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CaHILL, Pat	P	
OSMOND, Kent	P	
FITZGERALD, Chris	P	

**Kent Osmond - SMYTH C-237 #4**

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**From:** Kent Osmond  
**To:** Cahill, Pat; Chris Fitzgerald  
**Date:** 2015/04/21 11:57 AM  
**Subject:** SMYTH C-237 #4  
**CC:** Dion Foote; Galway, John; Rod Tiller; Steve Burke  
**Attachments:** SMYTH4.xfdl

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Insp CAHILL.....original sent to you in internal mail for signatures

Cut/Paste below for info only

**Investigation**

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Major Crime Unit East, in conjunction with Holyood Detachment, Avalon East GIS, and FIS are continuing the investigation.

Since last reporting, witness statements have been continuing. However, as there are no witnesses to the encounter other than Sgt SMYTH and Mr. DUNPHY, most statements are in the realm of background and circumstantial information.

Inquiries are being conducted to locate and employ a use of force expert, once all possible information and evidence has been obtained.

Research is being conducted on potentially relevant sections of the Criminal Code and related case law.

Sgt SAUNDERS of FIS has been tasked with making inquiries regarding the possible production of a re-creation style video of the event. The video would ideally incorporate scene measurements, injuries to Mr. DUNPHY, autopsy findings, trajectory information and the statement and re-enactment of Sgt SMYTH to depict what is the most likely scenario to have occurred in the residence, or if the circumstances as described by Sgt SMYTH are supported by the forensic facts. The video would have to be developed by a person (or company) with a background in such technology, that has the capability to complete such a task in a manner that is forensic in nature and defensible in court or an inquiry.

DCAS has been assigned to analyze the cell phone of Mr. DUNPHY and Sgt SMYTH, and a request for them to create a time line is forthcoming.

A request has been submitted to the RNC to obtain the training and personnel records of Sgt SMYTH.

**Exhibits**

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The processing of the exhibits seized from the scene is a priority and has been treated as such. All exhibits have been processed and sent to the lab for relevant testing.

**Media**

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Media interest has shifted from the circumstances of the actual event to the desire / need for a public inquiry. Provincial politicians have commented on radio and television, some stating that an inquiry is needed and some stating that the results of the RCMP investigation should dictate next moves.

Ms. Erin BREEN, legal counsel for Meghan DUNPHY (daughter of Donald DUNPHY) has been interviewed on television stating that the family will want to see a public inquiry at some point, but is waiting to receive the results of the RCMP investigation before commenting further.

### **Arising Issue**

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Ms. BREEN contacted Cpl Steve BURKE and Sgt Kent OSMOND, asking for another meeting to discuss an unspecified concern. Sgt OSMOND and Cpl BURKE attended her office, and Ms. BREEN expressed concern that a pair of glasses owned by Mr. DUNPHY were not seized and processed as evidence. BREEN questioned OSMOND and BURKE's judgement when deciding what items were evidence, might be evidence, or were not evidence. She stated Ms DUNPHY, upon recently entering her father's residence, noted her father's glasses were completely destroyed. BREEN's implication was that there may have been a struggle between SMYTH and DUNPHY, and the glasses may have been evidence of that struggle. Therefore, in her opinion, they should have been seized. Cpl BURKE explained to BREEN that her description of the glasses is not consistent with scene photographs taken by the RCMP. Scene photos, taken directly after the event, show the glasses in disrepair, sitting naturally on the coffee table in front of DUNPHY as if having been removed and placed there, and not destroyed as described by BREEN. BREEN asked if she could view the scene photos to compare to what she had been told by her client, and this was immediately arranged.

After viewing the scene photographs, Ms. BREEN, on behalf of her client Ms. DUNPHY, authored a letter to the Justice Minister, Chief Superintendent Andrew BOLAND and Sgt Kent OSMOND. She requested the RCMP recuse themselves from the investigation as it was not being completed in a thorough and unbiased manner. She quotes the issue with the glasses as the reason for her position. She requested that an out-of province police agency be brought in to investigate the matter.

Cpl BURKE and Sgt OSMOND considered Ms. BREEN's concerns about the glasses. Although her assessment of the condition and relevance of the glasses was not consistent with the investigators, the glasses were seized as an exhibit. Further, witness statements have been obtained about the condition of the glasses that day, and the days leading up to the event. Video of Mr. DUNPHY performing local errands that day have also been obtained. Sgt OSMOND spoke to the officer who seized the glasses and he described them as looking as though they had been 'run over' by something, completely flattened and destroyed. This was not the condition the glasses when captured in the scene photos.

Neither Cpl BURKE or Sgt OSMOND share Ms. BREEN's concerns about the glasses. It is apparent that whatever occurred to damage them, occurred after the scene was processed by FIS. Therefore, it is not considered to be evidence of a struggle.

### **Family Liaison**

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S/Sgt Rod TILLER and Cst John GALWAY have been assigned this role. However, given the position of Ms. BREEN regarding the role of the RCMP and her questions regarding the investigation, Sgt OSMOND has advised both members to direct any questions about the file to Sgt OSMOND or Cpl BURKE.

Ms. BREEN advised in her letter that she is in possession of 10 photos taken by Ms. DUNPHY, which capture the condition of the glasses when found by Ms. DUNPHY.

In her meeting with Cpl BURKE and Sgt OSMOND, Ms. BREEN was critical of the RCMP not delving completely into the past of Mr. DUNPHY and her client felt it was important that the RCMP understand who her father was, but also criticized the RCMP for asking questions about Mr. DUNPHY's mental state at the beginning of the investigation. The offer was made at that time to meet with Ms. DUNPHY to discuss her father.

Since then, Ms. DUNPHY has been asked to meet with the RCMP but has declined pending legal consultation. Further efforts to meet with her and obtain the photos are occurring.

### **Independent Oversight**

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On 2015-04-13 Mr. RICH was provided, in paper format, all disclosure compiled to date.

Ms. BREEN also raised concerns around the adequacy of this role in light of her concerns with the RCMP investigation.

On 2015-04-20, the RCMP responded to Ms. BREEN via letter, stating that the independent oversight was currently deemed adequate, and that the issue will be monitored. If shortcomings are found, consideration of other arrangements may be undertaken at that time.