



COMMISSION OF INQUIRY RESPECTING THE DEATH OF
DONALD DUNPHY

Transcript

Volume 3

Commissioner: Honourable Justice Leo Barry

Wednesday

11 January 2017

MS. SHEEHAN: All rise.

I declare this Commission of Inquiry opened.

Commissioner Leo Barry presiding.

Please be seated.

THE COMMISSIONER: Now, before we start this morning I believe we have a matter of – one witness has sent in a note from her doctor which suggests that she can't testify. Counsel Ms. O'Brien, you have – I think you have the letter do you?

MS. O'BRIEN: I do.

Thank you, Commissioner.

This respects Deborah Dunphy, who is the second witness scheduled to give testimony before you today. This morning we received from her husband, Richard Dunphy, a note from her and from her doctor presenting some medical evidence. I'm going to ask – I'll file that now, Commissioner, and ask that it be filed as a confidential exhibit. The note at this point simply says that she's unable at this time to give her testimony. I'll pass that to Madam Clerk and then I will give you a little more information on Ms. Dunphy.

THE COMMISSIONER: Okay, thank you.

Before I admit it to – any counsel have any comment?

Mr. Kennedy.

MR. KENNEDY: Excuse me, Commissioner; I'll have a comment after Ms. O'Brien speaks.

THE COMMISSIONER: Okay. All right, I guess –

MS. O'BRIEN: Thank you, Commissioner.

THE COMMISSIONER: Just one second, Ms. O'Brien.

MS. O'BRIEN: Sure.

THE COMMISSIONER: I won't indicate the basis of the medical note, but that will be available for counsel to see. It, at the present time, will be filed as a confidential exhibit. Ms. Deborah Dunphy's note which was received today, January 11th, is dated June 10th by mistake. That should be January 10th, presumably.

It's: Dear Justice Barry, there are already two reports on file that I have painstakingly had to do and I regret to say that on the advice of my doctor I cannot further participate in the inquiry.

Now, I have several comments to make regarding that. First of all, Ms. Dunphy notified us some time ago that she did not intend to show up. That was by email, I believe, Ms. O'Brien, was it? Do we have the date of that?

MS. O'BRIEN: I don't have the date of the email here, Commissioner, but I can arrange to have it filed in evidence later today.

THE COMMISSIONER: Yeah, it's several weeks ago, I believe, is it not?

MS. O'BRIEN: Yes, it was before Christmas.

THE COMMISSIONER: Okay. Secondly, we've received information from the process server, Mr. Guy Badcock, who in his affidavit dated the 9th of January, 2017, describes efforts that he took to contact Ms. Dunphy and gave his opinion that she was avoiding service by not answering the phone, by leaving her home to avoid being served.

The second – the next relevant point, I guess, is that this medical opinion is quite brief and does not really set out as much as we'd normally have set out in a report from a doctor which is being used as the basis for excusing somebody from testifying in a serious matter such the present.

I'll also note that the inquiry is continuing, as I've already indicated, into February at least, if not March. I'm optimistic that it might be February, but my counsellor is advising that I shouldn't be too optimistic at this stage. But, in any event, I don't see it necessary to take Ms. Dunphy off the witness list this early. She may be feeling better in February. And the final point that I've asked counsel to consider and – at some point, it doesn't have to be right away – indicate their position on our having Ms. Dunphy's police statement go into evidence, and possibly her witness interview statement.

And, Ms. O'Brien, do you have something that you want to say there in that regard?

MS. O'BRIEN: Yes, Commissioner. It was my intention this morning to seek to enter into evidence Ms. Dunphy's statement that she gave to the RCMP.

THE COMMISSIONER: Right.

MS. O'BRIEN: Also, Commission counsel pre – before the hearing, we interviewed Ms. Dunphy under oath of affirmation, and we do have a transcript of that interview. And while I was not intending to seek to interview that transcript today, I was going to be asking you, Commissioner, or giving you notice that either Commission counsel or other counsel may be at some point seeking to enter that transcript, because it was quite a detailed transcript and, again, it was under oath. So my intention was to seek to enter her RCMP statement today.

THE COMMISSIONER: This morning?

MS. O'BRIEN: This morning, yes.

THE COMMISSIONER: Right. Okay, I'll hear from external counsel in a moment on that. I will just say that, for the information of the public generally, that a Commission of Inquiry and the Commissioner, such as myself, are given significant powers by the legislation to enforce the attendance of witnesses. So it's not just a matter of a witness saying he or she does not want to attend. I have to be satisfied that there's good reason for not calling the person and, if necessary, I can bring in significant adverse consequences for individuals who decide without good reason they're not going to appear.

I'm not going to take any drastic enforcement measures at this time, but I'm not going to permit anybody to be prejudiced by too casually permitting someone to avoid testifying if that testimony turns out to be significant in the case. And, again, looking at the statements that have been given by Ms. Dunphy, counsel may want to indicate just what are the significant points that might affect the way this inquiry proceeds, and just how, how important it is for their particular client to have Ms. Dunphy heard.

So perhaps I can get an indication from counsel at this time as to what their position is on entering the police statement, the statement that Ms. Dunphy gave to the police, and you may also address the matter of entering the transcript of the quite thorough interview that was conducted by Commission counsel. It

doesn't have to be final. We can come back to these points later. As I say, the inquiry is not going to finish tomorrow and we can, if nothing else, possibly adjourn a final decision until we see what occurs.

Anybody want to go first? Mr. Kennedy.

MR. KENNEDY: Yes, thank you, Commissioner.

Commissioner, it will be our position that obviously we would prefer to hear from Ms. Dunphy, give viva voce evidence. But it will be our position that if, for whatever reason, she doesn't testify, then not only her statement to the police but the interview with Commission counsel should also be entered into evidence. As you've indicated, indicated, Commissioner, this interview was under oath or affirmation, was thorough and a lot of information is contained therein, in both the interview and the statement which is relevant to the proceedings.

I don't know, Commissioner, if you wish me to go into any of the detail as to exactly what significant points Ms. Dunphy can offer evidence on or if we leave that for another –

THE COMMISSIONER: I think we probably can leave that until later, unless it's of particular significant for any party to have that dealt with now.

So next on the default list of –

MR. AVIS: Yes, I do have a question, Commissioner, with – if we're, shall we say, consenting or agreeing that it be tendered –

THE COMMISSIONER: I can't hear you. If you're – if you're what?

MR. AVIS: As an exhibit, –

THE COMMISSIONER: Right.

MR. AVIS: – is it being tendered for the truth of its contents? That's the – just need to know that because that may change the – my view on whether I agree to it going in.

THE COMMISSIONER: Have you seen it?

MR. AVIS: Yes, it's difficult to –

THE COMMISSIONER: There's not much of a content to –

MR. AVIS: With this witness –

THE COMMISSIONER: – decide whether it's for the truth of it or not.

MR. AVIS: Yeah. I don't have – I'm raising it with this witness. It doesn't trouble me with this witness, in particular, but down the road it may do. So with this witness, we don't care.

THE COMMISSIONER: Well, the – and what is it you're, you're referring to? The truth of the police statement, the statements she's given to Commission counsel under oath –

MR. AVIS: (Inaudible.)

THE COMMISSIONER: – or just the bare contents of the letter? What is it you're –?

MR. AVIS: Well, what I'm asking is, is counsel asking that it be tendered for the proof of its contents, yes or no. If they are, with this one –

THE COMMISSIONER: I don't see any other reason that it would be –

MR. AVIS: Right, I understand

THE COMMISSIONER: – that they would be tendered. The approach that I take, if it does go in, would be that the – whatever's in the police statement and/or the transcript of the interview with Commission counsel, would be there to support the findings of fact that may be dealt with and any other issues that are relevant.

MR. AVIS: Yes.

THE COMMISSIONER: I'm not quite sure I'm seeing your concern.

MR. AVIS: Well. It's – at this stage it's the beginning of the inquiry.

THE COMMISSIONER: Right.

MR. AVIS: I find the family evidence –you know, my instructions are we don't have much – too much of an issue with it, a lot of it is belief and opinion rather than fact. But if it's going to go in for the truth of its contents, and I'm admitting to that now at the beginning of the trial, I don't know down the road if I'm necessarily going to want to agree with a particular fact and this is a witness I haven't challenged. That's my only point.

THE COMMISSIONER: Well, it's like any other evidence. It would go in for the truth of its contents up to the point where it's challenged by the other testimony that, that –

MR. AVIS: Okay, well in that –

THE COMMISSIONER: And I'm not sure, I'm not sure there's –

MR. AVIS: Well –

THE COMMISSIONER: There's a lot in her statement that is, that is contentious in terms of an issue, but – go ahead. Sorry.

MR. AVIS: Well, no, I've run into this in court cases before and I'm before the court of (inaudible).

THE COMMISSIONER: Well, you're not going to be foreclosed from challenging the accuracy or reliability of anything that's in the, that's in the – either the police statement or the, or the transcript of the witness interview, if that helps you any.

MR. AVIS: So if I understand, then, why –

THE COMMISSIONER: It's going to go in just like the testimony of witnesses that we had yesterday and the day before. It's there –

MR. AVIS: Yes.

THE COMMISSIONER: It's subject to examination insofar as there are other witnesses who can bring light to bear on it.

MR. AVIS: Right.

THE COMMISSIONER: What you're going to lose is the opportunity to cross-examine Debbie Dunphy if –

MR. AVIS: Right.

THE COMMISSIONER: – ultimately she doesn't appear.

MR. AVIS: So if I understand, then, when it goes in, it goes in for the truth of its contents subject to the fact that counsel may challenge it at any time throughout the process.

THE COMMISSIONER: Yeah, the, the counsel will be entitled to ask me to draw inferences that may be contrary to what Ms. Dunphy has, has stated.

MR. AVIS: Okay. Thank you, just clarification.

Thank you.

THE COMMISSIONER: Yeah. Thank you.

Mr. Williams.

MR. WILLIAMS: The only comment that I would have, Mr. Commissioner, is that obviously I have not at least had the opportunity to see the medical note. My concern is more of in a general sense that, obviously, if this is a short-term absence, then certainly it's excusable and we can work it within the scheduling and I'm sure she could be scheduled at a later date.

THE COMMISSIONER: Well, that's if Ms. Dunphy is, is going to make herself available, but there may still be – she may still take the position that she's not fit medically herself to attend.

MR. WILLIAMS: And if that is the case, then I think it is incumbent upon the, the Commission to seek further medical elaboration. You know, I'm taking it that this appears to be a very brief superficial note from a doctor saying she's not able to attend today for medical reasons, which I certainly accept, but –

THE COMMISSIONER: Well, I'll just read out –

MR. WILLIAMS: – if this is to avoid absence for the –

THE COMMISSIONER: I'll read out the report without mentioning the condition: Due to underlying X, Mrs. Dunphy cannot testify in court.

MR. WILLIAMS: Okay, and that does not provide a lot of substantiation. That could be for a bad flu; it could be for a number of reasons. If, in fact, perhaps Commission counsel can make further inquiries over the course of, you know, the next week or so whether this will be a long-term absence or is her position that she's not going to be able to appear at the inquiry for the duration, then I think it's incumbent on the inquiry to make – on the Commission to make further inquiries that there is sufficient medical background, medical substantiation to bring that into play. Otherwise, we could have any witness simply supply a doctor's note.

THE COMMISSIONER: I think that I've already said that, Mr. Williams. I've already made that clear. I will say it's not going to be a matter of getting a different position in a week or – in my view, it's going – we're talking about maybe in a month's time or six weeks' time.

It might be worthwhile, if counsel believe it useful, to revisit this question as to whether she's going to be excused from the witness list entirely. At this stage, as I've said, she remains on the witness list as far as I'm concerned and we'll see what her situation is in four or –

MR. WILLIAMS: And that's my only position that –

THE COMMISSIONER: – four or five weeks' time.

MR. WILLIAMS: – that we'd revisit so that she not be taken off the list, that we're not excusing her at this point in time.

THE COMMISSIONER: Right.

Anybody else have any comment?

MS. RASMUSSEN: Mr. Commissioner, the RCMP would take no particular position with this witness at this time.

THE COMMISSIONER: Sorry, could you speak up a little bit, Ms. Rasmussen?

MS. RASMUSSEN: Sorry. We take no position at this time with this particular witness, but I would only echo the comments of Mr. Williams in a general sense that, as the Commissioner well knows, the onus is fairly high to avoid being compelled to testify for medical reasons. And I wouldn't want to set a precedent and I think that's what you've already observed –

THE COMMISSIONER: That was the purpose of my earlier remarks.

MS. RASMUSSEN: Yes.

THE COMMISSIONER: So we don't easily permit witnesses to decide they're not going to appear, they have to have reason and there are powers in the *Public Inquiries Act* that would, that permit the compulsory attendance of witnesses –

MS. RASMUSSEN: Exactly. Thank you.

THE COMMISSIONER: – or sanctions might result.

Okay, that's Ms. Rasmussen. Anybody else?

MR. FLAHERTY: Mr. Commissioner.

THE COMMISSIONER: Yes, Mr. Flaherty.

MR. FLAHERTY: It's the coalition's position that the evidence should not be – or sorry, that the statement should not be admitted at this time.

THE COMMISSIONER: The police statement?

MR. FLAHERTY: The police statement or the interview statement at this point until we, or until the Commission makes a final determination as to whether or not Ms. Dunphy is going to be excused or called in as a witness. We –

THE COMMISSIONER: The problem with that, Mr. Flaherty, I don't know if you considered it, is that it may influence the cross-examination of witnesses from this point on in that counsel, you know, there may be a different, a different approach if the, if the statement is entered if it's not in.

MR. FLAHERTY: Uh-huh.

THE COMMISSIONER: So my inclination would be to have the statement go in, and I'm not sure what your concern or objection would be for that happening.

MR. FLAHERTY: Well, my issue, from the coalition's standpoint, as you know, our, our standing was granted with respect to, or largely with respect to reputational character evidence. I have some issues of the reputational character evidence or the inferences that be drawn on reputation or character from those two statements, from the statement and the interview. So unless I can test Ms. Dunphy with respect to her evidence, I'm uncomfortable with it going in, and at this point, I mean –

THE COMMISSIONER: Well, just let's, let's consider, and although we've said we weren't going to get into the specific points raised, we may have to briefly. We have Debbie Dunphy giving a statement, police statement. One of the points she makes is that she's been alienated, herself and her husband – and her husband Richard is going to be testifying here this morning, I understand, shortly. So some of this, maybe all of it that Debbie Dunphy would say might go in through him, but we'll see.

But in her statement – now, I haven't had a chance to read the police statement. I read the transcript of her interview. I haven't had a chance to go back and re-read the police statement, but I understand that her statement is to the effect that there was a property dispute on the death of the father of the Donald Dunphy and Richard Dunphy and that led to bad feelings. And I think involved in it was the, that was at the basis of a peace bond that, that Donald Dunphy eventually entered into.

There's, I think, evidence, evidence either in the interview – I think it's definitely in the transcript of the interview. I don't recall it's expressly dealt with in the statement, but there's evidence that suggests Debbie Dunphy's position is that Donald Dunphy would periodically put something on her plants that would led – led to damage to her plants and that he would bring and deposit junk cars and other garbage on a piece of land somewhere out in front of both their homes that was in dispute, but Mr. Dunphy, Donald Dunphy, ended up with.

There's reference to the discussion with Constable Smyth and there's a bit of a difference of opinion in terms of what was said, what the response was to the question of whether Donald Dunphy had firearms in his home.

Off the top of my head, can you – any other significant points that you see –

MR. FLAHERTY: Not at this point, no.

THE COMMISSIONER: – coming out of the statements? Sorry?

MR. FLAHERTY: No, not at this point, no, but I mean the first two or three points that you did raise once again, I've concerns that if those statements do go in, they can't be tested. I mean, that evidence will be used, I would imagine, I expect, that it'll be used to paint Mr. Dunphy in a poor light. (Inaudible.)

THE COMMISSIONER: Well, subject to the fact that, I think from the statement and from the transcript, there comes through the fact that, while Debbie Dunphy was not Donald Dunphy's favorite person, that went both ways and there's a big question as to whether Debbie Dunphy would be considered objective in her view of Donald Dunphy.

MR. FLAHERTY: Uh-huh.

THE COMMISSIONER: So I know you're concerned, but you may have to live with it in terms of, ultimately, if you can't cross-examine her. I'm going to need more authority or argument to support the view that I shouldn't consider it, you know. Particularly when we consider the somewhat relaxed rules of evidence at an inquiry, and I question whether it would be unfair to anybody to let in the police statement and the statement given under oath to Commission counsel.

And I don't want – I don't want to have problems caused by counsel in the way they deal with other witnesses because Ms. Dunphy can't testify so that's – and I don't want to delay the thing by adjourning it today.

MR. FLAHERTY: No.

And your words are well taken, Commissioner, I understand that –

THE COMMISSIONER: Sorry?

MR. FLAHERTY: I said your words are well taken and I understand that it would be an uphill legal argument, legal battle to try to prevent that from going in. I just wanted to raise our objection and just provide warning about the possible difficulties that may arise, or the possible issues that may arise from having non-tested evidence go in, particularly when it comes to issues of reputation and issues of character.

THE COMMISSIONER: Yes, just one second now.

It seems to me, Mr. Flaherty, that in three or four weeks' time you'll have a pretty clear picture of, you know, what the evidence is with respect to these issues. And it may be what you're saying now may form the basis for having the Commission go back to Ms. Dunphy and see if she can be brought in to testify, whether voluntarily or otherwise, if that's considered necessary by counsel.

So my inclination would be to, to have counsel proceed on the understanding that, that statement to the police and the statement under oath to Commission counsel would both go in, and that counsel should have that as, as context or background in the process of their examining witnesses today and for the rest of the inquiry.

And it, it may be that we'll, we'll be able to get Ms. Dunphy in for cross-examination on her statements, but we don't know and you shouldn't assume that, that will happen. But it may very well be that you'll be able to persuade the Commission subsequently to have another shot at getting Ms. Debbie Dunphy to, to testify.

And I might say, this is the only, as far as I can see, the only witness that we've had any difficulty with in terms of everybody else seems to be fully willing to co-operate and participate and come and testify.

So if – the, the statements will go in but whether or not it will be – and this is subject to – I'm not forgetting you. Ms. Breen or Mr. Simmonds are at the end of the line there. But subject to your persuasive arguments, the, the same inclination will be that statements will go in and whether or not you get a chance to cross-examine will depend upon Ms. Dunphy's situation subsequently. So before making a final determination here, Mr. Simmonds or Ms. Breen –

MR. SIMMONDS: Mr. Commissioner, I would ask a couple of things, actually. We'd ask a couple of things.

THE COMMISSIONER: All right.

MR. SIMMONDS: Firstly, the statement, Ms. Dunphy's evidence is basically a very critical, hard review of our client. And that concerns us because we believe there are parts in that, that are clearly irrelevant. But is it a decision –

THE COMMISSIONER: Well, I would agree with you.

MR. SIMMONDS: Is a decision –

THE COMMISSIONER: I have to say that Ms. Dunphy in, in at least one of the statements appeared to be setting out what might be considered pure community gossip, which should have very little weight in, in –

MR. SIMMONDS: And –

THE COMMISSIONER: – any situation, but go ahead.

MR. SIMMONDS: And I'm, and I'm sure the Commissioner, you will make those determinations but allowing that that is –

THE COMMISSIONER: It's not to say that her testimony is totally irrelevant because it does go to –

MR. SIMMONDS: No, no, no, no, no.

THE COMMISSIONER: It does go to reputation character, particularly in terms of whether Mr. Dunphy had a bit of a volatile temperament.

MR. SIMMONDS: And –

THE COMMISSIONER: Whether he could fly off the handle is, I think, the term I used earlier. We have his daughter Meghan who gave a very good description of a very frank and open and forthright statement concerning her father, which I know was difficult for her. But she, she referred to him as being quote, flighty, and she explained what she meant by that.

There are indications that he – from Meghan Dunphy herself, that he liked to argue. He taught her well. She did a good, good – presented a good argument herself, but I think she gave a pretty thorough description of somebody who did have an element of volatility. So I'm not sure that we have to rely heavily upon Debbie Dunphy on that point, I'm not sure she has adds very much to the mix. And I'll save you time in terms of agreeing with you that, yeah, some of what she said is nothing more than gossip.

MR. SIMMONDS: And if that is the case, which, which you've accepted –

THE COMMISSIONER: Sorry?

MR. SIMMONDS: If that is the case, which you've accepted, knowing that if one of two things is going to happen here, hopefully the Commission would review down the road – we'd have an opportunity to review down the road –

THE COMMISSIONER: Down the road.

MR. SIMMONDS: – whether she should be attempted to be subpoenaed again or required to attend.

THE COMMISSIONER: Right.

MR. SIMMONDS: So I don't really think it's a decision that has to be made today.

And I understand Mr. Kennedy's point, you know, that he wants us to go in for the truth of it. I – I don't take issue with that, but could we not, as far as proceeding for the next – today, say one of the two things is going to happen: Either we will have Ms. Dunphy here down the road or some version of both statements will go in. And it may be that after talking to our client, talking to Commission counsel, that certain things could be redacted from it, certain portions of it, and the rest of it go in.

THE COMMISSIONER: Yeah, that's –

MR. SIMMONDS: I don't think that would affect anybody's (inaudible).

THE COMMISSIONER: No, that's fair enough and what, what I'm concerned about is not putting parties or counsel at a disadvantage –

MR. SIMMONDS: Disadvantage, yeah.

THE COMMISSIONER: – in how they proceed with the examination of witnesses.

MR. SIMMONDS: Yeah.

THE COMMISSIONER: And I'm not going to permit Debbie Dunphy to delay the inquiry or this very brief doctor's note to delay the inquiry.

MR. SIMMONDS: Yeah.

THE COMMISSIONER: But I don't – and I think counsel will have to understand the nature of the condition as described. It's not something that will resolve itself in a couple of days.

MR. SIMMONDS: In a couple of weeks.

THE COMMISSIONER: I think we have – we're talking about the examination of witness over the next month probably which, you know, may, to some extent, be affected by counsel's understanding of whether or not the statements go in.

Again, I hope counsel will give me some credit in terms of, you know, what I consider admissible under the law – under the rules of evidence and what, as I say, should be dismissed as pure gossip.

MR. SIMMONDS: And, and it's quite likely that we would be able to agree on some redacted version of it, I would think, but those are the points we'd like to make. That's why we'd ask if that portion of it could be put off for right now and counsel could proceed with their cross-examination knowing that some form, either both of them unredacted or certain portions redacted, or Ms. Dunphy is going to be here to give her testimony and you be able to cross-examine her.

THE COMMISSIONER: Well, again, in terms of the redaction, that brings a lot of uncertainty into the thing.

Sorry, Mr. Kennedy, go ahead.

MR. KENNEDY: Yeah, that – my only point, and I'm not saying that there shouldn't be certain points redacted, but I'd prefer to know in advance. If Richard Dunphy is going to be the witness, there could be certain questions that I would put to him in relating to Debbie Dunphy's statements that could eventually be redacted. I certainly don't want to go down that road.

THE COMMISSIONER: Well, where Mr. Richard Dunphy is on for this morning as the first witness so – and I believe he's here, so we should get on with him fairly quickly. But – and if you want to, for us to

come back briefly to this after we finish with Mr. Richard Dunphy, then that might help too. There is, there is some similarity in the testimony of both, but – Mr. Simmonds.

MR. SIMMONDS: I have confidence in, Mr. Commissioner, that, you know, if Mr. Kennedy wished to cross-examine on this, he knows that one portion, either her actual testimony is going to go in or a good portion, if not all, of the statements are going to go in. I don't think that's going to hamper his cross-examination.

If he goes to an area – you can make a decision on whether it's irrelevant or not. That's our concern.

THE COMMISSIONER: Well, what is – why, I'm not sure why you would be concerned with the statements going in with, with your right to point out the unreliability or irrelevance of gossip, for example – hearsay.

MR. SIMMONDS: That may be. If Mr. Commissioner wants to allow that, that we can look at it after and say look, this portion should be redacted. I don't have a problem with that. What we have a concern with is it is – and you're correct, there's going to be a fair bit of information about Mr. Dunphy put in and we had some flavour for that already, but there is a –

THE COMMISSIONER: At the end of the day, I don't really see a lot in Ms. – in Debbie Dunphy's statement that's of – that's new or not in – not dealt with by other witnesses.

MR. SIMMONDS: Uh-huh.

THE COMMISSIONER: But the – well, how about if I do it this way. If I let it in, with – counsel's right, after consulting with other counsel and with Commission counsel, as to what might be redacted or deleted, it will go in with the right of counsel to raise objections before we get into, you know, final submissions, to raise objections whether it be on the basis of hearsay or irrelevancy or unreliability or anything else that would form the basis for proper objection under the laws of evidence. But I'm concerned about having the examinations proceed with a void there as far as what Mr. Dunphy is going to be saying.

MR. SIMMONDS: That's fair enough. We accept that position.

THE COMMISSIONER: Counsel?

MS. O'BRIEN: Thank you, Commissioner.

We, Commission counsel, have a suggestion. As I said earlier, it was our intention today only to seek to enter Ms. Dunphy's police statement, not her – the interview we did with her. That statement was ready to go in as an Exhibit P-0099. At this time –

THE COMMISSIONER: Which the –

MS. O'BRIEN: Her RCMP statement.

THE COMMISSIONER: Right.

MS. O'BRIEN: – Commission counsel had no – our position was that would go in today. We – it would go in; it would go in for the truth of its contents. We fully acknowledge that it was not done under oath. With Ms. Dunphy not here, there's not the ability for it be tested by cross-examination. I think that would go to its weight most definitely, but we had intended to put it in so that it could be used in the examination of other witnesses and be referred to by counsel, for example, when Constable Smyth is on the stand or Mr. Dunphy is on the stand.

What I'm proposing now is that we enter the – that the police statement exhibit as a confidential exhibit so that all counsel will be able to see it and use it, if they want. And then, if later, counsel has concerns about redaction, it could be redacted before it would be made a public exhibit.

So that is my submission with respect to Ms. Dunphy's RCMP –

THE COMMISSIONER: Which is Exhibit 0099.

MS. O'BRIEN: It was marked – it was conditionally marked as P-0099, but I would now seek to have that entered as a confidential exhibit.

There is a second RCMP statement that Ms. Dunphy gave, but it was a joint statement with her husband, Mr. Richard Dunphy.

THE COMMISSIONER: Right.

MS. O'BRIEN: When Mr. Dunphy testifies this morning, I will be seeking to put that statement into evidence as a regular P exhibit. And then, finally, my request is that the affidavit of service that we spoke about earlier from the process server who attempted to serve Ms. Dunphy be put into evidence today, and that has been marked already as P-0117. And my submission is still that that go in as a public exhibit.

THE COMMISSIONER: So counsel have no objection to putting in the affidavit of the processor server and we get that out of the way?

MR. KENNEDY: No, I have one comment, though, Commissioner, is that –

THE COMMISSIONER: Go ahead.

MR. KENNEDY: – if we're going to enter the statement having regard to your comments, why wouldn't we also enter the interview on the basis at this point?

THE COMMISSIONER: Yeah, I'll deal with that, but I'm just –

MR. KENNEDY: Oh no –

THE COMMISSIONER: Right now, it's just a process. The affidavit process server, let's get that out of the way.

MR. KENNEDY: That is fine.

THE COMMISSIONER: I got too many papers on my desk here. I'm not sure that's a basis for admission, but it is this morning.

Okay, we'll file the affidavit of service of Guy Badcock, which I referred earlier, the 9th of January, 2017 as Exhibit P-0177, is it?

MS. O'BRIEN: We – P-0117.

THE COMMISSIONER: 117, okay

Okay, now, as for the police statement, Mr. Kennedy is asking why not the transcript of the interview as well. I have to say I'm –

MS. O'BRIEN: In the ordinary –

THE COMMISSIONER: – inclined somewhat in that direction –

MS. O'BRIEN: In the ordinary course, what Commission counsel have been doing is before a witness comes to testify who was interviewed by the RCMP, we have been entering their RCMP statements. So we were prepared this morning to enter Ms. Dunphy's RCMP statement prior to her testimony.

As a matter of course, Commission counsel do not seek to enter our interviews, the statements – the transcripts of our interviews with witnesses, and so we were not prepared and ready to enter that as an exhibit today. We would both want to look at that and get our own positions with respect to what may be appropriate to redact or not redact.

So while I do not preclude Commission counsel coming back and seeking an order that that statement or portions or a redacted version of that statement be entered, we are not asking that happen at this time for those reasons.

THE COMMISSIONER: But you – are you asking now, I have the understanding you suggest it go in as a confidential exhibit.

MS. O'BRIEN: That would be the RCMP statement.

THE COMMISSIONER: Okay.

MS. O'BRIEN: The RCMP statement I'm asking to go in now as a confidential exhibit. The transcript of our interview of Deborah Dunphy, I am not seeking to be put in at this time for the reasons I've just given. We haven't had a chance to review and analyze that statement as to what may need to be redacted.

THE COMMISSIONER: Mr. Kennedy that sounds fair, doesn't it, in terms of permitting counsel to do their job before I run roughshod over it?

MR. KENNEDY: That's fine, Commissioner.

THE COMMISSIONER: I think this will get itself worked out. I'm not sure it's going to be a problem.

All right, so at this stage we're going to enter the police statement as a confidential statement. Is that what you're saying Ms. O'Brien?

MS. O'BRIEN: The police statement as a confidential exhibit. That statement had been provisionally marked as P-0099. I'm now asking that it not be a P exhibit but it'd be entered as a C exhibit, number to be determined by Madam Clerk.

THE COMMISSIONER: Okay. All right so ordered.

Now let's move on to – okay, the affidavit of Mr. Babcock is here. We'll move on to the – did I – the doctor's letter and the letter from – doctor's note and letter from Deborah Dunphy, is that going in (inaudible).

MS. O'BRIEN: I had asked it be ordered in as a C exhibit as well. The number will be determined by Madam Clerk.

THE COMMISSIONER: Okay, so ordered.

MS. O'BRIEN: Thank you.

THE COMMISSIONER: Now we move on to the first witness this morning.

MS. O'BRIEN: Thank you. That would be Mr. Richard Dunphy. I'll ask Mr. Dunphy, who I can see is present here, to come to the stand.

MR. KENNEDY: Excuse me, Commissioner, if I could just raise – I really apologize for this but –

THE COMMISSIONER: No, that's all right. Go ahead.

MR. KENNEDY: – looking at my notes of Debbie Dunphy's Commission interview, there are at least one or two points that I would want to put to Richard Dunphy today if Debbie Dunphy is not going to be a witness. Am I now precluded by –?

THE COMMISSIONER: Just one second now. Just take a seat, Mr. Dunphy. We'll be with you in a moment, hopefully.

MR. KENNEDY: Am I precluded, therefore, from not referring to Debbie Dunphy's statement to Mr. Richard Dunphy today, on the basis that it's not entered as an exhibit? That's my only question.

THE COMMISSIONER: It –

MS. O'BRIEN: Recall might be an option, Commissioner.

THE COMMISSIONER: Sorry?

MS. O'BRIEN: Recall could be an option.

THE COMMISSIONER: Right, or it could be that it's put to Mr. Richard Dunphy today to save the need for him to come back in and that I'd be asked to ignore it if there's something comes up subsequently, you know, that would affect it from the perspective of Deborah Dunphy.

MS. O'BRIEN: Perhaps if we, when we take the morning break before Mr. Kennedy has an opportunity to question Mr. Dunphy, Commission counsel would consult with Mr. Kennedy so we could be aware of what portions of the transcript he's intending to refer to, so we could have a position on it.

THE COMMISSIONER: These are portions of the interview with the witness, is this what you're –?

MR. KENNEDY: In the normal course of events, if I understood it, Mr. Commissioner, what we've seen happen here is that Commission counsel have put in excerpts from, not from their interviews but from other statements and put to witnesses, this is what we expect this witness to say –

THE COMMISSIONER: Right.

MR. KENNEDY: – or this is what this witness would say.

THE COMMISSIONER: Right.

MR. KENNEDY: So whether or not, if Debbie Dunphy was called first, then her evidence would come out –

THE COMMISSIONER: Right.

MR. KENNEDY: – and I would then be able to say to Richard Dunphy, are you aware, or your wife said this, do you agree –

THE COMMISSIONER: Right.

MR. KENNEDY: – do you have knowledge of this.

THE COMMISSIONER: Right.

MR. KENNEDY: Where she's not testifying now, there are certain things that may or may not be in her police statement that are in her interview with Commission counsel.

THE COMMISSIONER: I don't see any problem with that. I think that you should be allowed to, to – Mr. Kennedy should be allowed to put this to the witness. It may be affected whether or not what you understand Debbie Dunphy to have said stands up ultimately may depend upon whether she's cross-examined or not, but part of her problem for her, if her picture does not get out as she'd like it, it's her choice in not being here to some extent.

Sorry, Ms. O'Brien, go ahead.

MS. O'BRIEN: Thank you.

I again state that Commission counsel would like to have an opportunity to see the portions of the statement that Mr. Kennedy's intending to refer to. There is some concern, like what if these are the most sensitive parts of Ms. Dunphy's statement, that, the ones that, for example, Mr. Simmonds and Ms. Breen might be taking issue with about ultimately having redacted.

THE COMMISSIONER: Right. We'll break a bit early if we're not at the recess time, and we'll let you and counsellor get together to see if this can be resolved by agreement.

Frankly, I don't see much in the way of smoking guns in this area of the testimony in any event. But, Mr. Kennedy, before – if you might keep in mind, in terms of the order of your questioning, that before you get into these aspects relating to Debbie Dunphy's statement, that we're going to break and give you and Commission counsel and other counsel an opportunity to take a look at it.

All right, let's proceed with Richard Dunphy.

MS. O'BRIEN: Thank you. I ask to have the witness affirmed.

THE COMMISSIONER: Thank you, Ms. –

MS. SHEEHAN: Mr. Dunphy, do you solemnly affirm that the evidence to be given by you shall be the truth, the whole truth and nothing but the truth?

MR. R. DUNPHY: I do.

MS. SHEEHAN: Thank you.

Could you please state –?

UNIDENTIFIED FEMALE SPEAKER: (Inaudible.)

MS. SHEEHAN: Oh, sorry. Could you please state and spell your full name, please?

MR. R. DUNPHY: I'm Richard Joseph Dunphy.

MS. SHEEHAN: Could you spell it, please?

MR. R. DUNPHY: Richard Joseph Dunphy.

MS. SHEEHAN: Yeah.

THE COMMISSIONER: That's okay. We can spell those.

MS. O'BRIEN: Thank you.

Mr. Dunphy, I'm going to just move the microphone. And Mr. Dunphy, when you're speaking I'm going to ask you to speak up a bit, okay? So we want to make sure that the mic captures your voice and that people can hear what you're saying.

Before I begin my questioning of Mr. Dunphy, Commissioner, I'd ask to have the following exhibits entered: Exhibits P-0095 to P-0098. I'm looking for an order on those, Commissioner, P-0095 to P-0098.

THE COMMISSIONER: Okay, so ordered.

MS. O'BRIEN: Thank you.

All right, Mr. Dunphy, good morning.

We know that you're the brother of Donald Dunphy, is that right?

MR. R. DUNPHY: That's right.

MS. O'BRIEN: Okay. Now, are you the – I know it was a family of four boys. Are you the oldest?

MR. R. DUNPHY: The oldest, yeah.

MS. O'BRIEN: You're the oldest. And who is next under you?

MR. R. DUNPHY: Bart.

MS. O'BRIEN: Bart? And then who is the next youngest to Bart?

MR. R. DUNPHY: Kevin.

MS. O'BRIEN: Kevin. And so the baby of the family was Donald, is that right?

MR. R. DUNPHY: Yeah, that's right.

MS. O'BRIEN: Okay. We've also had some evidence already because we heard Meghan Dunphy, your niece, give testimony already. So we know from her that you lived next door to Donald Dunphy.

MR. R. DUNPHY: That's right.

MS. O'BRIEN: Okay. And do you still live in that house?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay. How long have you lived in that house? Approximately is fine.

MR. R. DUNPHY: 1975.

MS. O'BRIEN: Since 1975? Okay. And who lives with you now?

MR. R. DUNPHY: We have a handicap child, Ralph; just the three of us.

MS. O'BRIEN: Okay, so that would – the three of you would be Mrs. Dunphy –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – Deborah Dunphy or Debbie Dunphy, your wife –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – lives with you. And you said you have a handicap child, Ralph.

MR. R. DUNPHY: Ralph.

MS. O'BRIEN: So he's an adult son who still lives at home.

MR. R. DUNPHY: Yeah. Yeah.

MS. O'BRIEN: Okay. And did you have other children now who are all adults and moved out?

MR. R. DUNPHY: Yeah, three.

MS. O'BRIEN: You had three other children as well.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay. Are you retired, Mr. Dunphy?

MR. R. DUNPHY: Yes.

MS. O'BRIEN: Okay. Where did you retire from?

MR. R. DUNPHY: Works Services.

MS. O'BRIEN: Works Services. And what – do you remember what year you retired?

MR. R. DUNPHY: What?

MS. O'BRIEN: Do you remember what year you retired?

MR. R. DUNPHY: Yeah, 2001.

MS. O'BRIEN: 2001?

And your wife, did she work?

MR. R. DUNPHY: She was teaching.

MS. O'BRIEN: She was a teacher. And is she now retired too?

MR. R. DUNPHY: Yes.

MS. O'BRIEN: Okay. When she was a teacher did she ever – did she ever teach Donald Dunphy when he was younger?

MR. R. DUNPHY: Yes.

MS. O'BRIEN: She did. Okay.

Now, I understand the house where you, your house is built, and where Donald Dunphy's was built, this was all, one time, family land.

MR. R. DUNPHY: That's right.

MS. O'BRIEN: Okay.

And Donald Dunphy built his house next door. You, you and Debbie Dunphy had built your house and were living there when Donald –

MR. R. DUNPHY: Yes.

MS. O'BRIEN: – built next door to you, is that right?

MR. R. DUNPHY: That's right.

MS. O'BRIEN: Okay. And do you remember roughly when he built his house?

MR. R. DUNPHY: No, I don't.

MS. O'BRIEN: Would like the early '80s sound about, about right?

MR. R. DUNPHY: It could be.

MS. O'BRIEN: Okay. So was Meghan a baby or was she born at the time?

MR. R. DUNPHY: Oh yes. Meghan was, Meghan was a baby, yeah.

MS. O'BRIEN: Okay. So it's at least that time ago. All right.

Let's get at – I want to get a sense of where the houses are in relation. So if I was driving – if I left the Salmonier Line and I was driving down the road sort of towards Mitchell's Brook, in, in that area, whose house would I pass first, your house or Donald Dunphy's house?

MR. R. DUNPHY: Mine.

MS. O'BRIEN: Pass yours. Okay.

So if I was standing on the road looking at Donald Dunphy's house, yours would be on the right of his.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: All right. Approximately how far apart is your house and his house?

MR. R. DUNPHY: It could be – most of it could be a couple of feet, I think, if it is that.

MS. O'BRIEN: Okay, so enough like – enough for another building lot if you had to put another house there.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: And is there – you know, the ground in between the two houses, is it – got trees growing on it?

MR. R. DUNPHY: Yes.

MS. O'BRIEN: Okay. So if I stood up at your house could I look over and see Mr. –

MR. R. DUNPHY: Not now, no. One time you could.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: But not now.

MS. O'BRIEN: Years ago you could –

MR. R. DUNPHY: Oh yeah.

MS. O'BRIEN: – 'cause it was clear –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – but not now because the trees are grown up.

MR. R. DUNPHY: Yeah, yeah.

MS. O'BRIEN: Okay.

All right. So was Donald Dunphy living next to you when his wife died?

MR. R. DUNPHY: Yes.

MS. O'BRIEN: Okay. So his daughter was quite young at that time –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – wasn't she? She was like a toddler or so, does that sound right to you?

MR. R. DUNPHY: That's right.

MS. O'BRIEN: Okay.

Can you tell the Commissioner about your relationship with your brother, Donald Dunphy?

MR. R. DUNPHY: Well, in the last 15 or 20 years, we didn't have any, you know, connection with him really. Say 15 years.

MS. O'BRIEN: So your father died around 15 years ago or thereabouts. Is that right?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: And had you mother – did your mother pass away before your dad did?

MR. R. DUNPHY: Yeah, yes.

MS. O'BRIEN: All right. And your father had also lived kind of in, in, in the neighbourhood. He lived in a house, was it on the other side –

MR. R. DUNPHY: That's right.

MS. O'BRIEN: – of Donald Dunphy's house?

MR. R. DUNPHY: Yes.

MS. O'BRIEN: Okay, because we had some testimony –

MR. R. DUNPHY: No.

MS. O'BRIEN: – already.

MR. R. DUNPHY: No, on the other side of mine.

MS. O'BRIEN: On the other side of your house. Okay.

And did your father live in that house right up until he died?

MR. R. DUNPHY: Yes.

MS. O'BRIEN: So you said you didn't have, in the last 15 years or so, no contact with Donald. Did that – so was there a bit of a change after your dad's death in your relationship with your brother after your dad died?

MR. R. DUNPHY: Not really, just that he was – no, not really.

MS. O'BRIEN: Okay, so was there any dispute or disagreement about the – about your father's land after he died?

MR. R. DUNPHY: No.

MS. O'BRIEN: No, okay. But that's around the time you stopped talking to Donald Dunphy?

MR. R. DUNPHY: We did about – you know, sometimes – yeah, around that time, after father died, yes.

MS. O'BRIEN: Okay. So can you give the Commissioner – we don't need all the details –

MR. R. DUNPHY: Right.

MS. O'BRIEN: – of the dispute but just, we want to get a sense of what your relationship was like with him. So just give a little bit about it.

MR. R. DUNPHY: So what happened there was a piece of land across the road that I made. There was a pond across the road, all right? I filled it in. So when my father died, it was in the will that he owned it and he put a lot of garbage on it.

MS. O'BRIEN: Okay, Donald Dunphy put some garbage on it. And you weren't happy about that, is that –

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. And that caused a little bit of a dispute –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – between you and your brother?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay. And since that time, did you stop talking to him and he stopped talking to you?

MR. R. DUNPHY: No, sometimes we'd talk and I'd meet him and he – he went to work with us with highways for a few years and, you know –

THE COMMISSIONER: But you'd talk to him if you met on the job or whatever?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay. Would you ever have dropped in to his house to see how he was doing?

MR. R. DUNPHY: I did, I think, years ago, but on the last 10 or 15 years I didn't.

MS. O'BRIEN: Okay, so the last 10 or 15 years you wouldn't have dropped in to this house.

MR. R. DUNPHY: No.

MS. O'BRIEN: How about him dropping in to your house in the last 10 or 15 years?

MR. R. DUNPHY: No, he didn't.

MS. O'BRIEN: Okay. Did you ever get together at other family's – like for Christmas or Thanksgiving or any of those other family occasions?

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. And did you ever speak to him in the past 10 or 15 years – did you speak to him on the phone?

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. All right.

Did your wife ever have any disputes with Donald Dunphy?

MR. R. DUNPHY: Yeah, she – he was – she was nervous of him.

MS. O'BRIEN: Pardon?

MR. R. DUNPHY: Yeah, she was – yeah. That's when they put this garbage and, you know, stuff like that on the front.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: So it started off in that really.

MS. O'BRIEN: Okay. Did they go to court?

MR. R. DUNPHY: Yeah. She was in court, yeah.

MS. O'BRIEN: In court with, with Donald Dunphy?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: All right. Do you remember any of the details of that?

MR. R. DUNPHY: No, I wasn't there.

MS. O'BRIEN: You weren't there. Okay.

Do you know whether she, she accused him of uttering threats against her?

MR. R. DUNPHY: I don't, I don't know.

MS. O'BRIEN: All right.

Do you know what – around what year that might have happened?

MR. R. DUNPHY: No, I don't know.

MS. O'BRIEN: Okay. Would 2005, like – so around 12 years ago, does that sound like the right time?

MR. R. DUNPHY: Yeah, it could be.

MS. O'BRIEN: Okay. All right.

Do you know if there was ever any peace bond in place?

MR. R. DUNPHY: Against Don, yes.

MS. O'BRIEN: Okay, so tell me what you know about the peace bond.

MR. R. DUNPHY: I really can't answer that either.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: I know that there was one.

MS. O'BRIEN: A peace bond against who?

MR. R. DUNPHY: Don.

MS. O'BRIEN: Don. So Don couldn't have any contact with who?

MR. R. DUNPHY: Debbie.

MS. O'BRIEN: With your wife, Debbie?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: All right, so there was a peace bond in place where –

MR. R. DUNPHY: Yeah, okay. Yeah.

MS. O'BRIEN: – so that Don couldn't have any contact with Debbie.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: All right.

And, again, does that – would it have been around that amount of time ago?

MR. R. DUNPHY: I would think, yeah.

MS. O'BRIEN: Okay.

When's the last time you remember speaking to your brother?

MR. R. DUNPHY: The last time. Well, he worked with me before I retired from highways. I went in 2001 so he stayed there a couple of years after that, then he gave that up. Then, a couple of years after that, then we did talk a bit and then it just, it used to be – you know it died away, we weren't talking.

MS. O'BRIEN: Okay. So that would have been about the last time, you know, within a few years after you retired in 2001?

MR. R. DUNPHY: Yeah, yeah.

MS. O'BRIEN: Okay. What about – do you know anything about the relationship of your two other brothers, Kevin or Bart, with Donald? Do you know if they spoke to him more recently or what their relationship was like with him recently?

MR. R. DUNPHY: No, same as me self.

MS. O'BRIEN: Okay. So they didn't speak much with him either –

MR. R. DUNPHY: No.

MS. O'BRIEN: – that you know?

MR. R. DUNPHY: No, they didn't. We're all about the same with him, eh, like the three of us.

MS. O'BRIEN: All right.

Do you see your brothers, Kevin and Bart?

MR. R. DUNPHY: Oh yeah.

MS. O'BRIEN: Okay, so do you see them pretty regularly?

MR. R. DUNPHY: Well, yes.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: Kevin lives in – mostly in the same area.

MS. O'BRIEN: Okay. So like how often would you see Kevin?

MR. R. DUNPHY: Just about every day.

MS. O'BRIEN: Oh, okay.

MR. R. DUNPHY: If he's, if he's home.

MS. O'BRIEN: Okay. And Bart lives a little further away, is that –

MR. R. DUNPHY: He's in – yeah.

MS. O'BRIEN: Is he still in Newfoundland, though?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: Seal Cove.

MS. O'BRIEN: He's in Seal Cove?

MR. R. DUNPHY: No, the Burin Peninsula.

MS. O'BRIEN: Okay. So how often would you see Bart – roughly? I don't need an exact.

MR. R. DUNPHY: Not that often, but still, you know, we'd visit or he'd visit us, you know. In wintertime, we go ice fishing, like he come around.

MS. O'BRIEN: Okay, right.

MR. R. DUNPHY: You know.

MS. O'BRIEN: Now, I know you didn't have much contact with him, but do you know that whether Donald Dunphy had any friends who visited him regularly?

MR. R. DUNPHY: Yeah, he did.

MS. O'BRIEN: Okay. Did you know the names of any of his friends?

MR. R. DUNPHY: It was Tom Hearn and Colin Dinn.

MS. O'BRIEN: Okay.

THE COMMISSIONER: Tom Hearn and Colin Dinn, is that what you said?

MR. R. DUNPHY: Yeah.

THE COMMISSIONER: Thank you.

MR. R. DUNPHY: And another of them was Chris, Chris Daley – Ken Daley.

MS. O'BRIEN: Ken Daley, okay.

And what about his daughter, Meghan, do you know anything about Mr. Dunphy's relationship with his daughter? Were they close, Meghan and Donald Dunphy?

MR. R. DUNPHY: I'd say, yes.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: That was her father, sure.

MS. O'BRIEN: Okay. All right.

And did you ever see your brother Donald Dunphy – did you ever see him get angry?

MR. R. DUNPHY: Oh yeah.

MS. O'BRIEN: Okay. So tell us a bit about that.

MR. R. DUNPHY: Gee, I wouldn't remember, girl.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: I know he used to get angry. I used to hear him, eh.

MS. O'BRIEN: What kind of things would he get angry about?

MR. R. DUNPHY: Just – well, this was on the go when the stuff was – the garbage was across the road, I would say.

MS. O'BRIEN: When you were having that family dispute –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – over the land.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: You saw him get angry then.

MR. R. DUNPHY: Yeah. After that there was – after that there wasn't much to it because we didn't, we didn't meet together say, didn't – had nothing to do with him, really.

MS. O'BRIEN: Okay. So are you saying the times you saw him got angry had to do with that dispute that –

MR. R. DUNPHY: Yeah, yeah.

MS. O'BRIEN: – was on the go. Okay.

Did you ever hear your brother threaten anyone?

MR. R. DUNPHY: Not really. No.

MS. O'BRIEN: What do you mean when you say: Not really, no?

MR. R. DUNPHY: I didn't hear him, you know, making threats to someone and – no.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: No.

MS. O'BRIEN: No? Never did? And did you ever know your brother to be violent?

MR. R. DUNPHY: No, just that he is quick tempered is – you know, put it that way.

MS. O'BRIEN: Okay. You say quick tempered but what about violence? Ever see him threaten to hurt anyone or hurt anyone?

MR. R. DUNPHY: No, no.

MS. O'BRIEN: Okay. Were you ever afraid of your brother?

MR. R. DUNPHY: I wasn't. No.

MS. O'BRIEN: Okay.

Now, when your – was, did – did you ever know your brother Donald to be a hunter? Was he, did he hunt at all?

MR. R. DUNPHY: No – no.

MS. O'BRIEN: Not a hunter. How about you? Are you a hunter?

MR. R. DUNPHY: I would have a moose licence but that's, that's about it.

MS. O'BRIEN: Okay. And what about your father, was he a hunter?

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. Did your father have any guns when he died?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay. What guns did he have?

MR. R. DUNPHY: Well, there's two shot guns. One is a single bar and one is a double and the .22.

MS. O'BRIEN: And the .22.

And what happened to the two shot guns after he died, the single and double barrel?

MR. R. DUNPHY: Donny brought them over to me but he was supposed to bring me over the third one but he didn't. The third one I didn't get.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: So I have to get them registered.

MS. O'BRIEN: Okay.

So you're saying your brother, that Donny Dunphy, your brother, brought you over –

MR. R. DUNPHY: Oh, yeah.

MS. O'BRIEN: – the two shot guns.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: And you – so do you still have those or you've had for –

MR. R. DUNPHY: Still have them.

MS. O'BRIEN: You still have them, okay.

But he did not bring you over the other one.

MR. R. DUNPHY: No.

MS. O'BRIEN: What was the other one? What kind of gun was the other one?

MR. R. DUNPHY: It was a .22.

MS. O'BRIEN: It was as .22.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay.

Do you ever know what happened to the .22?

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. When's the last time you saw that .22?

MR. R. DUNPHY: I'd say it was – it could be 20 years.

MS. O'BRIEN: All right.

I'm going to ask – I'm going to show you a photograph and see if you recognize it at all. Is that okay, Mr. Dunphy?

MR. R. DUNPHY: That's okay, yeah.

MS. O'BRIEN: All right.

Madam Clerk, can I see P-0010, Photo 097, please?

All right, Mr. Dunphy, you're seeing a gun there in that picture.

MR. R. DUNPHY: That's it.

MS. O'BRIEN: That's –

MR. R. DUNPHY: It's just like it anyway.

MS. O'BRIEN: Okay, so it's either it or it's just like the one your father had?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: All right. Thank you, Madam Clerk, that's fine.

Did the – I know you were questioned after your brother died, you were questioned a couple of times by the police. Did they ever, did they ever show you the gun?

MR. R. DUNPHY: No.

MS. O'BRIEN: Did they ever show you a picture of the gun?

MR. R. DUNPHY: No.

MS. O'BRIEN: So it that the first time you were asked to identify the gun, what you and I just did then?

MR. R. DUNPHY: That's right.

MS. O'BRIEN: Okay.

So sorry, I might have already asked the question (inaudible) but was the last time you saw that gun with that – did you ever see it after your father died or the last time you saw that would it have been –

MR. R. DUNPHY: After father died I never seen it, no.

MS. O'BRIEN: You never saw it.

MR. R. DUNPHY: No.

MS. O'BRIEN: So the last time you saw that gun was while your father was still alive?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay.

All right, Mr. Dunphy, I'm going to ask you about April 5 of 2015, okay. So we're going to go to that day.

I know – we all know that Constable Smyth, Joe Smyth, visited your house that day.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: All right. Do you recall what time he arrived?

MR. R. DUNPHY: I think – we were finished lunch so it must be – I don't know what time. I know it was after lunch.

MS. O'BRIEN: Okay. What time would you normally eat lunch? And that was on Easter Sunday was it?

MR. R. DUNPHY: Twelve, it could 12:30, it could be 1 o'clock. I don't know.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: Mostly likely it could be 1 o'clock because it's usually not before 12 anyway.

MS. O'BRIEN: Okay.

Who was home with you when he came to your house?

MR. R. DUNPHY: (Inaudible), my wife and autistic – you know, the three of us.

MS. O'BRIEN: Okay. Do you remember who answered the door?

MR. R. DUNPHY: Debbie answered the door.

MS. O'BRIEN: Okay. And I'm going to get you to start now. So she answers the door, tell the Commissioner everything you remember now about that interaction.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: And I might come back at the end and ask you a few more questions.

MR. R. DUNPHY: Well he only – he came to the door; he wanted to have a talk – he wanted to have the talk. Donny wasn't home and I don't – I suppose he asked us did we know where he was to, but he went – he just, he just wanted to have a talk to him.

It wasn't too much more after that. He just said – he asked me did he think he had a gun. I knew he had a gun but I couldn't say if it was there or not. It could be gone; he could have give it to someone else at that time.

MS. O'BRIEN: Okay. Do you recall what you told Constable Smyth about, about whether or not Donny had a gun?

MR. R. DUNPHY: That's what, that's what I said to him. I said he, he did have a gun – I didn't know. I didn't say that. I didn't know he had a gun.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: I said to the constable. Yeah.

MS. O'BRIEN: So you told Constable Smyth I didn't know?

MR. R. DUNPHY: I didn't know if he had a gun. Yeah, okay.

MS. O'BRIEN: Where, where did you speak to Constable Smyth?

MR. R. DUNPHY: It was at our door.

MS. O'BRIEN: Okay. Did he come inside the house or did he stay outside?

MR. R. DUNPHY: He was kind of standing – just standing there on the outside, yeah, on the step there.

MS. O'BRIEN: Was he, were you right there when he came and started to speak to your wife or –

MR. R. DUNPHY: No, I think I was downstairs.

MS. O'BRIEN: So you were downstairs in your house when he came?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: All right. Do you know how long he was there before you came up?

MR. R. DUNPHY: No. He wouldn't – I can't see him being there no more than a couple of minutes.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: You know.

MS. O'BRIEN: Okay. Do you remember what Constable Smyth said he was doing?

MR. R. DUNPHY: No, he just wanted to have a talk to him.

MS. O'BRIEN: Did he say why he wanted to have a talk –

MR. R. DUNPHY: No.

MS. O'BRIEN: – with him?

MR. R. DUNPHY: No.

MS. O'BRIEN: He didn't say that? Okay.

Did he mention that he, that he was doing an investigation of your brother or that he was –

MR. R. DUNPHY: No, no.

MS. O'BRIEN: – investigating any threats?

MR. R. DUNPHY: No.

MS. O'BRIEN: No, he didn't –

MR. R. DUNPHY: He was going to have a talk.

MS. O'BRIEN: He just said he wanted to have a talk?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay. When you were talking with Constable Smyth did he know you were Donny Dunphy's brother?

MR. R. DUNPHY: I don't know because I didn't talk to him very much, only for her – a few words I think I said. You know, when he asked me – he said about the gun and I said I didn't think he had – I said, no, I don't know, is what I said, yeah. Not too much more.

MS. O'BRIEN: Okay. Do you recall whether you told him that you were Donald Dunphy's brother?

MR. R. DUNPHY: No.

MS. O'BRIEN: Did he, did Constable Smyth ask you if you ever knew your brother to be violent? Or you ever knew –

MR. R. DUNPHY: No, I didn't.

MS. O'BRIEN: – Mr. Dunphy, the neighbour, to be violent?

MR. R. DUNPHY: No, he didn't.

MS. O'BRIEN: Okay. Did you have any – do you recall having any discussion with Constable Smyth about the condition of Donald's home? Like the condition his house was in?

MR. R. DUNPHY: No. I didn't anyway, no.

MS. O'BRIEN: Okay. Are you aware, what kind of condition was your brother's house in?

MR. R. DUNPHY: It wasn't a very – it wasn't in good condition, say, you know.

MS. O'BRIEN: Okay. When Constable Smyth was talking to you, did he mention that he'd already been up and seen your brother's house?

MR. R. DUNPHY: He said he was up to the door, yeah. He didn't say that to me, now. He to me wife that he was up; I mean he wasn't home.

MS. O'BRIEN: Okay. Did you overhear him saying that to your wife or are you just repeating what she told you after?

MR. R. DUNPHY: No, I heard him saying that.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: I think now, yeah.

MS. O'BRIEN: Okay. So you heard him saying that. When he said that he'd been up to the door, did they have any conversation about the condition of Donald Dunphy's home?

MR. R. DUNPHY: I don't know. I don't – I couldn't say.

MS. O'BRIEN: Okay. Did either you or your wife tell Constable Smyth that Donald Dunphy had a daughter?

MR. R. DUNPHY: No. Unless she did; no, I didn't.

MS. O'BRIEN: Okay. So you didn't but you're not sure whether Mrs. Dunphy did?

MR. R. DUNPHY: No, no. If he asked, I don't know if he asked or not. I'm sure we wouldn't tell him if he didn't ask.

MS. O'BRIEN: Okay. Do you remember whether or not he asked?

MR. R. DUNPHY: I don't think.

MS. O'BRIEN: Okay. Do you recall – did he ask you whether Donald Dunphy had any friends around, any friends in the neighbourhood?

MR. R. DUNPHY: No. Well, I couldn't say for sure. I didn't hear that word when he was talking to my wife, you know.

MS. O'BRIEN: Okay. Did you give – do you remember giving him any telephone numbers for people he might contact?

MR. R. DUNPHY: No, no. No numbers.

MS. O'BRIEN: You gave no numbers.

Did you tell him the last time that you had spoken to Donald Dunphy? Like did you tell him you hadn't spoken to him in 10 or more years?

MR. R. DUNPHY: I don't know if that was talked about or not. I wouldn't say because we weren't talking to him very long.

MS. O'BRIEN: Okay. When you were speaking to him, did he, did he tell you he was – did he – how did he identify himself? Do you remember?

MR. R. DUNPHY: Well, he – well, Debbie answered the door. He showed his badge and, you know.

MS. O'BRIEN: Okay. And did he say what force he was with?

MR. R. DUNPHY: It would be on the badge, sure, RNC.

MS. O'BRIEN: Okay. So you – at that time did you know he was an RNC officer?

MR. R. DUNPHY: Yeah, she knew. Yeah.

MS. O'BRIEN: Debbie knew.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Debbie, your wife, knew –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – he was an RNC officer? All right.

Did you see him show his badge or is that information you got from your wife after?

MR. R. DUNPHY: Got from the wife after.

MS. O'BRIEN: Okay. Did you see him taking any notes while he was there?

MR. R. DUNPHY: No, I don't think so. I don't know, I was only – like I said, he wasn't there long enough to be doing all this, what you're asking me.

MS. O'BRIEN: Okay, that's fine. I'm just asking the questions –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – to make sure I get out everything you remember.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: All right. Do you remember seeing him with anything in his hands? Like did he have a notebook or a file folder or anything in his hands?

MR. R. DUNPHY: No, I don't remember.

MS. O'BRIEN: You don't remember? Okay.

How long was – how long was Constable Smyth in your house?

MR. R. DUNPHY: I can't see him being there –

MS. O'BRIEN: Or at your door?

MR. R. DUNPHY: I can't see him being there no more than a couple of minutes.

MS. O'BRIEN: Okay. Did he say what he was doing next?

MR. R. DUNPHY: No, he didn't – no, no, he just went. He left at the time. I don't know, he didn't say what he was going to do next.

MS. O'BRIEN: Okay. Do you remember what he was wearing?

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. Was he in a uniform? Was he in a police uniform?

MR. R. DUNPHY: He could have but I didn't – I still wouldn't remember what he had on him.

MS. O'BRIEN: Okay. When he left, did he leave you with any information or did he leave your wife with any information?

MR. R. DUNPHY: No.

MS. O'BRIEN: No? Did he, did he leave a business card?

MR. R. DUNPHY: Oh yeah, wait now. No – I don't think he did. No.

MS. O'BRIEN: Okay. Do you know whether he left a business card with your wife?

MR. R. DUNPHY: Yeah, I think so. I'm not sure now, I mean I'm guessing.

MS. O'BRIEN: But you think he might have?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay. Did you see what he was driving?

MR. R. DUNPHY: I never seen him with the wagon when he even left the yard, but I did see it after, like a Suburban.

MS. O'BRIEN: Okay. You saw it after but not while he was there at your house, is that right?

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. We'll get to after when you saw it, but while he was there you didn't see what he was driving?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay. Now, I know we're going to get later on to when you heard about the shooting, but after Constable Smyth left your house and before you heard about the shooting, did you tell anyone that Constable Smyth had been in your house or talked to anyone about it?

MR. R. DUNPHY: No.

MS. O'BRIEN: No? Okay. So you didn't say to anyone –

MR. R. DUNPHY: No.

MS. O'BRIEN: – a police officer was just by looking to speak to my brother?

MR. R. DUNPHY: No, no, no.

MS. O'BRIEN: Okay. What about your wife, to your knowledge did she tell anyone?

MR. R. DUNPHY: Before the shooting or after?

MS. O'BRIEN: Before the shooting.

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. And your son doesn't speak –

MR. R. DUNPHY: No.

MS. O'BRIEN: – is that right?

MR. R. DUNPHY: That's right.

MS. O'BRIEN: Okay, all right. And were you with your wife the full time from after, say after Constable Smyth left until you heard about the shooting, were you together with your wife all that time?

MR. R. DUNPHY: Oh, yes.

MS. O'BRIEN: Now, is there anything else about that interaction with Constable Smyth that you remember?

MR. R. DUNPHY: No, there's nothing else.

MS. O'BRIEN: Nothing else that you can remember?

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. So what did you do after he left?

MR. R. DUNPHY: I suppose after a while we went for a drive, because the young fellow wants to go for a – we went down the road, down that way.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: Constable Smyth was standing in the driveway.

MS. O'BRIEN: All right. So you went for a drive. So who was in the car?

MR. R. DUNPHY: Three of us.

MS. O'BRIEN: Okay. And so you drove by your brother's house?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: And tell me, tell the Commissioner exactly what you saw.

MR. R. DUNPHY: Just see him there standing by the door of the wagon.

MS. O'BRIEN: Okay. And when you say the wagon, what's the wagon?

MR. R. DUNPHY: That Suburban.

MS. O'BRIEN: Okay, the Suburban. You understood that to be his vehicle, did you?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: And was there any other vehicles around, any other –

MR. R. DUNPHY: No.

MS. O'BRIEN: No? Was Donnie's –?

MR. R. DUNPHY: Donnie's could be. It was up in front of it, I think. It was, to tell you the truth, yeah, because he was home at the time then.

MS. O'BRIEN: How did you know he was home at the time?

MR. R. DUNPHY: Could see the wagon up in front – we had to see the wagon in front of his rig, his Suburban.

MS. O'BRIEN: Okay. So you're saying you saw the wagon in front of his Suburban.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: So who – let's – I'm going to clarify now all these vehicles, okay. So who owned the Suburban, as far as you knew?

MR. R. DUNPHY: Police.

MS. O'BRIEN: The police officer. And what other vehicle was there?

MR. R. DUNPHY: The black, whatever Donnie was driving.

MS. O'BRIEN: Okay. Do you remember what kind of car that was, or vehicle that was?

MR. R. DUNPHY: No, it was a four-be-four. I know it was black – not a car.

MS. O'BRIEN: A black 4x4?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Did you say it was not a car?

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. So it was some other kind of vehicle, not a car.

MR. R. DUNPHY: Yeah. One of those Jeeps, I suppose, yeah.

MS. O'BRIEN: Okay. Now, were they – were either of them on the road or were they in the driveway, or where were they?

MR. R. DUNPHY: In the driveway.

MS. O'BRIEN: Both of them in the driveway?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: And which one was closer to the house?

MR. R. DUNPHY: Donnie's.

MS. O'BRIEN: Okay. And so you drove by and say you saw the police officer.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: So tell the Commissioner about what you saw.

MR. R. DUNPHY: I just seen him there standing in the yard. We just went on past, down the road then and came back up, but never looked in coming back up, just went on the other way then.

MS. O'BRIEN: Okay. So when you drove by, did you sort of slow down and have a look?

MR. R. DUNPHY: No, not really.

MS. O'BRIEN: Okay. So you were just able to see that –

MR. R. DUNPHY: We could see where he is after being talking to him and me, you know, then he came out again. He was standing there by his wagon.

MS. O'BRIEN: Okay.

Did you see him doing anything?

MR. R. DUNPHY: No.

MS. O'BRIEN: Did you see him taking any notes?

MR. R. DUNPHY: No, no.

MS. O'BRIEN: Talking on a cellphone?

MR. R. DUNPHY: No, never – no.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: Either way, we just drove along and seen him standing there standing on –

MS. O'BRIEN: Okay.

Before he left your house, did Constable Smyth ask you to let him know if Mr. Dunphy, Donald Dunphy, came home?

MR. R. DUNPHY: No, no.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: No.

MS. O'BRIEN: All right. Any idea why he might have left his business card with your wife?

MR. R. DUNPHY: No.

MS. O'BRIEN: When you saw him standing by his vehicle, was his – do you remember if the car door or the vehicle door was open or closed?

MR. R. DUNPHY: The door was open.

MS. O'BRIEN: The door was open, and which door?

MR. R. DUNPHY: The driver side.

MS. O'BRIEN: Okay.

Do you remember if there was any lights going, police lights going?

MR. R. DUNPHY: No, she was just – no, she wasn't, just a black suburban.

MS. O'BRIEN: Okay, so you didn't see any –

MR. R. DUNPHY: There was no lights on it. She didn't have lights, not on the roof anyway.

MS. O'BRIEN: Okay, so she was an unmarked type car, was she?

MR. R. DUNPHY: Yeah, right, okay.

MS. O'BRIEN: All right.

But you didn't see any lights going on the dash or anything like that?

MR. R. DUNPHY: No, no.

MS. O'BRIEN: Okay.

So you went for a drive, you went – I think you said you went, drove and you saw it. So what did you think when you went by and you saw the police officer there in the driveway?

MR. R. DUNPHY: I just thought he was in – he just said to me he wanted to have a talk to him, which that was what we thought he was in – we don't know he was in, after being in there then or not but he was there, if he got to meet or talk to him or what, at that time.

MS. O'BRIEN: Okay. And then so you drove down and you had a drive and you came back and you passed Mr. Dunphy's house again, is that what you are saying?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Did you see anything the second time you passed by?

MR. R. DUNPHY: Never looked – we did not look.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: Just drove on through.

MS. O'BRIEN: All right.

Do you remember when you heard about the shooting?

MR. R. DUNPHY: The daughter phoned I think, and I think we were in the car, about the shooting in Mount Carmel, yes.

MS. O'BRIEN: Okay.

When you say the daughter, is that your daughter?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Your daughter called and while you were out for that drive, is that what you're saying?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Do you remember what she told you?

MR. R. DUNPHY: That's all, just said there was a shooting in Mount Carmel, that's all she, you know, that is all she could tell us. She just heard it on the radio or on something.

MS. O'BRIEN: Okay.

Do you remember if that was before or after you had seen Constable Smyth standing in your brother's driveway?

MR. R. DUNPHY: After we were gone by.

MS. O'BRIEN: Okay.

And did you ever hear any gunfire that day?

MR. R. DUNPHY: We never heard nothing, no.

MS. O'BRIEN: Okay.

Do you remember how long was it when you said goodbye to Constable Smyth and he left –

MR. R. DUNPHY: I don't know.

MS. O'BRIEN: – the house and you got in your car for the drive?

MR. R. DUNPHY: Yeah, I don't know. I couldn't say.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: I'm only guessing.

MS. O'BRIEN: But it was it like, can you give the Commissioner some idea? Like, was it a matter of minutes –

MR. R. DUNPHY: It could be an hour.

MS. O'BRIEN: – a couple of hours?

MR. R. DUNPHY: It could be an hour.

MS. O'BRIEN: Okay. Would it have been any more than an hour?

MR. R. DUNPHY: I wouldn't say not much more than an hour.

MS. O'BRIEN: Okay, so that's probably the longest it would have been, is it?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Could have been less than that? Could it have been less than an hour?

MR. R. DUNPHY: I won't say – I don't know. I'm only – I don't think. I'm only guessing.

MS. O'BRIEN: Okay, that's fine. It's okay to say that. If you don't know, you don't know.

Now, when you heard about the shooting, when your daughter called and told you about the shooting in the area –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – did you connect that at all with your brother?

MR. R. DUNPHY: No.

MS. O'BRIEN: No.

MR. R. DUNPHY: Because there was an ambulance up the road from us to this house. We figured there was something going on there.

MS. O'BRIEN: Okay, completely other house, completely unrelated?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay. When did you first learn that it was your brother?

MR. R. DUNPHY: I couldn't answer that. I'd say it was an hour or so after.

MS. O'BRIEN: Do you remember how it was you learned it was your brother shot? Do you remember how you found that out?

MR. R. DUNPHY: No, I don't. No.

MS. O'BRIEN: Did you know that evening that your brother had been shot?

MR. R. DUNPHY: Oh, yes.

MS. O'BRIEN: So you'd found out –

MR. R. DUNPHY: I don't know what way – how I heard it. We were still driving, I suppose, when we heard it. I'd be thinking.

MS. O'BRIEN: So you think you were still in the car when you heard it.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: How long was your drive? Do you remember how long you were out for a drive?

MR. R. DUNPHY: Usually we'd be gone for an hour or so.

MS. O'BRIEN: Okay. And when you found out, at that time, did you know that your brother was dead?

MR. R. DUNPHY: No.

MS. O'BRIEN: Do you remember when you found out he had passed away?

MR. R. DUNPHY: When we came back and see all the, you know, police cars there.

MS. O'BRIEN: Did you have to – were you stopped by a police car when you were trying to get back to your house?

MR. R. DUNPHY: No, no.

MS. O'BRIEN: Okay. So you were just able to go right up to your driveway –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – as usual. Okay.

What direction had you gone for your drive? Like towards the Salmonier Line, was it?

MR. R. DUNPHY: Yeah, that way, yeah.

MS. O'BRIEN: So you started your drive, you went down towards Mitchells Brook –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – and then you turned around and come back and gone out of longer drive, is that –

MR. R. DUNPHY: That's right.

MS. O'BRIEN: – the idea? Okay. All right.

Now, after the shooting, I'm going to ask you a few questions about that, Mr. Dunphy, okay?

Now, do you know, do you know an RNC officer, Mike Adams?

MR. R. DUNPHY: Mike, yes.

MS. O'BRIEN: Okay, how do you know Mike?

MR. R. DUNPHY: I knew Mike for – he got – he built a cabin in our area and I done all the backhoe work for him. That's how I come to meet Mike. So –

MS. O'BRIEN: Have you stayed friends?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay. Like how good a friend is he? How often do you – like how often do you talk to him?

MR. R. DUNPHY: Just about every day.

MS. O'BRIEN: Okay. All right, and do you do other things with him? Do you ever go out with him?

MR. R. DUNPHY: He goes in fishing with us, hunting (inaudible) your own moose licence, say, you are hunting for moose or anything, yeah.

MS. O'BRIEN: Do you ever go out for a cup of coffee with him or anything?

MR. R. DUNPHY: Here in town, yes.

MS. O'BRIEN: Okay, so how often would you do that?

MR. R. DUNPHY: Every Monday 'cause Debbie does art class; we'd be here on Mondays.

MS. O'BRIEN: Okay, so you'd see him every Monday for a cup of coffee?

MR. R. DUNPHY: Just about, if he's not working.

MS. O'BRIEN: Okay.

Did you ever speak to him about the shooting?

MR. R. DUNPHY: No, never mentioned it.

MS. O'BRIEN: No, never mentioned it to him.

Now, I'm going to, we – part of when the RCMP was doing their investigation –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – they went and they took statements from a bunch of people. Madam Clerk, I'm going to ask you to bring up P-0098, please.

I'm just going to ask you a question about a statement –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – that someone gave the RCMP, okay.

Can you make that a little bit bigger for me, please, Madam Clerk and then I'll scroll down to where I need to go. Thank you.

I'm just going to this statement here and this was a statement actually, Mr. Dunphy, that was given by Constable Smyth's wife, and her name is Lisa. It says: "Lisa stated that Mr. Dunphy's brother that lives next door and that Joe" – and that's Constable Smyth's first name – "spoke to, actually called RNC member Mike Adams and expressed that he was happy that Joe was ok and that he was sorry he didn't give Joe a warning about how his brother could react violently and that he should of brought another officer."

MR. R. DUNPHY: No, I did say that, after he left. I did say to the wife that I should have told him that he was violent, you know, he was, you know, the way he was. We never got – I didn't get to say that to him, anyway.

MS. O'BRIEN: You said after he left that you told your wife –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – that you should have told him that you –

MR. R. DUNPHY: Yeah, 'cause he – not to go alone. I didn't get to tell him, but I should have. I watched for him after that to come back, but I never seen him when he came back.

MS. O'BRIEN: Did you have that conversation with your wife before or after you heard about the shooting?

MR. R. DUNPHY: Before.

MS. O'BRIEN: Before. And so you remember talking, saying to your wife I should have told him that he could be violent. Is that what you just said to me?

MR. R. DUNPHY: Yeah, more or less. He's not violent, but he gets angry I suppose.

MS. O'BRIEN: Okay. And did you remember telling your wife that he should have brought someone with him?

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. You didn't tell your wife –

MR. R. DUNPHY: No.

MS. O'BRIEN: – that he should have brought another officer?

MR. R. DUNPHY: No.

MS. O'BRIEN: Okay. So what exactly do you remember saying to your wife then?

MR. R. DUNPHY: That's what I said, that I should have said to him that he – you know, he gets angry. But that didn't happen anyway cause I didn't get to talk to him.

MS. O'BRIEN: Okay. And did you say – what do you mean when you said you were watching for him?

MR. R. DUNPHY: To go tell him.

MS. O'BRIEN: Okay. So you were keeping an eye out.

MR. R. DUNPHY: For a while, and then we never see nothing. You now, Debbie came back. We didn't see him.

MS. O'BRIEN: Okay. Had you seen him, you were –

MR. R. DUNPHY: That's the reason why I think we went for the drive, to see if we'd see him – at the time, yeah.

MS. O'BRIEN: Okay. But you did see him.

MR. R. DUNPHY: Yeah, he was up – he was over to the house then.

MS. O'BRIEN: Okay. So you didn't think then to tell him at that time.

MR. R. DUNPHY: No. Well, he said they thought he was after being in talking to him in the house, you know.

MS. O'BRIEN: Okay. Had you seen him before he went to your brother's house, like if you had caught him, what was it you were going to tell him?

MR. R. DUNPHY: Just to tell him that he was – you know, he's – the way he was, you know, he just gets angry when anyone like that went to his house.

MS. O'BRIEN: So in this statement here, Constable Smyth is saying that your brother had spoke – spoke – called RNC officer Mike Adams and expressed that he was happy that Constable Smyth was okay and he was sorry he didn't give him a warning about how he could react violently and he should have brought another officer.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Yeah. So are you saying you didn't say that to Mike Adams?

MR. R. DUNPHY: No, no. I never said nothing to Mike Adams.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: I wasn't talking to him. Mike called but he never – nothing was talked about.

MS. O'BRIEN: When did Mike call?

MR. R. DUNPHY: When I was talking to the police, RCMP.

MS. O'BRIEN: So was it that night or after?

MR. R. DUNPHY: That – sometime during the day.

MS. O'BRIEN: That same day?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: So sometime that same day, afternoon, or –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – you spoke to Mike Adams.

MR. R. DUNPHY: Mike.

MS. O'BRIEN: Okay. Is your wife a friend of Mike Adams?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: All right. And what about his wife?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: What's his wife's name?

MR. R. DUNPHY: Janet.

MS. O'BRIEN: Janet. Is your wife a friend of Janet's?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Do you know if your wife – if your wife was talking to Mike Adams that day?

MR. R. DUNPHY: (Inaudible) talking to Janet.

MS. O'BRIEN: She was talking to Janet that day?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: All right. Do you know what she said to Janet?

MR. R. DUNPHY: No.

MS. O'BRIEN: Commissioner, I'd like to – we're close to 11, I'd like to –

THE COMMISSIONER: Yeah, if you want a break now.

MS. O'BRIEN: – take a short break if we could.

THE COMMISSIONER: Sure, okay.

All right, we'll recess for 15 minutes, or if counsel needs longer than – yeah, Mr. Dunphy, don't run away yet. We'll need you again but it shouldn't be too long after, I don't think.

MS. O'BRIEN: It's just a break, Mr. Dunphy. We're going to be back in 15 minutes, okay?

MR. R. DUNPHY: Okay.

MS. O'BRIEN: Thank you.

Recess

MS. SHEEHAN: All rise.

The inquiry is now in session.

Please be seated.

THE COMMISSIONER: Go ahead when you're ready.

MS. O'BRIEN: Thank you, Commissioner.

Mr. Dunphy, when we broke I was, I had asked you about any communications that you had with Mike Adams – and I, I do believe he's, he's Staff Sergeant Mike Adams –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – is his rank. I'm just going to bring you to something. Staff Sergeant Adams is going to testify here at the Commission later on, so we are going to hear from him. And in prior to his coming in to give his testimony here, we interviewed him just as we did you. And I'm just going to read you a couple of things that he said about that night on April 5.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: So he said that when – he was still at his office. His was typing up his notes after he had been, he'd been to the community that evening.

He, he said, he phoned his wife and she said: Dick has phoned here a number of times, Mike. So this is the night of April 5, okay?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: And she said his brother is involved in a shooting.

So then a little while later when I was questioning Mike Adams – or sorry, when – sorry, Sandy Chaytor, my co-counsel was questioning Mike Adams, he made a few more statements. So he says that when he went home, he did call you and he did speak to you that evening on the phone.

He said: I spoke to him that evening – and it's April 5. He says he spoke to you. He said: That evening I spoke to him, and the short of it was I think I maybe started off by, you know, listen Dick, I'm really sorry about your brother.

And he said that, that you were old, you know old school, you liked trout and fishing and that kind of thing. And that you said, you know, we feel really bad. Me and Debbie feel really bad over it. Did the officer, did he get hurt or anything like that, that you'd asked him that question about the officer.

Now that I'm giving you this, does that, does that help you remember having a conversation with Mike Adams that evening?

MR. R. DUNPHY: I don't – when he phoned me, the police, RCMP, was there and I didn't talk to him.

MS. O'BRIEN: When –

MR. R. DUNPHY: Doing an interview with me at that time during the day. There was nothing talked about then.

MS. O'BRIEN: Okay, so you're saying that Mike Adams called your house while you were being –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – interviewed by the RCMP that day?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: There was nothing, nothing I mentioned (inaudible) said – I don't know what I said to him, but we hung up anyway.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: Unless he called again that night, I don't, can't remember.

MS. O'BRIEN: Okay. He's suggesting that he did spoke to you, speak to that night and you said you were feeling bad and –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – asked about how Constable Smyth was. And he also says that Ms. Chaytor asked him whether you told him that Constable Smyth had been to see you that day, and Staff Sergeant Adams said he mentioned somewhere along that the officer had been over to his door to speak to him and his wife, yes.

The substance that he talked to me about on that evening was that Constable Smyth had been over to his door speaking to him and Debbie, and the question and issue was whether he had a gun or something like that or an issue to that.

One of the things Ms. Chaytor said and one of the things, did he tell you, was did he make any inquiry on whether there was any firearms in the house. And Mike Adam said, no, I thought that when he raised fire arms he said, I don't think he got any, or something, something to that effect.

Do you remember talking to Staff Sergeant Adams that evening about Smyth being there?

MR. R. DUNPHY: It could be, but I don't remember.

MS. O'BRIEN: Okay, that's okay.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: All right, just one moment.

Thank you, Mr. Dunphy. Those are all the questions I have.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Now, other lawyers may have some questions for you and the Commissioner himself –

MR. R. DUNPHY: Uh-huh.

MS. O'BRIEN: – may have some questions for you, okay. Thank you.

THE COMMISSIONER: Now, who's going to go first?

UNIDENTIFIED MALE SPEAKER: Mr. Kennedy's going to go first, Mr. Commissioner.

MR. KENNEDY: Good morning, Mr. Dunphy. My name is Jerome Kennedy, I'm counsel for Constable Joe Smyth, and I do have some questions for you.

Sir, the first interview you gave to the police was on the day of the shooting; is that correct?

MR. R. DUNPHY: That's right.

MR. KENNEDY: And the interview appears to have taken place around 7:25 that night. Does that ring a bell with you?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: 7:45, excuse me, Sir. And that there was a Corporal Monty Henstridge; again, do you remember that name?

MR. R. DUNPHY: Not really.

MR. KENNEDY: So your memory at that point would have been good in terms of your conversations earlier that day, would it, Sir?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay. And then you gave an interview to Commission counsel, these, these two lawyers here –

MR. R. DUNPHY: Yeah.

MR. KENNEDY: – in November or December, did you?

MR. R. DUNPHY: Yep.

MR. KENNEDY: And you remember, again, talking, talking to them. The actual date, Sir, was November 9. Do you remember talking to them?

MR. R. DUNPHY: I do, yeah.

MR. KENNEDY: Okay.

So there's a couple of things I want to go through with you, Sir. If we could have – and I'm just going to try to help you refresh your memory, Sir. If we could have – or ask comments, actually, if we could have P-0095 brought up on the screen, please.

MS. SHEEHAN: (Inaudible.)

MR. KENNEDY: That is the – isn't that the statement of Constable Monty Henstridge taken – or Richard Dunphy to Constable – Corporal Monty Henstridge?

MS. O'BRIEN: Madam Clerk, P-0095 should have been the first exhibit that was entered today by me; the statement of Richard Dunphy.

MR. KENNEDY: We'll refer to that in a second but, first, a couple of general questions. As you've testified here today, Mr. Dunphy, when you came upstairs your wife was talking to Constable Smyth.

MR. R. DUNPHY: Yes.

MR. KENNEDY: You knew he was a police officer, didn't you?

MR. R. DUNPHY: I, I knew it then when he was – I could hear him asking a few questions, yeah.

MR. KENNEDY: Sir, you seem to have taken part in a limited portion of the conversation. Is that correct?

MR. R. DUNPHY: Yeah, yeah.

MR. KENNEDY: That your wife had a conversation. Do you know if your wife told Constable Smyth that she was afraid of –?

MR. R. DUNPHY: Oh yeah, I'd say she told him, yeah.

MR. KENNEDY: Okay.

Now, Sir, the first reference I want to make here, if we could go to page 3 of your, of the statement, please – just make sure.

MS. O'BRIEN: Mr. Kennedy, are you referring to the exhibit number or the page number of the statement? The –

MR. KENNEDY: No, it's the same exhibit, 0095, and at page 3 is – I'm going to go by the green. Madam Clerk, I'm going to go by the green –

MS. O'BRIEN: Okay.

MR. KENNEDY: – numbers up top. So it would be page 3, that's it.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Thank you.

So in this particular case you indicate, if you just look at that first few lines Mr. Dunphy, that Constable Smyth asked you if your brother would have a gun in the house –

MR. R. DUNPHY: Hu-huh.

MR. KENNEDY: – and you say: "... we didn't know if he had a gun or not cause he never do."

MR. R. DUNPHY: Yeah.

MR. KENNEDY: What did you mean by that, Sir?

MR. R. DUNPHY: I mean he never used a gun.

MR. KENNEDY: Pardon?

MR. R. DUNPHY: He never did use a gun.

MR. KENNEDY: Okay. So did you know if he had a gun in the house or not on that date?

MR. R. DUNPHY: He had, like I said, he had three guns – we had three guns and the .22 – he brought me over two shotguns and the .22 was still left in his house. But I don't know but he give it to someone else or what –

MR. KENNEDY: Yes.

MR. R. DUNPHY: – 'cause I never see it after.

MR. KENNEDY: So the two shotguns were – and the purpose was to register them. Firearms needed to be registered at that point in time.

MR. R. DUNPHY: Yep, at that time, yeah.

MR. KENNEDY: Do you know why the – or was there any discussion as to why the .22 wasn't brought over?

MR. R. DUNPHY: No.

MR. KENNEDY: Okay.

MR. R. DUNPHY: I never even asked. I never even looked for it after.

MR. KENNEDY: Now if we go to page 4, and this is a discussion, Sir, and it's, again, just for clarification. You've said this today, but at page 4, if you see at the bottom – line 15, Mr. Dunphy. See on the left-hand column, line 15?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay. What you say there, you're talking about the relationship with your brother. "... he kind of fell out with us cause he's a fellow you couldn't deal with." What did you mean by that?

MR. R. DUNPHY: What did I mean by that? He just – well, he couldn't deal with us at all. He had a few friends but he couldn't – we couldn't really talk to him.

MR. KENNEDY: And what do you mean when you couldn't talk to him? Can you give us an example? When you say you couldn't deal with him, you couldn't talk to him, what did you mean by that?

MR. R. DUNPHY: It's like when you put the garbage there (inaudible). Oh, I don't know about that.

MR. KENNEDY: So when the garbage was put out on the piece of property across from your house, do I understand that correctly?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: It was a piece of property that you had built yourself.

MR. R. DUNPHY: Yeah. I filled it in 'cause there was a pond there first.

MR. KENNEDY: Yeah. So you drive a backhoe or you drive construction –

MR. R. DUNPHY: Yeah.

MR. KENNEDY: – is that what you mean when you filled it in?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay. And so then your brother, Donald, then put garbage and car wrecks on that land, did he?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Was that right across from your house?

MR. R. DUNPHY: It was in front of the house.

MR. KENNEDY: Now did that upset you and/or your wife?

MR. R. DUNPHY: It did two of us, yes.

MR. KENNEDY: Okay. Did you try to talk to him about that?

MR. R. DUNPHY: We did.

MR. KENNEDY: And what happened?

MR. R. DUNPHY: Nothing happened, nothing.

MR. KENNEDY: What would he say to you?

MR. R. DUNPHY: I don't remember.

MR. KENNEDY: Sorry?

MR. R. DUNPHY: I don't remember what he would – what he would say.

MR. KENNEDY: Was there any rational or reasonable discussion, like we'll work this out? Was there any way to work it out?

MR. R. DUNPHY: No, no.

MR. KENNEDY: Now, you've made reference to things being done to your wife's plants and flower garden. Is that correct?

MR. R. DUNPHY: There was, yes.

MR. KENNEDY: Did you ever have any discussions with your brother about, like, not doing that?

MR. R. DUNPHY: I didn't, no.

MR. KENNEDY: Did you ever smell anything which would indicate that he had actually done something to them?

MR. R. DUNPHY: You could smell it, yeah.

MR. KENNEDY: What would you smell?

MR. R. DUNPHY: It was a strong smell.

MR. KENNEDY: Sir, I'm going to ask you now to go to – I'll ask Madam Clerk if we could jump ahead to page 11 of the same statement. Mr. Dunphy, I'm going to ask you now to go down to line 11.

The police officer asks you: Does he have any family – again, referring to your brother, Donald. “Does he have any family around that he's close with?”

THE COMMISSIONER: Sorry, I haven't got it yet.

MR. KENNEDY: Sorry; page 11, Commissioner.

THE COMMISSIONER: You're page 11, line 11?

MR. KENNEDY: Line 10 and 11, yes.

THE COMMISSIONER: Who did – okay, “you and him haven't had a very good relationship by the sounds of it. Does he have any family...” – that one?

MR. KENNEDY: Yeah. So you indicated here today, as you did in your statement, he had – that he wasn't close with you.

MR. R. DUNPHY: No.

MR. KENNEDY: You're also saying he wasn't close to his other brothers, was he?

MR. R. DUNPHY: No.

MR. KENNEDY: Do you know if anything in particular happened with them?

MR. R. DUNPHY: No, no, nothing really happened.

MR. KENNEDY: Okay. Then we go down to lines 18, 19, 20, Sir. Again, you're saying you couldn't deal with him. “You couldn't trust him ... cause you didn't know what he had over there.”

What did you mean by that? That's line 18, 19, 20, that same page, Sir, if you look at the screen.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay. “You couldn't trust him ... cause you didn't know what he had over there.” What did you mean by that?

MR. R. DUNPHY: Well, I knew he had the gun. The gun was left there, but not saying he was going to – the other gun was still over there, but I didn't know but he give it to someone else.

MR. KENNEDY: Okay. The next page, Sir, top of page 12 – if we could just flip to the next page. Again, you make the same comment. We wouldn't go over – look at line 1, Sir. “We wouldn't go over around cause you didn't know what was there, you know, with him.”

Again, what did you mean by that, Sir? Can you explain that?

MR. R. DUNPHY: I know I went there one day; I believe he chased me with a stick.

MR. KENNEDY: And when did that happen?

MR. R. DUNPHY: And that was the first and last time I went there.

MR. KENNEDY: Okay. Were you ever inside Mr. Dunphy's home?

MR. R. DUNPHY: I might've been in there once or twice.

MR. KENNEDY: Okay. So this incident where he chased you with a stick, was that the last time you would have had –

MR. R. DUNPHY: Yeah.

MR. KENNEDY: – dealings with him? So that would have been 10 to 15 years ago, would it?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: The line 4, Sir: Well it could be any – you didn't know cause the way he used to be right – he'd be right out of it, eh, like he'd froth out of the mouth and everything.

What did you mean by that: He'd be right out of it, like he'd froth out of the mouth?

MR. R. DUNPHY: Well, he would be mad really.

MR. KENNEDY: Okay.

THE COMMISSIONER: So that's page –?

MR. KENNEDY: That's page 12, Commissioner.

THE COMMISSIONER: Twelve, yeah.

MR. KENNEDY: Lines 4 to 7.

THE COMMISSIONER: Okay.

MR. KENNEDY: Okay, let's break it down: Well, it could be, you didn't know cause the way he used to be right – he'd be right out of it, eh.

First, if you could deal with that. What do you – is that any different than what you're saying so far?

MR. R. DUNPHY: No.

MR. KENNEDY: Okay. Like he'd froth out of the mouth – again, perhaps you could describe that for us.

MR. R. DUNPHY: He would be – I'd say he get – you know when he get mad or whatever it was, he would be, you know, not violent but just, well, singing out at us or bawling out at us or roaring at us.

MR. KENNEDY: Okay. So when you use the word, "froth out of the mouth," do you mean there are things coming from his mouth or just he was angry.

MR. R. DUNPHY: Angry, yeah.

MR. KENNEDY: Okay. And then you indicate a line further down on page 15 – and again, you’ve talked about this. You indicate he didn’t threaten you, correct?

MR. R. DUNPHY: No.

MR. KENNEDY: But he threatened your wife. Do you see that line 15?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Did she tell you that or did you see that or hear that happen?

MR. R. DUNPHY: I was there. One day I could hear him roaring out at her. I wouldn’t remember what it was.

MR. KENNEDY: Okay.

MR. R. DUNPHY: I think that’s the time I went over and I had to come back.

MR. KENNEDY: If I could go to page 14, this is where the police officer is asking you to describe the .22 rifle. Do you remember that during that first interview?

MR. R. DUNPHY: Yeah, yeah.

MR. KENNEDY: And you gave a description of it, correct?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Then you say in line 14 – line 17 – page 14, excuse me, line 17, 18 and 19. If you just read those lines, just have a look at them, Sir. You talk about it could be 15 years or more: “Why, is it over there?” That’s what you asked the police officer.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Why did you ask the police officer that?

MR. R. DUNPHY: ’Cause he never brought it over to me. He was supposed to give me the three.

MR. KENNEDY: Okay. In page 15, lines 15 to 17, Sir, you refer to him falling out with a doctor: He went to buddy in Holyrood, Wells, Paul Wells.

Who is Paul Wells?

MR. R. DUNPHY: Walsh.

MR. KENNEDY: Walsh is –

MR. R. DUNPHY: Walsh it’s supposed to be.

MR. KENNEDY: Okay, you’d indicated he fell out with him. How did you know that?

MR. R. DUNPHY: What?

MR. KENNEDY: Read your statement. Just, I’m just referring you to your statement, Mr. Dunphy.

MR. R. DUNPHY: Okay. Yeah, I see it. It was right there, yeah.

MR. KENNEDY: He went to buddy in Holyrood, Walsh – Wells, Paul Wells. Fell out with him.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: What knowledge did you have of him falling out with Dr. Walsh or Wells?

MR. R. DUNPHY: I don't know. I just heard that he –

MR. KENNEDY: Okay.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: So that's something you don't have knowledge of yourself?

MR. R. DUNPHY: No, no.

MR. KENNEDY: Okay.

If I could ask you to look at page 17 now, Madam Clerk, if we could bring that out. At lines 2 and 3 we have a Corporal Burke. Do you remember Burke being present at this interview?

MR. R. DUNPHY: Burke, what –

MR. KENNEDY: A second police officer being present with Corporal Henstridge.

MR. R. DUNPHY: Just out (inaudible).

MR. KENNEDY: Okay. At the top of page 17, lines 2 and 3, Burke says: "You say you fell out with your brother. Is there anything that"

You say: "We didn't fall out with him. We just couldn't deal with him."

MR. R. DUNPHY: Yeah.

MR. KENNEDY: So what did you mean by that?

MR. R. DUNPHY: That's what I mean, I think, we just couldn't – I couldn't talk to him really.

MR. KENNEDY: Okay.

Lines 9 and 10, you're saying again: "... you couldn't talk to really. Everybody owed him something."

What does that mean? Should it be owed or is it owned?

MR. R. DUNPHY: No, no. He thinks the world owed him, owed him something I suppose.

MR. KENNEDY: No, but you see the word is there is owned, Sir.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: O-w-n-e-d.

MR. R. DUNPHY: Oh, okay.

MR. KENNEDY: Should it be owed him something?

MR. R. DUNPHY: No, no.

MR. KENNEDY: Okay, explain, Sir. What do you mean by it?

MR. R. DUNPHY: I don't know, just the way he was. Everybody – I don't know the way to put it.

THE COMMISSIONER: This – I'm not sure if, if Mr. Dunphy is following you, Mr. Kennedy.

MR. KENNEDY: Okay, sorry.

THE COMMISSIONER: It's lines 9 and 10. In the statement there, there may be a misprint because it says: "Everybody owned him something."

MR. R. DUNPHY: Yeah.

THE COMMISSIONER: Did you think – did you mean everybody – okay, everybody owed or owned?

MR. R. DUNPHY: Owe.

THE COMMISSIONER: Everybody owed him something, is that what you're saying?

MR. R. DUNPHY: That's the way he talked, I suppose.

THE COMMISSIONER: Everybody owed him something.

MR. R. DUNPHY: Yeah.

THE COMMISSIONER: Yeah, I think that's a typo, yeah.

UNIDENTIFIED MALE SPEAKER: Yeah.

MS. O'BRIEN: I think it's corrected at line 11.

THE COMMISSIONER: Line 11 there.

Yeah, yeah, it's on the next line there, see.

MR. KENNEDY: Okay. Everybody owed him something, yeah.

Okay, Sir, at the bottom of that same page 17 you're being asked by the police whether or not he has any friends or relatives and you refer to one of his drug buddies and the next page you name Colin Dinn. What are you talking about there?

MR. R. DUNPHY: Well, he used to visit him a lot.

MR. KENNEDY: Okay, but you referred to one of his drug buddies. What do you call – why do you use that term?

MR. R. DUNPHY: Why? (Inaudible) mention, you knew he was into the drugs.

MR. KENNEDY: Now, did you know that Mr. Dunphy had a licence to grow or to –

MR. R. DUNPHY: Not on the last of it, no.

MR. KENNEDY: Okay, he had a licence to grow or –

MR. R. DUNPHY: Yeah.

MR. KENNEDY: I guess, I haven't seen the licence but I think it's either to produce and/or possess marijuana, a certain amount.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Did you know that he had –

MR. R. DUNPHY: No.

MR. KENNEDY: Okay, if I could ask you to go to page 19, Sir. I'm going to ask you to read to yourself, Sir, lines 8 to 17, if you could just read that to yourself Mr. Dunphy.

Okay, have you seen that, Sir?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: So you were asked by the corporal: When you found out what happened now, what was your reaction to what happened? Were you surprised by all this or?

You say: Not really. Henstridge says: Really. Dunphy: No. Why do you say that? She'll tell you all about it when she comes down.

So let's break that down. The police officer asked you were you surprised by the fact that your brother had been, had been shot. And you indicate not really first – that's your first question or first statement.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: What did you mean by that?

MR. R. DUNPHY: He was so negative about everything, you know, in a way, you know. And I don't know what happened when he went in when the officer got in there.

MR. KENNEDY: Okay. Then it says: Why do you say that?" And then you say: "She'll tell you all about it when she comes down." What did you mean by that?

MR. R. DUNPHY: Well, he used to give her a hard time of it.

MR. KENNEDY: Okay, so is it, Sir, that you are a man of fewer words and that your wife is more of a talker?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Or is that a good description of –

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay.

Then you go on to say – Henstridge says: Okay. You weren't surprised? No, not really. We were kind of nervous with him here too.

Again, what – if you could explain what you'd mean by that, Sir.

MR. R. DUNPHY: Well, you get nervous. It was – he was living alongside of us and he, you know, sometimes he wasn't dependable I'd be thinking.

MR. KENNEDY: Okay.

Now, do you remember, Sir, a statement given to the police where you and your wife were, I think were interviewed together. Do you remember that?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay. If we could just bring up P-0097, I'm just going to show it to you, Sir. I don't really have a whole lot to ask you about it but I want to get around – I want to deal with the circumstances.

This is an interview, Sir, that takes place with a Constable Peter Gosse on November 8, 2016, at 6:34 with you and your wife. Do you remember that interview?

MR. R. DUNPHY: November 16.

MR. KENNEDY: November 8, 2016, at 6:34.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Do you remember that interview?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay. This is one about the anonymous letter. Do you remember that?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: So that the police – an anonymous letter had come to the police that someone had seen something or had information to offer in relation to your brother's death.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay. So the police came to take a statement from you and your wife. And do you remember them asking you whether or not anyone came by boat –

MR. R. DUNPHY: Yeah.

MR. KENNEDY: – to your brother's residence on a daily basis or on a regular basis. Do you remember that?

MR. R. DUNPHY: I remembers that, yeah.

MR. KENNEDY: Did they actually show you the anonymous letter?

MR. R. DUNPHY: No.

MR. KENNEDY: Did they tell you what was contained in the anonymous letter?

MR. R. DUNPHY: They said about the boat.

MR. KENNEDY: Okay. So across the road, if I understand you correctly, is that a pond or is it a – what, it's a pond across the road, is it?

MR. R. DUNPHY: Between that and, and the ocean.

MR. KENNEDY: It goes out to the ocean?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay. So basically they were asking you if anyone visited your brother on a daily basis or on a regular basis by boat.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Is that my – do I have that correct?

MR. R. DUNPHY: That's correct.

MR. KENNEDY: They also then asked you whether or not your brother had any regular visitors and you mentioned, as you did today, Colin Dinn and Tom Hearn. Do you remember that?

MR. R. DUNPHY: Tom Hearn, yeah.

MR. KENNEDY: Okay. Did you see anyone else around your brother's residence or were you, were you even looking?

MR. R. DUNPHY: Not really. No, we never seen no one any different.

MR. KENNEDY: Now, is Tom Hearn also a neighbour of yours?

MR. R. DUNPHY: He is because he just lives not too far from us.

MR. KENNEDY: He doesn't live too far, does he? Okay.

So that's that interview is about the anonymous letter and the person coming by boat.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay.

Now, on November 9 you were, you gave an interview with Commission counsel, correct?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Do you remember these two lawyers here?

MR. R. DUNPHY: Uh-huh.

MR. KENNEDY: In this – and I’m going to read you, Sir, an excerpt here at page 19 and ask you again what you mean was – some of it’s a term you used already. Because we couldn’t deal with him, you know, I don’t know what it was. Everything was bothering him, like the world owed him something.

MR. R. DUNPHY: Uh-huh.

MR. KENNEDY: Now, you said that in your previous statement about the world owed him something. Everything was bothering him. What did you mean by that?

MR. R. DUNPHY: It seemed like he was trying to think that we owed him something.

MR. KENNEDY: Okay.

Now, there had been some incidents, your father – or again, are you aware of your wife’s statement or evidence that your father was going to leave your son, Chris, the house?

MR. R. DUNPHY: Oh, yeah.

MR. KENNEDY: And that changed and he left it to Don. Is that correct?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay. Did that cause any hard will on your part?

MR. R. DUNPHY: No, no.

MR. KENNEDY: Okay.

Again, I’m going to refer you something, Sir, it’s just another term that you used to see if it’s any different than what you’ve said to date.

You’re being asked what it was like to deal with him. You couldn’t deal with him at all because he’d just flip right out when we’d go in talking to him, if you wanted to talk to him about stuff.

When you used the word flip right out, what do you mean by that?

MR. R. DUNPHY: Just sort of roaring out, singing out at ya.

MR. KENNEDY: Sorry?

MR. R. DUNPHY: Just roaring out or bawling out at ya, I suppose.

MR. KENNEDY: Did you hear him ever yell out at your wife?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: What did you hear – ever hear him call your wife names?

MR. R. DUNPHY: I did, yeah.

MR. KENNEDY: What names did you hear?

MR. R. DUNPHY: I don’t know. I can’t remember. I know he did call her names.

MR. KENNEDY: Did you ever hear him call her a witch?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Did you ever hear him use profane or vulgar language towards –

MR. R. DUNPHY: Oh, yes.

MR. KENNEDY: Do you remember, Sir, seeing the glove on the stick?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay, and perhaps you can tell us about that.

MR. R. DUNPHY: That was – all that was he would come over on our land just to rub down a stick, the one with the glove one it, saying it was his.

MR. KENNEDY: Okay. So you – do you know when that took place?

MR. R. DUNPHY: That was around all the same time, when the garbage was going on and all that.

MR. KENNEDY: Now, Sir, I just want to – we're trying to clarify exactly what was said or what you said to the police officer about whether or not your brother had a gun, where you said I don't know or no.

Do you know what you – exactly what you said?

MR. R. DUNPHY: I did – I told him I didn't know.

MR. KENNEDY: Okay.

So I'm going to read you a couple of lines now, Sir, from your interview with Commission counsel. For reference if they want to follow along, it's pages 50 – 49 to – excuse me, 50, 51.

So you were asked by Ms. O'Brien, the lawyer here on the left, and when you joined him what happened?

Yeah, it wasn't much – that's when you joined your wife at the door with Constable Smyth – it wasn't much of it to it then either when I joined him. He just asked me, did I have a gun, did he have a gun. And I said, I couldn't say yes, because I didn't know then, you know. I knew he had the gun, the .22, but I said I didn't know but he had it gone, you know, really.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: So at that point you're saying I didn't know.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay, you told him you didn't know.

MR. R. DUNPHY: I told him I didn't know.

MR. KENNEDY: Okay, but this is where I get a little bit confused, so perhaps you can help clarify the confusion.

So Ms. O'Brien then says to you, so when Constable Smyth asked if your brother had a gun, what did you say? Your answer then is I think I said no. I didn't give him an answer that he did have one at that time, because I didn't know.

MR. R. DUNPHY: No.

MR. KENNEDY: So I'm a little bit confused here, you're saying, you appear to me be saying I told him I didn't know, and then another time you appear to be saying you told him no.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Is there any difference in your mind between what you're saying there?

MR. R. DUNPHY: I'm sure I told him no. No, that wouldn't be right, though. I'd say I didn't know.

MR. KENNEDY: Okay.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: That's exactly what I'm trying to clarify, Sir.

MR. R. DUNPHY: Yeah, that's right.

MR. KENNEDY: Okay.

MR. R. DUNPHY: 'Cause there was a gun, but like I said, I didn't know but she was gone.

MR. KENNEDY: Okay. So did you tell Constable Smyth I don't know if he has a gun, or did you say no, he doesn't have a gun?

MR. R. DUNPHY: I don't know.

MR. KENNEDY: Okay. Because really, you didn't know at that point.

MR. R. DUNPHY: No.

MR. KENNEDY: Sir, do you remember an incident whereby your wife, Debbie Dunphy, told Mr. Dunphy, your brother's, Donald's daughter Meghan that she'd felt that your, Mr. Dunphy, Donald Dunphy, should see a psychiatrist or get counselling? Do you remember that incident?

MR. R. DUNPHY: Yeah. I remember that, yeah.

MR. KENNEDY: Were you there when that incident happened?

MR. R. DUNPHY: No.

MR. KENNEDY: What was the result of that incident, do you know?

MR. R. DUNPHY: Nothing.

MR. KENNEDY: Okay. Did that increase the arguments, or was this just another part of the arguments that were ongoing?

MR. R. DUNPHY: It could have increased it.

MR. KENNEDY: Okay. Do you know when that took place?

MR. R. DUNPHY: No.

MR. KENNEDY: Okay.

Again, there might be some confusion on my part, Sir, but if you could help here. A little later on in the interview with Commission counsel they asked, they're asking you about issues with your brother Donald, and there's some discussion – remember the discussion about him being on *Open Line*?

MR. R. DUNPHY: Okay.

MR. KENNEDY: Do you remember that discussion with counsel?

MR. R. DUNPHY: No.

MR. KENNEDY: Okay, you don't remember that. Did you ever hear your brother on *Open Line*?

MR. R. DUNPHY: Yes.

MR. KENNEDY: And how often would you have heard him there?

MR. R. DUNPHY: Pretty often.

MR. KENNEDY: Okay. And what – do you know what he'd be talking about?

MR. R. DUNPHY: Mostly drugs; weed, you know.

MR. KENNEDY: On *Open Line*?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay. Was there any reference to Workers' Compensation?

MR. R. DUNPHY: Oh it could – yeah.

MR. KENNEDY: Yeah, okay.

MR. R. DUNPHY: It could be.

MR. KENNEDY: Did you understand that he had a significant issue with the way he felt he was being treated by Workers' Compensation?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: And that issue – was it your understanding so that that issue had been ongoing for quite some time?

MR. R. DUNPHY: That's right.

MR. KENNEDY: Yeah. Because there's no question, Sir, your brother was very seriously injured in that –

MR. R. DUNPHY: He was, yes.

MR. KENNEDY: – in that accident. But if I understand correctly, he went to work with you on the highways after that incident.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Did he also go to work with Bull – at Bull Arm after that incident?

MR. R. DUNPHY: Yeah. He was in Bull Arm before that.

MR. KENNEDY: Okay. He was in Bull Arm before he went to work with you.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: When you say you worked with Transportation and Works, Sir, where did you work? What did you do?

MR. R. DUNPHY: Heavy equipment.

MR. KENNEDY: Okay, so you did heavy equipment. Do you know how long your brother worked with Transportation and Works?

MR. R. DUNPHY: I think so – it have been no more than two or three years.

MR. KENNEDY: Now, Sir, are you aware of an incident where your wife said she saw or thought she saw your brother out around her house one night?

MR. R. DUNPHY: She was telling me she saw him, yes.

MR. KENNEDY: Okay. Did you or – did you ever see him around your house at night?

MR. R. DUNPHY: No, no.

MR. KENNEDY: But she told you that, did she?

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Do you know when that happened?

MR. R. DUNPHY: Not really.

MR. KENNEDY: So then the question I need clarification, Sir, you're talking about the incident and counsel says – and this is now Ms. Chaytor, the lady, the counsel, the lawyer on the right – like more than 10 years ago. She's asking you when the incident occurred. This is pages 84 to 85 if – that was – you say that was going on all the time, you know, when he was there. Ms. Chaytor says: Right up until when though? You say: Until he died. Ms. Chaytor says: You were still having issues with him like that? Yeah.

So were you still having issues with your, your brother, Donald Dunphy, until he died?

MR. R. DUNPHY: Not talking to him, no. We figured he was coming around the house, you know. We're not sure this, this stuff was happening on the property but you know we didn't know who it was really I suppose.

MR. KENNEDY: So were there incidents still happening around your property until, until the time your brother died.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: Okay. And you hadn't spoken to him for 10 or 15 years –

MR. R. DUNPHY: Yeah.

MR. KENNEDY: – prior to that. Okay.

Did your wife, Sir, tell you that she was afraid or did you know? Did she ever tell –

MR. R. DUNPHY: I knew she was afraid.

MR. KENNEDY: – you she was afraid of him?

Sir, the day that the police officer came to the, to the door and spoke to you – who you now know as Constable Smyth, how long were you actually present during the discussion?

MR. R. DUNPHY: I can't see it being any more than a couple of minutes.

MR. KENNEDY: Yeah, it appears to be or, again, correct me if I'm wrong, but it appears the main reference to you seems to be whether or not there's a gun.

MR. R. DUNPHY: Yeah.

MR. KENNEDY: And then your wife, does she call you up at that point or do you come up over the stairs? Do you remember what happened?

MR. R. DUNPHY: I came – yeah. I came – say that again?

MR. KENNEDY: Oh sorry, Sir.

Did she call – did your wife call you up or did you just happen to come up over the stairs while the two of them were talking?

MR. R. DUNPHY: I think I came up over the stairs on (inaudible). This was about the gun, I tell you, at the time I came up.

MR. KENNEDY: Okay, yeah.

Okay, just one second, Commissioner.

So I just want to make sure that we're clear on this one point. This conversation where you say – or you say to your wife that you should have told him that, or warned him that your brother could get angry –

MR. R. DUNPHY: Uh-huh.

MR. KENNEDY: – that's after the constables left the house.

MR. R. DUNPHY: That's right.

MR. KENNEDY: You never told him that while he was at the house?

MR. R. DUNPHY: No. No.

MR. KENNEDY: And what you're saying is that you regretted that.

MR. R. DUNPHY: Yeah. Yeah.

MR. KENNEDY: Okay. Okay, those would be my questions.

Thank you very much, Mr. Dunphy.

THE COMMISSIONER: So next would be – have you decided who'd go next it? Otherwise, it would be Mr. Simmonds or Ms. Breen I guess, or Mr. Avis or Ms. Rasmussen.

MS. RASMUSSEN: I think ordinarily we would be next but we have no questions for this witness.

THE COMMISSIONER: You have no witnesses – no questions.

Anybody? Any counsel?

MR. AVIS: I would be next. I just have one question. I hope it helps.

Mr. Dunphy, my name is Nick Avis and I'm counsel for the Royal Newfoundland Constabulary. I just really have one question and it's when Constable Smyth was asking about the gun as I don't know. If he had asked you do you know if he has a gun, would your answer have been no?

MR. R. DUNPHY: No, it wouldn't be no.

MR. AVIS: Okay. No, no further questions.

MR. R. DUNPHY: Because I knew he had a gun. I didn't know if it was still there.

MR. AVIS: Yeah, that's okay.

THE COMMISSIONER: Okay, any other counsel with questions?

MR. DROVER: I have one question. John Drover for the RNCA.

Mr. Dunphy, following April 5, I assume that you saw Mike Adams fairly regularly up 'til this date. Have you had any conversations with Mike Adams about your brother or the incident of April 5, since that date?

MR. R. DUNPHY: No, nothing.

MR. DROVER: Pardon me?

MR. R. DUNPHY: Nothing, no.

MR. DROVER: Okay. Thank you.

THE COMMISSIONER: Any further questions for Mr. Dunphy?

Mr. Flaherty.

MR. FLAHERTY: Good day, Mr. Dunphy, Cletus Flaherty representing the Don Dunphy Community Coalition. Just got two questions.

Did you ever actually see you brother, Donald, physically froth at the mouth, ever?

MR. R. DUNPHY: Just that out around when they were – when they were at their – having trouble with her, with the garbage and that in front of the place.

MR. FLAHERTY: Okay. So I – when I say froth at the mouth, I’m not talking figuratively, I’m talking as in you physically saw froth coming out of his mouth. You’ve seen that?

MR. R. DUNPHY: Well, that’s the way we put it I suppose, but perhaps there was no froth coming out of the mouth, but he was roaring out at us and –

THE COMMISSIONER: He was what?

MR. R. DUNPHY: Singing out and bawling out and –

MR. FLAHERTY: So you just – when you say froth, it’s a –

MR. R. DUNPHY: It was – that’s what we used to call it.

MR. FLAHERTY: – descriptive term just to say that he’s angry.

MR. R. DUNPHY: What?

MR. FLAHERTY: It’s a –

MR. R. DUNPHY: He’s angry, yeah.

MR. FLAHERTY: Yeah, but you didn’t actually see like white froth ever come out of his mouth?

MR. R. DUNPHY: No.

MR. FLAHERTY: Okay.

When you were speaking with Constable Smyth when he was at your door, was there any conversation that you remember engaging in or hearing about your relationship with Donald Dunphy?

MR. R. DUNPHY: No.

MR. FLAHERTY: No.

MR. R. DUNPHY: No.

MR. FLAHERTY: Or Debbie’s relationship with Donald Dunphy?

MR. R. DUNPHY: No.

MR. FLAHERTY: Okay.

Thank you. Those are all my questions.

THE COMMISSIONER: You’re asking with Mr. Smyth, was there –

MR. FLAHERTY: Yes, when Mr. Smyth was there, I just wanted to –

THE COMMISSIONER: So any relationship.

MR. FLAHERTY: Yeah, it – would Constable Smyth, after speaking with you, in your opinion, would he have known that there was a falling out between yourself, Debbie and Donald?

MR. R. DUNPHY: No. I can't see how he would know because he –

MR. FLAHERTY: Okay.

MR. R. DUNPHY: No.

MR. FLAHERTY: Thank you.

UNIDENTIFIED FEMALE SPEAKER: (Inaudible.)

MR. SIMMONDS: Mr. Dunphy, I'm Bob Simmonds and I'm one of the counsels for Meghan.

Mr. Dunphy, I just, I want to go over – I know Mr. Kennedy has asked you some questions on this, but I'd like to go over a couple of points if I could. The day that Constable Smyth came to the house, do you remember that day?

MR. R. DUNPHY: Yeah.

MR. SIMMONDS: And you came up while Constable Smyth was talking to your wife. You're going to have to say yes or no, Sir.

MR. R. DUNPHY: Yes, yes.

MR. SIMMONDS: You did. Now, Mr. Kennedy said he thought it was only – or asked, put it to you that it was only a couple of minutes, but how did you become aware? Does your house have a doorbell?

MR. R. DUNPHY: Not – that door didn't, no.

MR. SIMMONDS: Okay. So how would you – did you hear when he knocked on the door?

MR. R. DUNPHY: I heard her talking to him.

MR. SIMMONDS: Okay. So you heard, you heard her talking to him and you came up.

MR. R. DUNPHY: Yeah, well –

MR. SIMMONDS: Okay.

MR. R. DUNPHY: – I went to the area.

MR. SIMMONDS: And you overheard the conversation between the two of them.

MR. R. DUNPHY: Yes.

MR. SIMMONDS: And you participated in that conversation.

MR. R. DUNPHY: Yes.

MR. SIMMONDS: Okay. So you would have heard anything your wife said to Constable Smyth.

MR. R. DUNPHY: Most of it, yeah.

MR. SIMMONDS: You heard most of it. And did you hear – did you hear him say he was investigating letters of threat against the government?

MR. R. DUNPHY: No.

MR. SIMMONDS: You didn't hear that?

MR. R. DUNPHY: No.

MR. SIMMONDS: But you were there for the conversation.

MR. R. DUNPHY: I heard, I heard him say he wanted to talk to him.

MR. SIMMONDS: No, no, no, no, not that he wanted to talk to him. He said I'm investigating letters of threat against the government, is what he said.

MR. R. DUNPHY: Okay.

MR. SIMMONDS: That's in your wife's statement.

MR. R. DUNPHY: Yeah.

MR. SIMMONDS: Did you hear that?

MR. R. DUNPHY: No.

MR. SIMMONDS: Well, you didn't hear that but you were there –

MR. R. DUNPHY: I was down in the basement, downstairs.

MR. SIMMONDS: No, no. I'm not talking about when you were down in the basement, Mr. Dunphy. You've told us clearly you heard them talking, you came up over the stairs and you participated in the conversation. That's what you said.

MR. R. DUNPHY: Yeah.

MR. SIMMONDS: Okay. So your wife's statement indicates that Constable Smyth said I'm investigating letters, a threat against the government is what he said. Okay?

MR. R. DUNPHY: Yeah, okay.

MR. SIMMONDS: So did you hear – you were there.

MR. R. DUNPHY: Yeah.

MR. SIMMONDS: You heard – did you hear Constable Smyth say that?

MR. R. DUNPHY: No, I didn't hear him because I didn't – when he, when he came to the door first.

MR. SIMMONDS: What – you know the problem I'm having with some of your evidence, Mr. Dunphy, is that – do you remember giving statements to the police?

MR. R. DUNPHY: Yeah.

MR. SIMMONDS: Okay. And you gave one statement that's dated April 5, 2015, which is that day. You're going to have to say yes or no, Sir.

MR. R. DUNPHY: Yes, yes.

MR. SIMMONDS: Yes. And then you gave another statement on September 4, 2015.

MR. R. DUNPHY: Yes.

MR. SIMMONDS: And you are good buddies with the police officer.

MR. R. DUNPHY: Yes.

MR. SIMMONDS: And so you're not going to lie to police officers are you?

MR. R. DUNPHY: No.

MR. SIMMONDS: No. I mean you're good buddies with the officer that we've spoken of here, Officer Adams, right?

MR. R. DUNPHY: Yeah, that's right.

MR. SIMMONDS: And you go fishing with him, you hunt with him and you know how important a police officer is?

MR. R. DUNPHY: Yes.

MR. SIMMONDS: Okay. So when you're talking to the police officers you're going to be telling the truth, obviously, correct?

MR. R. DUNPHY: Yes.

MR. SIMMONDS: Well, in your statement – and if you could bring that up Madam Clerk, P-0095. And this is not your wife's statement now. This is your statement given on the 5th of April. Go to page 2 of the exhibit documents, page 1 of the statement but page 2 of the exhibit document. Line 18, or line 15 – pardon me, line 14. Henstridge – and you know who Officer Henstridge, he's an RCMP officer.

MR. R. DUNPHY: Okay.

MR. SIMMONDS: You remember giving this statement?

MR. R. DUNPHY: Yes.

MR. SIMMONDS: That statement was given very close after the incident, right?

MR. R. DUNPHY: Yes.

MR. SIMMONDS: And you know a police officer is important to tell the truth to, right?

MR. R. DUNPHY: Yes.

MR. SIMMONDS: And therefore you would have been telling the truth to the police officer at that time.

MR. R. DUNPHY: Yes.

MR. SIMMONDS: And, in fact, this was very close afterward. So your recollections would have been good.

MR. R. DUNPHY: Yes.

MR. SIMMONDS: Right?

MR. R. DUNPHY: Yes.

MR. SIMMONDS: If you look at line 14, Henstridge: “What can you tell me about that? Dunphy: Well all I – like when I came in he was up here talking on the – on – to the wife upstairs there see. Henstridge: Okay. Dunphy: And he was just saying that he”

Now you said you came upstairs –

MR. R. DUNPHY: Yeah.

MR. SIMMONDS: – your wife was talking to him and you say here, you heard what he was talking about. That’s what you said. You can read it on your monitor there in front of you.

MR. R. DUNPHY: I heard what he was talking about, yes. What?

MR. SIMMONDS: Okay. “And he was just saying” So that says to me you actually heard it with your own ears.

MR. R. DUNPHY: I could have but I don’t really remember.

MR. SIMMONDS: No, but that you could have; that’s what you said. And you said it on the 5th and you knew you were talking to a police officer who you had to be truthful with and this is what you told him, correct? Isn’t that correct, Mr. Dunphy?

MR. R. DUNPHY: What I told him?

MR. SIMMONDS: Yes, this is what you told him.

He says: “What can you tell me about that?” That’s what Henstridge is questioning. So you’re telling Officer Henstridge what you can tell him and then you say, “he was just saying that” So you’re telling him what the police officer, Constable Smyth said while you were there, correct?

MR. R. DUNPHY: Who was I telling it to?

MR. SIMMONDS: Mr. Dunphy –

MR. R. DUNPHY: What?

MR. SIMMONDS: – you’re telling this to Officer Henstridge. Go to line 14, please.

MR. R. DUNPHY: Okay, 14.

MR. SIMMONDS: Officer Henstridge: “What can you tell me about that?”

Okay. This is Officer Henstridge asking you that on April 5. You reply: “Well all I – like when I came in he was up here talking on the – on – to the wife upstairs there see.”

MR. R. DUNPHY: Yeah.

MR. SIMMONDS: So you’re telling me you came up, Constable Smyth was talking to your wife. Constable Henstridge then says, the officer that’s interviewing you says, “Okay” and then you continue on, “And he was just saying that he” So you heard what Constable Smyth was saying to your wife. That’s what you told Officer Henstridge.

MR. R. DUNPHY: Okay.

MR. SIMMONDS: Okay. And then you went on, “he wanted to have a talk to him where ... those threat letters for the – to the government.” So you yourself tell Officer Henstridge that you heard Constable Smyth say he was investigating those threat letters to the government. Not your wife saying it, you, right? That’s what you’re saying there. Yes?

MR. R. DUNPHY: I suppose. I can’t remember, though.

MR. SIMMONDS: No, no, not you suppose.

MR. R. DUNPHY: No.

MR. SIMMONDS: Not you suppose, this is what you got there.

MR. R. DUNPHY: Okay. All right, yeah.

MR. SIMMONDS: That’s what you’re saying there. Yes?

MR. R. DUNPHY: Yes.

MR. SIMMONDS: Did you ever hear your wife engage in a discussion with Meghan about her dad that –

MR. R. DUNPHY: No.

MR. SIMMONDS: – he needed to go to – you didn’t hear that?

MR. R. DUNPHY: No.

MR. SIMMONDS: Never heard anything about that?

MR. R. DUNPHY: No.

MR. SIMMONDS: Okay.

MR. R. DUNPHY: I heard about it, but I wasn’t there.

MR. SIMMONDS: You weren’t there.

MR. R. DUNPHY: No.

MR. SIMMONDS: And the incidents around your house, incidents around the property – but you never saw –

MR. R. DUNPHY: No.

MR. SIMMONDS: – Mr. Dunphy there. So you're taking a guess.

MR. R. DUNPHY: Yeah.

MR. SIMMONDS: You don't know that he did anything.

MR. R. DUNPHY: That's right.

MR. SIMMONDS: And I got to say, Mr. Dunphy, you've given at least two, if not three statements to the police that I can count, and you gave a detailed statement to Commission counsel. Do you remember that?

MR. R. DUNPHY: Yes.

MR. SIMMONDS: Okay. And this was the first I heard about it today. I was there one time, last time I was there, and he chased me with a stick.

Have you ever told any of the police officers or either one of those counsel, that Mr. Don Dunphy chased you with a stick? Have you ever told them that before?

MR. R. DUNPHY: No.

MR. SIMMONDS: You haven't. But they asked you all these questions and you give a number of statements –

MR. R. DUNPHY: Yeah.

MR. SIMMONDS: – and they tell you how important it is, but you only recall that today. You never heard about it, you never mentioned it before.

MR. R. DUNPHY: No, 'til you mentioned about singing out at the wife. That's when I thought of it, 'cause I went over.

MR. SIMMONDS: No, but you were – they asked you about singing out to your wife and all of those problems before. You never, ever told anybody before that he ever chased her –

MR. R. DUNPHY: No.

MR. SIMMONDS: – with a stick, did you?

MR. R. DUNPHY: No.

MR. SIMMONDS: Thank you very much, Mr. Dunphy.

MS O'BRIEN: I will have a couple of questions on redirect, Commissioner.

THE COMMISSIONER: Go ahead, whenever you're ready.

MS. O'BRIEN: Thank you.

In your – when Mr. Kennedy was questioning you, I just want to clarify a few things, so and – that you talked about, you talk about Don Dunphy dumping chemicals on your lawn.

MR. R. DUNPHY: No, not –

MS. O'BRIEN: On the plants –

MR. R. DUNPHY: Oh, on the lawn, yeah, okay –

MS. O'BRIEN: – on the flower garden, or whatever?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Did you – you never saw him or did you ever see him plant – put any –

MR. R. DUNPHY: No, no.

MS. O'BRIEN: So you never saw him put anything on your garden?

MR. R. DUNPHY: No.

MS. O'BRIEN: And you say there was a glove on a stick at the boundary. Did you see Mr. Dunphy put a glove on stick?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Yes, you saw him put a –

MR. R. DUNPHY: I seen him doing that.

MS. O'BRIEN: You saw him doing that.

And did you understand – what did you understand he putting a glove on stick for?

MR. R. DUNPHY: Just to saying that it was his property.

MS. O'BRIEN: To mark the boundary?

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay.

Prior to your father's death, like before, you know, before all the dispute happened –

MR. R. DUNPHY: Uh-uh.

MS. O'BRIEN: – with the land that you'd backfilled and all that, what was your relationship like with your brother before all that happened?

MR. R. DUNPHY: It was good.

MS. O'BRIEN: Okay.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: So all the problems were to happen shortly after your father died.

MR. R. DUNPHY: That's right.

MS. O'BRIEN: Is that fair to say? Okay.

And so when Mr. Kennedy was talking to you and you talked about, you made a few comments about your brother like he'd just flip right out and he felt that the world owed him something, everything was bothering him; do all those things come about from the time after your father's death?

MR. R. DUNPHY: After, yes.

MS. O'BRIEN: Okay, after your father died.

And is – when you make those statements – I know there was a period of, you've described – there was a period, obviously, you know, your wife went to court with him, things weren't good between the two of you and then sort of communications stopped.

MR. R. DUNPHY: Yes.

MS. O'BRIEN: Okay.

And so when all those comments that you made to Mr. – you know, Mr. Kennedy went over your statements you made; are all those comments, do they come from that period of time when there was that dispute, or are some of them more recent than that?

MR. R. DUNPHY: No, around that time.

MS. O'BRIEN: Okay, it's the time during the dispute.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay.

And the issue – I know you said you heard tell – you didn't hear your wife talking to Meghan about how her Dad might see a counsellor or something like that, but you heard tell of that conversation –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: – going on.

I'm going – like how long ago was that?

MR. R. DUNPHY: Oh, I don't know. Like, it was around the same time, I suppose (inaudible).

MS. O'BRIEN: So around –

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Ten years or more ago?

MR. R. DUNPHY: A little more, yeah.

MS. O'BRIEN: Even more than 10 years ago that that took place.

MR. R. DUNPHY: Yeah.

MS. O'BRIEN: Okay.

Those are all my questions.

Thank you very much, Mr. Dunphy.

THE COMMISSIONER: Thank you, Mr. Dunphy.

You may step down.

Oh, by the – sorry, would you bring a message back to your wife. If she is feeling better –

MR. R. DUNPHY: Yeah.

THE COMMISSIONER: – in a few weeks –

MR. R. DUNPHY: Okay.

THE COMMISSIONER: – have her contact the Commission counsel, will you.

MR. R. DUNPHY: Okay.

THE COMMISSIONER: Because we're going to have to follow up on her –

MR. R. DUNPHY: Yeah.

THE COMMISSIONER: If the lawyers want to hear her version of what took place, we're going to have to try and get her in here, you know.

MR. R. DUNPHY: Okay, I (inaudible).

THE COMMISSIONER: So if you could ask her from me to – if she's feeling better to, to let us know and we'll schedule to, to make it not too inconvenient for her.

MR. R. DUNPHY: Okay.

THE COMMISSIONER: All right? Thank you.

MS. O'BRIEN: Commissioner, we have two further witnesses for today.

THE COMMISSIONER: You can step down now.

MR. R. DUNPHY: Okay.

THE COMMISSIONER: Thanks very much.

MS. O'BRIEN: It's now 12:18, probably if we could take our hour's break for lunch now and then we'll start with the first witness right after lunch. Otherwise, he's only going to be on the stand for about 10 minutes before we break.

THE COMMISSIONER: Sure. Okay. The next witness is going to be Mr. Corcoran.

MS. O'BRIEN: That's correct.

THE COMMISSIONER: Billy Corcoran. Okay, so we'll take a, take a – will we do – well, we'll start at 1:30 the way people are expecting it or –

MS. O'BRIEN: I would like to start in one hour because we have two witnesses and I do want to finish them both today.

THE COMMISSIONER: Okay, 12:20.

MS. O'BRIEN: Thank you.

THE COMMISSIONER: The whip is being cracked. All right, thanks. We'll recess for lunch.

MS. SHEEHAN: All rise.

The inquiry is recessed.

Recess

MS. SHEEHAN: All rise.

I declare this Commission Inquiry open.

Please be seated.

THE COMMISSIONER: Go ahead when you're ready.

MS. O'BRIEN: Thank you, Commissioner.

I'd like to call William Corcoran to the stand.

UNIDENTIFIED MALE SPEAKER: Ms. O'Brien, Mr. Kennedy is here. He just stepped out for a second, so I do not know if you want to wait a moment just to give him – he just went out for one second –

THE COMMISSIONER: Yeah, okay, we will just give it a moment there.

MS. O'BRIEN: Thank you, I'd ask that the witness be affirmed.

MS. SHEEHAN: Do you solemnly affirm that the evidence you should be giving would be the truth and nothing but the truth.

MR. CORCORAN: Yes, I do.

MS. SHEEHAN: Could you please state and spell your first name?

MR. CORCORAN: William Corcoran: W-i-l-l-i-a-m; Corcoran: C-o-r-c-o-r-a-n.

MS. SHEEHAN: Thank you.

MS. O'BRIEN: Thank you, Mr. Corcoran.

Before I begin, I'm just going to enter some exhibits. Commissioner, actually I have already entered the exhibit with this matter but just to draw everyone's attention to it; it's P-0038. This exhibit already went

in when Ms. Dunphy, Meghan Dunphy, was on the stand. It was a joint-written statement that included statements of Mr. Corcoran as well as Ms. Dunphy's.

Okay, Mr. Corcoran, I'm going to start with just a few background questions about who you are. And I'll just remind you that when you are speaking that the mics don't amplify all that well so if you could keep your voice up as best you can.

What is your relationship with Meghan Dunphy?

MR. CORCORAN: Common law.

MS. O'BRIEN: Okay.

How long have you and Meghan Dunphy been living together common law?

MR. CORCORAN: Approximately four years.

MS. O'BRIEN: Okay.

Now, we now from her testimony that you live on the Salmonier Line and is that where you and Ms. Dunphy were living in April of 2015?

MR. CORCORAN: Yes.

MS. O'BRIEN: Mr. Corcoran, what do you do for a living?

MR. CORCORAN: Industrial mechanic.

MS. O'BRIEN: Okay.

When did you first meet Donald Dunphy?

MR. CORCORAN: I'd say approximately 20 years ago.

MS. O'BRIEN: Approximately what age would you have been then?

MR. CORCORAN: In my 20s, 19 or 20.

MS. O'BRIEN: Okay.

So can you tell the Commissioner about the circumstances of how you came to meet him and how you knew him?

MR. CORCORAN: Just met him in general, probably at a club or something. If I went to a club or something, he'd probably be there drinking a Pepsi to the bar or whatever the case may be and just in general. Visited his house a few times looking for probably a quad part or something or – basically that's how I

MS. O'BRIEN: Okay.

So you just seem him from time to time out around the community you're saying –

MR. CORCORAN: Yes.

MS. O'BRIEN: – like in a club. He might be there drinking a Pepsi you're saying.

MR. CORCORAN: Yes.

MS. O'BRIEN: Okay.

So you just knew – would it be fair to say that was a casual type of acquaintance?

MR. CORCORAN: Yes.

MS. O'BRIEN: Okay.

MR. CORCORAN: Yeah.

MS. O'BRIEN: You said you were at his house a couple of times to pick up I think you said a part for a quad?

MR. CORCORAN: Yeah, it could be a part for a car or a quad or something, just – that was it.

MS. O'BRIEN: Okay.

Did you ever go in the house, or were you just visiting, you know, visiting the property?

MR. CORCORAN: I would go in the house to – I went in to pick up whatever I was there looking for at the time. I can't recall exactly what it was, just go in the porch basically.

MS. O'BRIEN: Just in the porch?

MR. CORCORAN: Which lead into the kitchen, yes.

MS. O'BRIEN: Okay, so you, you had been –

MR. CORCORAN: The back porch.

MS. O'BRIEN: You'd been in the back porch before.

MR. CORCORAN: Yes.

MS. O'BRIEN: Okay. Had you ever been further in the house than that?

MR. CORCORAN: No, just to the porch.

MS. O'BRIEN: Okay. Okay. And so when you first started did you, were you seeing Mr. Dunphy with that kind of regularity up until you, you started dating Ms. Dunphy or did you just –

MR. CORCORAN: I wouldn't visit, I wouldn't visit his house, but I did see him to the club on and off or at the store or whatever. In the community or something, that was it.

MS. O'BRIEN: Okay. All right.

Can you – so you, I guess, when you first started dating Meghan Dunphy around four or more years ago, I guess, a little over four – how long ago did you two start dating approximately?

MR. CORCORAN: After I first met Don?

MS. O'BRIEN: No, from now. How long –

MR. CORCORAN: Oh –

MS. O'BRIEN: I mean you said you'd been living together about four years. How long were you dating or seeing each other?

MR. CORCORAN: Approximately four years, probably a little bit longer.

MS. O'BRIEN: That you knew her.

MR. CORCORAN: Yeah.

MS. O'BRIEN: Okay. All right.

So I'm going to get up – I take it was a casual relationship with Mr. Dunphy from your early 20s on just seeing him around the community. Is that the same community where you lived at that time?

MR. CORCORAN: No.

MS. O'BRIEN: Okay, so –

MR. CORCORAN: I lived farther down in St. Mary's.

MS. O'BRIEN: Oh, you lived down, further down in St. Mary's.

MR. CORCORAN: Yes.

MS. O'BRIEN: Okay. And so once you started dating Meghan, how often would you see Mr. Dunphy?

MR. CORCORAN: He would come back and forth to the house just passing through sort of thing. At least once a week.

MS. O'BRIEN: Okay. So at least once a week he'd be over at your house?

MR. CORCORAN: Yes.

MS. O'BRIEN: Okay.

Can you tell the Commissioner what your relationship with him was like?

MR. CORCORAN: It was just a casual relationship, you know. He speak to me, I spoke to him, just normal conversation.

MS. O'BRIEN: Okay.

MR. CORCORAN: Yeah.

MS. O'BRIEN: All right. Did you ever see him independently of Meghan or when you, when you saw her father, was she generally there?

MR. CORCORAN: Yeah, usually she was there.

MS. O'BRIEN: Okay. Did you ever go out and just do something with, just with him?

MR. CORCORAN: No.

MS. O'BRIEN: Did you ever visit his house?

MR. CORCORAN: Not while me and Meghan were dating, no.

MS. O'BRIEN: Okay so in the past four-plus years –

MR. CORCORAN: No.

MS. O'BRIEN: – since you and Meghan have been together you've never been to his house.

MR. CORCORAN: No.

MS. O'BRIEN: How far a drive was it from Mr. Dunphy's house to where you and Meghan live?

MR. CORCORAN: Approximately 20 minutes' drive.

MS. O'BRIEN: I'm going to ask you, Mr. Corcoran, why, you know, why you hadn't visited his house. And I'm just – I mean you've been – obviously you've been living common law with Meghan Dunphy for four more years and, you know, we understand from her testimony she was quite close to her father. Would you agree with that?

MR. CORCORAN: Yes.

MS. O'BRIEN: And he – he only lives a 20-minute drive away, so in all that time you never visited his house. Is there, was there any reason, any particular reason for that?

MR. CORCORAN: No. Not no reason really. I was working most of the time, and when I went home I just relaxed. And he was back and forth from Mount Carmel to St. John's, wherever, so he would drop by. So I had no reason to go see him.

MS. O'BRIEN: Okay, so you never went to his house to help him repair anything or –

MR. CORCORAN: No.

MS. O'BRIEN: – deliver anything to his house?

MR. CORCORAN: No. Well, I did go there a couple of times to bring wood down and stuff, but not to – other than that I wasn't.

MS. O'BRIEN: Did you go in the house to deliver the wood or were you just putting the wood in the shed?

MR. CORCORAN: No, I would drop the wood off outside.

MS. O'BRIEN: Outside.

MR. CORCORAN: Yeah.

MS. O'BRIEN: You wouldn't take it in.

MR. CORCORAN: No.

MS. O'BRIEN: Okay. Did you ever speak to Mr. Dunphy by phone?

MR. CORCORAN: He might have called my phone to look for Meghan if her phone was dead or couldn't, whatever, you know, that was it.

MS. O'BRIEN: Okay. So you wouldn't have a chat or anything with him.

MR. CORCORAN: No, I wouldn't call him, no

MS. O'BRIEN: Okay.

And did you, you know, any messaging with him –

MR. CORCORAN: No.

MS. O'BRIEN: – like on social media or Facebook or?

MR. CORCORAN: Have nothing to do with it.

MS. O'BRIEN: You – okay.

MR. CORCORAN: Don't – ignorant of it.

MS. O'BRIEN: So, so I – so did you follow him on Twitter?

MR. CORCORAN: No, I didn't.

MS. O'BRIEN: Okay.

Did you ever give Mr. Dunphy any help financially?

MR. CORCORAN: No.

MS. O'BRIEN: And would you and Meghan – you said he would drop by your house and we know he had that – would you ever – and we know on the day, on the day he died you went out for a brunch with him.

MR. CORCORAN: Yes.

MS. O'BRIEN: So we know that. Would, would that have been a usual or regular thing? Like did you ever go places with Mr. Dunphy with Meghan?

MR. CORCORAN: Not often. Probably go grab a bite to eat or something but that'd be it.

MS. O'BRIEN: Okay and how –

THE COMMISSIONER: Sorry, I didn't hear that. Probably what?

MR. CORCORAN: Not often. We would probably go grab a bite to eat or something, but we wouldn't, I wouldn't often go out to lunch with him or anything.

THE COMMISSIONER: Thank you.

MS. O'BRIEN: How often, say, would you go out to eat with him?

MR. CORCORAN: It was just a few times.

MS. O'BRIEN: Even in the course of the full relationship?

MR. CORCORAN: Yeah.

MS. O'BRIEN: Your full relationship with Meghan you just did that a few times?

MR. CORCORAN: Yeah.

MS. O'BRIEN: And when he'd come – you said he'd come to your house, you know, approximately once a week or so, how long would his visits normally be?

MR. CORCORAN: Half hour, maybe.

MS. O'BRIEN: Can you describe Mr. Donald Dunphy for the Commissioner. What, what was he like?

MR. CORCORAN: You know, he was just your average person pretty – to me, anyway, he was a gentleman, really. Well spoken, opinionated.

MS. O'BRIEN: Did you ever see him get angry at someone or about something?

MR. CORCORAN: No.

MS. O'BRIEN: And did you ever hear of him threaten anyone?

MR. CORCORAN: No.

MS. O'BRIEN: And do you, did you ever see him be violent or hear someone –

MR. CORCORAN: No.

MS. O'BRIEN: – talking about him be violent?

MR. CORCORAN: No.

MS. O'BRIEN: Okay. And did you ever see him arguing with anyone?

MR. CORCORAN: No.

MS. O'BRIEN: And you – did you ever argue with him?

MR. CORCORAN: No.

MS. O'BRIEN: Okay.

Now, I assume, if you had not been in his house – and, and I take it the time you went – am I right in understanding, the time you went to his house just in the porch, would that have been like when you were in your early 20s?

MR. CORCORAN: Yes.

MS. O'BRIEN: Okay.

MR. CORCORAN: Yeah.

MS. O'BRIEN: So quite – a bit of time ago.

So if you hadn't been in there recently, I'm, I'm guessing I know the answer to this but I will ask the question: Did you ever see that stick, the one we had here in the room on Monday?

MR. CORCORAN: No, I didn't.

MS. O'BRIEN: Okay. And did you ever see the gun, the one we had –

MR. CORCORAN: No.

MS. O'BRIEN: – in the room here on Monday? Okay.

Did you ever have any conversation with Mr. Dunphy about the stick?

MR. CORCORAN: No.

MS. O'BRIEN: Okay. And what about the gun, ever had any conversation –

MR. CORCORAN: No.

MS. O'BRIEN: – with him about a gun?

MR. CORCORAN: No.

MS. O'BRIEN: Did Meghan Dunphy ever mention the stick to you?

MR. CORCORAN: It might have just came up in conversation. Actually, I think Don had mentioned one time, just jokingly that he had a stick there in case anybody came in. Maybe the two of them were talking about it or something or she had questioned about a stick or something, but nothing – nothing more than that.

MS. O'BRIEN: Is that a conversation that you would have overheard?

MR. CORCORAN: I'm not sure if I – if Meghan had said or Don had said to me about it once upon a time. I don't recall.

MS. O'BRIEN: So you don't remember which of them said it to you?

MR. CORCORAN: No.

MS. O'BRIEN: Can you just elaborate a bit on what you, what you heard, even if you don't remember who the speaker was?

MR. CORCORAN: Just that he had a stick there if anybody came in to break in and take his marijuana plants, basically.

MS. O'BRIEN: Do you recall approximately how long ago that conversation was?

MR. CORCORAN: No.

MS. O'BRIEN: How about the gun. Did you ever have any discussions with Meghan about finding the gun?

MR. CORCORAN: No.

MS. O'BRIEN: So in that January, do you recall Mr. Dunphy being in hospital some time, approximately in January 2015?

MR. CORCORAN: Yes, I do.

MS. O'BRIEN: Okay. And so I think her testimony was she was down sort of tidying up his house a bit when she saw it.

MR. CORCORAN: Yes.

MS. O'BRIEN: Did she mention that to you –

MR. CORCORAN: No, she didn't.

MS. O'BRIEN: – when she came home?

MR. CORCORAN: No.

MS. O'BRIEN: On April 5 of 2015, as I said earlier, we know you went, you went for brunch on that day at the Woodstock and we've had testimony already from Meghan on this and I don't think it's – I think everyone –

MR. CORCORAN: Yeah.

MS. O'BRIEN: – accepts that it happened this way and that on the way home he stopped by your –

MR. CORCORAN: Yes.

MS. O'BRIEN: – and Meghan's place. Is that right?

MR. CORCORAN: Yeah. Correct.

MS. O'BRIEN: And he was there for just a short visit?

MR. CORCORAN: Yes.

MS. O'BRIEN: Okay. And at that time he exchanged his car for your Jeep?

MR. CORCORAN: Yes.

MS. O'BRIEN: And what was it you were going to do with his car?

MR. CORCORAN: Fix a flat tire.

MS. O'BRIEN: So the Jeep that was found at the scene, the one we've – we'll see it in some photographs more. So was – did that belong to you?

MR. CORCORAN: Yes.

MS. O'BRIEN: Was that – was it registered in your name?

MR. CORCORAN: Yes, it was.

MS. O'BRIEN: Okay.

That day when you were at brunch at the Woodstock, how was Mr. Dunphy on that day? And what was his demeanour like?

MR. CORCORAN: Nah, he was the best kind, laughing and carrying on, you know. Nothing unusual.

MS. O'BRIEN: Did it appear to be anything was, that was bothering him?

MR. CORCORAN: No, not a thing.

MS. O'BRIEN: Did he mention anything about his Twitter account?

MR. CORCORAN: No. He wouldn't speak to me on that because I pretty much know zero about it.

MS. O'BRIEN: Okay.

MR. CORCORAN: Yeah.

MS. O'BRIEN: All right. Did you see him using his phone that day?

MR. CORCORAN: At our house on his way back he did, yes.

MS. O'BRIEN: Okay. What did you see at that time?

MR. CORCORAN: He sat down to the table. I was getting a coffee; he just sat down to the table talking in general. So as I was getting a coffee he said, I must have a look at this now before I goes. And he took out his glasses and put them on and looked at the phone, flicked through it a few times and that was it.

MS. O'BRIEN: Okay. Did he mention – talk about anything that he was seeing on the phone?

MR. CORCORAN: No.

MS. O'BRIEN: Okay. Did you see him typing any messages or responding to anything?

MR. CORCORAN: I can't say he was typing or anything. He was just running through with his finger so I don't know if he was typing or no.

MS. O'BRIEN: Okay.

That day at, at the restaurant, or even at the home, did he mention at any time that he'd been contacted by the police?

MR. CORCORAN: No, he didn't.

MS. O'BRIEN: And would that have been the only time you saw him using his, his cellphone that day when he was at your house –

MR. CORCORAN: Yes.

MS. O'BRIEN: – before he was leaving?

MR. CORCORAN: Yes it was, yeah.

MS. O'BRIEN: Do you recall seeing him wear his glasses that day?

MR. CORCORAN: He, when he took out his phone he took the glasses out of his inside pocket, put them on the end of his nose to look at the phone, basically.

MS. O'BRIEN: Okay.

MR. CORCORAN: Yeah.

MS. O'BRIEN: Do you recall if there were any tape on the glasses at that time?

MR. CORCORAN: It wouldn't be unusual to see tape on 'em. You know, I don't examine everybody that comes to the house. I don't look and say, you know, you have nice glasses on today, or – the glasses may have the tape on 'em. It wouldn't be uncommon for 'em to have tape on 'em.

MS. O'BRIEN: Okay, but you have –

MR. CORCORAN: So I don't – I didn't size 'em up to look at 'em, no.

MS. O'BRIEN: Okay.

When he was stopped at your house, approximately how long was he there?

MR. CORCORAN: Fifteen minutes, perhaps.

MS. O'BRIEN: Okay. Do you know what time he left?

MR. CORCORAN: One o'clock.

MS. O'BRIEN: Okay.

MR. CORCORAN: Thereabout, approximately.

MS. O'BRIEN: Okay.

Did you have any further communication with Mr. Dunphy after that?

MR. CORCORAN: No, I didn't.

MS. O'BRIEN: Okay.

How did you first learn that there was something going on at Mr. Dunphy's house?

MR. CORCORAN: I think Meghan had said; someone texted her. Her friend texted her and said there was something going on down at her father's house, the cops were there and that sort of stuff.

MS. O'BRIEN: Okay. So what did you do?

MR. CORCORAN: We got ready and went down.

MS. O'BRIEN: Okay.

MR. CORCORAN: I drove. She got in the passenger side, we went down. By the time she got – I think she was partial way down and someone called and said there's been a shooting up there. So we – so I sort of sped up a bit and I think probably around The Wilds, probably a quarter way down, we hear the siren coming so we stopped.

Meghan jumped out to flag down the RCMP or RNC, whichever it was, I don't know, and to see what was on the go. He just pretty much scolded her and said slow down and don't be speeding or whatever, said to me, and she got back in the vehicle. She wanted to get in with him basically and he wouldn't let her so we just drove on.

MS. O'BRIEN: Okay. Did that, was that a marked police car or unmarked?

MR. CORCORAN: I think it was probably a paddy wagon I think.

MS. O'BRIEN: Okay, so marked, marked?

MR. CORCORAN: Yes it was, yes.

MS. O'BRIEN: Okay. And was it going with its lights and sirens?

MR. CORCORAN: Yes.

MS. O'BRIEN: And so you stopped, she tried to flag him down. So then did you follow that vehicle then –

MR. CORCORAN: Yes.

MS. O'BRIEN: –down to Mr. Dunphy's house? All right.

So what, do you know what time he arrived there or approximately what time he arrived there?

MR. CORCORAN: Perhaps 2 – between 2 and 2:30, maybe.

MS. O'BRIEN: Okay. Other than that, other than the time that you stopped because the police car was coming behind you, did you – or the paddy wagon – did you make any other stops along the way?

MR. CORCORAN: No.

MS. O'BRIEN: So what did you see when you arrived?

MR. CORCORAN: A bunch of vehicles around, cop cars and stuff. I believe the ambulance was there. I'm not 100 per cent sure on that.

MS. O'BRIEN: Okay. So how close were you able to get? Where did you stop your car?

MR. CORCORAN: We were pretty close. We were probably opposite of Don's driveway, maybe just before it a little bit, parked on the side of the road, on the opposite side of the road.

MS. O'BRIEN: Were you stopped by a police officer? Like had the police started to – had they – were they stopping traffic?

MR. CORCORAN: I don't think so, no. I think we just hauled in on the side. There was pretty much four or five police vehicles around there somewhere so. I don't think it was barred off at the time, like I don't recall.

MS. O'BRIEN: Okay. Just go through, tell me what you recall happening, then, when you arrived.

MR. CORCORAN: When we arrived we got out of the car and there was a police officer there. We, I think we had spoke to him and there was people coming and going. They barred off the road and all that sort of stuff. Meg was asking one of the officers what was on the go, basically, and that was it. It just went on from there.

She asked an officer, one of the officers, I don't recall him, O'Keefe maybe, a bigger gentleman, he said – Trevor O'Keefe.

MS. O'BRIEN: Yeah.

MR. CORCORAN: He said – she asked him – he was back and forth to the car and asked where – Meghan was asking what was on the go, about her father and all that. And he said that it was her father that had been shot. And she asked where he was to and he said – he said he was lying on the floor with a rifle alongside of him. And he was just back and forth to the car; we were in the car, out of the car. One of her cousins, I think, was there in the car with us.

MS. O'BRIEN: Okay.

So that's Corporal Trevor O'Keefe who you –

MR. CORCORAN: Yes.

MS. O'BRIEN: – recall having that conversation with Meghan.

Did you, did you overhear that conversation yourself or –

MR. CORCORAN: I was there.

MS. O'BRIEN: You were there? Did you hear him speaking –

MR. CORCORAN: Yes.

MS. O'BRIEN: – or did you just get a report from Meghan after?

MR. CORCORAN: No, I was there when he said it.

MS. O'BRIEN: You heard, you heard him speaking.

MR. CORCORAN: Yes.

MS. O'BRIEN: And you heard him say that to her.

MR. CORCORAN: Yes.

MS. O'BRIEN: Okay.

What other information do you recall him – you know, what else do you recall of the conversation between Corporal O'Keefe and Meghan?

MR. CORCORAN: They were pretty brief, didn't want to tell us any information.

Meghan went – excuse me – Meghan asked to go in the house to see her dad and he said yes, and a different, different officer said yes or whatever. And when the time come and all that, but anyway they just bluffed that off. We never did get in to see him.

Information was very brief; they didn't tell us a big lot and we eventually left. Probably, we were back and forth a couple times, went to her aunt – her aunt's house and they said they would call and all this sort of stuff. So they may have called Meghan then or a short while after, but anyway, they never did call to let her in the house. It was pretty brief, wasn't much said there.

MS. O'BRIEN: Okay. So do you recall Corporal O'Keefe saying that, yes, she would get in the house or is that is that what you just said?

MR. CORCORAN: Yes, he said – I'm not sure if it was O'Keefe said that. Yes it was. He said, yes, you'll get into to see pretty much when the forensic or whatever comes and goes there or whatever the case may be that she would get to see him before he went. So –

MS. O'BRIEN: All right.

And do you know – I don't need the names. You don't know any names of any of the other officers there, do you?

MR. CORCORAN: No, I don't.

MS. O'BRIEN: Okay. So any of the other officers that you were speaking to, can you give any details of any other conversations you remember at that time?

MR. CORCORAN: Not offhand, no I don't.

He was the, one of the main guys there. He came over a couple of times, got in the car, in my Honda Civic, sat down in the back and talked to us. And then he was in the front, you know. It was just switch around; people were in and out of the car so just brief conversations –

MS. O'BRIEN: Just Corporal O'Keefe?

MR. CORCORAN: Yeah, it was just brief conversations and then he'd go talking on the phone or whatever and so –

MS. O'BRIEN: Okay.

Prior to this happening did you know Constable Joe Smyth at all?

MR. CORCORAN: No, I didn't.

MS. O'BRIEN: Okay. Did you see, did you see Constable Smyth at the scene?

MR. CORCORAN: Yes.

MS. O'BRIEN: Okay. So can you tell the Commissioner about that?

MR. CORCORAN: We were there for a little while and I think Meghan had said where was the officer who shot Dad. And we were out standing up and somebody – I can't say who – someone pointed out, there he is down there with the leather jacket on, basically. I wasn't up close to him or anything. And he

was just standing up down on the side – I think he was out on the road actually, as they pointed him out. So I assumed it was him. I didn't think everybody was telling lies there or putting a bluff on it, so.

MS. O'BRIEN: Okay. How far away from him were you?

MS. CORCORAN: Probably from – to that gentleman over there, on the door there, probably.

MS. O'BRIEN: Okay. Can you give an estimate of that in feet or metres, or whatever you're most comfortable with?

MR. CORCORAN: 50 feet.

MS. O'BRIEN: Okay. And what was Constable Smyth doing at that time?

MR. CORCORAN: He was just standing up on the road.

MS. O'BRIEN: Okay. Did you see him talking to anyone?

MR. CORCORAN: No. I just looked briefly and that was it.

MS. O'BRIEN: Okay. And I take it – at that time, did you know his name?

MR. CORCORAN: No, I didn't.

MS. O'BRIEN: No, you didn't know his name.

MR. CORCORAN: No.

MS. O'BRIEN: So you just knew it was the officer that had been involved or someone had told you it was the officer who had been involved.

MR. CORCORAN: Yes.

MS. O'BRIEN: Okay. And how long did you see him standing there?

MR. CORCORAN: I don't know, probably 10 minutes maybe. And then once Meghan had said it, I guess someone alerted the police or whatever and they drove by and – if indeed it was him, he drove by in a – I think it was an unmarked police vehicle, I do believe, passed along by us when we were there.

MS. O'BRIEN: Where was he sitting in the vehicle?

MR. CORCORAN: I'm not sure. In the back, I presume.

MS. O'BRIEN: Okay.

MR. CORCORAN: I would say he was in the back, yeah.

MS. O'BRIEN: Okay. But with the guy you saw in the vehicle, who you think was in the back, was it the same one that you saw stood up –

MR. CORCORAN: Yes, it was.

MS. O'BRIEN: – on the road.

MR. CORCORAN: Yes.

MS. O'BRIEN: Okay. So you're sure those were the two same people. Okay.

How long were you there at the scene that afternoon?

MR. CORCORAN: We were there 'til probably 8 o'clock I think. We were back and forth. We left a couple of times and went up to her aunts, a couple of times I think. So probably around eightish we left and went home, I do believe.

MS. O'BRIEN: Okay. And I know that we know from Ms. Dunphy that after you got home, sometime later the RCMP came to take a statement from her.

MR. CORCORAN: Yes.

MS. O'BRIEN: Were you there then?

MR. CORCORAN: Yes, I was.

MS. O'BRIEN: Were you there, like present in the room while she was giving her statement?

MR. CORCORAN: I wasn't sitting down to the table the whole time. I was back and forth doing whatever.

MS. O'BRIEN: So were in the general area?

MR. CORCORAN: Yes, I was.

MS. O'BRIEN: All right. Do you think at that time she was in a suitable emotional state to be able to give her statement?

MR. CORCORAN: She was pretty upset. They were asking her all kinds of questions. She was answering them. It seemed to be okay, but it didn't seem appropriate to me. You know, for them to come there probably a few hours after her dad had been shot. You know, why should they come there that quick?

MS. O'BRIEN: Okay. Did you express that to the officers?

MR. CORCORAN: I don't recall.

MS. O'BRIEN: How many officers were there, do you remember that?

MR. CORCORAN: Two, maybe.

MS. O'BRIEN: Now, we know you gave a written statement – and I'd ask Madam Clerk to bring up P-0038.

Thank you. Oh, it's – I think I have the wrong statement there. I have the wrong statement there, Mr. Corcoran, but that's fine. I can ask you my questions that I want. I think I had the wrong reference in my notes. It's not Madam Clerk's issue.

But I think you gave a statement, a written statement about his glasses –

MR. CORCORAN: Yes.

MS. O'BRIEN: – at one time –

MR. CORCORAN: Yes, I did.

MS. O'BRIEN: – to the police officers –

MR. CORCORAN: Yes.

MS. O'BRIEN: – recalling them seeing the glasses that day. Can you just tell me how you came – and it was a written statement that you gave.

MR. CORCORAN: Okay.

MS. O'BRIEN: Do you recall how that came about? Why you gave that written statement?

MR. CORCORAN: I think how it originated was that Meghan may have found the glasses damaged at the house. So then, of course, we had to go to some location – I can't remember exactly where it was – to give a statement of the condition that I seen the glasses in on Easter Sunday.

MS. O'BRIEN: Okay.

MR. CORCORAN: And I basically told them that they were in a wearable condition.

MS. O'BRIEN: On Easter Sunday they were –

MR. CORCORAN: Yes.

MS. O'BRIEN: – in a wearable condition. Okay, all right.

And, Commissioner, that statement – although I had the wrong reference for it here, it is entered into evidence. And I'll get that number sometime after the break.

All right; Mr. Corcoran, those are the questions that I had for you, but now other lawyers may have questions –

MR. CORCORAN: Yes.

MS. O'BRIEN: – and the Commissioner may have questions. But before they do, is there anything else that you wanted, you know, that you don't feel you fully answered or anything you wanted to say that you didn't get a chance to say?

MR. CORCORAN: No, that's it.

MS. O'BRIEN: Okay.

MR. CORCORAN: Yeah.

MS. O'BRIEN: Thank you.

MR. CORCORAN: You're welcome.

THE COMMISSIONER: Cross-examination.

MR. KENNEDY: (Inaudible) is a default order.

Good afternoon, Mr. Corcoran.

MR. CORCORAN: Good afternoon.

MR. KENNEDY: I'm Jerome Kennedy, counsel for Constable Smyth. I only have a couple of questions for you, Sir.

I'm interested in your comments that you made during your interview with Commission counsel about Colin Dinn. Do you remember being interviewed by these two lawyers who are sitting here in front –

MR. CORCORAN: Yes, I do.

MR. KENNEDY: – Ms. O'Brien and Ms. Chaytor?

MR. CORCORAN: Yes.

MR. KENNEDY: And do you remember some discussions in relation to Colin Dinn?

MR. CORCORAN: Yes.

MR. KENNEDY: And there had been, I think, and I think Mr. Dinn said this in his statement that he was Mr. Dunphy's best friend. And you didn't see it that way, did you?

MR. CORCORAN: No, I didn't.

MR. KENNEDY: No.

MR. CORCORAN: Not his best friend, no.

MR. KENNEDY: No, he went to visit him. Yes?

MR. CORCORAN: Yes.

MR. KENNEDY: But you, I think you at one point, and I don't know, Sir, I think you might have been at this point in time, I can't tell from a transcript if you were upset or –

MR. CORCORAN: Yes, I probably was; frustrated, yes.

MR. KENNEDY: Yeah, I got that impression –

MR. CORCORAN: Yes.

MR. KENNEDY: - but you at one point called him a menace or something. Do you remember saying that?

MR. CORCORAN: Yes, I do.

MR. KENNEDY: Yeah. And what did you mean by that, Sir?

MR. CORCORAN: No disrespect to Colin, he's a nice young fella. Don would be up to the house and he'd say, I must go now and get in before Colin comes or something. You know, Don was going home. He wanted to go in the house and lie down and relax or whatever and take it in, and Colin would come down to the house and probably in talking about whatever and, I don't know, the weather perhaps or whatever was on his phone and stuff, and whatever the case may be. And I guess Don just didn't want to

listen to it, so probably he would – Don would often say, he'd say I must go down and turn off the lights now and get in before Colin comes.

He didn't always do that because I do know that Don let – you know Don would let anybody in his house. But he would go down and sometimes he would get in down there, I guess if Don was in the mood to let him in and other times he wouldn't. So he was a menace to Don, I guess.

MR. KENNEDY: Okay. So there was times that he didn't – that Mr. Dunphy didn't want Colin Dinn around.

MR. CORCORAN: Yes.

MR. KENNEDY: Is that your understanding of it?

MR. CORCORAN: Yes, yes. There was times he didn't want anybody around, really.

MR. KENNEDY: Okay. Now at one point, though, Sir, I – you'd indicated – and again, please correct, and I can give you the reference if you need it, Mr. Corcoran.

MR. CORCORAN: Yes.

MR. KENNEDY: That you'd indicated that Mr. – I think that Mr. Dunphy told you that Colin Dinn was trying to trade OxyContin for weed.

MR. CORCORAN: Yes.

MR. KENNEDY: Now, what was your understanding of that situation, Sir?

MR. CORCORAN: Well, I guess, Colin was (inaudible) he do have Oxys or whatever the case may be, and he knew that Don had weed. Colin may have had some extra so he said – he used to try to trade them with Don for some weed, and what Don would do – I don't know for sure if he would trade all the time or what the story was, depending on the day, I guess. And say if Don was taking 5 mgs of Oxy and Colin was probably taking 50, so Don was – having no money to buy his medication, he would probably chop 'em up to equal out to 5 milligrams so he could take 'em, basically free of charge.

MR. KENNEDY: Okay. So do you know if, in fact, any transactions took place where Mr. Dinn gave Mr. Dunphy OxyContin and Mr. Dunphy gave –?

MR. CORCORAN: I was never there to see it, no.

MR. KENNEDY: Okay. But was it your during – did Mr. Dunphy tell you that had taken place?

MR. CORCORAN: Yes, yeah.

MR. KENNEDY: Okay. So there were pills traded for weed?

MR. CORCORAN: Yes.

MR. KENNEDY: I think that's the way you put it in your statement. Is that right?

MR. CORCORAN: Pretty much, yes.

MR. KENNEDY: Okay. Now I think at one point too – and, again, I'm just referring to your statement, Sir, I –

MR. CORCORAN: Yes.

MR. KENNEDY: You'd indicated that at times Mr. Dunphy referred to Mr. Dinn as that fucking Colin Dinn. Do you remember saying that?

MR. CORCORAN: It wouldn't be uncommon for Don to say it. Yeah, Don could say it – if he was having a bad day he could say that fucking Billy Corcoran is coming. You know, he could say it about – he could say fucking Jerome Kennedy. You know, it's not uncommon for Don to say it.

MR. KENNEDY: Okay, so that word, that descriptive word doesn't mean a whole lot in those circumstances.

MR. CORCORAN: No, no.

MR. KENNEDY: Okay.

I just wanted to check that out because –

MR. CORCORAN: That is right, yes.

MR. KENNEDY: I'm trying to get an understanding.

Okay, now, last question, Sir, is: Did you ever – you'd indicated that there was a number of times that you had brought wood to Mr. Dunphy.

MR. CORCORAN: Yes.

MR. KENNEDY: Do you know if Colin Dinn ever brought wood to Mr. Dunphy?

MR. CORCORAN: Yes, he did.

MR. KENNEDY: Okay, so Mr. Dinn also –

MR. CORCORAN: Yes.

MR. KENNEDY: – brought wood to Mr. Dunphy, okay.

The other person I think who you indicated you knew who used to visit Mr. Dunphy was Tom Hearn; is that correct?

MR. CORCORAN: Yes.

MR. KENNEDY: And Mr. Hearn, if I understand correctly, we would have had Mr. Dunphy, Donald Dunphy –

MR. CORCORAN: Yup.

MR. KENNEDY: Richard Dunphy and then was Tom Hearn on the other side of Dick Dunphy, or do I have it the other way around?

MR. CORCORAN: No, Tom was before Dick's house – I think Dick's parent's house was in between 'em, I do believe, but it was definitely before Don's house.

MR. KENNEDY: Okay.

Sir, had you – you were interviewed also about the anonymous letter, were you? Or do you remember? I think you were; I'm not sure.

MR. CORCORAN: I don't recall.

MR. KENNEDY: Okay.

Do you remember any police officers coming to you and discussing with you that they had received an anonymous letter and there was an allegation that someone had seen something, they came by boat – does that ring a bell to you at all?

MR. CORCORAN: Yes, I do believe, yes.

MR. KENNEDY: And they came and they talked to you –

MR. CORCORAN: Yes.

MR. KENNEDY: – as to whether or not you had any knowledge of that.

MR. CORCORAN: Yeah.

MR. KENNEDY: I think you'd indicated that you had no –

MR. CORCORAN: No.

MR. KENNEDY: – no knowledge of it.

Okay, thank you, Mr. Corcoran. Those are my questions.

MR. CORCORAN: You're welcome.

THE COMMISSIONER: (Inaudible.)

MS. RASMUSSEN: We have no questions for this witness.

THE COMMISSIONER: Thank you.

MR. AVIS: I'm next in line. My name is Nick Avis. Mr. Corcoran, I represent the Royal Newfoundland Constabulary and I just have one question for you or one area; it should be brief.

MR. CORCORAN: Yes.

MR. AVIS: You said it did not seem appropriate to question Meghan Dunphy that evening.

MR. CORCORAN: Yes.

MR. AVIS: Could you just tell us why?

MR. CORCORAN: It was her father basically and I guess her emotions were running – why would they come to the house a couple of hours after basically that he was shot? I'm sure Mr. Smyth didn't get an interview two hours after. I believe he had 24 hours. So why would they favour one over the other? Basically shouldn't both of them be questioned the one time or given a little bit of time for her mind to clear and settle?

MR. AVIS: Okay (inaudible) so you felt that she was in an emotional state and possibly not in the best frame of mind to give a statement is that –

MR. CORCORAN: Exactly.

MR. AVIS: No further questions.

THE COMMISSIONER: Anybody else have questions?

MR. FLAHERTY: I have no questions, Mr. Commissioner.

THE COMMISSIONER: Nothing for Mr. Flaherty, Ms. Breen.

MS. BREEN: Yes, Mr. Commissioner, I just have one question.

Mr. Corcoran, can you tell us about – I understand that well after this incident you went in and gutted the house, Mr. Dunphy's house. Is that correct?

MR. CORCORAN: Yes.

MS. BREEN: When I – can you explain what you mean, when you gutted the house, you know, did you go up into the roof?

MR. CORCORAN: Yes.

MS. BREEN: Okay. What were you doing up in the roof?

MR. CORCORAN: Cleaning it out, took out all the insulation. There's been stuff in the house over the years – I guess just stuff that Don threw up there, old stuff belonged to Meghan when she was a kid and his wife. So we just got up and cleaned it all out.

MS. BREEN: Okay.

MR. CORCORAN: I was up in the attic myself, actually.

MS. BREEN: So there was storage items up there?

MR. CORCORAN: Yes.

MS. BREEN: As well, you went through – you took out all the insulation up there?

MR. CORCORAN: I did so, yes.

MS. BREEN: What were your observations of the conditions in the attic or in the roof at that time?

MR. CORCORAN: There was places that the insulation had gotten wet, where the roof was leaking, but other than that everything was perfectly fine. It wasn't beat down, flattened out old insulation. It wasn't all sogged or anything. It was reusable, pretty much.

MS. BREEN: Okay. And what about the evidence of – we've heard some mentioning of a picture with a cat peeking down from the ceiling.

MR. CORCORAN: Yes.

MS. BREEN: I believe – sorry – I believe counsel for the RCMP referred Ms. Dunphy to it.

MR. CORCORAN: Yes.

MS. BREEN: Was there evidence, when you gutted out the house, that there had been cats living up in the ceiling –

MR. CORCORAN: No.

MS. BREEN: – for a period of time?

MR. CORCORAN: If there was any – from my, from what I seen up there, the insulation was perfect. If there had to have been any cats living up in the attic, the insulation would be bent done, it'd be flattened out from lying down on it, basically, especially where it was wet. There was nothing up there to show evidence that there was cats up there.

MS. BREEN: Okay. And like cat excrement or anything like that.

MR. CORCORAN: Nothing.

MS. BREEN: Did you see any evidence of that kind of thing?

MR. CORCORAN: No, there wasn't. There was plastic bags and books and clothing and everything up there. Nothing was touched.

MS. BREEN: Okay.

Thank you. Those were my only questions. Thank you.

MR. CORCORAN: You're welcome.

THE COMMISSIONER: Any other counsel with questions?

Okay. Thank you, Mr. Corcoran.

MR. CORCORAN: You're welcome.

THE COMMISSIONER: Appreciate your testimony.

You have the next witness?

MS. O'BRIEN: Yes, thank you.

It'll be witness Colin Dinn. I'll ask Madam Clerk – or no, it's okay, Madam Clerk, I see Mr. Foran getting him. And also the statement of Mr. Corcoran that I had the wrong number for, it's P-0037 and so it's a written statement that both Meghan and Mr. Corcoran, both Meghan Dunphy and Billy Corcoran contributed to.

Also for the record, Commissioner, this morning we entered two confidential exhibits. They've now been entered into the records as C-0003 – was the RCMP statement of Debra Dunphy and C-0004 is the note from Mrs. Dunphy and the medical note from her doctor that we received this morning. That's C-0004.

THE COMMISSIONER: Thank you.

MS. O'BRIEN: You can have a seat.

MR. DINN: Oh, perfect.

Thank you.

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

MR. DINN: I do.

MS. SHEEHAN: Please state and spell your full name, please.

MR. DINN: Colin Thomas Dinn.

C-o-l-i-n T-h-o-m-a-s D-i-n-n.

MS. SHEEHAN: Thank you.

MS. O'BRIEN: Thank you, Mr. Dinn.

Before I begin asking questions, I'm going to ask that some exhibits be entered into evidence.

Commissioner, I'm asking that Exhibits P-0100 to 0104 be entered.

THE COMMISSIONER: Awarded.

MS. O'BRIEN: Thank you.

All right, Mr. Dinn, you were a friend of the late Donald Dunphy; is that right?

MR. DINN: Yes.

MS. O'BRIEN: Okay.

Now a couple of questions that I'm just want to clarify for the record. When we, when my Commission co-counsel and I interviewed you prior to the hearing, Mr. Dinn, you were taking some medications at that time –

MR. DINN: Yes.

MS. O'BRIEN: – some prescription medications –

MR. DINN: Yep.

MR. O'BRIEN: – at that time that could potentially affect your memory or ability to recall.

MR. DINN: uh-huh.

MS. O'BRIEN: I don't need to know what medications, but I would like to know, is that same case today?

MR. DINN: Yes, yep.

MS. O'BRIEN: Okay.

And also before we interviewed, Ms. Chaytor and I interviewed you –

MR. DINN: Uh, huh.

MR. O'BRIEN: – you had given two prior statements to the RCMP; do you recall that?

MR. DINN: Yes.

MS. O'BRIEN: And those have actually now been introduced into evidence.

MR. DINN: Okay.

MS. O'BRIEN: They were two of the exhibits I put in. From what I understood when we interviewed you that after you gave those statements to the RCMP –

MR. DINN: Uh-huh.

MS. O'BRIEN: – but before Ms. Chaytor and I interviewed you, in that period of time you'd had some serious health complications –

MR. DINN: Uh-huh.

MS. O'BRIEN: And again I don't need to know what they are, but I understood that they also impacted your memory.

MR. DINN: Yes.

MS. O'BRIEN: Is that right?

MR. DINN: Yes.

MS. O'BRIEN: Okay.

And so I think when we spoke to you, you had some difficulty recalling some things. Are you still finding today that your memory is impaired from those health complications that you had?

MR. DINN: Yes.

MS. O'BRIEN: Okay.

Now where did you grow up, Mr. Dinn?

MR. DINN: Mount Carmel.

MS. O'BRIEN: Okay.

Now, was it in Mount Carmel –?

MR. DINN: Well, Forest Field –

MS. O'BRIEN: Forest Field?

MR. DINN: – was the name of the community.

MS. O'BRIEN: Okay, and is Forest Field just across –

MR. DINN: Yes.

MS. O'BRIEN: – Salmonier Arm from Mitchells Brook?

MR. DINN: No, it's up further and across from Mount Carmel.

MS. O'BRIEN: So it's across from Mount Carmel, but it's across that body of water –

MR. DINN: Yes.

MS. O'BRIEN: – that Salmonier Arm that runs up?

MR. DINN: Yes.

MS. O'BRIEN: All right.

Now, I know from speaking to you earlier that you – that when you were around 20 you moved from Forest Field to Mount Carmel proper – is that right?

MR. DINN: Yes.

MS. O'BRIEN: Okay. And then did you leave the province sometime after that?

MR. DINN: Yes.

MS. O'BRIEN: And was it for work purposes?

MR. DINN: Yes.

MS. O'BRIEN: You left to work?

MR. DINN: Yes, yeah.

MS. O'BRIEN: Okay.

Did you – while you were away working, did you suffer an injury there?

MR. DINN: I did.

MS. O'BRIEN: Okay so – we don't need to know the injury, but was it a workplace injury?

MR. DINN: Yes.

MS. O'BRIEN: When did you move back to Newfoundland?

MR. DINN: Six, seven – six years ago.

MS. O'BRIEN: Six years ago?

MR. DINN: Yeah, I think six years.

MS. O'BRIEN: So around 2011?

MR. DINN: Eleven, twelve. I'm not 100 per cent sure.

MS. O'BRIEN: Okay. Around that time that's –

MR. DINN: In both of those actually, it took me two years to move home, basically.

MS. O'BRIEN: Pardon?

MR. DINN: It took me two years to move home. I made a couple of trips from up North, so I was kind of two years doing it, so it was eleven and twelve probably.

MS. O'BRIEN: Okay, so you didn't just move back at once –

MR. DINN: Yeah.

MS. O'BRIEN: – you'd been living up in Northern Canada and you kind of took a couple of trips back and forth before you settled back here permanently –

MR. DINN: Uh-huh.

MS. O'BRIEN: – is that what you're saying?

MR. DINN: Yeah, that's correct.

MS. O'BRIEN: Okay.

And when you moved back then in 2011 or '12, where did you move in to? Where did you live?

MR. DINN: Mount Carmel.

MS. O'BRIEN: In Mount Carmel.

MR. DINN: Yep.

MS. O'BRIEN: So is that the same spot you're living now?

MR. DINN: Yes.

MS. O'BRIEN: And where is that house in relation to Mr. Dunphy's house?

MR. DINN: About, I don't know, a couple of minutes away from Mr. Dunphy's.

MS. O'BRIEN: Is it on the same road?

MR. DINN: Yes.

MS. O'BRIEN: Okay.

THE COMMISSIONER: A couple of minutes by car?

MR. DINN: Yes.

Probably, well depending on the time of year, it could take anywhere from two minutes to five minutes because of potholes and –

MS. O'BRIEN: And is it from Mr. Dunphy's house – do you live closer to Mitchells Brook or closer to –

MR. DINN: In Mitchells Brook.

MS. O'BRIEN: You live in Mitchells Brook?

MR. DINN: Yeah.

MS. O'BRIEN: Okay.

How long have you known Mr. Dunphy?

MR. DINN: Since I was – I don't know – 15 probably.

MS. O'BRIEN: Okay. And how did you meet him then?

MR. DINN: Just met him in the community, like small towns, everybody knows everybody. Actually, we used to be down at their – at his father's sawmill. That's probably where I met him the first time.

MS. O'BRIEN: So why would you go to the sawmill?

MR. DINN: Get logs sawed, anything like –

MS. O'BRIEN: Okay. And –

MR. DINN: Get slabs or get firewood. It could be –

MS. O'BRIEN: Okay. So in those years you knew Mr. Dunphy around the community. Did you have a friendship with him, like would you have done anything social with him or is he just someone you knew as another community member?

MR. DINN: Yeah, we were just buddies. We never really done anything social together, as such.

MS. O'BRIEN: Okay.

So before you moved away, when you moved up – moved out of the province to go work, how often, how frequently would have seen Mr. Dunphy in those years?

MR. DINN: Once a week, maybe. Well, I would have seen him more often than that but actually for me and him to, say, talk or see each other, it would be once – probably once a week.

MS. O'BRIEN: Okay. And in those years, would you have visited him home in those years?

MR. DINN: Yep.

MS. O'BRIEN: Oh, okay, so you would have gone and had a visit with him?

MR. DINN: Yes.

MS. O'BRIEN: And would he ever go to your house for a visit?

MR. DINN: No. Well, no, at that time, no.

MS. O'BRIEN: Okay.

So when you moved back to the province again, did you start seeing him regularly again then when you came back to Newfoundland?

MR. DINN: Uh-huh, yes.

MS. O'BRIEN: How often would you see him?

MR. DINN: A couple, a couple times a week – three, depending, depending on his health and how he was feeling.

MS. O'BRIEN: Okay. What types of things did you do together?

MR. DINN: Nothing really, just sat there watched TV, hockey game, talk about what was going on or how he was feeling, how I was feeling. Just normal stuff.

MS. O'BRIEN: Okay. And would, so would – you're talking about being at his house, are you?

MR. DINN: Uh-huh.

MS. O'BRIEN: Okay. Is that all the times you saw him, would you go to his house?

MR. DINN: Yeah.

MS. O'BRIEN: Okay. So did he ever come to yours in recent years?

MR. DINN: Yeah, he did a couple times to get, like a wrench or a loan of something or whatever, but not for, not to stay for extended period.

MS. O'BRIEN: Okay. So for visits, you'd go there?

MR. DINN: Yes.

MS. O'BRIEN: And did you two ever do anything together, like go to town together or –

MR. DINN: No. Hauled sawdust and stuff for his cats and stuff like that together, but I helped him build a enclosure for all the cats that were around. That's the only thing we ever really done together.

MS. O'BRIEN: Okay. And that was on his property?

MR. DINN: Yep.

MS. O'BRIEN: Okay. So you are saying some two to three times a week. How long would a typical visit be?

MR. DINN: Anywhere from an hour to a couple hours, just depending on how he was feeling.

MS. O'BRIEN: Depending on how he was feeling, is that what you said?

MR. DINN: Yeah, like with his, with his own medical, stomach and stuff. There was lots of times he wasn't well enough to have a visit.

MS. O'BRIEN: Okay. When you were visiting was there ever anyone else there at the same time –

MR. DINN: No.

MS. O'BRIEN: – or would it just be you and him?

MR. DINN: Well, years ago Meghan used to be there when she was younger and whatnot, but not in recent times.

MS. O'BRIEN: So when she was there, was that when she was like living at home –

MR. DINN: Yes.

MS. O'BRIEN: – with her dad still?

MR. DINN: Yeah.

MS. O'BRIEN: Okay.

Now, we know that Mr. Dunphy had a medical marijuana licence –

MR. DINN: Uh-huh.

MS. O'BRIEN: – and were you aware that he grew marijuana?

MR. DINN: Yes.

MS. O'BRIEN: Okay. And when you were there, would he smoke marijuana during your visits?

MR. DINN: Yeah.

MS. O'BRIEN: Could you tell if Mr. Dunphy had been smoking marijuana, did he seem impaired after he smoked marijuana, or?

MR. DINN: No, not to me, no.

MS. O'BRIEN: So you couldn't tell the difference one way or the other is that what you are saying?

MR. DINN: No, my dear.

MS. O'BRIEN: Okay.

MR. DINN: I never seen him stoned, per se, if that's the right terminology to use.

MS. O'BRIEN: Okay.

Did you ever know him to drink alcohol?

MR. DINN: No.

MS. O'BRIEN: What about take non-prescription medications?

MR. DINN: Not to my knowledge.

MS. O'BRIEN: Okay.

Did you communicate with Mr. Dunphy by text or by phone?

MR. DINN: Sometimes, yeah.

MS. O'BRIEN: How often would you have that kind of communication with him?

MR. DINN: I don't know, maybe every couple of weeks he'd shoot a text see what you're at, or I'd shoot him a text asking him how he was feeling or, you know.

THE COMMISSIONER: I can't hear everything you're saying –

MR. DINN: Oh, sorry.

THE COMMISSIONER: A little bit louder would be good, thank you.

MR. DINN: Yeah, probably once – a couple of times every couple of weeks maybe.

MS. O'BRIEN: Okay. So when you would normally visit him, you wouldn't call before you came –

MR. DINN: No.

MS. O'BRIEN: – you'd just drop on by?

MR. DINN: Yep, yep.

MS. O'BRIEN: Now, you mentioned about him not, sometimes not feeling well –

MR. DINN: Uh-huh.

MS. O'BRIEN: – and I don't need you to get into all the details of his medical conditions –

MR. DINN: Yep.

MS. O'BRIEN: – but could you just describe for us, how was Mr. Dunphy's health, his physical health, generally.

MR. DINN: His physical health – well, it was – he had some kind of a stomach problem and he trying to get help for it and he had all kinds of different meds and whatnot for this thing, but sometimes it was good and sometimes it was bad, like – how do I explain it? It was, it, it was like he was having a, having cramps, maybe, but –

MS. O'BRIEN: Okay, so he was having stomach – some stomach trouble. Okay.

MR. DINN: Yeah. It's hard to explain, really.

MS. O'BRIEN: Okay, that's fine.

And sometimes would you notice that he'd be sicker and sometimes he'd be better, is that the idea?

MR. DINN: Yes.

MS. O'BRIEN: All right. How would you describe Mr. Dunphy's character? What kind of person was he?

MR. DINN: Oh, he was a proud man. Yeah.

THE COMMISSIONER: Sorry. What?

MR. DINN: He was a proud man.

MS. O'BRIEN: Mr. Dinn, I'm going to get you to really point your microphone, maybe pull it down a bit so it's really pointed at you, and make an effort to speak as loudly as you can –

MR. DINN: Sorry.

MS. O'BRIEN: – okay, because we want to make sure –

MR. DINN: Yes.

MS. O'BRIEN: Okay.

MR. DINN: Is that better?

MS. O'BRIEN: That's much better.

Okay. So you said he was a proud man. What else?

MR. DINN: I don't know, I always found him good, like always in good humour and a good mood. I never – and it really, I don't know, it tormented him that he couldn't provide, like as good as he usually – you know, not able to work, and being in the situation that he was in, that really bothered him.

I say he was proud because I used to bring him wood all the time and he wouldn't – he'd get mad with me for bringing it if he didn't have anything to give me for it, but I never, ever wanted anything for it, right, he was a buddy. Like that – you know what I mean, like he was proud like that. He wouldn't –

MS. O'BRIEN: Did you ever witness him get worked up about something?

MR. DINN: In what way? What do you mean?

MS. O'BRIEN: Oh, just get worked up about something. Get, you know, excited about something or passionate about something.

MR. DINN: Yeah.

MS. O'BRIEN: Okay. So what kind of things did you see him get –

MR. DINN: Hockey.

MS. O'BRIEN: Hockey.

MR. DINN: Uh-huh.

MS. O'BRIEN: Okay.

MR. DINN: Right, and his cats. He loved his cat.

MS. O'BRIEN: Okay. Did you ever hear him talk about his Workers' Compensation claim?

MR. DINN: Yeah, I did.

MS. O'BRIEN: Okay. Did you ever see him get worked up or excited or passionate about that?

MR. DINN: Well we're both passionate 'cause we both used to talk about compensation because I'm in a similar situation. We used to just compare our cases, I guess. Nothing out of the – like I never seen him get, like jumping around or anything excited or – just talking, that's all.

MS. O'BRIEN: Okay. Did you ever witness him get angry about anything?

MR. DINN: Not angry, but upset, disappointed.

MS. O'BRIEN: What did you see him get upset about?

MR. DINN: Well, just about his compensation and the way it was going and then he'd see mine and the way mine was going and we're in the same – like he said, you know, it don't matter where you are or where you're coming – what compensation were you on, and everybody was getting hosed, type thing. Well, me and him; like we were getting – but I'd never seen him angry or –

MS. O'BRIEN: Okay. Did you ever see him behave violently?

MR. DINN: No.

MS. O'BRIEN: Did you ever hear him threaten anyone?

MR. DINN: No.

MS. O'BRIEN: Did you ever hear him – about him being violent or threaten anyone?

MR. DINN: No.

MS. O'BRIEN: Okay. Now, what about the – are you aware he had a sign on his house?

MR. DINN: Uh-huh.

MS. O'BRIEN: Do you know when it was put there?

MR. DINN: It must be a couple – three or four years, probably, or longer.

MS. O'BRIEN: Okay. So were you there visiting, and was that during the (inaudible) after you came home, were –

MR. DINN: Yeah, the sign was there.

MS. O'BRIEN: – visiting him regularly?

MR. DINN: Yeah.

MS. O'BRIEN: Okay. Do you remember having any discussions with him when he put the sign up on the outside of his house?

MR. DINN: Yeah.

MS. O'BRIEN: What do you remember?

MR. DINN: Well, he said he put it up so that if anybody came he'd be covered because his front step was rotten and he didn't want anybody to walk in the house and fall through the step and get hurt.

MS. O'BRIEN: Okay. Do you remember what the sign said? And I don't mean did you have it memorized.

MR. DINN: No, my dear.

MS. O'BRIEN: But do you remember generally what it said?

MR. DINN: Not really. I never really paid any attention to it.

MS. O'BRIEN: Okay.

MR. DINN: I knew it was on the corner.

MS. O'BRIEN: Okay. When you would visit him regularly, was there a specific room that you would visit in?

MR. DINN: We'd sit in the living room.

MS. O'BRIEN: In the living room. Okay. Would you ever sit in the kitchen or was it always the living room?

MR. DINN: No, in the living room, because we used to watch TV and the TV was in the living room.

MS. O'BRIEN: Okay. Did you ever go to other areas of the house?

MR. DINN: Bathroom and – I've been in the kitchen before and I was in the grow room before.

MS. O'BRIEN: In the grow room?

MR. DINN: Yeah.

MS. O'BRIEN: So would that be the bedroom that he had converted in and he was growing –

MR. DINN: Yeah.

MS. O'BRIEN: – some marijuana plants in.

MR. DINN: Yeah; for himself, yeah.

MS. O'BRIEN: Okay. Was there a seat that Mr. Dunphy sat in, typically, when you were visiting?

MR. DINN: Yeah, his chair in the living room.

MS. O'BRIEN: Okay.

MR. DINN: The mechanical one.

MS. O'BRIEN: Okay, so that reclining –

MR. DINN: Yeah.

MS. O'BRIEN: – just your sort of big, easy-boy type chair.

MR. DINN: Yeah.

MS. O'BRIEN: Okay, and – all right. Where would you typically sit when you went in?

MR. DINN: On the couch.

MS. O'BRIEN: Okay. And I'm going to get you to talk to us a little bit about, what kind of condition was the house in?

MR. DINN: It was rough.

MS. O'BRIEN: Did you say rough?

MR. DINN: Rough, yeah.

MS. O'BRIEN: Okay. So tell me a little bit more about what rough means.

MR. DINN: I don't know, just rough. It was starting to get rundown on him and he couldn't afford to repair it. So the window was rotten and a bit of siding was rotten and stuff but he just – he was waiting – I offered a couple of times to help him try to fix it up. He said, aw, one of these days we'll fix it up, he said. That was all.

MS. O'BRIEN: Okay. How was the house like in terms of cleanliness?

MR. DINN: I don't know, clean.

MS. O'BRIEN: Sorry, I didn't hear your answer, Mr. Dinn. You really have to –

MR. DINN: Yeah, I never answered yet.

MS. O'BRIEN: Oh.

MR. DINN: I'm trying to think of a word. No, it wasn't overly clean, he done what he could. He wasn't able to physically, to clean the place up himself.

MS. O'BRIEN: Okay.

MR. DINN: I don't know.

MS. O'BRIEN: You know some of the witnesses, the police witnesses who were there are going to describe it as being very dirty.

MR. DINN: Uh-hum.

MS. O'BRIEN: And we're going to get some testimony – I believe that Constable Smyth didn't even want to sit on the couch; he found it to be that dirty. Would you have similar concerns?

MR. DINN: No. I sat on the couch every time I went there.

MS. O'BRIEN: Okay. All right. We know Mr. Dunphy was a cat lover.

MR. DINN: Uh-huh.

MS. O'BRIEN: When you were there, were there cats inside the house?

MR. DINN: Yeah, just his own, though; three, four maybe. I only knew Blondie and – oh, I can't even think of the other fella's name.

MS. O'BRIEN: So these were his pets?

MR. DINN: Yeah. Yeah, yes.

MS. O'BRIEN: Okay. And how many of them did he have as inside pets?

MR. DINN: Four, I think.

MS. O'BRIEN: All right. Did you ever see – other than those four cats, did you ever see any other cats on the inside of the house?

MR. DINN: Yeah.

MS. O'BRIEN: Okay. When would you see other cats on the inside of the house?

MR. DINN: If they were sick. If any of the cats ever – out back, up in our little pound we had built. If any of them were sick he'd bring them down to the house and nurse 'em better and then put 'em back up.

MS. O'BRIEN: Okay. When he had them down and they were nursing then where would he keep them?

MR. DINN: He'd keep them in a box in a room.

MS. O'BRIEN: What room?

MR. DINN: His bedroom.

MS. O'BRIEN: In his bedroom?

MR. DINN: Um.

MS. O'BRIEN: Okay. And how often – how many times, approximately, would you have seen that happen?

MR. DINN: No, just three or four maybe, over three or four years.

MS. O'BRIEN: And outside –

MR. DINN: Uh-huh.

MS. O'BRIEN: – there was a number of cats I take it.

MR. DINN: Uh-huh.

MS. O'BRIEN: Any estimate of how many?

MR. DINN: No, I don't really know for sure.

MS. O'BRIEN: Okay. Was it over 10?

MR. DINN: Yeah. Probably thirtyish, but they were –

THE COMMISSIONER: I'm sorry, I can't hear you. Probably what?

MR. DINN: Probably 30 outside up in the back. But they weren't all his. Like people dropped them on the road in front of his house.

MS. O'BRIEN: We're still having trouble hearing you.

MR. DINN: Oh, sorry.

MS. O'BRIEN: Continue with what you were saying.

MR. DINN: There was days that people had dropped cats off and just left them right in front of his house. Like they weren't his cats, but after the dump closed pretty much all the cats were wild around and they used to go because Donnie had his own cats. Pretty much, not many people had cats in our – and I guess that's where most of them came from.

MS. O'BRIEN: People dropping them off.

MR. DINN: Yeah, and wild cats that were there, right, all along, say. But the garbage dump closed and they just travelled through the woods behind our houses. And once we built a pen and he built – I think he had two sheds built inside the pen with all kinds of places for the cats, like for them to stay and get in out of the weather.

MS. O'BRIEN: Okay.

Would he feed those cats, do you know?

MR. DINN: Yes.

MS. O'BRIEN: Okay.

And we saw some, we've seen some pictures of their being what the RCMP called the cat room, whether it was sort of attached to an addition off the back of his house, a room where –

MR. DINN: I don't know.

MS. O'BRIEN: – there was some cats. Did you ever go in there?

MR. DINN: No, my dear, no.

MS. O'BRIEN: You never went in that area of the house?

MR. DINN: No.

MS. O'BRIEN: Okay.

Did you ever hear – no, one more question, sorry, on the house, because we've had, we'll be having some testimony, people who were in there –

MR. DINN: Uh-huh.

MS. O'BRIEN: – and there's going to be talk about cat droppings and that, you know, cat mess in the house.

MR. DINN: (Inaudible.)

MS. O'BRIEN: Did you ever see cat droppings in the house?

MR. DINN: No, only in the litter box.

MS. O'BRIEN: Okay, and where was the litter box?

MR. DINN: By the wood stove –

MS. O'BRIEN: Okay.

MR. DINN: – in the hallway.

MS. O'BRIEN: Did you ever hear Mr. Dunphy express any concerns about his safety?

MR. DINN: No, not really.

MS. O'BRIEN: Okay.

I'm going to bring you to – Madam Clerk, can you bring up Exhibit P-0100, please?

So I'm going to take you to, and I can scroll down – Madam Clerk, can you make it a little bit bigger, please? Thank you. Whoops, I made it small again; could you make it bigger? Thank you. What am I doing? Smaller, please. I don't know how I did that, I apologize. You can't make it small – oh, there we go.

MS. SHEEHAN: (Inaudible.)

MS. O'BRIEN: No, that's good. I think we got it working now, so we won't – I'll just go slowly.

Okay, Mr. Dunphy, or sorry, Mr. Dinn, I'm bringing you to a statement –

MR. DINN: Uh-huh.

MS. O'BRIEN: – that, this is a statement that you gave, I think, I believe it is your first statement –

MR. DINN: Okay.

MS. O'BRIEN: – that you gave the police on April 6, 2015. This is the day after –

MR. DINN: Uh-huh.

MS. O'BRIEN: – Mr. Dunphy died.

MR. DINN: Okay.

MS. O'BRIEN: All right, do you recall giving that statement to the police?

MR. DINN: I do.

MS. O'BRIEN: All right. I'm going to just go right to my book. What I'm looking for, Madam Clerk, I can give you the actual page number, because I do have it here. It's at page 13. Okay, this exhibit should have 32 pages, so we don't have all the pages up so we'll just send a message and then maybe we can get that fixed, but I'll read it out to you.

MS. SHEEHAN: (Inaudible.)

MS. O'BRIEN: Page 13 – great; you got it for me. Thank you.

So do you remember Corporal Henstridge, do you remember that being the RCMP officer who questioned you, Mr. Dinn?

MR. DINN: Yeah, yes.

MS. O'BRIEN: Okay. So here he said, Corporal Henstridge asked you whether Mr. Dunphy was paranoid at all about people coming in and robbing him. And do you just want to give your answer, read over there, see if that refreshes your memory.

MR. DINN: Okay.

MS. O'BRIEN: Okay. Do you remember that incident here; does that refresh your memory? Can you remember that now?

MR. DINN: Okay, yeah.

MS. O'BRIEN: Do you remember that?

MR. DINN: Yeah.

MS. O'BRIEN: Okay, so maybe I'll ask you the question again. Did you ever hear Mr. Dunphy express any concerns about his safety?

MR. DINN: Yeah, I guess, yes.

MS. O'BRIEN: Okay, so tell me about it. What do you recall?

MR. DINN: Well that's – what I got there is pretty much all that – I am trying to remember – oh, man.

MS. O'BRIEN: Okay, well I can read what you have there.

MR. DINN: Yep.

MS. O'BRIEN: You said, "He said to me, when was this b'y, what, what are we in, March, maybe in February, Jan, January, February, he said, I guess he must have been after sending a letter or a bad Twitter to somebody or something and he said, wouldn't be a surprise he said they comes for me some night like that."

MR. DINN: Yeah.

MS. O'BRIEN: Okay, so what did you understand him to be saying at that time?

MR. DINN: I don't – at that time, I'm trying to remember that now.

MS. O'BRIEN: When co-counsel and I interviewed you, Mr. Dinn –

MR. DINN: Yeah, I'm just trying to –

MS. O'BRIEN: – back in November we also talked about this.

MR. DINN: Yes, I remember.

MS. O'BRIEN: – and I asked you the question at that time. Would it help you if I gave, told you what you told me in November?

MR. DINN: Yeah, I'm sure he just, it was – I don't even know how to say it. That's what he said; he said it wouldn't surprise me if they comes for me some night. He just said he was after – why was that? He said he was after sending a bunch of letters to Compensation, I believe that's what they said. It's some hard to remember, oh –

MS. O'BRIEN: I can tell you what you told me in November. That might help you.

MR. DINN: Yeah, okay.

MS. O'BRIEN: In November – and for counsel I'm on page 29 of that transcript – I asked you the question: Did you ever hear, Mr. Dunphy, express any concerns about his safety?

MR. DINN: Uh-huh.

MS. O'BRIEN: And your answer as well, because I read it once again because I re-read it –

MR. DINN: Yeah.

MS. O'BRIEN: – and I think you were referring to your statement – he said about after sending out all these tweets and letters, he might be after pissing people off.

MR. DINN: Yeah.

MS. O'BRIEN: He said – and quote – they're liable to come and get me at any time.

That was the only thing I ever heard him say and I don't know if he was just joking around because he did joke around lots with me. We were kind of – I don't know – like two buddies in a woodshed type thing.

MR. DINN: Uh-huh.

MS. O'BRIEN: Okay.

MR. DINN: Yeah.

MS. O'BRIEN: So do you recall him having that concern or at least expressing that to you?

MR. DINN: Yes, I do.

MS. O'BRIEN: Did he ever express any concerns about anyone coming in and stealing his marijuana?

MR. DINN: No, not really.

MS. O'BRIEN: What do you mean by not really?

MR. DINN: No.

MS. O'BRIEN: Okay.

Did – were you aware whether he took any security measures?

MR. DINN: Well, he had cameras and stuff up but something had happened to 'em, they didn't, they didn't work.

MS. O'BRIEN: Okay. Why did he put up the cameras?

MR. DINN: Well, he told me it was one of the parameters for having the licence for growing his own medical marijuana that he had to have cameras and security.

MS. O'BRIEN: Okay. Did you ever know those cameras to be working?

MR. DINN: When they went up first they were, yeah.

MS. O'BRIEN: How long ago was that?

MR. DINN: Oh, I couldn't honestly tell you. I don't know.

MS. O'BRIEN: Okay, was it a number –

MR. DINN: They were up when I came home.

MS. O'BRIEN: They were up when you came home.

And do you remember working, them working for a period of time after you came home?

MR. DINN: Yeah, they got – we had a storm. I think they got struck by lightning or there was rain and something happened to them. They were working, yeah.

MS. O'BRIEN: Were they working in the year, say the year prior to Mr. Dunphy's death? Were they working –

MR. DINN: I couldn't tell say. I don't think so.

MR. O'BRIEN: You don't think so?

MR. DINN: No.

MS. O'BRIEN: Were they working as of April 2015? Can you say that with any certainty?

MR. DINN: No, I can't say that for sure.

MS. O'BRIEN: Okay.

What about other security measures? Did he have any weapons in the house that you were aware of?

MR. DINN: The only thing I knows is that he had a stick that he used to keep by his chair.

MS. O'BRIEN: Okay.

I'm going to ask Madam Clerk to bring up P-0010, Photo 119, please.

MR. DINN: Uh-huh.

MS. O'BRIEN: We're looking at a photograph here of the stick. Is that the – do you recognize that?

MR. DINN: Yes.

MS. O'BRIEN: Is that the stick you're referring to?

MR. DINN: Yes.

MS. O'BRIEN: So why did Mr. Dunphy have that stick?

MR. DINN: I don't know. Because he said that that's all he ever – that's all I needs for protection. That was it.

MS. O'BRIEN: He said that's all I need for protection. Did he talk to you why he thought –

MR. DINN: No.

MS. O'BRIEN: – he might need protection?

MR. DINN: No.

MS. O'BRIEN: But you recall him telling you that's all he needed for protection.

MR. DINN: Well, like lots of people have a stick in their house or a pool stick or a baseball bat or whatever for protection.

MS. O'BRIEN: Okay.

MR. DINN: Like there's no outside reason for having it, it's just –

MS. O'BRIEN: Okay. Where – was there a typical place that Mr. Dunphy kept the stick?

MR. DINN: Yeah, on the right side of his chair.

MS. O'BRIEN: Okay. So if he – if you're sitting in the chair, on the right-hand side?

MR. DINN: Yeah.

MS. O'BRIEN: And how would it be typically stored there?

MR. DINN: It was either on the floor or stood in the corner by the stereo.

MS. O'BRIEN: Okay. Did you ever see it anywhere else?

MR. DINN: No.

MS. O'BRIEN: Did you ever see it on the couch?

MR. DINN: No.

MS. O'BRIEN: Do you recall there being a loveseat in the room at one point –

MR. DINN: Yes.

MS. O'BRIEN: – underneath the window?

MR. DINN: Uh-huh.

MS. O'BRIEN: Did you ever see it over on the loveseat?

MR. DINN: No.

MS. O'BRIEN: Okay. Did you ever see –

MR. DINN: Well, actually, yeah, leaned against the arm of the loveseat.

MS. O'BRIEN: Okay.

MR. DINN: But never on it, no.

MS. O'BRIEN: Okay. And did you ever see it out anywhere else in the room, lying on the floor?

MR. DINN: No.

MS. O'BRIEN: Okay. Did you – were you ever aware whether or not Mr. Dunphy owned a gun?

MR. DINN: No, never. Not in any of the time I was ever there, I ever seen or heard tell of a gun.

MS. O'BRIEN: Okay. Did you ever see any bullets in his house?

MR. DINN: No.

MS. O'BRIEN: Okay. Did you know whether Mr. Dunphy ever hunted?

MR. DINN: No, not to my knowledge.

MS. O'BRIEN: So he didn't hunt, to your knowledge.

MR. DINN: No.

MS. O'BRIEN: Okay. Thank you, Madam Clerk, I'm done with that exhibit.

Did Mr. Dunphy wear glasses?

MR. DINN: Yes.

MS. O'BRIEN: Okay. For what kind of activities would he wear glasses, or would he wear them all the time?

MR. DINN: Reading, on his phone or checking out something on TV.

MS. O'BRIEN: Okay. When's the last time that you recall seeing his glasses?

MR. DINN: Oh, a couple of days before.

MS. O'BRIEN: Okay. Do you recall what kind of shape they were in?

MR. DINN: Well, he had some tape on them, on an ear band, I think, and on the center maybe, but he was wearing them.

MS. O'BRIEN: Okay. But they had some tape on them?

MR. DINN: Yeah.

MS. O'BRIEN: When was the last time that you saw Mr. Dunphy?

MR. DINN: Well, two days – well, actually the day of, when he passed by the house and blew the horn and waved at me and sent me a text.

MS. O'BRIEN: Okay. So you actually had some communication with him on April 5?

MR. DINN: Yep.

MS. O'BRIEN: So prior to April 5, when's the last time you saw him?

MR. DINN: The third.

MS. O'BRIEN: April 3?

MR. DINN: Yeah, it would have been a couple days before.

MS. O'BRIEN: So the third then would have been the Friday.

MR. DINN: Uh-huh.

MS. O'BRIEN: Okay. And would you – did you have a visit with him on that day?

MR. DINN: Yeah.

MS. O'BRIEN: Do you know how long you would have stayed?

MR. DINN: About an hour, I think, that day.

MS. O'BRIEN: What time of day was it? Do you recall?

MR. DINN: 7 p.m.

MS. O'BRIEN: 7 p.m. Did you have a typical time of day that you used to visit him?

MR. DINN: Usually around then. When I take my meds and leave home I'd go visit Donnie and then I'd go visit another buddy and I'd go visit another buddy, then go home.

MS. O'BRIEN: That's for your evening routine?

MR. DINN: Yeah.

MS. O'BRIEN: So this visit that you had with him on April 3, was there anything unusual about that visit?

MR. DINN: No.

MS. O'BRIEN: Do you recall what kind of spirits he was in –

MR. DINN: Good.

MS. O'BRIEN: – or what he seemed like that day?

MR. DINN: He was good.

MS. O'BRIEN: All right. So tell us about what communications you had with him on April 5.

MR. DINN: He sent me a text.

MS. O'BRIEN: Okay. Do you know what time he texted you or approximately?

MR. DINN: Ten to two, around there.

MS. O'BRIEN: Okay.

MR. DINN: Around two.

MS. O'BRIEN: All right.

MR. DINN: I know this 'cause we were waiting for our own Easter dinner and I went over to the shed to get some bottled water and when I came out of the shed my phone went off and it was a text, and then I heard the horn blowing and he was driving by.

MS. O'BRIEN: Okay. So you got the text and then he drove by?

MR. DINN: Yeah.

MS. O'BRIEN: All right. What did the text say?

MR. DINN: Basically – well, from our talk on Friday I figured he wanted a load of wood.

MS. O'BRIEN: So explain that to me.

MR. DINN: Well, I used to bring him wood all the time. And as I said before, he was a proud man. He didn't like taking stuff for free or charity. Like I told him, I didn't care; I'd bring it to him anyway. But he sent me a text saying he had money and bring one down. So I figured that's what he wanted, was a load of dry wood. But I wouldn't know for sure until I went.

MS. O'BRIEN: Okay. And where did you get your wood Mr. Dinn?

MR. DINN: From me father's woodshed.

MS. O'BRIEN: From your father's woodshed.

MR. DINN: Seriously, I'm allowed.

MS. O'BRIEN: Okay. All right. Madam Clerk, can I see Exhibit P-0103, please.

Did Mr. Dunphy respond to – sorry – did you respond to Mr. Dunphy?

MR. DINN: Yeah.

MR. O'BRIEN: Do you remember what your response was?

MR. DINN: K.

MS. O'BRIEN: K. Okay, I'm going to bring that up now.

Thank you, Madam Clerk. Can I get you to make it go bigger again, please? Thank you.

Okay. So I don't need you to give, Mr. Dinn, your full cellphone number, okay. But what are the last three digits of your cellphone number?

MR. DINN: 698.

MS. O'BRIEN: 698?

MR. DINN: Yeah.

MS. O'BRIEN: Okay. And I believe the last three digits of Mr. Dunphy's cellphone number were 476, right?

MR. DINN: I guess so.

MS. O'BRIEN: Okay.

MR. DINN: It's programmed in.

MS. O'BRIEN: Okay. So that's – you know yours was 698?

MR. DINN: Yeah.

MS. O'BRIEN: Okay. So here we see a text coming from what I think is Mr. Dunphy's cellphone.

MR. DINN: Yeah.

MS. O'BRIEN: And it's: \$ here –

MR. DINN: Bring another 1.

MS. O'BRIEN: – bring another 1.

MR. DINN: Yeah.

MS. O'BRIEN: And so you – you understood that to be what?

MR. DINN: Another load of wood.

MS. O'BRIEN: Okay. And there's your response here –

MR. DINN: Yeah.

MS. O'BRIEN: – from your phone and: K. That's what you remember your answer to be?

MR. DINN: Yeah.

MS. O'BRIEN: And I can just tell you, Mr. Dinn, that we can ignore – we don't need to ignore these times but these times are in a UTC or a universe transverse time –

MR. DINN: Okay.

MS. O'BRIEN: – something like that. This column here shows us the Newfoundland time, the time that we're all familiar. So it looks like that he sent that text at 1:46 p.m.

MR. DINN: Yeah.

MS. O'BRIEN: And then you responded a minute – actually, only 30 seconds later.

MR. DINN: Yeah.

MS. O'BRIEN: Okay. So you received that text and you say you were out in your shed.

MR. DINN: No, I was in – in the yard then. I was after coming out of the shed and the phone went off. I pulled out my phone and looked and it was a text, and then I heard the horn blow and I looked and he was driving by.

MS. O'BRIEN: Okay. And did you –

MR. DINN: Just waved.

MS. O'BRIEN: Just waved at him.

MR. DINN: (Inaudible.)

MS. O'BRIEN: Okay.

MR. DINN: And then I sent him – and I answered and I went on in the house and then everything else – well, you know.

MS. O'BRIEN: So he would have driven past your home. He had to do that to get to his home.

MR. DINN: Yes.

MS. O'BRIEN: Is that right? Okay.

Now I'm going to ask Madam Clerk to bring up P-0100 again, please. Now this is with regards to your statement about what the text meant.

MR. DINN: Uh-huh.

MS. O'BRIEN: And I've got to bring your attention to this Mr. Dinn because it's a discrepancy.

MR. DINN: Okay.

MS. O'BRIEN: It's a discrepancy between what you told the police –

MR. DINN: Yeah.

MS. O'BRIEN: – and what you told me about what that text meant.

MR. DINN: Okay.

MS. O'BRIEN: And I just want to bring it your attention.

I'm going to go to page 5 of that statement, please, Madam Clerk. No, we're at page 9. I think we need to go to page 5. Can you just click to page 5? Oh, perfect. Thank you.

So here, this is your statement, Mr. Dinn. If you look at the top, Corporal Henstridge is asking you about the text and he's asking you if you still have it and you say no. And why did you not have it at this time? This was April 6.

MR. DINN: I just erased it.

MS. O'BRIEN: You had erased it?

MR. DINN: Yeah.

MS. O'BRIEN: All right. And so Corporal Henstridge asked you what it said, and you said: "It had a dollar sign, ah, what'd it say, hang on now ... he always does it right, dollar sign, ah, cash here, come down for one."

MR. DINN: Uh-huh.

MS. O'BRIEN: Corporal Henstridge says "Cash."

MR. DINN: Something like that or bring one down.

MS. O'BRIEN: And you say: Or bring one down, that is, you know, that meant he was after getting some money and he must have picked up some weed.

MR. DINN: Uh-huh.

MS. O'BRIEN: Oh, okay. And he wanted to have a draw right. But he had weed in his house. Oh, yeah, he grows, yeah. Why would he need. Well he's a growing man, like I said, I've been there, back and forth for 25 years.

MR. DINN: (Inaudible.)

MS. O'BRIEN: So at this – at this time when you spoke to the police on April 6, you were saying that text meant that he had some money, he – he had some money, he was after getting weed and he wanted to have a draw.

MR. DINN: Well –

MS. O'BRIEN: That was only the day after the text.

MR. DINN: Yeah, I was just after coming from the hospital that day.

MS. O'BRIEN: On April 6, you'd been at the hospital that day?

MR. DINN: Yeah, all day – all morning until I got there, getting my heart checked out.

MS. O'BRIEN: Okay, which do you think is accurate, what you said to me here today or what you said to the police on April 6?

MR. DINN: Well, I – today.

MS. O'BRIEN: Okay.

MR. DINN: More so – why'd I say that?

MS. O'BRIEN: For whatever purpose, did you ever go over to Mr. Dunphy's house that day?

MR. DINN: No.

MS. O'BRIEN: Okay.

And if you were going to bring over the load of wood, why didn't you go ahead and do that, or why didn't go over there if you were –

MR. DINN: Well, because we had heard that he was after being shot.

MS. O'BRIEN: How did you first hear about that?

MR. DINN: Somebody phoned the house.

MS. O'BRIEN: Do you recall what time you got that news?

MR. DINN: No, my dear – while we were eating, so it wasn't very long after.

MS. O'BRIEN: Okay.

THE COMMISSIONER: Was that while you were having lunch midday?

MR. DINN: Yeah, yep.

MS. O'BRIEN: So do you recall, you had your lunch – what time that day would you have had your lunch?

MR. DINN: 2:30.

MS. O'BRIEN: 2:30, okay, so it was sometime after that, okay. Did you ever hear any gunfire that day?

MR. DINN: No, my dear.

MS. O'BRIEN: Okay.

Did you ever receive a telephone call on that day from Constable Joe Smyth?

MR. DINN: No.

MS. O'BRIEN: Did you receive any calls that day from a number that you didn't recognize –

MR. DINN: Yes.

MS. O'BRIEN: – or from a person you didn't know?

MR. DINN: Yeah, from the RCMP trying to get a hold of me, because I had left and gone to the city because I had to go to the hospital early in the morning, and they wanted to question me, so I got a call from them.

MS. O'BRIEN: From the RCMP that afternoon? Prior –

MR. DINN: Evening.

MS. O'BRIEN: Okay, so prior, but prior to you hearing from Mr. – you getting that text from Mr. Dunphy, had you ever gotten many calls earlier in the day from someone you didn't know or a number you didn't recognize?

MR. DINN: I don't think so.

MS. O'BRIEN: Okay. And so the only calls you got that day out of the ordinary were the calls from the RCMP?

MR. DINN: Uh-huh.

MS. O'BRIEN: All right. Mr. Dinn, those are the questions I have for you.

MR. DINN: Okay.

MS. O'BRIEN: Other counsel may have questions, as may the Commissioner. But before I turn it over to them, is there anything else that you feel you didn't get a chance to answer, anything you want to add to your evidence?

MR. DINN: No.

MS. O'BRIEN: All right, thank you, and I'll just remind you, as you are giving your – you're being questioned, please do try to keep your voice up, okay?

MR. DINN: Yeah, sorry about that.

MS. O'BRIEN: Thank you.

THE COMMISSIONER: We are having technical problems?

UNIDENTIFIED FEMALE SPEAKER: Apparently so.

THE COMMISSIONER: Well, we will continue, we will see how much –

UNIDENTIFIED FEMALE SPEAKER: They're on.

THE COMMISSIONER: Counsel have any questions?

MR. KENNEDY: (Inaudible.)

THE COMMISSIONER: Pardon?

MR. KENNEDY: Is it the default order.

THE COMMISSIONER: I would think it's default order, whatever that is; I haven't checked my –

MS. O'BRIEN: Yes, it would – sorry, it would commence with Ms. Breen and Mr. Simmonds.

MS. BREEN: Yes, I just have a couple of questions.

Mr. Dinn, my name is Erin Breen. I represent Meghan Dunphy.

MR. DINN: Yes.

MS. BREEN: Mr. Dinn, Ms. O'Brien had asked you a question about the sign on Mr. Dunphy's house –

MR. DINN: Uh-huh.

MS. BREEN: – and you acknowledged that you had read that sign before.

MR. DINN: Yes.

MS. BREEN: And that you had talked to Mr. Dunphy about the sign on the house.

MR. DINN: Yep.

MS. BREEN: And I believe what you told Ms. O'Brien today is that it was more – it was the concern that Mr. Dunphy had for people going in over his steps.

MR. DINN: Uh-huh, yes.

MS. BREEN: Do you recall, Mr. Dinn, in the interview you did with Commission counsel and I believe that was November 9, 2016 –

MR. DINN: Uh-huh.

MS. BREEN: – you had told Commission counsel that in addition to that – and for the benefit of counsel, this appears, in Mr. Dinn's statement, at page 23 and 24 of the statement, beginning at line 24. You also stated that he said he put it up there so that if anybody come, they could read the sign and leave me alone, he said.

MR. DINN: Yes.

MS. BREEN: Can you just tell us a little bit more about that, Mr. Dinn?

MR. DINN: I don't know – as they were saying about the condition of his house and stuff, I guess maybe he didn't want anybody to see it. He was a proud man, right.

MS. BREEN: Okay. Do you remember when you had that discussion with Mr. Dunphy?

MR. DINN: Oh, no. Like, that was just after I came home.

MS. BREEN: Just after you came home?

MR. DINN: Yeah.

MS. BREEN: Was it something that you discussed with him more than once or was that just a one-time comment made by him?

MR. DINN: No, it was just a one – yeah, a one-time thing.

MS. BREEN: Okay.

What did you think of Mr. Dunphy's physical condition, Mr. Dinn, you know, leading up until the time he died? Did you feel that he was doing better or doing worse than you had seen him over the years?

MR. DINN: Doing better.

MS. BREEN: Okay. Why do you think he was doing better?

MR. DINN: Well, he was after going to a couple of different doctors and had a couple of different surgeries done and he was feeling better. Like – he was feeling better.

MS. BREEN: Okay. And you had also previously stated in your statements anyway that you were aware Mr. Dunphy was seeing a Dr. McGarry?

MR. DINN: Yeah.

MS. BREEN: In Trepassey, correct?

MR. DINN: Uh-huh.

MS. BREEN: And that he was your doctor as well?

MR. DINN: Yep.

MS. BREEN: And that do you feel that he, you know, you were talking about he had some bad times and then getting better, did that occur around the time he started seeing Dr. McGarry, or was it more recent than that, or do you know?

MR. DINN: At around the same, or the time – well, Dr. McGarry sent him for some tests and the surgery, yep.

MS. BREEN: Okay. Those are all my questions.

Thank you.

MR. DINN: Okay.

MR. KENNEDY: Commissioner, before I commence, I wonder if this would be an appropriate time to take a break. There's a picture that I want to show and I'd like to have some conversation with Commission counsel and perhaps either Mr. Simmonds and Ms. Breen in terms of prior to showing anything, because I'm not sure how we deal with some of the pictures.

THE COMMISSIONER: All right. We'll take a 15-minute break.

Thank you.

Recess.

Recess

MS. SHEEHAN: All rise.

The Commission of Inquiry in session.

Please be seated.

THE COMMISSIONER: Okay.

Mr. Kennedy, do you have what you need?

MR. KENNEDY: Yes, thank you, Commissioner. We have cleared it up (inaudible). I thank counsel for their assistance.

If I could have P-0100 brought to the screen, Madam Clerk. That's your statement, your first statement, Mr. Dinn, to the police on April 6, 2015 at 14:30 – thank you, Mr. Simmonds.

Now, this is the statement that that Ms. O'Brien referred you to earlier, Mr. Dinn. It's your first statement to the police. It's the day after Mr. Dunphy dies. If I could just ask you to look at the bottom of that first page, which would be actually page 2 of the document but if you just look at that, you're saying that Mr. Dunphy texted you at quarter to two – and the top of the next page – to come down to visit; that was it, to have a draw. I mean, that's what you told the police on that date.

MR. DINN: Yep.

MR. KENNEDY: Okay.

Then Corporal Henstridge at the bottom of the page says, thanks for telling me that. You're not going to get in trouble for having a draw, considering what we're investigating. Do you remember him telling you that?

MR. DINN: Well, I can read it here, yeah.

MR. KENNEDY: But do you remember him telling you that?

MR. DINN: No, that day is pretty foggy.

MR. KENNEDY: Yes, so then when we get to page 5 – I have a couple of questions on this. We get to page 5 you'll see, Sir, this is what was put to you earlier.

MR. DINN: Yep.

MR. KENNEDY: And the text was actually shown to you, the dollar sign –

MR. DINN: Yeah.

MR. KENNEDY: And bring down one.

MR. DINN: Yeah.

MR. KENNEDY: One, the number one.

MR. DINN: Yeah.

MR. KENNEDY: Okay.

What you say is that it had a dollar sign, what'd it say, hang on now this is, he always does it right, dollar sign, ah, cash here, come down for one.

MR. DINN: Uh-huh.

MR. KENNEDY: Henstridge says: Cash.

Or bring down one, that's, you know, like, that meant he was after getting money and he must have picked up some weed.

MR. DINN: Okay.

MR. KENNEDY: So that's what you told the police officer on that date; is there any reason that you would make that up on that date in question?

MR. DINN: No, no reason to make it up, no.

MR. KENNEDY: So it's the day after, is it true?

MR. DINN: I don't know because I never did go down to see the man and he's dead now. So I honestly don't know –

THE COMMISSIONER: I think what Mr. Kennedy means is it true –

MR. DINN: – what the text meant.

THE COMMISSIONER: Is it true what you said? That's what happened?

MR. DINN: That's what's wrote there, so I'm sure the cops didn't change my statement.

MR. KENNEDY: So is your statement, is what you told the police true?

MR. DINN: Well, as I just said, true in my mind, I don't know for sure because I didn't get a chance to go see the man.

MR. KENNEDY: You've indicated that you used to go down and visit him quite a lot.

MR. DINN: Yeah.

MR. KENNEDY: And that you and him would smoke weed together.

MR. DINN: Yeah, from time to time, yep.

MR. KENNEDY: Okay.

So on this particular day – and my question is not about you smoking the weed together –

MR. DINN: No, no, I know.

MR. KENNEDY: But Mr. Dunphy has marijuana growing in his residence.

MR. DINN: Yes.

MR. KENNEDY: Why would he be – as you say, he was after getting money and he must have picked up some weed. Why would he be picking up weed or buying weed with the grow he had in his house, Sir?

MR. DINN: Because sometimes the stuff he grew wasn't good –

MR. KENNEDY: Sorry?

MR. DINN: Sometimes some of the weed that he grew for himself wasn't good for him to smoke.

MR. KENNEDY: So did you ever, Sir, you indicated that you were in the grow room –

MR. DINN: Yep.

MR. KENNEDY: Okay.

I'm just going to ask you to identify a couple of pictures, Sir. I don't think these will be considered confidential, would they, counsel?

MS. O'BRIEN: No, Mr. Kennedy, those are fine.

MR. KENNEDY: If I could ask first if the witness could be shown Scene 055.

Okay, do you see that, Mr. Dinn?

MR. DINN: Uh-huh.

MR. KENNEDY: Does that appear to you to be the grow room in Mr. Dunphy's house?

MR. DINN: No.

MR. KENNEDY: The picture was taken in Mr. Dunphy's house. We know that. That appears to be marijuana. Is that similar to what you would have seen in Mr. Dunphy's house?

MR. DINN: Yeah, but that's not the room.

MR. KENNEDY: Okay, well let's go to another room, Sir.

If I could ask if the witness can be shown Scene 062.

Is that the room you were in?

MR. DINN: That don't look like the porch – no.

MR. KENNEDY: Sorry, I didn't catch you –

MR. DINN: No.

MR. KENNEDY: Are they two different rooms that I just showed you? Do you know that?

MR. DINN: I don't think so.

MR. KENNEDY: You think that's the same room as I just showed you in –

MR. DINN: It looks like a different angle that's all.

MR. KENNEDY: Okay.

It appears – and I can't really tell, we'll have to hear from the police, but neither one of the rooms are those of the rooms that you were in – correct?

MR. DINN: No, that don't look like the bedroom, no.

MR. KENNEDY: Okay.

If I could now ask you to – so we've got the marijuana grow, he's got a licence to –

MR. DINN: Yep.

MR. KENNEDY: – possess or produce marijuana – I forget the actual wording – up to a certain amount.

MR. DINN: Yep.

MR. KENNEDY: I'm assuming that when you were there the marijuana that you would smoke together would be dried or preserved marijuana.

MR. DINN: Yes.

MR. KENNEDY: Did you ever help him – I don't know if the term is right, picked the marijuana from the plant and dry it?

MR. DINN: No, never.

MR. KENNEDY: With that amount of marijuana in his house, can you offer any explanation why Mr. Dunphy would be buying marijuana?

MR. DINN: Well, that stuff there didn't look ready.

MR. KENNEDY: You had been in his house on Tuesday or Wednesday.

MR. DINN: Yep.

MR. KENNEDY: Did you smoke any marijuana that day?

MR. DINN: No, no.

MR. KENNEDY: If I could ask the witness next – and again, this won't be a confidential picture, we've seen it before – Scene 100. There are clearly a number of things on this table, Sir. This is the table – to orient yourself – that is in front of Mr. Dunphy's chair.

MR. DINN: Uh-huh.

MR. KENNEDY: You will see that there appears to be a big propane torch –

MR. DINN: Yep.

MR. KENNEDY: Did you ever see that being used?

MR. DINN: Yep.

MR. KENNEDY: And what was that used for, Sir?

MR. DINN: For smoking marijuana.

MR. KENNEDY: And how would you use that to smoke marijuana?

MR. DINN: Well, he'd blast it. He'd use his knives and blast his marijuana.

MR. KENNEDY: Okay. So when you say use his knives, we see two knives there.

MR. DINN: Yeah.

MR. KENNEDY: So we have the propane –

MR. DINN: Yeah.

MR. KENNEDY: – tank and the two knives there. You're saying that those were implements used to ingest the marijuana?

MR. DINN: Yeah.

MR. KENNEDY: Did you partake of that with him?

MR. DINN: No.

MR. KENNEDY: Okay. Do you see, Sir, there's a big bottle there. It looks to be a water bottle, a Coke bottle or a Pepsi bottle, something –

MR. DINN: Uh-huh.

MR. KENNEDY: – that is smoky. Does that have anything to do with smoking marijuana?

MR. DINN: Well, I guess. I never seen him use it. He used to just use the knives, so.

MR. KENNEDY: Okay. So basically you can't offer an explanation other than the marijuana wasn't ready –

MR. DINN: Yeah.

MR. KENNEDY: – that was in his house wasn't ready to be smoked.

MR. DINN: Yeah.

MR. KENNEDY: So he sends you a sign, dollar sign, bring down one, is what he says, though, isn't it?

MR. DINN: Yeah, I think.

MR. KENNEDY: Why would he be asking you to bring one down?

MR. DINN: I – that's why I thought it was a load of wood, when to bring one. So I'd have to go to his house to find out what he wanted.

MR. KENNEDY: Sir, at any time were you – at that point in time had you been prescribed pain medication that was OxyContin?

MR. DINN: Yeah.

MR. KENNEDY: And at any time did you trade OxyContin with Mr. Dunphy for marijuana?

MR. DINN: No, geez.

MR. KENNEDY: Sorry?

MR. DINN: No, no.

MR. KENNEDY: That never happened did it, Sir?

MR. DINN: No.

MR. KENNEDY: Is there any reason that Mr. Dunphy would tell his – tell Mr. Corcoran, Billy Corcoran, Ms. Dunphy's boyfriend or common-law husband that he did that?

MR. DINN: No.

MR. KENNEDY: Would he make that up against you?

MR. DINN: No, I don't know.

MR. KENNEDY: Sorry?

MR. DINN: I don't know.

MR. KENNEDY: You and Mr. – you described Mr. Dunphy as your best friend.

MR. DINN: Yeah.

MR. KENNEDY: So is there any reason that he would say that that you can think of?

MR. DINN: No.

MR. KENNEDY: So did you, Sir, trade OxyContin for weed?

MR. DINN: I don't think so.

MR. KENNEDY: You don't – that's something you would remember, isn't it, Sir?

MR. DINN: Yeah. No, I only get – I only got like enough. I only gets enough to take. I don't have enough to trade.

MR. KENNEDY: Okay. Sir, so when he says bring down one, is that what he's talking about?

MR. DINN: No, I don't know.

MR. KENNEDY: Well you and him had texted and this –

MR. DINN: Yeah.

MR. KENNEDY: – was indicated to the police that this was a –

MR. DINN: Well, he texted.

MR. KENNEDY: – common sign, this dollar sign was a common sign utilized.

MR. DINN: Yeah.

MR. KENNEDY: You had actually told him not to do that, right?

MR. DINN: Not to text anything.

MR. KENNEDY: Yeah.

MR. DINN: Yeah.

MR. KENNEDY: In fact, you deleted that text before you were interviewed by the police didn't you?

MR. DINN: Yeah, I did.

MR. KENNEDY: Did you delete that intentionally?

MR. DINN: Oh, I deletes texts all the time.

MR. KENNEDY: Okay. Did you delete that text after you knew that Mr. Dunphy was deceased?

MR. DINN: Well, yeah. I found out in like a half-hour or so after he had sent it to me, so yes.

MR. KENNEDY: And how long after that did you delete the text after –

MR. DINN: I don't know.

MR. KENNEDY: – the minute you heard about Mr. Dunphy's death?

MR. DINN: That night, maybe.

MR. KENNEDY: So wouldn't it have – did it occur to you, Sir, that that text –

MR. DINN: No.

MR. KENNEDY: – could mean something for the police?

MR. DINN: No, it didn't really. No.

MR. KENNEDY: Sir, in your statement to the police, and also in your interview with Commission counsel, you indicated that you talked about – that Mr. Dunphy talked about compensation all the time.

MR. DINN: Yes.

MR. KENNEDY: He also – and if I could ask you to look at page – if we could have page 10 of P-0100 brought up, please.

And you're referring here, at the bottom of page 9 – oh, sorry, just wait for it to come up. At the bottom of page 9, the top of page 10, you refer to a couple of politics. One of them being a – there's a Paul Lane. Did you know who Paul Lane was?

MR. DINN: Not really, no.

MR. KENNEDY: Did you know who Paul Davis was?

MR. DINN: Well, I knows who they are but –

MR. KENNEDY: Okay. Did Mr. Dunphy – were you present when he would discuss Premier Davis?

MR. DINN: Yeah, from time to time.

MR. KENNEDY: Now there was another minister you're referring to here at page 10. He was talking about another minister who said he was going to help him.

MR. DINN: Yeah, I don't know who it was, though.

MR. KENNEDY: Does the name Steve Kent ring a bell with you?

MR. DINN: Maybe.

MR. KENNEDY: And was Mr. Dunphy complaining that neither Mr. Davis nor Mr. Kent were doing anything for him?

MR. DINN: Well, not that they weren't doing anything. That he had sent a bunch of letters and had talked to these people and nothing had been done yet. Just playing a waiting game was all – that's what he said.

MR. KENNEDY: But did he tell you he had specifically gone to Steve Kent and Mr. Kent had offered –

MR. DINN: Not specifically, no.

MR. KENNEDY: Okay. So you don't – you remember him talking about politicians in general do you, Sir?

MR. DINN: Yes.

MR. KENNEDY: Okay.

MR. DINN: Yeah, we never really specified anything. We just talked about stuff.

MR. KENNEDY: Would he express any anger towards politicians?

MR. DINN: Not really.

MR. KENNEDY: Sorry?

MR. DINN: No.

MR. KENNEDY: He was – he would complain about compensation –

MR. DINN: Yeah.

MR. KENNEDY: – and I think you indicated – he would indicate – I think, at one point you talked about he was mad at Canada Pension too.

MR. DINN: Yeah, I believe so.

MR. KENNEDY: Okay. So – and I think the way you described it, Sir, is that he wasn't violent but angry.

MR. DINN: Yeah.

MR. KENNEDY: Do you remember describing him that way?

MR. DINN: Well, if it's – yeah, probably. I'm sure I could have said that.

MR. KENNEDY: Is that your description today?

MR. DINN: Yeah.

MR. KENNEDY: Sorry?

MR. DINN: Yeah, yes.

MR. KENNEDY: He was angry at the system –

MR. DINN: Yeah.

MR. KENNEDY: – and Workers' Compensation, anyone who formed part of that – quote, unquote – system.

MR. DINN: Excuse me?

MR. KENNEDY: The system, Workers' Compensation, government officials, things like that.

MR. DINN: Yeah. Uh-huh.

MR. KENNEDY: And I think you'd indicated in one of your interviews that he – he would talk so much about the Workers' Compensation that you, you'd tune him out or – I don't know if you use that term but you wouldn't listen to him, you'd try to change the topic. That was always what he talked about, correct?

MR. DINN: Yeah.

MR. KENNEDY: Okay.

MR. DINN: Not always.

MR. KENNEDY: Okay, so – but it was a regular topic.

MR. DINN: Yeah, I mean fair enough.

MR. KENNEDY: So now I want to go to that section that Ms. O'Brien referred you to, Sir, when she asked you was he concerned about people coming or if people come there. If I could ask you to look at – if we could bring up page 13 of that document.

You see this is the – you were referred to this earlier, Sir, where Corporal Henstridge asked you was he paranoid about people coming in and robbing him.

MR. DINN: Yeah.

MR. KENNEDY: You go on to say that, "He said to me, when was this b'y, what, what are we in, March, maybe in February, Jan, January, February, he said, I guess he must have been after sending a letter or a bad Twitter to somebody or something and he said, wouldn't be a surprise if they comes for me some night like that."

MR. DINN: Uh-huh.

MR. KENNEDY: So he said that to you in the months preceding his death, somewhere in the months preceding his death, correct?

MR. DINN: That he wouldn't be surprised if somebody came for him, yeah.

MR. KENNEDY: Yeah, but it's in the months, it's either January, February or March preceding his death.

MR. DINN: Yeah. I'm not 100 per cent sure when.

MR. KENNEDY: Okay. You tell the police officer that this took place in the months basically preceding his death.

MR. DINN: Yeah. Well, I told him the same thing that I didn't know for sure.

MR. KENNEDY: Okay. Do you accept that that's today, that that's accurate?

MR. DINN: Sure.

MR. KENNEDY: Okay. Then Corporal Henstridge asked you, what did they mean. You say, "No, never, never said anybody in particular, I guess he meant whoever he was ... sending the messages to." Do you see that?

MR. DINN: Yeah.

MR. KENNEDY: "It had to be someone in Compensation, that's all I figured or ... Canada Pension was another one he used to be talking about."

MR. DINN: Yeah, he never said who would be coming for him or anything like that.

MR. KENNEDY: Okay. So it was never –

MR. DINN: No, it was nothing (inaudible).

MR. KENNEDY: Then the last thing, Sir, line 259. "If they come for me some night or someday, like, or time or whatever, day and then he said, let 'em come"

MR. DINN: Yeah.

MR. KENNEDY: So you remember having that conversation with him, do you?

MR. DINN: Yes.

MR. KENNEDY: Okay. Now, Sir, in your testimony with the Commission counsel, your interview with Commission counsel, this was also – you were also referred to this –

MR. DINN: Uh-huh.

MR. KENNEDY: And it was read to you I think, actually read to you. And Ms. O'Brien, that's the counsel who asked you earlier, did she express any concern? He said about after sending out all these tweets and letters he might be after pissing people off. He said they're libel to come get me at any time.

MR. DINN: Yeah. But he was, like, laughing when he said it as such.

MR. KENNEDY: But he did say it.

MR. DINN: It wasn't dead serious or nothing. It was just between two fellas.

MR. KENNEDY: But he did say it?

MR. DINN: Yeah.

MR. KENNEDY: And then in terms of the stick, you had indicated, Sir – and if I could ask for page 15 of that statement to be brought up.

MS. O'BRIEN: Mr. Kennedy, the transcript is not in evidence.

MR. KENNEDY: No, no, I'm talking about Exhibit P-0100, the statement.

MS. O'BRIEN: Oh, sorry.

MR. KENNEDY: Sorry.

If you look at the bottom of page 15 and you're now talking about and I wouldn't – Corporal Henstridge is summarizing here: I wouldn't be surprised if they – you: Come, yeah – come for me someday or something like that. And you say: Yeah.

MR. DINN: Uh-huh.

MR. KENNEDY: And let 'em come, ahm, did anything else, did, was there was anything else said around the conversation. Then you say: No, now I never used to try to keep him going, like I used to try to change the subject 'cause he's been doing that for twenty years, like twenty-five, you know he was off his head with people for that long, ever since he got hurt.

MR. DINN: Yeah, well, he has been fighting Compensation ever since, yeah.

MR. KENNEDY: Yep. But you use the term "off his head," what did you mean by that?

MR. DINN: I don't know, upset.

MR. KENNEDY: Okay.

MR. DINN: Like – disappointed in the system I guess because the man was injured and he was hurt and he wasn't getting the help he should have been.

MR. KENNEDY: Okay.

So then also – you're talking at the top, bottom of page 14 – again, if I could ask for page 14 to be brought up and I am going be very quickly on that point, Sir.

MR. DINN: Okay.

MR. KENNEDY: At the bottom of page 14, you said you'd never seen the firearm –

MR. DINN: Yeah.

MR. KENNEDY: He had a stick, a wooden stick about an inch and a half and around four or five feet long with black tape on it. And as far as I can remember, that's what I knew he had for defense, say, if somebody came after him –

MR. DINN: Yep.

MR. KENNEDY: So were you talking about somebody coming after him to rob his marijuana or someone coming after him as a result of his bad letters or tweets?

MR. DINN: No. I have no – I can't say either way. It was just if somebody came after him for whatever –

MR. KENNEDY: So that's what he said he had the stick for –

MR. DINN: Yeah, for whatever reason. If somebody broke into the house or – as I said earlier, lots of people around the bays have sticks and pool cues and baseball bats and stuff in their house for protection. I mean, not everybody got a gun.

MR. KENNEDY: Sir, you'd indicated that you'd stop by his house a couple times a week –

MR. DINN: Yeah.

MR. KENNEDY: What other people do you know who would visit his home?

MR. DINN: Tom Hearn.

MR. KENNEDY: Tom Hearn, okay.

MR. DINN: Used to go regularly. He was the only fellow that probably went regularly that I know. And –

MR. KENNEDY: Sir, the stick, you indicated was to the right of the chair, was it?

MR. DINN: Yes, uh-huh.

MR. KENNEDY: Now, do you know where it would be located?

MR. DINN: What do you mean?

MR. KENNEDY: In terms of you say to the right of the chair –

MR. DINN: On the floor there or in the corner next to the stereo.

MR. KENNEDY: In the corner next to the stereo.

Sir, did you listen to any testimony earlier this week?

MR. DINN: No.

MR. KENNEDY: So you haven't heard any testimony?

MR. DINN: No.

MR. KENNEDY: Okay.

So on the right-hand side, back in the corner is the way you described at one point?

MR. DINN: Yeah, either behind him here in the corner by the speaker or on the floor beside him.

MR. KENNEDY: Now, another issue that came out in your interview with Commission counsel was that he just wouldn't let anyone in. Do you remember discussing that with Commission counsel?

MR. DINN: Yes.

MR. KENNEDY: And do you remember saying that he wouldn't let anyone in without being fully questioned?

MR. DINN: Well, without knowing who they were.

MR. KENNEDY: Yeah.

And that you went on to say he wouldn't let a stranger –

MR. DINN: Now, that's just my feelings, my opinion, right. Like –

MR. KENNEDY: Okay.

MR. DINN: I don't know if the man would do it or not as such. That's just how I perceived him to be.

MR. KENNEDY: Were you ever there when anyone knocked on the door?

MR. DINN: No, never.

MR. KENNEDY: Do you remember telling Commission counsel that he wouldn't let a stranger in without having to identify themselves?

MR. DINN: Yeah.

MR. KENNEDY: Do you remember telling them that?

MR. DINN: Yeah, that's how I felt he'd be.

MR. KENNEDY: Okay. Well, I'll just read you, Sir, what you actually said, very quickly.

But if someone identified themselves, then he'd let them in.

MR. DINN: Yeah.

MR. KENNEDY: Answer: Oh sure, yeah. Ms. Chaytor: Okay. Mr. Dinn: Well, depending I suppose if he wanted to or not. Ms. Chaytor: He wouldn't just let a stranger in without having to identify themselves. Is that what you mean? You say: Yeah.

So that's your testimony today?

MR. DINN: Yeah.

MR. KENNEDY: Okay.

The next exhibit I'd like to show Mr. Dinn, Commissioner, I think would be a confidential photo is the way it's determined that it will be utilized.

If I could bring up –

MS. O'BRIEN: Sorry, Mr. Dinn, you're going to see a photograph – Mr. Kennedy is going to show you a photograph. It's a confidential exhibit, which means the public won't get to see it, but we all will.

MR. DINN: Uh-huh.

MS. O'BRIEN: But you will see it, but I'm just going to give you the warning now that Mr. Dunphy's body is visible, parts –

MR. DINN: I don't know if I wants to see it.

MS. O'BRIEN: – of it are visible in the photo.

Pardon?

MR. DINN: I don't know if I wants to see it.

MS. O'BRIEN: It –

THE COMMISSIONER: Well, I understood from counsel it's not a completely graphic shot.

MR. KENNEDY: No.

THE COMMISSIONER: So I think it will be suitable, Mr. Dinn.

MR. DINN: Oh, we'll see.

UNIDENTIFIED MALE SPEAKER: Commissioner, should we turn off our monitors? I mean, they are facing the back of the room.

THE COMMISSIONER: It's the large ones are supposed to be off.

UNKNOWN MALE SPEAKER: They're off –

THE COMMISSIONER: They're off, I take it. The others are not supposed to be photographed by anybody.

MS. O'BRIEN: (Inaudible) thank you.

We have agreement from the media and just to remind everybody else who's present in the room, if confidential exhibits come up, there is a prohibition against photographing or capturing them in any way. So the media is all aware of this, and I believe, Commissioner, you mentioned it in your opening address, but just to remind anyone that when confidential exhibits come up, there's no photographing them on your phones or videotaping them or capturing them in any way.

Thank you.

THE COMMISSIONER: (Inaudible) Mr. Kennedy, can you generally express the purpose of this –

MR. KENNEDY: Yes, I want –

THE COMMISSIONER: – being put to Mr. Dinn?

MR. KENNEDY: Yeah, this is the one that shows the chair, it shows what's around the chair, and also, Commissioner, identifies the table that's in the same photograph. We have not yet – these photos are going to come out so I don't think it's absolutely crucial that it be shown to Mr. Dinn, but I'm trying to have him – he's identified parts of the house, and the picture that was shown earlier identifies the living room, but we don't see exactly what's to the right of the chair.

THE COMMISSIONER: Is there no other photo dealing with that?

MR. KENNEDY: Apparently, there's no photo of it, Commissioner, that isolates what the – that's why I discussed with Commission counsel and there's no other photo that isolates this particular area that I want to show him.

THE COMMISSIONER: And in that area, what are you going to be submitting, is there – or what are you expecting?

MR. KENNEDY: I just want to ask him, is this what you have seen, is this the general state of repair, where would the – you know, is this where the table would be, did you see that, the stick there, things like that. But I mean, it's not crucial.

THE COMMISSIONER: It seems to me that there are other photos that it – you know, I can respect Mr. Dinn's hesitation about looking at the photo. He's going to be upset by it.

MR. KENNEDY: Yeah, I –

THE COMMISSIONER: If it's not crucial, I don't see that –

MR. KENNEDY: It's not absolutely crucial, Commissioner, no. I mean, I don't want to embarrass or hurt the man, so.

MS. O'BRIEN: If I might suggest, Commissioner, one option would be is I can take a copy of the photograph here, cover over the area and just bring it up and approach the witness and show it to him. So that would cover off the top part, if that's agreeable?

THE COMMISSIONER: Yeah, that might be –

MR. KENNEDY: No, I think, Commissioner, that's –

THE COMMISSIONER: You'd get what you need, Mr. Kennedy?

MR. KENNEDY: Let's, I think it's perhaps best just to –

THE COMMISSIONER: Pardon?

MR. KENNEDY: I think it's perhaps best we just leave it.

THE COMMISSIONER: Perhaps?

MR. KENNEDY: Just leave it, that's fine.

THE COMMISSIONER: Just leave it without showing it; okay, that's fine.

Any further questions you have Mr. Kennedy for –

MR. KENNEDY: No, those would be my questions.

THE COMMISSIONER: Those are your questions.

MS. RASMUSSEN: We have no questions for this witness, Mr. Commissioner.

THE COMMISSIONER: Okay – sorry, Mr. Avis.

MR. AVIS: No problem – Mr. Dinn, my name is Nick Avis and I represent the Constabulary. I just have a couple of questions for you or a couple of areas. You’ve mentioned that he grew good weed. What did you mean by that?

MR. DINN: I don’t know, it was good. It was good; you got a good stone off it, I guess.

MR. AVIS: Right. So would that mean that you’re describing it as potent, you know, like more powerful than – is that what you mean by good?

MR. DINN: No, not more powerful, no. The same as what you’d get on the street, I suppose.

MR. AVIS: Okay, but good, you mean so good – do you mean it gave you a good buzz?

MR. DINN: Yeah.

MR. AVIS: Okay. Please describe how it affected you.

MR. DINN: How it affected me?

MR. AVIS: Yeah.

MR. DINN: It never, I don’t know – it just helps me with my pain, that’s all.

MR. AVIS: Okay, but it makes you happier, does it? I don’t know. Laugh more –

MR. DINN: Yeah, I guess – yeah, it puts you in a better mood.

MR. AVIS: Okay. So you find it alters your mood?

MR. DINN: Yeah, it just puts you in a better mood and helps take the pain away.

MR. AVIS: Okay.

Now, you say that in your evidence that Mr. Dunphy did not seem impaired by the marijuana –

MR. DINN: Yep.

MR. AVIS: You would be smoking marijuana when you were with him – correct?

MR. DINN: Yeah, from time to time.

MR. AVIS: Right. So when he was on marijuana, you would be on marijuana – correct?

MR. DINN: Yep.

MR. AVIS: Okay. So when you're on marijuana, in a good mood, would you be able to tell if it was really affecting him or not?

MR. DINN: Sure.

MR. AVIS: You think you could.

MR. DINN: Yes.

MR. AVIS: So he'd smoke and it wouldn't affect him at all.

MR. DINN: Well, he'd be in a good mood. It helps him with his pain, the same as me, but it didn't, like, make you pass out or fall down or freak out or anything.

MR. AVIS: Right. So what you're saying by impaired is you didn't notice him do anything –

MR. DINN: Different.

MR. AVIS: – out of the ordinary or different –

MR. DINN: No.

MR. AVIS: – or unusual.

MR. DINN: No, not a bit.

MR. AVIS: Okay, thank you so much.

THE COMMISSIONER: Is there another question?

Mr. Flaherty.

MR. FLAHERTY: (Inaudible) Mr. Commissioner.

Good day, Colin. We've met. My name is Cletus Flaherty. I'm counsel for the Don Dunphy Community Coalition.

MR. DINN: Uh-huh.

MR. FLAHERTY: So you knew Don for a while and ye guys were good buddies.

MR. DINN: Yep.

MR. FLAHERTY: He was a good guy.

MR. DINN: Yes.

MR. FLAHERTY: Now, from time to time when he talked about something he was interested in, could he go on bit of rant?

MR. DINN: Yep.

MR. FLAHERTY: He was an excitable talker?

MR. DINN: Yes.

MR. FLAHERTY: He used his hands a lot.

MR. DINN: Yeah, some.

MR. FLAHERTY: Do you think someone would view that and think that he was being inappropriately aggressive or –

M. DINN: No, I don't think they should.

MR. FLAHERTY: And so there's been some conversation about and some questions asked about statements with respect to Donald saying to you that people may come and get him.

MR. DINN: Uh-huh.

THE COMMISSIONER: That he what?

MR. FLAHERTY: That people may come and get him. Come get Mr. Dunphy.

MR. DINN: Yep.

MR. FLAHERTY: And so just to be clear, your evidence is, is that that was out of jest or it was a light-hearted comment.

MR. DINN: Yes.

MR. FLAHERTY: I mean, this man wasn't a clinically paranoid man as far as you could tell.

MR. DINN: No.

MR. FLAHERTY: He didn't think that he was a focus of a government conspiracy.

MR. DINN: No.

MR. FLAHERTY: He didn't think that he was a focus of a Workers' Comp conspiracy.

MR. DINN: No, not a conspiracy, just Workers' Comp was giving him a hard time.

MR. FLAHERTY: I mean, I know you're not a psychiatrist or psychologist but I'm just going to put it to you, was this, was Mr. Dunphy mentally ill, as far as you know?

MR. DINN: Not to my knowledge, no.

MR. FLAHERTY: Did you ever –

MR. DINN: If he was, half what's in around our way is mentally ill because he was up on everything. There was nothing in current events even that he didn't know. Like –

MR. FLAHERTY: Did you take Mr. Dunphy to be a stupid man?

MR. DINN: No. No, man, no way.

MR. FLAHERTY: Physically violent man?

MR. DINN: No.

MR. FLAHERTY: Did he have any interest in firearms?

MR. DINN: Not to my knowledge.

MR. FLAHERTY: You never talked about firearms with him?

MR. DINN: No.

MR. FLAHERTY: Did you ever talk about hunting?

MR. DINN: No.

MR. FLAHERTY: Was Mr. Dunphy a compassionate man?

MR. DINN: Yes.

THE COMMISSIONER: Was he what?

MR. FLAHERTY: A compassionate man. And with respect to the cats, we know he had three or four inside –

MR. DINN: Yep.

MR. FLAHERTY: – and a number outside. Was he compassionate to those animals?

MR. DINN: Oh yes. He'd feed them before he'd eat himself, now.

MR. FLAHERTY: Then he'd take care of them when they were ill.

MR. DINN: Yes.

MR. FLAHERTY: I mean, this is not a situation, for lack of a better word, that he was a crazy cat man who was just a hoarder?

MR. DINN: No. No, he looked after every one of the cats that were there, even the wild ones.

MR. FLAHERTY: Did you ever hear tell of or see any cats up in the roof or coming down through his ceiling or anything like that?

MR. DINN: In the house?

MR. FLAHERTY: Yeah.

MR. DINN: No.

Well, after the fact, I did.

MR. FLAHERTY: After what fact?

MR. DINN: After everything, after Mr. Dunphy was –

MR. FLAHERTY: Deceased.

MR. DINN: – deceased and everything was cleared out of the house, I went helped Meghan clear the cats out of the house, and there was one in the attic, yes. That was the only time I ever seen a cat come out of the attic, or out of the ceiling, or whatever.

MR. FLAHERTY: Now, there's been some question about the stick –

MR. DINN: Uh-huh.

MR. FLAHERTY: – that Mr. Dunphy had. Your evidence here today is that he would keep it to the right of his chair.

MR. DINN: Yeah. Well, when I was there.

MR. FLAHERTY: When you were there.

MR. DINN: Any time I've seen it, it was on the right of the chair.

MR. FLAHERTY: Okay.

And when you were interviewed –

MR. DINN: Uh-huh.

MR. FLAHERTY: – by Ms. O'Brien and Ms. Chaytor, do you recall what your answer was with respect to the positioning of the stick?

MR. DINN: I thought the same thing, wasn't it, to the right of the chair.

MR. FLAHERTY: You're correct. So you've been consistent the whole time.

MR. DINN: Uh-huh.

MR. FLAHERTY: How strong was Donald Dunphy?

MR. AVIS: Just for the record I'm going to have – someone has to object with that.

THE COMMISSIONER: To?

MR. AVIS: The idea of helping – you know, oath helping – asking him that he said this before, therefore he's given the same story. That's oath helping and not permissible, with all due respect.

THE COMMISSIONER: Well, it's argument rather than fact, probably. But as to whether it's oath helping, Mr. Avis, it may be a case of where it falls with an exception as there's an alleged recent fabrication, it might be admissible, but just let me think now.

MR. FLAHERTY: Yes, and just to say, Mr. Commissioner, I brought up that issue because it appeared that a line of questioning by my friend, Mr. Kennedy, suggested that there may be issue with respect to Mr. Dinn's knowledge or past statements with respect to the position of the stick.

And I mean, furthermore – I would say so, and you can argue otherwise.

THE COMMISSIONER: Well –

MR. KENNEDY: If he's going to refer to the transcript, he should accurately state what's in the transcript and he hasn't done that, Commissioner. At page 35 of the interview – no – with Commission Counsel he was asked – excuse me, just give me one second here. So if he was on – page 34 – if he sat on the chair, where would he keep the stick in relation to the chair? Back in the corner on the right side.

THE COMMISSIONER: Uh-huh.

MR. FLAHERTY: That is an absolute distinction without a difference, but I'll leave that for Mr. Commissioner to figure out that one.

THE COMMISSIONER: Well, I think we're into, Mr. Flaherty, an argument in terms of you put your question to Mr. Dinn. You got an answer from him and then you stated the obvious in terms of – which is what's led to this blowing up. So that's consistent with the other two witnesses. Well, you can point that out to me in the course of your submissions.

MR. FLAHERTY: And I will.

THE COMMISSIONER: I don't think it's appropriate to make something of it for Mr. Dinn to comment on, and I think I'll leave it at that. It's a – you can't un-ring the bell. So, your point has been made; whether or not I'll accept it or not we'll see.

Do you have any further questions?

MR. FLAHERTY: A couple of more questions, Mr. Commissioner.

THE COMMISSIONER: Go ahead.

MR. FLAHERTY: So generally, based upon how you saw Mr. Dunphy when you would go down to visit him, physically how strong and how fast was he? What did you see when you would see him move around?

MR. DINN: He moved as slow as I do, or slower. I didn't ever see him moving fast or get around fast because he couldn't.

MR. FLAHERTY: Okay. Now do you –

THE COMMISSIONER: I should say for the record, that when you came in to take the witness stand that you had a cane and you were moving slower than average. So that wouldn't have been picked up, Mr. Dinn –

MR. DINN: Oh, okay.

THE COMMISSIONER: – on the audio anyhow. I don't know about television. Okay –

MR. DINN: Sorry about that.

THE COMMISSIONER: That's all right. Go ahead.

MR. DINN: All right.

MR. FLAHERTY: Would it surprise for you to hear that he could have been sat down in a chair and quickly pick up a rifle, a .22 calibre rifle?

MR. DINN: Yeah, very surprising.

MR. FLAHERTY: And, I mean generally, what were your thoughts when you heard the story that Donald Dunphy pulled a rifle on someone in his own house?

MR. DINN: Well, I just couldn't believe it because I've known him for, like I said, 24 or 25 years and I've never seen a gun, never seen a gun in his hand, never seen one in his house, and I know the man can't get up quickly. So I thought it was preposterous.

MR. FLAHERTY: Okay.

Thank you, those are all my questions.

THE COMMISSIONER: Another counsel, anybody else? Mr. Williams?

MR. WILLIAMS: Yes, Mr. Commissioner, I do have – if I could ask Madam Clerk, if you could bring back up P-0100 please, page 9.

Mr. Dinn, I just have one, one line of questioning. It's in relation to the statement, this is coming before you. This is the statement that you gave to the RCMP –

MR. DINN: Yes.

MR. WILLIAMS: – on April 6. On page 9, if I could, maybe we can start towards the top of the page around line 142, and I'll just read down. And they're quoting you, starting at line 142, and it says, "Compensation, all the time."

MR. DINN: Yes.

MR. WILLIAMS: The corporal says, "About what, compensation." Your answer, "Yeah." "And what did he say about compensation."

"Just about being screwed over all the time and, like, every other, every other month there was somebody different gonna help him." "Okay."

"And then he'd get a month out of it and they'd do something or a little bit or whatever and then they'd just disappear so then he'd be off his head then for ..." Constable says, "Yeah." Continuing your story, "A month until somebody else came along, type thing."

MR. DINN: Uh-huh.

MR. WILLIAMS: "Right." "The last couple, ah, let's see, I have a job to remember stuff." He says, "Take your time b'y." And then you responded, "Jesus, Paul LANE, who's Paul LANE."

MR. DINN: Yeah, that name.

MR. WILLIAMS: Constable says, "He's in government."

Your next response is, "Yeah, he's one feller that was helping him or supposedly helping him and DAVIS, not, buddy was just elected and, oh Jesus."

MR. DINN: Yeah.

MR. WILLIAMS: Constable, on the next page, page 10, "The premier." "Why don't I remember stuff."

Corporal, “Paul DAVIS is the Premier.” “Now, yeah, but there was another fella that was helping him, he was a minister of, like, some well he was, he was, I don’t know what he was.”

MR. DINN: Yeah.

MR. WILLIAMS: Now, when that was brought to your attention earlier, I think Mr. Kennedy brought it to your attention and brought up the name of another minister at the time, Minister Kent.

MR. DINN: Yes.

MR. WILLIAMS: Were you familiar with that gentleman?

MR. DINN: Not personally, but I did hear Donnie say his name before.

MR. WILLIAMS: Okay. And maybe it’s just the manner in which you were speaking conversationally, you said –

MR. DINN: Yeah, well I wasn’t in good shape that day.

MR. WILLIAMS: Okay. And I appreciate that. That’s, you know, shortly after.

But on line 166 of page 10 you said, “Now, yeah, but there was another fella that was helping him.” And we’re presuming we’re talking about Minister Kent at that point.

MR. DINN: Yes.

MR. WILLIAMS: But that would imply that Mr. Davis may have also been helping him. Did he make any reference to you regarding Premier Davis that you’re aware?

MR. DINN: No.

MR. WILLIAMS: Okay. And did you ever have, in expressing his discontent about compensation or government did he ever make any references personally to Mr. – or premier, well then Premier Paul Davis?

MR. DINN: No, no.

MR. WILLIAMS: Okay. And you weren’t aware of any time that he had any discussions or that Mr. Davis had any discussions with him in regards to compensation or any other matter pertaining to his personal welfare?

MR. DINN: No.

MR. WILLIAMS: And I know you’re nodding your head there so.

MR. DINN: No.

MR. WILLIAMS: No. Okay, that’s fine. That’s all the questions I have.

Thank you.

THE COMMISSIONER: Thank you.

Anybody further? All right.

Thank you, Mr. Dinn, you may step down.

Now I think that may be it for this afternoon, is it? So we're going to be adjourning now until Monday morning at 9:30, is that correct? All right; does counsel have anything before we go? We're still – you can go ahead Mr. Dinn that's fine.

We're still adjusting in terms of how many witnesses we'd like to cover and the time it's likely to take but I don't know if we're moving too slowly or too quickly from counsel's point of view. If you have any suggestions or concerns you might mention to counsel.

At this stage, we can adjourn now until 9:30 on this coming Monday.

MS. SHEEHAN: This Commission of Inquiry is now closed.