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'I'm going to apologize at Don Dunphy shooting death inquiry,' says retired judge David Riche

David Riche says he believed Dunphy investigation reports were released when he spoke publicly last fall

By Mark Quinn, CBC News Posted: Jan 31, 2017 1:47 PM NT Last Updated: Jan 31, 2017 1:49 PM NT



Retired justice David Riche sits at the inquiry into Don Dunphy's death. (Mark Quinn/CBC)

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Retired justice David Riche says he's going to apologize when he testifies at the inquiry into the police shooting death of Don Dunphy.

Riche told CBC News he is sorry that he spoke with media last September before the Commission of Inquiry released five reports, including the RCMP's investigation report, in November.

'Dead men tell no tales': Former justice left with questions in Don Dunphy shooting

"My understanding was, at that time, that their report had been released and presumably my report had been released as well and so I felt free to talk with [the media]," he said Tuesday.

Riche was brought in as an independent observer by the RCMP as the force investigated the police shooting death in Mitchells Brook on April 5, 2015.

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Const. Joe Smyth fatally shot Don Dunphy, 59, in his home that Easter Sunday.

Smyth said he was there to carry out a risk assessment after Dunphy posted "disconcerting" tweets that criticized then-premier Paul Davis and other MHAs.



Const. Joe Smyth testified for six days at the inquiry into the shooting death of Don Dunphy. (Mark Quinn/CBC)

The RNC officer testified at the inquiry that he shot at Dunphy four times in self-defence after Dunphy pulled a rifle on him. Smyth also had damning words for Riche at the inquiry, describing the retired justice's report as "folklore."

'Facts shrouded in twisted interpretation': Const. Joe Smyth lashes out at retired Judge Riche

Riche was called in to observe the RCMP's investigation days after the incident. Riche said he completed his 23-page report on the investigation in

January 2016. Riche thought it had been released when reporters contacted him in September 2016.

"For nine months my report laid in the hands of the RCMP and nobody questioned me at all, and I came back from vacation and I'm hit with media from everywhere and I assumed, wrongfully, that these reports had been released to the public," said Riche.

At the time, Riche spoke out against police, saying they accepted Smyth's account of what happened, and he raised questions about Smyth's actions, saying, "There was an intention to kill. It wasn't an intention to stop."

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**'I assumed,
wrongfully, that these
reports had been
released to the
public.'**

- David C. Riche



Smyth's lawyer Jerome Kennedy said Riche's comments were unacceptable.

Jerome Kennedy wants Don Dunphy inquiry to deal with 'scandalous' comments by retired justice

Riche said many other people reacted differently.

"I started to think, why is he [Kennedy] upset? I mean most people who phoned me, they were happy to at last get some information. I sort of, you might say, opened the door," said Riche.

Retired justice no longer attending inquiry hearings

The RCMP said in September that it had completed its investigation and no charges were warranted against Smyth. In November, five reports about the shooting incident and the subsequent police investigation were released by the Commission of Inquiry Respecting the Death of Donald Dunphy.

Const. Joe Smyth used 'appropriate force' to defend himself, investigators say

Riche, who retired from his position as a provincial Supreme Court judge in 1999, said he will apologize for speaking out too soon when he testifies at the inquiry March 1 but he's not apologizing for his report.

"An inquiry is important. I didn't have an opportunity to speak with many of the witnesses, who have brought to light a lot of information which I didn't have before. It might bury some things and it may clarify some things," he said.



Don Dunphy, seen speaking with CBC News during a 2011 interview, was shot to death in his home on April 5, 2015. (CBC)

Riche said he doesn't want to speak about the testimony in detail now, out of respect for the inquiry,

but he did say, "There may be some surprises. Some of my opinions may be different."

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Riche was at most inquiry hearings in St. John's this January but left last week after a lawyer suggested his testimony could be influenced by the testimony of witnesses.



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