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Document ID:
Investigation: DUNPHY – 2015-376186

Document Title

Doc Description

How Received

When Received

Date

Document Type:

Document Summary:

Statement of Joe SMYTH taken on 2015-09-14 at 1632 Hrs.

This is a copy of a document already in the system

POC Content

Secured for Hold Back or Disclosure Issues

Vetting

Submitted/Recommended/Approved By

Date 2015-12-01

Number ID	Category	Reason
111	T	
BURKE, Steve	P	
SMYTH, Joe	P	

Digital Recording
File: 2015-376186

STATEMENT OF: Joe SMYTH

INTERVIEWED BY: Cst. Steve BURKE, RCMP Major Crime Unit
September 14th, 2015 commencing at 16:32 hours

1 **Symth:** Hello.

2 **Burke:** Hello. Just let you know that this room is video and audio recorded.
3 Today is 2015. The date is September 14th. My name is Corporal Steve
4 Burke. I'm with the RCMP Major Crime Unit and the time is 16:32 hours.
5 I'm at the HQ interview room. I'm speaking with Constable Joe Smyth of
6 the RNC. This statement is regarding the Donald Dunphy sudden death,
7 happened on October, ah, April 5th, 2015. Mr. Smyth, you just, or
8 Constable Smyth, introduce yourself for the recording.

9 **Symth:** Joe Smyth, Royal Newfoundland Constabulary, Regimental 610.

10 **Burke:** Thank you. Today, this is my third statement, I think, with you and it's just
11 a follow up statement. Something that I wanted to clarify that I've been
12 asked to clarify by another person that's doing a portion of this
13 investigation. And I know from your first statement and the re-enactments
14 that you provided with us that you gave a recollection of a series of what
15 you did when you saw the firearm that was presented by Mr. Dunphy.
16 And if I could ask you to give me a, from that point when you're in the
17 living room and you saw the firearm out of your peripheral vision, give me
18 an account of your actions from that point.

19 **Symth:** So when I saw the firearm it was kind of out of my peripheral vision. I was
20 stood up in the living room next to the fireplace mantle and was looking
21 down at a file folder, I saw a firearm come up from Mr. Dunphy's right side.
22 He was in a seated position in the chair in the living room and he started
23 to, also I guess, come up out of the chair. And it's hard for me to say
24 whether he was kind of gettin' ready to stand up or just sittin' up – upright

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1 in the chair. When I saw the – the firearm I dropped the file folder and
2 kind of immediately, instinctively, went into a defensive type of position. I
3 remember my – my left hand coming up and puttin' my hand out and the
4 only words come out of my mouth were 'no'. Like I was saying no, no, no.
5 And then I started to kind of turn away and again it was just ins –
6 everything from there was very instinctive. I immediately started to think
7 get towards the door. I was also in the process of drawing my firearm.
8 And I – I drew my firearm and as soon as I felt I was on target, I'm – I'm
9 kind of – I'm almost turned away but I can still – I can still – lookin' towards
10 him, and the firearm – by the time I get my firearm on target his – his
11 firearm is pointed at me. And you know, I – the – the feeling I had was I'm
12 gonna be shot and this is gonna hurt. I was just kind of preparing for – for
13 a bullet to enter me. And even thinking back on it I guess I feel the bullet
14 going in through my – I feel it going in through my hand or into my arm is
15 the – the – the repetitive kind of feeling I get. But I – I immediately started
16 firing and my recollection is I fired two shots to – towards his centre mass
17 and I, you know, I think my firearm is still coming up to come on target.
18 And at some point in time I think I – I brought my left hand and brought it
19 on – on to the rail - brought it into the proper two handed grip. And I'm
20 also moving towards the door. The – immediately following the – the two
21 centre mass shots, not knowing if I had – I really didn't know if I was on
22 target, if I had hit. The, I guess, there was an instinctive assessment after
23 those two shots but it was milliseconds cause, you know, I – I think if it
24 was – if it had a been caught on video I – I – I don't know if they would
25 ever – if you'd ever see, you know, that much of a break between. At
26 least in my, as I remember it, it was – it was very brief and it was just
27 instinctive for me to go for the next shot to – towards his head. That threat
28 was still there. There was a firearm. My, you know, again as I recollect it
29 was still being pointed at me while I'm still – I'm moving. So the firearm is
30 coming towards me now. I'm kind of arcing away from. I fired one shot
31 towards his head and I didn't – I didn't think it was on target. It didn't – just
32 didn't feel like I had placed it where I had instinctively wanted to. And
33 again I'm moving towards the door and I fired the second shot at his head.

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1 That's the one shot that I'm, you know, I know was on target cause I – I
2 can see his head kind of jarring from it. And I don't know but maybe he
3 might have turned, even turned away from me a bit, his head. Cause I,
4 you know, I feel it sho – you know, it would have hit around the side of his
5 head and I think at that point, you know, maybe the – the first head shot,
6 and again I don't know if that was – that was it. I remember in the re-
7 enactment seeing a - a bullet hole in the wall so I suspect that was
8 probably the – my first head shot but, you know, that – that's not
9 permanently – I don't remember that. I remember seeing it at the time ...

10 **Burke:** Uhm.

11 **Symth:** ... a bullet hole in the wall that was – when we went back for the re-
12 enactment. And I don't know if that – just the – the flash bang when –
13 when he turned away from me. I – I don't know – like I know that the
14 second head shot was – was on target and – but it was – I guess it was
15 purely instinctive. It wasn't a whole lot of thought process outside of, you
16 know, I'm – I'm gonna be shot and you either do something here now or
17 you're gonna be killed.

18 **Burke:** When you say 'instinctive' can you tell me about that? What do that
19 mean? What does it mean for you?

20 **Symth:** I – I think it – it was a lot of muscle memory in terms of, you know, going
21 through our course of fire – our training, you know, our – our
22 requalification that we do. It's – it's that constant repetitive, you know, to
23 put two shots into the centre mass and – and, you know, reassessing for a
24 threat and raising it up for a head shot. I just – you know, the – I guess
25 the – the feeling at the time is – is very survival I guess. What do I gotta
26 do to make this situation stop? I'm gonna be killed. What am I gonna do
27 to make it stop? And, you know, and I've – I mean, I've thought back
28 through this thousands and thousands of times and, you know, what could
29 I have done differently? What would I have done differently in – you know,
30 even part of me is at – even to get out of the house, I guess, it was that –

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1 even that was instinctive to just go, you know, vacate yourself from – from
2 the threat. And you know, I – I’ve thought well what would have happened
3 if I had a tripped and fell or I backed up and fell in that corner. I don’t
4 know. I just – I probably would have – the – the way I was – you know,
5 being faced with that of someone with a firearm pointed at you, it’s – it’s
6 hard to, you know, properly articulate what’s going through your head at
7 the time. And like just that – that surge and – of adrenalin and how you’re
8 – you know, everything – your vision. I mean, you hear this stuff so many
9 times in training it really does just kind of tunnel and – and focus and –
10 and. You know, I’ve wondered if I have – if I have not gone to the exit
11 what would I have done differently, if anything. And then, it’s hindsight, I
12 know, but I wonder if I would have stopped shooting. If he had remained in
13 my sight I – I feel like the way I was felling at that time was do – don’t you
14 stop shooting until, you know, you’re – you’re safe. And I think if I had a
15 been in front of him, and maybe in the absence of – of the gun or
16 something falling on the ground, like I feel like I probably would have, and
17 I know I’m telling you this, this is all hindsight it makes no point, but I
18 guess I’m just trying to ...(unintel)... what – what – you know, what was
19 kind of going through my head at the time.

20 **Burke:** Uhm...uhm.

21 **Symth:** But ...

22 **Burke:** You say, the part about the gun falling on the ground, do you have any
23 idea when the gun fell on the ground or if it fell on the ground or how it
24 ended up on the ground ...

25 **Symth:** I didn’t see it.

26 **Burke:** ... on the floor?

27 **Symth:** I didn’t see it on the ground.

28 **Burke:** Okay.

- 1 **Symth:** Until I – I started coming back in ...
- 2 **Burke:** Okay.
- 3 **Symth:** ... into the room. Cause I – even – when I was out of the room, I'm – you
4 know, the first – it was really the first time I gave any proper verbal
5 commands. My – you know, my first, you know, audio with him was 'no'.
6 That's all that came out of me was 'no' and my hand up. And it wasn't
7 until I was out of the room and I started coming back in, and I'm saying put
8 down the firearm, put down the firearm, was I – you know, I didn't. And
9 again, even, you know, I – now I think back on it, I – I knew I shot him in
10 the head. Like I – I probably didn't even have to exercise that degree of
11 caution but I think again probably back to just the instinctive training part,
12 start, you know, cut the pie to get back in the room and assessing what
13 you're gonna face cause I'm still kind of feeling I'm gonna come in here
14 now and the gun is still gonna be there, he's gonna be lying on the floor,
15 he's gonna be still ready to – to fight but, you know, I – I saw the gun on
16 the floor. That's one of the first things I saw. Then I saw him sat back in
17 the chair, so.
- 18 **Burke:** Okay, you mentioned about the muscle memory and going through the
19 course of fire. Can you tell me more about that?
- 20 **Symth:** Like what our course of fire is?
- 21 **Burke:** What you can remember of it or if you know what it is.
- 22 **Symth:** Like our own course of fire has changed the last couple of years. But I
23 mean it's just done in different distances. The instinctive part, you know,
24 is – we do some aim shooting, some just strictly instinctive, you know, not
25 sighting your target. But fairly consistent with, you know, constantly two
26 rounds centre mass. I think it's changed and gotten away from that a bit
27 more now, just stick in the centre mass and the assessment period is a bit
28 longer.

- 1 **Burke:** Uhm...uhm.
- 2 **Symth:** The vast majority of them done the past couple years was – was always to
3 bang bang, bang, bang bang, bang. And so, you know, two shots centre
4 mass, one to the head.
- 5 **Burke:** Okay. And ...
- 6 **Symth:** Once you got into the – the further distances.
- 7 **Burke:** Right.
- 8 **Symth:** Yeah.
- 9 **Burke:** Do you know what distance that would be from, the two centre mass, one
10 to the head. That's – that is a course of fire is it at some stage?
- 11 **Symth:** Yeah. Yeah.
- 12 **Burke:** Okay.
- 13 **Symth:** The – anywhere from – I mean, some of the – some of the course of fire
14 are done very close distances. I think, you know, six feet.
- 15 **Burke:** Uhm...uhm.
- 16 **Symth:** Two metres, I think.
- 17 **Burke:** Uhm...uhm.
- 18 **Symth:** And then they move 'em five metres.
- 19 **Burke:** Okay.
- 20 **Symth:** Seven metres. Ten metres, then.
- 21 **Burke:** Uhm...uhm.
- 22 **Symth:** And then back and make the smaller target up to fifty metres.

- 1 **Burke:** And at how many stages in the course of fire is there a, you know, are –
2 when you're taught to aim, what portion of the target are you look – are
3 you aiming?
- 4 **Symth:** Well both depending on – on what your ...
- 5 **Burke:** Okay.
- 6 **Symth:** ... so it might – might be the centre mass.
- 7 **Burke:** Okay.
- 8 **Symth:** Or it may be – it may be the head.
- 9 **Burke:** And for ...
- 10 **Symth:** The aim shooting I, you know, again I'm – I'm not a firearms instructor...
- 11 **Burke:** Right.
- 12 **Symth:** ... I'm just kind of remembering my own ...
- 13 **Burke:** Uhm...uhm.
- 14 **Symth:** ... re-quali – and aim to – aim shooting if you're like maybe seven metres
15 you start ...
- 16 **Burke:** Uhm...uhm.
- 17 **Symth:** ... or you might even do both. Some aim, some instinctive ...
- 18 **Burke:** Uhm...uhm.
- 19 **Symth:** ... regardless of where you're ...
- 20 **Burke:** Uhm...uhm. And how, over the course of fire, how often ...is it... you
21 know, is the – are you aiming for the head? Is that one stage or is it in all

1 stages or? Like I'm try – what I'm trying to ask is where is your main
2 target that you shoot?

3 **Symth:** It's always centre mass first.

4 **Burke:** Okay. Alright. Yeah.

5 **Symth:** Always.

6 **Burke:** And compared to centre mass, the shot to the head is that – how often are
7 you trained to the head in – in the course of fire?

8 **Symth:** I'm gonna take a guess and say around seventy-five percent but because
9 there's a change in ...(unintel) ...

10 **Burke:** Okay.

11 **Symth:** ... (unintel) ...

12 **Burke:** So seventy-five percent ...

13 **Symth:** Of the – of the time...

14 **Burke:** You're ...

15 **Symth:** ... that you're – you're doing centre mass ...

16 **Burke:** Right.

17 **Symth:** ... you're also going ...

18 **Burke:** Okay.

19 **Symth:** ... to the head.

20 **Burke:** Okay. Alright. I'm gonna get the course of fire so I just ...

21 **Symth:** Yeah, yeah.

- 1 **Burke:** ... it's just, you know, ...
- 2 **Symth:** Yeah.
- 3 **Burke:** ... asking ...
- 4 **Symth:** For sure.
- 5 **Burke:** ... you really from memory. And I know I don't remember all of our course
6 of fire unless I just do the qualifications ...
- 7 **Symth:** Right.
- 8 **Burke:** ... but ...
- 9 **Symth:** And it has – and again it has changed so I'm – I'm trying to ...
- 10 **Burke:** Uhm.
- 11 **Symth:** .. I know that there – there is less of – I think the – of that two, two, one,
12 two, two, one.
- 13 **Burke:** Okay.
- 14 **Symth:** I think it's gotten a bit more into, you know, a more of an assessment
15 period.
- 16 **Burke:** Okay. Okay. So from what you've told us and what, you know, - you –
17 you say you shot two centre mass and two to the head. Can you tell me
18 why you picked those locations?
- 19 **Symth:** Two centre mass, again just completely instinctive.
- 20 **Burke:** Okay.
- 21 **Symth:** That bang bang. And the only reason I continued is because the – the
22 gun was still coming towards me. I didn't – I didn't – I – it's hard to dissect
23 by what I did in, you know, milliseconds.

- 1 **Burke:** Uhm...uhm.
- 2 **Symth:** And tell you exactly what the reasoning was at the time. It's just so much
3 going through your head. Most of it is 'oh my God, I'm gonna be shot' not,
4 you know, these – it wasn't I'm gonna put a bullet here because this is the
5 – the best.
- 6 **Burke:** Uhm...uhm.
- 7 **Symth:** It's stop that person from trying to kill you ...
- 8 **Burke:** Uhm...uhm.
- 9 **Symth:** .. and do whatever your gotta do.
- 10 **Burke:** Uhm...uhm.
- 11 **Symth:** And the best, you know, method I had of doing that at that point was
12 obviously firing my firearm. And the first two bod – the first two centre
13 mass shots, whether they were on target or not and I still don't know, I feel
14 like they – they probably were just given the proximity but again I was, you
15 know, everything's moving so – so fast. And I'm moving and – and
16 probably not – I mean you're not taking a proper stance and maybe they
17 weren't but after the first two shots the – the threat is still there. It's like –
18 and it's still that feeling of, you know, you gotta survive this and you gotta
19 stop it and if you put a bullet in his head then that might do the job. I – you
20 know, and that's – maybe it's a callous way of kind of describing what's
21 goin' through your head but ...
- 22 **Burke:** Uhm...uhm.
- 23 **Symth:** ... I don't know how else to explain it.
- 24 **Burke:** Uhm...uhm. Okay. The two shots, centre mass, this threat is still present.
- 25 **Symth:** Yeah. Cause the gun is still coming – like if I'm him ...

- 1 **Burke:** Uhm...uhm.
- 2 **Symth:** ... and the gun is still coming towards me. Like I'm – I start over here and
3 I start moving that way and, you know, two shots, you know how quick
4 that..
- 5 **Burke:** Uhm...uhm.
- 6 **Symth:** ... you can fire two shots. It's, you know, less than half a second. And –
7 or maybe around half a second if, you know, from the first shot to the
8 second shot, and it's still there. The firearm is still there. And I – no, I –
9 like, you know, I'm baffled at – maybe it's just – it was strictly momentum
10 was still moving it...
- 11 **Burke:** Uhm...uhm.
- 12 **Symth:** ... or maybe I missed. I ...
- 13 **Burke:** Uhm.
- 14 **Symth:** ... I don't know. I don't know the answer to it.
- 15 **Burke:** So you instinctively shoot two centre mass. Is there – do you have an
16 exclamation why you went to the head after that?
- 17 **Symth:** To stop myself from gettin' shot.
- 18 **Burke:** Right. Okay.
- 19 **Symth:** But it's still instinctive.
- 20 **Burke:** Yeah.
- 21 **Symth:** In so much that, you know, you – I think it was still that, you know, a lot of
22 that muscle memory and that training. Like that bang bang, bang.
- 23 **Burke:** Uhm...uhm.

- 1 **Symth:** Even though it was bang, bang, bang, bang.
- 2 **Burke:** And the third shot which is the first shot to the head, you say you think you
3 missed or?
- 4 **Symth:** I felt at the time it was not on target.
- 5 **Burke:** Okay. And you took the fourth.
- 6 **Symth:** And I know that was on target.
- 7 **Burke:** Okay.
- 8 **Symth:** That's the only shot of all of 'em that I can say with certainty hit him.
- 9 **Burke:** Sure. Okay. Okay, is there anything else that, you know, I'm asking
10 about, you know, the locations of the shots that you took basically and,
11 you know, what was going through your mind or why you think you placed
12 the shots where you did. Is there anything else you wanna add to – to
13 what you've already told me here today?
- 14 **Symth:** You know, I don't think so. Other than just to reiterate that it's – it's hard to
15 – to a – apply, you know, a methodical explanation to
16 something that was – that happened so fast ...
- 17 **Burke:** Uhm...uhm.
- 18 **Symth:** ... and in the blink of an eye and, you know, it really was – was very much
19 instinctive and based on, I think, in training and – and my perception of
20 what was happening in the room which was you're gonna get killed.
21 Beyond that a lot of it is trying to dissect, and again apply that, you know,
22 a broad explanation that – to something that was so fast.
- 23 **Burke:** Uhm.
- 24 **Symth:** No, I think that's it.

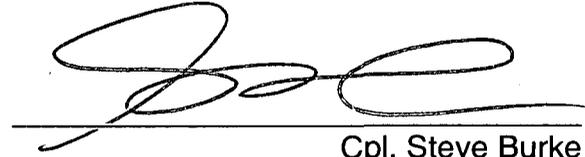
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1 **Burke:** Okay. Okay. End the statement there. The time is 16:51. The date is
2 still 2015-09-14. And I'll just turn this one off and I'll turn the ...

3
4 

5 Cpl. Steve Burke
6 "B" Division Major Crime Unit
7

8
9 *Transcribed by: Brenda P. Spurrell*

10 *Transcribed statement provided to investigator: 2015-09-15*

11 *Proofread by: Cpl. Steven BURKE on 2015-09-17*

12