

August 12, 2015

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Mr. Felix Collins  
Attorney General of Newfoundland and Labrador  
Department of Justice and Public Safety  
St. John's, NL  
Via Facsimile: [REDACTED]

Dear Mr. Collins:

RE: Police shooting death of Mr. Don Dunphy, Mitchell's Brook, NL

I acknowledge receipt of your correspondence dated August 4, 2015. I appreciate that you have responded to me.

While I respectfully disagree with Mr. Noble's conclusion, I understand that Mr. Noble can only base his conclusion on information being provided to him by the RCMP and that he would not have access to the investigative materials himself.

I wish to highlight that upon being retained by Ms. Dunphy I encouraged her to keep an open mind, to be patient, and to have trust in the process. Despite having encountered tunnel vision in a criminal investigation of another police officer (R. v. Steven Blackmore) conducted by the same investigators upon which I commented publicly (see attached), I too attempted to trust the process. In the Blackmore case 12 of Mr. Blackmore's peers appeared to agree with our position.

I stand by my comments regarding tunnel vision in the Dunphy investigation. Within 4 days of Mr. Dunphy's death I met with the main investigators in this case and they made comments to me which I found troubling in what I believed would be an early stage of the investigation. Further, upon Ms. Dunphy's discovery of the first item, the investigators acknowledged to me that they did not have the proper information to appropriately evaluate the potential relevance of evidence at the scene and that this item simply "did not jump out" at them even though it had been photographed on a table along with other items that had been collected – i.e. marijuana paraphernalia. Their focus appeared to be on the nefarious evidence of marijuana use by Mr. Dunphy, and assumptions were made without evidentiary basis with respect to the item of concern causing investigators to miss it. This, as I am sure Mr. Noble would agree, is a demonstration of tunnel vision in action. I do not make this claim without basis. I myself viewed the photographs of the crime scene and discussed same with the investigators. The main investigator admitted to me that the glasses were missed.

While it may very well be the case that these items have since been ruled out as being irrelevant to the investigation, that is not the point. The point is that these items should have been seized by the police and investigated properly to be ruled in as relevant or ruled out as irrelevant. The point is that thorough interviews should have been conducted at the outset and Mr. Dunphy's movements on the date of his death should have (at least) been known. The point is that Mr. Dunphy's daughter should not have had to bring these items to the attention of the police. A thorough investigation would have collected these items at the very outset and had a proper and thorough intake of all information. Ms. Dunphy as the closest person in his life should have been thoroughly interviewed. I am by no means any kind of expert, but this I believe, is basic investigation. As is the case with the finding of live ammunition on the floor in the small room where the shooting occurred - simply, it should have been found and seized while the house was in the custody of the RCMP. For Ms. Dunphy to find it months later again is in my opinion a clear example of sloppiness.

I do appreciate that Mr. Noble took the time to look into Ms. Dunphy's concerns. I did not expect that the RCMP will ever acknowledge that the investigation has been tainted by tunnel vision so I am not disappointed by the response. Such an acknowledgement would be an admission that their major crimes unit is seriously flawed which would have a devastating impact on all of their past, present and future investigations. I do not believe that the RCMP will ever concede same.

Finally, on behalf of Ms. Dunphy, I have engaged with Justice Riche and answered all questions that he has posed to her. I have never had a problem with Justice Riche's role, however I stand by my comments that what is required for a trustworthy result is a thorough and objective police investigation. Justice Riche, I presume, will acknowledge that he is not a trained investigator and that his role is to provide oversight of transparency. I have previously requested that the RCMP provide all of my correspondence to Justice Riche so I assume that it has been done.

Yours truly,



ERIN BREEN  
PARTNER