



COMMISSION OF INQUIRY  
RESPECTING THE DEATH OF DONALD DUNPHY

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Transcript

Volume 21

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*Commissioner: Honourable Justice Leo Barry*

Friday

10 February 2017

**MS. SHEEHAN:** All rise.

I declare this Commission of Inquiry opened.

Commissioner Leo Barry presiding.

**THE COMMISSIONER:** Good morning.

**MS. SHEEHAN:** Please be seated.

**THE COMMISSIONER:** So we ready to go with the next witness, counsel?

**MS. CHAYTOR:** Yes, we are. Thank you, Commissioner.

Our next witness is Staff Sergeant Tim Buckle.

**MS. SHEEHAN:** Do you solemnly affirm that the evidence you shall give shall be the truth, the whole truth and nothing but the truth?

**S/SGT. BUCKLE:** I do.

**MS. SHEEHAN:** Please state your full name.

**S/SGT. BUCKLE:** Staff Sergeant Tim Buckle.

**MS. SHEEHAN:** Thank you.

**MS. CHAYTOR:** Commissioner, before we begin there are some new exhibits to have entered through this witness, please. It is P-0260 through to P-0266 inclusive.

**THE COMMISSIONER:** 260 to 266?

**MS. CHAYTOR:** Correct.

**THE COMMISSIONER:** Uh-huh.

**MS. CHAYTOR:** P-0428, P-0500 and P-0558 – five-hundred and fifty-eight.

**THE COMMISSIONER:** Okay, it's ordered they be entered.

**MS. CHAYTOR:** Good morning, Staff Sergeant Buckle.

**S/SGT. BUCKLE:** Good morning.

**MS. CHAYTOR:** I understand you've been a member of the RNC since 1988?

**S/SGT. BUCKLE:** That's correct.

**MS. CHAYTOR:** And that you're currently a Staff Sergeant in Patrol Division here in St. John's.

**S/SGT. BUCKLE:** That's correct.

**MS. CHAYTOR:** And I also understand that on April 5, 2015, you were a Staff Sergeant in Corner Brook.

**S/SGT. BUCKLE:** That's correct.

**MS. CHAYTOR:** I also understand that you know Constable Joe Smyth quite well.

**S/SGT. BUCKLE:** I do.

**MS. CHAYTOR:** Okay. And you describe yourself, I believe, in the interview as being best friends.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And how long have you known Constable Smyth?

**S/SGT. BUCKLE:** I believe Constable Smyth started with the RNC in 2001, maybe 2002, 2001. And that first summer he worked with me in a high-complaint unit, directed patrol unit, and we worked alongside each other for the whole summer. At the time he was a temporary employee and then he was hired full time the following year. And as a result of that summer we developed a friendship and that friendship has continued.

**MS. CHAYTOR:** Okay. And is that the only time that you policed with him?

**S/SGT. BUCKLE:** No, I'm sure we've been on the same platoon, patrol platoon, and worked with each other on – attended calls together or ended up on the same calls together.

**MS. CHAYTOR:** Okay. So you also know him in that capacity –

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** – in terms of a working relationship.

**S/SGT. BUCKLE:** Absolutely.

**MS. CHAYTOR:** I also understand that in the past you've held executive positions with the RNCA.

**S/SGT. BUCKLE:** Yes, I have.

**MS. CHAYTOR:** And I understand that you were – you're a past president, that Warren Sullivan succeeded you in that role. Is that correct?

**S/SGT. BUCKLE:** Yes. I was involved with the RNC Association for probably more than 20 years in total. I held various positions, including I think about seven years in the position of president from 2004 to 2008 and again from 2010 till 2013.

**MS. CHAYTOR:** Okay. And in your role as president of the RNCA, did you have occasion to advocate for additional resources for training in the Protective Services Unit?

**S/SGT. BUCKLE:** Yes, I did.

**MS. CHAYTOR:** Perhaps you could tell the Commissioner about that.

**S/SGT. BUCKLE:** Yes. In my role as president of the RNC Association it was commonplace for the chief of police when starting new initiatives, there was obviously an impact on scheduling, competition for positions, that type of thing. So generally in my role as president I was provided the information related to any new initiatives and discussion would ensue as to what concerns would exist.

I was advised that the Protective Services Unit was being formed in order to deal specifically with complaints from elected officials because they were being dispersed throughout the organization. Patrol Division would respond, Criminal Investigation would respond, and even calls directly to the office of the chief of police would occur. And this unit was being – while it operated ad hoc up to that point, it was being formalized to provide a more, I guess a more organized response and have a direct focus. The work was being done anyway by officers throughout the organization, so it was decided to form this unit.

Subsequent to the unit being formed, I knew that officers were assigned. And obviously Constable Smyth was selected for, assigned to that role. And because we were friends, obviously we had discussions about it but in a general manner.

I've always advocated one of the roles of the association, one of the priorities of the association is to, in addition to ensuring proper compensation and in terms of a collective agreement, I was also – it was a priority of mine to ensure that training equipment, to ensure the best possible level of police service could be provided to the citizens we serve. And as part of that, I initiated an advocacy initiative in order to have additional training provided to people assigned to the Protective Services Unit because I was concerned that they – it is a high-profile unit, and should a significant event occur – unfortunately, exactly why we're here today – I wanted to be assured that our members were adequately trained and had the resources they needed to carry out that role.

**MS. CHAYTOR:** Okay. And so what training was put in place following that advocacy effort?

**S/SGT. BUCKLE:** I know we had – basically, on a quarterly basis we would meet with the chief of police, the executive of the RNC Association. We would meet with the chief of police and it was – we met quarterly, typically, to discuss any issues arising. And I know I raised the issue of training and subsequent meetings there. I think there were three or four meetings that the issue was discussed and, subsequently, the training for close protection was provided to the members assigned to the unit.

**MS. CHAYTOR:** Okay. And do you know whether or not that training became mandatory for all officers assigned to the unit?

**S/SGT. BUCKLE:** Well, that's one of the roles of my advocacy is – because that's my position, is that it should be. There should be training completed prior to one day of work in any specialized area. However, obviously the competition for resources throughout the organization, sometimes people are assigned to positions and the training is carried out at a subsequent time, which has always been a concern of mine and I've always advocated against. I felt that the training should be completed before anybody carried out any such duties.

**MS. CHAYTOR:** Okay. And I'll have some questions a little bit later about some other initiatives that you did in your role as president of the RNCA or your executive role.

I understand from having reviewed Constable Smyth's phone records, that on April 5, 2015, shortly before, with the shooting, you had – or that morning, around 12:30 actually, I believe the records show, that you had a 22-minute conversation with Constable Smyth, and that followed two shorter calls of a couple of minutes each with Constable Smyth. One of those lasted I think

just a couple of minutes. So that is in the phone records. So I don't need to bring you there, but you recall, you recall having a fairly lengthy conversation with Constable Smyth that day?

**S/SGT. BUCKLE:** Yes, I do.

**MS. CHAYTOR:** Okay. And according to the cellphone records that we have to date it appeared to us in doing the review that you were the last person, other than perhaps his wife, that had any communications with Constable Smyth prior to the incident with Mr. Dunphy.

Can you tell the Commissioner, please, where were you and where was Constable Smyth while you're having that conversation?

**S/SGT. BUCKLE:** It was – I was at my home on the West Coast, and he – I don't remember who called who, but I know that during Constable Smyth's duties with the Protective Services Unit, he did spend a fair amount of time on the highway travelling around the province and it was pretty commonplace, I guess to relieve the boredom of driving, that he called me and we had a general conversation. Pretty much every time he was on the highway I expected a call, because we were good friends and we chatted about daily occurrences.

**MS. CHAYTOR:** Okay. Then, so he's on the highway. And did you know where he was headed at the time?

**S/SGT. BUCKLE:** I didn't know specifically where he was headed. I don't recall him specifically saying where he was going. We've both snowmobiled on the Salmonier Line and I remember understanding that he was headed in that direction because there was reference to Salmonier Line. So I was familiar with that area and – but other than that, I don't recall him specifically telling me where he was going.

**MS. CHAYTOR:** And did you understand from your discussion with him that he was in the course of his employment and he was headed to meet with someone?

**S/SGT. BUCKLE:** Yes, I did.

**MS. CHAYTOR:** Okay. And did you know that it was Mr. Dunphy that he was going to visit?

**S/SGT. BUCKLE:** No, I didn't.

**MS. CHAYTOR:** Had you ever heard Constable Smyth mention Mr. Dunphy's name prior to April 5, 2015?

**S/SGT. BUCKLE:** No, I had never heard his name before.

**MS. CHAYTOR:** And you had never heard him in any other context then you're saying?

**S/SGT. BUCKLE:** Not that I recall.

**MS. CHAYTOR:** Okay. While you were speaking with Constable Smyth, did he have any problems with cellphone coverage?

**S/SGT. BUCKLE:** No. My understanding was that he was on the Trans Canada and turning onto Salmonier Line. At the time I spoke to him I don't recall any – when he began the conversation, but I remember the conversation ended because he said, he made a comment that he's likely going to run out of cellphone service. But I didn't know exactly where he was.

**MS. CHAYTOR:** Okay. All right. And he indicated to you, though, that he was likely going to run out of cellphone coverage?

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. Did he mention why it was that he was headed to visit somebody?

**S/SGT. BUCKLE:** I knew – I didn't get any specifics and I didn't pay attention to it and I had no reason to make any specific notation. I knew it was related to comments on Twitter related to elected officials. There was no lengthy discussion about it. This – I saw what he was doing as a matter of routine in his role, and the majority of the conversation was about planning a weekend at the cabin, social activities. The call was – I knew where he was going and why, but that's about as much as I knew.

**MS. CHAYTOR:** Okay. And in terms of knowing where he was going, though, you didn't know that he's headed to Mitchells Brook?

**S/SGT. BUCKLE:** I don't recall right now whether he said. So I'm not prepared to say that he told me Mitchells Brook. He may have, and I would not have paid attention to it. It was really irrelevant. I just – I knew he was going down Salmonier Line way.

**MS. CHAYTOR:** Did he tell you what, if any, inquiries he made as part of his risk assessment prior to visiting Mr. Dunphy?

**S/SGT. BUCKLE:** No.

**MS. CHAYTOR:** Did he ask you to conduct any searches for him or provide him with any information to assist him in what he was doing that day?

**S/SGT. BUCKLE:** I felt the phone call was purely a social call to relieve boredom on the highway as per usual. I was at home, I was off duty, there was absolutely no expectation that I was acting in any official capacity.

**MS. CHAYTOR:** Did he ask you to conduct any searches or provide him with any information to assist him in what he was doing that day?

**S/SGT. BUCKLE:** No.

**MS. CHAYTOR:** Thank you.

Had you spoken – so before I leave that, those two other free phone calls that you had with him, do you recall why it is that there appeared to have been more than one call, apart from the 22 minutes?

**S/SGT. BUCKLE:** I don't recall. I don't recall who called who first. I don't recall – I don't even recall having additional calls. Like I said, it was a matter of routine, really made; it was not significant to me in the big picture at that day.

**MS. CHAYTOR:** Okay.

I also noted upon review of the phone records that you did speak with him on April 3, so on the Friday, April 3, 2015. And that telephone call happened at 12:30 p.m., or approximately 12:30 p.m. Newfoundland time. And we know, and the Commissioner has heard evidence, that Constable Smyth received an email from Donna Ivey the same date, around 10:21 a.m.

And did he mention anything about that to you when he spoke to you a couple of hours later?

**S/SGT. BUCKLE:** No. And I'd qualify that. I don't recall him mentioning it. I would have had no reason to make a note of it. It wouldn't have stood out in my mind at the time nor does it now.

**MS. CHAYTOR:** How did you learn about Mr. Dunphy's shooting?

**S/SGT. BUCKLE:** I received a telephone call from Warren Sullivan who was the current president and succeeded me as president of the RNC Association.

**MS. CHAYTOR:** Okay. And do you recall approximately what time you would have received that call?

**S/SGT. BUCKLE:** No, I don't.

**MS. CHAYTOR:** Okay.

I'm going to ask if we could bring up please, P-0304. And it's page 2 of the exhibit please, Madam Clerk.

Page 2; and as you can see here Staff Sergeant Buckle, we have blocked out phone numbers, but if we look at – we've kept the last three digits, and if we look here at – over on the far left – 229 and 230. There are two phone calls at 15:06, 15:07, so 3:06, 3:07. And, by the way, these are Warren Sullivan's telephone records that we're looking at now. I should have told you that. The last three digits over here, 516, would that be your phone number?

**S/SGT. BUCKLE:** I believe it would be. My number does end in 516.

**MS. CHAYTOR:** Okay. So it looks like you received those phone calls at 3:06 and 3:07. Does that seem about right?

**S/SGT. BUCKLE:** Yes, it would appear.

**MS. CHAYTOR:** Okay.

**S/SGT. BUCKLE:** I don't know; I'm not familiar with these phone records. So I'm just wondering would they have been incoming or outgoing? I don't know. I don't know if he called me or I called – I know he did call me. So I don't know if he called me on one occasion and I called him back.

**MS. CHAYTOR:** Okay.

**S/SGT. BUCKLE:** The first call looks to be 39 seconds. So I'm wondering if that was just a phone message left, that I missed a call and I called him back. I don't know.

**MS. CHAYTOR:** Okay. It appears to be – the incoming ones appear to be marked incoming –

**S/SGT. BUCKLE:** Okay.

**MS. CHAYTOR:** – and so these two, which I understand to be your number, those look like –

**S/SGT. BUCKLE:** He would have called me?

**MS. CHAYTOR:** It looks like he called you.

**S/SGT. BUCKLE:** Yeah. And he probably called me and didn't get me, left a message and then called me back the next –

**MS. CHAYTOR:** That's fine. Can you tell me what it is that Warren Sullivan told you about the shooting?

**S/SGT. BUCKLE:** All he disclosed to me that – I think he, if I remember correctly – again, I made no notes of these matters. If I recall correctly, he told me – or he asked me at first if I was aware that Constable Smyth had been involved in a shooting incident. And I told him no. And then he disclosed to me the information he had that there had been a shooting and that the individual was deceased.

**MS. CHAYTOR:** Okay. And what did you do with that information? Did you contact anyone else?

**S/SGT. BUCKLE:** Not that I recall. I would have had some discussion with him obviously in my role as past president with the RNC Association. I would have had some discussion with him in regard to the association's role in how they should respond to this.

**MS. CHAYTOR:** Okay. And what did you advise Constable Sullivan he should do?

**S/SGT. BUCKLE:** I would have advised him that – well, I would have suggested that Constable Smyth contact me, both as a friend but also with my experience with the association and I would have advised him to ensure that Constable Smyth not provide any statement at that time.

**MS. CHAYTOR:** And what was your concern with him providing a statement at that time?

**S/SGT. BUCKLE:** I've attended – in addition to my role with the RNC Association, I've also held the position of – on the board of directors with the Canadian Police Association and I've attended numerous conferences and presentations by various people across the country dealing with specifically officer involved, subject officer involved use of legal force including a presentation by Ronald MacDonald of Nova Scotia's ASIRT, lawyers from Ontario who provided presentations on the special investigation unit in Ontario. So I had quite a lengthy background over my more than 20 years involved with the association.

And the understanding and the information that I had received in all cases was that officers should not be providing statements in regard – regarding lethal use-of-force incidents due to the trauma they suffer until at least 24, 48, even – there's some suggestions that it even be 72 hours is my understanding.

**MS. CHAYTOR:** And what does that training also suggest in terms of what the officer should do in that intervening period in terms of trying to preserve the integrity of his memory?

**S/SGT. BUCKLE:** Rest.

**MS. CHAYTOR:** And try not to have his memory contaminated.

**S/SGT. BUCKLE:** I don't recall specific direction in regard to that.

**MS. CHAYTOR:** Okay. So you're not – we've seen an exhibit here at the inquiry where that's the fourth point that there should be care given, the risk being that the evidence could become contaminated in the intervening period.

**S/SGT. BUCKLE:** Yes, and I would understand that. I think that would be probably common sense; however, I also – I also aware that RNC policy consistent with any police force across the country, that there needs to be immediate psychological care for the member involved. They should be put in touch with EAP. A senior-ranking officer of the organization should have immediate contact with the officer involved.

And I think another one of the points is that I guess depending on your religious faith or level of religious faith, that there's a suggestion that the RNC padre be contacted and put in touch with the involved subject officer, and also that the subject officer should be given immediate access to immediate family.

**MS. CHAYTOR:** Okay.

Did you have occasion to speak to Constable Smyth yourself that day to relay that advice to him personally?

**S/SGT. BUCKLE:** Yes, I did.

**MS. CHAYTOR:** Okay. And when did that conversation take place and where was he at the time?

**S/SGT. BUCKLE:** Again, I don't know. I can't give a specific time. I did not make any specific notations. I held no investigative role in this process other than to provide advice from an association perspective. I know the time he called me, the first time I spoke with him my understanding was that he was en route to the Holyrood detachment of the RCMP in an RCMP vehicle.

**MS. CHAYTOR:** Okay.

And if we could bring up P-0262, please. And it's page 7, Madam Clerk. This is back to Constable Smyth's extract of his phone records that we have and it indicates a call between you.

**THE COMMISSIONER:** Which number is it?

**MS. CHAYTOR:** This is P-0262, please.

**THE COMMISSIONER:** 0262.

**MS. CHAYTOR:** And the only thing that's left unredacted on this page is an outgoing call to you. And this is UTC time so this would be just shortly before 4 p.m. but it doesn't show any time. I couldn't find any other record but around 4 p.m., does that seem about right, the time that you would have been speaking with him?

**S/SGT. BUCKLE:** It would be a complete guess to know what time it was. It was some time in the afternoon. And I know I spoke to him and I know it was a relatively short call but it was probably in the vicinity of two or three minutes.

**MS. CHAYTOR:** Okay. All right.

And I don't know, you know, in terms of this zero, what that might or might not mean. It might mean that that call didn't go through; it might mean that it was under a certain period of time, I don't know. But one thing that I would ask of you is that it's your recollection, and I believe you told me this in the interview as well, that he was being transported to Holyrood at the time that you spoke with him.

**S/SGT. BUCKLE:** That was my impression from the conversation was that he was en route to Holyrood in an RCMP vehicle.

**MS. CHAYTOR:** Okay.

And so what was discussed in that call?

**S/SGT. BUCKLE:** I made no notes of the specific call. As I said, I was not involved in any investigative role. It was my giving him direction as to what he should not do in regard to the ensuing investigation that would obviously automatically occur.

**MS. CHAYTOR:** Okay.

Staff Sergeant Buckle, your best friend has just shot an individual.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** I would – did you not ask him what happened?

**S/SGT. BUCKLE:** No.

**MS. CHAYTOR:** You didn't ask him what happened?

**S/SGT. BUCKLE:** No, I didn't.

**MS. CHAYTOR:** Okay.

And do you recall him giving you any details as to what happened?

**S/SGT. BUCKLE:** I don't recall specifically. I was aware that he was involved in a shooting. He may have gave me one sentence or a view words as to what initiated his use of lethal force. I don't recall it; I didn't make a note of it.

**MS. CHAYTOR:** Okay. And I appreciate you didn't make a note of it but I'm just asking would that be a conversation that might stick in your mind?

**S/SGT. BUCKLE:** He may have made a comment that the individual produced a firearm, pointed a gun at him, but I cannot say with absolute certainty. I'm probably assuming that by virtue of the fact that he called me or I called = or he called me in regard to what happened. There's a good chance, a very good chance that he did say that, but I – to have a specific recollection of it, I can't say with absolute certainty.

**MS. CHAYTOR:** Okay.

And I'll just take you to your interview and when I ask those questions. And we're on page 119 to 120 of the interview transcript December 14, 2016.

How long did you speak to him on that occasion? I'm sorry, the answer before that was: Yes, he called me while he was en route in the police – the RCMP vehicle to the Holyrood detachment. So he called you which would indicate an outgoing call? Yes. And how long did you speak to him on that occasion? Not very long, it was probably just, again, a couple of minutes conversation. I could tell from his voice. Like I said we had been best friends and I could tell from his voice that he was distraught. Question: And did he give you any detail as to what

happened? Staff Sergeant Buckle answer: I believe that he told me that the guy he went to visit pulled a rifle on him or something, or made reference to a weapon being involved.

Question: Okay, so whether he pulled a rifle on him or a weapon, is that clear in your mind?

Answer: Yeah, like I don't – I can't quote verbatim. Okay. Answer: I know I understanding – and I think there might – is a problem there – I know I understanding that he was involved in a shooting because the individual had pulled a weapon out or a gun or – okay. Answer: I would not be able – I couldn't venture to say verbatim what he told me.

And was there – question: Was there anything else discussed? Did he ask you to do anything on his behalf? Answer: No, I cautioned him about it because obviously he was my friend. But also my experience with the (inaudible) association, I told him he should be cautious and not provide a statement immediately.

Okay, does that seem like an accurate reflection of what you remembered at the time?

**S/SGT. BUCKLE:** It's a reflection of what I'm saying here today that that's what I believe, that's what I – but to give an absolute certainty recall verbatim of what he said. And I used firearm, weapon interchangeably because I honestly don't remember whether he said weapon, firearm. But I certainly had the impression that a weapon was produced of some type.

**MS. CHAYTOR:** Okay. So what specific detail –

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** – you remember (inaudible).

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** So there was some discussion about what had happened.

**S/SGT. BUCKLE:** Yeah, no question. Yeah.

**MS. CHAYTOR:** Okay. Okay.

Staff Sergeant Buckle, so it was obvious to us from your phone records that you'd had a couple of communications, at least that day, with Constable Smyth, and one of those being a rather lengthy conversation as he's headed to Mitchells Brook.

Did the RCMP contact you during their investigation for any information?

**S/SGT. BUCKLE:** No.

**MS. CHAYTOR:** So you weren't asked about any of the conversations that you had with Constable Smyth, either shortly before the incident or after the incident?

**S/SGT. BUCKLE:** No, I wasn't.

**MS. CHAYTOR:** Okay. Did that surprise you?

**S/SGT. BUCKLE:** It surprised me somewhat, yes.

**MS. CHAYTOR:** And why is that?

**S/SGT. BUCKLE:** I believe that I was probably one of the last people to speak with him before the incident. And I was somewhat surprised that I wasn't contacted and asked. And when Commission counsel summoned me to come for a deposition, I – it was the only thing that I could think of that I would have to offer was that conversation.

**MS. CHAYTOR:** Okay.

Okay, it's also clear from the review of his records that you were in frequent contact with him, obviously, over the days that ensued following the accident – the incident.

**S/SGT. BUCKLE:** I'm in – myself and Constable Smyth are in contact, I wouldn't say daily but several times weekly before and since this incident.

**MS. CHAYTOR:** Yes, okay.

And the next day, on April 6, there are two phone calls that I noted: one is at 5:43 p.m., in the evening, and I understand that would have been after he had given his statement to the RCMP; and there's another call at approximately 3 p.m. on April 6, which I understand to be very shortly before he gave his statement to the RCMP.

And we can bring that up if you wish, but that call is at P-0262, page 6, on the bottom of the page. So it's the same exhibit we have here, so perhaps we can just go to it. And you spoke to him for over 10 minutes, right before he gave his RCMP statement. Are you able to tell us what was discussed in that conversation?

**S/SGT. BUCKLE:** No, I'm not able to tell you what was discussed.

**MS. CHAYTOR:** And this is the call right here, outgoing. He called you 5:26 p.m. UTC time. So just shortly before 3 p.m., a 10 minute conversation. You can't tell us what was discussed.

**S/SGT. BUCKLE:** No, I made no notes of the conversation. I cannot – I have no recollection. Obviously, it would have been about what was happening but I cannot relate. It'd be pure speculation to tell you what was discussed.

**MS. CHAYTOR:** Did you have any advice for Constable Smyth as he's about to go into his interview with the RCMP?

**S/SGT. BUCKLE:** Again, I can't say specifically what I said but I'm quite confident that I would have, again, reminded him against giving a statement at that time.

**MS. CHAYTOR:** Against giving a statement on April 6?

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay.

So your advice for him not to give a statement, this is now the next day, so you're still – would be advising him, don't do it.

**S/SGT. BUCKLE:** Yeah. My understanding, and my purpose in that case was not because of the – his time anymore. I wasn't concerned about that, but my understanding at the time was that he was meeting with the RCMP without consultation or presence of a lawyer, and I had concerns about that.

**MS. CHAYTOR:** Okay. So you didn't understand that he'd already spoken to a lawyer. Is that what you're saying, without consultation?

**S/SGT. BUCKLE:** I don't recall. My advice to him would be to prepare a statement with a lawyer as opposed to submitting to an interrogation or interview, or process whereby questions are put to him without any preparation or anticipation.

**MS. CHAYTOR:** Okay.

I understand then on April 9 you did firearm training with Constable Smyth.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And so that's four days after the incident. When and why was that arranged?

**S/SGT. BUCKLE:** I think at the time I was completing some training at Memorial University, and I came to St. John's totally unrelated to this incident. And met with – and again, that's a guess. I know I was here and not specifically for this purpose. And I met with Constable Smyth and he had – I don't recall the sequence of events, how that training was arranged. I don't believe I arranged it. I just – I think I became aware that he told me that he was doing his requalification and I decided to go with him. I needed to do my recertification also, so I decided to go with him and have it done.

**MS. CHAYTOR:** Okay. And during the interview I believe you told me that you were concerned with Smyth psychologically being able to complete that and that you thought he should get back at it as quickly as possible.

**S/SGT. BUCKLE:** Yes. Part of the presentations that you – that I've been present at in regard to officer involved lethal use of force results in significant trauma to the individual and in many cases there's – it affects an individual such as they have a great deal of hesitation. They're reluctant to carry out their duties in future situations. So I'm aware that it is wise that as – you know, in a reasonable amount of time after to go through the course of fire and be comfortable that you're still, you still have that psychological ability to carry out your duties.

**MS. CHAYTOR:** Okay. And it was just module 1, the course of fire that you did that day?

**S/SGT. BUCKLE:** That's correct.

**MS. CHAYTOR:** Okay. And how long did that take? How long were you together during that that day?

**S/SGT. BUCKLE:** I probably – the course of fire is probably anywhere from half an hour to 45 minutes. That's just a guesstimate.

**MS. CHAYTOR:** Okay. And did you – and did you spend time with him otherwise that day?

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. And so during your time with him that day, did you have occasion to get further details as to what had happened in Mitchells Brook?

**S/SGT. BUCKLE:** I don't recall.

**MS. CHAYTOR:** Did Constable Smyth have any difficulty completing his firearms training that day?

**S/SGT. BUCKLE:** No, he did not.

**MS. CHAYTOR:** I also understand that the next day, April 10, you attended the second re-enactment?

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. And that you drove down to Mitchells Brook with Constable Smyth to do that?

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Constable Smyth drove.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And you went along.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. Did you actually observe anything with respect to the re-enactment?

**S/SGT. BUCKLE:** No. I understood it was important that I not enter into or be part of the process, that he – I think I exited the vehicle that was parked on the side of the road opposite the residence, and I recognized the faces of a couple of RCMP officers that were there. I didn't recall their names. I just – they looked familiar. I had brief conversations with them in passing. Constable Smyth went with the officers into the scene and went through the process and – but I never, I never went past the police tape. I stayed on the side of the roadway.

**MS. CHAYTOR:** Okay. And did – an RCMP officer would have been also guarding – was there an RCMP officer who stayed outside as well?

**S/SGT. BUCKLE:** Yeah, I think there was – there were several officers there. Justice Riche was there. I – like again, I don't know specifically what RCMP officers were there? I recognize faces generally but I'm not good with recalling names.

**MS. CHAYTOR:** And what discussions did you have with the RCMP that day?

**S/SGT. BUCKLE:** Just general conversation, it was nothing about the incident.

**MS. CHAYTOR:** So nothing about the incident was discussed with the RCMP.

**S/SGT. BUCKLE:** No. I had nothing to offer.

**MS. CHAYTOR:** Constable Smyth sent an email that same day to the staff of the RNC, and that would have happened prior to you attending at the re-enactment. Is that correct?

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. And that email was ultimately leaked to the media?

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** The records show that he sent an email to you prior to distributing it broadly within the RNC.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Do you recall receiving it before it was broadly sent?

**S/SGT. BUCKLE:** Yes, I do recall receiving it.

**MS. CHAYTOR:** And I believe the record – and we can bring it up if you wish, but it's P-0260, Commissioner, and it shows a call, an email to you, sorry, at 9:23 p.m., the evening of April 9. So the evening before?

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. And we've blocked out, you can see here we've blocked out because I understand this to be your personal email account.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** So it's been blocked out, but here's the email being sent to you, okay. The phone records also show that you had a telephone conversation with him that evening at 9:56 p.m. So after having received this email there was a telephone conversation with him. Do you recall that?

**S/SGT. BUCKLE:** I don't recall it specifically, but I remember at some point discussing the email and his intentions to distribute it throughout the organization.

**MS. CHAYTOR:** And what advice did you have to Constable Smyth regarding the content or distribution of this email?

**S/SGT. BUCKLE:** I didn't have any, any advice. I had reluctance about him doing it. I didn't – to my regret, I didn't caution him against it because of, ultimately, what occurred with it, but I knew that he was experiencing a lot of trauma, emotional – he was going through a lot of emotional turmoil, and I think that this was simply a way for him to express himself, to co-workers, in an effort to explain to people what he was feeling and what had happened.

**MS. CHAYTOR:** Okay. So you didn't discourage him from doing it –

**S/SGT. BUCKLE:** No I didn't.

**MS. CHAYTOR:** – but you didn't encourage him either.

**S/SGT. BUCKLE:** No, no.

**MS. CHAYTOR:** Did you know he was going to distribute it to anyone other than internally in the RNC?

**S/SGT. BUCKLE:** No, I didn't, and I would have strongly discouraged against that. I was not aware that it was sent to anyone outside of the organization. We have group emails – I wasn't even aware that it was sent to civilians. We have a group email at work that you can confine your email to, sworn officers, and I probably just assumed that's who he would send it to which was

all police officers; but, in this case, I learned after it was leaked that it was sent to retired members, members of the RCMP and civilian employees of the RNC.

**MS. CHAYTOR:** Okay. And so the fact that he sent it to the primary investigator doing the RCMP investigation, you weren't aware that he was going to do that?

**S/SGT. BUCKLE:** No, I had no idea who all the audience was until afterwards it was leaked. And obviously, we had discussion about it and my thought was, what other police officer would do that. And he explained to me that it was also distributed to civilian employees and members of the RCMP and some retired members – too late then.

**MS. CHAYTOR:** And would you have been concerned about him sending it to the RCMP?

**S/SGT. BUCKLE:** Yes, I would.

**MS. CHAYTOR:** And what would your concern be in that respect?

**S/SGT. BUCKLE:** Just the perception – I don't think it causes any real significant issue but cognizant of the perception that's created sometimes of the relationships amongst police officers.

**MS. CHAYTOR:** So you wouldn't have been concerned so much with him sending to the sworn officers of the RNC but to have sent it to the civilian officers, that would have been of more concern to you if you'd known that?

**S/SGT. BUCKLE:** Well, I think police officers are a unique breed in the work we do and the training we receive that is separate and apart from any other employee, in my opinion, and the more broadly you distribute something like that, I don't think civilian members would appreciate the significance of this being distributed widely.

**MS. CHAYTOR:** Do you have any reason to believe a civilian member of the RNC distributed this to the media?

**S/SGT. BUCKLE:** No – I have no reason to know who may have released it; I'm just saying it would have caused me additional concern because sworn officers, understanding that responsibility, I think, is a higher standard than pretty much any other employee.

**MS. CHAYTOR:** Staff Sergeant Buckle, do you know how the email ended up in the hands of the media?

**S/SGT. BUCKLE:** No, I don't.

**MS. CHAYTOR:** You also had several other telephone calls with him on April 10. Was that in relation to this email?

**S/SGT. BUCKLE:** I have no recollection of what the specific phone calls were about.

**MS. CHAYTOR:** If we could bring then – I'm going to move on to another area – P-0223. At the bottom of this page begins with an email on April 6, so the day after the incident that you sent to all staff, Royal Newfoundland Constabulary and it's a caution regarding Andrew Abbass. And you're advising to use caution if responding to calls involving him and you've attached screenshots of his tweets and newspaper articles with his photo. Joe Smyth then forwards that on to Doug Noel.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And then Doug Noel sends it on to Joe Browne, copies Ed Benoit and Doug Noel notes that he had just received this from Joe. I haven't forwarded it to the premier as Abbas is in Corner Brook – so you would have been in Corner Brook at the time –

**S/SGT. BUCKLE:** Yes, I was.

**MS. CHAYTOR:** – and makes no direct threats beyond bluster, and he leaves it to Chief of Staff Joe Browne's discretion as to whether or not he thinks that the premier should be made aware. And Joe Browne simply responds, thank you.

Why are you flagging Mr. Abbas to all members of the RNC at this point in time if he isn't making any direct threats, as Corporal Noel indicates, no direct threats beyond bluster?

**S/SGT. BUCKLE:** Well, even bluster needs to be paid attention to and monitored in the policing world. There's a couple of reasons of why I would have been involved here, is that because I think – is this when – I'm trying to remember the date now. During a period of time while I was assigned in Corner Brook, I was an ad-hoc liaison for the Protective Services Unit. I would assist if they came to town. If Constable Smyth was coming alone, it was just him and he needed assistance at a scene, I would either do it myself or task members of the Criminal Investigation Division to do it. So I was the liaison in Corner Brook to carry out those duties.

**MS. CHAYTOR:** And are you saying that's what you're doing here, and that's your role in doing this?

**S/SGT. BUCKLE:** Yeah, I remember –

**MS. CHAYTOR:** But this went to all –

**S/SGT. BUCKLE:** – specifically these, those Twitter comments by Andrew Abbas being, being – I was approached by members of the Criminal Investigation Division to make me aware of this. I reviewed it myself and I also had concerns and a unique member of this, this matter was that there was – Andrew Abbas actually had a brother who was an RNC officer in the detachment in Corner Brook, and it was – there was some discussion with him too, and it was obvious to me that even the family had concerns about his mental health at the time.

**MS. CHAYTOR:** Okay. And so, though this is being distributed to all staff of the RNC, not just to the protective service unit individuals, so at this point in time it's a broadly distributed –

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** – regarding cautions. And I understand, at this point in time, the comments were in relation to Mr. Abbas speaking out in the aftermath of Mr. Dunphy's shooting. Isn't that correct?

**S/SGT. BUCKLE:** Yes, yes.

**MS. CHAYTOR:** And he was expressing displeasure regarding that.

**S/SGT. BUCKLE:** Yes, and the comments on Twitter were brought to my account by members of the Criminal Investigation Division in Corner Brook. And I felt that it was important. I was aware that Andrew Abbas had presented himself at the RNC detachment, which is – you know, we have civilian employees that deal with the public at the front desk in the Corner Brook detachment. And so, I would have included civilian employees and I also felt it was important

for all officers, including patrol officers who may have interaction with him in Corner Brook, to be aware of Mr. Abbass and his behaviours.

**MS. CHAYTOR:** Mr. Abbass presenting himself at the RNC, that's not April 6?

**S/SGT. BUCKLE:** No, no.

**MS. CHAYTOR:** That's some time before.

**S/SGT. BUCKLE:** But he had presented himself previously to make a complaint against Stephen Harper as is indicated there.

**MS. CHAYTOR:** Right.

**S/SGT. BUCKLE:** So I was aware that he had presented himself at the detachment previously. So based on this new bluster, as Doug Noel refers to it as, that I was concerned that all members, especially in the Corner Brook detachment, including civilian employees, should be aware.

**MS. CHAYTOR:** Okay.

Ultimately, we understand that Mr. Abbass was detained in Corner Brook – and I believe it's the next day – under the *Mental Health Care and Treatment Act*. Was that in relation to his communications in the aftermath of Mr. Dunphy's shooting?

**S/SGT. BUCKLE:** I don't recall. I'd have to review the specific file. I know I was involved and had some discussion with members of the Criminal Investigation Division at the time. And I did actually participate in some conversation in regard to the decision to attend to his residence and have him detained under the *Mental Health Act*.

And I believe Sergeant Ryan Wentzell was the officer that actually led the file, actually went to the residence, spoke to him and dealt with the actual incident. I didn't attend myself.

**MS. CHAYTOR:** Did you discuss Mr. Abbass's detention and arrest with Constable Smyth?

**S/SGT. BUCKLE:** I don't recall. I may have. I certainly wouldn't deny it. It's quite possible, but I don't recall.

**MS. CHAYTOR:** And I believe that you told me in your interview on December 14 that you very likely did.

**S/SGT. BUCKLE:** There's a very good chance I would have, yes, especially in light of the fact that it was in regard to his comments now – and I had forgotten that again, but now that you remind me, yes, in regard to the Mitchells Brook incident, if those comments were about the Mitchells Brook incident, I very likely would have mentioned it at some point to Constable Smyth.

In fact, I think this is forwarded to him, isn't that correct?

**MS. CHAYTOR:** Yes, but that's – no, it wasn't forwarded to him –

**S/SGT. BUCKLE:** Yes, it was forwarded to all staff of the Royal Newfoundland Constabulary. He would have received it.

**MS. CHAYTOR:** – he received it, to everyone, and he forwards it Doug Noel.

**S/SGT. BUCKLE:** Yes, but my sending it out to all staff meant that Constable Joe Smyth would have received this email.

**MS. CHAYTOR:** Right, but my question was whether or not you discussed –

**S/SGT. BUCKLE:** I don't recall –

**MS. CHAYTOR:** He hadn't been arrested or detained at this point.

**S/SGT. BUCKLE:** I don't recall.

**MS. CHAYTOR:** Okay.

Let's bring up P-0500, please. This is the next day. This is an extraction from Constable Smyth's cellphone records which has been produced to the inquiry in the last few days. If we could have page 10, please, of this document, Madam Clerk. These are BBM messages.

This is you, Staff Sergeant Buckle, to Constable Smyth on April 7, 7:32 p.m.: "Arrested Abbass under MHCTA." He replies: "Saw that! Nice." You reply: "He's at hospital now." Smyth replies – Constable Smyth replies: "Loser." You reply: "Yup."

Staff Sergeant Buckle, this is someone who has been detained for mental health issues; that's who you and Constable Smyth are referring to as a loser.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Is that in keeping with your training as to the sensitivity to be shown to people with mental health issues?

**S/SGT. BUCKLE:** No, but this wasn't shown to the individual. It was a casual, private conversation.

**MS. CHAYTOR:** So what you're saying is you wouldn't say it to his face, but it is okay to say it behind his back.

**S/SGT. BUCKLE:** I'm not saying it's okay. I've readily acknowledged it is not okay, but sometimes in the business that we carry on there is no question that the language is less than professional in private that is not exposed to the public.

**MS. CHAYTOR:** What would Constable Smyth know about Andrew Abbass other than what you told him to be able – for him to be able to make the comment that he's a loser?

**S/SGT. BUCKLE:** I don't know what he knew other than maybe he saw the Twitter post, too. I really don't know what he would have known. The tweets that he posted were public, so Constable Smyth may have – and again, I'm certainly not denying that I didn't discuss it with him. I may very well have. I just can't recall and I can't say specifically what I would have said.

**MS. CHAYTOR:** Okay.

**S/SGT. BUCKLE:** But the fact that I'm sending him a private message on BBM saying he's been arrested kind of would indicate to me that I hadn't discussed it with him up to that point. If I had discussed it with him and was giving him a play by play as to what we were doing in regards to Andrew Abbass, I wouldn't have seen any need for this message. So, you know, that

would lead me to believe that I wasn't discussing it with him online, but I certainly wouldn't deny that I was.

**MS. CHAYTOR:** Okay.

And these communications are on your RNC-issued cellphones?

**S/SGT. BUCKLE:** No.

**MS. CHAYTOR:** Not for you?

**S/SGT. BUCKLE:** No.

**MS. CHAYTOR:** Okay. Well, it was for Constable Smyth.

Did you at any point in time express concerns to the management of the RNC about the public communications regarding this matter?

**S/SGT. BUCKLE:** I may have. If you have records that shows I did, I would certainly acknowledge it. I certainly had concerns about it.

**MS. CHAYTOR:** Well, you told me in your interview that you called the chief regarding your concerns; is that correct?

**S/SGT. BUCKLE:** I may have; I just don't recall specifically when, whether I sent him an email, whether I called him.

**MS. CHAYTOR:** Well, what were your concerns?

**S/SGT. BUCKLE:** My concerns generally in policing is that we tend to rely too much on there's an ongoing investigation, no comment. And, this day in age, the public don't expect that. I think they want more information. They want to understand what's happening. They want to understand the process. And just that, purely, my personal view is that I think we're much too hesitant to provide a lot more information to the public.

**MS. CHAYTOR:** Okay.

Did you have concern – you indicated in your interview to me that you felt the number of persons of interest cases that the chief had spoken of publicly or in his press conference the day after the incident that he didn't give the correct number. The number he gave was low in comparison to what you understood the protective service unit to actually be following.

**S/SGT. BUCKLE:** Yes, now that you say that, that does remind me. Yes, I did communicate to him that I was concerned that the information communicated publically was inaccurate and not accurate at all in regard to just information I knew about, let alone the actual report that was given.

**MS. CHAYTOR:** Okay.

**THE COMMISSIONER:** Sorry, what was it you referred to the –

**MS. CHAYTOR:** That the number of persons of interest case that the protective service unit was following was lower than what the chief had indicated in the press conference. And what was your source –

**S/SGT. BUCKLE:** Yes, my concern was that, the perception was that this visit by Constable Smyth to Mitchells Brook was very unusual and peculiar when, in my opinion, it was pretty much a matter of routine.

**MS. CHAYTOR:** And your source of information on that?

**S/SGT. BUCKLE:** Well, I was involved in some of the investigations in regard to the Protective Services Unit. I conducted a criminal investigation in regard to Premier Tom Marshall at a subsequent event and time. So I was aware. And the fact that Constable Smyth and I are friends, obviously, you informally discuss work quite frequently and if it's a particular incident of just unique or interesting, then you might relate that. So just – and I, now that you – now that we – discussing this, I remember at one time visiting his office and seeing on the wall a – I don't know if it was a bulletin board, but there was head and shoulder shots of, I would say, more than 20 individuals was posted on the wall that was, you know, that were ongoing concerns or repetitive concerns by the unit.

And that was just by just visiting the office and seeing, okay, the chief of police at the time – I don't remember the number of calls that was said, but just from my personal knowledge and from my discussions with Constable Smyth, I knew it was significantly more than he had reported. Plus the – there's many of the calls – like if there's an actual charge laid, the calls may not be coded as persons of interest, there were so many various possibilities that codes could be – that calls could be coded, that I felt that this was probably a case where there was clerical process of they entered one type case type, and that's what they came back with and examined it no further and gave that answer, which I thought was very inaccurate.

**MS. CHAYTOR:** Okay, so there were a number of head shots on Constable Smyth's wall when you visited him at the PSU –

**S/SGT. BUCKLE:** Well, it, it – there –

**MS. CHAYTOR:** – and there seemed to be about 20. Is that what you're saying?

**S/SGT. BUCKLE:** Yeah, I would estimate, in retrospect, that's what it was and just –

**MS. CHAYTOR:** And when did that visit to his office take place?

**S/SGT. BUCKLE:** I have no recollection. It would have been before the Mitchells Brook incident –

**MS. CHAYTOR:** Was it a year before, two years before?

**S/SGT. BUCKLE:** I couldn't – I couldn't tell you.

**MS. CHAYTOR:** So in terms of the current number of persons of interest that the RNC would have had through the PSU, you wouldn't know at the time of April 5, 2015.

**S/SGT. BUCKLE:** Well, no, I wouldn't, I wouldn't have any specific idea, but I know – there wasn't actually – I don't think it was a report of how many persons of interest there were at that time, I think it was how often, how many types of these calls are typically responded to, or people that become aware of the unit. So I just felt there was an inaccurate number, it was unfairly low, and created the impression publicly, again, my frustration that we aren't open and transparent enough in regarding releasing information to the public and educating the public about what we do. I felt that it was a very inaccurate number that was released.

**MS. CHAYTOR:** Is there anything else that you felt the RNC could and should have said publicly about the incident?

**S/SGT. BUCKLE:** I – my view on these, on any incident involving the police, as I said earlier, too often we rely on: The matters before the courts.

Just a couple nights ago, there was arrests made and then the information was that 20 minutes before there had been a previous call, 911 call to that address. And the only response from the RNC is: It's before the courts. No response. And this day in age, I don't think the public accepts that. And they shouldn't accept it. And I think there needs to be more effort.

In regard to the actual Mitchells Brook accident – incident, my opinion is that it was under investigation. You could not talk about specifics of the incident. But I think it's important to educate the public on police authority, police use of force, Section 25 of the code: a police officer's authority to use lethal force to defend themselves or defend another person. And I don't think enough of that was made. It's just a complete clam up and no information is given out. And I think it's important to do it. I think the public deserves it.

**MS. CHAYTOR:** Okay.

Did you also have concerns about the lack of public communications by the RNCA – the association?

**S/SGT. BUCKLE:** Yes, I did.

**MS. CHAYTOR:** Okay. And what were your concerns in that regard.

**S/SGT. BUCKLE:** In the same way, I think that when the – and over my experience with the RNCA, I had been involved in two previous incidents where lethal force had used. One was a fatality and one wasn't. And it – there was the same – I wasn't president at the time. I believe I was first vice-president. And we had discussions around speaking. And there was a reluctance because it's in – I think it's in the policing psyche, for whatever reason. There was a reluctance, even within the RNC association to speak. The president of the day was reluctant to speak. And I thought that it was important to speak and give some perspective. And we did so, and I did the speaking.

**MS. CHAYTOR:** Okay. And I believe one, one of these incidents were – was in Corner Brook.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And that did involve a fatality.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. And what was your message that you wanted to get out? What was it that you wanted to have said at that point in time?

**S/SGT. BUCKLE:** Well, my message at the time was it was public information that the individual had a lengthy health illness. And my message was that this tragedy could have been avoided with better mental health service and a person shouldn't be left in the community not monitored, not supported, not given the treatment they deserve and they need to prevent crisis situations from occurring.

**MS. CHAYTOR:** And I believe you told me in the interview that that occasion, that was shortly after the RNC had started to carry arms, side arms. And you wanted to public to have some indication that it wasn't because that – they were now armed.

**S/SGT. BUCKLE:** Well, yes, because there was always – I joined the RNC in November of 1988. We didn't carry firearms on a regular basis, but any call that we were aware there were weapons involved: knives, firearms, anything of that nature, we still were armed. We carried firearms. It's just that we delayed the response.

And in this case, I was concerned that there was going to be a perception that oh, if the RNC weren't armed, this incident wouldn't have happened, which is a false. It's a false perception because the reality is officers responding to that call knew there was knives involved, knew there was weapons involved and they would not have responded prior to carrying – without carrying firearms.

And that was reinforced in an Occupational Health and Safety hearing where an officer refused to go to a call because he was denied the use of firearms and it was decided that yes, the employer has to provide the tools to the member involved.

**MS. CHAYTOR:** Okay.

If we could bring up P-0261 before we leave this line of questioning, I just want to show you, this is an email.

**THE COMMISSIONER:** Is that the Power fatality, was it?

**S/SGT. BUCKLE:** It was the – yes, the Darryl Power inquiry.

**THE COMMISSIONER:** There were two. There was Power and Reid, yeah.

**S/SGT. BUCKLE:** It was the Reid/Power inquiry that occurred. I think it was Judge Luther that –

**THE COMMISSIONER:** Correct, yeah.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And this is an email that you sent last fall, September 28, 2016, and it goes to Mike Summers. And Mike Summers, is he the president at this point in time of the RNCA?

**S/SGT. BUCKLE:** Yes, he is.

**MS. CHAYTOR:** And the other individuals who are written to here are they on the executive?

**S/SGT. BUCKLE:** They are other executive members.

**MS. CHAYTOR:** Okay. And you're writing in response to comments that Mr. Kennedy, Jerome Kennedy, has made.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And you tell, you saying that: "Similar comments from the RNCA would have been appropriate and gained the support and respect of the membership for the RNCA. Instead, members lost significant respect due to the lack of response and shirking of

responsibility to speak on behalf of our members specifically and the policing profession generally.”

So what is it in particular that you’re referring to at this point in time that you think the RNCA should have spoken out about?

**S/SGT. BUCKLE:** They should have challenged the appropriateness of Judge Riche’s interviews and comments.

**MS. CHAYTOR:** Okay.

If we could go back then, please, to P-0500, and this is a document I brought up earlier. This is the recent disclosure from the RCMP regarding – with the extract of Constable Smyth’s BBMs and I’m going to go to the top of page 2, Madam Clerk.

This is a communication you have with, and I’ve redacted, Staff Sergeant Buckle, the context in which this is made, but if you require context I’m certainly prepared to give that to you but perhaps this will, you’ll recall in terms of the time frame and what this might have been about and in context of it.

This is on April 1, 2015, and you write to Constable Smyth: “More worried that Davis et al will use this as reason to go against Chiefs recommendation for Insp.”

My questions to you about this is – and Constable Smyth replies: You’re probably right, but eff it.

Who – are you referring to Paul Davis in this BBM message?

**S/SGT. BUCKLE:** The premier, yes.

**MS. CHAYTOR:** Yes. And who else? Who’s the et al.?

**S/SGT. BUCKLE:** I have no idea.

**MS. CHAYTOR:** And what does it mean?

**S/SGT. BUCKLE:** Well, obviously –

**MS. CHAYTOR:** You suggesting that Premier Davis would have any control over who the chief of police appoints as an inspector?

**S/SGT. BUCKLE:** He absolutely does. The chief of police makes recommendations for promotions to management in the RNC and it’s submitted to government and it’s approved by Cabinet. So I guess et al would have been Cabinet, chief of staff, anybody else who has input.

**MS. CHAYTOR:** Okay. And that you were concerned that this might interfere with a promotion to being inspector that Premier Davis and Cabinet might do that.

**S/SGT. BUCKLE:** Yeah, and I don’t remember who specifically the conversation was about.

**MS. CHAYTOR:** Okay. And if we look at the bottom of page 3.

**S/SGT. BUCKLE:** And I – by the way, it was probably just jest because I would have no idea who the chief would recommend for any promotion.

**MS. CHAYTOR:** Okay.

And this is now after the incident, so this is April 6. “How ya feeling this morning? Not bad I sponse,” Joe Smyth says. And then he says – this is at 12:39 p.m. UTC time, so it’s shortly after 10 a.m. “Making notes now.” And you say: “Kk, did you get any sleep....since you rarely sleep well anyways!” He replies: No. And he went to the gym. That actually helped. And then you reply to him: “Looks good...should you be more specific and say I perceived. A threat of imminent death or ...” – you mean grievous, you correct it down here –

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** – grievous bodily harm to quote the use of force policy? He replied: “Ok. But a gun pointed at me is pretty straight forward. Using policy line in the circumstances feels a bit manufactured,” he tells you. But you reply: “It’s reflective of the training and articulation. I think it’s important to state that.” He says: “Ok.”

And then we’re up to now 1:35 p.m. UTC time: “Read the change.” And then you reply: “Yup, that’s better.” He says: “Thanks!”

You point out there’s a word misspelled before MHA. Okay, fix and email it back to me would you? I’m driving. Kk.

And then you say: You must have fixed it, I can’t find it now. He asks you to: “Send it anyway would you.”

“Kk, to what address?” He tells you Gmail. Too late, you say you “Sent it to ur work before I saw ur message.” He says: “No worries.”

I’m going to stop there. The Commissioner has heard, and we have into evidence, notes that Constable Smyth made regarding the incident at Mitchells Brook. Is that what’s being discussed here Staff Sergeant Buckle?

**S/SGT. BUCKLE:** Well, first of all, I think – while we might use the term notes, I don’t think for a minute that’s notes as in police notes that are made at the time of an incident. That would be a General Occurrence Report, what I understood it to be. Constable Smyth sent it to me unprompted, and my comment to it was not in any way to change any factual information. My concern is that when doing use of force reports or police reports, the articulation should reflect what the training is. While I was in Corner Brook – I don’t know if Commission has seen the use of force continuum, which is a graphic circular diagram.

**MS. CHAYTOR:** We’ve seen it, yes.

**S/SGT. BUCKLE:** Okay. And that is something that I had enlarged and laminated and placed on the wall of the constables’ report writing room and that’s where those words come from because my philosophy is you do training, you’re taught this is when you’re authorized to use lethal force and so you should, when you write a report, use that articulation. Again, not in any way to change any factual information of the incident but to ensure that it’s reflective of the training and how you are directed to articulate these kinds of reports.

And the typical cases that I would have dealt with previous to this is when officers use OC pepper spray, I found the language in the reports was always a little bit too casual, layman terms as opposed to articulating their police reports. And this would have been a police report, not notes in a police notebook.

**MS. CHAYTOR:** Can we bring up please –?

**S/SGT. BUCKLE:** I thought it was important to use the same articulation that is consistent with the training.

**MS. CHAYTOR:** P-0128 please, Madam Clerk.

In between, we know that there were – you’re obviously reading the document, Staff Sergeant Buckle. You’re obviously reading the document and able to provide the feedback. Correct? The document, I take it the document is emailed to you.

**S/SGT. BUCKLE:** I don’t recall. I don’t know; recall if he emailed it to me, like I don’t – at this point. If you showed me documentation to show he emailed it to me, that’s quite possible, or I – what time was this?

**MS. CHAYTOR:** Well, he tells you to send it to his Gmail account and you said you’d already sent it back to his work account. So do you not recall that there were emails back and forth between –

**S/SGT. BUCKLE:** I don’t recall specifically. If I was at the workplace, I may have been – I may have been reviewing it live on the computer. But either way, he obviously –

**MS. CHAYTOR:** Right.

**S/SGT. BUCKLE:** – prompted me to review it.

**MS. CHAYTOR:** Okay.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And this is the document? If you want to take a moment and read down through it.

**S/SGT. BUCKLE:** I believe it to be the document.

**MS. CHAYTOR:** Okay. And we see a gap here between – you had indicated a spelling error before MHAs. I’m not sure if that might be the gap that’s (inaudible).

**S/SGT. BUCKLE:** I remember going back and looking for it and I couldn’t find it after. I don’t know if he deleted it and just left an extra space there. I don’t – I have no idea.

**MS. CHAYTOR:** When did you, when did you go back and look for it?

**S/SGT. BUCKLE:** No, when he sent it to me I noticed he had a spelling error.

**MS. CHAYTOR:** Oh, the spelling error.

**S/SGT. BUCKLE:** Yes –

**MS. CHAYTOR:** Okay.

**S/SGT. BUCKLE:** – and he asked me to go back –

**MS. CHAYTOR:** Right, okay.

**S/SGT. BUCKLE:** – and look for it, and then I couldn't find it.

**MS. CHAYTOR:** Okay.

**S/SGT. BUCKLE:** That was all during the same process.

**MS. CHAYTOR:** Now, do you remember that detail now or because I brought you through the exchange in the BBMs?

**S/SGT. BUCKLE:** Because you brought – I didn't even remember the exchange of the BBMs. A couple of days ago I was with Constable Smyth when he was notified of this new information, and neither of us even remembered the exchange, to be honest, and then counsel for the RNCA contacted me to discuss it and I – I didn't even remember the exchange, but once it was brought to my attention, yes, I did. I remember that he'd sent it to me. I recommended that he use more professional language reflective of RNC training and policy, and more specifically the use of force continuum diagram.

**MS. CHAYTOR:** And he was sending it to you to get your input on the document, obviously.

**S/SGT. BUCKLE:** Yes, obviously, yes.

**MS. CHAYTOR:** And in terms of the use of force training, you'll recall in the BBM messages you replied to him much better once you reviewed any revisions, I take it.

**S/SGT. BUCKLE:** Yeah, and I don't recall whether – because then there's the exchange about him saying that it sounded too manufactured. So like, unless I read through it, I don't remember if he even changed it. I don't know if he listened to me.

**MS. CHAYTOR:** Okay. Well, it appeared from the exchange that he goes back to you and says: See the change. And you come back and say: Much better. So wouldn't that lead you to believe that there was a change?

**S/SGT. BUCKLE:** Yes, but I haven't reviewed it at this point. So my recollection would only be from reading it to see if it was actually changed to use that terminology.

**MS. CHAYTOR:** Okay. So let's look at this line here –

**S/SGT. BUCKLE:** Because he does say what he originally had was the pointing of the gun or something in the Blackberry exchange. He does refer to the terminology that he used –

**MS. CHAYTOR:** Right.

**S/SGT. BUCKLE:** – saying that that was pretty clear.

**MS. CHAYTOR:** And there's no mention, I don't think, and I find it missing – and I don't see mention of pointing of a firearm. It says that he's writing on the file folder: then out of my peripheral vision I saw the barrel of a rifle in Dunphy's hand that seemed to pick up from high right. I immediately went for my firearm and put my left hand up.

**S/SGT. BUCKLE:** Well, he says Dunphy continued –

**MS. CHAYTOR:** Bring the gun towards me.

**S/SGT. BUCKLE:** – to bring the gun towards me.

Yes, I think that's what he was referring to. So I would suggest, no, it's still in there.

**MS. CHAYTOR:** Okay. And then: I believe I fired two shots at his center mass and the third at his head, which was followed by a second to his head as I felt that the first head shot had missed.

In terms of the wording in your course of fire, firing two shots at center mass and a third at his head, is that in keeping with the wording and what you're taught in your course of fire?

**S/SGT. BUCKLE:** Yes. In our course of fire, we fire at a silhouette of a human body to the center mass and one to the head. That's our standard course of fire.

And again, back to the communications piece, we constantly hear people: Why don't they shoot the gun out of their hands or shoot them in the leg? There's no police force in Canada, and probably the world, trained in that kind of tactics. And again, that's why I think it should be reflective of our training, and the public should be educated and informed about what the course of fire is.

**MS. CHAYTOR:** Okay. Are you able to tell the Commissioner whether or not that wording was in this document prior to it being sent to you?

**S/SGT. BUCKLE:** Yes, it was. The wording hadn't changed. I just felt that there should've been a summation statement using the terminology from the training. I don't remember any change from the document.

**MS. CHAYTOR:** Okay, but you didn't even remember that this had even happened two days ago.

**S/SGT. BUCKLE:** No. No, I didn't.

**MS. CHAYTOR:** Okay. All right.

In terms of the email to you, we can bring up, please, P-0558. This is from Joe Smyth's phone extract. And this – I can bring you back to it if you wish, but this is April 6, 2015, 2:26 p.m. UTC time. So I'll suggest to you that this was within the time period of back and forth–

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** – emails regarding this and it refers to Dunphy notes.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. And that email is deleted from Constable Smyth's records.

Let's go back, please, to P-0500.

**UNIDENTIFIED MALE SPEAKER:** What page, sorry?

**MS. CHAYTOR:** P-0500. And I need page 6, please, Madam Clerk.

This is the exchange that we just went through a little while ago –

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** – about the notes.

Also on April 6, Joe Smyth tells you: “Should tell Fred Hutton to talk to the brother ... Lives next to the deceased.” You reply: Will do.

Okay. Did you do that, Staff Sergeant Buckle?

**S/SGT. BUCKLE:** I don’t recall specifically but if I – because I said will do, I don’t recall specifically whether I ever did or didn’t.

**MS. CHAYTOR:** Okay. And did you think it was appropriate for you to pass along information to a reporter during an RCMP investigation which might be related to a witness that the RCMP would be looking to interview?

**S/SGT. BUCKLE:** Absolutely not.

**MS. CHAYTOR:** Why would you consider doing it?

**S/SGT. BUCKLE:** Well, it’s releasing – and I say absolutely not, but in this case I’m releasing any information about the – and if I did call Fred Hutton, I don’t recall specifically but –

**MS. CHAYTOR:** But you’re agreeing to do it.

**S/SGT. BUCKLE:** Yes, I am. But I’m not releasing any information other than the geographical location and suggesting he discuss something. I’m not releasing any specific information.

**MS. CHAYTOR:** You’re releasing contact information. You’re releasing information that could lead to information that would be highly relevant, I suggest to you, to the RCMP in their investigation.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. Do you think that’s appropriate?

**S/SGT. BUCKLE:** Well, no. I’ll acknowledge it’s not appropriate but what I’m saying is even if I did, I’m not releasing any specific information. I’m releasing – I’m telling someone I would have told someone that someone lives next door.

**MS. CHAYTOR:** And potential witness.

**S/SGT. BUCKLE:** And potential witness, yes.

**MS. CHAYTOR:** Okay. All right.

If we continue on then –

**S/SGT. BUCKLE:** And it is noteworthy that potential witnesses are spoken to by the media, interviewed. They may tell the police something and they’ll go ahead and tell the media the same thing. It’s not uncommon that the public will speak to – or witnesses will speak to the media.

**MS. CHAYTOR:** And this is before – I’m sorry – so this is then coming down, you indicated that you didn’t have – you were concerned about him speaking to the RCMP or giving his statement prior to him speaking to lawyers.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay.

And I believe the evidence is, and it's indicated here, in terms of he's asked that his notes at least have been reviewed. And he's telling you that he's been advised to stop the interview if it gets aggressive or if they read the caution.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. And this is before he attended so you would have been aware that he did have advice.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And you asked when is he meeting with the RCMP. 4 p.m., he says.

And then we're on to the next day.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And April 7, at page 9 –

**S/SGT. BUCKLE:** And again, as I said earlier, I didn't agree with him meeting with the RCMP and subjecting to an interview that he no legal – he was not legally compelled to do without the assistance of legal counsel. And I felt it would be wiser to prepare a statement with his lawyer and submit it to the RCMP.

**MS. CHAYTOR:** Okay.

You write to him: "Good press release from RCMP." He says he hasn't seen it. You say: "Outlines the incident, backs you up significantly."

So I take it, Staff Sergeant Buckle, you saw the RCMP press release –

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** – as being something favourable –

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** – and something quite favourable to Constable Smyth.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And he says: Great to hear. And there's some discussion if it's online, and you tell him: "Should be all positive news coverage tonight."

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And then to page 10 you say: "Yeah, they said what Chief should have said ...."

I just want to ask you, you mean, I take it, Chief Janes.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. And would you have expected him to speak as to the details of the incident that occurred in Mitchells Brook.

**S/SGT. BUCKLE:** No.

**MS. CHAYTOR:** So what is it that you thought Chief Janes should have said that the RCMP said?

**S/SGT. BUCKLE:** Just about – I would – that was paraphrased and I would suggest, as I said earlier, that the chief of police should have talked about and informed and educated the public about the police authority to use lethal force. And along with what the information that the RCMP had released, that there was a loaded firearm found in the residence would have provided that consistency.

**MS. CHAYTOR:** And you thought the RNC should release those details.

**S/SGT. BUCKLE:** Once the RCMP have released those details, they're public information.

And, again, I thought that the chief of police should have followed up, again, not about the specific incident but educating the public on police authority to use lethal force.

**MS. CHAYTOR:** Okay.

And Joe Smyth says: "Chief was brutal." I take it that's in reference to what he did in the press release. You agree: Yup. And then you say: "Did u expect him to suddenly become a superb orator?"

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** What were your concerns with respect to that?

**S/SGT. BUCKLE:** That he was not giving adequate – articulating adequate information to provide to the public.

**MS. CHAYTOR:** Staff Sergeant Buckle, those are all my questions. Some of the other lawyers may have questions and the Commissioner may have some further questions.

Thank you.

**S/SGT. BUCKLE:** Thank you.

**THE COMMISSIONER:** I think we'll take a break, a mid-morning break before we commence.

Just for scheduling, any idea how long you expect to be, counsel? Are you going first, Mr. Simmonds?

**MR. SIMMONDS:** I might be –

**THE COMMISSIONER:** I'm not tying you down. I'm just (inaudible) so we may finish before lunch.

Anybody else expect to be lengthy, just, again, for scheduling? Okay, thank you.

We'll adjourn for 15.

**MS. SHEEHAN:** All rise.

The Commission of Inquiry is now recessed.

**Recess**

**MS. SHEEHAN:** All rise.

I declare this Commission of Inquiry in session.

Please be seated.

**THE COMMISSIONER:** Okay, thank you.

Go ahead. Are you going first Mr. Simmonds?

**MR. SIMMONDS:** Staff Sergeant, I'm Bob Simmonds and I'm counsel for Meghan Dunphy.

Staff Sergeant, how long have you been a police officer?

**S/SGT. BUCKLE:** A little over 28 years, since November of 1988.

**MR. SIMMONDS:** Twenty-eight years. And if I asked you: What is the most important trait, the most important quality of a police officer, a good police officer, what would you say? Considering you have to –

**S/SGT. BUCKLE:** I didn't get the question. The most important –

**MR. SIMMONDS:** The most important character trait of a good police officer; one that has to speak to the public, has to deal with witnesses, has to deal with the accused, has to give evidence in court. What's the most important quality?

**S/SGT. BUCKLE:** Integrity.

**MR. SIMMONDS:** Integrity. And that means truthfulness.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** Okay.

And once that's compromised, it doesn't matter how great you are, doesn't matter how well trained you are, does it?

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** You go before a judge and the judge doesn't know whether to accept or not accept your evidence. You talk to the public; they don't know whether to accept or not accept your evidence. Would you agree?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** Would you also agree that words like I have no recollection of, I don't remember are problematic when you hear them from a well-trained, experienced police officer?

**S/SGT. BUCKLE:** Depends on the circumstances.

**MR. SIMMONDS:** In this situation, in this case here, this inquiry, we became aware of BB, BlackBerry, messaging. Believe me, I have no knowledge with respect to computers or BlackBerries, but through the functions of counsel and counsel for the Commission, we became aware of this – we – of BlackBerry messages that we had never seen before. They were deleted from the phone of Officer Smyth. That cause you any concern?

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** Why wouldn't it cause you concern?

**S/SGT. BUCKLE:** I know, personally, I detest my phone being filled with old messages. I'm constantly deleting emails, messages, instant messages and just simply to –

**MR. SIMMONDS:** So it's a memory issue.

**S/SGT. BUCKLE:** No, it's just an orderly way that if I have an old file I'm not using anymore I want to get rid of it. And the same exists with a phone; you get rid of it if you have no purpose for it anymore.

**MR. SIMMONDS:** Would you find it odd, though, that there were messages back in the same time frame that were there and able to be captured but they were selectively deleted? Would that cause you any concern?

**S/SGT. BUCKLE:** I don't know that they were selectively deleted.

**MR. SIMMONDS:** Would it cause you concern if they were selectively deleted?

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** It wouldn't?

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** Okay.

Would it cause you a concern if indeed when they came to light they contradicted information that had previously been given?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** That would cause you a concern?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** Okay.

Because – am I right – that goes directly to integrity and integrity is what we sell as a police officer. Correct?

**S/SGT. BUCKLE:** You made several statements. I don't get the question.

**MR. SIMMONDS:** Does it go to integrity the fact that someone might delete something, leave something else in, and what is found to be deleted after the fact contradicts something they've already said. You said that would be a problem.

**S/SGT. BUCKLE:** No, I said possibly.

**MR. SIMMONDS:** Possibly.

**S/SGT. BUCKLE:** It's not absolute.

**MR. SIMMONDS:** And would you agree that, that could taint everything that the person says, if indeed it looks like it is a genuine attempt to mislead?

**S/SGT. BUCKLE:** Well, it could create a perception but intent and perception are completely different things.

**MR. SIMMONDS:** But what yardstick are you using? What yardstick have you got – do you have – and if you can show it to me or tell it to me, I'd really appreciate it – to say, okay, the officer is being truthful on this part, but on this one over here he's not being truthful, but we can accept this one here.

**S/SGT. BUCKLE:** Well, there has to be a justifiable explanation for it.

**MR. SIMMONDS:** Because I think the phraseology that I've heard in jury addresses or in jury instructions is everybody makes mistakes and may forget something, but if a witness tells a purposeful lie, that may indeed taint all of their evidence. Would you agree?

**S/SGT. BUCKLE:** If it's demonstrated as a purposeful lie, yes.

**MR. SIMMONDS:** It would taint all of their evidence.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And to determine if something is a purposeful lie, you'd look at all the indicators that are around it: Gee, did it have a bad effect if it had to come out; has it been contracted – contradicted by something that's said after the fact; would it be embarrassing if it had of been left there? Those would all be factors you might consider to determine whether or not logically you can make the assumption that this was a purposeful lie.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And you certainly, in your 28 years, would be equipped with that knowledge that integrity is so important.

**S/SGT. BUCKLE:** Absolutely.

**MR. SIMMONDS:** And indeed you said you were on the board of directors of the Canadian Police Association. That would be something that would be clear to the Canadian Police Association that integrity is a very important value for policing.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And it would also be clear to the RNC Association, would it not, for the same reasons that integrity is vital.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** Officer Buckle, the records show – the ones we had way back – that you had a 22-plus minute conversation with Officer Smyth when he was turning off the Trans-Canada onto the Salmonier Line going towards Mitchells Brook.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And I think you said in your interview with Commission counsel that on the – he had told you he was on the way down to Mitchells Brook to speak to someone that was getting on with nonsense.

**S/SGT. BUCKLE:** I haven't reviewed my statement to Commission counsel –

**MR. SIMMONDS:** Well, you can trust me that that's what you said at page 86 of your (inaudible).

**S/SGT. BUCKLE:** If I could finish my statement, I have not reviewed my statement to Commission counsel but if I said that at the time, that would be accurate.

**MR. SIMMONDS:** Well, do you have a recollection of that?

**S/SGT. BUCKLE:** I don't – I have a recollection that he – that Constable Smyth gave me some general impression of what he was doing but no specifics.

**MR. SIMMONDS:** Staff Sergeant Buckle –

**S/SGT. BUCKLE:** And I did, I did have a – whether he said specifically, I had a perception that it was in regard to Twitter comments.

**MR. SIMMONDS:** Staff Sergeant Buckle, you're a qualified police officer, you've got 28 years' experience, you've been on the boards of both associations; have you ever had one of your best friends involved in an incident like this?

**S/SGT. BUCKLE:** Not best friends but close friends.

**MR. SIMMONDS:** Okay. Have you had a close friend involved where they shot somebody?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** Okay.

**S/SGT. BUCKLE:** Twice.

**MR. SIMMONDS:** And you recall the details of those events?

**S/SGT. BUCKLE:** Generally.

**MR. SIMMONDS:** Now, Officer Smyth is your best friend I understand.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** Okay. And this happens in a very short time frame. He speaks to you on the way down, and later on that night you get another call and you know he's been involved in a civilian shooting where someone is dead.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** So that's not the kind of thing you're going to forget about, is it?

**S/SGT. BUCKLE:** I would – you're not going to forget the event itself. You may forget minor specifics or minor aspects.

**MR. SIMMONDS:** Officer Buckle, you wouldn't have sat back that night after you had that conversation and say, holy jumpin', I got to think back to what he said to me today? You didn't go through that process –

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** – because I would think that's a – quite a normal process most people would go through.

**S/SGT. BUCKLE:** No, I got the main message, that there had been an officer-involved shooting.

**MR. SIMMONDS:** Okay, but you didn't recall your conversation that was 22 minutes with him earlier that day?

**S/SGT. BUCKLE:** I recall the conversation but –

**MR. SIMMONDS:** Sure you would.

**S/SGT. BUCKLE:** – I made no specific note of it. I knew –

**MR. SIMMONDS:** No, no, I'm not talking about notes. I'm talking your best friend is involved in a civilian shooting, you get a call later on that night, and you think back to your 22-minute conversation with him that day. That would be something you wouldn't forget, your 22-minute conversation with him.

**S/SGT. BUCKLE:** I remember it occurred, I wouldn't remember the details of it.

**MR. SIMMONDS:** You wouldn't remember. And as two police officers talking, you wouldn't say, you know, Jesus, it's Easter Sunday, where you going on Easter Sunday, lunchtime?

**S/SGT. BUCKLE:** To a police officer that works shiftwork, Easter Sunday is really irrelevant.

**MR. SIMMONDS:** You wouldn't ask him where he was going, what would he be doing on an Easter Sunday lunchtime?

**S/SGT. BUCKLE:** No, not at all.

**MR. SIMMONDS:** Going down the Salmonier Line, that wouldn't be something that'd come up in the conversation?

**S/SGT. BUCKLE:** You talk to most shift workers, they don't know Sunday from Monday.

**MR. SIMMONDS:** No, I'm talking to you. I'm not talking to most shift workers. I'm talking to a staff sergeant in the RNC with 28 years' experience who had a 23-minute call. And I'm asking you, do you have a recollection? Wouldn't that be fresh in your memory? Wouldn't that stay in your memory because of the subsequent events of that day?

**S/SGT. BUCKLE:** The first question was whether I would remember it because it's Easter Sunday? No, I wouldn't. Again, when you work shiftwork, days of the week, holidays, are really not significant in your day-to-day activities. There's many days I wake up and I don't know what day of the week it is with routine shiftwork. The fact that after the incident and I became aware of it, I would remember they have the conversation, but I wouldn't remember the specifics because it wasn't related to the event.

**MR. SIMMONDS:** Well, if he talked about he was going down to Mitchells Brook, which is what you said, did he tell you what he was going down there for? That wouldn't come up in a conversation? You wouldn't inquire, what are doing going down there today? That wouldn't come up?

**S/SGT. BUCKLE:** Well, today would be irrelevant. And why he was going there, he may have provided some sentence of a general statement.

**MR. SIMMONDS:** Do you recall what he said?

**S/SGT. BUCKLE:** No, I don't. I've already said I recall that he was going, and I don't recall even if he said Mitchells –

**MR. SIMMONDS:** And he said to –

**S/SGT. BUCKLE:** Can I finish?

I don't recall whether he even said specifically he was going to Mitchells Brook. I only recall that he was going to speak to an individual about comments posted on Twitter.

**MR. SIMMONDS:** Okay. So he was going to speak to an – do you know his other friend that he has messages with on a regular basis? Trevor.

**S/SGT. BUCKLE:** Yes, I do.

**MR. SIMMONDS:** I don't want to use the gentleman's last name. Trevor.

**S/SGT. BUCKLE:** Yes, I do.

**MR. SIMMONDS:** He tells him in an email the day before, he's going down to see a lunatic who threatened the premier. Now, he says that to someone that's not a police officer, but he wouldn't have given you any details like that? Like, I'm going down to interview a lunatic who threatened the premier?

**S/SGT. BUCKLE:** No, because when you speak to a civilian who is not a police officer and don't understand our regular duties –

**MR. SIMMONDS:** Uh-huh.

**S/SGT. BUCKLE:** – you will generalize and be more casual in your language because you're not going to explain the whole process. When he says he's going to see an individual about comments made on Twitter, I would have a better grasp of that than Trevor would. So he would

make a more general statement so that he has an understanding of what he's doing without getting into specifics.

**MR. SIMMONDS:** He wouldn't give you any specifics in that 23 minutes, that wouldn't come up?

**S/SGT. BUCKLE:** I have already said, he told me he was going to see an individual about comments on Twitter.

**MR. SIMMONDS:** And I'm asking you whether there was any more detail?

**S/SGT. BUCKLE:** No, there was no more detail.

**MR. SIMMONDS:** Okay. So the next call you get from him is – well, you get a call from Warren Sullivan who is head of the association. Correct?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** Later that evening.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And then you get two more calls from Officer Smyth that evening?

**S/SGT. BUCKLE:** Yes. I know I got one. The second one I don't recall specifically. I know I got one. The one that stands out to me was that he was in an RCMP car going to Holyrood detachment? I would have spoke to him numerous times subsequent to that.

**MR. SIMMONDS:** During that conversation, now – you've now been shocked with the call from Warren Sullivan, I would believe.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** You speak to your best friend.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** He's in a police car going to the Holyrood detachment. You didn't inquire as to the exact detail of what happened, or at least some kind of comprehensive detail as to what happened?

**S/SGT. BUCKLE:** No, because that's key in my role as – well, I guess a friend, but also in my experience with the association, an individual – and I've been involved in two of these previously. You would not ask specifics of the incident for that very specific reason. You are not in an investigative role and you shouldn't ask those questions.

**MR. SIMMONDS:** But you're his best friend. You're a police officer and he's just been involved in a shooting, you would not have inquired any more detail – you wouldn't have asked him many more detail than that.

**S/SGT. BUCKLE:** Well, my understanding is he was in an RCMP vehicle. So it would be inappropriate for him to talk about the incident in front of an RCMP officer who is actually an investigator.

**MR. SIMMONDS:** No. Actually, unfortunately, that RCMP officer is not an investigator according to him.

**S/SGT. BUCKLE:** Well, I can't answer for him.

**MR. SIMMONDS:** But you didn't inquire anymore, just a very brief conversation.

**S/SGT. BUCKLE:** The conversation was mainly me talking and giving him direction on how he should deal with this.

**MR. SIMMONDS:** Because I think you said in your interview, page 119 and 120: I believe that he told me that the guy he went on to visit pulled a rifle on him or something or made reference to a weapon being involved. You said you couldn't quote verbatim. I know my understanding that he was involved in a shooting because the individual had pulled a weapon or a gun. I would not be able to say what he said verbatim.

**S/SGT. BUCKLE:** And the quote starts with: I believe. So even at that time I could not remember absolutely that he told me specifics.

**MR. SIMMONDS:** Did you ask him, well, how did he get a gun?

**S/SGT. BUCKLE:** Because I know subsequent to that, obviously, Warren Sullivan had already told me. I had spoke to Constable Smyth several times subsequent to the event. So when he told me that part, I can't honestly say with absolute certainty when he told me that.

And I don't know if Warren Sullivan had already told me that and I was – and at this point, because I really don't remember.

**MR. SIMMONDS:** So you didn't ask him any questions about, where did the gun come from?

**S/SGT. BUCKLE:** Absolutely not.

**MR. SIMMONDS:** Absolutely not.

Subsequently, you left it at that and he went off to the detachment.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** Okay. You don't recall the other call that he –

**S/SGT. BUCKLE:** I don't recall specifics of it, no. But like I said, in the ensuing days I had many conversations with him. So it's very hard for me to discern one call between the other, what was said during one call versus the other.

**MR. SIMMONDS:** You have a conversation with him concerning the email that he subsequently drafts.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And he says he's going to send this out.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And you don't advise him that that's possibly a bad idea.

**SGT. BUCKLE:** No, I didn't.

**MR. SIMMONDS:** But you know there's an ongoing investigation, that there's a fair degree of publicity.

**SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** You don't think as a best friend that it'd be appropriate to advise him that: Look, maybe, Joe, this is not a good idea to send this out, it might end up in the wrong hands?

**SGT. BUCKLE:** No, I didn't.

**MR. SIMMONDS:** You get it from him somewhere around 9:23 on the 9th of April.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And then at 5:56 he calls you.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** At that point in time is there any discussion of who he's going to distribute it to or –

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** – the concerns of it.

**S/SGT. BUCKLE:** I understood my perception was that it was being sent internally to our officers.

**MR. SIMMONDS:** You didn't leak it, did you?

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** Definitely not?

**S/SGT. BUCKLE:** Definitely not.

**MR. SIMMONDS:** But you did – you may have, indeed, called Fred Hutton to tell him about the next-door neighbours.

**S/SGT. BUCKLE:** I don't recall that I did or didn't.

**MR. SIMMONDS:** There goes that word that's really concerning to people when they hear police officers testify: I don't recall.

**S/SGT. BUCKLE:** Well, we have to be honest. If we don't recall, we don't recall.

**MR. SIMMONDS:** I'd like you to be honest, indeed.

You said to him: I'll take care of it. It doesn't seem to be a passing event. And now you have no recollection on an incident of this kind of high profile. With concerns of things being released to the press, you have no idea whether you actually spoke to Fred Hutton or not. That's what you want the Commissioner to believe.

**S/SGT. BUCKLE:** I don't recall specifically speaking to him, no.

**MR. SIMMONDS:** You don't recall specifically speaking to him.

Ms. Chaytor has taken you through this, but by anybody's assessment giving that information to Fred Hutton about Dick and Debbie Dunphy who are next door, who are likely the last persons that spoke to Officer Smyth before he went into Don Dunphy's house, wouldn't you say that that is a catastrophic mistake –

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** –for a police officer?

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** Not so?

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** Why not?

You – do police call the media all the time like that?

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** I would suspect that –

**S/SGT. BUCKLE:** Well –

**MR. SIMMONDS:** – the chief would very much frown on that kind of conduct.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** So you don't consider it a big mistake.

**S/SGT. BUCKLE:** I don't consider it a catastrophic mistake.

**MR. SIMMONDS:** Do you consider it a big mistake?

**S/SGT. BUCKLE:** I think it's a mistake. There was no specific information released, just a suggestion.

**MR. SIMMONDS:** Okay.

But you have no recollection or no knowledge to inform us as to how the email that he sent you a copy of to review first, before we released it the next day, how that went out to any of the media.

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** You have nothing you can offer on that.

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** Were you surprised when it got out to the media?

**S/SGT. BUCKLE:** Yes, I was.

Constable Smyth, my best friend; I recognized the implications of this being out in the media and misunderstood by the layperson. I certainly wouldn't do that to my best friend.

**MR. SIMMONDS:** So Officer Smyth has been involved in a shooting where a man in his living room sitting in a chair is shot three times and fatally killed, a fatality. Correct?

**S/SGT. BUCKLE:** Pardon me?

**MR. SIMMONDS:** I said Officer Smyth is involved in a shooting which is fatal and the man is shot three times in the living room of his house. Don Dunphy was shot three times in the living room of his house. Correct?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** It would be understandable that both the public and the police would be interested in any information, any relevant information they can get, in particular what Officer Smyth's recollection of the event is. Correct?

**S/SGT. BUCKLE:** Could you repeat the question, please?

**MR. SIMMONDS:** Yeah. I will, sure.

Would it be – is it a fair assumption that after an incident of this gravity where a man, sitting in his living room, is shot twice by a police officer or shot three times by a police officer, that any information that police officer can give, his recollections of the events, are absolutely crucial to the investigation of this matter?

**S/SGT. BUCKLE:** If the officer decides to give that information.

**MR. SIMMONDS:** If the officer decides to give that information – if the officer decides to do it and gives it, then that is very crucial information, is it not, for the investigation?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And you certainly would know that as a staff sergeant, would you not?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And have you ever heard of a pure version statement?

**S/SGT. BUCKLE:** Yes, I have.

**MR. SIMMONDS:** Okay. Could you explain to us what your understanding of a pure version statement is?

**S/SGT. BUCKLE:** It's when you obtain a statement from an individual and without prompting questions, especially leading questions, and allow the person to provide a complete rendition from their perspective without interruption.

**MR. SIMMONDS:** And you're also aware of the position we've had put forward – and I think you've put forward the same thing from your understanding and training – that a police officer involved in a fatality should not be interviewed for 24, 36 hours.

**S/SGT. BUCKLE:** Me personally, I don't think they should be interviewed at all.

**MR. SIMMONDS:** I'm asking from the writings that you –

**S/SGT. BUCKLE:** Yes, I'm aware of that.

**MR. SIMMONDS:** And if – they say 24. You said I think in fact as much as 72 this morning.

**S/SGT. BUCKLE:** Yes, I think so.

**MR. SIMMONDS:** Okay.

And why is the purpose of that?

**S/SGT. BUCKLE:** Because the person is – has went through a traumatic experience.

**MR. SIMMONDS:** Uh-huh.

**S/SGT. BUCKLE:** Their body is filled with adrenalin.

**MR. SIMMONDS:** Uh-huh.

**S/SGT. BUCKLE:** It affects their memory, it affects their motor skills. And it's important that they have a calming period before they attempt to recollect the event.

**MR. SIMMONDS:** But in any serious matters that I've been involved in – I've represented the person who is under investigation – the police wanted to get that statement as quickly as possible.

**S/SGT. BUCKLE:** Absolutely.

**MR. SIMMONDS:** In Greg Parsons's case, where he was charged with the murder of his mother, they wanted to get it as quickly as they possibly could once they apprehended him.

**S/SGT. BUCKLE:** Absolutely.

**MR. SIMMONDS:** But police officers should be treated different.

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** Well, that – certainly waiting 24, 36, or 72 hours is a different treatment.

**S/SGT. BUCKLE:** Well, in the same with Mr. Parsons and Constable Smyth, they have their right under the Charter not to give any statement.

**MR. SIMMONDS:** No, no, but I – I understand the implications of the Charter, what I'm asking you is: Why would the police, the investigating force, be willing to wait 24, 36, 72 hours to get a statement from Constable Smyth when in the case of a Greg Parsons or a Ron Dalton, they want to get the statement as quick as they possibly can.

**S/SGT. BUCKLE:** But without referring to the specific cases, there is a difference in a citizen-precipitated homicide where they are a suspect –

**MR. SIMMONDS:** Alleged homicide.

**S/SGT. BUCKLE:** – where they are a suspect –

**MR. SIMMONDS:** Yeah.

**S/SGT. BUCKLE:** – and have committed an offence as a result of anger –

**MR. SIMMONDS:** Alleged to have committed an offence.

**S/SGT. BUCKLE:** – as a result of anger, as a result of passion –

**MR. SIMMONDS:** Right.

**S/SGT. BUCKLE:** – as a result of any intense emotional feeling as opposed to a police officer who's involved when they are involved with lethal force. The difference is they are exercising their authority under section 25 of the Code –

**MR. SIMMONDS:** Uh-huh.

**S/SGT. BUCKLE:** – to take that action which results in a rush of adrenaline. They hadn't planned on it; they didn't want to do it. They don't want to do it. No police officer ever wants to do it. And when it happens it's such a traumatic event to the human body because there is no planning, there is no lead up to a conflict or a confrontation as with most citizen-precipitated homicides. It's a completely different scenario.

**MR. SIMMONDS:** How is it a completely different scenario if the alleged murderer, if the suspect is alleged to have murdered his mother which would clearly be an emotional, high-tension, adrenaline running – how is there any difference in the two? Both of them had significant emotions at play; one is interviewed immediately, the other is given time to sit back and think for 24 to 36 hours.

**S/SGT. BUCKLE:** One is the homicide was a choice, the other it was not.

**MR. SIMMONDS:** That's an assumption if the person is guilty.

**S/SGT. BUCKLE:** Well, we can't discuss specific cases. I'm just stating that in the typical citizen-precipitated homicide, it's a choice by the attacker or the alleged offender that they made a choice to attack, to commit a homicide. As opposed to a police officer, it's purely reactionary, unprepared, no planning.

**MR. SIMMONDS:** That remains –

**S/SGT. BUCKLE:** They are responding to a threat presented and exercising their authority and their training under section 25 of the *Criminal Code*.

**MR. SIMMONDS:** Well, we've had a number of instances where police have been found guilty of acting wrongly with respect to use of force.

**S/SGT. BUCKLE:** And that's why there's a follow-up investigation to determine whether the event is justified.

**MR. SIMMONDS:** But that still doesn't provide us with a justification as to the difference between – and perhaps we're never going to agree – the difference between one being interviewed immediately and the police officer given at least 24 hours.

**S/SGT. BUCKLE:** I'm confident we're not going to agree.

**MR. SIMMONDS:** I think you can agree on that, that we are confident there.

The statement nonetheless, when given, is a vitally important part of the investigation. Correct?

**S/SGT. BUCKLE:** Pardon me?

**MR. SIMMONDS:** The statement, if and when given, is a vitally important part of the investigation.

**S/SGT. BUCKLE:** It would depend.

**MR. SIMMONDS:** So you don't – it would depend. So Officer Smyth's statement to the RCMP; you would say it would depend if that's a vital part of the information that you're investigating in this case?

**S/SGT. BUCKLE:** Well, the problem is it depends on the context of the statement. If a statement is obtained under caution, or not taken under caution, there's several factors at play as to whether it can be used in a criminal investigation in the future if it's not obtained under rights and caution.

For example, a police officer is compelled to submit a use-of-force report subsequent to using force. That report cannot be used against him in a criminal proceeding and that's case law. I think it's 2003 Whitten, Ontario Court of Appeal where a police officer's use of force cannot be used in any criminal proceeding against them because they are compelled by a statute by direction of their supervisors to complete the report in the same –

**MR. SIMMONDS:** Was Officer Smyth –

**S/SGT. BUCKLE:** – in the same way that –

**MR. SIMMONDS:** If I might interrupt for a second. Was Officer Smyth cautioned in this case, ever?

**S/SGT. BUCKLE:** I don't believe so.

**MR. SIMMONDS:** Right. So we don't have to worry about that scenario. He wasn't cautioned.

**S/SGT. BUCKLE:** Well –

**MR. SIMMONDS:** So he's now giving a statement –

**MR. AVIS:** I'm going to object here. The officer was asked a very generic question to start with. Aren't statements given, once given, vitally important to an investigation – an investigation. He's tried to explain his answer to that question and there are a number of issues about what have you and he's being interrupted.

**THE COMMISSIONER:** Yeah.

Mr. Simmonds you did cut the –

**MR. SIMMONDS:** Sorry.

**THE COMMISSIONER:** – officer off. Inadvertently I'm sure.

So just give Staff Sergeant Buckle the opportunity to complete his answer. Go ahead.

**UNIDENTIFIED MALE SPEAKER:** Thank you, Mr. Commissioner.

**S/SGT. BUCKLE:** Well, all I was going to draw is the parallel. Under provincial legislation anybody involved in a motor vehicle accident is compelled to file a report.

**THE COMMISSIONER:** There's a whole series of cases –

**S/SGT. BUCKLE:** Yes.

**THE COMMISSIONER:** – all dealing with where evidence has been compelled, someone has been compelled to give a statement or supply information because it's required by statute, maybe by prior case law. And I wouldn't say it's necessarily black and white or the final answer has been given.

The Court of Appeal is persuasive but not binding as here, but the Supreme Court of Canada, I believe, has spoken on it as well, although some time ago. But in any event, I think the point is correct, Mr. Simmonds –

**MR. SIMMONDS:** Okay. No issue.

**THE COMMISSIONER:** – that not all statements which have been compelled from an individual are admissible to establish an offence.

**MR. SIMMONDS:** Fair enough. I take the point.

Staff Sergeant, in this case Officer Smyth was never cautioned.

**S/SGT. BUCKLE:** I trust that to be the case. I was not involved in the investigation.

**MR. SIMMONDS:** That is the case.

**S/SGT. BUCKLE:** I'll accept that.

**MR. SIMMONDS:** Okay.

Number two, if he is cautioned and gives a statement with or without his lawyer's advice, that can be a statement that can be utilized in evidence. Correct?

**S/SGT. BUCKLE:** Repeat the question, please.

**MR. SIMMONDS:** If he is cautioned but decides to give a statement anyhow, that can be evidence that can be used in his investigation.

**S/SGT. BUCKLE:** Absolutely.

**MR. SIMMONDS:** Right.

So the RCMP here wanted to get a statement. In fact, the autopsy was being put on hold pending getting Officer Smyth's version of what took place. Where you aware of that?

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** Okay.

So Officer Smyth's version of what took place – and you as a police officer would know he would have to prepare some kind of report and provide some kind of information with respect to what happened in that house. You would know that as an RNC officer.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** Okay.

**S/SGT. BUCKLE:** He's required to prepare a use-of-force report and a general occurrence report.

**THE COMMISSIONER:** What was the first point you made?

**S/SGT. BUCKLE:** Any time a police officer uses force, whether it's physical, pepper spray –

**THE COMMISSIONER:** Called the use-of-force report.

**S/SGT. BUCKLE:** – he's required to complete a use-of-force report.

**THE COMMISSIONER:** Hmm.

**S/SGT. BUCKLE:** They are required to use (inaudible).

**MR. SIMMONDS:** And the accuracy of those – that report would be a crucial piece of information. Correct?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And you would know that.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And you know that, that would take place in Officer Smyth's case. Correct?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** I'm going to read to you a passage from the transcript at page 140 of your interview on December 14, 2016. You remember that interview with Ms. Chaytor or Ms. O'Brien?

**S/SGT. BUCKLE:** Ms. Chaytor – you'd have to quote it to me because I don't recall the statement verbatim. It's quite lengthy.

**MR. SIMMONDS:** No. And first off, do you recall on December 14, 2016, having an interview – probably in this building, I don't know – with Ms. Chaytor and Ms. O'Brien?

**S/SGT. BUCKLE:** No. I had an interview with just Ms. Chaytor.

**MR. SIMMONDS:** Oh, you weren't there, were you, Ms. O'Brien. Just with Ms. Chaytor. Was it in this building?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** Okay. So you do recall that?

**S/SGT. BUCKLE:** Yes, I do.

**MR. SIMMONDS:** And you in fact said at one point that you were surprised that the RCMP hadn't contacted you before because you were the last person to speak with Joe Smyth before the incident, you thought.

**S/SGT. BUCKLE:** Yes. I'll be frank; I was surprised that I wasn't contacted.

**MR. SIMMONDS:** Surprised. So we'll be clear that if you thought this was so important, which you've said you did because you thought the RCMP would contact you –

**S/SGT. BUCKLE:** No, that's not what I said. I said I was surprised –

**MR. SIMMONDS:** You said you thought the RCMP would contact you.

**S/SGT. BUCKLE:** Yes. I didn't say it was important.

**MR. SIMMONDS:** If the RCMP is going to contact you, you must have felt the information you had or their belief would be that you had something relevant to say.

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** So you had nothing relevant. You had nothing –

**S/SGT. BUCKLE:** I knew that the call had occurred and I thought that may interest them as to what the call was about. But I also knew the call was of very little significance to the event.

**MR. SIMMONDS:** So you were surprised they didn't contact you.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** Right.

And believing that they might contact you, you would want to make sure your recollections of the things that took place are sharp, would you not? You don't want to go in and give a false statement.

**S/SGT. BUCKLE:** No, I would acknowledge that I don't recall.

**MR. SIMMONDS:** No.

**S/SGT. BUCKLE:** I wouldn't give a false statement; I just acknowledge I don't recall the specifics.

**MR. SIMMONDS:** No, but let's back up a sec. This is your best friend who's been involved in a shooting. You know that, you expect that the RCMP will likely contact you. So wouldn't your recollections, you would keep your recollections sharp as to what went on.

**S/SGT. BUCKLE:** Well, I recollect sharply what wasn't discussed, was any details pertaining to where he was going and what he was doing. The other things that were discussed were of little significance to anything. So no, I wouldn't remember those things.

**MR. SIMMONDS:** But even your discussions – well, okay, well, your discussions with him after the fact. After he calls you and tells you there's been a shooting, the guy pulled a rifle, I'm in the police car; those would be recollections you would recall.

**S/SGT. BUCKLE:** Somewhat.

**MR. SIMMONDS:** Somewhat.

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** For a trained police officer with 28 years' experience in a unique incident like this, not a one-off, you tell me, but a unique incident, you only remember somewhat of your conversations?

**S/SGT. BUCKLE:** Well, because of the role I played as a friend and also past President of the RNCA, I would not make specific notations of the conversation because that's not my role as an investigator; therefore, I would purposely not make notes of the incident, of the discussion; therefore, subsequent to that, it's difficult to recall.

**MR. SIMMONDS:** Okay. You don't make notes, so your memory is going to fail you. That's what you're saying?

**S/SGT. BUCKLE:** Well, it's obviously going to be difficult to recall specifics of a conversation several months later.

**MR. SIMMONDS:** It wouldn't be difficult to recall whether you spoke to Officer Smyth the day he was giving a statement to the RCMP.

**S/SGT. BUCKLE:** Well, it evidently was because I didn't remember it until two days ago.

**MR. SIMMONDS:** Well, I'm going to take you to that now in a second, Officer Buckle, because you didn't tell them that your recollection may not be good. Your answers were very definitive, weren't they?

**S/SGT. BUCKLE:** Which answers?

**MR. SIMMONDS:** Well, let's try these, page 140.

Ms. Chaytor: Okay. So you recall if the earlier conversation whether or not – Answer: I don't recall specifics. Okay, Ms. Chaytor says. Answer: Like I would have not made any notes. It would have just been two friends talking. Ms. Chaytor: Okay. And didn't seek any assistance from you? Your reply: No. Ms. Chaytor: In terms of having to give a statement? Staff Sergeant Buckle: No. Ms. Chaytor: Or details of this statement, anything like that? Staff Sergeant Buckle: He probably would have told me things on how things unfolded. Ms. Chaytor: But before he gave his statement. Staff Sergeant Buckle: Oh, no. Ms. Chaytor: To seek any advice from you in terms of –. Staff Sergeant Buckle: No. Ms. Chaytor: You did give him advice on the timing of the statement? Staff Sergeant Buckle: Yes. Ms. Chaytor: But in terms of the content of the statement. Staff Sergeant Buckle: No, no. Ms. Chaytor: Okay. All right. And what about in terms of preparing his report of the incident? Staff Sergeant Buckle: No. Ms. Chaytor: You didn't provide him any advice on that? Staff Sergeant Buckle: No.

How funny. You give that information, you don't tell him that there maybe, maybe I'm not sure of it. You are definitive. Yet, we get emails that are erased and guess what? In those emails that are erased, you're giving advice to Staff Sergeant or to Sergeant Smyth, Constable Smyth, on exactly that topic that you had told Ms. Chaytor you didn't.

**S/SGT. BUCKLE:** I didn't recall when I answered that question.

**MR. SIMMONDS:** You didn't recall?

**S/SGT. BUCKLE:** No.

**MR. SIMMONDS:** Your best friend is in an incident. A man is dead. You advise him, you're very clear to advise him don't give a statement right away. All of that information goes through your head. You think the RCMP are going to contact you. You come out and have a meeting with a lawyer who's heading up – or is counsel for the commission. She asks you point blank: Did you give him advice about the substance of the statement?

You don't say, geez, I'm not sure. I know I gave him advice about the timing. You say, a number of times, I can read it back to you: No, no, no. You just forgot that?

**S/SGT. BUCKLE:** Yes, I did.

**MR. SIMMONDS:** Is that what you're asking the Commissioner to believe, you just forgot that?

**S/SGT. BUCKLE:** Yes, I did. And it was a year-and-a-half later.

**MR. SIMMONDS:** It's a year-and-a-half later. It's a one-off, unless you call the other two.

You were specifically asked: Did you give him any statements – did you give him any advice about his narrative that you knew had to be prepared? You knew what was before the RCMP statement. She goes into great detail to ensure that she's covered off all corners of that question. And you say: No, no and no.

And then, low and behold, no, no and no would have stood up when you gave your evidence, except we got these emails on Monday – deleted emails. That – not just a passing chance of bad luck.

Do you agree that anyone looking at that would be highly suspect of your credibility and integrity?

**S/SGT. BUCKLE:** I agree of the perception; however, it was an honest answer at the time. I didn't recall.

**MR. SIMMONDS:** Well, let's see if, if – how bad the perception is.

He says to you on the 6th at – and I don't know how to adjust these times. This is 12:39. I think there's two hours in the difference. He says to you: Making note – this is Exhibit P-0500. Can we bring that up, please? Page 49.

I'm sorry is there –

**UNIDENTIFIED FEMALE SPEAKER:** (Inaudible.)

**MR. SIMMONDS:** Oh, well, it's on the bottom of the one I – I'm sorry, I'm going from the bottom number. It's page 3. Okay, that's fine.

You ask him what he's doing. He says: "Making notes now." Now, these are obviously notes about the very form that you know he has to complete.

We could go to page 4. You talk to him about not getting sleep, and he says he goes to gym. And then you send back: "Looks good....should you be more specific and say I perceived. A threat of imminent death or gracious bodily harm...to quote the use of force policy?" You correct that and say: "Grevious." Then he comes back and says: "Ok." Then he says: "But a gun pointed at me is pretty straight forward." You say: "Using policy line in the circumstances feels a bit" – or he says, pardon me – "using policy line in the circumstances feels a bit manufactured." You say: "It's reflective of the training and articulation. I think it's important to state that. Ok." He says to you: "Read the change." You say: "Yup, that's better." He says: "Thanks!" You said: "A word was misspelled before 'MHA'". He says: "Ok, fix and email it back to. Me would you? I,m deriving."

A little further down you say: "U must have fixed it...can't find it now." He says: "Send it anyway...."

So it's a very detailed discussion of parts of what should go in that narrative, which versus – in terms of having to give a statement. Answer from Sergeant Buckle: No. Or the details of his statement, anything like that? Answer from Sergeant Buckle: He probably would have told me how things unfolded. Question from Ms. Chaytor: But before he gave his statement. Answer from Sergeant Buckle: Oh, no. Ms. Chaytor: To seek any advice from you in terms of –. No. Ms. Chaytor: You give him advice on the timing of the statement. Yes. Ms. Chaytor: But in terms of the contents of the statement. No, no. Okay. All right. What about in terms of preparing his report of the incident? No. You didn't provide any advice to him on that? No.

Can you somehow explain the two of these?

**S/SGT. BUCKLE:** Well, first of all, one of the, probably one of the reasons it wouldn't stand out because I was, I was giving him no advice on changing any factual information. I didn't have any. I was talking about articulating –

**MR. SIMMONDS:** Don't play with semantics, officer.

**S/SGT. BUCKLE:** I was talking about –

**THE COMMISSIONER:** Let him finish there now, Mr. Simmonds.

**S/SGT. BUCKLE:** I was talking about articulation and the words to use to reflect the use-of-force continuum, in the same way that I routinely do on a regular basis with all members when they're preparing their reports. Any of my subordinates are quite familiar with me sending their reports back and saying: This is not acceptable. You need to change it to reflect the articulation that's required in our use of force –

**MR. SIMMONDS:** All the more reason you would remember it. All the more reason you remember it.

**S/SGT. BUCKLE:** No, it's exactly the opposite. It was a matter of – it's a matter of routine that I would say that.

**MR. SIMMONDS:** And in fact, runs contrary to what you said to Ms. Chaytor, that you gave no advice. And her questions were very clear to you.

This is not like something you'd forget. This is not like something you say I'm not sure of. This is not like something that, you know, happens every day. She asked you point blank and you said: I never gave any advice.

**S/SGT. BUCKLE:** This incident don't happen every day but me giving people direction on how to write their reports does happen every day in my supervisory role – every day.

**MR. SIMMONDS:** And guess what? They just happened to be deleted. Embarrassing ones like I'm going down to interview a lunatic who threatened the premier, ones that have you indeed giving advice about the very substance that goes in his initial report which he takes to the RCMP with him; the very issues that they're concerned about and you're questioned about and it slipped your mind. Is that what you're asking us to believe?

**S/SGT. BUCKLE:** Yes.

**MR. SIMMONDS:** And we'd have never known the wiser, would we, unless these had come forward.

**S/SGT. BUCKLE:** I would have never known the wiser, let alone you.

**MR. SIMMONDS:** Or the Commissioner.

Thank you very much, Staff Sergeant.

**THE COMMISSIONER:** Who is going to go next?

**MS. BUIS:** Good afternoon, Constable Buckle – or Staff Sergeant Buckle.

Amanda Buis for Constable Joseph Smyth. Just a few questions for you.

So the evidence you gave this morning was that you didn't recall the BlackBerry Messenger conversation you had with Constable Smyth. Correct?

**S/SGT. BUCKLE:** That's correct.

**MS. BUIS:** Okay. And you also testified that neither yourself or Constable Smyth remembered or recalled the BBM conversation.

**S/SGT. BUCKLE:** No, it was – two days ago when we pretty much got this information at the same time it was jaw-dropping. We both were like now that we – it's been repeated back to us I remember it, but other than that, it certainly never crossed my mind and it certainly never crossed my mind when I was asked the question by Ms. Chaytor.

**MS. BUIS:** Okay. So it only came to your recollection when counsel – your counsel brought it to your attention?

**S/SGT. BUCKLE:** Actually, I think I was with Joe Smyth when his counsel brought it to his attention and then there was a subsequent conversation between me and Mr. Drover.

**MS. BUIS:** Would it also surprise you that Constable Smyth had trouble recollecting other instances or other information the day following the shooting?

**S/SGT. BUCKLE:** Not at all.

**MS. BUIS:** And is that because it was such a traumatic event?

**S/SGT. BUCKLE:** Yes.

**MS. BUIS:** Okay. So it wouldn't surprise you that Constable Smyth was not able to recollect until he was brought – until Commission counsel brought it to his attention that, you know, such things such as what time he spoke to his EAP psychologist the day after the shooting.

**S/SGT. BUCKLE:** I'd be very surprised if he could remember any of those details.

**MS. BUIS:** Okay. And he also couldn't recall, until he was reminded by Commission counsel, what time he gave the RCMP statement.

**S/SGT. BUCKLE:** I'm not surprised by that.

**MS. BUIS:** So it wouldn't surprise you that he needed to be reminded by counsel of certain things that happened the day following the shooting after such a traumatic event.

**S/SGT. BUCKLE:** It wouldn't surprise me at all.

**MS. BUIS:** Okay.

And you also gave evidence that you often delete things on your phone as well.

**S/SGT. BUCKLE:** Yes, I do.

**MS. BUIS:** And as a police officer who's been practicing for – who has been a police officer for 28 years –

**S/SGT. BUCKLE:** Yes.

**MS. BUIS:** – you're well aware that anything you delete can easily be recovered, is that correct?

**S/SGT. BUCKLE:** Absolutely.

**MS. BUIS:** And you have gained that knowledge from different investigations that you've been a part of?

**S/SGT. BUCKLE:** Yes. Nothing is ever truly deleted. I'm well aware of that.

**MS. BUIS:** Those are all the questions I have.

**THE COMMISSIONER:** Thank you.

Who's going next?

**MR. AVIS:** We have an issue, Commissioner. The default order –

**THE COMMISSIONER:** Sorry, say again?

**MR. AVIS:** There's an issue before you about order of counsel.

**THE COMMISSIONER:** Right.

**MR. AVIS:** As you know I represent the Constabulary (inaudible) police officer, just because of, you know, potential concerns, issues over potential conflict, there are two counsel.

**THE COMMISSIONER:** Right.

**MR. AVIS:** I want to go last but one, Mr. O’Flaherty, objects and feels that he should be able to go after me.

He’s a – you know, he’s a member of the RNC. I kind of assumed that I would be able to do that. I didn’t the last time, I didn’t think about it. But, anyway, Mr. O’Flaherty objects. He thinks that I should not be able to go after him. I’m saying (inaudible).

**THE COMMISSIONER:** You, you want to go ahead of Mr. Flaherty?

**MR. AVIS:** No, I want to go after him.

**THE COMMISSIONER:** You want to go after Mr. Flaherty.

**MR. AVIS:** Yes. While he’s not strictly my client, he is a member of the RNC. So me –

**THE COMMISSIONER:** Oh yeah.

**MR. AVIS:** – and then John would go last.

**UNIDENTIFIED FEMALE SPEAKER:** (Inaudible.)

**MS. CHAYTOR:** John Drover’s client. He’s John Drover’s client.

**THE COMMISSIONER:** Yes, I understand that.

**MS. CHAYTOR:** And in this situation –

**THE COMMISSIONER:** The RNCA is Mr. Drover’s client, is it not? And you’re the – the RNC is your client.

**MR. AVIS:** Right, but he’s a member of both.

**THE COMMISSIONER:** Right.

**MR. AVIS:** And our interest in his evidence is every bit as important as any of the other RNC witnesses that are being called.

**THE COMMISSIONER:** Right.

Mr. Flaherty you’re going to go first. The –

**MR. FLAHERTY:** (Inaudible.)

**THE COMMISSIONER:** It’s, sorry –

**MR. FLAHERTY:** Mr. Commissioner –

**THE COMMISSIONER:** Did you have any particular reason why you felt that you should go after?

**MR. FLAHERTY:** Well –

**THE COMMISSIONER:** I should say that I want to hear from you on that first. Any particular reason why you wanted to go ahead of Mr. Avis or behind Mr. Avis?

**MR. FLAHERTY:** I don't want to go ahead –

**THE COMMISSIONER:** After – yeah.

**MR. FLAHERTY:** As far as I was aware, the procedure that we've been following the entire inquiry has been that if there's to be a –

**THE COMMISSIONER:** That's an aid, by the way – that's an aid.

**MR. FLAHERTY:** Okay.

**THE COMMISSIONER:** That's not, you know –

**MR. FLAHERTY:** Okay. That's fine.

**THE COMMISSIONER:** Basically it's in my discretion in terms of how I should go.

**MR. FLAHERTY:** Well –

**THE COMMISSIONER:** And I think we have two counsels who are joined at the hip, shall we say, and in any event, I don't see it of great significance. But if Mr. Avis wishes to go after you I guess, to some extent, that's a compliment to you but –

**MR. FLAHERTY:** It is, but at the same time I want to be provided the opportunity to do my job the best I can.

**THE COMMISSIONER:** Let's put it this way, if there's something that arises that you want to have another shot at, something that arises from Mr. Avis, I'm not going to stick to the sort of protocol we'd have in a jury trial. I'll consider very carefully giving you another chance to go and deal with that matter. And at some point we will have to cut it off, obviously, but just to be fair to you if that helps.

**MR. FLAHERTY:** Okay. That's a wise compromise.

**THE COMMISSIONER:** Yeah.

**MR. FLAHERTY:** Sergeant Buckle – Staff Sergeant Buckle, my name is Cletus Flaherty. I'm counsel for the Don Dunphy Community Coalition. You've referenced research that's been presented to you at conferences and whatnot with respect to whether or not police should be afforded the opportunity to wait 24, 32, 76 hours. Correct?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** And is there a country-wide consensus, an RCMP consensus, an RCMP policy or procedure which says that police officers in police shootings should be provided X amount of time?

**S/SGT. BUCKLE:** That's my understanding, yes.

**MR. FLAHERTY:** So what's the RCMP – what's the RCMP protocol?

**S/SGT. BUCKLE:** I don't know specific to each individual police force. I know that it varies amongst agencies. I cannot give you a list of how many hours for each force or whether it's even that rigid. I think that it's basically 24 to 48 hours and whenever the officer is ready in that period of time. I don't understand it to be, the clock just hit 24 hours we have to do the interview. I don't understand it to be that way.

**MR. FLAHERTY:** Okay. So the RNC doesn't have – the RNC now, doesn't have a policy with respect to how long a police officer should be given before he's questioned on a police shooting. Do the RNC have one?

**S/SGT. BUCKLE:** Not to my knowledge. That would more be a policy of the RNC Association. And I know there's no formal policy created in written policy but an informal policy is that we would encourage an officer to not subject themselves to questioning for that period of time.

**MR. FLAHERTY:** Now, can you tell us if this research that suggests that police officers should be provided 24 to 72 hours before making a statement, is that an absolute rule or is that a general rule? To be applied on the circumstances –

**S/SGT. BUCKLE:** I think the range of the – I think the range of hours demonstrates to me that I don't think there is any hard and fast rule. I think it's basically – my impression is that it's a minimum of 24 hours followed by when the officer is comfortable and ready and feels he's calmed enough to do so.

**MR. FLAHERTY:** Now, is this research based upon, or is this research presented as being applicable to situations where the only witness is the police who shot the deceased?

**S/SGT. BUCKLE:** I don't have any of the scientific data analysis. I just have attended seminars and presentations that recommend this practice. The science that it's based in, methodology, I don't have any personal knowledge.

**MR. FLAHERTY:** And so these presentations, can you tell me that you recall these presentations saying that this practice should be applied to situations where the only witness is the police officer who shot someone?

**S/SGT. BUCKLE:** I don't think there's ever – I don't think it's ever been presented that it was differentiated between only the police officer present versus multiple officers. I don't recall that specific.

**MR. FLAHERTY:** Is there not a difference in those two circumstances? In one situation you have a police officer who shoots someone and there's multiple witnesses there to give their account, to provide initial information to an investigator and possibly corroborate that police officer as opposed to a situation where there are no witnesses and the police officer has shot someone? Do you not see a difference there in the circumstances?

**S/SGT. BUCKLE:** Again, to repeat, I don't have any of the scientific data, knowledge, methodology to give an opinion on that.

**MR. FLAHERTY:** You're a police officer 28 years, you're a Staff Sergeant. So I'm asking you – I'm not asking about the science. I'm asking you to tell me whether or not those two circumstances are different.

**S/SGT. BUCKLE:** I would suggest that it's all based on science, so I'm not qualified to answer that question.

**MR. FLAHERTY:** You're not qualified to answer questions with respect to when police officers should be interviewed after they've shot someone.

**S/SGT. BUCKLE:** Other than –

**MR. FLAHERTY:** Is that what you're saying?

**S/SGT. BUCKLE:** Other than the guidelines that are provided to me from seminars and presentations that I've presented with. The science and the methodology behind the decision to make that recommendation to police officers, I have no personal knowledge of.

**MR. FLAHERTY:** Okay. But you have to apply this practice that you've been presented upon, don't you?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Okay. So applying that practice, the two situations that I gave you, one where there's only one witness, and it's the police officer who shot, and the other where there's multiple witnesses. Are those circumstances different such that they – this practice that you're talking about should be applied differently?

**S/SGT. BUCKLE:** This situation itself is different, but I know of no practice – no – I know of no direction where it differentiates the practice. I'm not aware of it. I haven't been presented with it. And I've listened to numerous presentations on this topic.

**MR. FLAHERTY:** Okay.

Are there – and so you can remember, you're telling me you recall that it hasn't been brought to your attention whether or not this is applicable in a multi-officer – or a multi-witness situation as opposed to a solo witness situation. You're telling me that that has never been presented to you.

**S/SGT. BUCKLE:** No. I'm saying I don't recall it being presented to me.

**MR. FLAHERTY:** Okay. So what you're saying is that you have an idea of this practice but your memory with respect to how it maybe should be applied is unreliable? Is that what you're saying?

**MR. AVIS:** That's not what the witness is saying. If I may –

**MR. FLAHERTY:** Well, and he can say yes or no.

**THE COMMISSIONER:** Mr. Avis, let's – let the witness explain. I'm sure he can deal with it.

**MR. AVIS:** Well, the question is mixing apples and oranges. I'll correct it later.

**THE COMMISSIONER:** Yes, you can deal with that in argument or in your redirect, whatever. But –

**S/SGT. BUCKLE:** The answer is no.

**MR. FLAHERTY:** No what? Sorry?

**S/SGT. BUCKLE:** The answer to your question. You repeat the question –

**MR. FLAHERTY:** Well –

**S/SGT. BUCKLE:** – and I'll give the same answer.

**MR. FLAHERTY:** Well, you know my question.

I'm sorry, the interruption has –

**S/SGT. BUCKLE:** Yeah.

**MR. FLAHERTY:** What was my question? What was my question? I –

**S/SGT. BUCKLE:** I don't recall your question, I can't –

**MR. FLAHERTY:** So you don't recall the question I just asked you.

**S/SGT. BUCKLE:** I know that the answer –

**THE COMMISSIONER:** I don't recall it either, I'm afraid, Mr. Flaherty.

**MR. FLAHERTY:** Okay.

**THE COMMISSIONER:** So don't beat that one.

**MR. FLAHERTY:** I'm not trying to be flamboyant, but the credibility of Sergeant Buckle has been put into question. He just gave me an answer. He doesn't know what the question was. And yet, we're supposed to –

**THE COMMISSIONER:** Mr. Flaherty, it happens. Twenty-eight, what? I don't know, longer than I want to count. And I think every trial that I've ever been in I've had witnesses say, could you repeat the question please. Whether it's because of an interruption, or for what reason?

So go ahead, you know, let me –

**MR. FLAHERTY:** Okay.

**THE COMMISSIONER:** Surprise me, but –

**MR. FLAHERTY:** No, but –

**THE COMMISSIONER:** – I would be surprised.

**MR. FLAHERTY:** After the interruption, he said his answer was no. So he provided no to a question that he couldn't remember. I asked him right away –

**THE COMMISSIONER:** Okay (inaudible) I guess.

**MR. FLAHERTY:** No.

**S/SGT. BUCKLE:** I'm repeating my answer was no to your question. If you'll repeat the question, I'm confident I'm going to say no again.

**MR. FLAHERTY:** How can you be so confident? You don't even know what the question was, do you?

**S/SGT. BUCKLE:** No.

**MR. FLAHERTY:** Exactly. So –

**S/SGT. BUCKLE:** Could I have the question repeated, please?

**MR. FLAHERTY:** No.

**S/SGT. BUCKLE:** Oh.

**MR. FLAHERTY:** So police officers, no matter the circumstance, should be provided 24, 72 hours whereas civilians don't get that benefit. Correct?

**S/SGT. BUCKLE:** Correct.

**MR. FLAHERTY:** And what research can you point to, to support that practice or that opinion?

**S/SGT. BUCKLE:** Again, I have no knowledge or information related to the research, methodology or studies. I just know that that is recommended, and because an officer has protection under the Charter from giving a statement ever, then we recommend that practice as par as the course to approach these matters.

**MR. FLAHERTY:** Are civilians supposed to give a statement under the Charter?

**S/SGT. BUCKLE:** They can elect to do so or not to do so.

**MR. FLAHERTY:** Yeah, just like a police officer. Correct?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Okay.

And so as a police officer, are you going to give the primary suspect in a homicide 24 hours, 72 hours to think about what happened if there are no other witnesses?

**S/SGT. BUCKLE:** I would – well, because they have the right under the Charter not to give a statement, I would suggest they already have that right. That any time they can say I'm not giving a statement today, but I will prepare a statement with my counsel or I will submit to an interrogation at a later time. Every citizen has the right not to give a statement and they have a right to subsequently give a statement at a later time.

Our recommendation – the recommendations that I've received through presentations, seminars is that officers involved – many of civilian suspects or alleged offenders never, ever give a statement. Police officers, out of professional obligation, give themselves a period of time to collect their thoughts and calm down and out of professional obligation typically do provide a statement, unlike many criminals.

**MR. FLAHERTY:** So there was an obligation on Constable Smyth that he provide a statement at some point, to someone?

**S/SGT. BUCKLE:** No obligation, no. He had a right to refuse to give a statement ever.

**MR. FLAHERTY:** Even to the RNC?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** That's not an obstruction of an investigation?

**S/SGT. BUCKLE:** I can only repeat my understanding from training seminars that police officers have the right, subject officers involved in police use of force, using lethal force under section 25 of the *Criminal Code* have that right under the Charter to never – to not give a statement, and to give a statement at some subsequent point if they so which.

**MR. FLAHERTY:** So under section 25, one of the elements is that you have the authority to use force.

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** So how do you know he had the authority to use force? How do you know that there was actually a threat provided to the police in these situations? There was no witnesses.

**S/SGT. BUCKLE:** I can't comment. I was not involved in this investigation, directly. I can't comment on specifics of this investigation.

**MR. FLAHERTY:** Okay. Okay. So section 25 – you said there's a difference, civilians should be treated differently from police officers because police officers are protected by section 25 of the Code, correct?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Okay. And so what are the elements under section 25?

**S/SGT. BUCKLE:** Well – and that's qualified, too. They're not protected under it. They have a legal obligation to use justified force. If it's excessive, they could be charged with an offence.

All I am saying is that, the average civilian who's investigated for homicide cannot claim that they have authorization under section 25 of the *Criminal Code* to use legal force. The average citizen does not have that authority.

**MR. FLAHERTY:** Does the average citizen under the common law have the authority to use legal force to prevent legal force?

**S/SGT. BUCKLE:** Citizens under common law have the right to self-defence.

**MR. FLAHERTY:** So police, like citizens, can use legal force in self-defence, but the grounding for that, for that law comes from different places. One's the common law; one's the *Criminal Code*, but not much of a distinction.

**S/SGT. BUCKLE:** Yes, it is codified for police officers.

**THE COMMISSIONER:** Well, there is a distinction because in self-defence, in the case of a civilian, you get into this whole thing – down in the US they call it the right to stand your ground.

**MR. FLAHERTY:** Yeah.

**THE COMMISSIONER:** We don't, I think, use that term as much, but we do talk in terms of the obligation, from my recall, to back away if there's an alternative.

There may be some difference, Mr. Flaherty, in the responsibility – in terms of what a police officer may have to do if the, if there's a threat and what a, what an average citizen might have to do, but go ahead, just to make that distinction.

**MR. FLAHERTY:** Okay, but when we're looking at the common law and the *Criminal Code*, if you replace Constable Smyth with a civilian, and a civilian all of a sudden sees a rifle pointed at him, there is not much of an opportunity to say: Oh, I'm going to try to walk away. You're using legal force to prevent legal force. Civilians and police officers can do that. Can they not?

**S/SGT. BUCKLE:** I know that a civilian can use whatever force is necessary in self-defence.

**MR. FLAHERTY:** One of your statements here earlier today was that police officers in a section 25 situation, when they kill someone, it's usually unexpected; however in the civilian context that's not the case?

**S/SGT. BUCKLE:** Well, it's – obviously, there's different variations to that. It's premeditated or, or a moment of anger, but it's still precipitated by the suspect or alleged offender, as opposed to police officers, it's purely reactionary.

**MR. FLAHERTY:** So if Joe Smyth was a civilian and he told you: Before I knew it there was a rifle pointed at me and I had to take lethal action. In that situation, if you were an investigation officer you would say: Okay, well, I'll give you 24 or 48 hours, 72 hours, due to the fact that you're saying it was a sudden reaction. Is that what you're saying?

**S/SGT. BUCKLE:** No, that's not what I'm saying because I completely don't understand the hypothetical situation you're presenting.

**MR. FLAHERTY:** Okay. So in a hypothetical situation – this is the hypothetical I'm going to put to you. There's a civilian who's caught off guard by someone pointing a rifle at them. They take lethal force to prevent death, and it's very sudden. They see, they see the gun pointing at them, they shoot back or do whatever, but in the end result, they kill the person who's pointing the rifle at them. That's a sudden action that a civilian had to take in that hypothetical, correct?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Okay. And so if that civilian says to an investigator or a first responder: I had no time in which to assess this situation. This was self-defence. I just saw a rifle pointed at me. I had to take sudden action. Will you give me 72 hours before you ask me to provide a statement? Is that, is that what's going to happen?

**S/SGT. BUCKLE:** It's not that I'm giving anyone 72 hours, any more than a police officer involved shooting is being given 72 hours. He is exercising his right under the Charter not to make a statement at that time and he decides to give a statement at a later time.

**MR. FLAHERTY:** But as –

**S/SGT. BUCKLE:** There's nobody being given anything.

**MR. FLAHERTY:** As a police officer, would you ask the civilian my hypothetical – would you ask him: I want to haul you in for a statement. Will you provide a statement? Wouldn't you ask?

**S/SGT. BUCKLE:** I don't think I'd use the statement, haul you in, because we're not allowed to take –

**MR. FLAHERTY:** Okay.

**S/SGT. BUCKLE:** – statements with coercion.

**MR. FLAHERTY:** Okay. Would you ask him if he was prepared to provide you details as to what happened?

**S/SGT. BUCKLE:** I would ask him what – first of all, in that case, I would – the claim to self-defence is a defence without lawful authority; therefore what I would do in that case, in that hypothetical situation that you – I would caution the person, I'd give rights and caution because they may have used excessive force. They may have prevented it otherwise. Therefore, I'd give them rights and caution and proceed to ask them to give a statement or proceed to interview them. They could at any time say I'm not interested. I'm traumatized. I'm not prepared to give a statement at this time. I'll come back tomorrow and give a statement. And I would have to consider that as part of my investigation. Sure.

**MR. FLAHERTY:** So one thing you want to consider, as part of your investigation, is that the information you have, particularly early on in the investigation, you want to make sure that's reliable, correct?

**S/SGT. BUCKLE:** You always want your information to be reliable, yes.

**MR. FLAHERTY:** So in the hypothetical I just gave you, you said that you would ask the shooter to provide a statement in relatively quick order. They can say no. But why are you asking a civilian to provide a statement when you know that the information he's going – is about to give you may be unreliable or not a total picture of what happened? Why would you ask? Why would you want to rely on unreliable evidence?

**S/SGT. BUCKLE:** I just feel like we're gone down a rabbit hole of hypotheticals that I really don't know what I'm answering here now.

**MR. FLAHERTY:** What part of it didn't you understand in my question, just so I know?

**S/SGT. BUCKLE:** Ah.

**MR. FLAHERTY:** Okay, well, I'll refresh your memory.

You know that people who have to take sudden action in killing someone in self-defence, you know that trauma may affect their memory. You tell police officers to take some time so that their memory can coalesce, or so they can figure out what happened.

Why would you ask a civilian to provide a statement when you know that their information that they will provide is likely unreliable due to trauma? Why would you?

**S/SGT. BUCKLE:** You can ask anyone at any time to give a statement. This –

**MR. FLAHERTY:** Why did you, as an investigator –

**S/SGT. BUCKLE:** But the 24-, 48-, 72-hour rule is not in me as an investigator. If I'm investigating, that's not my responsibility. I'm the investigator.

**MR. FLAHERTY:** Okay.

**S/SGT. BUCKLE:** I'm acting on behalf of a member in the RNC Association and I'm giving them advice. It's the other side of the equation, not – I'm not an investigator in that case.

**MR. FLAHERTY:** No, but I'm asking you, as an investigator, would you ask a civilian, who had to suddenly kill someone, for a statement, given the fact that you've been provided research, presentations and training which suggest that in those type of circumstances memory may be affected up until 24 to 72 hours later? Why would you, as an investigator, want to take in potentially unreliable evidence? Why?

**S/SGT. BUCKLE:** Well, first of all, the individual involved has no legislative authority to use lethal force. Therefore, unless they say something that gives me a reason to believe they acted in self-defence; therefore, they're giving this statement before I can make that decision that they acted in self-defence. So they're already giving me a statement

**MR. FLAHERTY:** So they showed up – you show up at the scene because they've just killed someone and they walk out and they say – and the person, civilian, says to you: I killed in self-defence. Okay, that's an utterance and you can rely on that.

Now, you know that that person killed in self-defence. Are you not going to give that person some time before you ask them for a statement so that their memory is nice and clear and more reliable than what it would be after that traumatic event? Would you?

**S/SGT. BUCKLE:** I would give them that option.

**MR. FLAHERTY:** You would give them that option?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** But you would still (inaudible).

**S/SGT. BUCKLE:** If I have no grounds to arrest and detain, I have no choice but to ask them for a statement. They choose whether or not they want to give it.

**MR. FLAHERTY:** So you would ask them for a statement soon after they killed someone.

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Knowing that the information could be unreliable.

**S/SGT. BUCKLE:** Knowing there's a potential, yes.

**MR. FLAHERTY:** Okay.

When you and Constable Smyth talked for 20 minutes prior to the death of Donald Dunphy, when Constable Smyth was on his way out to see Don Dunphy, there was nothing remarkable about that day was there?

**S/SGT. BUCKLE:** No.

**MR. FLAHERTY:** Okay. But you can remember, you remember clearly that it was Twitter related.

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Not social media, not Facebook.

**S/SGT. BUCKLE:** And again that's probably an assumption on my part. He may have said social media. He may have said Twitter. I don't recall. I'm paraphrasing the information I had.

**MR. FLAHERTY:** I would put to you that Twitter is not an appropriate paraphrase because you're going for one little thing, a specific type of medium, as opposed to any other specific medium or that social media medium in general. It doesn't seem like a paraphrase to me.

**S/SGT. BUCKLE:** Well, it was so insignificant, in my view, it was so insignificant, that I don't recall specifically what he said. He may have said Twitter. He may have said social media.

**MR. FLAHERTY:** Okay. No, well, your evidence is he was going down, it was Twitter related. He was on his way to Salmonier Line and we had discussed about a cabin trip.

**S/SGT. BUCKLE:** It could have been any number of things. That's one suggestion –

**MR. FLAHERTY:** Those are things that you say that you remember from that day.

**S/SGT. BUCKLE:** No, no.

**MR. FLAHERTY:** Oh, you don't remember. What don't you remember now? Twitter, cabin, Salmonier Line, which one of those aspects of your conversation do you not remember?

**S/SGT. BUCKLE:** What I've said about that conversation is I don't remember the specifics of it. I remember a general understanding that he was going somewhere to speak to somebody that was posted on social media. I'm paraphrasing, I'm acknowledging that even at the time I gave the statement I don't recall specifics and if were on the phone for 20 minutes I said we very likely were talking, planning a cabin trip or something of that nature.

**MR. FLAHERTY:** Okay. So I'm going to ask you: Do you remember talking about a cabin trip? Do you remember?

**S/SGT. BUCKLE:** No, I don't specifically, no.

**MR. FLAHERTY:** No.

**S/SGT. BUCKLE:** I'm saying that would be typical of our conversation.

**MR. FLAHERTY:** Do you remember him telling you he was going towards or was in the vicinity of Salmonier Line?

**S/SGT. BUCKLE:** I believe he, I believe there was reference to Salmonier Line because we've snowmobiled there before and I – that's why that stood out to me.

**MR. FLAHERTY:** So, so – okay, so it did stand out to you. So we can agree that the words Salmonier Line were uttered during your conversation.

**S/SGT. BUCKLE:** Yeah, I would believe they were, yeah.

**MR. FLAHERTY:** And we know that your evidence was that it was Twitter related, correct? You've said Twitter at one point in discussing that?

**S/SGT. BUCKLE:** Yes, but I also qualified that by saying I'm paraphrasing from what I recall. I'm not giving specifics and with absolute, saying that he said Twitter. I don't know and don't that it's significant but I can just say that I don't recall specifics.

**MR. FLAHERTY:** It's significant because you remember an event almost two years ago. You remember that your best friend was going out on Twitter-related business towards Salmonier Line and, yet, here today you're saying I don't remember speaking to Fred Hutton.

I mean, that's unbelievable. I'm going to put that to you. If you were a police officer and someone said I can remember minute portions of an unimportant conversation two years ago, but now I don't remember speaking to Fred Hutton after I told my best friend that I would and I was going to tell him that he should go speak to witnesses. You don't remember that?

**S/SGT. BUCKLE:** I don't remember specifically calling Fred Hutton, no.

**MR. FLAHERTY:** Do you remember –

**S/SGT. BUCKLE:** I've spoken to Fred Hutton on numerous occasions because in my role as a supervisor I regularly do news releases. So I would, I would give him information. He would call, ask for additional information in relation to incidents.

**MR. FLAHERTY:** Did you speak to Fred Hutton – did you communicate with Fred Hutton in any way related to this matter?

**S/SGT. BUCKLE:** I don't recall speaking to him specifically.

**MR. FLAHERTY:** When you say speak are you including email, BBM –

**S/SGT. BUCKLE:** Everything included.

**MR. FLAHERTY:** Do you not find that funny, though? That you don't remember speaking to Fred Hutton but you can remember Twitter-related Salmonier Line information from a conversation that was totally unimportant?

**S/SGT. BUCKLE:** I don't remember specifics of it, no. I remember the conversation and that – I was prompted by that by virtue of what happened subsequently that day.

I don't even remember the date the conversation is with – on BBM in regard to Fred Hutton. I don't remember the date. Other than it being brought to my attention, it's not significant, I didn't remember it.

The day that Joey called me and we had a 23-minute conversation, obviously, because of the subsequent events that happened that day, I remembered the conversation. And when asked about it a year-and-a-half later, I can only paraphrase, I didn't make notes of specific discussions, just what my general understanding was of what he was doing.

And I referenced earlier about going to his office and seeing more than 20 head-and-shoulder shots of individuals, persons of interest, and it struck me because I never thought that they were dealing with that many people at any given time, unless it was something unique.

I remember Constable Smyth telling me about one person that was posting video, and by virtual of posting video he was able to identify where the person generally travelled every day and was able to locate him because he had actually – in that case, I think, he actually made criminal threats.

So – but did he tell me about every person of interest that he ever investigated? Absolutely not, unless it was something unique about it, which was in that case because it was just interesting how a person was posting in social media and be to be able to use that video to monitor their daily travels because it was someone with a routine, you are able to identify the person. So that was a unique investigative approach, but I do not recall, like I saw 20 faces on the wall, I don't know the names of any of them, I know none of the details about them and that's all I can say. That conversation wasn't significant enough.

**MR. FLAHERTY:** Constable Smyth is your best friend. Your evidence is that he was in turmoil. He asked you for help. His help was: Go speak to Fred Hutton. You said: Will do.

Is that a common, is that a common thing that happens in your life or was that a unique thing that has happened in your life, Sergeant Buckle?

**S/SGT. BUCKLE:** Well, I also recognized – in the same way that he sent me the email, I didn't offer, I felt that he, he felt the need to do it to deal with his trauma, emotional trauma, that he was dealing me. Asking me to call Fred Hutton, maybe again his need to have the other side heard as opposed to the diatribe that was occurring on social media and I would have just agreed and acknowledged that without ever – I may have, I'm not saying I did or didn't, I may have just agreed to it just to pacific him so that he was getting some feeling that there was something being done to get the other side of the story out from what was being – occurring in social media. But I cannot say with absolute certainty that I contacted Fred Hutton.

**MR. FLAHERTY:** And, and he was stressed out because it appeared to him that things weren't being done, correct?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Okay.

**S/SGT. BUCKLE:** The communication part of it.

**MR. FLAHERTY:** And you didn't like the fact that the RNC, the RNCA wasn't communicating enough, correct?

**S/SGT. BUCKLE:** I think that was subsequent to that. My – I think my dealing with the RNCA about their lack of response or communication, I think was subsequent to Judge Riche's interviews. I'm not confident.

**MR. FLAHERTY:** Not sure. But suffice to say that you were, you were concerned by the lack of communication with the RNC and the RNCA.

**S/SGT. BUCKLE:** I've had lack of communication with the RNC since I joined the organization.

**MR. FLAHERTY:** But this is, this is dealing with your best friend.

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** And he's really upset by the lack of communication.

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** So in that context you're only going to seek to pacify him by saying oh, yeah, I'll talk to Fred Hutton, as opposed to actually going to talk to Fred Hutton.

**S/SGT. BUCKLE:** Potentially.

**MR. FLAHERTY:** How would he have reacted if he had found out – Tim, you didn't go to Fred Hutton, you told me you'd go to Fred Hutton. I mean, how are you going to have that conversation with him?

**S/SGT. BUCKLE:** I don't think it would be significant enough to even really matter.

**MR. FLAHERTY:** Well, then you're just another part of the RNC who's not communicating on his behalf the way he wanted. Correct?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Yeah.

Okay. You went out and you had some firearm training shortly after the death of Don Dunphy. Correct, Sergeant Buckle?

**S/SGT. BUCKLE:** That's correct.

**MR. FLAHERTY:** Okay. And did you invite Constable Smyth to go do that training with you?

**S/SGT. BUCKLE:** I don't recall specifically. It seems to me that he was already scheduled to do it because his firearm had been taken and he was being issued a new firearm. I know that was part of the process and may have been why he was even going to the firing range and while there that occurred. I can't say with absolute certainty who suggested it, who initiated it, who decided we would do it.

**MR. FLAHERTY:** You had concerns about Constable Smyth's psyche or psychologically you had some concerns.

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Okay.

Were those concerns supported by or brought to you by a psychologist or psychiatrist?

**S/SGT. BUCKLE:** No.

**MR. FLAHERTY:** So are you in a position to be able to tell someone psychologically I think you should start firing firearms in training at this date?

**S/SGT. BUCKLE:** No.

**MR. FLAHERTY:** You were together for – you're together at training for 30 to 45 minutes and you can't recall if you talked about Mitchells Brook.

**S/SGT. BUCKLE:** I doubt very much that we would have talked about it. It was on the firing range with a significant number of people around.

**MR. FLAHERTY:** Okay. So you wouldn't talk about it if anyone could hear you is what your evidence is?

**S/SGT. BUCKLE:** No, not that I wouldn't talk about it. I'm just saying that I don't recall talking about.

**MR. FLAHERTY:** And see the problem I have – and I'm probably belabouring the point and I'll move on – is that you knew about Salmonier Line and Twitter, that happened in the past, and now you can't have any recollection of whether or not you talked at all during 30 to 45 minutes about the Donald Dunphy incident when you were with your friend, your best friend during a training session.

You can remember Salmonier Line and Twitter which happened before, but now you can't remember anything about if Mitchells Brook and the incident was discussed at training. That's your evidence.

**S/SGT. BUCKLE:** I don't recall specifically it was discussed, no.

**MR. FLAHERTY:** Okay.

So I just wanted to talk about the email that was sent out. In the RNC, are there any policies or procedures with respect to investigation management, file management or indeed privacy law, privacy legislation, which comments upon officers sending out mass emails concerning ongoing – or concerning investigations or RNC-related incidents? Is there any kind of policies that touch upon that?

**S/SGT. BUCKLE:** I know there's restrictions on using it for personal purposes, advertising something for sale or an apartment rental. I know there's restriction on using it for personal.

In regard to investigations, emails about investigations are routinely sent out, pictures of suspects sent out to all staff. That's a matter of routine on a daily basis.

**MR. FLAHERTY:** To everyone in the RNC?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Okay.

But wouldn't you agree – so you can recall that there's policy and procedures with respect to personal restrictions. This was a personal matter, was it not?

**S/SGT. BUCKLE:** I don't think it was very personal, I think it was a significant professional RNC-related issue.

**MR. FLAHERTY:** So was – okay, so was Constable Smyth performing his duty, his professional duty and professional obligation, when he sent out this email?

**S/SGT. BUCKLE:** No.

**MR. FLAHERTY:** Okay.

So he sent it out for personal reasons.

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Okay.

In some of the BBM – in one of the BBMs that had been put in as evidence, Sergeant Buckle, you refer to Twitter trolls.

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Was Mr. Abbass a Twitter troll?

**S/SGT. BUCKLE:** I'd use – I would use that in generic terms.

**MR. FLAHERTY:** Okay.

**S/SGT. BUCKLE:** You know, some of the, some of the postings on Twitter and social media are very disconcerting.

You know, one I recent seen – just seen in recent days was that Constable Smyth should be Jason Bourque'd which is a reference to the killings of police officers in Moncton. Those kinds of things are a daily occurrence in social media.

**MR. FLAHERTY:** Uh-huh.

**S/SGT. BUCKLE:** And it's very upsetting, disconcerting for a personal safety issue.

**MR. FLAHERTY:** Yeah.

**S/SGT. BUCKLE:** And Twitter troll is a common term used on Twitter by everybody who basically constantly a barrage of comments about incidents or information or people that really they, they're not personally involved in –

**MR. FLAHERTY:** Yeah.

**S/SGT. BUCKLE:** – but they tend to just go on and on and on.

**MR. FLAHERTY:** Okay. So it's a generic term but was Mr. Abbass a Twitter troll? Based upon your definition of a Twitter troll, was Mr. Abbass one?

**S/SGT. BUCKLE:** He seemed to – someone that tweets with that much frequency, yes, in the – in the slang, colloquial terminology –

**MR. FLAHERTY:** Yeah.

**S/SGT. BUCKLE:** – yes, that's how you would refer to somebody.

**MR. FLAHERTY:** And so you said – you made your comment with respect to Twitter trolls and then you said: Eff them. Correct?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** So how could you –so you know Mr. Abbass is a Twitter troll, how are you going to eff with him?

**S/SGT. BUCKLE:** I didn't say eff with him.

**MR. FLAHERTY:** Okay, but he could go off himself.

**S/SGT. BUCKLE:** When I said off him, that means ignore it.

**MR. FLAHERTY:** Ignore it?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** But sure why would you be ignoring potentially threatening Twitter messages?

**S/SGT. BUCKLE:** If they become threatening, then obviously there's an invest – which occurred, which an investigation, but I'm commenting on in a general way, when people go down that road and become Twitter trolls, or unless they cross the line of harass – or commit a criminal offence, you really have to ignore it. You can't take it personal, you have to let it go because it's so – social media is so full of that content –

**MR. FLAHERTY:** Yeah.

**S/SGT. BUCKLE:** – that until it becomes a criminal offence of harassment –

**MR. FLAHERTY:** Yeah (inaudible)

**S/SGT. BUCKLE:** – or potential threats, as in the Jason Bourque'd comment was –

**MR. FLAHERTY:** Yeah.

**S/SGT. BUCKLE:** – is quite disconcerting.

**MR. FLAHERTY:** All right, so based upon that standard, what do you think about Constable Smyth going out to speak with Don Dunphy? Don Dunphy never made a threat. He talked a lot, he used not-nice language, but there was no criminal threat. So why would – why should a police officer look at that and then say, okay, I'm going to go pay this man a visit?

**S/SGT. BUCKLE:** Well, policing in general – and I'll give an example that I gave in my statement to Commission counsel – we routinely investigate matters that are not criminal in nature to determine if there is any criminality to it and follow up. And the example I gave is: We, as police officers, routinely receive an anonymous complaint of a suspicious vehicle in a certain area and all we're given is the plate number. There's no criminal offence occurred, there's no – but obviously residents in a certain area recognize vehicles that should or shouldn't be in their neighbourhood.

**MR. FLAHERTY:** Uh-huh.

**S/SGT. BUCKLE:** We receive – and I remember when I gave this example to Commission counsel I had worked a couple of nights previous and this was an actual example where we received an anonymous complaint with a plate number of a vehicle. Our officer, a single officer, responded to the location, checked the area; the vehicle wasn't there. He then ran a 10-28, which is a registered owner check. He went to the residence of the registered owner, determined that the vehicle had been sold to another person, obtained that information and went to that other address.

That's a matter of routine for policing, is that when issues of concern are brought to us by the public, we may explore it to some degree or another to determine if there is any criminality or if there is any concern. Because I can assure you if we, as the police, didn't go check on that

vehicle and the next morning there was a crime had occurred, there was a house broken into; there would be serious consequences to us as police officers. We have a legal obligation – we have a duty bound to investigate matters brought to our attention.

**MR. FLAHERTY:** So that – thank you for that example but that example seems wholly unrelated and not comparable to Donald Dunphy’s tweets.

**S/SGT. BUCKLE:** I agree. And I’m using that as an example because it’s even less of a concern, it’s even more minor and we still respond. So Donald Dunphy’s tweets – tweets, once they caught the attention of a government official there was concerning language, that would be a standard practice to go speak to somebody to make a determination as to the state of the mind of the individual, their intent and what, if there – whether or not there is any criminality intention.

So if we’re going to check on something that’s all we got is an anonymous complaint of a plate number of a vehicle, suspicious vehicle with no criminal indication whatsoever, nothing that should cause the attention of police, we still do that on a routine basis.

**MR. FLAHERTY:** So – okay, so just to backtrack, so when should police ignore tweets?

**S/SGT. BUCKLE:** That’s just a –

**MR. FLAHERTY:** When should you ignore it and when should you investigate?

**S/SGT. BUCKLE:** Well, if Ryan Snodden is tweeting about the weather, we can probably – we can probably ignore that.

**MR. FLAHERTY:** Okay.

**S/SGT. BUCKLE:** If someone’s threatening to shoot up Confederation Building, we got to check on that.

**MR. FLAHERTY:** Okay. So –

**S/SGT. BUCKLE:** So there’s any range of tweets –

**MR. FLAHERTY:** Okay.

**S/SGT. BUCKLE:** – that we may or may not follow up on.

**MR. FLAHERTY:** So Donald Dunphy’s tweets, the subject tweets of this, of Constable Smyth’s investigation, I would say that they were more like Ryan Snodden’s tweets in that there’s no threats than someone suggesting that they were going to shoot up the Confederation Building.

**S/SGT. BUCKLE:** Well, I wasn’t involved in the investigation or anything that Constable Smyth was doing. I have never reviewed the rest of Mr. Dunphy’s tweets, as Constable Smyth did. I have no reason to. I’ve seen some of them that have been circulated in social media and in the news, but – so I don’t have an opinion on what should or shouldn’t happen in regard to those tweets.

**MR. FLAHERTY:** You were concerned by Mr. Abbass’s mental health, were you?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Okay and what was that based upon?

**S/SGT. BUCKLE:** Based on the content of the tweets that was brought to my attention by a member of the Criminal Investigation Division in Corner Brook.

**MR. FLAHERTY:** What was the content of the tweets?

**S/SGT. BUCKLE:** I can't tell you off the top of my head, I'd have to –

**MR. FLAHERTY:** Did he say he was going to kill someone?

**S/SGT. BUCKLE:** I don't recall specifically right now.

**MR. FLAHERTY:** Yeah.

**S/SGT. BUCKLE:** But the additional aspect of Mr. Abbass is that he had a brother who was an RNC officer who echoed the concern about his mental health and that the family were concerned about his mental health.

**MR. FLAHERTY:** What did Constable Abbass say about the mental health?

**S/SGT. BUCKLE:** I don't recall specifically right now.

**MR. FLAHERTY:** Okay.

And so Mr. Abbass may have had a mental illness. Is it your training or is it your opinion that people with mental illness are more likely to commit violent crimes?

**S/SGT. BUCKLE:** Well, people with mental illness may commit a crime that they might not even be responsible for in the extreme.

**MR. FLAHERTY:** True.

**S/SGT. BUCKLE:** But, you know, the reality is that we have to investigate. And sometimes even, especially if it's violent incidents – and on a routine basis, like, we constantly get a barrage of commentary about police need more training in de-escalation in dealing with mental health individuals and I support it 100 per cent. The more training we can get, the more able we are to do our job.

But I've routinely responded to the Waterford Hospital which is full of people with Ph.Ds. in de-escalation and they call the police when the person becomes violent. We still have to respond.

**MR. FLAHERTY:** Yeah.

**S/SGT. BUCKLE:** Even when you have professionals, an abundance of professionals under the roof of a building, a single building, police still have to respond to that because it gets to the point of violence or danger to people, the police are still called to deal with it.

And in the case of Mr. Abbass, based on the information we had – and I don't have the file in front of me, I would have to review it to give specifics. But there arose a concern about his mental health to the point that we decided to pay him a visit. And we did so and we took him for an assessment.

**MR. FLAHERTY:** So my question was: Are people with mental illness more likely to commit violent offences?

**S/SGT. BUCKLE:** I wouldn't suggest more likely. I know people with mental illness that are very passive, that never have committed any criminal offence. I don't think they're one in the same. But there are situations where people with mental health – as was discussed in the Reid/Power inquiry by Judge Luther where people with mental illness became violent and confronted police or other citizens.

**MR. FLAHERTY:** Okay.

And someone with a mental illness, when they become violent, may provide unique challenges. But before they become violent is there a thought in your head that that person is more likely to be violent than anyone else?

**S/SGT. BUCKLE:** No.

**MR. FLAHERTY:** Okay.

**S/SGT. BUCKLE:** That would be presumptive.

**MR. FLAHERTY:** I'm going to ask you now: Why does your best friend think that mentally ill people are losers?

**S/SGT. BUCKLE:** I can't answer that question.

**MR. DROVER:** Okay, I'm going to step in now. He's asking questions. Now he's asking what his friend thinks about something. In the interest of getting out of here this week –

**THE COMMISSIONER:** Mr. Flaherty knows –

**MR. DROVER:** – maybe we can clue it up.

**THE COMMISSIONER:** Mr. Flaherty knows the difference there.

**MR. FLAHERTY:** Okay.

**THE COMMISSIONER:** Or should.

**MR. FLAHERTY:** Do you think, do you think he was a loser?

**S/SGT. BUCKLE:** Who?

**MR. FLAHERTY:** Mr. Abbass. Was he a loser?

**S/SGT. BUCKLE:** I don't know enough about him to have that comment. That was casual, unprofessional, I'll readily admit, but I don't know. I don't think I've ever met the man. I was aware of the investigation that went on.

And it's unprofessional and inappropriate to make that comment; I accept full responsibility for that. But in the world of policing that we live, too often we use dark humour to deal with the things that we deal with. And in a lot of professions that deal with death and violence, that happens, and we always have to be on guard. And when we slip up and do it, we have to accept full responsibility for it and I do here today.

**MR. FLAHERTY:** What are your concerns with the community's knowledge, or lack thereof, of police use of force?

**S/SGT. BUCKLE:** I believe there's a complete misconception that – of what police use of force is, especially in regard to lethal force. Our training is we go to a firing range and it's a standard instinctive shooting, without even aiming, that we shoot for centre mass because that's the largest area.

**MR. FLAHERTY:** Yeah.

**S/SGT. BUCKLE:** And the public, in my opinion, has not been adequately educated about that, so they have a different expectation when police use of lethal force occurs. They have a perception that, I think, in the policing world we tend to candy coat it a little bit and talk about stopping the threat and all these different terminology that creates an image by other people that we're going to shoot a weapon out of somebody's hand or we're going to shoot them in the leg or shoot them in the arm, which under a high-stress situation is practically impossible.

**MR. FLAHERTY:** Okay.

But there's no misapprehension that – so you think that the average person in our community thinks that police should not use lethal force if they have a gun pointed at them. The average person doesn't think that?

**S/SGT. BUCKLE:** I think the average person accepts that if you point a police officer at a – a firearm at a police officer –

**MR. FLAHERTY:** Make a shot.

**S/SGT. BUCKLE:** – you can expect that they are going to be shot. And that includes toy guns, guns that aren't operational. And that just clouds the whole issue because that's an unfortunate reality that people shouldn't have that misconception.

**MR. FLAHERTY:** Were you concerned by the fact that Constable Smyth was drafting notes within 24 hours of him shooting Don Dunphy?

**S/SGT. BUCKLE:** Yes, I didn't think he should draft any. I thought that he should have sat down with a lawyer and prepared his report and submitted it to the RCMP.

**MR. FLAHERTY:** But he had counsel from you, an experienced officer in this regard, did he not, in his notes?

**S/SGT. BUCKLE:** Yeah, unfortunately Constable Smyth didn't listen to my advice because he felt that by being open and transparent, it was going to his credibility and the acceptance of the public and citizens in regard to his straightforwardness and uprightness. And unfortunately you go through these processes and you learn that after you give four statements, you're sitting here comparing line by line and then going against your credibility when I don't think anybody can give four statements and exactly mirror each other.

**MR. FLAHERTY:** Shouldn't have you just said, look, I can't help you on this, Joey? Based on my training you likely don't have an accurate gauge of what happened, and if I get involved now, you know, I may have helped you provide a statement which is incorrect?

**S/SGT. BUCKLE:** No.

**MR. FLAHERTY:** You wanted – so you, like – so earlier in your examination, the RCMP release was talked about and you thought it was favourable to Constable Smyth, right?

**S/SGT. BUCKLE:** Pardon me?

**MR. FLAHERTY:** You thought that the RCMP release, which was discussed earlier during your direct examination, was favourable to Constable Smyth.

**S/SGT. BUCKLE:** Well, once the RCMP confirmed that a loaded firearm was located at the residence, that gave credence to the fact that he acted under the authority of section 25 of the *Criminal Code* in defending himself.

**MR. FLAHERTY:** Okay.

Do you think that they should have also released that the gun wasn't in a fireable position?

**S/SGT. BUCKLE:** I don't know any of that information. They chose to release what they chose.

**MR. FLAHERTY:** Okay.

If they had that information, if you knew they had that information, do you think that in their release, or in an RNC release, that it would be appropriate to say the rifle was loaded, but it wasn't in a fireable position?

**S/SGT. BUCKLE:** I don't know. You're asking a hypothetical question, and I don't know what a fireable position is.

**MR. FLAHERTY:** Okay. Do you know – do you have experience with firearms?

**S/SGT. BUCKLE:** Very little. I don't own firearms. I don't hunt. I don't like guns, and I wear one at work because I have to. And other than that I don't have any involvement with firearms. I know – I usually turn them over to a firearms expert, or a range safety officer to do any processing because I've never owned a gun.

**MR. FLAHERTY:** So the RCMP does not provide general training with respect to –

**S/SGT. BUCKLE:** I don't know what training the RCMP address.

**MR. FLAHERTY:** Sorry, RNC.

**S/SGT. BUCKLE:** Yes, we provide general training in regard to recognizing firearms and how – safe handling.

**MR. FLAHERTY:** Do you know what a bolt action rifle is?

**S/SGT. BUCKLE:** Yes, I do.

**MR. FLAHERTY:** Okay.

Do you know what the bolt action refers to?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Okay, so if the RNC had known that the bolt wasn't in a position such that it was fireable when the gun was pointed, do you think that should have been released to the public?

**S/SGT. BUCKLE:** Yeah, potentially. I don't have a problem with that.

**MR. FLAHERTY:** And should they have also released that Don Dunphy had no history of violence and firearm use?

**S/SGT. BUCKLE:** I don't see any problem with that.

**MR. FLAHERTY:** Okay.

I just wanted to ask you briefly: Why is it that you chose not to take any notes at all?

**S/SGT. BUCKLE:** Again, back to my experience with the RNC Association, attending seminars, attending training in regard to this specific issue, my role with the RNC Association is to provide my advice to members. The instruction we receive is that you are not in an investigative role; you do not take notes because you're not expected to provide verbatim. The one exception to that is, as a police officer, your role takes priority and I've obtained a legal opinion on this for this very purpose.

And when I meet with a member who's involved in an investigation, the first thing I tell them is that you should not make any utterance to me admitting to any criminal offence because I immediately have to step out of my RNC Association role and become a police officer because I'm a sworn officer. And if a member admits an offence to me, I immediately have a legal responsibility to note that, and take action and report it.

**MR. FLAHERTY:** So when you were talking to Constable Smyth, were you in a position as – were you acting in your duty with respect to the RNCA?

**S/SGT. BUCKLE:** I was both the past president of the RNC Association.

**MR. FLAHERTY:** Okay.

**S/SGT. BUCKLE:** I was giving Warren Sullivan advice and I was giving Joe Smyth advice.

**MR. FLAHERTY:** But you weren't –

**S/SGT. BUCKLE:** But I was also acting as a friend –

**MR. FLAHERTY:** So you weren't –

**S/SGT. BUCKLE:** – based on my knowledge and experience.

**MR. FLAHERTY:** Were you not, Sir, the RNCA?

**S/SGT. BUCKLE:** Yes, I was.

No, I was – yes, I held a position of past president –

**MR. FLAHERTY:** Yeah.

**S/SGT. BUCKLE:** – as approved by the RNCA board of directors.

**MR. FLAHERTY:** So there's a past – sorry, this is my confusion. There's a past president position with the RNCA?

**S/SGT. BUCKLE:** There was approval gained at a board meeting to identify me as past president; the constitution refers to a past president's position, yes.

**MR. FLAHERTY:** And what does the constitution say past presidents are supposed to do?

**S/SGT. BUCKLE:** To provide support, guidance and assistance to the executive board.

**MR. FLAHERTY:** And why is it that the RNCA has such a problem with note taking in the circumstance that you found yourself in? Why?

**S/SGT. BUCKLE:** It's not that they have a problem with note taking; they're not in an investigative role, therefore they do not take notes, unless an individual makes an utterance or makes an admission of a criminal offence.

**MR. FLAHERTY:** Okay.

**S/SGT. BUCKLE:** Then you have an obligation as a police officer to note that and take action on it.

**MR. FLAHERTY:** But could the notes that you could have generated in your position in the RNCA, could they not actually be used to help a member in certain circumstances?

If you have –

**S/SGT. BUCKLE:** Potentially – potentially. But that's not our role. We're not an investigative role. And I would suggest, if I was an officer involved, and I went to speak to my association representative –

**MR. FLAHERTY:** Uh-huh.

**S/SGT. BUCKLE:** – and they immediately took out a pen and paper and started making notes, I don't think I'd be interested in talking to them for very long, any more than I'm interested in talking to the investigator.

**MR. FLAHERTY:** Even if you're not going to say I committed a crime?

**S/SGT. BUCKLE:** Absolutely. That's not the role –

**MR. FLAHERTY:** So you want –

**S/SGT. BUCKLE:** – you're not an investigator.

**MR. FLAHERTY:** So you want to be able to say: I don't remember; I have no notes.

**S/SGT. BUCKLE:** No, I –

**MR. FLAHERTY:** That's the whole purpose –

**S/SGT. BUCKLE:** No, I want –

**MR. FLAHERTY:** – of that.

**S/SGT. BUCKLE:** – to be able to give them advice –

**MR. FLAHERTY:** Okay.

**S/SGT. BUCKLE:** – based on their situation, the information they give me. I want to be able give them advice how they should respond. That’s my only role.

**MR. FLAHERTY:** So, but if you had any information which would support or confirm Joe Smyth’s – Constable Smyth’s testimony, his account, if you had a mental recollection, you would certainly offer that before a court and a trial, or before a commissioner in inquiry, wouldn’t you?

**S/SGT. BUCKLE:** I haven’t thus far

**MR. FLAHERTY:** You haven’t thus far ...?

**S/SGT. BUCKLE:** Provided that information, anything that Constable Smyth has said to me.

**MR. FLAHERTY:** Haven’t provided any information that he’s –

**S/SGT. BUCKLE:** I haven’t – I didn’t take any notes in regard to specifics of what Constable Smyth has said to me.

**MR. FLAHERTY:** Okay.

**S/SGT. BUCKLE:** And other than my interview with Commission counsel in regard to that, then, no, I haven’t provided any formal documentation.

**MR. FLAHERTY:** But if you remembered information he had provided to you which would help him, you’ll say it?

**S/SGT. BUCKLE:** Yes.

Obviously, I met with Commission counsel and related some information to them.

**MR. FLAHERTY:** Where were you when you found out that there was deleted BBMs that had been found?

**S/SGT. BUCKLE:** This recent couple days?

**MR. FLAHERTY:** Yeah, was it the last couple days?

**S/SGT. BUCKLE:** Yeah, I believe. Is that what we’re talking about, the BBMs?

**MR. FLAHERTY:** Yeah, the BBMs; the uncovered, deleted BBMs.

**S/SGT. BUCKLE:** I was in the Town of Terra Nova, snowmobiling.

**MR. FLAHERTY:** Who were you snowmobiling with, Constable Smyth?

**S/SGT. BUCKLE:** Constable Smyth.

**MR. FLAHERTY:** So you and Constable Smyth must’ve had lots of conversations about this over the last two days, hey?

**S/SGT. BUCKLE:** Yes.

**MR. FLAHERTY:** Okay. What did you guys discuss?

**S/SGT. BUCKLE:** How amazed we were that we didn't remember the conversation.

**MR. FLAHERTY:** Absolutely amazing.

So you're both amazed – amazed – that you couldn't remember those BBMs?

**S/SGT. BUCKLE:** Well, not – it's – I guess what's striking is not that you – amazed that you don't remember it, it's just amazed that – it's just that you realize that there's so many things that occurred, that until your memory is prompted in some way, you don't – you won't remember it.

**MR. FLAHERTY:** Are you amazed that you can't remember speaking to Fred Hutton about –?

**S/SGT. BUCKLE:** No.

**MR. FLAHERTY:** No, that doesn't amaze you.

**S/SGT. BUCKLE:** No.

**MR. FLAHERTY:** Now, you made one comment saying that anything that's deleted is easily recoverable. We're only now receiving BBMs. Does that suggest that things are easily recoverable?

**S/SGT. BUCKLE:** I don't know about easily, but I know pretty much anything electronic and digital is preserved somewhere that it can be recovered. That's my general understanding.

**MR. FLAHERTY:** Those are all my questions.

Thank you.

**THE COMMISSIONER:** Now, Mr. Avis and Mr. Drover, you've fought out whose going to go first, I guess.

Anybody have any problem with going over? How much time do you think you're going to need?

**MR. DROVER:** I've discovered if you sit here long enough, practically every question will get answered.

**THE COMMISSIONER:** They become less important, don't they?

**MR. DROVER:** Yes. And so I know your direction from very early on was not to repeat and not to duplicate. I have not done that. I don't intend to. I'll have about 10 minutes of questions.

**THE COMMISSIONER:** Mr. Avis.

**MR. AVIS:** (Inaudible), sorry, Commissioner, I don't know; 15, 20, I hope.

But I will mention I have another specialist appointment and I've set them on Friday afternoons for that reason and –

**THE COMMISSIONER:** Pardon?

**MR. AVIS:** I have another – I have a specialist appointment.

**THE COMMISSIONER:** Yeah, early – what –

**MR. AVIS:** Well, it's – I have to have something done first. I have to be somewhere by around 2 or so. I have to be – the appointment is at 2:30 p.m.

**THE COMMISSIONER:** You should have gone first.

**MR. AVIS:** Well, I didn't know we were going past 1 o'clock. That was not the –

**THE COMMISSIONER:** Well, you should go ahead of Mr. Drover now –

**MR. AVIS:** I'll, I'll –

**THE COMMISSIONER:** First of all, I'd better make sure, does anybody have a problem with our continuing, to see if we can finish? Staff have any problems?

**MR. FLAHERTY:** Can we have a five minute break, just to use the washroom and get a glass of water? Five minutes?

**THE COMMISSIONER:** I'm not sure you should be able to go for a break, everybody else can.

Yes, sorry. We'll break for five minutes.

**Recess**

**MS. SHEEHAN:** I declare this Commission of Inquiry in session.

Please be seated.

**THE COMMISSIONER:** Okay. Mr. Avis we're going to get you.

**MR. AVIS:** Thank you, Commissioner.

I apologize. The schedule is to 1:30. I've changed my 2:50 –

**THE COMMISSIONER:** No, that's all right.

**MR. AVIS:** – I understand.

**THE COMMISSIONER:** Okay.

**MR. AVIS:** But my appointment is at 3.

Afternoon, Staff Sergeant Buckle. As you know my name is Nick Avis, I represent the RNC.

I'd just like to go through a few points. You were indicating that in your position as the president of the RNCA you were involved in discussions around the time the Protective Services Unit went from ad hoc to more organized. Correct?

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** Just on that issue, are you aware that the RNC did not get any additional resources for their ad hoc?

**S/SGT. BUCKLE:** No, my understanding was – my understanding that currently, because the complaints were being spread throughout the organization – Patrol, Criminal Investigation Division, even complaints coming directly to the chief – that they wanted to combine it all under one office so that there would be a directed approach.

**MR. AVIS:** I'm sorry, that wasn't what I'm asking. Are you or are you not aware that this is not separately funded? Was that part of your discussions with (inaudible)?

**S/SGT. BUCKLE:** Yeah, I did not anticipate – I did not understand that we were hiring new resources in order to accommodate it.

**MR. AVIS:** Okay, no, I'll move on, just – now, you did mention about the importance of some additional training for people in the Protective Services Unit. Do I understand it that the additional training it was felt that they believed was close protection, as something that you would not ordinarily do as an officer?

**S/SGT. BUCKLE:** That's correct.

**MR. AVIS:** So threat assessment is something police officers do every day. You didn't need any additional training in that?

**S/SGT. BUCKLE:** Well, my understanding, I think, at that point that some officers in our Criminal Intelligence Unit had already received that training so ...

**MR. AVIS:** Right.

**S/SGT. BUCKLE:** But if they hadn't it would have been on my radar also.

**MR. AVIS:** Right. But that's also – threat assessment is part of everyday policing.

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** Okay.

So it would be the – anything else other than close protection that you felt there should be additional training for?

**S/SGT. BUCKLE:** I didn't have personal knowledge of the role and duties and responsibilities.

**MR. AVIS:** Uh-huh.

**S/SGT. BUCKLE:** My emphasis was on if we're doing this job, let's ensure that we have whatever training is necessary. I don't think I necessarily identified specific training. The close protection one I was aware of –

**MR. AVIS:** Yes.

**S/SGT. BUCKLE:** – because I remember having that discussion with Chief Johnston at the time who had previously done that training to some degree.

**MR. AVIS:** Right.

**S/SGT. BUCKLE:** And so I remember that being a discussion but I don't know that I would have even raised that. I just felt that when you're taking on new roles, new responsibilities, training is paramount.

**MR. AVIS:** Okay.

**S/SGT. BUCKLE:** And the public should be informed and educated about that also.

**MR. AVIS:** Right.

Now we've heard – you used the word “black humour” amongst police officers when you're speaking to each other. When you believe you have privacy or you're in off duty, you speak more frankly and you use black humour. Correct?

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** Do you have any lawyers who are friends?

**S/SGT. BUCKLE:** Yes. And doctors are the worst I think.

**MR. AVIS:** Right. So have you ever heard a lawyer make perhaps less-than-unprofessional comments about another lawyer in the privacy with you?

**S/SGT. BUCKLE:** Yes. I've spent many years at Atlantic Place having coffee with multiple lawyers and I've heard many inappropriate comments.

**MR. AVIS:** Have you heard less-than-professional comments made by lawyers about judges in what they consider to be a private –

**THE COMMISSIONER:** Now you're –

**MR. FLAHERTY:** (Inaudible) how is this relevant to anything at this point? You can't just make, you know, a case of black humour. I mean, I'm just going to object to this on relevance, Mr. Commissioner. I just don't see where this is going.

**THE COMMISSIONER:** Mr. Flaherty, I gave you a lot of leeway in terms of the relevance of your comments and Mr. Avis is going to get the same. Continue.

**MR. AVIS:** That's just making a point that – anyway.

**S/SGT. BUCKLE:** Yes, it does happen and it's totally inappropriate.

**MR. AVIS:** In our profession – just let me put it to you this way: The legal profession can be extremely – particularly dealing with the kind of work you deal with criminal law, family abuse, child molestation, child rape. You have to have some relief somewhere, don't you?

**S/SGT. BUCKLE:** Yes, you do.

**MR. AVIS:** Thank you.

Now, there's some talk about the media and I'm not going to get into your issues with the chief. We'll be – this inquiry is looking at that issue, speaking to the media. And – but my question to you is: The attitude of the media generally towards the police is always very negative, isn't it?

**S/SGT. BUCKLE:** Yes; however, my personal philosophy always has been you keep making deposits in the bank of goodwill.

**MR. AVIS:** I understand. Would you agree with me that no matter what you try to say, no matter what's put in the Commissioner's report, the media get to decide what they report? They get the last word and they always get to edit. Is that your experience?

**S/SGT. BUCKLE:** That is correct.

**MR. AVIS:** So until we have better – to communicate to the public through the media, we don't control it, do we?

**S/SGT. BUCKLE:** Well, this day and age we do. And that's one of the things that I've identified time and time again, is this day and age you can directly – communicate directly with the public with social media. You can get your message out as opposed to having it filtered through a media agency.

And that's why I think that's important for police agencies, to educate the public through those mediums. And we can do it directly without that filter.

**MR. AVIS:** Okay. Well, I think social media may permit that.

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** Okay.

**S/SGT. BUCKLE:** That's what I was referring to.

**MR. AVIS:** Yeah. I distinguish between the two substantially.

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** Again, just to go back to this when you're talking to a friend and what have you, you've been questioned about the notion that nobody seems to believe you that you talk about work. Are you not like anybody else? When I go home, the last thing my partner wants me to talk about is work; is it the same with you and your friends and your family?

**S/SGT. BUCKLE:** Typically. Unless there's something, something unique or striking, generally it's not much continued conversation about work.

**MR. AVIS:** With respect to this leak to the media of Constable Smyth's email, are you aware that that is under investigation?

**S/SGT. BUCKLE:** I'm not aware.

**MR. AVIS:** Okay.

Have you –

**S/SGT. BUCKLE:** I don't know which media leak you –

**MR. AVIS:** His email leak.

**S/SGT. BUCKLE:** The –

**MR. AVIS:** The email where he was expressing all his –

**S/SGT. BUCKLE:** I believe that was investigated at the time. I don't know whether it's still investigated – being investigated.

**MR. AVIS:** So you – at least you know it was investigated.

**S/SGT. BUCKLE:** It was investigated, yes.

**MR. AVIS:** Right.

And – okay.

Just want to bring something; you're mentioning the word pure-version statement is being used. There used to be what was called a narrative statement, what it was previously called.

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** Is there any difference between those two, in your mind?

**S/SGT. BUCKLE:** I can't identify specifics. A narrative statement would be, I think, more of a question-and-answer process, and the pure version, ideally, you give the individual the pen and let them write.

**MR. AVIS:** Okay, I'll get to that. Ideally, that's what – there used to be a narrative with question and answer. All I'm saying is the purpose is to let the person speak, use their own words, uncomplicated by –

**THE COMMISSIONER:** I think that's been fairly well dealt with before, Mr. Avis.

**MR. AVIS:** Okay, fine.

With respect to your surprise that the RCMP hadn't contacted you, in a homicide investigation, is it not normal protocol that the last person who had contact with the deceased is contacted?

**S/SGT. BUCKLE:** Yes, and I was surprised simply because I wasn't contacted, not because I really had anything to offer.

**MR. AVIS:** Right, but it was for that reason –

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** (Inaudible.)

Now, I want to talk a little bit about this 24 hours, 72 hours. This is something that you are trained in, correct?

**S/SGT. BUCKLE:** I wouldn't say I've received formal training. I've attended lectures and seminars.

**MR. AVIS:** Okay, you were told about it.

**S/SGT. BUCKLE:** I was exposed to it.

**MR. AVIS:** You received information.

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** Correct.

And as a result, there is an understanding – there is a concern about police officers giving statements right away. This is not unique to the RNC, is it?

**S/SGT. BUCKLE:** No, it's definitely across this country.

**MR. AVIS:** And whether or not you fully understand the rationale behind it, it's something that you're essentially educated to do, even though you may not fully understand it or don't have the necessary expertise to answer questions on it.

**S/SGT. BUCKLE:** That's correct.

**MR. AVIS:** And in order to get to that, we would really need to hear from an expert, wouldn't we?

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** Now, when Mr. Flaherty was questioning you, I was seeing there was some mixing of apples and oranges here with respect to whether or not there was only one police officer. While there may be some investigative issues when you only have one witness, that is to say from the perspective from the people investigating, whether it's one person shooting a police officer – sorry, one police officer discharging their weapon and shooting somebody, does it matter how many are present as to the impact on that officer? In your experience and –

**S/SGT. BUCKLE:** No.

**MR. AVIS:** – education.

**S/SGT. BUCKLE:** No.

**MR. AVIS:** So one officer has nothing to do with the 24-72 hour concern, does it?

**S/SGT. BUCKLE:** No.

**MR. AVIS:** The mental state likely to be the same.

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** But there are, as they say, investigative imperatives.

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** And you wear different hats, correct?

**S/SGT. BUCKLE:** Yes.

**THE COMMISSIONER:** I think there might be some argument that, if there's only one officer who is a crucial witness, then balancing out the uncertainty created by trauma, it may be advisable to get that witness interviewed as soon as possible.

**MR. AVIS:** I understand. It always is, Commissioner. I think you're absolutely correct. I was actually going to go with – a typical example would be a sexual assault victim, and if I may answer, the question is relevant here.

**THE COMMISSIONER:** Go ahead.

**MR. AVIS:** Let's take an example of a sexual assault victim. That person is bound to be traumatized, correct?

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** But at the same time you need identification, you need some information, you need to get the investigation going. They have to be interviewed, is that correct?

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** And there's always a concern about whether or not the information they give at that time is going to be as good as it might be if they have some time.

**S/SGT. BUCKLE:** Yes.

**MR. AVIS:** Same difference, yeah.

So as the Commissioner is pointing out, there's a choice between the investigative imperative and allowing the person – even if it's a complainant – to have their time.

And, again, the issue of why did he go out to Donnie Dunphy's residence; let me see if I can give you another example.

In domestic cases, is it fair to say that when you receive a complaint, even when you look down and it does not appear to be a threat, doesn't fit within the *Criminal Code*, you're obliged to go and attend the scene to discuss it and explore if it's a threat, just like Constable Smyth did in this case.

**S/SGT. BUCKLE:** Yes, and the common example is a hang-up 911 call. We are compelled to go investigate until we determine otherwise that there was no criminal offence committed.

**MR. AVIS:** This is proactive policing, prevention of crime, correct?

**S/SGT. BUCKLE:** Exactly.

And when I say hang-up 911 call, I mean if a 911 call comes in and we get no information from the call other than an open line and then it hangs up. So we're not acting on any actual information.

**MR. AVIS:** If I may just have a moment, Commissioner; double checking to see I'm done.

That's all, thank you.

**THE COMMISSIONER:** Mr. Drover.

**MR. DROVER:** Thank you, Mr. Commissioner.

Staff Sergeant Buckle, I won't be long. You've practically answered every question imaginable today.

Mr. Simmonds made some certainly good points about integrity and truthfulness being an important part of policing.

**S/SGT. BUCKLE:** Yes.

**MR. DROVER:** And I think you actually put that to him and he certainly agreed.

There's many small details, I'll call them, that you can't remember about an incident almost two years ago.

**S/SGT. BUCKLE:** Yes.

**MR. DROVER:** About specific details of phone calls and whether a particular text message was sent or not.

**S/SGT. BUCKLE:** That's correct.

**MR. DROVER:** To you, does not remembering something equate to untruthfulness?

**S/SGT. BUCKLE:** No.

**MR. DROVER:** Have you in any way intended to mislead the inquiry or lie to the inquiry?

**S/SGT. BUCKLE:** No, not at all.

**MR. DROVER:** Regarding the leaked email of April 10th, are you aware if there was an internal investigation conducted into that?

**S/SGT. BUCKLE:** I'm aware there was, yes.

**MR. DROVER:** Were you involved in the internal investigation?

**S/SGT. BUCKLE:** No.

**MR. DROVER:** So you weren't the investigator?

**S/SGT. BUCKLE:** No.

**MR. DROVER:** Were you a witness?

**S/SGT. BUCKLE:** No.

**MR. DROVER:** Okay. And you have no clue how that turned out?

**S/SGT. BUCKLE:** I don't – I shouldn't jump to no, because I don't recall if I was asked about it. I don't recall specifically.

**MR. DROVER:** If you were, you played an inconsequential role, I assume.

**S/SGT. BUCKLE:** Yes.

**MR. DROVER:** You're a senior officer with the RNC.

**S/SGT. BUCKLE:** Yes.

**MR. DROVER:** You're a staff sergeant.

**S/SGT. BUCKLE:** Yes.

**MR. DROVER:** Your next promotion will put you in the rank of management.

**S/SGT. BUCKLE:** Yes.

**MR. DROVER:** How many officers do you supervise?

**S/SGT. BUCKLE:** Right now, I supervise five sergeants and 33 constables.

**MR. DROVER:** In your role as a supervisor, do you review reports?

**S/SGT. BUCKLE:** Routinely and regularly.

**MR. DROVER:** Do you review notes?

**S/SGT. BUCKLE:** On a less frequent basis, but yes, I do.

**MR. DROVER:** Would you sit down with an officer and advise the officer what to put into his notes?

**S/SGT. BUCKLE:** No.

**MR. DROVER:** Would you sit down with an officer and advise him or her about what to put in a report?

**S/SGT. BUCKLE:** I do it routinely. And my concern always is about the way they articulate themselves.

**THE COMMISSIONER:** Sorry, just give me that again. You wouldn't sit down to advise –

**MR. DROVER:** He would not advise an officer what to put in their notes –

**THE COMMISSIONER:** Right. Go ahead.

**MR. DROVER:** But I believe he said he routinely advises officers about what to put in reports.

**S/SGT. BUCKLE:** And not necessarily the content or factual information; it's how to articulate themselves in regard to expressing themselves, describing an offence.

I've dealt a lot recently with members responding to domestic disturbances that I felt there was a lack of articulation. And I've constantly – it's actually one of the things that members under my command get a lot, get a lot of.

**MR. DROVER:** Mr. Flaherty put a number of scenarios forward involving sort of the difference between a police-involved shooting and a civilian-involved shooting.

**S/SGT. BUCKLE:** Yes.

**MR. DROVER:** And specifically around statements, when to get a statement, et cetera.

**S/SGT. BUCKLE:** Yes.

**MR. DROVER:** First and foremost, there is no legal requirement to give a statement to police.

**S/SGT. BUCKLE:** No.

**MR. DROVER:** And in fact that's a Charter right.

**S/SGT. BUCKLE:** Both a Charter right and as a witness, you have no obligation.

**MR. DROVER:** And you are not a psychologist or a psychiatrist or any sort of profession that would qualify you to give an opinion about why officers should wait 24 to 72 hours.

**S/SGT. BUCKLE:** No, I don't have qualifications to give that information.

**MR. DROVER:** But you are a police officer so you do have a good understanding of the *Charter of Rights and Freedoms*.

**S/SGT. BUCKLE:** Yes, I do.

**MR. DROVER:** And the lack of legal requirement to give a statement flows from the Charter.

**S/SGT. BUCKLE:** Yes.

**MR. DROVER:** In terms of investigating shootings of any sort, you're not a member of major crimes unit?

**S/SGT. BUCKLE:** No.

**MR. DROVER:** You've never been a member of major crimes unit?

**S/SGT. BUCKLE:** No.

**MR. DROVER:** And you have never, ever investigated a homicide.

**S/SGT. BUCKLE:** I've been initial responder to, as patrol officer, to several homicides. I haven't actually done the follow-up investigation.

**MR. DROVER:** Have you been involved in any way with any Protective Services Unit investigations?

**S/SGT. BUCKLE:** Yes.

**MR. DROVER:** Can you describe your involvement in those?

**S/SGT. BUCKLE:** I did a criminal investigation in regard to harassing phone calls, criminal harassment of Premier Tom Marshall during his tenure.

**MR. DROVER:** And how did that criminal harassment come to your attention?

**S/SGT. BUCKLE:** I know that originally Constable Smyth had contacted the RNC detachment in Corner Brook and identified it. At that time, the individual was visited and given a caution, a verbal caution, warned about his behaviour, that it was – it was actually an offence. But there was a lack of willingness or co-operation on the part of Premier Marshall, and actually, I think his – the calls were coming to his home, so I think it was actually his wife who was also a victim and – so they were reluctant to co-operate in a criminal investigation.

They just wanted the behaviour to stop. They did not want to be seen – what was conveyed to me is they don't want to be seen as prosecuting or complaining about a citizen, a member of the electorate, as a politician. However, the behaviour continued, didn't cease, and as a result I generated an investigation, did the follow-up, made several attempts to locate the individual at his home. He was avoiding apprehension. I issued a warrant for his arrest and I subsequently located him and was able to arrest him under a warrant.

**MR. DROVER:** The attempted home visits, did you do that alone?

**S/SGT. BUCKLE:** No, I didn't do it at all. There was other officers that did it.

**MR. DROVER:** Okay. Do you know if it was done alone or ...?

**S/SGT. BUCKLE:** No, it wasn't done alone because there was an actual criminality aspect to it that, potentially, the individual could be arrested. And the other factor was that the individual was located in Frenchman's Cove which was a considerable distance away from the detachment and because of the criminal activity, the known criminal offences, the only thing that prohibited his arrest was that the complainant was reluctant to co-operate, Premier Marshall's wife, that we sent an officer, two officers to go visit him and speak to him.

**MR. DROVER:** Would those officers have done a risk assessment or a threat assessment before making that visit?

**S/SGT. BUCKLE:** I would anticipate, yes, they would.

**MR. DROVER:** What role does risk assessment and threat assessment play in everyday policing?

**S/SGT. BUCKLE:** Risk assessment, threat assessment: a risk assessment is an ongoing – everything from every vehicle stop to responding to a shoplifter. You're constant – that's a constant second-nature process that occurs. You get a complaint, the first thing you are asking: Do we know who the suspect is? Have we done a criminal records check? Do we know what his history is?

That is a daily occurrence, a routine matter like using your signal light to drive here.

**MR. DROVER:** How much of a background check would you have an opportunity to do in response to say a 911 call?

**S/SGT. BUCKLE:** Very little. None, unless we know – and you can't always rely that 911 has accurate listings of the address where the number is coming from, especially with cellphones. So there's a lot of times that you go in completely blind as to who you're dealing with, what you're dealing with, what their criminal history is.

**MR. DROVER:** Do officers respond to 911 calls alone?

**S/SGT. BUCKLE:** Routinely.

**MR. DROVER:** Are there any questions on the RNC job application related to firearm use?

**S/SGT. BUCKLE:** Yes, there is a specific question right in the application process for any potential applicant that asks you: Are you prepared to – I can't remember the specific language but: Are you prepared to shoot a firearm or take a life or shoot a person? I think it is: Are you prepared to shoot – Would you be prepared to shoot a person? Something of that effect, I'm paraphrasing.

**MR. DROVER:** So this is specifically asked to new officers? Are you prepared to shoot a person?

**S/SGT. BUCKLE:** Applicants before they ever become an officer.

**MR. DROVER:** I have one final question for you and I'm going to invite you just to make a comment. It's an issue that's come up several times here at the Commission. I'm going to ask you to comment on the, this idea of the thin blue, police officers investigating police officers.

**S/SGT. BUCKLE:** Well, the thin blue line phrase, I know what it means to police officers, that it means emotional support to each other when you deal with trauma, when you deal with violence. The problem is, is that the terminology has been misinterpreted and there's a perception created that we are protecting each other in investigations.

I have actually made specific recommendations that our social media users, our social media posts, should not contain reference to it because of the misconception and perception, that it means something than it does actually mean to officers.

Officers do not protect each other. There's a litany of court dockets where officers have been charged with harassing phone calls, been convicted, sentenced. We got an officer currently under investigation, going through a trial for sexual assault. There was an RCMP officer in the news this week being charged with domestic violence. And this perception that police officers look after each other, and would in any way compromise their income and their salary and their career to protect someone else from criminality, is just incredible that anyone would perceive that. And that's why I personally dislike the term and I've actually suggested that it not be used in representing policing in any fashion.

**MR. DROVER:** Those are all my questions.

The Commissioner may have some questions and Commission counsel may have some follow-up.

**THE COMMISSIONER:** I believe counsel had one question to follow-up.

**MS. CHAYTOR:** You're going to have to forgive me –

**THE COMMISSIONER:** You have a – sorry?

**MS. CHAYTOR:** – because I do have more than one. You'll have to forgive me if...

**THE COMMISSIONER:** All right. Mr. Avis has to be out of here shortly so if you would...

**MS. CHAYTOR:** Did Mr. Avis have something or...

**THE COMMISSIONER:** Briefly.

**MS. CHAYTOR:** No. Okay. All right. Okay.

**MR. AVIS:** (Inaudible.)

**MS. CHAYTOR:** Okay.

In answering questions from Mr. Drover, you mentioned about reviewing reports.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And those are people that you supervise.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Right. And we do know that Constable Smyth, of course, sent his report or his report once drafted to his supervisors for review. So that would be in the same context in which you review officer's reports.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay. All right. You weren't acting in any supervisory capacity over Constable Smyth –

**S/SGT. BUCKLE:** No, I wasn't.

**MS. CHAYTOR:** – when you reviewed his report?

**S/SGT. BUCKLE:** No, I wasn't.

**MS. CHAYTOR:** No. And, in fact, I think you said that you were communicating with him on your personal device in doing that. Could that be?

**S/SGT. BUCKLE:** I believe so.

**MS. CHAYTOR:** Okay.

All right.

Also, you mentioned – in answering questions I believe it may have been from Mr. Flaherty – that you routinely delete. When you're looking at space on your email or phone, that you –

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** – routinely delete.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And I think I understood you to say that you understand doesn't matter, even if it's deleted it's retrievable.

**S/SGT. BUCKLE:** That's my perception of it, yes.

**MS. CHAYTOR:** Okay.

All right.

And are you aware of the policy, the RNC policy of information management technology? I take it you're familiar with that policy.

**S/SGT. BUCKLE:** I'm familiar with it in a general way. I wouldn't be able to recite specific sections of it.

**MS. CHAYTOR:** Okay. Fair enough.

The Electronic Mail under 3.5 – Electronic Mail, 3.5 b. (1) “Employees should be aware that electronic mail remains stored on departmental file servers or backups for 30 days, even after the originator or recipient has deleted the message.”

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Were you aware of that?

**S/SGT. BUCKLE:** No.

**MS. CHAYTOR:** Okay.

And do you have information that it would remain – any email deleted would remain beyond the 30 days?

**S/SGT. BUCKLE:** My perception is that there was, there's a lengthy backup over a much longer period of time that can be retrieved. I may be incorrect; it may be just my perception.

**MS. CHAYTOR:** Okay.

And, Staff Sergeant Buckle, I take it you're also aware, though, if it's a work, anything work related, before it's deleted it's supposed to be saved electronically elsewhere in the system. Is that correct?

**S/SGT. BUCKLE:** Email?

**MS. CHAYTOR:** Well, anything that's related to a file, wouldn't you have to put it on your ICAN system? Aren't you supposed to do that before you delete?

**S/SGT. BUCKLE:** It would depend. If it's a routine email I – for example, if you circulate an email attempting to identify a suspect and nobody responds, you just delete that email, you don't actually copy the email to the file system.

**MS. CHAYTOR:** When you became aware a couple of days ago – and I think you described it as a jaw-dropping moment when you became aware of these deleted BBMs.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Did you undertake any efforts to try and check and see whether or not you still have the email communications between yourself and Constable Smyth on April 6, 2015?

**S/SGT. BUCKLE:** No, I didn't. No, I didn't.

**MS. CHAYTOR:** And I take it that's something that you would be prepared to do.

**S/SGT. BUCKLE:** Yes. Well, the problem is I don't – no longer have that device from that time because I changed. I finally gave in and gave up my BlackBerry to move to iPhone for personal reasons for rental properties and applications that I needed that wasn't available on BlackBerry. So I don't even have that device anymore.

**MS. CHAYTOR:** Okay. To –

**S/SGT. BUCKLE:** But I wouldn't have a problem with that.

**MS. CHAYTOR:** Okay.

All right, then maybe we'll follow up with you.

In deleting emails on a routine basis, have you ever deleted an email when a matter was under police investigation?

**S/SGT. BUCKLE:** I can't recall specific, a specific incident.

**MS. CHAYTOR:** Is that something you'd routinely do?

**S/SGT. BUCKLE:** Yeah, I would say.

**MS. CHAYTOR:** Even if the matter is under investigation, you would delete the –

**S/SGT. BUCKLE:** It would depend what the relevance is.

**MS. CHAYTOR:** Fair enough.

**S/SGT. BUCKLE:** And, again, knowing that it's preserved electronically, whether I delete it from my desktop I've always perceived to be irrelevant. I felt that there was forever a copy preserved at some point.

**MS. CHAYTOR:** Okay.

And I take it that you'd also be willing, if necessary, to allow us to undertake whatever measures we could do to be able to obtain those email.

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** Okay.

You did also say that you haven't provided any formal documentation at this stage to the inquiry. Do you have any formal documentation –

**S/SGT. BUCKLE:** No.

**MS. CHAYTOR:** – or any documentation whatsoever in your possession or within your knowledge that you have not provided to the inquiry?

**S/SGT. BUCKLE:** No, I – all the items that I've referenced during my interview for disposition in regard to association minutes, in regard to the PSU and training, I don't – I wouldn't have anything else in my possession.

**MS. CHAYTOR:** Okay.

And my – one last question and, again, forgive me, Commissioner, but I have reason for asking this; I just want to be fair to Mr. Abbass. And you indicated that his family had made – expressed concerns regarding his mental health. In saying that, you mean his brother, Danny Abbass. Is that correct?

**S/SGT. BUCKLE:** Yes.

**MS. CHAYTOR:** And are you aware at that time whether or not he was estranged from his brother.

**S/SGT. BUCKLE:** I am not aware of the details of the family, no.

**MS. CHAYTOR:** Okay. And there was no other family member who brought that to the attention of the RNC or lodged any complaint again Andrew Abbass.

**S/SGT. BUCKLE:** No.

**MS. CHAYTOR:** Thank you.

Those are my questions.

**THE COMMISSIONER:** Thank you.

Now, Mr. Flaherty, I think I gave – offer you the chance for something that Mr. Avis was raising, that you wanted to deal with.

**MR. FLAHERTY:** Nothing further that Mr. Avis raised, Your Honour.

**THE COMMISSIONER:** Nothing further? Okay.

All right, I think that's it, is it not?

Good luck, Mr. Avis. You can take off any time.

Oh, housekeeping. I gave you a Phase-2 agenda. I'd like you all to look at that and we'll discuss it either on Monday or Tuesday. If you have – this will be your chance for input, if you want to.

Thank you, Staff Sergeant. You can step down.

There's one other item that I wanted to mention, that's the – I've been promising this. I know you're getting fed up hearing it, Mr. Simmonds, but the matter of the decision on the chair. I haven't forgotten that, it's just that I've had too much coming at me to get down to finishing it. So hopefully I'm going to try and get that by Monday as well.

Okay. Thank you.

We'll adjourn now until 9:30, Monday, is it, if this is Mon – Sunday – or Friday.

**MS. SHEEHAN:** All rise.

The Commission of Inquiry is now closed.