

## **DUNPHY Inquiry Synopsis**

**Prepared by Cpl. Kent LUTHER**

**March 7, 2017**

On April 24<sup>th</sup>, 2015, I was asked to complete a data extraction on Cst. Joe SMYTH's cell phone, a BlackBerry Pearl 9100 model, by Cpl. Steve BURKE of MCU East. Cpl. BURKE was investigating a shooting that took place when Cst. SMYTH was conducting an investigation. At that time, I also received a Consent to Search form signed by Cst. Joe SMYTH, indicating that the mobile device was to be searched for cell phone data between the dates of April 3<sup>rd</sup>, 2015 – April 24<sup>th</sup>, 2015. A physical data extraction was completed on the device on April 24<sup>th</sup>, 2015, using the Cellebrite software. A report on this device was later generated and given to Cpl. BURKE.

The original UTC value was used for time stamps on my reports. UTC is the primary time standard that is the basis for civil times and time zones worldwide. It does not observe daylight saving time. Newfoundland Standard Time (NST) is the time zone used when observing standard time. It observes standard time by subtracting 3.5 hours from UTC time. During daylight saving time, it subtracts 2.5 hours from UTC time.

During the periods of time in question below, daylight saving time is in effect in Newfoundland and Labrador. For example, a chat message showing a UTC time stamp of 03/04/2015 1:25:40 PM (UTC+0), would actually be 03/04/2015 10:55:40 AM(NST).

On February 2<sup>nd</sup>, 2017, I was asked by Lori RASMUSSEN to look into a conversation between Cst. Joe SMYTH and Sgt. Doug NOEL via BBM. I was advised that a portion of the conversation was previously disclosed via Sgt. NOEL. The conversation was to have taken place on April 5<sup>th</sup>, 2015. I was not aware of this conversation until this time.

Initially, I advised Ms. RASMUSSEN that it may be possible that the BBM conversation between Cst. SMYTH and Sgt. NOEL could have possibly been deleted prior to Cst. SMYTH delivering the device to this office. I also advised her that it may have been possible that the forensic software may not have been able to retrieve the BBM conversation if that was the case.

After going back and reviewing the original data extraction with Cellebrite, I noticed that there was a BBM conversation between Cst. SMYTH and Sgt. NOEL. However, the Cellebrite software indicated that the start time of the BBM conversation was on March 23<sup>rd</sup>, 2015 and the last activity of that conversation as March 30<sup>th</sup>, 2015. Due to the software showing those start and last activity dates of the BBM conversation, I never included it in my original report, as it fell outside of the time frame that was on the Consent to Search.

I then examined the content of the conversation between Cst. SMYTH and Sgt. NOEL, despite the date showing the last activity as March 30<sup>th</sup>, 2015. When reviewing this conversation, I noticed that the

conversation did in fact go beyond March 30<sup>th</sup>, 2015 and the last part of the conversation time stamped was April 11<sup>th</sup>, 2015.

I advised Ms. RASMUSSEN of this and asked her if she would like me to generate a new report from Cellebrite with this information and she directed me to send her the new report with the conversation between Cst. SMYTH and Sgt. NOEL. I generated the report of the BBM conversation from April 1<sup>st</sup>, 2015 – April 11<sup>th</sup>, 2015 and sent same to Ms. RASMUSSEN. I advised Ms. RASMUSSEN that I was unable to explain the time stamp error within the forensic software.

After realizing the time stamp error with the previous BBM conversation, I went back and reviewed the other BBM conversations on Cst. SMYTH's device extraction that fell outside the search window and were previously excluded from my original report.

I discovered eight other BBM conversations between Cst. SMYTH and other individuals that showed a time stamp outside the time frame I was searching, which were actually within the search window when going further into the text of the conversation. I advised Ms. RASMUSSEN of same and generated a report and sent her an e-mail with this report.

On February 3<sup>rd</sup>, 2017, when I came into the office, I read an e-mail that was sent by Ms. RASMUSSEN the evening before. In this e-mail, she asked if there was anything else that may have been missed and I advised her that everything appeared to have been sent to her regarding the BBM conversations that were previously missed.

On February 4<sup>th</sup>, 2017, I received an e-mail from Ms. RASMUSSEN in which she advised that she had an e-mail from commission counsel that had some questions relating to the newly generated reports. This e-mail was questioning three BBM PIN codes that appeared to have been left off from the last report that was generated. Upon further review, I noticed that two of the previous eight BBM conversations that I went back over, were left off the last generated report. The third PIN fell outside of the time frame window. I advised Ms. RASMUSSEN of this and sent her the report on the two remaining BBM conversations.

In this e-mail, there was also a question regarding the Cellebrite timeline from the original report. I advised Ms. RASMUSSEN that I was unable to answer this and that I would reach out to a colleague in Ottawa to determine if they could assist me in answering this question. After speaking with a colleague at the Canadian Police College, I was advised to contact Dan [REDACTED] of Cellebrite.

On February 6<sup>th</sup>, 2017, Ms. RASMUSSEN came to my office and we went over the issues that arose recently. I explained the issue with the Cellebrite time stamp issue and that I mistakenly overlooked not adding the final two BBM conversations to the second report with the other six BBM conversations.

On February 8<sup>th</sup>, 2017, I spoke with Dan [REDACTED] the Technical Director for Cellebrite Advanced Investigative Services, regarding my issues with the time stamp errors that I had been receiving on the data extraction of Cst. SMYTH's mobile device. After conducting research of his own, Mr. [REDACTED] advised me that he was not sure where the "last activity" time stamp information was coming from. He

could not state with any certainty as to whether or not the BlackBerry device labelled it that way or if in fact it was the Cellebrite software that gave it that label.

Mr. [REDACTED] also advised that since Cellebrite did not design the mobile device (BlackBerry phone), their software was only able to attempt to interpret what data they can from it. He was unable to say for sure why the last activity date did not reflect the total time frame of the conversation.

On February 9<sup>th</sup>, 2017, I received an e-mail from Ms. RASMUSSEN, which stated that the Commission was requesting that efforts be taken to retrieve the e-mail that was marked as deleted on page 304 of the extraction report. The e-mail was listed as item 513 with the subject, "Dunphy Notes" and was time stamped 06/04/2015 2:26:53 UTC.

On February 9<sup>th</sup>, 2017, I responded to Ms. RASMUSSEN via e-mail, advising her that I had reviewed the data extraction and the particular e-mail that was being asked about was showing as deleted. I was unable to view the content of the e-mail as the forensic software wasn't able to interpret any readable data from the body of that e-mail. I was later asked if it could be determined when the e-mail was deleted and I was unable to provide that information, as the software did not present that data.

I have included screen shots below to show the time stamp error that was encountered with Cst. SMYTH's mobile device.

#	Participants	Start Time	Last Activity	ID	Source
1	3378 Joe Smyth LB7 Donna Ivey	03/24/2015 8:32:56 PM(UTC+0)	03/24/2015 11:40:34 PM(UTC+0)		BlackBerry Messenger
2	3378 Joe Smyth BA11 Catherine Evans	03/25/2015 11:57:14 AM(UTC+0)	03/30/2015 6:48:12 PM(UTC+0)		BlackBerry Messenger
3	3378 Joe Smyth T68E Heather MacLean	03/26/2015 12:22:33 PM(UTC+0)	03/26/2015 12:25:34 PM(UTC+0)		BlackBerry Messenger
4	3378 Joe Smyth HDD7 Paul [REDACTED]	03/26/2015 3:09:34 PM(UTC+0)	03/26/2015 5:11:29 PM(UTC+0)		BlackBerry Messenger
5	3378 Joe Smyth FD2 [REDACTED] FD2	03/26/2015 11:50:12 PM(UTC+0)	03/30/2015 6:46:37 PM(UTC+0)		BlackBerry Messenger
6	3378 Joe Smyth EB89 Lisa	03/27/2015 6:01:54 PM(UTC+0)	03/28/2015 6:25:58 PM(UTC+0)		BlackBerry Messenger
7	3378 Joe Smyth A2A Douglas	03/23/2015 12:28:59 PM(UTC+0)	03/30/2015 7:07:37 PM(UTC+0)		BlackBerry Messenger
8	3378 Joe Smyth B15E Gillian [REDACTED]	03/30/2015 6:56:25 PM(UTC+0)	03/30/2015 8:11:42 PM(UTC+0)		BlackBerry Messenger
9	3378 Joe Smyth FF9 Jonathan [REDACTED]	04/03/2015 1:25:40 PM(UTC+0)	04/05/2015 11:55:16 PM(UTC+0)		BlackBerry Messenger
10	3378 Joe Smyth A333 Smyth	04/03/2015 9:43:12 PM(UTC+0)	04/03/2015 10:13:53 PM(UTC+0)		BlackBerry Messenger
11	3378 Joe Smyth E14E Mark [REDACTED]	04/04/2015 12:02:49 PM(UTC+0)	04/07/2015 5:12:17 PM(UTC+0)		BlackBerry Messenger
12	3378 Joe Smyth CC1 Sully	04/05/2015 5:45:36 PM(UTC+0)	04/07/2015 11:10:22 PM(UTC+0)		BlackBerry Messenger
13	3378 Joe Smyth BDD6 Ed Benoit	04/05/2015 6:42:29 PM(UTC+0)	04/07/2015 5:26:54 PM(UTC+0)		BlackBerry Messenger
14	3378 Joe Smyth DD62 Steve Kent	04/05/2015 10:36:30 PM(UTC+0)	04/05/2015 10:49:13 PM(UTC+0)		BlackBerry Messenger
15	3378 Joe Smyth C7F Gordon	04/06/2015 1:09:13 AM(UTC+0)	04/06/2015 1:08:14 PM(UTC+0)		BlackBerry Messenger
16	3378 Joe Smyth EA2F topsail [REDACTED]	04/06/2015 2:24:53 AM(UTC+0)	04/06/2015 10:42:18 AM(UTC+0)		BlackBerry Messenger
17	3378 Joe Smyth DB79 Jessica [REDACTED]	04/06/2015 3:19:56 PM(UTC+0)	04/06/2015 3:19:56 PM(UTC+0)		BlackBerry Messenger
18	3378 Joe Smyth B10F Joe Browne	04/06/2015 5:47:43 PM(UTC+0)	04/06/2015 5:56:47 PM(UTC+0)		BlackBerry Messenger
19	3378 Joe Smyth DA30 Trevor [REDACTED]	03/28/2015 1:39:09 PM(UTC+0)	03/31/2015 9:32:05 AM(UTC+0)		BlackBerry Messenger
20	3378 Joe Smyth EB83 Tim Buckle	03/23/2015 12:58:21 PM(UTC+0)	03/29/2015 12:31:31 AM(UTC+0)		BlackBerry Messenger
21	3378 Joe Smyth BDD6 Ed Benoit	04/21/2015 6:09:04 PM(UTC+0)	04/21/2015 6:09:04 PM(UTC+0)	TKHTLIQJ	BlackBerry Messenger

**Chat**

ID:  
Source: BlackBerry Messenger  
Start Time: 03/23/2015 12:28:59 PM(UTC+0)  
Last Activity: 03/30/2015 7:07:37 PM(UTC+0)  
Attachment count:



**Participants**

Joe Smyth [redacted]3378  
Douglas [redacted]FA2A

**Conversation**

-|✓ Select/Deselect all... Enter text to filter ...

- ☆  Joe... 04/11/2015 1:14:18 AM(UTC+0)  
Going well with OPP?
- ☆  Doug... 04/11/2015 1:14:44 AM(UTC+0)  
Yeah, perfect!
- ☆  Doug... 04/11/2015 12:30:18 PM(UTC+0)  
When do you go to Florida?  
Yesterday? Lol
- ☆  Joe... 04/11/2015 12:41:29 PM(UTC+0)  
3PM today
- ☆  Doug... 04/11/2015 12:42:25 PM(UTC+0)  
Right on. Enjoy the break brother! If  
you need anything while you're gone  
don't hesitate to ask!
- ☆  Joe... 04/11/2015 12:43:39 PM(UTC+0)  
Always! Thanks for everything Doug,  
and thanks for hanging in when most  
wouldn't. Thanks for stepping up to  
the plate this week without question.  
I suspect however that my time with  
PSU may be done. Chat soon!
- ☆  Doug... 04/11/2015 12:44:41 PM(UTC+0)  
It'll all work out! Chat soon.

