

April 25, 2015

Commanding Officer Tracy Hardy
RCMP Newfoundland and Labrador
"B" Division
P.O. Box 9700
East White Hills Road
St. John's, NL A1A 3T5

The Honourable Darin King
Minister of Justice and Public Safety
Government of Newfoundland and Labrador
4th Floor, East Block
Confederation Bldg
P.O. Box 8700
St. John's, NL A1C 4J6

Dear Commanding Officer Hardy and Minister King:

RE: RCMP investigation into the death of Donald Dunphy

I write to you on behalf of my client, Ms. Meghan Dunphy. Meghan Dunphy is the sole daughter of Mr. Donald Dunphy who was shot and killed in his home in Mount Carmel by a member of the Royal Newfoundland Constabulary on Sunday, April 5, 2015.

On April 16, 2015 I wrote to Chief Superintendent Andrew Boland regarding Ms. Dunphy's request to bring in an out-of-province police force to immediately take over the criminal investigation. I write to you today to reiterate that request and to provide you with further information as I feel it is necessary in the circumstances.

I have appended a copy of both my April 8 and 16, 2015 correspondence to the RCMP. I presume that Chief Superintendent Boland has previously reviewed same with you. I received Chief Superintendent Boland's response to my correspondence on April 22, 2015. That reply indicated that he would review this issue with the current investigators for follow up purposes but that the RCMP would continue with the investigation. This response is not satisfactory to Ms. Dunphy.

I am disappointed that no senior officer has contacted me to request a copy of the photographs that I referenced in my letter. I wrongly assumed that any senior officer who would be reviewing this issue would require the photographs and would also want as much information as possible in addressing this serious issue in a thorough and complete way. While I have since received a request from the lead investigator to provide those photographs and which I will be forwarding at my earliest possible opportunity, I do not understand how any senior officer who is reviewing this issue from above would be able to evaluate Ms. Dunphy's request without all the necessary information.

Further, Chief Superintendent Boland's reply indicates that he is relying on Justice Riche to raise concerns with him. Has Justice Riche been provided with a copy of all of my correspondence? Is he aware of these issues? I do not expect Justice Riche to be an investigator, hence I do not expect that he would be responsible for determining investigative steps or making decisions as to what exhibits to seize although I am uncertain of his role. I ask that you immediately provide him with a complete copy of my full correspondence.

Commissioner Hardy, as I have stated in my previous correspondence, Ms. Dunphy does not make her request to bring in an outside force lightly. Ms. Dunphy first raised issues with me about how she was being treated by the RCMP at our first meeting on April 7, 2015. I sent a letter to the RCMP at that time outlining those issues, including her complaint about her first and only interview on the night of her father's death. That interview, I understand, was in duration of 25 minutes. Ms. Dunphy told me that she believed that the officer's sole purpose in that interview was to get her to confirm that her father was mentally unstable. No investigating officer requested to interview Ms. Dunphy after that initial meeting until my complaint. Despite her having been the person who was with her father on Easter Sunday, no officer ever questioned her about her father's whereabouts throughout the date of April 5, 2015. In fact, when I asked the officers on April 14-15, 2015 if they knew where Mr. Dunphy had been on Easter Sunday, they said that they did not have that information but rather highlighted they knew where he had been for lunch. It appears to me that the officers at a very early stage decided that Ms. Dunphy would have little of evidentiary value to offer them. Rather, I believe they appeased her and as they recently offered, intended to allow her to speak to them in order to make her feel better. Further, in response to my concern, the investigators questioned me as to why Ms. Dunphy did not call them to volunteer information.

As a criminal defence lawyer I know that a thorough and objective investigation would not fail to determine Mr. Dunphy's complete whereabouts on the day of his death. As a criminal defence lawyer I know that a thorough and open-ended interview should have been conducted with Ms. Dunphy at the earliest possible time as she was the closest person to her father – and a willing and available witness. I do not accept, as was stated to me at one point, that Ms. Dunphy's interview on April 5, 2015 was an "intake interview". In fact, I believe that if you examine the investigative record you will see that there was

no further intention of the investigators to interview Ms. Dunphy unless she contacted them. Further, for the officers to suggest that it was Ms. Dunphy who had the onus to contact them is absolutely ridiculous. Questioning witnesses is supposed to be the job of an investigator. It is the police who have failed in their duties – not Ms. Dunphy.

I am left in no doubt by the statements of the officers in their response to me as well as my knowledge of what has occurred to date that the investigating officers at a very early stage generally accepted the version of the events that was provided to them by the officer under investigation. It is obvious to me that this acceptance then caused their failure to obtain full and relevant information from available witnesses; and most troubling, the failure to collect an exhibit from the scene. These are errors at the very basic investigative level. This is a true demonstration of tunnel vision in the very foundation of this investigation.

Further troubling, is the fact that once this issue was raised with the officers, their response indeed confirmed all of the above to me. While they denied having tunnel vision, they admitted that they missed the exhibit because simply, it didn't jump out at them - that they had no information as to why the exhibit could be relevant and they made an assumption about the exhibit which was completely without evidentiary basis. Despite their verbal denial of tunnel vision – this is the very definition of tunnel vision.

When in fact an officer was sent back to the scene on April 16, 2015 to collect the exhibit, he also failed to photograph the exhibit before it was seized. My client also tells me that the police officer did not place the exhibit in an exhibit bag upon seizing it, but rather carried it out of the house to his vehicle in his gloved hand. Thankfully, Ms. Dunphy had previously photographed the exhibit as she found it. Those are the photographs which are in my possession. Whether the exhibit's subsequent exposure to the outside elements (contrary to what I believe would have proper protocol) and/or the passage of time have compromised the evidentiary value of the exhibit is unknown to me at this point but is of grave concern.

Obviously I am not privy to the investigation as a whole. I am only privy to the investigation through my involvement with Ms. Dunphy. However, I have outlined for you already numerous basic and blatant errors. This series of events and their accumulative effect leaves us with only one conclusion: this investigation is neither thorough nor objective. A victim's family member should not have to be contacting the police to tell them what questions they should have asked her. A victim's family member should not have to be discovering, photographing and arranging for the seizure of exhibits from the scene. A victim's family member should not have to become an investigator to ensure that a police investigation is done correctly. That is what has happened here at a time when she is supposed to be grieving her father. This is absolutely unacceptable.

I am continuing in my demand on Ms. Dunphy's behalf to bring in an outside police force. Ms. Dunphy has completely lost faith in this investigation for what are valid reasons. Further, at the conclusion of this matter, I will be asking that any subsequent public inquiry or judicial inquiry examine all of the issues that I have raised in all of my correspondence to the RCMP, including the decision of the RCMP to continue with the investigation in light of all of these issues having been brought to the attention of senior RCMP officials while the opportunity to call this to a halt presented.

Commissioner Hardy, I ask that the RCMP make the obvious and right decision at this time and bring in the outside force immediately.

Yours truly,

A handwritten signature in black ink, appearing to read "Erin Breen", written over a horizontal line.

ERIN BREEN
PARTNER