... we get the forms
20 completed and signed by a doctor, but we didn't know if they
21 were a doctor or not, we'd have to look them up. But every
22 physician has a stamp. So we added the physician stamp request.

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1 **Q.** Okay. On the form though, still, basically, was a
2 "yes" or "no" type of form with comments required ...

3 **A.** That's right.

4 **Q.** ... whether they came or not. Okay. In this occasion
5 you did ...

6 **A.** That hadn't changed.

7 **Q.** That hadn't changed. Okay. On this occasion you did
8 receive a letter back from a doctor which is on page 3 of
9 Exhibit 135.

10 **A.** That's right, Dr. Paul Smith.

11 **Q.** Okay. And at the time did you know Dr. Smith? Had
12 you dealt with him before?

13 **A.** Yes, I had.

14 **Q.** And in what context had you dealt with Dr. Smith?

15 **A.** Again it was over PTSD issues and clients.

16 **Q.** Okay. Right. Had Dr. Smith completed this type of
17 form in the past?

18 **A.** I ... no, I ... I'm only guessing when I say yes.
19 Because I knew Dr. Smith. So I would assume he had sent one of
20 these back before.

21 **Q.** Okay. Apart from these forms, you knew Dr. Smith
22 through your work as an AFO or otherwise?

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1 **A.** No, as an AFO for ...

2 **Q.** Okay.

3 **A.** Yeah, as an AFO.

4 **Q.** What was your understanding of the nature of his
5 practice, what kind of a doctor he was and who he treated?

6 **A.** I knew that he was a family physician but he had a
7 specialty with treating PTSD patients.

8 **Q.** Okay. Did you know anything else about that, about
9 how he treated PTSD patients?

10 **A.** No, I didn't know. No.

11 **Q.** Dr. Smith, we've heard, prescribed medical marijuana
12 for a number of patients, including Lionel Desmond. Were you
13 aware that that was a form of treatment that he used?

14 **(11:20)**

15 **A.** No, I wasn't.

16 **Q.** Okay. So you have the form, and we'll just open it up
17 again. Page 3. Do you recall receiving this document back from
18 Dr. Smith?

19 **A.** Yes, I do.

20 **Q.** Okay. In this case there are comments written in the
21 middle of the document in the "Comments Required" section. And
22 what did you understand Dr. Smith had said to you there?

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1 **A.** Well, he said he's non-suicidal and that his condition
2 is stable and that he didn't have any concerns for firearms
3 usage and the appropriate license.

4 **Q.** Okay. No concerns for firearm usage. Did you
5 interpret that to be with appropriate license?

6 **A.** Yes.

7 **Q.** Okay. So receiving this information from Dr. Smith,
8 how did you feel about that, I guess? Did you feel you needed
9 to speak to Dr. Smith?

10 **A.** No, I felt it was ... you know, he said that he was
11 non-suicidal and stable. I didn't think that there was an
12 issue.

13 **Q.** So did you have a conversation with Dr. Smith on this
14 occasion?

15 **A.** No, I didn't, no.

16 **Q.** Okay. The form that Dr. Joshi had completed indicated
17 that Lionel Desmond was being medicated by him. Did you have
18 ... do you recall if you had a concern about whether Lionel
19 Desmond was continuing to take his medication as he should on
20 this occasion?

21 **A.** Well, I read into the fact that when he said that he
22 was stable, whether he was on medication or not that everything

JOSEPH ROPER, Direct Examination

1 was fine.

2 **Q.** Right. Okay. When the doctor said "with appropriate
3 license" and maybe I'm reading more into that than I should.
4 But did you ever think, or did other AFOs think that doctors
5 maybe didn't appreciate the extent to which they were ... the
6 weight that their opinion carried with you, that they may have
7 thought you were doing additional investigation or seeking other
8 sources when you might not?

9 **A.** I can recall several meetings where it was discussed
10 that we should be meeting with the doctors as a whole and
11 explaining our position and what their impact on our decisions
12 were.

13 **Q.** Yes.

14 **A.** But we could never find ... this is my understanding
15 anyway, we could never find the appropriate method to get in to
16 see the doctors that way as a group, as a whole, to speak to
17 them.

18 **Q.** Yes.

19 **A.** To make a presentation to them. Certainly, in
20 hindsight, you know, I'm a big training guy proponent and, you
21 know, we needed training. We tried to get some mental health
22 training as AFOs. We did have a session one time during our

JOSEPH ROPER, Direct Examination

1 quarterly meetings with a mental health representative. They
2 explained some of the factors in mental health but there was
3 lots of questions and ... especially with the amount of PTSD
4 files that I was facing in particular. I had lots of questions,
5 but again, we never got that training, I guess, that I felt we
6 should have had with regards to these particular cases. And
7 again, there was no communication with the doctors and I felt
8 that was wrong as well.

9 Q. Okay. That type of conversation with the doctors,
10 especially those are more generally filling out forms like this,
11 would have been beneficial would it, then?

12 A. Oh, certainly, yes, yeah, and it was ... it almost
13 felt like it was a strained relationship when we did try and get
14 the doctors because either they weren't available or we wouldn't
15 get a phone call back from them or there always seemed to be
16 that that communication was lacking there and, again, I felt we
17 needed better communication. But that never happened.

18 Q. On this occasion you had information that obviously an
19 RCMP officer had taken Lionel Desmond to hospital. Apart from
20 receiving the information through the liaison officer, was this
21 a case where you contacted the officer or the detachment for
22 more information?

JOSEPH ROPER, Direct Examination

1 **A.** No. This was a run-of-the-mill PTSD case. Most of
2 the files that I've received with PTSD patients is they go
3 through this bit of mania where they make threats to take their
4 lives or take someone else's life, and we'd see this quite
5 often. This wasn't an unfamiliar text that you're seeing here.
6 Most of them, that's what brought them to our attention.

7 **Q.** Okay. So the information that is described there, you
8 say, was not uncommon and, in fact, you saw more serious
9 descriptions than that?

10 **A.** Yes.

11 **Q.** He was treated at a hospital and seen by a doctor in
12 New Brunswick. Had you wanted to, would you have been able to
13 obtain that information or speak to that doctor?

14 **A.** Yeah, I don't know. I've never taken that avenue. So
15 I don't know how extensive ... I don't think we'd be able to
16 access the records, medical health records, unless ... I'd have
17 to get police involved and they'd have to get a warrant to have
18 a look at their medical records.

19 **Q.** Beyond the medical assessment form that you would give
20 to the client would you ever have occasion to ask the client to
21 sign a consent to obtain more medical information?

22 **A.** No, we never did that.

JOSEPH ROPER, Direct Examination

1 **Q.** All right. So in this case you received the form back
2 from Dr. Smith with those words on it that ... or comments that
3 he had provided to you and I take it, again as noted, you
4 checked the JIS, CPIC systems as well.

5 **A.** Yes.

6 **Q.** Okay. Was there any additional investigation done on
7 this occasion?

8 **A.** No, I don't believe so. I believe I had a
9 conversation again with Mr. Desmond, although I don't mention it
10 here. My recollection is that he again hand-delivered the
11 report to the office and prior to him showing up there he called
12 me and I had a conversation with him, although it's not
13 mentioned in my report.

14 **Q.** And do you recall anything of that conversation with
15 Lionel Desmond?

16 **A.** No, but if there was anything significant I would have
17 placed it in the file.

18 **Q.** Okay. When you referred to your contact with Lionel
19 Desmond in the first tertiary investigation you said, I think,
20 that he was polite and easy to deal with. Is that your
21 recollection of him the first time you dealt with him?

22 **A.** Yes.

JOSEPH ROPER, Direct Examination

1 **Q.** Do you recall any observations you made of him the
2 second time you dealt with him in the second investigation?

3 **A.** Again, he was polite when talking to him. You know, I
4 didn't think he was as troubled as he was.

5 **Q.** Okay. You said if there had been anything you would
6 have noted it. What types of things might you have looked for
7 in a client that would have caused you concern?

8 **(11:30)**

9 **A.** Well, if he said that he was taking more medication or
10 if he was taking less or anything that would have affected my
11 decision.

12 **Q.** And I appreciate you didn't make note of the
13 conversation. But do you recall if you asked him any questions?

14 **A.** Yeah, I do recall talking to him about his wife but I
15 don't recall exactly the questions that I asked. But I was
16 curious about his wife because of the fact that she had called
17 and reported him. So I wanted to make sure everything was okay
18 there.

19 I do remember him telling me that she was in training to be
20 a nurse or ...

21 **Q.** Okay.

22 **A.** That's about all, yeah. I think that's about all that

JOSEPH ROPER, Direct Examination

1 I can recall.

2 Q. Okay. Where the report initially came from his wife
3 would this have been the type of file where you might have
4 contacted her to get her views on how he was doing?

5 A. Yeah, like I said, this was a common occurrence for
6 PTSD clients. So no, I didn't feel I needed to contact her.

7 Q. Okay. On the second page of the tertiary
8 investigation you have the box checked that says, "Approved,
9 reinstated". Earlier when you said when this FIP event was
10 created you said the license was placed under review. This
11 wasn't an application ...

12 A. Yes.

13 Q. ... for renewal. What was the effect, I guess ...

14 A. No.

15 Q. ... of checking the box on this occasion that said
16 "approved" or "reinstated"?

17 A. Okay, so what happens is in CFIS the box is checked so
18 it places the license under review. So if a gun dealer in
19 Fredericton was ... if he went there and tried to buy a firearms
20 and the vendor checked the system they would see the license is
21 under review. But that's all he'd know. And so what happened
22 at the end of the investigation, I approved or reinstated the

JOSEPH ROPER, Direct Examination

1 license. So the "under review" basically came off the license
2 and it was back to normal.

3 Q. Okay, so when that occurs, if a vendor were to check
4 CFIS, the designation of "under review" would no longer be
5 there?

6 A. That's right.

7 Q. All right.

8 **THE COURT:** Mr. Murray?

9 **MR. MURRAY:** Yes.

10 **THE COURT:** Just going to stop for a second. I
11 understand that we no longer have Mr. Williams on the call.
12 Apparently he sent an email to us to advise that there was a
13 fire in close proximity to where his office was, and I think he
14 is either investigating that or has had to vacate. And I know
15 that Mr. Roper is appearing with counsel and counsel is no
16 longer there.

17 I don't think that Mr. Williams had made a request to not
18 continue, but until I actually hear from him, I think, out of
19 simply respect for the solicitor-client relationship that would
20 exist there and the fact that he was on the call, I think we're
21 going to take a short break. So Mr. Roper, we're going to try
22 and track down Mr. Williams to see what's happening with his

JOSEPH ROPER, Direct Examination

1 office and give you an opportunity to see if you can have a
2 conversation with him.

3 Eventually I would ask you the question whether you would
4 like to continue, or would you continue, without Mr. Williams or
5 whether you would like to have him available to you during the
6 course of your questioning here today. You can have that
7 conversation with him.

8 **A.** Thank you, Your Honour.

9 **THE COURT:** All right, and ...

10 **A.** I'll try and make contact with him.

11 **THE COURT:** All right. Well, we'll take a break. It's
12 about 25 to 12 now. Let's take a break for maybe 20 minutes -
13 so about ten to - and then we'll reconvene and see where we
14 stand that time. All right. Thank you, then.

15 **A.** That's good. Thank you.

16 **COURT RECESSED (11:36 HRS.)**

17 **COURT RESUMED (11:52 HRS)**

18 **THE COURT:** Do we have Mr. Williams back?

19 **MR. WILLIAMS:** Yes, I am, Judge. I apologize. There was
20 an actual fire four offices away from me coming out of the
21 ceiling so, initially, I didn't leave, but then they insisted I
22 had to leave, but we're back in business now.

JOSEPH ROPER, Direct Examination

1 **THE COURT:** All right. Well, I'm happy to hear that.

2 **MR. WILLIAMS:** I apologize for ... Yeah, I am too.

3 **THE COURT:** No concern. Well, thank you very much then.

4 **MR. WILLIAMS:** Thank you.

5 **THE COURT:** Thank you. Mr. Murray?

6 **MR. MURRAY:** Thank you, Your Honour. Mr. Roper, before
7 we broke, we were just talking about, effectively, what happened
8 when you gave your decision with respect to the second tertiary
9 investigation that you received in December of 2015. And I
10 think, at the end of that document, your signature is dated
11 February 29th, 2016, and you had said, "Approved. Reinstated".
12 So that would have been when you made your decision and
13 completed the form with respect to the investigation, would it?

14 **A.** Yes, it would.

15 **Q.** Okay. And you said, ultimately, that that change in
16 status, I guess, or the fact that it was no longer under review,
17 would make its way onto CFIS?

18 **A.** That's right. Prior to, as I finished this form, I
19 would reinstate the license and then complete the form.

20 **Q.** I see, okay. So you would have access to CFIS and be
21 able to make that change, would you?

22 **A.** Yes, I was.

JOSEPH ROPER, Direct Examination**1 EXHIBIT 130 - CFIS - DESMOND DISCLOSURE**

2 Q. Okay. So I'm going to ask if we can bring up Exhibit
3 130 which are a bundle of documents relating to Mr. Desmond
4 from, I think, the Canadian Firearms Information System. And if
5 we could go to page 9 of that document, which is Exhibit 130.
6 And maybe we can zoom in to the fourth or fifth line from the
7 bottom, an entry dated February 29th, 2016. On that occasion,
8 there appears to be an entry, February 29th, 2016. Are you able
9 to see that, Mr. Roper, on your end?

10 A. Yes, I am.

11 Q. Okay. "Roper, Joseph. Client event 6187445.
12 Severity lowered." Is that the entry that would have been made
13 when you completed your tertiary investigation?

14 A. Yes, it would.

15 Q. And that's our FIP number, is it, the "6187445"?

16 A. Yes, it is. That's on that tertiary from the 29th of
17 December.

18 Q. So the phrase "under review" isn't technically used
19 here. The phrase that's used on the database is "severity
20 lowered". Is that the same thing?

21 A. Yes, it is.

22 Q. Would somebody accessing this system be able to know,

JOSEPH ROPER, Direct Examination

1 I guess, what that means or what that phrase "severity lowered"
2 referred to?

3 **A.** If they were using CFIS all the time, yes, they would.
4 I don't know what a business owner would see. I don't know. I
5 don't think they'd have access to that information.

6 **Q.** Okay. So it would be somebody who had familiarity
7 with the system and be able to understand what the entries mean.
8 That would provide that information or be able to understand it?

9 **A.** Yes. That's right.

10 **Q.** Okay. If we could go back just to that same spot we
11 were on, page 9 of Exhibit 130, and just the line right above
12 where you had entered "severity lowered", there's an entry.
13 Well, first of all, I'll ask you, before I ask you this. At the
14 point in time that you changed the status on CFIS and completed
15 your form, was that the end of your involvement in that
16 investigation?

17 **A.** Yes, it was.

18 **Q.** Okay. So on the line just above where you had entered
19 "severity lowered", there's an entry from Lysa Rossignol, April
20 7th, 2016, that says: "Waiting on disclosure from NS for FIP
21 6184442", and then a case number which I think is an RCMP case
22 number. That's a different FIP number than yours from November

JOSEPH ROPER, Direct Examination

1 27th. Correct?

2 **A.** Yes, it is.

3 **Q.** Were you aware that there was another FIP had been
4 created in Nova Scotia and that your office was awaiting
5 disclosure on that FIP when you did your investigation?

6 **A.** No, I wasn't aware at all.

7 **Q.** Okay. So, at the time, you didn't know about what had
8 happened in Nova Scotia or what that FIP was related to?

9 **A.** No. The first time I knew about that, any of that,
10 was when we had our discussions leading up to this, my
11 testimony.

12 **Q.** Okay. And the entry just above that, above the April
13 7th entry, is one that you made on April 13th, 2016, and it
14 relates to a conversation you had with Cst. Len MacDonald at the
15 Canso, Nova Scotia Detachment of the RCMP?

16 **A.** Yeah.

17 **Q.** Do you remember that conversation with Cst. MacDonald?

18 **A.** Yes, I do, yeah.

19 **Q.** Okay. And what was that conversation about?

20 **A.** Cst. MacDonald wanted to return a firearm to Lionel
21 Desmond's father-in-law, I believe, that was seized. And that
22 was the only information that I had. I don't recalling reading

JOSEPH ROPER, Direct Examination

1 a FIP about it. I don't believe I ever got disclosure about it.
2 I wasn't made aware of it until he called me and said that he
3 wanted to return a firearm to Lionel Desmond's father-in-law
4 down in around Canso, Nova Scotia. And I believed that, in my
5 mind, he was talking about the incident that I initially was
6 investigating, which is the FIP that I had just completed and,
7 for some reason, the RCMP down in Nova Scotia were contacted and
8 they seized a firearm. So, again, I had no idea that there was
9 a concern or there was a mental health issue down there
10 specifically.

11 **(12:00)**

12 **Q.** And I'm going to refer to that same entry there, if we
13 could put it back up. So when you spoke to Cst. MacDonald, you
14 had, I guess, assumed he ... you were speaking about your event
15 from November 27th, 2015. Is that correct?

16 **A.** That's right, yes. And you see it says: "Back when
17 an incident about his mental health was a concern, the RCMP in
18 Oromocto had contacted them and asked them to seize a Savage
19 bolt-action rifle."

20 **Q.** Okay.

21 **A.** And that was ... that created that file number, but I
22 didn't realize that there had been subsequent issues down in

JOSEPH ROPER, Direct Examination

1 Nova Scotia. I wasn't aware of that at all.

2 Q. Okay. And, in fact, that file number, the RCMP file
3 number that's in your entry from April 13th, 2016, the 1494158,
4 is actually a different file number, I think, from the one that
5 we dealt with on November 27th.

6 A. Yes, it was.

7 Q. Okay.

8 A. But I thought they created that number when they
9 seized the firearm.

10 Q. Okay. And I'm just going to leave that document up.
11 I'm just going to refer to it again.

12 No, understood. A detachment in another province might
13 create their own file number then?

14 A. That's right.

15 Q. Okay. And you had said in your entry in February:
16 "The client had completed a medical assessment and the license
17 could have been reinstated, but was waiting for the NS file to
18 be clear. Cst. MacDonald was advised that the firearm can be
19 returned to the client's father-in-law and the FIP cleared."

20 So that was the information that you gave to Cst. MacDonald
21 based on what you knew of the situation?

22 A. Yeah. There was lack of communication there somehow

JOSEPH ROPER, Direct Examination

1 because I, again, I didn't realize that the RCMP had been called
2 regarding the mental health of Mr. Desmond in Nova Scotia.

3 Q. Right.

4 A. All I knew was that the RCMP in Oromocto had contacted
5 them and asked them to seize a firearm in Canso area.

6 **EXHIBIT 133 - EMAIL FROM LYSA ROSSIGNOL TO JOSEPH ROPER - APRIL**
7 **18, 2016**

8 Q. Okay. And then if we could go over to Exhibit 133,
9 you received an email on April 18th, 2016, from Lysa Rossignol
10 that says: "Hi, Joe. License placed back to valid. Lysa." Do
11 you recall getting that email from Lysa Rossignol?

12 A. Yes, I do.

13 Q. Okay. And do you remember anything else? I guess you
14 said earlier that you really weren't aware of the Nova Scotia
15 investigation until we spoke, so, beyond that email from Lysa
16 Rossignol saying that the license had been placed back to valid,
17 do you recall having any other information about the Nova Scotia
18 event, or speaking to Lysa about it, or asking about that email?

19 A. No. I recall that when I talked to Cst. MacDonald, he
20 was talking about one thing and I was talking about something
21 else.

22 Q. Right.

JOSEPH ROPER, Direct Examination

1 **A.** I was talking about the incident in Oromocto and he
2 was talking about the incident in Canso area. And I wasn't
3 aware that they had created a file, but I knew we had a file.
4 So I assumed that the file number that they created was when
5 they seized the firearm.

6 **Q.** Okay. And on Exhibit 133, page 3, there's an email -
7 we'll just bring it up here - an email from Dianne Campbell to
8 Lysa Rossignol. Dianne Campbell, I believe, is somebody who
9 works in the Nova Scotia Chief Firearms office. And the email
10 says: "Hi Lysa. Attached is the 3825 response we received for
11 your client, finally. Let me know if you need anything else.
12 Dianne." I take it you didn't see that particular email?

13 **A.** No, I didn't.

14 **Q.** Okay. And attached to that ... Now, you talked to us
15 earlier about the process of using the 3825 form to get
16 information from the RCMP. It appears that's what this refers
17 to. It makes reference to a 3825 response?

18 **A.** That's right. The office manager in Fredericton would
19 have, when they saw the FIP there, she would've seen that it was
20 a Nova Scotia file. She would've contacted the office manager
21 in Nova Scotia and requested disclosure on that Nova Scotia
22 file.

JOSEPH ROPER, Direct Examination

1 **Q.** Okay. And after receiving that on April 18th, it
2 appears Lysa Rossignol contacted you and said that, once again,
3 the license was placed back to valid?

4 **A.** Yeah, there was a miscommunication there somewhere
5 because I wasn't aware that there was a file in Nova Scotia.

6 **Q.** Okay. So the attachments that came to Lysa Rossignol
7 are ... I'm just going to make reference to a couple of entries
8 and just ask you a question about them. These relate to an
9 event on November 18th, 2015. So about nine days before your
10 event, the New Brunswick event.

11 **A.** Yes.

12 **Q.** So if we could just turn to page 6 of Exhibit 133 and
13 just zoom in there to the second paragraph. There was a
14 wellness check done on Mr. Desmond on November 18th, 2015, and
15 we've heard evidence about this. Sgt. Addie Maccallum attended
16 at the residence and he made an entry at 17:00 hrs. He says:
17 "Writer attended the scene and spoke with (I think) complainant
18 (that is) who advised Desmond has been manic several times
19 today. Not threatening to hurt self or others, but has so in
20 the past. Has stopped taking medications and unknown if he was
21 going to see his doctors about his PTSD."

22 So that entry was something that you never saw. Is that

JOSEPH ROPER, Direct Examination

1 correct?

2 **A.** No, I never saw any of that.

3 **Q.** Okay. And just on page 5 of Exhibit 133, there's an
4 entry from another officer, Cpl. Steve O'Blenis, and about
5 midway through there there's a paragraph that says: "Writer
6 contacted Guysborough Detachment." Just zoom in to that. Cpl.
7 O'Blenis made an entry and he said: "Shanna advised writer that
8 he (that is, Lionel) had access to a vehicle, a Ford Escape,
9 grey in colour, but that is in the driveway. Shanna advised
10 that she fears that harm may come, not sure to him or someone
11 else. She advised that he has been prescribed a medical
12 marijuana license for his illness." And, again, that entry and
13 that supplementary occurrence report, that wouldn't have come to
14 you either. Correct?

15 **A.** No.

16 **Q.** If you had had ...

17 **A.** Nom this ...

18 **Q.** If you had had that information - the entries from
19 Cpl. O'Blenis or Sgt. Maccallum - when you made your decision in
20 February about reinstating the license or not having it under
21 review, would those entries have made any difference to you or
22 would they have changed your approach?

JOSEPH ROPER, Direct Examination

1 **A.** Yes, I'm sure they would've.

2 **Q.** Would that have been beneficial for you to have known
3 about what had happened, I guess, ten days earlier?

4 **A.** Oh very, yes.

5 **Q.** All right.

6 **A.** Yeah, very, very much so. I was, like I said, I was
7 shocked when I ... you brought it to my attention. I wasn't
8 aware of it at all.

9 **Q.** Okay. So in April of 2016, Lysa Rossignol tells you
10 that the license is placed back to valid. After you received
11 that email, did you have any additional discussions with anyone
12 regarding Lionel Desmond's file or any additional involvement in
13 it?

14 **A.** No, I didn't.

15 **Q.** Okay. I just want to ask you a couple of general
16 questions about your work as an AFO. I think you said earlier
17 that, at the time that you were there, you didn't have access to
18 the police records the way you may have wanted to, but it was
19 your understanding that AFOs now have access to PROS?

20 **(12:10)**

21 **A.** That's right, yes.

22 **Q.** Beyond that, as an AFO, was there other police

JOSEPH ROPER, Direct Examination

1 information that you would've liked to more easily have been
2 able to access to assist you in your investigations?

3 **A.** No. I think if we had had access to PROS, it would've
4 been ... the files would've moved on a lot quicker. It was
5 time-consuming, by the time we did 3825s requesting information
6 and we got an abbreviated version of the file, we never got the
7 complete file. We got someone else's version of what somebody
8 else said. So I think if we had access to the PROS files
9 themselves, it would've been much better.

10 **Q.** Okay. And access to other police agencies. That
11 continues ... and I appreciate you don't work for the CFO office
12 anymore but did that continue to be a challenge for you?

13 **A.** I had a good rapport with the other agencies, the
14 municipal agencies, so I had no problem. I got to see the
15 original reports. I didn't get an abbreviated, watered-down
16 version of them.

17 **Q.** The medical information that you got on the form that
18 you used at the time you were there seemed somewhat limited, and
19 you said that even though you requested comments from the
20 doctors, you didn't always get them. Would you have felt it of
21 benefit to get more detailed medical information?

22 **A.** Oh, definitely, yes.

JOSEPH ROPER, Direct Examination

1 EXHIBIT P-000126 - CONSENT FOR DISCLOSURE OF MEDICAL INFORMATION
2 TO A CHIEF FIREARMS OFFICER TO ASSESS ELIGIBILITY FOR A FIREARMS
3 LICENSE

4 Q. All right. We do have marked as an exhibit, I think,
5 a current form that's used, as Exhibit 126. I don't know if
6 you've seen this or if this was in use before you retired.
7 We'll just bring it up. Was this document in use at all when
8 you were still working?

9 A. No, it wasn't, no.

10 Q. This document, if you ...

11 A. No, it was not.

12 Q. If you move over to page 3, I think, there are more
13 detailed questions. For example: "How long has this patient
14 been under your care?" "Prior to today, how often have you seen
15 this patient in the past 12 months?" "Explain the nature of the
16 patient's health circumstances." "Please identify if the
17 patient is currently subject to any prescribed medication,
18 treatment or counselling." "If applicable, what effects does
19 the medication have?" There are a number of questions that ask
20 for more specific information. Is this the type of information
21 that you were seeking in the "Comments" section of the form that
22 you used?

JOSEPH ROPER, Direct Examination

1 **A.** Yes, it was for sure.

2 **Q.** All right. On the issue of where you required a
3 medical opinion from a doctor, typically, where a doctor
4 provided you an opinion saying that they had no concerns about a
5 person possessing a firearm, where it was a medical or mental
6 health issue, did you normally accept the opinion of the doctor?
7 And, if not, can you say when you would question the doctor's
8 opinion?

9 **A.** No, I never accepted all the doctors in their
10 assessments. I've had occasion to visit the client and witness
11 their condition first-hand, and to see the medications on their
12 counter, and the amount of medications they were taking, and
13 just their condition. In one particular occasion, I did this, I
14 visited a client in his home, noted his condition. Even though
15 he was on all these medications, I still felt there was a
16 problem. I gave him the medical assessment form. He came back
17 from the doctor and the doctor said they didn't have any
18 problem. And I still ... I refused to license based on my
19 interaction with the person.

20 **Q.** Okay. And that was ... can you give us a sense of -
21 and not just you, but maybe other AFOs - how often that might
22 happen that the opinion of a doctor would not automatically be

JOSEPH ROPER, Direct Examination

1 accepted?

2 **A.** It wasn't that often, I have to admit. Most of the
3 opinions that the doctor gave, they were accepted, but there was
4 the exceptional one that wasn't.

5 **Q.** Okay. As you did your work as an AFO, did you see
6 other deficiencies or areas where you could've had more
7 resources to assist you in doing the work you were doing?

8 **A.** Well, I think the biggest deficiency when I was there
9 was the fact that we couldn't have access to PROS. That was my
10 biggest complaint. I'd liked to have also seen more training
11 for mental health issues and we needed to open up a better line
12 of communication with the doctors.

13 **Q.** All right. Just one moment. All right, thank you,
14 Mr. Roper. Those are the questions I have. Other counsel may
15 have questions.

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

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

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

19 **MS. WARD:** Ms. Grant has some questions.

20 **THE COURT:** Ms. Grant?

21

22

JOSEPH ROPER, Cross-Examination by Ms. GrantCROSS-EXAMINATION BY MS. GRANT

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(12:17)

MS. GRANT: Good afternoon, Mr. Roper. Can you hear me okay?

A. Yes, I can.

Q. Perfect. My name is Melissa Grant and I'm representing the various federal entities, including the RCMP, that we've mentioned today. Just a couple of questions for you and maybe some clarifications.

Earlier, we talked about the kind of phrase "under review" and what vendors might know if they're checking CFIS. And I know you're not a vendor but, just based on your experience and from what we've learned from our client, do you have any cause to disagree with what I'm going to put to you, which is that the message a business sees when they search a license and it's under review in CFIS is a kind of standard, "Please contact the CFO of your province for information on the validity of this license"?

A. That's my understanding of it, yes.

Q. Okay, thank you. And just another point of clarification. Earlier in your testimony, you said that all FIPs, I believe, generate a tertiary investigation?

JOSEPH ROPER, Cross-Examination by Ms. Grant

1 **A.** Yes, to my knowledge, yeah.

2 **Q.** So I just want to back that up a second and go to, I
3 guess, a scenario where I would say that I'm a person that I did
4 something that generated a FIP and I don't have a license, or
5 haven't applied for a license, for a firearm. So in a case like
6 that is there some sort of matching process that takes place to
7 see if the person who is attached to the FIP is a person who is
8 attached to a license?

9 **A.** If you went to an RCMP detachment or a municipal
10 detachment and made a complaint, there would be a file generated
11 and that would go, eventually, if it's coded properly, it would
12 go on CPIC, or on ... yeah, be through CPIC. So down the road,
13 you make an application for a firearms license, that would come
14 up, it would match. CFIS would match that entry and it would
15 automatically develop a FIP for that particular incident if it's
16 within the previous five years. They only go back five years.

17 **Q.** Okay. And that's fine and that tracks with what we
18 understand but, if, in a case that, when you're saying all FIPs
19 generate a tertiary investigation, if there's nothing that is
20 connecting me to ... I don't have a license or I've never
21 applied for a license, so would you be doing a tertiary
22 investigation on a person that ...

JOSEPH ROPER, Cross-Examination by Ms. Grant

1 (12:20)

2 A. No.

3 Q. Okay.

4 A. No.

5 Q. That was the point of clarification that I just wanted
6 to make.

7 A. Yeah.

8 Q. So there's probably, you know, thousands and thousands
9 of FIPs that get generated in a year. And so you're not doing
10 tertiary investigations on things where there's no match to a
11 person.

12 A. That's right.

13 Q. Okay.

14 **THE COURT:** Mr. Roper, when you get the FIP generated,
15 if it relates to a license, it gets matched to the license
16 number, does it not?

17 A. That's correct, Your Honour.

18 **THE COURT:** Yeah. Thank you.

19 **MS. GRANT:** Based on your experience as an area firearms
20 officer, can you just sort of briefly describe the concept, as
21 you understand it, of continuous eligibility?

22 A. I guess you're always subject to an investigation or

JOSEPH ROPER, Cross-Examination by Ms. Grant

1 to checks within the ... your license is good for five years so,
2 at any point, we could check to make sure that you're still
3 eligible.

4 Q. Okay. And on one of the "Personal History" questions
5 that was below the one we discussed, which was about mental
6 health issues, there was another one, 16(f), about "divorce,
7 separation, breakdown of a significant relationship, job loss,
8 or bankruptcy". I'm just wondering how, if I have a license and
9 I'm declaring bankruptcy, like how would that information come
10 to you? Would it be on the applicant?

11 A. Yeah, it would be the self-reporting.

12 Q. Okay. So you, to a large degree, rely on applicants
13 to be honest in their disclosures to you.

14 A. Oh, very. Yes, very much so.

15 Q. And with respect to the issue of intimate partner
16 violence, there was a number of things that you discussed
17 earlier about how a spouse can't be a reference, for example,
18 and I believe on the form ... but they do have to sign off.
19 Correct?

20 A. That's right.

21 Q. And if they don't sign off, you would contact them?

22 A. That's right.

JOSEPH ROPER, Cross-Examination by Ms. Grant

1 **Q.** And if there are ... I think one of the things we
2 maybe didn't touch on was whether there were any sort of peace
3 bonds or prohibition orders or that sort of thing, like a court
4 check, that would come to your attention as well?

5 **A.** Yes, through our JIS. It reports any matters before
6 the court.

7 **Q.** And just as, I suppose an exercise in ... you know,
8 here we are in a public forum. Before I started my involvement
9 in this file, I really wasn't aware that there was this 1-800-
10 number that somebody could call - 1-800-731-4000 - which would
11 enable me or anybody to report a concern about someone with a
12 firearm. So is that a way that people who have concerns can
13 report that to the ... I would imagine it goes to the central
14 processing site?

15 **A.** Yes, it goes to the central processing site, and if
16 it's warranted, I can create a FIP on my own and we would
17 investigate it. So I wouldn't need the RCMP to create the FIP.
18 I would create my own FIP and do an investigation.

19 **Q.** So if a doctor, or a family member, or a neighbour, or
20 anybody called you and said, I have a concern about so-and-so
21 because "X, Y, Z", you would investigate that.

22 **A.** Yes, I would.

JOSEPH ROPER, Cross-Examination by Ms. Grant

1 **Q.** And have you had any sort of emergency-type calls
2 where somebody is calling you and you've had to direct them
3 maybe to 9-1-1 or something like that?

4 **A.** No, I'd never direct them to 9-1-1, but they weren't
5 (imminent?) threats, but I have directed them to the RCMP and
6 followed up with the RCMP, and a FIP has been generated. And
7 I'll start the investigation sometimes even before I get the
8 FIP, knowing that it's coming.

9 **Q.** Just a couple of other things I just wanted to review.
10 With respect to the province where you operated in, which is New
11 Brunswick, it's our understanding that that was a province where
12 the province had opted to administer the Canadian Firearms
13 Program. That's correct?

14 **A.** That's right.

15 **Q.** And so our understanding of that is that - and we've
16 seen some of the forms that were used here - that you can use
17 forms provided by the Canadian Firearms Program federally, but
18 you also have discretion to kind of make your own forms if you
19 wanted to do that. And we did hear that you had made some
20 changes.

21 **A.** Yes, that was my understanding.

22 **Q.** So, I guess, on that point, it's our understanding

JOSEPH ROPER, Cross-Examination by Ms. Grant

1 that that was allowed so long as the changes that you would make
2 were not sort of inconsistent with the **Firearms Act**.

3 **A.** I believe so, yes.

4 **Q.** With respect to the CFIS database - and you may have
5 answered this question, but just to clarify - you had indicated
6 your practice was you would have your own sort of running file,
7 if I could call it that, and then you'd put everything on the
8 box that we saw and were discussing earlier? Is that right?

9 **A.** Yes.

10 **Q.** So you would have, potentially - and other area
11 firearms officers and provincial firearms officers could have
12 sort of information in their files that wasn't necessarily on
13 the CFIS database.

14 **A.** Usually, if the license was under review, then once
15 the investigation is completed, then everything is placed on
16 CFIS. So if another AFO had information, it wouldn't be on CFIS
17 until they were finished or they passed that information on to
18 myself or whoever is doing the investigation.

19 **Q.** And with respect to training, I'm just curious. You
20 have an extensive policing background. Are there a variety of
21 backgrounds for people that occupy those positions or was it
22 typical to have a police background?

JOSEPH ROPER, Cross-Examination by Ms. Grant

1 **A.** It's typical to have a police background in
2 investigations.

3 **Q.** Oh, I see. So you could potentially be a fire
4 investigator or something like that, that you have experience
5 knowing how to do an investigation?

6 **A.** That's right.

7 **Q.** Okay. And so, just to clarify, because we heard
8 previous testimony that the liaison officer who had to access
9 PROS on your behalf, that was kind of unique because that
10 existed in New Brunswick and Quebec, that's our understanding,
11 at the time? Or do you have any information?

12 **A.** I can't speak for Quebec. I know it was in New
13 Brunswick for sure because I used it.

14 **Q.** I guess my suggestion is that in other provinces, that
15 work was done at the central processing site.

16 **A.** Again, I can't answer that. I don't know.

17 **Q.** All right. So I guess just one final question.
18 You're writing an investigation report, tertiary investigation
19 report, and you're gathering information from sources. Is it
20 fair to say that your report is only as good as the information
21 that you're able to ascertain?

22 **A.** Oh, for sure.

JOSEPH ROPER, Cross-Examination by Ms. Grant

1 **Q.** And if somebody had called a firearms office, or RCMP,
2 9-1-1, or anything like that that generated a FIP, or called
3 your office directly and said, I think this person is dangerous
4 and I'm afraid, or whatever the case may be, that's not
5 something you would ignore. That's something you would take
6 seriously?

7 **A.** Yes.

8 **Q.** And in your file that we've gone through today,
9 there's no indication that any family members in this case, or
10 friends of Mr. Desmond, had contacted you or your office or
11 called that 1-800-number. We would have a record of that if
12 that had happened?

13 **A.** No, there was no ... none that I found.

14 **Q.** Thanks. Those are all my questions.

15 **A.** Thank you.

16 **THE COURT:** Thank you. Counsel, I think that it's
17 12:30. In the normal course of events, we break for lunch at
18 this time, Mr. Roper and Mr. Williams. If that's convenient, if
19 we'd adjourn and return at 1:30?

20 **A.** All right.

21 **THE COURT:** All right. Thank you then.

22 **A.** Okay.

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 COURT RECESSED (12:31 HRS)

2 COURT RESUMED (13:30 HRS)

3 THE COURT: Thank you. Good afternoon.

4 COUNSEL: Good afternoon, Your Honour.

5 THE COURT: All right. Let's see. Mr. Macdonald?

6 MR. MACDONALD: Yes, Your Honour. Thank you.

7

8 CROSS-EXAMINATION BY MR. MACDONALD

9

10 MR. MACDONALD: Good afternoon, Mr. Roper. My name is
11 Thomas Macdonald and I am the lawyer for the Borden family. So
12 that would be Cpl. Desmond's late wife and daughter's parents,
13 uncle, grandparents. I just wanted to ... can you hear me all
14 right, by the way? How is the link?

15 A. Yeah, you're fine.

16 Q. Okay. Good. Thanks. So you'll stop me if you can't
17 hear at any time?

18 A. Yes, I will.

19 Q. Yeah, thanks.

20 You know, of course, that Lysa Rossignol and Derek Eardley
21 appeared before the Inquiry last year.

22 A. Yes, I was aware of that.

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 Q. Did you watch their testimony?

2 A. No, I didn't.

3 Q. Have you ever read a transcript of their testimony?

4 A. No, I haven't.

5 Q. Okay. To cut through to it, is it fair to say that
6 your decision to reinstate Cpl. Desmond's license was based on
7 Dr. Smith's medical assessment?

8 A. Yes, it was. It had a lot to do with it. Yes, for
9 sure.

10 Q. Is it fair to say that it was the determining factor
11 in reinstating it?

12 A. No, it wasn't the determining, no.

13 Q. What was the determining factor in your mind?

14 A. It was my interaction with him, the telephone
15 conversation I had with him.

16 Q. So for you, that telephone conversation trumped the
17 medical report as a factor?

18 A. It certainly contributed to it, yes.

19 Q. Did you give the telephone conversation more weight
20 than the medical report?

21 A. That's hard to say. I can't really answer that
22 question. I don't know.

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 **Q.** Okay. You don't know because you can't remember or
2 you didn't turn your mind to it at the time or do you know?

3 **A.** A little of both.

4 **Q.** Okay. When I look at the, what I will call the second
5 FIP, so that's the November 27th, 2015 FIP that is in your
6 tertiary investigation report, the part of it, the narrative is
7 in there. You know what I mean?

8 **A.** Yes.

9 **Q.** So Exhibit 135 if you need to look at it.

10 **A.** No, I have it here.

11 **Q.** You have it. Okay. When I look at that in isolation
12 for the moment ... and I'm paraphrasing. So what it says to me
13 is ... and by the way, when it says "AFO Comments" those are ...
14 this is you writing here, typing here, is it?

15 **A.** Yes, it is.

16 **Q.** Yeah, so it's saying, when I look at it, that a female
17 called and said her husband was sending text messages saying he
18 was going to do harm to himself. He was going to use a firearm.
19 He was on his way to the garage which is where they're stored.
20 He's a veteran. He has PTSD, told her to say goodbye to their
21 daughter and see her in heaven. And then we know police
22 attended the residence and then we know that he said - Mr.

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 Desmond - he's very depressed. He's concerned for his well
2 being. He was driven to the hospital. He was seen by a doctor.

3 So you're agreeing with me that's your summary in the
4 tertiary investigation report that you based your decision on?

5 **A.** No, that ... those ... no, that's ... that paragraph
6 ... the first three paragraphs are the RCMP report.

7 **Q.** Yes, but they're part of your report, aren't they?
8 They're part of the tertiary ...

9 **A.** Yes, they are. Yes.

10 **Q.** Yes.

11 **A.** Yes.

12 **Q.** And you used that report to base your decision to
13 reinstate the license, didn't you?

14 **A.** I used that ...

15 **Q.** You did.

16 **A.** I based that on my investigation, yes.

17 **Q.** Yes. And that's part of your investigation, these
18 comments, right?

19 **A.** Yes.

20 **Q.** Yeah. At the bottom of that box, the tertiary
21 investigation report box ... and I'm quoting your wording: "At
22 this time the client seems to have his mental health in order

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 and based on the doctor's assessment there does not seem to be
2 any further problems."

3 "At this time the client seems to have his mental health in
4 order." Dr. Smith didn't say that, Mr. Roper, did he? In any
5 report. Those are your words, not Dr. Smith's, right? His
6 report, if it helps, is at page ...

7 **A.** Yeah. No, I see it here: "Non-suicidal and stable.
8 No concerns."

9 **Q.** Right.

10 **A.** "For prior usage (inaudible - audio)." Yeah, I ...
11 yeah, that's fair.

12 **Q.** Okay. Just to come back to it. So when you say in
13 your tertiary investigation report: "At this time the client
14 seems to have his mental health in order." That's your view.
15 That's not Dr. Smith's view, is it?

16 **A.** No, that's right.

17 **Q.** He hasn't used those words. Yeah. Okay.

18 **A.** No.

19 **Q.** You didn't really know anything from a medical
20 standpoint about Mr. Desmond's health personal knowledge because
21 you're not a doctor, right?

22 **A.** That's right.

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 **Q.** So when you look at that report the ... now I'm
2 speaking of the FIP. But the FIP is, as I call it ... that's
3 reflected in your tertiary investigation report. So the parts
4 that I read to you, those various factors, his wife calls, et
5 cetera, right? On their own I would think they would be very
6 concerning to a firearms officer. Is that correct?

7 **A.** Yes.

8 **Q.** So the fact that those factors were in existence but
9 the license was still reinstated was based on what?

10 **A.** It was based on the conversation I had with him and
11 the doctor's report.

12 **Q.** Okay. Now you mentioned to Mr. Murray this morning in
13 response to a question. There was one ... I'll use the word
14 "incident" where you superceded - my word - a doctor's mental
15 assessment and made a home visit, I guess, or a visit to a
16 client, as you called them. Do you remember that this morning?

17 **A.** Yes.

18 **Q.** Yes.

19 **A.** Yes.

20 **Q.** What ... you know, I'm not asking for the ...
21 obviously anything to do with the person's name, but what was it
22 that prompted you to make the home visit and what was it that

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 happened there on that visit that made you decide to not accept,
2 if I can put it that way, the doctor's assessment and not grant
3 the license?

4 **A.** To be honest with you, I don't know what prompted the
5 home visit. It must have been something serious enough in the
6 information that I would actually go to the home but I don't
7 recall.

8 **Q.** And you may have already answered this. But the
9 comfort - my word - that you were given in your conversation
10 with Mr. Desmond, was that a telephone conversation, or did he
11 drop in to your office?

12 **A.** No, it was a telephone conversation.

13 **Q.** Okay. There was nothing stopping you if you had
14 wanted to, as the area firearms officer, from asking Mr. Desmond
15 to get more information, another report from Dr. Smith or from a
16 psychiatrist, was there?

17 **A.** No, there wasn't.

18 **Q.** Okay. Did you ever have occasion to do that in the
19 past?

20 **A.** No.

21 **Q.** You didn't ... as I understood it, you didn't speak to
22 Mrs. Desmond, right?

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 **A.** No, I did not.

2 **Q.** There was nothing stopping you from calling her had
3 you chosen to do so though, right?

4 **A.** No.

5 **Q.** Any reason why you didn't call her?

6 **A.** I ... thinking back, I'm just ... no, she signed the
7 application. He talked about her briefly. I didn't think there
8 was a need to talk to her.

9 **(13:40)**

10 **Q.** Now you'd agree with me, though, she signed the
11 application in 2014. Correct?

12 **A.** Yes.

13 **Q.** And this ...

14 **A.** Yes.

15 **Q.** This reinstatement is 2015. Correct?

16 **A.** Yes.

17 **Q.** It would have been possible, wouldn't it, if the New
18 Brunswick firearms office, through you, had chosen to keep this
19 application on hold, to not reinstate it pending more medical
20 information, someone contacting Ms. Desmond? That would have
21 been possible, right?

22 **A.** Yes.

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 **Q.** Do you know whether in potential domestic issues where
2 there are applications either coming before New Brunswick
3 Firearms, or in particular reinstatements under review ... so
4 you're looking at a license and you find out there may be a
5 domestic issue, and I say that based on, for example, Shanna
6 Desmond being the one who called the police and saying her
7 husband was going to the garage with the guns.

8 Do you know whether there have been any changes to the
9 policy in New Brunswick? And I know you're not there anymore.
10 But since 2017 where reinstatement licenses, if there is a whiff
11 of domestic issues, that they are looked at more closely?

12 **A.** No, I have no idea what ... no idea. I'm out of the
13 loop there so I don't know.

14 **Q.** Okay.

15 **A.** I haven't been talking to anyone from the office so I
16 don't know.

17 **Q.** If there is no policy in that regard do you think it
18 would be helpful if the firearms office had such a policy or
19 something to that effect? Sort of a harder second tertiary look
20 at domestic issues to not approve a reinstatement pending more
21 information, direct contact with an intimate partner or a
22 spouse, direct contact with a medical provider?

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 **A.** I mean anything would help.

2 **Q.** Okay. Now I know ... and you can correct me if I'm
3 wrong. As I understood your evidence to Mr. Murray this
4 morning, you said that if you had known about the first FIP, the
5 November 18th, 2015 FIP, that would have or may have made a
6 difference? Or you would have been interested in that? I'm not
7 trying to put words in your mouth. What's your view on that?

8 **A.** Oh, there's no question that that FIP in combination
9 with the other, apparently there was a couple FIPs or a couple
10 incidents that weren't coded properly. If I had been able to
11 speak with the officers and got all the facts certainly the
12 decision may have been different, but again, I didn't have that
13 opportunity.

14 **Q.** You've since seen that FIP though, right?

15 **A.** Yes.

16 **Q.** Would you agree with me ... because when I look at the
17 two FIPs it looks to me like the February 27th FIP, the second
18 FIP, is "worse" than the first FIP because of those factors that
19 I listed with you: say goodbye to my daughter, see her in
20 heaven, et cetera. Is that fair or ...

21 **A.** No, because we ... I see those all the time. They're
22 not ... that's not unusual. It's concerning, very concerning,

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 but in PTSD cases we see these types of symptoms all the time.
2 So that wasn't unusual to see something like that.

3 Q. Now even if you had the first FIP I heard what you
4 said, but Ms. Rossignol had both FIPs and she still put the
5 license back to valid in April of 2016, right?

6 A. Well, I can't speak for Ms. Rossignol. I don't know.
7 I don't know what happened there. I honestly don't.

8 Q. Okay, so your evidence today is you don't know whether
9 she had both FIPs or not?

10 A. No, I have no idea.

11 Q. Okay.

12 A. Like, I ... the first time I saw that FIP was in the
13 lead-up to me testifying here today.

14 Q. Right.

15 A. I wasn't aware of that, any of that information.

16 Q. Okay. I'm just wondering about the ... and your
17 comments, with all due respect, about you see those all the
18 time. And that's in your experience, obviously, as a firearms
19 officer.

20 A. Okay. Okay. Can I stop you there just for a second?

21 Q. Yes, of course. Sure.

22 A. You froze up there.

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 **Q.** Okay.

2 **A.** You were frozen up.

3 **Q.** Can you hear me ...

4 **A.** So can you start again?

5 **Q.** Sure. Can you hear me okay now?

6 **A.** Yeah. Yeah.

7 **Q.** Right. I wanted to just, with all due respect, touch
8 on your evidence which indicates that, words to the effect, you
9 see that all the time in terms of these PTSD situations where
10 there may be ... what, firearms involved? Perhaps suicide talk?
11 Is that fair?

12 **A.** Yes.

13 **Q.** I'm just wondering, even though you see it all the
14 time, why it would not have attracted a higher level of tertiary
15 investigation when you have a domestic situation with those
16 factors even if you're seeing them all the time because the base
17 is close and it's mainly the cohort is military people; why your
18 office wouldn't have used a giant red flag to look at that part
19 of it.

20 **A.** Well, I don't ... I mean I don't think it was a
21 domestic situation. I believe what he said was that he was
22 going to do away with himself. He didn't threaten his daughter

JOSEPH ROPER, Cross-Examination by Mr. Macdonald

1 or his wife.

2 **Q.** Okay, so for you that made the difference?

3 **A.** Yes, for sure. He wasn't threatening anyone but
4 himself.

5 **Q.** Right. Those are my questions. Thank you very much,
6 Mr. Roper.

7 **A.** Thank you.

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

9 **MS. MILLER:** No questions, Your Honour.

10 **THE COURT:** Mr. Rodgers?

11 **MR. RODGERS:** Yes, Your Honour.

12

13 **CROSS-EXAMINATION BY MR. RODGERS**

14 **(13:47)**

15 **MR. RODGERS:** Good afternoon, Mr. Roper.

16 **A.** Good afternoon.

17 **Q.** My name is Adam Rodgers and I am the lawyer for the
18 personal representative to Cpl. Lionel Desmond and I have just a
19 number of questions for you here. Just wanted to review a few
20 things that you said this morning.

21 Your understanding ... you're retired now, but your
22 understanding is that the AFOs do currently have access to the

JOSEPH ROPER, Cross-Examination by Mr. Rodgers

1 PROS system, direct access?

2 **A.** That's my understanding, yes.

3 **Q.** And being familiar with the process yourself, you view
4 that as a very helpful development in the structure of the
5 system?

6 **A.** Oh very much so, yes.

7 **Q.** In previous times, then, as I understand it, you would
8 have needed to make, in each case where you were doing a review,
9 a request for that PROS information.

10 **A.** Yes.

11 **Q.** And how long would it typically take? What kind of a
12 delay would there be when you would make that kind of a request?

13 **A.** It varied. Some days it was ... I'd send the request
14 in, I'd get it the next day. Some days it would be three or
15 four days. Other times it would be a week. It varied.

16 **Q.** And I also understand from your evidence that you did
17 not have access to military files, to any information from the
18 Canadian military?

19 **A.** No, none.

20 **Q.** You mentioned that you sometimes get some information
21 from military police but not, maybe, the military proper if
22 that's a distinction we can use?

JOSEPH ROPER, Cross-Examination by Mr. Rodgers

1 **A.** That's right.

2 **Q.** Okay.

3 **A.** Yeah, and it was limited.

4 **Q.** Even from the military police.

5 **A.** Yeah.

6 **(13:50)**

7 **Q.** Okay, so I take it, then, that if ... internal to the
8 Armed Forces, if somebody was put on conditions in training or
9 in the Forces that they couldn't use a weapon for their
10 employment, that information wouldn't be passed on to you.

11 **A.** I have no knowledge.

12 **Q.** Okay.

13 **A.** No. I'd have no access to that at all.

14 **Q.** You'd consider that helpful information. Or you would
15 have considered that helpful information, I suppose, at the
16 time?

17 **A.** Certainly, yes. Yes.

18 **Q.** And in addition, Mr. Roper, it seems that if there's
19 something happening in a different province there was not
20 perfect ... there wasn't a perfect conveyance of information
21 interprovincially as well.

22 **A.** That's correct.

JOSEPH ROPER, Cross-Examination by Mr. Rodgers

1 **Q.** That's been your experience?

2 **A.** Yes.

3 **Q.** So in other words, if a New Brunswick resident was in
4 Nova Scotia or another province and something took place, there
5 was a police incident, that wouldn't automatically be
6 transferred into the New Brunswick Firearms database.

7 **A.** No.

8 **Q.** It would take some effort on the part of the person in
9 the other jurisdiction to notify the New Brunswick Firearms
10 office.

11 **A.** If it created a FIP?

12 **Q.** Yes.

13 **A.** It would match up but to get the information about the
14 FIP would be time-consuming.

15 **Q.** Okay. That's all despite the firearms program being a
16 federal and national program.

17 **A.** That's right.

18 **Q.** Federal jurisdiction, the same as the military, but
19 it's your experience and understanding that many provinces had
20 agreements with the Federal Government whereby they would set up
21 their own structures within their province?

22 **A.** Yeah, that's my understanding. Yes.

JOSEPH ROPER, Cross-Examination by Mr. Rodgers

1 **Q.** And that was certainly the case in New Brunswick and,
2 I believe, in Nova Scotia as well?

3 **A.** Yes.

4 **Q.** Mr. Roper, you talked a little bit about the issue
5 with doctors and it seems to me that ... and we've heard some
6 other evidence from doctors themselves that it may be difficult
7 sometimes to get doctors to agree to fill out these forms. Is
8 that your experience over your career and your time in the
9 office?

10 **A.** Yes.

11 **Q.** Can you give us a sense of your understanding of why
12 that might be? What were the common reasons you heard, if you
13 heard reasons, and whether they were conveyed secondhand? Or
14 what's your understanding of the issue there?

15 **A.** It was my understanding that it had to do with
16 privacy.

17 **Q.** So in other words, the doctor didn't want to send
18 something to you that would violate their patient's privacy?

19 **A.** That's my understanding.

20 **Q.** Okay. Have you ever heard from doctors that say,
21 Listen, I'm just not comfortable doing this, I don't understand
22 what I'm doing or why and I'm just not going to or what was ...

JOSEPH ROPER, Cross-Examination by Mr. Rodgers

1 **A.** I had a conversation with a doctor one time with that
2 issue and I explained to them what my issue was and we came to
3 terms and I got some information. But initially the doctor was
4 limited in what he wanted to tell me because he feared for the
5 patient's privacy but I felt that the incident superceded that
6 and that he should reveal that. And I explained that to him and
7 it was straightened out.

8 **Q.** And certainly it would seem, Mr. Roper, that if
9 release ... if a patient is signing a release to allow contact
10 with their doctor that such a privacy issue should be ... could
11 be addressed in that manner? Anyway, I'm not asking for a
12 conclusion, but is that your understanding of how it should
13 work?

14 **A.** Yeah, it should. Yeah. If they sign a medical
15 release the doctor is not liable anymore and we should get what
16 we need.

17 **Q.** Do you know whether there were any ... were there ever
18 financial issues identified to you from the doctor's perspective
19 that, you know, this wasn't a paid service on their behalf and
20 so, I'm not going to do it? Was that ever brought to your
21 attention?

22 **A.** No, that was never brought to my attention. I

JOSEPH ROPER, Cross-Examination by Mr. Rodgers

1 wondered but it was never brought to my attention.

2 **Q.** Okay. Dr. Paul Smith. His name has been brought up
3 already today. He testified that - and I'm paraphrasing - he
4 wasn't quite sure of his responsibility or his level of
5 responsibility or how much his opinion might be weighed by you
6 as the decision-maker. So is this something that you would see
7 as an avenue to address educating doctors more on their role in
8 this process?

9 **A.** Oh, yes, definitely. Yeah.

10 **Q.** Would it be ... would it seem important to you or
11 would it be something you would like or you would recommend that
12 doctors be given some of the information that might be on PROS
13 or some of the other information that's going into the firearms
14 application if, indeed, their opinion is going to count for so
15 much?

16 **A.** Well, if you see the letter, the medical assessment
17 letter that was given to them it was almost verbatim of the file
18 on what had taken place. So they had that information.

19 **Q.** Did you ever see, Mr. Roper, situations where you felt
20 that the person applying or applying for a renewal is doctor-
21 shopping, if I can put it that way, or changing doctors? They
22 do an application and then they'd switch to a different doctor

JOSEPH ROPER, Cross-Examination by Mr. Rodgers

1 hoping for a different result?

2 **A.** No, I'd never say that.

3 **Q.** Okay. That's not an issue, then. Okay. What would
4 you think of a situation where a doctor was notified if a person
5 is applying for a license or applying for a change in license or
6 a reinstatement, that their family doctor or their primary
7 doctor would be automatically notified of that and asked for ...
8 asked to ... given an opportunity to express their views? I
9 guess I'm thinking in terms of ...

10 **A.** I think anything from the doctors would work.

11 **Q.** Sorry, say that again. I interrupted you there.

12 **A.** Any information from the doctors was valuable in my
13 mind. Anything that we got from the doctors, I think, is very
14 valuable. They're the people treating these people. So you
15 know ...

16 **Q.** In terms, Mr. Roper, of educating the doctors as to
17 their particular role in this process, who would see as best
18 position to lead that effort? Would that be the firearms
19 officer or some other entity?

20 **A.** Well, the firearms officers have a better
21 understanding of what's going on. So it would either be a
22 former firearms officer or someone that has conducted these

JOSEPH ROPER, Cross-Examination by Mr. Rodgers

1 investigations to know exactly what they're looking for or what
2 they need to speak to the doctors about and educate them on what
3 exactly we're looking for.

4 **Q.** Do you have any sense whatsoever whether doctors would
5 be amenable to such a program or such an offer from ... to be
6 educated in this regard?

7 **A.** I have no idea what they ... I can't answer that.

8 **Q.** No, that's fine.

9 Mr. Roper, I know when you started your testimony you
10 mentioned that you were retired and you gave your retirement
11 date, I think, as January 4th, 2017, which is a date of some
12 obvious significance. I take it this is why you retired.

13 **A.** No, no.

14 **Q.** No?

15 **A.** No, I had no idea this took place. That was my
16 retirement date. It was the first week. I believe it was a
17 Monday. That had nothing to do with what had taken place.

18 **Q.** Okay. Was this an unusual occurrence in your career,
19 I guess, for somebody for whom you've approved a firearms
20 certificate to have gone on to commit an act such as this or
21 similar?

22 **A.** Yeah, it's the only one that I've ever had in my seven

JOSEPH ROPER, Cross-Examination by Mr. Rodgers

1 years.

2 Q. Yeah. Thank you, Mr. Roper. Those are all the
3 questions I had for you.

4 A. Thank you.

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

6 **MR. MACKENZIE:** No questions, Your Honour.

7 **THE COURT:** Thank you. Mr. Hayne?

8 **MR. HAYNE:** No questions.

9 **THE COURT:** Thank you. Mr. Roper, I think those are the
10 questions from counsel, except maybe Mr. Murray has something he
11 wants to ask you in a re-direct format.

12 **MR. MURRAY:** No, Your Honour.

13 **THE COURT:** Okay, thank you. I just have a couple
14 questions for you.

15

16 **EXAMINATION BY THE COURT**

17 **(14:00)**

18 **THE COURT:** I know that Mr. Rodgers had mentioned about
19 these medical employment limitations, they're called, the
20 acronym is MEL. I understand that in your time dealing with,
21 for instance, the military members whose licenses you may have
22 reviewed, you never heard the acronym MEL before?

JOSEPH ROPER, Examination by the Court

1 **A.** No, I never, Your Honour.

2 **Q.** You never heard it even with your various engagements
3 with Dr. Joshi, as a psychiatrist treating members of the
4 Canadian Armed Forces, you never heard that in the context of
5 discussions with Dr. Joshi either, is that correct?

6 **A.** That's correct, Your Honour.

7 **Q.** If you were, and I'm sorry, it was your role as an
8 area firearms officer, to review circumstances relating to an
9 individual's ability to handle firearms. If you heard that
10 within the context of the military you had a member, there was a
11 member whose employment limitations said you cannot handle or
12 operate personal weapons in your capacity as an Armed Forces
13 member, s At the same time, the Military makes a judgement
14 there, they impose that limitation, would knowing that, does
15 that have any ... would it cause you to have any thoughts about
16 what questions you might be asking when, in a civilian setting,
17 you have to make a determination or you could pass judgement on
18 whether an individual should be licensed to operate firearms?

19 **A.** Yes, Your Honour, I think in an abundance of common
20 sense, that if the military won't allow them to use or possess
21 firearms, then the civilian, once they become civilians, well,
22 they can get a firearms license even as a military person, but

JOSEPH ROPER, Examination by the Court

1 for sure that would weigh greatly on a decision whether or not
2 they should have a license.

3 **Q.** I'm going to ask a question, the answer is probably
4 obvious, but if at the time that Dr. Joshi was writing you a
5 letter and then subsequently having a conversation with you, if
6 he was aware of an MEL with regard to Cpl. Desmond, that's
7 something that you would like to have known. Would I be correct
8 in that conclusion?

9 **A.** Yes, for sure, yes.

10 **Q.** All right.

11 **A.** Yes, for sure.

12 **Q.** All right. When Dr. Joshi provided you with that
13 written report and then you had a subsequent telephone
14 conversation with him, I understood that he conveyed to you that
15 Mr. Desmond, Cpl. Desmond, rather ... Do you remember exactly
16 what words he used in relation to the risk of suicide?

17 **A.** No, I don't, Your Honour.

18 **THE COURT:** Did we have that document up? I forget what
19 number is, but Dr. Joshi's.

20 **MR. RUSSELL:** 136.

21 **THE COURT:** 136.

22 **A.** It just says that he has no psychosis, never mentioned

JOSEPH ROPER, Examination by the Court

1 self harm or violent ideation.

2 Q. So he never mentioned self harm.

3 A. No.

4 **EXHIBIT P-000137 - LETTER DATED OCTOBER 29, 2012 FROM VINOD**
5 **JOSHI, MD, FRCPC, TO SENIOR DISTRICT MEDICAL HEALTH OFFICER -**
6 **CAN001848**

7 Q. All right. So I have a document, and I know it's been
8 marked as an exhibit, but the copy in my file, I don't have the
9 exhibit number, but it's CAN001848, and it was a letter that was
10 written and signed by Dr. Joshi on October 28, 2012 and it was
11 addressed to the Senior District Medical Health Officer Veterans
12 Affairs Canada in Saint John and it was regarding Cpl. Desmond.
13 It was a To Whom It Might Concern letter. Again, it was written
14 in 2012 and it contains the following comment:

15 In spring 2012, Cpl. Desmond started to
16 notice that his symptoms were becoming
17 worse. He had significant and frequent
18 problems with anger, lack of sleep,
19 avoidance symptoms. He started to develop
20 obsessive compulsive traits. His
21 medications were adjusted. He continued to
22 have frequent and persistent symptoms of

JOSEPH ROPER, Examination by the Court

1 PTSD, including sleep disturbances,
2 nightmares, avoidance, and anxiety to
3 treatment. So far had not produced the
4 desire to therapeutic benefit.

5 On the previous page, he said that:

6 He frequently would experience suicidal
7 ideation, however, he had no plan. There
8 was no history of violence.

9 So I appreciate that this was in 2012 when Dr. Joshi was
10 reporting to the Veterans Affairs Canada that at the time Cpl.
11 Desmond had ... he frequently experienced suicidal ideation,
12 however, had no plan, and then a couple of years later, he was
13 suggesting that he had never expressed any suicide ideation. If
14 you had been aware of that written in 2012 when you were looking
15 at it in 2014, would that have prompted you to perhaps ask some
16 questions?

17 **A.** Sure it would, yes.

18 **Q.** So it's Exhibit 135, page three. So when we look at
19 page two, I'm sorry, when we start at page two, that the date
20 that you approved the license ... Cpl. Desmond's license was
21 under review, you re-approved it, and you signed that document
22 February 29th, 2016.

JOSEPH ROPER, Examination by the Court

1 **A.** Yes.

2 **Q.** The next page, which is page three, was the letter of
3 Dr. Smith, it was dated February 23, 2016 and in that letter Dr.
4 Smith had said "he was nonsuicidal and stable - no concerns for
5 firearm usage and with appropriate license." In particular, the
6 word "stable" appears in that document. So this is February
7 23rd, 2016.

8 **EXHIBIT P-000115 - RECOMMENDATION FOR STE. ANNE'S**

9 **STABILIZATION/RESIDENTIAL PROGRAM**

10 So I'm going to read you a portion of a letter, I think
11 it's Exhibit 115, and it's dated December 15th, 2015,
12 approximately two months prior to Dr. Smith's letter. It's a
13 letter that's addressed to the Operational Stress Injury Clinic,
14 Fredericton, New Brunswick. Sorry, that's where it was written,
15 written from. And this is a letter that was written by Dr.
16 Murgatroyd, who was the treating psychologist for Cpl. Desmond.
17 It was dated December 15th, 2015 and it was a recommendation for
18 St. Anne's Stabilization/Residential Program and it begins by,
19 on the second page, it says:

20 This is a letter to strongly recommend the
21 admission of the above client to St. Anne's
22 Stabilization/Residential Unit. Client is

JOSEPH ROPER, Examination by the Court

1 diagnosed with chronic PTSD, quite severe,
2 major depressive disorder, comorbid alcohol
3 use disorder currently in remission. He
4 does have chronic pain and he is prescribed
5 marijuana but is aware and agreeable to your
6 admission criteria of no medical marijuana
7 usage. He continues to struggle with
8 disabling symptoms of PTSD that directly
9 affect his social and occupational
10 functioning.

11 **(14:10)**

12 It goes on to say:

13 Once stabilized, the client will have
14 outpatient follow-up with his psychologist,
15 his psychiatrist here at the OSI clinic. He
16 does not have a family physician. He is
17 medically fit. He is not actively suicidal
18 or homicidal. He is not a risk for
19 aggression or violence. There are no
20 present legal issues.

21 The letter would suggest that Dr. Murgatroyd is trying to
22 make arrangements for Cpl. Desmond to be admitted to the

JOSEPH ROPER, Examination by the Court

1 stabilization and residential program at St. Anne's, which is a
2 specialized treatment facility. Given that you have Dr.
3 Murgatroyd in December writing a letter to strongly recommend
4 admission to the program in December and in February, you're
5 getting a letter from Dr. Smith that's suggesting that Cpl.
6 Desmond is stable, do you see a bit of a contradiction there?

7 **A.** Sure do.

8 **Q.** And I take it it would go without perhaps saying that
9 if you had been aware of the letter written by Dr. Murgatroyd in
10 December that the letter written by Dr. Smith in February would
11 likely have not had a whole lot of impact on your decision given
12 the nature of the letter from Dr. Murgatroyd. Would that be
13 fair to say?

14 **A.** Yes, Your Honour.

15 **Q.** I think what I'm going to do, Mr. Roper, I have a
16 number of other questions I could ask of a very similar nature
17 and I think I'm going to spare everyone the exercise. Some of
18 them are so obvious that they don't need to be asked and we'll
19 deal with them as we move forward.

20 Mr. Roper, I'd like to thank you for your time and I know
21 you've taken time to prepare with counsel in advance of your
22 appearance today. We certainly appreciate your time. It's

JOSEPH ROPER, Examination by the Court

1 important for us to know as much of the background circumstances
2 as we can to ultimately address the terms of reference that are
3 directing this Inquiry.

4 So, again, thank you, sir, for your time, we appreciate it.
5 Thank you, Mr. Williams, for your time as well. I appreciate
6 it.

7 **A.** Thank you, may I withdraw, Your Honour?

8 **THE COURT:** Yes, thank you, we're gong to adjourn this
9 portion of the evidence. Thank you very much.

10 **A.** Thank you.

11 **WITNESS WITHDREW (14:14 HRS)**

12 **THE COURT:** We'll just close for the day, if Counsel
13 could just remain for a few minutes, please.

14

15 **COURT CLOSED (14:14 HRS)**

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CERTIFICATE OF COURT TRANSCRIBER

I, Margaret Livingstone, Court Transcriber, hereby certify that the foregoing is a true and accurate transcript of the evidence given in this matter, **re Desmond Fatality Inquiry**, taken by way of electronic digital recording.



Margaret Livingstone

(Registration No. 2006-16)

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DARTMOUTH, NOVA SCOTIA

April 11, 2021