

CANADA

PROVINCE OF NOVA SCOTIA

IN THE MATTER OF THE
FATALITY INVESTIGATIONS ACT

S.N.S. 2001, c. 31

THE DESMOND FATALITY INQUIRY

TRANSCRIPT

HEARD BEFORE: The Honourable Judge Warren K. Zimmer

PLACE HEARD: Guysborough, Nova Scotia

DATE HEARD: January 29, 2020

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INDEX

<u>January 29, 2020</u>	<u>Page</u>
OPENING REMARKS	5
<u>SGT. JENNIFER MCNEIL</u>	
Direct Examination by Mr. Murray	6
<u>CPL. GERARD ROSE-BERTHIAUME</u>	
Direct Examination by Mr. Murray	28
Cross-Examination by Ms. Grant	84
Cross-Examination by Mr. Macdonald	91
Cross-Examination by Ms. Miller	95
Cross-Examination by Mr. Rodgers	101
Cross-Examination by Mr. Hayne	108
Re-Direct Examination by Mr. Russell	116
Examination by the Court	122
<u>C/M SEAN HUGHES</u>	
Direct Examination by Mr. Russell	129
<u>C/M GILLES MARCHAND</u>	
Direct Examination by Mr. Murray	158
Cross-Examination by Ms. Miller	198
Cross-Examination by Mr. Rodgers	208
Examination by the Court	212

EXHIBIT LIST

<u>Exhibit</u>	<u>Description</u>	<u>Page</u>
P-000042	USB - Ford Escape	7
P-000040	Handwritten Notes Sgt. McNeil (Olfert)	24
P-000018A	Lionel Desmond Homicide Investigation - Investigational Synopsis	34
P-000099B	Extraction Report - Pages 10-19	111
P-000099I	Extraction Report - Pages 527-569	117
P-000100	<i>Curriculum Vitae</i> - Sean Hughes	130
P-000080	Occurrence report - Sean Hughes - January 11, 2017	138
P-000081	Open source intelligence brief - Sean Hughes January 5, 2017	138
P-000043	<i>Curriculum Vitae</i> - Gilles Marchand	158
P-000099A	Extraction Report - Pages 1-6	164
P-000099D	Extraction Report - Page 449	184
P-000099J	Extraction Report - Pages 570-590	192
P-000099C	Extraction Report - Page 363	201
P-000099E	Extraction Report - Page 455	203

1 JANUARY 29, 2020

2 COURT OPENED (10:03 HRS)

3

4 THE COURT: Good morning.

5 COUNSEL: Good morning, Your Honour.

6 THE COURT: Good morning, Sergeant. You can have a
7 seat. The Sergeant was sworn in yesterday. We adjourned. The
8 Sergeant is still under oath.

9 SGT. MCNEIL: Thank you, Your Honour.

10 THE COURT: Thank you. Mr. Murray?

11 MR. MURRAY: Thank you, Your Honour.

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1 **SGT. JENNIFER MCNEIL**, previously affirmed, testified:

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DIRECT EXAMINATION

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5 **MR. MURRAY**: Sergeant McNeil when we left off yesterday,
6 I believe we had just begun discussing a vehicle which was
7 located by the RCMP; specifically, a Ford Escape.

8 **A.** Yes.

9 **Q.** And you indicated yesterday that ... I don't believe
10 you were involved in actually locating and seizing that vehicle,
11 but it was your understanding that it had been towed to one of
12 the detachments?

13 **A.** Yes. Antigonish Detachment.

14 **Q.** Antigonish.

15 **A.** Their secure bay.

16 **Q.** Right. And it was your colleague, Constable Septon,
17 who did the examination of that vehicle?

18 **A.** That's correct.

19 **Q.** And Constable Septon's reports have been reviewed by
20 you and you're familiar with what was discovered in the Ford
21 Escape?

22 **A.** Yes.

SGT. JENNIFER MCNEIL, Direct Examination

1 **Q.** All right. Perhaps I could ask you some questions
2 about that. Do you recall when the Ford Escape was examined?

3 **A.** On January 5th, 2017.

4 **Q.** Okay. And Constable Septon photographed, I believe,
5 the vehicle and items that were located in the vehicle?

6 **A.** Yes. She had photographed them overall and then items
7 that she indicated as possibly being evidence within that
8 vehicle.

9 **Q.** Okay. And you were aware of the work that she was
10 doing and of, ultimately, the items that were located in the
11 Ford Escape?

12 **A.** Yes.

13 **EXHIBIT P-000042 - USB - FORD ESCAPE - 28 PAGES**

14 **Q.** Okay. I believe there were ... or one of our
15 exhibits, P42, is actually a number of pictures of this vehicle.
16 And this vehicle we ultimately came to learn was operated by
17 Lionel Desmond, was it?

18 **A.** Yes. That's my understanding.

19 **Q.** All right. The photograph that we're looking at on
20 the screen, which is photograph number one on Exhibit P42,
21 that's ... is that the vehicle that we're speaking about?

22 **A.** Yes.

SGT. JENNIFER MCNEIL, Direct Examination

1 **Q.** And the photograph number three, I think is the ... a
2 photograph specifically of the license plate of the vehicle,
3 ACR28. That's a veteran's license plate?

4 **A.** Yes.

5 **Q.** All right. Perhaps we could just go through these and
6 identify some of the items that were located in the vehicle.
7 Photograph number four, which would be the next photograph in
8 the bundle ... we can just kind of go up a little bit there.
9 There is, I believe, a wallet located in the vehicle there or
10 visible on the seat?

11 **A.** Yes.

12 **Q.** And do you know to whom that wallet belonged?

13 **A.** There's identification in the wallet belonging to
14 Lionel Desmond.

15 **Q.** All right. Photograph number five shows ... looks
16 like what would be the holder in a door of the vehicle and there
17 appears to be a prescription pill bottle there.

18 **A.** Yes. It's the door pocket of the front passenger side
19 door.

20 **Q.** Thank you. And the prescription bottle that's shown,
21 you can see a bit of it in photograph number five. And if we go
22 to photograph number six, it's a little clearer. And there are

SGT. JENNIFER MCNEIL, Direct Examination

1 several photographs, I think, of this bottle and perhaps seven
2 is the best one for us to look at. All right. Is that the same
3 bottle that's depicted in photographs five and six?

4 **A.** Yes.

5 **Q.** All right. And that's a prescription for whom?

6 **A.** For Lionel Desmond.

7 **Q.** All right. And the drug that's noted on the bottle, I
8 think, is quetiapine?

9 **A.** Yes. In the photograph number eight you can see the
10 other half of that label.

11 **Q.** Right. All right. So the bottle is just turned
12 between photograph seven and eight so that we can see the
13 totality of the label.

14 **A.** Yes.

15 **Q.** All right. Photograph number nine shows a Department
16 of Mental Health Services Outpatient Clinic card. Where was
17 that located?

18 **A.** In that same side compartment.

19 **Q.** And you said that was of the passenger side?

20 **A.** Front passenger. Yes.

21 **Q.** Front passenger. Thank you. And then photograph ten
22 gives us a view just of the card on its own?

SGT. JENNIFER MCNEIL, Direct Examination

1 **A.** Yes.

2 **Q.** All right. That's an appointment for somebody with
3 Dr. Slayter on January 18th, 2017 at 3 p.m.?

4 **A.** Yes.

5 **Q.** All right. Photograph 11 shows another appointment
6 card, although it's not clear from the card with whom that
7 appointment is made, I believe. Do you know where that
8 particular card was located?

9 **A.** I believe it was located in the same compartment.

10 **Q.** All right. Photograph 12 is of a receipt. Can
11 perhaps zoom in a bit on that. And that's from ... it looks
12 like a business.

13 **A.** Yes.

14 **Q.** What is that ...

15 **A.** From Leaves & Limbs Sports in Antigonish.

16 **Q.** All right. And that receipt, do you know where that
17 was located in the vehicle?

18 **A.** I believe it was in the same compartment. There is a
19 bunch of receipts and paper items in that compartment.

20 **Q.** All right. The other items we've been discussing?

21 **A.** Yes.

22 **Q.** All right. And that receipt has a date and time on

SGT. JENNIFER MCNEIL, Direct Examination

1 it?

2 **A.** Yes. January 3rd, 2017 at 4:15 p.m.

3 **Q.** All right. And what appears to have been purchased on
4 January 3rd, 2017 at 4:15 p.m.?

5 **A.** It's a box of bullets.

6 **Q.** All right.

7 **A.** Hornady brand bullets.

8 **Q.** All right. The ... we had looked earlier at the
9 photographs of the box of bullets that was located in the home.
10 Do you recall the brand of those?

11 **A.** Yes. It was Hornady ...

12 **Q.** Yeah.

13 **A.** ... bullets ... box of bullets there, as well.

14 **Q.** All right. Photograph 13 in our bundle shows, again,
15 the front driver's seat obviously with the wallet. Do you know
16 what's located on the floor there?

17 **A.** There's a receipt on the floor but I can't make it
18 out. It's the closer-up view of that driver's compartment and
19 with a wallet on the front driver's seat. Sorry, Your Honour.
20 I have a cold.

21 **Q.** Sorry. You were saying, Sergeant?

22 **A.** Yes. It's just a closer-up view of the front driver's

SGT. JENNIFER MCNEIL, Direct Examination

1 compartment showing the wallet on the front driver's seat.
2 There is a receipt on the floor there. I can't make out the
3 information on it.

4 Q. Okay. In photograph 14, the next one from the bundle,
5 we're looking at the front passenger side of the vehicle and
6 there appears to be some items on the seat there.

7 A. Yes. The item of interest in this photo, I believe,
8 is the piece of paper on the front passenger seat there.

9 Q. Okay. And that piece of paper is shown then in
10 photograph 15, is it?

11 A. That's correct.

12 Q. And that's a supplementary attending physician's
13 statement for long-term disability.

14 A. Yes. In the name of Lionel Desmond.

15 **(10:12:58)**

16 Q. Now photograph 16 shows what would appear to be the
17 back driver side of the vehicle with the door open.

18 A. Yes.

19 Q. And there is an item of interest, I think, on the
20 floor. Is it the hospital bracelet?

21 A. Yes. There's a hospital bracelet on the floor mat and
22 then just to the left of that, you can see a little piece of

SGT. JENNIFER MCNEIL, Direct Examination

1 cardboard box.

2 Q. Yes.

3 A. That's of interest. And then in the rear driver seat
4 compartment, you can see a bit of a plastic bag, a beige plastic
5 bag. Those are also of interest.

6 Q. All right. So if we move on to photograph 17, which
7 gives us a little clearer view of those items, again we see the
8 hospital bracelet on the floor, the box which is ... I don't
9 know if it was pulled out a bit from the ... I guess from the
10 earlier photographs so we could see a little more of it.

11 A. Yes.

12 Q. Okay. And, again, the plastic bag. Photograph 18 is
13 that box?

14 A. Yes. That's correct.

15 Q. And what is that box?

16 A. It's for a Buck brand hunting knife.

17 Q. Right. Now we did see a knife on the counter of the
18 home ... I don't know if we were able to identify or match that
19 to this box or not.

20 A. It's also a Buck brand hunting knife.

21 Q. Is it? Photograph 19 is what?

22 A. It's a Canadian Tire plastic bag that you would have

SGT. JENNIFER MCNEIL, Direct Examination

1 seen in the rear compartment of the driver's seat in that
2 vehicle.

3 Q. Okay.

4 A. So this is just pulled out and photographed.

5 Q. And there's a receipt in that Canadian Tire bag?

6 A. That's correct.

7 Q. And we see that in photograph 20, do we?

8 A. Yes.

9 Q. Okay. And what is that receipt from?

10 A. The receipt is from Canadian Tire. The bag is also
11 from Canadian Tire and it's just showing a socket set that was
12 purchased and a Buck-style knife that was purchased.

13 Q. Okay. And the date of that purchase would appear to
14 be at the top of the receipt, would it?

15 A. Yes. And it appears to be January 2nd at 14:42, which
16 is 2:42 p.m.

17 Q. And it's the Canadian Tire on Reeves Street in Port
18 Hawkesbury?

19 A. That's correct.

20 Q. So it's for the Buck Spec hunting knife and a 184-
21 piece socket set.

22 A. Yes.

SGT. JENNIFER MCNEIL, Direct Examination

1 **Q.** Photograph 21 is the back passenger side of the
2 vehicle and I guess the kitbag is kind of what we're looking at
3 there, primarily?

4 **A.** Yes. The blue duffle bag.

5 **Q.** Duffle bag. Thank you. And then photograph 22 shows
6 the contents of the duffle bag, does it?

7 **A.** Yes. It just shows the bag pulled out and then some
8 items of interest from that bag.

9 **Q.** Okay. Now a number of those items would appear to be
10 receipts for prescriptions from Lawtons?

11 **A.** Yes.

12 **Q.** And there also appears to be, I guess, a piece of note
13 paper with some handwriting on it?

14 **A.** Yes.

15 **Q.** So photograph 23, what are we looking at here?

16 **A.** That's just those receipts from Lawtons all laid out
17 so that you can see them and read them.

18 **Q.** Okay. And they're all in the name of Lionel Desmond?

19 **A.** Yes, they are.

20 **Q.** Photograph 24 is the notebook paper that we saw
21 earlier?

22 **A.** Yes.

SGT. JENNIFER MCNEIL, Direct Examination

1 **Q.** Okay. And photograph 25, was that also taken from the
2 kitbag, another letter under the name of Ian Slayter?

3 **A.** Yes.

4 **Q.** Okay. And that letter is dated December 2nd, 2016?

5 **A.** Yes.

6 **Q.** All right. And our last three photos appear to be the
7 back of the vehicle. What are we looking at in photograph 26?

8 **A.** So in photograph 26 is just the hatch of the Ford
9 Escape opened and just showing its contents as it was found.
10 And the item of interest here is the long gun box.

11 **Q.** And then photograph 27, is that a closer view of the
12 long gun box?

13 **A.** Yes. It's a photograph of the label from the long gun
14 box, just showing what long gun had been in there.

15 **Q.** All right. And, finally, photograph 28, I think shows
16 us the cellophane, is it, that was around it or a wrapping?

17 **A.** The cellophane, the name ATI, and then just the price
18 label as well.

19 **Q.** Right. Those were the items of interest that were
20 located and photographed in the Ford Escape?

21 **A.** That's correct.

22 **Q.** All right. And the Ford Escape was located, to your

SGT. JENNIFER MCNEIL, Direct Examination

1 understanding, where in relation to the home?

2 **A.** Behind the residence and about a kilometer back in the
3 woods, there's I think a dirt roadway back there and a path
4 towards the residence itself.

5 **Q.** All right. We had looked at two ... or I should say
6 one, I guess, yesterday, aerial photograph of the area and I
7 think we have two blown up. They're Exhibits 27 and 28. We
8 could ... so the one that you put up ... We'll put the other
9 one up on the screen. There we are. And that's 27. So were
10 you involved in ... or do you know what went into making these
11 photographs?

12 **A.** Yes. So these photographs were taken by a traffic
13 analyst using his drone.

14 **Q.** Using a drone?

15 **A.** Yes.

16 **Q.** Okay. And I believe when we discussed these before, I
17 had asked ... previously, you would always use a helicopter
18 before drones became commonplace, I guess, for doing aerial
19 photographs?

20 **A.** Yes. Drones are more typical now as it's safer and
21 less costly.

22 **Q.** Makes sense. And what officer created these or took

SGT. JENNIFER MCNEIL, Direct Examination

1 these photographs with the drone?

2 **A.** I don't recall his name.

3 **Q.** Is it Constable Romanchuk?

4 **A.** Romanchych.

5 **Q.** Okay. So photograph 27, the aerial photograph, what's
6 depicted in that?

7 **A.** So in this photograph you can see on the right most
8 side is ... would be Highway 16. And you can see that
9 horseshoe- shaped driveway arcing around the residence that we
10 were examining. And then back behind that, towards the left-
11 hand side, you can see there's a semi path to some other
12 vehicles. And then beyond that, in speaking with Constable
13 Rose-Berthiaume, about a kilometer behind the residence is a
14 roadway. It's outside of the scope of this aerial ...

15 **Q.** Yes.

16 **A.** ... was where his ... the Ford Escape was recovered.

17 **Q.** I see. And the path or road that we're seeing that
18 goes back into the woods a bit and there's some vehicles on the
19 left side of that photograph, that leads ultimately to where the
20 vehicle was found? Is that your understanding or ...

21 **A.** Yes. That's my understanding. Farther back behind
22 there.

SGT. JENNIFER MCNEIL, Direct Examination

1 **Q.** Okay. And in the photograph closer to the home,
2 immediately behind the residence, I see a red vehicle. What is
3 that vehicle?

4 **A.** That's the red Dodge that we had looked at in the
5 exhibits, parked right behind, parallel to the residence with
6 two flat tires.

7 **Q.** Right. Okay. And then photograph 28, which we had
8 looked at, I think, with Sergeant Maccallum yesterday, this was
9 also taken by the same officer, I assume, with his drone?

10 **A.** Yes, at the same time.

11 **Q.** Okay. And I think we can see what is here, but this
12 is from a slightly different perspective and gives us some of
13 the neighbouring houses?

14 **A.** Yes. It just shows, like you said, the neighbouring
15 houses. It shows, arcing along the bottom of the photograph,
16 Highway 16 a bit better, and then the adjoining house ... or the
17 house nextdoor with the adjoining driveway.

18 **Q.** Okay. And is your vehicle in that photograph?

19 **A.** Yes. My vehicle is just in front of that red Dodge.

20 **Q.** Just parked ...

21 **A.** Sort of top to the right.

22 **Q.** Parked on a bit of an angle.

SGT. JENNIFER MCNEIL, Direct Examination

1 **A.** Yes. That's correct.

2 **Q.** All right. And the blow-up versions of these
3 photographs that we're using, you created those, did you?

4 **A.** Yes.

5 **(10:23:00)**

6 **Q.** Now, Sergeant McNeil, you had seized items, some of
7 which we looked at in one of the other exhibit bundles, from the
8 home. Some of those were examined, were they, for fingerprints?

9 **A.** Yes.

10 **Q.** Okay. Can you tell us a little bit about that and if
11 anything came of that?

12 **A.** Yes. So initially all items seized from the vehicle
13 and from the scene itself went to our exhibit person, Burns
14 Anderson. And then later on after examining the scene and a few
15 days later, I believe it was around the 13th of January, 2017, I
16 attended Guysborough Detachment and recovered the exhibits that
17 I wanted to examine, some of which were a wine glass and a wine
18 bottle in the residence, the long gun box that you saw in the
19 back of the Ford Escape there with the plastic wrapping and the
20 long gun itself.

21 So I recovered fingerprints on these items. On the long
22 gun, I recovered our one impression on the top of the slide. On

SGT. JENNIFER MCNEIL, Direct Examination

1 the wine glass, I recovered two fingerprints. On the wine
2 bottle, I recovered two fingerprints. And then on the wine box
3 ... or, sorry, the long gun box itself, on the plastic wrap, I
4 recovered three impressions that ... Did you want me to go over
5 who they came back to?

6 Q. Sure. And just before ...

7 A. Okay.

8 Q. ... you do that, I take it some items you're not able
9 to obtain fingerprint impressions from them, depending on a
10 variety of factors?

11 A. Yes. That's correct. I examined quite a few exhibits
12 from this file, but those are the ones that came back with
13 fingerprint impressions. And the box of the Buck knife ...

14 Q. Yes.

15 A. ... I recovered a couple impressions on that, as well.

16 Q. Okay. And, briefly, what is the process you use to
17 obtain those fingerprint impressions?

18 A. So in these cases, for the most part, it would have
19 been by dusting with fingerprint powders or using cyanoacrylate
20 fuming, which is basically Crazy Glue fuming, and it just
21 adheres to the impressions and makes them visible to the human
22 eye. So that's the process I used for these exhibits.

SGT. JENNIFER MCNEIL, Direct Examination

1 **Q.** Okay. So those items from which you were able to
2 secure fingerprint impressions, obviously the next step would be
3 to compare them to known fingerprints?

4 **A.** Yes.

5 **Q.** So at autopsy, all of the persons there were
6 fingerprinted, I believe by Cpl. Gillespie. And those were
7 provided to me and then I completed comparisons from the
8 impressions that I recovered to those impressions recovered from
9 the deceased persons.

10 **Q.** And part of your training is in fingerprint comparison
11 analysis, is it?

12 **A.** That's correct.

13 **Q.** And for our purposes today, we perhaps don't have to
14 go into all of the detail of how one compares fingerprints. I
15 know there's a ridge analysis that you do.

16 **A.** Yes. We follow a methodology for conducting
17 comparison.

18 **Q.** Okay. Ultimately, when you do that, you can form an
19 opinion or you may be able to form an opinion about whether two
20 fingerprints are a match or not?

21 **A.** That's correct.

22 **Q.** All right. In this case, were you able to determine

SGT. JENNIFER MCNEIL, Direct Examination

1 if any of the fingerprints or impressions that you were able to
2 obtain from the items matched any of the individuals from the
3 autopsies?

4 **A.** Yes. So I formed the opinion that the impression on
5 the slide of the long gun and two of the impressions on the
6 plastic from the long gun box originated from the same source as
7 impressions given to me in the name of Lionel Desmond. I also
8 formed the opinion that several of the impressions on the wine
9 glass originated from Shanna Desmond.

10 **Q.** Okay. Were there any of those fingerprints that were
11 not a match?

12 **A.** Yes. So there was one impression that I had found to
13 be unsuitable. So I stopped anything with a comparison process.
14 It ended up not having enough detail. And then three of the
15 impressions were still outstanding.

16 **Q.** Okay. And on which items were those?

17 **A.** Two were on the knife box, the Buck knife box. And
18 I'm not a hundred percent certain where the other one was. I'd
19 have to check my notes.

20 **Q.** You can, if you'd like. I think it's Exhibit P39,
21 it's in relation to your report.

22 **A.** Thank you. This is not an entirety of my notes.

SGT. JENNIFER MCNEIL, Direct Examination**1 EXHIBIT P-000040 - HANDWRITTEN NOTES OF SGT. MCNEIL (OLFERT)**

2 Q. It's your handwritten notes, maybe P40.

3 A. Yes. That's correct. Yes. So one, the palm
4 impression off the plastic from the gun box, also is
5 outstanding.

6 Q. Okay. That's a palm impression as opposed to a
7 fingerprint impression?

8 A. That's correct.

9 Q. All right.

10 Q. Was anything additionally done with the firearm?

11 A. Yes. There were spots taken from the firearm and then
12 it was also examined by NWEST, by Sergeant Willett.

13 Q. And was it you that arranged for the NWEST officer to
14 examine the firearm?

15 A. Yes. He attended the Port Hawkesbury FIS office ...
16 to our office in Port Hawkesbury and examined it there.

17 Q. And what does ... just for our benefit, what is NWEST
18 and what do they do? What service do they provide?

19 A. They provide just basically to advise if they're
20 firearms ... if they're functional and that sort of thing. So
21 he was there to make sure that it was functional and that it was
22 actually a firearm.

SGT. JENNIFER MCNEIL, Direct Examination

1 **Q.** Okay. There were a number of cell phones seized, as
2 well, from the residence?

3 **A.** That's correct.

4 **Q.** And was any action taken with respect to the cell
5 phones? Just looking at your January 17th entry in your
6 occurrence report. There is an indication that those were
7 passed over to Constable Berthiaume for analysis to Tech Crime?

8 **A.** Yes. I don't have that in here. But I did receive
9 the cell phones. I don't recall if I swabbed them or not.
10 Typically, that would be a possibility that I would have swabbed
11 them. And then I do know that Constable Berthiaume requested to
12 have them back. Then I returned them to him.

13 **Q.** Okay. And, to your knowledge, that was for analysis
14 with Tech Crime?

15 **A.** Yes.

16 **Q.** And would that be a typical thing to do with cell
17 phones in ...

18 **A.** Yes.

19 **Q.** ... a case like this? All right. Did you have any
20 additional involvement in the investigation of the matter,
21 Sergeant McNeil?

22 **A.** No, I did not.

SGT. JENNIFER MCNEIL, Direct Examination

1 **Q.** All right. All right. Thank you. I think those are
2 the questions I have on direct examination.

3 **A.** Thank you.

4 **THE COURT:** Ms. Ward?

5 **MS. WARD:** Nothing, Your Honour.

6 **THE COURT:** Thank you.

7 **MR. ANDERSON:** No questions, Your Honour.

8 **THE COURT:** Thank you. Mr. Macdonald?

9 **MR. MACDONALD:** No questions, Your Honour. Thank you.

10 **THE COURT:** Thank you. Well, Mr. Rogers isn't here.

11 Ms. Whitehead?

12 **MS. WHITEHEAD:** No questions, Your Honour.

13 **THE COURT:** Thank you. Ms. Miller?

14 **MS. MILLER:** No questions, Your Honour.

15 **THE COURT:** Thank you. Mr. Rodgers?

16 **MR. RODGERS:** No questions, Your Honour. Thank you.

17 **THE COURT:** Mr. Hayne?

18 **MR. HAYNE:** None from me, Your Honour

19 **THE COURT:** Thank you. And, Sergeant, I don't have any
20 questions for you either. So thank you.

21 **SGT. MCNEIL:** Thank you, Your Honour.

22 **THE COURT:** Thank you very much for your time.

SGT. JENNIFER MCNEIL, Direct Examination

1 **SGT. MCNEIL:** Thank you.

2 **THE COURT:** You're free to go.

3 **SGT. MCNEIL:** Thank you, Your Honour.

4 **WITNESS WITHDREW (10:33 HRS)**

5 **THE COURT:** Mr. Murray or Mr. Russell, do you have
6 another witness?

7 **MR. MURRAY:** Yes. Thank you. We'll be calling Constable
8 Gerry Rose-Berthiaume.

9 **THE COURT:** Good morning, Constable.

10 **CPL. ROSE-BERTHIAUME:** Good morning, Your Honour.

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1 **CPL. GERARD ROSE-BERTHIAUME, sworn, testified:**

2 **THE CLERK:** Thank you. Please be seated.

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4

DIRECT EXAMINATION

5 **(10:34:36)**

6 **MR. MURRAY:** Can you state your name for the record,
7 please?

8 **A.** It's Gerry Rose-Berthiaume.

9 **Q.** Okay. And how do you spell your last name, sir?

10 **A.** It's hyphenated. It's R-O-S-E-hyphen-B-E-R-T-H-I-A-U-
11 M-E.

12 **Q.** All right. And how are you employed, sir?

13 **A.** I'm currently a corporal with the RCMP, stationed with
14 the Major Crime Unit in Bible Hill, Nova Scotia.

15 **Q.** All right. Thank you. And I'll give you my apologies
16 right upfront. I keep demoting officers. I had you as a
17 constable.

18 **A.** At the time of this incident, I was a constable.

19 **Q.** Okay. Very good. And, sorry, how long have you been
20 a member of the RCMP?

21 **A.** I've been a member of the RCMP since 2007, so 13
22 years.

1 **Q.** Okay. All right. And you did some policing, I
2 believe, prior to joining the RCMP, as well, did you?

3 **A.** I was with the Ontario Provincial Police from 2002 to
4 2007.

5 **Q.** Right. Okay. And so currently you're posted where,
6 you said?

7 **A.** I'm currently posed with the Northeast Nova Major
8 Crime Unit and we're stationed out of Bible Hill, Nova Scotia.

9 **Q.** Okay. Can you tell us a little bit about, first of
10 all, what Major Crime Units do in general and what area you
11 cover as part of the Northeast Nova Major Crime Unit?

12 **A.** So the area we cover is basically from the airport
13 right up through Amherst and all of Cape Breton that Cape Breton
14 Regional does not cover. Primarily, our unit investigates
15 homicides within that area and within the Province of Nova
16 Scotia as a whole or other major investigations that our
17 criminal operations sees fit that we take on. It can be
18 anything from a serious sexual assault to member-involved
19 shootings, those type things. So any kind of serious
20 investigations, but typically we're mostly involved with
21 homicides.

22 **Q.** All right. And those types of investigations are, I

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 guess, resource heavy? They require a lot of members to
2 participate in the investigations?

3 **A.** Typically, yes, and especially early on, within the
4 first 72 hours, they're very resource heavy.

5 **Q.** Okay. And it's during those first 72 hours perhaps
6 that some of the most important evidence is often gathered in
7 these investigations?

8 **A.** That's correct.

9 **Q.** All right. Now, typically, how does Northeast Nova
10 Major Crime or another Major Crime Unit become involved in an
11 investigation? Are they called in by the local members at the
12 detachments or ...

13 **A.** Typically, we'd be called by either a sergeant or a
14 supervisor on duty that day involved in the incident. In this
15 case, it was Sergeant Addie Maccallum who contacted our sergeant
16 or IOC of our unit, which was Paul Vickers at the time, and we
17 are engaged from that point on.

18 **Q.** Okay. And the nature of this investigation, it would
19 be pretty clear that you would become involved in this
20 investigation.

21 **A.** Yes. That's correct. From the onset, it was very
22 clear that we'd become involved.

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **Q.** Okay. Now when you do become involved in an
2 investigation such as this there's, I believe a certain
3 methodology, I guess, if I can put it that way, or a structure
4 to the way you approach investigations. Is that correct?

5 **A.** Yeah. That's correct. We, as all homicide units do
6 right across the country, typically operate or establish under
7 the Major Crime principles, we establish a command triangle
8 right away. That command triangle consists of a team leader,
9 which in this case was Paul Vickers. And the team leader is
10 basically in charge of overseeing the entire investigation.

11 Really, his major role is making sure that we have the
12 proper resources in place, whether it be forensics, police dog
13 services; you know, whether, in this case, drones officers,
14 firearms officers, whatever basically resources we need or the
15 unit needs to complete the job. He's kind of in charge of
16 overseeing that and making sure that we have the proper
17 resources as well as kind of overseeing the investigation as a
18 whole.

19 Also part of that command triangle is a file manager. And
20 the file manager is basically tasked with taking all the
21 information in, gathering it and organizing it and documenting
22 it properly so it can be distributed later; in most cases, in

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 the event of a court case, and making sure all that information
2 is coming in and being catalogued appropriately. The
3 information is typically officers' notes or audiovisual
4 surveillance. Basically anything that's coming into the
5 investigation, he's gathering up and documenting.

6 And then as also part of the command triangle is the
7 primary investigators, which was myself for this one. And the
8 primary investigator is basically responsible for the speed,
9 flow, and direction of that investigation, and assigning tasks
10 and basically leading the investigation in the direction that
11 it's going to go and what needs to be done when ... all comes
12 through the primary investigator.

13 Everything through the investigation flows through the
14 command triangle so nothing is missed. Investigators aren't
15 just out there doing whatever they want to do. Everything is
16 assigned through the command triangle and everything comes back
17 into the command triangle so that we have the fulsome
18 information of the entire investigation.

19 Now the command triangle typically ... especially within
20 the 72-hours, we're conducting briefings in the morning and at
21 night before everyone goes home so the entire team has all the
22 information that the command triangle has. So at the end of the

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 day, everyone kind of knows where we stand. Everyone knows the
2 significant evidence or significant information that's come in
3 throughout the day. And they can go off and do the task that
4 they're assigned during the day.

5 **Q.** Okay. And the primary investigation then, as I
6 understand it, tasks ... you said this ... all of the
7 investigators who are working on the investigation, be they
8 members from Northeast Nova or members from other detachments
9 that are assisting?

10 **A.** That's correct.

11 **Q.** Okay. And the file coordinator in this case was
12 Constable ...

13 **A.** Sorry. Constable Bruce Lake.

14 **Q.** ... Bruce Lake. Okay. And so, I think you've said
15 this, obviously you became involved in this investigation and
16 you were ... was it Sergeant Vickers that would have assigned
17 you as the primary investigator?

18 **A.** Yeah. I received a call from Sergeant Vickers
19 approximately 7 p.m. on January 3rd, indicating to me that there
20 had been an incident in Guysborough County, that Sergeant
21 Maccallum had contacted him and briefed him on some information,
22 as he was on the scene, and that our unit would be becoming

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 involved in taking over that investigation. At that point, I
2 got packed up. I got my gear together and proceeded to Upper
3 Big Tracadie area. On the way, I picked up Constable Mike
4 Wilson. And we arrived there somewhere around 9 o'clock at the
5 scene in Upper Big Tracadie.

6 Q. And as we go through this, I think we have a portion
7 of your general report in the binder there. I don't know if you
8 have it open or not, but it's marked ... I think it's 18A.

9 A. Is it a witness binder?

10 Q. Hopefully we have an 18A.

11 **EXHIBIT P-000018A - LIONEL DESMOND HOMICIDE INVESTIGATION -**
12 **INVESTIGATIONAL SYNOPSIS - PAGES 3-29**

13 A. Oh, here we go. Yeah, P18. There you go.
14 Yeah.

15 (10:43:12)

16 Q. Just as we go through, I would say at the outset,
17 Corporal, the intention here is to provide the Inquiry with an
18 overview of the nature of the investigation ...

19 A. Sure.

20 Q. ... that Major Crime conducted in this case. So you
21 said it was yourself and another officer, Constable Mike Wilson?

22 A. Yes. That's correct.

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 Q. Okay. And you were located in Truro at that time?

2 A. No. My home is actually in New Glasgow.

3 Q. Yes.

4 A. New Glasgow area. So I left from there that night.

5 Q. And you and Constable Wilson arrived ... well, first
6 of all, as you're traveling, I assume you're obtaining
7 information or learning more about what's happening?

8 A. Yes, we are. Spoke with Addie ... Sergeant Maccallum.
9 Excuse me. I've known Addie, or Sergeant Maccallum, for years.
10 We worked together in Bible Hill.

11 Q. Right. That's okay.

12 A. So Sergeant Maccallum was briefing me a couple of
13 times on the way there via phone calls, just kind of the status
14 of the scene, had the scene been cleared, was the scene secure,
15 and was it locked down. And I received all of that information
16 en route. And I received some information on what he initially
17 believed had happened at the scene and that there was three
18 deceased and one person who appeared to have taken his own life
19 via firearm and that firearms were involved in all the deaths.

20 He also indicated to me that there was a number of family
21 members that are still around at the scene and he was calling in
22 further resources to make sure that the scene, you know, stayed

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 secure, and that he believed that there was no other suspects at
2 large at this time.

3 Q. Okay. And that last piece of information is obviously
4 something that's important for you to know as you're approaching
5 the scene?

6 A. Yes, absolutely. Yeah.

7 Q. Okay. So having obtained that information, I suppose
8 even at that point you're thinking about what other services
9 might need to be called in or who else might need to be involved
10 in the investigation?

11 A. Yeah, that's correct and en route I'm in constant
12 conversation with Sergeant Vickers, providing him updates and
13 we're starting to gather our resources at that point. Firstly,
14 obviously, we have to secure the scene so Sergeant Vickers is
15 reaching out to local detachments to make sure that there are
16 people on duty or people that can be called in to adequately
17 protect that scene while the investigation is going on, the
18 investigation is being conducted. Obviously calls going out to
19 our FIS section and Sergeant Olfert or Sergeant McNeil to start
20 to get her prepared and requesting that she attend the scene and
21 providing her as much information as we had at the time so she
22 can make an assessment as to what she needed and potentially who

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 she needed to call in. So those are kind of our immediate
2 concerns at the time heading toward the scene, before we kind of
3 really get there and get an idea of exactly what we're dealing
4 with.

5 **Q.** Okay. And so it would not be uncommon then for local
6 members or members from local detachments to become involved in
7 such things as you said as scene security and so forth?

8 **A.** Yeah, and at the time when I talked with Sergeant
9 Maccallum, the scene security had been set up and Sergeant
10 Maccallum is a very experienced officer, he had already started
11 a logbook for people coming in and out of the scene so we were
12 fairly confident going to the scene that it was secure, that we
13 weren't going to lose any kind of evidence, that there were no
14 suspects at large and that essentially when we arrived there,
15 the scene was going to be in good shape, ready for FIS to attend
16 and ready for us to get on scene and start to kind of make our
17 preliminary assessment of what we needed to do next.

18 **Q.** Okay. And you arrived at the residence roughly when?

19 **A.** Approximately 21:00 hours which is 9 p.m.

20 **Q.** Okay. And do you remember anything about the drive or
21 the conditions that night?

22 **A.** I just remember the roads not being very good. We did

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 get some snow that day and I know there was for sure snow the
2 next day.

3 Q. Right.

4 A. Nothing significant that kind of blocked our way there
5 or made our way there any worse.

6 Q. Had you ever been to this residence before?

7 A. No, never.

8 Q. Did you know any of the individuals involved?

9 A. No, I did not.

10 Q. Okay. Now, when you arrived, did you have contact
11 with Sergeant Maccallum or other officers there?

12 A. Yeah, my first point of contact was with Sergeant
13 Maccallum. FIS had not arrived yet. The scene was secure,
14 however, there were some family members still there and there
15 was some talk about some more family members potentially coming
16 and wanting to get on the scene so Sergeant Maccallum was still
17 in the process of gathering some extra scene security there to
18 make sure that again we had the scene locked down. No one had
19 been in the residence. Constable Klip was there stationed at
20 the front door and essentially the scene was locked down. When
21 I got there we were just trying to gather up some further
22 resources to make sure we had the necessary personnel for the

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 members who were there securing the scene to be safe in doing
2 so.

3 **Q.** And you said Constable Klip was at the door, her role
4 was what?

5 **A.** Again, scene security, just to make sure no one was
6 coming in or out of the residence, no one got access to the
7 residence. Sergeant Maccallum had advised that he had cleared
8 the residence. EHS had exited at that point and there was no
9 need for anybody whatsoever to go in there to contaminate the
10 scene until FIS got on scene and determined how to enter that
11 scene properly so as to not disturb anything in there.

12 **Q.** And her role as a logkeeper would to be to, if anyone
13 did approach or have to go in for any reason, to keep track of
14 that?

15 **A.** Exactly, yes.

16 **Q.** All right. As well, is it typical to have an exhibit
17 custodian appointed or an officer in charge ...

18 **A.** Not at that point there wasn't.

19 **Q.** Okay.

20 **A.** We briefed when Sergeant McNeil got there. Myself,
21 Sergeant Maccallum, Constable Wilson, we all briefed inside one
22 of the FIS vehicles. Sergeant Maccallum provided us a detailed

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 overview of the call itself and what he knew going there, what
2 he saw when he went in, and the steps he had taken to secure the
3 scene. And from there, in consultation with FIS, we talked
4 about the best way to approach the scene and go in there and
5 what we would need in order for FIS to process that scene and
6 one of the things we did talk about was resources and who may be
7 available to be the exhibit custodian. At that point, Sergeant
8 Maccallum advised that Constable Anderson was available, that he
9 was an experienced member and that, you know, was more than
10 capable of taking on that role.

11 Q. Okay.

12 A. Plan-wise for FIS is just to do an overall look of the
13 scene. It was dark that night, it was getting late by the time
14 we had briefed with Sergeant Maccallum, and there was really
15 going to be nothing significant done at that point forensically
16 other than an overall view of the scene and some photos taken so
17 she could make a proper assessment of what things that she
18 needed to complete the job. And so Constable Anderson did not
19 attend the scene until the next day until FIS went in after
20 that.

21 Q. Okay. And so your understanding, having spoken to
22 Sergeant Maccallum, you knew roughly where the deceased were

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 positioned in the room and what the layout of the house was?

2 **A.** Roughly, yes, that's correct. It's very hard though
3 to kind of figure out exactly until you actually kind of get in
4 there and see, you know, from somebody's perspective of them
5 telling you where things are without being in the house before
6 and knowing what that house looked like and what the layout was
7 until you kind of see it for yourself. It's difficult ... you
8 get an idea, but it's difficult until you can actually see it
9 for yourself.

10 **Q.** Okay. So would you or any of the Major Crime members
11 enter the home before FIS got there or were you ...

12 **A.** No, not at all, no. Once Addie advised that he had
13 cleared the scene, the scene was safe, there was no other, you
14 know, threat to life there, the scene is essentially locked down
15 and it becomes FIS scene and they direct who goes in, who goes
16 out, where they walk, where they don't walk and what's done at
17 the scene. It essentially becomes their scene and we're
18 assisting them, providing them the resources they need in
19 relation to scene security so that they can do their job.

20 **Q.** Your investigation then that first night, was there
21 really anything else you could do?

22 **A.** That evening, myself and Constable Wilson, we

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 interviewed one of the family members who was first there,
2 Chantel Desmond, the sister of Lionel Desmond. She was one of
3 the first people or she was the first person who went into the
4 scene and made the initial discovery. She was still at the
5 scene, not within the scene that was secured, but still at the
6 scene and we had asked her to remain. We saw her when we came
7 in and we interviewed her that night to get a better idea of
8 Lionel, of what was going on with the family there, and she was
9 good enough to stay there and provide us some significant
10 information that allowed us to kind of hit the ground running
11 the next day. Again, it was very late and we interviewed her
12 probably around, close to 11 o'clock that night, so not too much
13 other than kind of gathering resources and making a plan to meet
14 the next day in Guysborough was done other than that.

15 **(10:53:20)**

16 **Q.** Okay. You're just becoming involved in the
17 investigation and obviously you, at that point, had a lot of
18 work to do. Did you have a sense at that point initially even
19 from talking to Ms. Desmond of what may have happened or what
20 the situation was?

21 **A.** Yeah, I mean through our conversations with Sergeant
22 Maccallum and subsequent conversations with Chantel Desmond, our

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 initial impression of it, of the scene and what happened there,
2 was that three people were killed as a result of the firearm
3 that Lionel Desmond had in his possession and that Lionel
4 Desmond had taken his own life in that same residence. That was
5 the initial information that we had that night.

6 **Q.** Okay. Were other individuals identified or
7 interviewed? I take it you would be identifying individuals for
8 interview purposes throughout the investigation?

9 **A.** And I mean like I said earlier, Chantel Desmond stayed
10 and was important and that allowed us to hit the ground running
11 the next day and allowed us to task out other statements because
12 she provided some valuable information of other people to talk
13 to, some information in relation to a timeline regarding Lionel
14 and where he had been or may not have been, where some other
15 people in the house were that day. So it allowed us to develop
16 some tasks to assign right away so our investigators could kind
17 of hit the ground running the next day.

18 I will say that both the Desmond and the Borden family were
19 extremely cooperative throughout. They were very frank with us,
20 they were very open with us, they were very forthcoming with us
21 and this allowed our investigation to proceed in a very timely
22 manner and allowed us to move the investigation forward, you

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 know, in a manner that we would not have been able to without
2 their cooperation so, you know, to man the investigative team,
3 really appreciated that.

4 Q. And this was obviously a very difficult time for both
5 families?

6 A. Yes, absolutely.

7 Q. Anything additional on the evening of January 3rd that
8 you were able to accomplish?

9 A. No, again our main concern was that the scene was
10 locked down and secure, that FIS were in place and had the
11 resources that they needed to come in the next morning and do
12 their job. Obviously the Medical Examiner's Office was also
13 contacted and became engaged.

14 We'd interviewed Chantel Desmond so we had a number of
15 tasks for our investigators to do the next morning in relation
16 to follow-up from that statement. Like I said, it was probably
17 around 11 o'clock when we interviewed her that night and it was
18 probably after, you know, midnight when we finished with her so
19 there was nothing really else to do that night.

20 Q. So as you're gathering information, say, from
21 statements such as that, you are, I guess, thinking of tasks or
22 tasks are becoming obvious that need to be done?

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **A.** Yes, correct.

2 **Q.** So how do you, when resources are still coming into
3 the investigation, how do you task those, it's just whatever
4 members are available you start tasking them?

5 **A.** Yeah, and again within the first 72 hours it's very
6 resource-heavy and we had a lot of resources at our disposal,
7 especially within those first 72 hours. We had over or close to
8 30 investigators at our disposal as of the next morning so we
9 conducted a briefing the next morning, filled in all the
10 investigators in relation to the information that we had
11 gathered that night, and were able to send investigators out to
12 complete the tasks that we had which were significant at that
13 time, especially early on.

14 **Q.** Okay. You had said, as well, that the Nova Scotia
15 Medical Examiner's Office was notified of the deaths?

16 **A.** That's correct.

17 **Q.** That was on the first day, was it, to your
18 recollection?

19 **A.** Yeah, that was on the first day, yeah.

20 **Q.** And so these are deaths that would normally be
21 required to be reported to the Medical Examiner Service?

22 **A.** Yeah, all deaths in Nova Scotia require a report of

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 the Medical Examiners. It's just how they are engaged in an
2 incident like this is different from a normal death obviously.
3 They typically will send an investigator out to the scene or the
4 medical examiner himself will come out to most of our scenes.

5 Q. Okay. And you're able to notify the Medical
6 Examiner's Office really anytime, are you?

7 A. Yeah, anytime there's a death, they're required to be
8 notified, we have a 1-800 number which we call.

9 Q. That's what I was wondering if there's a number.

10 A. Yeah, there's a number that we have that we call them.

11 Q. All right. So then on the 4th of January you said
12 initially, as you had mentioned earlier, you have a briefing
13 each day with all of the investigators?

14 A. That's correct.

15 Q. Do you meet up at a particular detachment or
16 something?

17 A. On that day, on the 4th, we met at the Guysborough
18 detachment.

19 Q. Okay. And that's all the investigators that are
20 involved?

21 A. Yes, all the initial investigators involved at the
22 scene so our entire Major Crime unit was there, FIS was there,

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 detachment members were there and the people going to be
2 involved with the scene security were also there at that
3 briefing.

4 Q. Okay. And then people are starting to fan out,
5 following up on the tasks that you were giving them?

6 A. Yes, correct, and most of the significant interview
7 tasks involved the family members at that time and what we're
8 trying to do is we're trying to piece together a timeline of
9 events in regards to what happened leading up to Lionel arriving
10 at the residence.

11 So and we try to take that back a number of days and to
12 figure out kind of anything that's changed or anything that's
13 happened that may have led up to this, potentially anyone else
14 that may have been involved, or anyone else that potentially may
15 have knew this was going to happen. I will say right off that
16 we did not discover that anyone else was involved or anyone
17 else, for that matter, knew that this was going to happen.

18 You know, family members, did the interviews, talked at
19 length to us, you know, about Lionel and about his struggles,
20 you know, about his service in the military and how he came back
21 from the military as a changed person, you know, and his
22 struggles over the years. They talked to us about his

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 relationship with Shanna, his relationship with his daughter
2 and, you know, how there had been significant times within their
3 relationship and leading up to this event that there was
4 difficulties, there was marital issues and fights that were
5 going on and that Lionel, since he had, you know, come back, and
6 had been in the military, struggled to cope with changes, cope
7 with events, and certain things would just sometime set him off.

8 And that really brings me to the information we learned
9 about New Year's Eve. Based on the investigation, I believe and
10 the investigators believe that kind of set this chain of events
11 in motion. And that on New Year's Eve, Lionel along with his
12 family members and Shanna, were at a party at a family cabin.
13 Everything went really well that night, everyone had a good
14 night from all accounts.

15 However, on the way home, Lionel was driving Shanna's
16 truck, it was a new truck that Shanna had purchased, and on the
17 drive home the roads were icy and Lionel subsequently put the
18 truck off the road. No one else in the vehicle thought it was a
19 big deal including Shanna, it was her truck and she seemed to
20 just brush it off, but Lionel was really, by all accounts and
21 numerous witnesses had told us he was really bothered by this
22 and just wouldn't let it go. He was very upset, he was very

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 embarrassed and that carried on for the drive home. Shanna
2 drove home after the truck got out of the ditch and it carried
3 on all night and basically where no one got any sleep in
4 relation to this truck going off the road to the point where
5 Shanna asked him to leave and Lionel packed up his stuff and did
6 so.

7 We understand from the interviews that we conducted, Your
8 Honour, that on New Year's Day Lionel attended the St. Martha's
9 Hospital and checked himself in the Emerg and was seen by a
10 number of doctors there and actually spent the night there and
11 then was discharged in the morning.

12 And from there on Monday, he began the process of packing
13 up some of his stuff. He was back and forth between his house
14 and the Greencorn house. Sandra and Kenny Greencorn were
15 relatives of his who he was very close with and he had stayed
16 before and he was given permission to stay there. So Monday was
17 basically consisted of a couple trips into Port Hawkesbury, him
18 packing up, back and forth to the house. He put some wood in at
19 the MacEacherns' residence.

20 **(11:02:56)**

21 Again all this, Your Honour, we're gathering from
22 statements that we've taken from various family members and

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 various acquaintances, friends. And he's again engaged in the
2 process of leaving the residence that he'd been staying at,
3 which was the Borden residence, belonged to Thelma and Ricky
4 which is where the incident occurred, and beginning to pack up
5 and basically move into the Greencorn residence.

6 And that takes us again to the Tuesday, the 3rd. We're
7 aware from interviews conducted and the information that we
8 gathered throughout the investigation that he goes into
9 Antigonish in the morning and there's an appointment made with
10 health services through Dr. Slayter again. And from there, he
11 attends a local outdoor store where a firearm was purchased as
12 well as some ammunition. And from there, we believe he goes
13 back to the Greencorn residence and gets changed because the
14 clothing that Lionel Desmond's wearing on video at the local
15 outdoor store in Antigonish is ...

16 **Q.** That's Leaves & Limbs is it?

17 **A.** That's Leaves & Limbs, that's correct. Is
18 significantly different from what he had on. There was no one
19 home at the Greencorns' at this time and he changed vehicles.
20 So Lionel had access to two vehicles we learned through the
21 investigation, one was a Mazda and the other was a Ford Escape.
22 He took the Mazda into, based on witness accounts and video

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 surveillance, he took the Mazda into town that day and at the
2 Leaves & Limbs he was wearing like a darker gray jacket and some
3 Carhartt pants.

4 Obviously when he arrived at the Borden residence when the
5 incident took place, he was in full heavy camo. So we believe
6 that, and we can't confirm because there was no one home at the
7 Greencorns' at the time, went to the Greencorns', changed and
8 changed vehicles and then proceeded from there to the Borden
9 family where the incident occurred.

10 Q. All right. And that was obviously on the afternoon of
11 January 3rd?

12 A. That's correct.

13 Q. Thank you for the overview. That information and that
14 narrative that you've just provided to the Inquiry obviously was
15 gleaned from witness statements from a wide variety of
16 individuals?

17 A. That's correct.

18 Q. All right. On January 4th you haven't obviously
19 gotten all of that information yet?

20 A. No, that's correct.

21 Q. You're starting to piece that together?

22 A. Yeah.

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **Q.** Okay. You did understand from talking to family
2 members, though, that Lionel Desmond had been a military veteran
3 and were you aware at that time that he had been diagnosed with
4 post-traumatic stress disorder?

5 **A.** Yes. We interviewed numerous family members in
6 relation to this investigation and from there we got a very good
7 picture. Like I said, the family members were very open and
8 honest and very frank with us in relation to Lionel, who he was,
9 his service in the military, and some of the things that he'd
10 been going through in relation to mental health and his PTSD
11 over the last number of years, you know, information in regards
12 to him seeking treatment in Montreal for six months, being
13 diagnosed with PTSD, you know, we learned that he was medically
14 discharged from the military. So we had a very, from the family
15 members and his close friends, we had a very fulsome picture of
16 Lionel Desmond and who he was and kind of basically what he had
17 been going through ...

18 **Q.** Okay.

19 **A.** ... leading up to the event.

20 **Q.** Right. So on the morning of January 4th after your
21 briefing with all of the investigators that were involved, you
22 returned to the scene I take it?

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **A.** Yes. Again, like I said earlier, it's very hard,
2 especially with a scene like we had there, to really get a good
3 understanding of what that scene, it's hard to really appreciate
4 I guess what that scene looked like, Your Honour, without having
5 a look at that scene. So FIS went in first and then I came in
6 for a walk-through of that scene so I could get a better picture
7 of what we were dealing with and that would guide me, Your
8 Honour, in what tasks or what potential information from that
9 scene that I could glean that I could better direct the
10 investigation from.

11 **Q.** So Sergeant McNeil, then Sergeant Olfert, went into
12 the residence first and she has testified that she took
13 photographs and examined the scene initially.

14 **A.** Correct.

15 **Q.** After she completed that initial stage of her work,
16 that was when you were able to enter the residence?

17 **A.** Yes, under her direction.

18 **Q.** Okay. She had indicated that when she initially went
19 in she was wearing protective clothing?

20 **A.** Yes, that's correct.

21 **Q.** Would you have been wearing that as well?

22 **A.** Yes, absolutely.

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **Q.** And what's the purpose of that?

2 **A.** Just so that we're not leaving anything of ourselves
3 behind whether it be our DNA, sweat, hair, anything from our
4 footwear, footprints, we're not bringing anything from the
5 outside into that scene so we would have had the full booties
6 and gloves and everything on, yeah.

7 **Q.** Okay. Was it just yourself that went in or was ...

8 **A.** Yeah, it was just myself. Again, it's Sergeant
9 McNeil's scene at that time. Again, the purpose of me going
10 into that scene was to better understand that scene and what it
11 looked like so I could better direct the investigation as to
12 what we needed to do to move it forward.

13 **Q.** Okay.

14 **A.** So I wasn't missing anything or misinterpreting
15 anything that I had heard from Sergeant Maccallum at the time.

16 **Q.** Right. So when you entered the home how did you find
17 the scene? What did you see?

18 **A.** So I entered the scene, again it's a mobile home. We
19 entered in through the back door and you almost immediately kind
20 of go into the kitchen. There was a female deceased in the
21 corner. The next person we see was ... I believe that was
22 Shanna. The next person ...

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **Q.** And actually as you're giving your evidence, I think
2 if you move the poster behind you and maybe the diagram that was
3 created, if that's of any assistance to you.

4 **A.** So you're coming in from this location here.

5 **Q.** Yes.

6 **A.** And you're walking basically kind of almost right into
7 the kitchen. I believe this was Shanna who was deceased. And
8 the next person we see is Lionel with the firearm at his left
9 side. It's kind of obstructed so until you kind of move further
10 into the residence you don't see Brenda just because it's
11 somewhat obstructed. There's an island and then the island, if
12 I remember correctly, has got almost like a step-up so you could
13 sit up at like bar stools.

14 **Q.** Yes.

15 **A.** Brenda was there and as you move in, it opens up into
16 a larger living room and then obviously Aaliyah is there in the
17 living room and then we see where the picture depicting Aaliyah
18 there, at her feet there's a hallway that runs down to a number
19 of bedrooms there.

20 **Q.** Okay.

21 **A.** A number of things were pointed out to me at that time
22 by Sergeant Olfert, Sergeant McNeil, in relation to the firearm,

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 the magazine, the bullets, and the knife.

2 Q. And those particular items that were of significance
3 that were pointed out to you by Sergeant McNeil, can you just
4 tell us about where those were located?

5 A. Yeah, well the firearm's obviously located as depicted
6 on the drawing there, on the plan drawing. The bullets along
7 with the magazine and the knife were all located on the
8 countertop.

9 Q. Okay. Were there other things initially on your first
10 walk-through that were of significance or were those the main
11 things?

12 A. No, those were the most significant things that were
13 pointed out at the time. Again, Sergeant McNeil hadn't really
14 started her physical assessment of the scene yet. She had just
15 done a basic overview of what she was dealing with and had taken
16 some photos. The only other thing that comes to mind is some
17 shell casings that were obviously visible throughout the house.

18 Q. Okay. So the fact that a firearm now obviously is
19 something you see and it would appear has been involved in this,
20 does that cause you to take any action or involve any other
21 sections?

22 A. Yeah, one of the first contacts we made and that was

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 made very early on was with NWEST which is our National Weapons
2 Enforcement Team and Sergeant Millett (sic) was assigned to the
3 file.

4 **Q.** Okay. So NWEST is the National Weapons Enforcement
5 Support Team?

6 **A.** Yeah.

7 **Q.** Okay. And what is the nature of the work that NWEST
8 does?

9 **A.** They do a number of different things. First,
10 basically it's they're the experts in all makes and models of
11 the firearms, the testing of the firearms to ensure their
12 function or functionality of firearms, the classification of the
13 firearms and what that classification is whether it's
14 restricted, prohibited, non-restricted firearm, and also dealing
15 with the ammunition in relation to the firearm. Further to that
16 whether, you know, people involved in the investigation would
17 have a possession and acquisition licence or have the proper
18 licence to possess that firearm that's involved at the scene or
19 may have been involved in the occurrence. And then they will do
20 the functional and mechanical tests of the firearm for us to
21 ensure that it is functioning, that it's not malfunctioning or
22 if there's been issues with it.

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 (11:13:34)

2 Q. Okay. Was it your expectation that the NWEST officer
3 with whom you spoke would ultimately do an examination of this
4 firearm?

5 A. That's correct, yes.

6 Q. Okay. And you said that was Sergeant Mike Willett?

7 A. That's correct.

8 Q. Okay. And where is he located physically?

9 A. He's located in Halifax.

10 Q. Halifax, okay, so the NWEST officers are in Halifax?

11 A. Yeah.

12 Q. Okay. Did you provide any information to Sergeant
13 Willett initially with respect to the firearm or your initial
14 impressions of it?

15 A. Yeah, just what the firearm appeared to be. We
16 obviously had a serial number from that firearm to see if he
17 could do any kind of a trace of it and obviously we wanted to
18 have some information on Lionel Desmond himself, what licence if
19 any he had, and did he have the proper authorization to be able
20 to purchase a firearm like that. So those were the initial
21 things that we wanted from him right away.

22 Q. Okay. As your investigation is progressing, are you

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 identifying other individuals and other avenues of
2 investigation?

3 **A.** Yeah, I mean, as we're conducting interviews, you
4 learn more and more information as you go and other tasks are
5 developed from that information that you're learning. One of
6 the things that we learned from speaking with the family and
7 then speaking with a subsequent friend of the family, Trevor
8 Pelley, in relation to Lionel and where he had purchased that
9 firearm.

10 **Q.** Yes.

11 **A.** We had received some information and conducted an
12 interview in which we believe that Lionel Desmond, approximately
13 somewhere between 3 and 4, was at the Leaves & Limbs outdoor
14 shop located in Antigonish.

15 **THE COURT:** I'm going to stop you for a second. So
16 where did you get that information from?

17 **A.** Trevor Pelley was the individual's name.

18 **THE COURT:** Trevor Pelley?

19 **A.** Yes.

20 **MR. MURRAY:** And your understanding of where Trevor
21 Pelley got that information?

22 **A.** Our understanding is that Trevor Pelley received that

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 information from ... sorry, that he was at the Leaves & Limbs
2 shop when Lionel entered it.

3 Q. And ultimately I think, and we'll hear more about this
4 later, but you actually obtained some video from the Leaves &
5 Limbs store?

6 A. Yes, that's correct.

7 Q. And is Trevor Pelley actually visible in that video?

8 A. Yes, he is.

9 Q. Okay. So as a result of obtaining that particular
10 information from Mr. Pelley, was someone tasked with doing
11 something in that regard?

12 A. Yes, that's correct and we obviously assigned a number
13 of tasks surrounding that and one was to go to Leaves & Limbs to
14 obtain video as well as interview the owner of Leaves & Limbs.

15 Q. And that individual, do you recall his name?

16 A. It's a different last name, I don't recall the last
17 name.

18 Q. We've been speaking of a gentleman named Dan Kulanek?

19 A. Dan Kulanek, that's correct.

20 Q. All right. And was an officer able to speak with Mr.
21 Kulanek?

22 A. Corporal Byard and Constable Daley from our FIS

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 section spoke with Mr. Kulanek. Mr. Kulanek was again extremely
2 cooperative with investigators, provided the video and provided
3 details in relation to his interaction with Lionel Desmond that
4 day.

5 Q. Okay. And so were you able to, you said the officers
6 that carried out that task were able to obtain video from the
7 store?

8 A. That's correct.

9 Q. All right. And were you able to view that?

10 A. I was.

11 Q. And was Lionel Desmond actually at the Leaves & Limbs
12 store from what you saw?

13 A. Lionel Desmond was there and he purchased the firearm
14 in question there.

15 Q. Okay. And you believe that to be the firearm that
16 actually was used in the deaths?

17 A. That's correct, the SKS 760 firearm.

18 Q. Okay.

19 A. You can also see in the video, Your Honour, Mr.
20 Kulanek wrapping up the firearm in the box that was later
21 discovered in Lionel's vehicle with the plastic and you can also
22 see him obtain the bullets which were subsequently used in this

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 incident and located at the Borden trailer where the incident
2 occurred.

3 **Q.** Okay. And just on that point, we again with Sergeant
4 McNeil who had just testified, we looked at photographs that
5 were taken from the Ford Escape. Those items, and I appreciate
6 at this point the Ford Escape has not come to your attention
7 yet, but those were items that were located in the Ford Escape,
8 were they?

9 **A.** That's correct.

10 **Q.** Okay. All right. On the 4th of January as well, I
11 just see in your continuation report that you did or one of the
12 members, Constable Wilson, had some contact with somebody from
13 the Naomi Society in Antigonish?

14 **A.** Yes, that's correct, Nicole Mann I believe was her
15 name ...

16 **Q.** Yes.

17 **A.** ... from my recollection and she had actually
18 contacted our OCC which is our dispatch ...

19 **Q.** Yes.

20 **A.** ... and provided some information which she believed
21 that she had spoken with Shanna Desmond on the 3rd in the
22 afternoon and Shanna did not provide her name at that time but

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 based on the information that she had received on the call in
2 relation to she was going through a separation, she had just
3 asked her husband to leave, her husband was in the military and
4 had PTSD, and from the media reports that she had seen on the
5 news that day, she believed that she had, in fact, spoken with
6 Shanna Desmond.

7 **Q.** Just to be clear on the "shes". The caller to Ms.
8 Mann did not provide her name?

9 **A.** That's correct.

10 **Q.** Okay. But Ms. Mann surmised, based on the information
11 ...

12 **A.** Yeah, she deduced from the conversation and from what
13 she had seen in the media that she had, in fact, spoke with
14 Shanna Desmond that day. So Constable Mike Wilson was assigned
15 at that point to go and conduct an interview with her. In her
16 statement, Mrs. Mann details her interaction with who we believe
17 was Shanna Desmond at the time. Again, it was a general
18 conversation just in relation to separation and some of the
19 processes, some of the resources at her disposal. Ms. Mann
20 states I believe in her statement that Shanna, the person she
21 believed to be Shanna, didn't indicate that there was any kind
22 of violence or any kind of threat or that she felt that she was

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 under threat, but it was more of a general information inquiry
2 of kind of what services were available to her and her family
3 given that she was going through a separation with a person who
4 had some mental health issues and that there had been some, you
5 know, domestic issues in the past.

6 Q. All right. Now as the investigation goes on, were you
7 able to obtain any information about the exact time of the
8 incident. I'm thinking you spoke with a George Desmond I think?

9 A. Yes, that's correct. One of the people we
10 interviewed, Your Honour, was a George Desmond who is the
11 brother of Brenda Desmond, one of the deceased in the residence.
12 During the incident, George received a call from Brenda Desmond
13 and during the call, George indicated to the investigators that
14 interviewed him that Brenda stated that he needed to get down
15 here right away, the boy just shot his wife. He subsequently
16 tried to make arrangements to get to the scene but was unable to
17 right away. In his mind, he says he gets there probably around
18 ten minutes later and he says during the interview that he
19 figures the conversation lasted somewhere between 15 and 20
20 seconds before he hung up.

21 Q. And that call he said was received by him at what
22 time?

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **A.** At around 6 o'clock.

2 **Q.** 6 o'clock.

3 **THE COURT:** It was Mr. George Desmond who terminated the
4 call?

5 **A.** Yes.

6 **THE COURT:** He hung up?

7 **A.** Yeah.

8 **THE COURT:** Thank you.

9 **MR. MURRAY:** And just looking at your continuation
10 report, I'm not sure if there was other significant avenues of
11 investigation on the 4th of January or if that was everything
12 you did that day? You could have a look and just ...

13 **A.** Again, there was numerous interviews conducted that
14 day. That appears to be the bulk of that report.

15 **(11:23:15)**

16 **Q.** And as statements are being taken, I take it other
17 individuals are identified as having potentially relevant
18 information?

19 **A.** That's correct.

20 **Q.** And then members are tasked to interview those
21 individuals?

22 **A.** That's correct.

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **Q.** Right. And as this is going on, all of those
2 statements once they're taken, will come back to you, be given
3 to the file coordinator and they'll flow through you, you'll
4 review them, and then determine if other tasks come as a result
5 of that?

6 **A.** That's correct.

7 **Q.** Okay. So one can see how important it is that there
8 be one sort of central depository for that information because
9 it could get a little out of hand otherwise.

10 **A.** Yes, everything flows through the command triangle,
11 through myself, Constable Lake, and Sergeant Vickers and then
12 everything flows out from the command triangle. So we know
13 exactly what's happening in the investigation and what's going
14 on. The investigators aren't just going out thinking of tasks
15 on their own, doing tasks on their own, otherwise there'd be
16 mass chaos and no one would know what was going on with the
17 investigation.

18 **Q.** Okay. So on January 5th which is now your third day
19 conducting investigation, your continuation report indicates
20 that it was I guess near the beginning of that day that you
21 became aware of the Ford Escape?

22 **A.** Yes. Early on in the investigation when we were

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 interviewing family members, they were talking about a jeep and
2 vehicles that Lionel had, that he had a car and a jeep. And
3 early on we were under the impression or we believed that that
4 jeep was the Acura MDX that was in the driveway that had been
5 cleared early on during the incident by Addie Maccallum and that
6 there was a .22 caliber Cooney rifle located on the passenger
7 seat. And based on the information we had, we were kind of
8 thinking we had, you know, we had the vehicle he had driven, he
9 had most likely driven that Acura there. But once some
10 interviews started coming in, we began to review some of those
11 statements, in particular, the Greencorn statement because he
12 had been staying there, they were able to provide us some more
13 detail in relation to those vehicles. So in our briefing at the
14 end of the day on the 4th, we started coming to the
15 understanding that there's possibly a vehicle that's missing
16 here, that's unaccounted for and we began to, you know, put some
17 more resources into looking for that vehicle and a number of ...
18 our family liaison was Corporal Byard at the time and he began
19 to reach out to some more of the family members just to see
20 like, you know, had they seen the vehicle, you know, what
21 potential areas it could be located in, et cetera, et cetera.
22 Subsequent to that, very early in the morning of the 5th we

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 received a call from Kenny Greencorn where Lionel had been
2 staying, stating that he believed he located the vehicle on a
3 logging road just down from the property, approximately a
4 kilometer away from the property that the Desmond house is
5 located at where the incident occurred.

6 **Q.** Okay. And I know it's not depicted in our aerial
7 photograph but if you want to pick one of those up, perhaps the
8 one with the road behind the house, and give us at least a sense
9 of a direction of where it was located.

10 **A.** There's a number of vehicles in behind the house so if
11 the house is here, the highway runs along, you can see kind of
12 the bottom of the highway here, Your Honour. So approximately,
13 as a crow flies, approximately a kilometer away but it would be
14 down here along the road, there's a logging road, it's an old
15 service logging road that runs up and then there's paths that
16 run over into behind, you can see kind of a loose footpath that
17 runs in behind these vehicles and then down into the residence.

18 **Q.** So the logging road where the Ford Escape was found
19 was on the same side of the Highway 16?

20 **A.** Yes, it was.

21 **Q.** And footpaths would ultimately lead to the road behind
22 the residence that we see in this aerial photograph?

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **A.** That's correct.

2 **Q.** All right. Did you see the location where the Ford
3 Escape was found?

4 **A.** Yes, I did.

5 **Q.** Okay. And can you describe what that was?

6 **A.** Again, it's just an old access or logging road. It's
7 not a road that would typically be used by any regular vehicle
8 traffic. Very narrow, somewhat grown over and, you know, just
9 enough for kind of one vehicle to drive down.

10 **Q.** Okay. Did it appear to be hidden there or ...

11 **A.** No, I mean if you walked up the road you'd see it
12 right away or if you kind of stopped where Kenny Greencorn had
13 stopped along the side of the road, you could look up and you
14 could see a piece of it. So it was definitely out of sight but
15 to say it was hidden, I wouldn't say that it was hidden
16 necessarily but it wouldn't be a road that anybody other than
17 maybe a forestry worker would use to access, you know, an old
18 log cut or something of that nature.

19 **Q.** Okay. And so when you discovered the location of the
20 Ford Escape, what was done with it?

21 **A.** We notified FIS that we had located a vehicle.
22 Constable Septon went over and had a look at that vehicle and

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 then we had a tow truck come on a flat deck and remove that
2 vehicle and towed back to a secure bay in Antigonish where it
3 could be properly processed out of the elements.

4 Q. And ultimately that vehicle was examined by FIS?

5 A. Yes, it was examined later that evening by Constable
6 Septon.

7 Q. Okay. And just as we're looking at the photographs,
8 the aerial photographs, did you arrange or task someone to have
9 the aerial photographs done or was that FIS?

10 A. No, that was done through us through Sergeant Vickers.

11 Q. Yes.

12 A. He identified that typically in all these, most of our
13 investigations, we do have aerial footage taken so we have a
14 good overview picture of the scene itself and Sergeant Vickers
15 made contact with Traffic Services who do the majority of our
16 aerial photos. I don't recall who exactly took the photos, it
17 would have been someone in Traffic Services who is involved
18 within the drone program.

19 Q. Okay. And it's primarily now drones that are used for
20 this?

21 A. Primarily. Not always, but primarily drones, yes.

22 Q. And those are helpful here in a case such as this to

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 get I guess a general layout of where the location and where
2 various items are located?

3 **A.** Yeah, again you're getting a topographical picture of
4 where everything is.

5 **MR. MURRAY:** Okay. Your Honour, I don't know when you
6 want to take the morning break. We can keep going or I can
7 stop.

8 **THE COURT:** This is a fine time to do that actually so
9 it's almost 11:30. Thank you.

10 **COURT RECESSED (11:31 HRS.)**

11 **COURT RESUMED (11:51 HRS.)**

12 **THE COURT:** Mr. Murray?

13 **MR. MURRAY:** Thank you, Your Honour.

14 Corporal Berthiaume, before we broke we were talking a
15 little bit about the Ford Escape that was located on the logging
16 road. Were there particular items when that was examined by
17 Constable Septon that were of interest to your investigation?

18 **A.** From my recollection, Your Honour, of significance in
19 there was the receipts from Leaves & Limbs outdoor shop in
20 Antigonish, the firearms box that was seen on video a firearm
21 being put in, also from the Leaves & Limbs shop. There was a
22 box that would have contained a hunting knife, a receipt from

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 Canadian Tire, where that hunting knife was purchased, along
2 with, I believe it was a tool set or a ratchet set that was
3 purchased along with that on November 2nd, both ...

4 Q. January. January 2nd?

5 A. Sorry, January 2nd. There was also a medical
6 appointment card for, I believe it was Dr. Slayter, that was
7 scheduled for January 18th, from, you know, interviews and
8 investigation conducted, that we believe he obtained on the 3rd.
9 And there was a number of prescriptions there that kind of gave
10 us an idea of medication that Lionel Desmond had been on.
11 That's what I can recall off the top of my head.

12 Q. The box for the knife was located in the ... or at
13 least a box for a similar knife ...

14 A. Yes.

15 Q. ... was found in the Ford Escape?

16 A. That's correct.

17 Q. And the Buck hunting knife was located on the counter
18 in the kitchen of the home?

19 A. That's correct.

20 Q. We've seen pictures of and other officers have
21 testified about the tires on the Dodge Ram truck that was parked
22 behind the residence and that two of them were flattened.

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **A.** Yeah.

2 **Q.** Were you able to draw any conclusions about that?

3 **A.** Just in speaking with Sergeant Olfert, in our
4 conversation, I know that in the photographs that I reviewed and
5 the scale and we subsequently talked about it - based on the
6 scale, the size of the slash marks and the width of the blade of
7 the knife, we believe that that was the knife used to slash the
8 tires.

9 **Q.** That was your working theory, I guess?

10 **A.** Yes, yeah, for sure.

11 **Q.** Okay. I'm not sure in your report - there's
12 obviously more witness statements taken - but if there was
13 anything else that occurred on the 5th of January in the
14 investigation?

15 **A.** So there was a number of witnesses that we spoke to
16 that day, mostly consisting of family members and, again, it's
17 coming back to trying to establish a concrete time line for
18 Lionel in the days and hours leading up to the incident.

19 **Q.** Okay. Now were you able to obtain Mr. Desmond's, I
20 guess I'm actually referring to the 6th now, to his medical
21 records, did you receive consent from the family to obtain
22 those?

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **A.** Yes, that's correct.

2 **Q.** Okay. And did you have an opportunity to review the
3 medical records that you were able to obtain?

4 **A.** Yeah. As stated earlier in my testimony, my overview
5 kind of of what transpired, the investigation, you know, that's
6 where we gleaned most of the information from, from us knowing,
7 we knew he had been to St. Martha's, kind of roughly when he got
8 there.

9 **Q.** Um-hmm.

10 **A.** And when he left and discharged and what doctors he
11 had seen. So that was kind of the bulk of the important
12 information that we gleaned from looking at that, those medical
13 records that day.

14 **Q.** Okay. There's also reference in your Occurrence
15 Report to Police Dog Services being involved in the
16 investigation. I don't know if anything of significance came
17 from that.

18 **A.** Nothing of significance really came from that, Your
19 Honour. When we located that vehicle, we were trying to re-
20 establish maybe a route that he would have taken from the
21 vehicle to the residence. There's a fairly good walking path
22 through that route and the dog tracked along that walking path

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 that takes you, basically, in behind the residence to where
2 those trucks are located, Your Honour, and then down into the
3 residence. There was no significant evidence obtained or there
4 were no significant articles recovered as a result of that PDS
5 search, but that's typically what we're looking for, if there's
6 any scent left over. Being a couple of days after we weren't
7 anticipating that but maybe, you know, we think maybe somebody
8 or Mr. Desmond had discarded something that would have been of
9 value or of note on his way there that would have been important
10 but nothing was obtained during that PDS search, the police dog
11 search.

12 Q. All right. At some point the Medical Examiner Service
13 did attend at the scene?

14 A. Yes, they did.

15 Q. Okay. And do you recall who came from the Medical
16 Examiner Service?

17 A. I believe it was Dr. Mont, and Dr. Mont typically
18 takes with him one or two assistants, and he attended, again in
19 conjunction with Sergeant McNeil, who, again, she's in control
20 of that scene, you know, but the medical examiners obviously
21 have some expertise in relation, you know, to the deceased in
22 the residence, you know, that would greatly assist the

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 investigation in relation to any wounds or, you know, potential
2 times of death in maybe some of the cases or whatnot, right?
3 So, yeah, they were called in and were directed through the
4 scene by Sergeant Olfert and, you know, subsequently had the
5 bodies removed once they were satisfied that they had the
6 information they needed from the scene.

7 **Q.** All right. And in this case there were postmortem
8 examinations on the deceased or autopsies?

9 **A.** Yes, that's correct.

10 **Q.** And I believe Sergeant McNeil indicated that there
11 was an FIS member, I think, assigned to be present for the
12 autopsies?

13 **A.** We have a number of FIS members stationed at our
14 headquarters, which is directly across from the Medical Examiner
15 Services. I don't recall right offhand who attended, her name
16 slips me right now. It was one of the female sergeants that did
17 attend the scene ... did attend the autopsy.

18 **Q.** I believe it was Gillespie?

19 **A.** Yes, Corporal Kim Gillespie attended, yes.

20 **Q.** All right. And in your experience is that typical to
21 have an officer attend at the autopsies?

22 **A.** Yes, for all of the homicides that I've ever been

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 involved in, we always have a forensic officer attend at the
2 scene, along with an investigator.

3 Q. Okay. Would you have received some initial
4 information back from the Medical Examiner's office in the early
5 days of the investigation...

6 A. Yes.

7 Q. ... or would it take some time?

8 A. Yeah, we'd receive information back that day into the
9 cause of death and any kind of significant evidence that was
10 gathered or any significant observations that were made as part
11 of the autopsy.

12 Q. Right. And Dr. Mont will be testifying here,
13 tomorrow, I believe, but was there anything from the autopsies
14 that, I guess, changed the direction of your investigation or
15 ...

16 A. No, nothing that, you know, caused us to change
17 direction or go in another direction or there was no, you know,
18 further tasks generated from that report. He indicated to us
19 that all parties at the residence died as a result of gunshot
20 wound trauma. The only difference - I don't have Dr. Mont's
21 report in front of me - but from my recollection, there were
22 three gunshot wounds located in Shanna Desmond and then one in

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 the subsequent other individuals at the scene there - Brenda,
2 Aaliyah, and Lionel himself.

3 Q. And did you have, I guess, knowing the number of
4 gunshot wounds, and I assume you were speaking to FIS about the
5 number of shell casings that were located in ...

6 A. Um-hmm.

7 Q. ... in the residence. And you also had an
8 examination done of the firearm?

9 A. Yes.

10 Q. Were you able to kind of reconcile all of those?

11 **(12:01:01)**

12 A. Yeah. I mean all of the shell casings were accounted
13 for within the residence. FIS were able to pull a number of
14 fragments from the bullets from various locations in the
15 residence, and the shell casings at the residence matched the
16 shell casings that were in the box at the residence, which I'm
17 not sure if the name is Horvath or ...

18 Q. Hornady.

19 A. Hornady. They were a different type, and they had a
20 red tip on them. And from what I remember, they were a little
21 more of a, from speaking with Firearms, a little more of a high-
22 end bullet.

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **Q.** Okay. You also seized a number of, or FIS perhaps,
2 seized a number of cell phones that were located in the
3 residence.

4 **A.** That's correct, yeah.

5 **Q.** And do you recall how many in total?

6 **A.** I believe there was four in total ...

7 **Q.** Okay.

8 **A.** ... that were seized from the residence.

9 **Q.** Right. And what was done with those?

10 **A.** Initially, they were seized at the scene and logged
11 with the exhibit custodian, who was Constable Burns at the time.
12 From there, FIS kind of has the first crack at them, if you
13 will, for any forensic tests that need to be done, whether it be
14 swabs or fingerprints, and then once that's completed those
15 phones were, in fact, turned over to me the second week of
16 January, at some point there or very close to there, Your
17 Honour, and I took those phones to our Tech Crime Unit at our
18 headquarters to be analyzed.

19 **Q.** Okay. The Tech Crime Unit is located at your
20 headquarters ...

21 **A.** It is, yes.

22 **Q.** ... in Burnside?

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **A.** Yeah, that's correct.

2 **Q.** And, again, we'll have an individual from there
3 testify but what's your understanding of what Tech Crime is able
4 to do with the phones and what's your expectation or hope?

5 **A.** Typically, they're going to conduct a download of
6 that entire phone. By no means am I a techie but, again,
7 they're going to be able to recover any deleted text messages,
8 photographs, any web searches - basically, anything that can be
9 performed by the phone they can produce a report and show, you
10 know, what that phone did, what websites it accessed, what text
11 messages sent, any photographs, basically anything that's going
12 to be located within that phone. So, typically, with an
13 investigation, if we can get a phone and it can be opened ...
14 We're running into significantly more problems with the
15 technology in the phones, Your Honour, with being able to open
16 those phones. But if we can open those phones, there's usually
17 some significant or important information that we do glean from
18 phones like that.

19 **Q.** Okay. So, obviously, text messages from an
20 individual, web searches, those can all be helpful in your
21 investigation?

22 **A.** For sure, yes.

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **Q.** Okay. In this case, were all of the cell phones or
2 was Tech Crime successful in extracting information from all of
3 the phones?

4 **A.** No, the only cell phone that they were actually
5 successful in cracking would have been Lionel Desmond's cell
6 phone.

7 **Q.** And did you recall reviewing the contents of what was
8 extracted from Lionel Desmond's cell phone?

9 **A.** Yes. I mean, there's ... I had an opportunity to
10 look at the report. There was a ton of information on it, but
11 of note in this particular case, really the only relevant
12 information was Lionel's web searches in and around the 1st of
13 January. And those web searches consisted of, I believe, 90 or
14 close to 90 searches of various websites for various weapons and
15 weapons stores. Those searches were occurring in and around the
16 1st to the 3rd of January.

17 **Q.** Right.

18 **A.** Sorry, included in those searches, just to add
19 quickly was, obviously, Leaves & Limbs, you know, as web
20 searches.

21 **Q.** Among the web searches?

22 **A.** Among the web searches, yes.

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 **Q.** Okay. Sergeant McNeil also did a fingerprint
2 analysis on some of the items that were obtained from the
3 residence. She's testified that she was able to make matches
4 with Lionel Desmond on certain of the prints and Shanna Desmond
5 on certain of the prints. Were you, obviously, privy to that
6 information?

7 **A.** Again, in relation to the Major Crime processes, so
8 everything comes back in through the triangle, so Sergeant
9 McNeil is relaying that back, the information, to us so we were
10 aware of her findings and, ultimately, her final report came
11 back through the triangle, through myself and Constable Lake.

12 **Q.** Okay. Was there any additional major avenues of
13 investigation that you pursued over the preceding or the
14 subsequent days?

15 **A.** No. I mean we were waiting for some reports,
16 obviously, to come back from Sergeant McNeil. Tech Crime does
17 take a while. When they're trying to, you know, crack a phone,
18 it does take some time, so we were ... As far as significant
19 events, no. Basically, the totality of the information that we
20 had from the initial part of the investigation did not cause us
21 to deviate in any way, shape, or form from what we originally
22 saw at the very start of the investigation, the observations

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 that Sergeant Maccallum had made upon entry to the scene: you
2 know, this was a homicide of three individuals and the
3 subsequent suicide of one male, Lionel Desmond.

4 Q. Throughout the investigation was there ever any
5 evidence or anything that led you to believe that there was
6 anyone else involved in this incident?

7 A. No, none whatsoever, and to emphasize that, as well,
8 there was no information that anyone - family, friends,
9 acquaintances - knew that this was going to transpire. They
10 indicated to us throughout numerous statements that they took
11 that, you know, Lionel was troubled, that he had mental health
12 issues, that he and Shanna had domestic issues, but there was no
13 one that he reached out to. And that was one of our concerns,
14 as well. Did he tell somebody that he was going to do this?
15 Did he share with somebody? Was there a note? There was
16 nothing that we discovered during our investigation that
17 indicated to us that anyone had any kind of idea or he had spoke
18 to anybody about doing this.

19 Q. Right. Was there, I guess, a point in time when you
20 would say your investigation was concluded, or how long was your
21 investigation open?

22 A. It remained open ... Again, our investigations go

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 through a review process, and Sergeant Vickers would have the
2 final say, being the team leader, as to concluding that
3 investigation or saying it was closed but, for the most part, it
4 wrapped up in March, when we received the bulk of our forensic
5 reports back, we received the final medical reports back, and we
6 received the Tech Crime report back, so March of 2017. I don't
7 remember the exact date when it was signed off.

8 **Q.** Okay. And at that point, when it's signed off,
9 then, absent other information coming to light, your
10 investigation is concluded?

11 **A.** That's correct, yes.

12 **Q.** All right. Thank you, Corporal Berthiaume, those are
13 my questions.

14 **THE COURT:** Thank you. Ms. Ward or Ms. Grant?

15 **MS. WARD:** Ms. Grant is going to ask some questions.

16 **THE COURT:** All right. Thank you. Ms. Grant?

17 **MS. GRANT:** Thank you.

18

19 **CROSS-EXAMINATION BY MS. GRANT**

20 **(12:09:28)**

21 **MS. GRANT:** I have just a couple of questions for you.
22 In your overview that you provided earlier where you had sort of

CPL. GERARD ROSE-BERTHIAUME, Direct Examination

1 constructed a narrative of what you had gleaned from various
2 interviews that various officers had conducted, are there some
3 things that weren't mentioned in there and, specifically, I'm
4 thinking about the time in between when Lionel Desmond left St.
5 Martha's and the time of the events? So, you know, you had
6 discussed the time that he went to Limbs & Leaves (sic) and we
7 know about Canadian Tire, but are there other incidents that you
8 learned about or activities that he had engaged in throughout
9 the time?

10 **A.** Just ...

11 **THE COURT:** I'm going to stop you just for a second.
12 So just so I understand your question, are you talking about
13 when he was discharged or when he was there on January 3rd and
14 made the appointment?

15 **MS. GRANT:** Between the time he was discharged and the
16 events of January 3rd.

17 **THE COURT:** All right. Thank you.

18 **MS. GRANT:** Any events of note.

19 **A.** Again, it appeared that he was, particularly, on the
20 2nd, on the ... He went there on the 1st, was discharged on the
21 2nd. The 2nd appeared to be almost like a bit of a moving day,
22 gathering up some of his belongings. And he'd been back and

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Grant

1 forth, I believe, to the residence a couple of times. I believe
2 he went and got his vehicle that day, which was the Mazda
3 vehicle. According to the statement - I don't recall her name
4 right offhand, but it would have been his aunt - Lionel's aunt
5 had went with him so he could retrieve his vehicle and bring
6 that vehicle to the Greencorns'. So he had two vehicles, he had
7 the Ford Escape, Your Honour, and he had the Mazda vehicle,
8 which was a car that was left at the residence, and he had went
9 and made sure, I guess, that those two vehicles were at the
10 Greencorns'. He removed them from the, what would have been the
11 Borden property. From talking to, I believe it's the
12 MacEacherns, that he had put some wood in their fire. They
13 live, from what I recollect, directly across the road from him
14 and they were friends, and Lionel had put some wood in their
15 stove for them. And then, again, on the 3rd I believe he makes
16 a doctor's appointment. He's at Leaves & Limbs, purchased the
17 firearms. And then, from there, he's wearing completely
18 different clothing. There's no one home at the Greencorns' at
19 the time, so I can't say for sure that he changed there, but we
20 believe he probably went home, back to the Greencorns', because
21 his vehicles were there, and changed from what he had on, which
22 was a darker, kind of heavy, a darker kind of gray, heavy

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Grant

1 jacket, from the surveillance video, into full camo gear, kind
2 of heavier, almost a winter camo, dark green colour, from my
3 recollection, camo. And then, from there, he obviously proceeds
4 to the Desmond residence, where he encounters Shanna and his
5 mother and his daughter.

6 **(12:12:35)**

7 **Q.** Did you have any recollection, in particular, that on
8 the 2nd Mr. Desmond attended church services?

9 **A.** Yes, there was information ... I'm not sure if it was
10 the 2nd or the 1st, I can't recall exactly from the statement,
11 but again it was another family member, or I believe it may have
12 been one of the MacEacherns actually, the nextdoor neighbor,
13 that he attended a Jehovah Witness's service. I don't recall
14 the address of that, but it was at the Kingdom Hall, and he was
15 there with Mrs. MacEachern. I remember from the statement that
16 Mrs. MacEachern said that he was well-dressed and in a good
17 mood, that he looked like he had come right from the Military, I
18 believe, or she said, I believe she makes a comment in relation
19 to his shoes being very shiny and they almost described him as
20 being well put together, looked like he came right out of the
21 Military, he was in good spirits and attended the service.

22 **Q.** Thank you. And do you have any recollection from the

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Grant

1 reports that he had attended Port Hawkesbury to do some banking
2 that day?

3 **A.** There's some information, unconfirmed, that he had
4 went to the TD Bank in Port Hawkesbury, and I believe it's in
5 the statements that he was going way out there to square away
6 some of his affairs, that he had made comment to that nature.

7 **Q.** And if this is a question for later witnesses, please
8 feel free to say that, but we had information that perhaps Mr.
9 Desmond had telephoned Aalyiah's school on the day of the 3rd.
10 Is that something that you recall from the reports?

11 **A.** Yes, not right offhand, but I do recall there was a
12 phone call to the school that day by Mr. Desmond, that's
13 correct.

14 **Q.** And earlier you had discussed about how RCMP had
15 located a second firearm in the Acura.

16 **A.** Um-hmm.

17 **Q.** And at that time that was located the thinking was
18 that that was actually Lionel Desmond's vehicle. So after you
19 came to the conclusion that that actually wasn't his vehicle,
20 did that change your view about, you know, why that gun was
21 there and then also what happened to that weapon?

22 **A.** Um-hmm. That was, in fact, that was one of Lionel

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Grant

1 Desmond's vehicles; it just wasn't a vehicle that he was using
2 at the time. It was operational, but it's a vehicle that they
3 had - it had a New Brunswick plate on it that does actually come
4 back to Lionel. And we are under the impression that because
5 that the firearm was there, that he, you know, initially, before
6 interviewing most of the family members, that that, you know,
7 was most likely the vehicle that he had, that he had taken
8 there. And obviously kind of your thinking changes after you
9 realize that there's a vehicle missing and now the vehicle is
10 kind of parked and it's hidden and it's out of sight. I'm not
11 going to say hidden but it's away from the scene. He just
12 didn't drive up to the scene and walk in. He took steps to kind
13 of, you know, conceal that he was, you know, actually going
14 there. You know, that would ... Basically, the only conclusion
15 I could draw from him, you know, parking the vehicle in that
16 location is that he didn't want whoever was in that residence to
17 know that he was going to be there, was going to be there or
18 that he was going to go there and, you know, come up on that
19 house as, I don't know if stealth is the best word but almost a
20 surprise, I guess it would have been, because they ...
21 Obviously, anybody who was in that residence, if you would have
22 drove up in a vehicle, would have, obviously, heard the vehicle,

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Grant

1 seen the vehicle, and knew that the person in that vehicle was
2 coming in. By parking the vehicle, obviously, a ways from the
3 scene and then walking through the woods and down, it obviously
4 provides an element of surprise into the equation, into, you
5 know, what ultimately happened there on the 3rd.

6 **Q.** And, finally, this is a hypothetical question, but
7 had circumstances been different in the sense that Lionel
8 Desmond had not taken his own life, what would have been, do you
9 think, what nature of charges would you, do you think the RCMP
10 would have recommended be pursued in respect of Shanna Desmond?

11 **A.** Based on my experiences with the Homicide Unit or
12 within the Major Crime Unit investigating homicides, I would say
13 that we'd be looking at a first degree murder charge here.

14 **Q.** And what would be your basis for that?

15 **A.** Again, that's going to go to planning and
16 deliberation. There's some significant information in regards
17 to the lead-up to the 3rd that indicates to us that there was
18 some significant planning and deliberation that went into that,
19 in particular, I would say first probably with Shanna. I mean,
20 again it would be a bit hypothetical, but there may be a debate
21 for Brenda or Aaliyah. You know, obviously, the searches of the
22 websites, the purchasing of the gun, the placement of the

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Grant

1 vehicle, you know, the stabbing of the tires on the way in, how
2 he went into or came into the residence, not driving up,
3 obviously, kind of hiding himself for the element of surprise as
4 he went into the residence speaks to me, at least in my
5 experience, of some significant planning and deliberation
6 leading up to the actual event itself.

7 **Q.** Thank you, Corporal, we have no further questions.

8 **THE COURT:** Mr. Anderson?

9 **MR. ANDERSON:** No questions, thank you.

10 **THE COURT:** Thank you. Mr. Macdonald?

11 **MR. MACDONALD:** Thank you, Your Honour.

12

13 **CROSS-EXAMINATION BY MR. MACDONALD**

14 **(12:18:55)**

15 **MR. MACDONALD:** Good morning, Corporal.

16 **A.** Good morning.

17 **Q.** I'm Tom Macdonald, the lawyer for the Borden family.
18 I have a couple of questions. Just to follow up where my friend
19 left you, you thought that there was planning and deliberation
20 with respect to Shanna Desmond but maybe an argument to be made,
21 and I'm paraphrasing, with respect to Brenda and Aaliyah that
22 that wasn't there. Why do you say that?

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Macdonald

1 **A.** Just from, basically, from some of the interviews
2 that we conducted there's some indication that he didn't know
3 that Aaliyah and Brenda were going to be there. So, you know,
4 kind of based on that, I think that, based on the information
5 that we've gathered, I believe that Shanna was the main reason
6 that he was going there, given some circumstances surrounding
7 the history of their relationship and the events that kind of
8 transpired from New Year's Eve leading up to Shanna asking him
9 to leave the residence and him leaving the residence.

10 Experience also, you know, tells me that in domestic
11 situations the most significant period where, you know, we're
12 really worried about a significant event and a lethal event is,
13 you know, when there's a significant change in the relationship,
14 i.e., someone's removed from the house or there was an incident
15 that causes someone not to be, you know, sort of part of the
16 family anymore or removed from the family setting. So just in
17 speaking to that, I think that his main reason to go there was
18 to kill Shanna and that, unfortunately, Brenda and
19 Aaliyah were there at the time.

20 **Q.** Thank you. I noticed in your report, your General
21 Report, you reviewed the hospital records from St. Martha's
22 Hospital.

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Macdonald

1 **A.** That's correct.

2 **Q.** Yeah. What I didn't see was, and correct me if I'm
3 wrong, you didn't interview Mr. Desmond's treating psychiatrist,
4 did you?

5 **A.** No.

6 **Q.** Why would that not be part of the investigation?

7 **A.** Again... Typically, it can be, but we had the report
8 from his interactions with the doctors that day. It was a
9 fairly lengthy report of his medical treatment so, again, at
10 that time there was no task created to interview the doctor, per
11 se. I can't, you know, give a reason as to why not, but we had
12 the information that we needed from the, you know, from the
13 report.

14 **Q.** Is it possible if you or someone from the RCMP had
15 interviewed his treating psychiatrist that some light on his
16 state of mind could have been shed in terms of the
17 investigation, a possibility that that could have occurred?

18 **(12:22:05)**

19 **A.** I think maybe a more clear picture but, as I
20 indicated in the past, earlier in my testimony, we interviewed
21 numerous family members and had a pretty fulsome picture of what
22 he was going through. I would submit that, you know, his family

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Macdonald

1 members are seeing Mr. Desmond, you know, every day. I mean, I
2 think we could get maybe a definitive clinical diagnosis for
3 what he was going through, but I think we had a fulsome picture
4 of what he was going through, generally, in his day-to-day life
5 from the family. So I don't know how that would have really
6 helped us further the investigation from my standpoint, in any
7 way.

8 **Q.** But would you agree if you had the picture from
9 trained medical professionals in the area of psychiatry that
10 that would bring a different perspective from untrained but
11 close family members in terms of a person's thinking process, et
12 cetera? It's possible, isn't it?

13 **A.** It is possible, yes, sure.

14 **Q.** Thanks very much. I appreciate it.

15 **A.** You're welcome.

16 **THE COURT:** I'm just going to ask a question: Given
17 that Lionel Desmond was deceased, would it have been of any
18 investigative significance to understand what his state of mind
19 was leading up to these events?

20 **A.** It wouldn't have ...

21 **THE COURT:** Is that something that you would normally
22 consider as part of an investigation, if there was going to be

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Macdonald

1 no charges coming from it?

2 **A.** No, it wouldn't, it wouldn't have furthered the
3 investigation any, any further, Your Honour, from my
4 perspective.

5 **THE COURT:** I was curious. Thank you. Ms. Whitehead?

6 **MS. WHITEHEAD:** I have no questions, thank you.

7 **THE COURT:** Thank you. All right. Ms. Miller?

8

9

CROSS-EXAMINATION BY MS. MILLER

10 **(12:24:21)**

11 **MS. MILLER:** Good morning, Constable Berthiaume.

12 **A.** Good morning.

13 **Q.** My name is Tara Miller and I represent Brenda
14 Desmond, as well as share representation with my friend, Mr.
15 Macdonald, of Aaliyah Desmond. I want to pick up a little bit
16 of what Mr. Macdonald asked you about St. Martha's Hospital and
17 their records.

18 I understand that part of your investigation was to piece
19 together a timeline of the events leading up in the days and
20 culminated obviously in the evening of January 3rd. There are
21 two statements that are referenced in your investigative report
22 which, of course, is Exhibit P18.

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Miller

1 **A.** Um-hmm.

2 **Q.** I'm going to take you to the first ... These aren't
3 the actual statements, these are, as I understand it, summaries
4 ...

5 **A.** Summaries, that's correct.

6 **Q.** ... of statements, and we have transcripts of the
7 entirety of those statements, but if you could turn to page 10
8 of Exhibit P18.

9 **A.** Um-hmm.

10 **Q.** And I understand that this is information that came
11 as a result of January 5th, work done on January 5th, as I'm
12 looking at page 10.

13 **A.** I'm looking at page 10 of 27.

14 **Q.** All right. And I think they're identified inside of
15 the Exhibit P18.

16 **THE COURT:** The page number is in the top left-hand
17 corner.

18 **A.** Oh, sorry. Yeah. Page 12? Oh, sorry, you're on
19 page 10. Okay.

20 **MS. MILLER:** I'm on page 10.

21 **A.** Sorry.

22 **Q.** I just want to clarify the time ...

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Miller

1 **A.** Sorry, go ahead, I was looking at my page numbers. I
2 apologize.

3 **Q.** That's okay. So page 10, these are tabbed
4 information collated that occurred on January 5th, correct?

5 **A.** The 5th, yes.

6 **Q.** Yeah, okay. And if we turn to page 11, which is the
7 next page ...

8 **A.** Um-hmm.

9 **Q.** ... so following through, it's an indication that you
10 reviewed the statement of Sandra Greencorn, which was taken by
11 Constable Daley.

12 **A.** That's correct.

13 **Q.** And as I understand it, we see within that someone
14 had spoken to Sandra... And Sandra, as I understand it, Sandra
15 and Kenny, that is the home that Mr. Desmond had moved into ...

16 **A.** That's correct.

17 **Q.** ... on January 2nd. You called January 2nd sort of
18 the moving day ...

19 **A.** Yes.

20 **Q.** ... from the Borden residence at 15375 over to the
21 Greencorn residence?

22 **A.** Yes. Really, I mean, it's really January 1st, but,

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Miller

1 obviously, he spends the night at St. Martha's of January 1st.

2 Q. Yeah. So when he's discharged from ...

3 A. That's correct, yes.

4 Q. ... St. Martha's on January 2nd, that was the day of
5 the move, he moves his belongings, as I understand it from you.

6 A. That's correct.

7 Q. And then on the third paragraph it says, "Lionel told
8 her husband, Kenny, he went for help on Sunday ..."

9 A. Um-hmm.

10 Q. ... at St. Martha's Hospital. Lionel asked to be put
11 on the third floor but was told they were full." Do you have
12 any sense, Corporal, of what the third floor reference is to St.
13 Martha's Hospital?

14 A. No. And I'm not familiar with St. Martha's Hospital
15 and their floors. I can surmise that it would be the
16 psychiatric unit.

17 Q. Okay.

18 A. But I don't know that for sure. I've had no dealings
19 with St. Martha's Hospital in relation to their floors and their
20 levels.

21 Q. Fair enough, I appreciate that. So we'll get that
22 evidence from somebody else but I just wanted to understand if

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Miller

1 you had any appreciation for that. But I'm left with the
2 impression from here ... Obviously, the information that was
3 gathered was that Lionel had shared with somebody after he had
4 been discharged from St. Martha's that he actually asked to be
5 admitted to the third floor and that didn't happen. Is that a
6 fair summary of that?

7 **A.** It's a fair summary of Sandra's evidence or
8 information that she provided to us, yes.

9 **Q.** And then if we turn to page 16 of the same Exhibit
10 P18, again just for reference, it appears that the information,
11 some of the information, at least, on the bottom part of the
12 page, is collected on January 6th.

13 **A.** That's correct.

14 **Q.** Okay. And if we turn to page 18 ... Actually, I'm
15 going to take you just back At the bottom of page 17 it
16 looks like you are reviewing the statement of Linda Desmond.

17 **A.** Um-hmm.

18 **Q.** And you go on to indicate that she ... And Linda is
19 sister of Brenda Desmond?

20 **A.** That's correct.

21 **Q.** And on page 18 her statement appears, as summarized,
22 and it's based on a conversation that she directly had with

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Miller

1 Lionel, and I'm looking at the fourth full paragraph down it
2 says: "Lionel told Linda that Shanna kicked him out on Sunday
3 and that he spent the night at the St. Martha's Hospital,
4 sleeping on a stretcher, that he begged the doctor to admit him
5 to the third floor and the doctor said there wasn't any room for
6 him." Again, I appreciate your earlier comment about not really
7 understanding what the third floor reference is but inferring
8 it's the psychiatric unit, but I'm left from this that the
9 evidence that was gathered in terms of the investigation, it's
10 another person, Linda Desmond, that Lionel had shared his
11 frustration with being asked to be admitted to the third floor
12 and not having that happen. Is that fair to say?

13 **A.** That's the information that Linda gave us, yes, in
14 that statement.

15 **Q.** My friend Ms. Grant had asked you a question about
16 other movements of Mr. Desmond on January 2nd, one of which was
17 you understood that he had gone to do some banking in Port
18 Hawkesbury on January 2nd. Would the police have gathered those
19 banking records?

20 **A.** No, we didn't gather any banking records from Lionel.

21 **Q.** Okay. All right. Thank you, Corporal, those are my
22 questions. I appreciate your time.

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Ms. Miller

1 **THE COURT:** Thank you. Mr. Rodgers?

2 **MR. RODGERS:** Thank you, Your Honour.

3

4

CROSS-EXAMINATION BY MR. RODGERS

5 **(12:30:03)**

6 **MR. RODGERS:** Corporal Berthiaume, some of your comments
7 towards the end of your evidence raise a question. You say
8 Corporal Desmond went into the woods and then snuck through
9 towards his ... went into the woods ... drove into a woods road
10 and then snuck through to the house and may have been surprised
11 that Aaliyah and Brenda were in the residence. I take it that
12 conclusion is based on some of the statements that you took from
13 other witnesses.

14 Did you consider the possibility that Corporal Desmond had
15 preplanned this and may have been trying to get away with
16 killing Shanna?

17 **A.** I can't speak to that, whether he had ... was trying
18 to get away with it, you know, or ultimately what the end goal
19 was, but I can speak to kind of the indication that there was
20 some planning leading up to it in that he was going to carry out
21 this act just in relation to, you know, the purchasing of the
22 firearm, where he parked his vehicle, the slashing of the tires,

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Rodgers

1 how he was dressed and then changed his clothes, you know, those
2 would indicate to me that there's some premeditation here and
3 thought and going and planning and deliberation and going to
4 actually killing somebody.

5 Q. Certainly, had he done so and left and gone back
6 through the woods, he would've been the immediately primary
7 suspect, I take it, under those circumstances. Would that be
8 your experience?

9 A. He would definitely be a suspect, yes.

10 Q. When you say the RCMP attempted to crack the various
11 cell phones, there were four cell phones, and were only able to
12 get into Corporal Desmond's cell phone ...

13 A. That's correct.

14 Q. ... what was the reason for that? Password protected?
15 How does that work?

16 **(12:32:00)**

17 A. Typically, just various different security levels of
18 the phones. I can't speak to the exact mechanics of it. I know
19 that in open investigations, you know, phones will be left in
20 kind of a cracking mode for potentially up to years until
21 there's a code in place, right? So, yeah, just again, it
22 depends. I can't really speak to the mechanics behind it.

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Rodgers

1 **Q.** That's fine.

2 **A.** But just generally the security level of the phone,
3 the type of password put on it. The security level that the
4 user puts on it themselves is different in every phone.

5 **Q.** And this may not be a question for you, Corporal, but
6 I understand, you know, a lot of cell phones now have
7 thumbprint, fingerprint access. With a deceased person, that
8 seems to raise some ethical issues as to whether you would even
9 attempt that, but are you aware of any policy to that effect one
10 way or another?

11 **A.** You know, and again, there's obviously some ethical
12 issues. It would have to be, I would think, something to do
13 with national security in order for us to take a step like that.

14 **Q.** Sure, I understand. I think in the records it showed
15 that Shanna was wearing a fitness tracker at the time and so I
16 take there was no analysis of that or consideration of that in
17 evidence.

18 **A.** No.

19 **Q.** Corporal Desmond's demeanour on the Leaves & Limbs
20 video appeared pretty calm and patient. You reviewed that
21 video. Did that mean anything to you? Did that inform your
22 investigation in any way?

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Rodgers

1 **A.** No. I mean it's hard to tell what he's like from the
2 video, but from the statement from the owner of the gun shop,
3 Dan Kulanek, he described him as either very personable, didn't
4 raise any alarms. He was very calm. He knew what he was
5 talking about in relation to firearms, so there was certainly no
6 indication that that witness saw that there was anything going
7 to transpire.

8 **Q.** Or the fact that somebody, if indeed there was
9 preplanning, that he had that demeanour just hours in advance of
10 that. Does that strike you as unusual in your experience?

11 **A.** No, not at all.

12 **Q.** Okay. When we were getting the evidence on the scene
13 and where the shell casings were located, they seemed to be
14 spread out a fair amount throughout the living room area, and
15 one shell casing, I understand, was even slightly down the
16 hallway. What did that tell you?

17 I understand that if you're shooting an SKS, the shell
18 casing may travel. You know, when it flies out, it may go six
19 feet or so away, but even with that in mind, did that tell you
20 anything about the situation?

21 **A.** No. It's a residence. There's numerous items located
22 in this residence. There's numerous things. Countertops,

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Rodgers

1 planters, furniture. I mean that round could be discharged and
2 hit off anything and go in any number of directions. It could
3 be kicked by someone on the scene. It's hard to say, like, if
4 you're in an open field or a completely open room, you're going
5 to have a pretty good idea of where those shell casings are
6 going to go, but in a small room like that, in a small residence
7 with numerous obstructions, they could be found anywhere. I
8 believe one was found on top of the fridge, if I'm not mistaken.

9 Q. Yeah, I believe so, and one in a plant and another one
10 in the kitchen area but in the corner.

11 Now, Corporal, one of the officers involved was Corporal
12 Calvin Byard who is from Guysborough. I guess he was identified
13 in your evidence as a family liaison. I just want to ask you a
14 question. As you're planning these things out, what goes into
15 that kind of a decision to have somebody, you know, that is
16 local, that knows the family a little bit? Maybe you could talk
17 about the potential benefits and risks of that kind of a
18 decision.

19 A. Typically, a family liaison person is not a member of
20 the Major Crime Unit. They're typically a person who works in
21 the community and may have some familiarity with the family. In
22 this case, obviously, Calvin Byard was a member of the Northeast

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Rodgers

1 Nova Major Crime Unit at the time of the incident. He was a
2 supervisor there and he was familiar with the family. He grew
3 up with the family and we had conversations with Calvin just in
4 relation to his comfort level in being the family liaison but,
5 typically, you want someone who has some comfort level with the
6 community or with the family in general.

7 You know, if Corporal Byard had said, you know what, he's
8 not comfortable because of his relationship or they didn't have
9 a good relationship then, obviously, we would've made a
10 different choice, and if the family had reached out to say
11 they're not comfortable with the family liaison choice, then we
12 would make a change, but it's typically just someone who is
13 familiar with the community and possibly familiar with the
14 family, so there's that, somewhat of a connection there, you
15 know, with the officer that they're going to be liaising with on
16 a daily basis. And in some investigations, obviously, you know,
17 these investigations go on for a number of years, so that
18 contact is important, right?

19 **Q.** And you've commented on this already, but would you
20 say that your experience in this investigation in dealing with
21 the family and getting information from them was helpful and
22 that Corporal Byard's role in that was helpful?

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Rodgers

1 **A.** Was Corporal Byard's role helpful? I'm not sure I ...

2 **Q.** Yeah.

3 **A.** ... understand the question.

4 **Q.** Sorry. I guess it's two questions in one. First of
5 all, was the cooperation as you would hope or expect from the
6 family; and then secondly, I guess, was Corporal Byard's role in
7 that situation considered helpful from your perspective?

8 **A.** Yeah. I mean as I stated earlier, the cooperation
9 from the family was tremendous in this investigation and really
10 allowed us to move the investigation forward, or greatly
11 assisted us in moving the investigation forward and I think, I
12 mean, I had no indication otherwise that Corporal Byard wasn't
13 helpful. I believe he was in this matter and that the family
14 members did feel comfortable in going to him and providing
15 information to him or asking him information that he could
16 provide to them from the investigation.

17 So I believe, in this instance anyway, from my standpoint,
18 I haven't been indicated anything otherwise, that that role was
19 effective in this investigation with Corporal Byard being the
20 family liaison.

21 **Q.** Very good. Thank you, Corporal, those are my
22 questions.

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Rodgers

1 **THE COURT:** Thank you, Mr. Rodgers. Mr. Hayne?

2

3

CROSS-EXAMINATION BY MR. HAYNE

4 **(12:39:07)**

5 **MR. HAYNE:** Yes, thank you, Your Honour. I have a few
6 questions.

7 Sir, my name is Stewart Hayne. I'm counsel for physicians
8 in the Inquiry, including certain physicians at St. Martha's,
9 Dr. Rahman and Dr. Slayter. Just before I start, I want to make
10 sure I get your title right. Is it "Constable"? Is that the
11 ...

12 **A.** At the time, I was a constable. I'm now a corporal
13 with the RCMP.

14 **Q.** Corporal, okay, thank you.

15 So I just want to go back to some questions that Ms. Miller
16 had for you in relation to the statements of Linda Desmond and
17 Sandra Greencorn and, in particular, with respect to concerns
18 that they recounted in their statements expressed by Mr. Desmond
19 regarding his time at St. Martha's and the suggestion that he
20 was refused admission to the third floor. And my question is
21 that in your investigation, you didn't speak to the physicians,
22 any physician at St. Martha's Hospital regarding Mr. Desmond.

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Hayne

1 Is that right?

2 **A.** No, I don't recall right offhand the physicians that
3 did see him. I do recall that I believe Dr. Slayter would have
4 seen him at some point during his stay in the ER there.

5 What we were looking for from the hospital records was,
6 one, was he, in fact, seen? Did he, in fact, go to the hospital
7 and when did he go? Two, was he in fact seen and was there a
8 medical or was there an assessment made of him at the time? How
9 much time he spent there and, you know, when he was discharged.

10 And so we were able to obtain all that information from the
11 medical report which told us when he was seen, who he was saw
12 (sic) by, what their diagnosis or, you know, some of the
13 comments they made from their report, and then when he was
14 subsequently discharged.

15 **Q.** Certainly. And I understand and thank you for that
16 but my question is that, just to be clear, in terms of your
17 investigation, you didn't speak to any physician at St.
18 Martha's.

19 **A.** We didn't speak directly to any of the physicians
20 involved, no.

21 **Q.** And did you speak to any of the nurses or any staff at
22 St. Martha's?

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Hayne

1 **A.** No. No, we did not.

2 **Q.** And so without that, is it fair to say that you aren't
3 able to test the veracity of the statements of Linda Desmond or
4 Sandra Greencorn that Mr. Desmond was refused admission, other
5 than looking at the chart?

6 **A.** Yeah. Other than looking at the chart, there's no
7 indication that ... the only indication to us was that he did
8 attend St. Martha's, that he was seen by, I think, two or three,
9 if I remember correctly from the ... I don't have it right in
10 front of me, the physicians, and then was discharged the
11 subsequent day.

12 **Q.** Okay, thank you. And through your evidence and your
13 reports, obviously, you've had lots of information regarding
14 those last three days, January 1, 2, and 3 of 2017, but just
15 given the nature of the investigation, that you'd agree there's
16 certainly some gaps in your information as to all the events
17 that unfolded. Is that a fair assessment?

18 **(12:42:04)**

19 **A.** Prior to the 1st or prior ...

20 **Q.** No. Just over those three days. 1st, 2nd, and 3rd.

21 **A.** Oh yeah. For sure there's ... I mean in any
22 investigation, there's going to be some gaps or times that just

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Hayne

1 aren't able to be accounted for for sure.

2 Q. And you stated in your evidence that, and I'm
3 paraphrasing here, that the incident of the truck going into the
4 ditch started a chain of events that ended in the deaths and is
5 it fair to say that's an opinion that you formed with the
6 information that was available to you?

7 A. Yes, absolutely. I mean it seemed to be the event
8 that kind of set at least these events in motion. It seemed to
9 be the stressor that took place leading up to the event. I'm
10 sure there was others, obviously, in these details from the
11 family, that other events in relation to domestic discord and,
12 obviously, you know, Lionel's mental health and things that he
13 experienced, obviously, that, you know, kind of culminated in
14 the events of the 3rd, but ...

15 **EXHIBIT P-000099B - EXTRACTION REPORT - PAGES 10-19**

16 Q. Thank you. And I just want to take you to some of
17 those other events and, in particular, to Exhibit P99B. And
18 I'll wait for it to come up on the screen, but just while that's
19 happening, as I understand it, Exhibit P99 includes information
20 that was extracted from Mr. Desmond's cell phone. Is that
21 right?

22 A. Yes, it appears to be.

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Hayne

1 **Q.** And P99B is the outgoing telephone calls made from Mr.
2 Desmond's cell phone. Correct?

3 **A.** That's correct.

4 **Q.** Okay, and they're numbered and I want to draw your
5 attention, from my review, it looks like call numbers 20 up to
6 number five were the outgoing calls on January 2nd, 2017.

7 **A.** Uh-huh.

8 **Q.** And calls four, three, two, and one were the last four
9 calls and those were on January 3rd, 2017.

10 **A.** Four, three, two, and one. Okay.

11 **Q.** Is that correct? Am I getting that right?

12 **A.** No. They appear to be on the 4th. Four, three, two,
13 and one. 01-04 on the 17th.

14 **Q.** No, I'm sorry. I must be looking at a different ...
15 yeah, I'm sorry. I'm looking at page 12, the outgoing calls.
16 My apologies. So on this document, these are the outgoing
17 calls.

18 **A.** Yeah.

19 **Q.** And there's a binder. I don't know. Is that document
20 in the binder? It may be upgraded on the system.

21 **A.** I can see it on the screen.

22 **Q.** Sure. Just at the top, though, above the header of

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Hayne

1 the table, you'll see it says "Outgoing" and then "(372)."

2 These are the outgoing calls?

3 **A.** Mm-hmm. That's correct.

4 **Q.** Okay. Calls made by Mr. Desmond to someone else.

5 **A.** Mm-hmm.

6 **Q.** Okay. And calls 20 to five, just since we're now on
7 the right page, are calls on January 2nd, 2017, and calls four,
8 three, two, and one are calls made from Mr. Desmond's cell phone
9 to others on January 3rd, 2017. Correct?

10 **A.** It appears to be, yes.

11 **Q.** Okay, and I want to draw your attention to some of
12 those calls. We'll start with call number 19.

13 **A.** Yeah, okay.

14 **Q.** It's listed as a call to Shanna. Are you able to
15 confirm from your investigation that phone number does
16 correspond to Shanna Desmond's cell phone number?

17 **A.** I believe I have it in my report here. Shanna's phone
18 number. Yes, it would appear to be, yes.

19 **Q.** And so that entry, correct me if I'm wrong, represents
20 a call from Mr. Desmond's cell phone to Shanna Desmond's cell
21 phone at 10:52 a.m. that lasted two minutes and 13 seconds.

22 **A.** Yes.

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Hayne

1 **Q.** Okay. And similarly, call number 13, a call from Mr.
2 Desmond's cell phone to Shanna Desmond's cell phone at 12:56, so
3 just in the afternoon.

4 **A.** Mm-hmm.

5 **Q.** A call lasting six minutes and 42 seconds.

6 **A.** Yes, correct.

7 **Q.** I'm going to look at the others as well, but just
8 pause there for a moment. You don't know from this log what was
9 said on that phone call. Correct?

10 **A.** No.

11 **Q.** Similarly, the phone call number nine from Mr.
12 Desmond's cell phone to Shanna Desmond's cell phone. Just a
13 ten-second call.

14 **A.** Mm-hm. Yeah.

15 **Q.** And then a call, call number eight, two minutes later
16 at 19 minutes after 8 p.m. which was a five-second call.

17 **A.** Mm-hmm.

18 **Q.** And as you confirmed, for those calls as well, you
19 don't know what was said on those calls. Correct?

20 **A.** That's correct.

21 **Q.** Would you agree with me, Corporal, that it's possible
22 that something was said on those calls that either changed the

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Hayne

1 course of events or exacerbated the situation? That's possible?

2 **A.** It's possible for sure, yes. Without knowing what
3 those calls are, I mean, it's hard to say.

4 **Q.** We don't know what was said.

5 **A.** We don't know what was said.

6 **Q.** It could've been benign. It could've been something
7 more serious.

8 **A.** For sure.

9 **Q.** And, in particular, the call ... forgive me. Call 13
10 is the six-minute and 42-second call at 12:56 p.m.

11 **A.** Yeah.

12 **Q.** That call, from your understanding of the sequence of
13 events, occurred after Mr. Desmond left St. Martha's Hospital,
14 but prior to him attending the Leaves & Limbs store where he
15 bought the gun. Correct?

16 **A.** That's correct.

17 **Q.** Those are my questions. Thank you very much.

18 **THE COURT:** Call number ... sorry, call 13 is the one
19 you were asking about? For six minutes.

20 **MR. HAYNE:** Yes, Your Honour.

21 **THE COURT:** And that was a call that took place on
22 January the 2nd?

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Hayne

1 **MR. HAYNE:** January the 2nd. I'm paraphrasing the
2 evidence now. January 2nd at 12:56 p.m. is a six-minute, 42-
3 second phone call.

4 **THE COURT:** I know. And what you asked was whether or
5 not ... so that call was at 12:56. It was for six minutes and
6 was after he left the hospital and before he went to Leaves &
7 Limbs. He went to Leaves & Limbs on January 3rd.

8 **MR. HAYNE:** Yes.

9 **THE COURT:** Not January the 2nd.

10 **MR. HAYNE:** No, I understand that but ...

11 **THE COURT:** You understand, okay.

12 **MR. HAYNE:** Just in terms of broad sequence.

13 **THE COURT:** All right, thank you.

14 **MR. HAYNE:** Yeah.

15 **THE COURT:** No, that's fine, thank you.

16 Anything further from ... I do have a couple of questions,
17 but I'll let counsel return to the issue if you like.

18 **MR. MURRAY:** I believe Mr. Russell might, Your Honour.

19

20

RE-DIRECT EXAMINATION

21 (12:49:58)

22 **MR. RUSSELL:** I was just wondering, Your Honour, something

CPL. GERARD ROSE-BERTHIAUME, Cross-Examination by Mr. Hayne

1 as a follow-up.

2 **THE COURT:** Mm-hmm.

3 **EXHIBIT P-000099I - EXTRACTION REPORT - PAGES 527-569**

4 **MR. RUSSELL:** I wonder if we could look to Exhibit 99-I.

5 So, Corporal Berthiaume, just a moment ago, you were asked
6 by Mr. Hayne regarding incoming and outgoing phone calls,
7 durations of phone calls, and being unable to say what was said
8 in the communication between Lionel Desmond and Shanna Desmond.

9 **A.** Yes.

10 **Q.** And I'm wondering if you could look, I guess, first to
11 where you see, on the first page you see "Outbox 7".

12 **A.** That's correct.

13 **Q.** You see that.

14 **A.** I see that, yeah.

15 **Q.** And then you see a "2" and then there's a number
16 there, and you would agree that's the same number that was
17 listed earlier in the phone calls?

18 **A.** That's correct. Yeah, 1147. That's correct.

19 **Q.** So in your understanding, that purports to be from
20 Lionel Desmond, which was from his phone ...

21 **A.** Yeah.

22 **Q.** ... to Shanna Desmond?

CPL. GERARD ROSE-BERTHIAUME, Re-Direct Examination

1 **A.** That's correct.

2 **Q.** And the date that you see is January 1st, 2017.

3 **A.** That's correct.

4 **Q.** Officer, I'm wondering if you could read into the
5 record what that message says.

6 **A.** It says: "Please let me know if I can come home to
7 you. I was out of my mind. I'm calm. I should've stayed calm
8 and I said some hurtful things to you. Do you please forgive
9 me?"

10 **Q.** And, Corporal, that was on January 1st. Would you say
11 that is consistent with your theory that a series of events
12 started to unfold that led to the breakdown which originated
13 with the putting the car in the ditch on New Year's Eve?

14 **A.** That's correct, yes.

15 **Q.** And, Corporal, if you could look at this second outbox
16 message below, number two, we see that that would've been sent
17 from Lionel to Shanna, according to your analysis, and that
18 would've been sent a few minutes before which would've been at
19 10:28 p.m. I wonder if you could read that message into the
20 record?

21 **A.** "I'm sorry I put my hands on you. I would never hit
22 you. I'm sorry ..."

CPL. GERARD ROSE-BERTHIAUME, Re-Direct Examination

1 **Q.** I wonder if you could just ... you might've missed a
2 word there. Can you reread that?

3 **(12:52:06)**

4 **A.** I'm looking at box two.

5 **Q.** Yes.

6 **A.** 20:28. "I'm sorry I put my hands up to you." Sorry.
7 "I would never hit you. I'm sorry for yelling our business out
8 there. I apologize to Aaliyah for hearing ... to hear me
9 outburst. I'm safe now. Good night. xoxo. Love you, Shanna."

10 **Q.** And again, Corporal, with that message, would you say
11 that that is consistent with the RCMP theory that a series of
12 events might've started that led to sort of a domestic discord
13 around that time of New Year's Eve?

14 **A.** Yeah. I mean it's consistent with what we learned
15 from the witnesses and is describing what happened on New Year's
16 Eve in relation to the truck leaving the road and how Mr.
17 Desmond responded to that incident.

18 **Q.** And, Corporal, if you could look down below where it
19 says "Sent" and you see "13:49", it appears as though, in number
20 one, it's again to Shanna Desmond. This time it's dated January
21 3rd, 2017, at 9:42 a.m. I'm wondering if you could read the
22 message?

CPL. GERARD ROSE-BERTHIAUME, Re-Direct Examination

1 **A.** So it's number one?

2 **Q.** Yes.

3 **A.** Yes. It says, "Did Aaliyah get to school?"

4 **Q.** And, Corporal, you testified earlier that Lionel
5 Desmond, in your theory, in the RCMP theory, was that he was
6 looking for Shanna Desmond the day of January 3rd and perhaps
7 unexpectedly encountered Aaliyah Desmond and Brenda Desmond in
8 the home.

9 What, if anything, do you make from that message?

10 **A.** Really that he was just checking to see that she had
11 gone to school that day.

12 **Q.** And you indicated that he might've called the school
13 to check that she was there?

14 **A.** Like I say, I couldn't recall the exact ... from that,
15 it appears, I believe he did call the school that day to see
16 that she was there and I believe the sequence of events, that
17 this is a follow-up text, and I don't know if he got a response
18 from it and that's why he called the school.

19 **Q.** Okay.

20 **A.** I can't say other than ...

21 **Q.** I wonder if you could look at number three. Again,
22 it's a sent text message from Desmond to Shanna Desmond. This

CPL. GERARD ROSE-BERTHIAUME, Re-Direct Examination

1 one is on January 1st at 9:05 p.m., and could you read that
2 message?

3 **A.** It says, "No problem. No more talking lawsuit."

4 **Q.** Do you know what that's referring to, based on your
5 investigation?

6 **A.** No. There's no indication from any of the witnesses
7 or any family members that indicated to us in relation to any
8 kind of lawsuit.

9 **Q.** If you could look to message number five under "Sent
10 Messages." Again, Lionel Desmond to Shanna Desmond. This time
11 January 1st at 8:39 p.m. If you could read that message?

12 **A.** You say number five?

13 **Q.** Yes.

14 **A.** "Shanna, I am sorry for my actions. If you have time,
15 text me. I'm getting ready to fall fast asleep."

16 **Q.** And, again, would you say that that's consistent with
17 your theory that there's a domestic breakdown that's happening
18 around New Year's Eve and after?

19 **A.** Yes.

20 **Q.** And, Corporal, we're looking at message number seven.
21 Lionel Desmond to Shanna Desmond, January 1st, this time at 8:34
22 p.m. I wonder if you could read that message in?

CPL. GERARD ROSE-BERTHIAUME, Re-Direct Examination

1 **A.** It's number seven?

2 **Q.** Yes.

3 **A.** "Please let me know if I can come home to you. I was
4 out of my mind. I'm calm. I should've stayed calm and I said
5 some hurtful things to you. Please forgive me."

6 **Q.** I'm wondering, Officer, again, would you say that that
7 is consistent with your theory that there was sort of a domestic
8 breakdown occurring around New Year's Eve and the subsequent
9 days?

10 **A.** Yes, that's correct.

11 **Q.** And would you say it's consistent with your theory
12 that Lionel Desmond was out of the family home at that time?

13 **A.** Yes.

14 **Q.** Nothing further, Your Honour.

15

16

EXAMINATION BY THE COURT

17 **(12:57:03)**

18 **THE COURT:** Thank you. I just have a couple of
19 questions, Corporal. You've been asked a number of questions
20 about observations that you made and whether some of the
21 observations caused you to have certain kinds of thoughts about
22 what you saw, so I'm going to ask you one of those kinds of

CPL. GERARD ROSE-BERTHIAUME, Examination by the Court

1 questions, okay?

2 When you first went into the residence, Corporal Desmond
3 was lying on the floor and he was deceased. His left arm was
4 out to his side and the firearm was lying across his arm, right?

5 **A.** That's correct, yeah. Yeah. Correct.

6 **Q.** And it's that way, it's shown in part on the diagram
7 that way. So my question would be ... it depends, I guess, on
8 your familiarity with firearms. Would there be any significant
9 recoil from that firearm?

10 **A.** From that one ... we fire not a dissimilar one.

11 **Q.** Mm-hmm.

12 **A.** There is recoil, but not a tremendous amount of one
13 like you would get from maybe like a .308 higher-powered rifle,
14 but there would be some recoil.

15 Significance really depends, in my experience, Your Honour,
16 on your familiarity with the recoil and how you deal with that
17 recoil. So if you're prepared for it, if you're familiar with
18 firearms, then you would anticipate that recoil, so you would
19 take steps to mitigate that recoil when you're firing that
20 firearm.

21 **Q.** Okay. I understand that the firearm was being used by
22 Mr. Desmond to terminate his own life, so he's not taking steps

CPL. GERARD ROSE-BERTHIAUME, Examination by the Court

1 to mitigate recoil. Unlikely. So how does the recoil get
2 mitigated such that the firearm is still lying across his arm in
3 that manner?

4 **A.** Again, it's hard to say. I don't ... yeah. It's hard
5 to ...

6 **Q.** You can leave it at that.

7 **A.** Yeah.

8 **Q.** You don't have to find me an answer.

9 **A.** Yeah. No, it's really ... it's hard to predict how
10 that firearm is going to react or going to fall.

11 **Q.** Okay. During the course of the investigation, did you
12 ever have occasion to go to the Canadian Tire store and look at
13 any of the Canadian Tire video to determine whether or not he
14 looked at firearms when he was at the Canadian Tire store?

15 **A.** No. We weren't. From my recollection, Constable
16 Woolcock was sent to the Canadian Tire store, Your Honour, and I
17 don't recall if we were able to obtain video from there or the
18 reason for that, but we didn't obtain any video from the
19 Canadian Tire store.

20 **Q.** Okay. But you did go to the store, I take it.

21 **A.** Yes, we did.

22 **Q.** Okay, thank you.

CPL. GERARD ROSE-BERTHIAUME, Examination by the Court

1 Now I'm going to ask a question and I'll ask you whether or
2 not you put any thought into this prior to me asking you the
3 question.

4 **A.** Right.

5 **Q.** There was a magazine in the residence and a box of
6 ammunition that was there. A box contains 50 rounds?

7 **A.** Mm-hmm.

8 **Q.** There were seven rounds that were missing from it,
9 according to the photographs?

10 **A.** Mm-hmm.

11 **Q.** There were six shell casings that were found.

12 **A.** Mm-hmm.

13 **Q.** There was one round in the magazine when it was
14 sitting on the counter. So that gives you your seven that are
15 missing from the box. Correct?

16 **A.** Yeah, that's correct.

17 **Q.** Right? You can account for ... I think you had
18 indicated that there were five rounds that were used in relation
19 to Shanna, Brenda and Aaliyah, and one that was used by Mr.
20 Desmond himself. That's six rounds.

21 **A.** Yeah.

22 **Q.** Right? It's a five-round magazine ...

CPL. GERARD ROSE-BERTHIAUME, Examination by the Court

1 **A.** Mm-hmm.

2 **Q.** And the seventh round is still on the top of the
3 magazine. So that does that mean that at some point in time,
4 Mr. Desmond, as he takes the box of ammunition into the
5 residence, either he loaded the magazine in the residence or he
6 loaded it in the car and brought all the other ammunition in.
7 At some point in time, he would've had to have reloaded that
8 magazine? Am I correct?

9 **A.** That was my impression of the scene, yeah.

10 **Q.** And so any thought to the sequence of events that had
11 occurred?

12 **A.** No, I think, Your Honour, this is going to be outlined
13 and there's a couple of different possibilities there, right?
14 That he loaded inside or that he had loaded it previously,
15 walked in and then loaded again.

16 I mean we have talked about it at length within the command
17 triangle, within the investigation itself, right? It was just
18 odd the way that, you know, the box was sitting there open with
19 the rounds removed and it was odd that, you know, the magazine
20 was sitting, frankly, on the countertop as well with one round
21 in it. We'd again ...

22 **Q.** Yeah. He would've have had to ... he could've ... he

CPL. GERARD ROSE-BERTHIAUME, Examination by the Court

1 would have had to reload two rounds in.

2 **A.** Yeah.

3 **Q.** Put one in the chamber.

4 **A.** Yeah.

5 **Q.** Take the magazine out.

6 **A.** Exactly.

7 **Q.** Didn't have any working theory of how that happened?

8 **A.** I mean as far as taking the magazine out and why he
9 would've done that, again, we talked about the significance and
10 a number of different theories but, in my mind, Lionel was a
11 firearms guy. He was a sniper, he was in the infantries, he was
12 familiar with firearms. And, again, I'm only speculating this.
13 I don't ... I think the only person who really knows this is
14 probably Lionel himself or was Lionel himself, but by taking the
15 magazine out and knowing that there's only one round in the
16 chamber, and by firing that one off, you know, taking his own
17 life, he would've known, Your Honour, that anyone else coming
18 into that scene, be it family or police, when picking up that
19 weapon, he would've known that that weapon is ... he's
20 essentially made that weapon safe for anyone else coming along
21 to pick that weapon up.

22 I can't say that that was his thought process but that was

CPL. GERARD ROSE-BERTHIAUME, Examination by the Court

1 one of the things that we talked about as to why he might've
2 done that, so when that firearm was picked up, essentially,
3 unless it was reloaded, it couldn't harm anyone else
4 accidentally.

5 **Q.** All right. Any questions following that anyone? No?

6 **MR. RUSSELL:** No, Your Honour.

7 **THE COURT:** All right, thank you.

8 Thank you for your time, Corporal. Appreciate it. I can't
9 say we won't have you back, but we may, but for now, you're
10 excused. Appreciate that.

11 **WITNESS WITHDREW (13:04 HRS.)**

12 We'll come back at 2:00. All right, thank you.

13 **COURT RECESSED (13:04 HRS.)**

14 **COURT RESUMED (14:06 HRS.)**

15 **THE COURT:** Mr. Murray?

16 **MR. MURRAY:** Mr. Russell is going to ...

17 **THE COURT:** Mr. Russell?

18 **MR. RUSSELL:** Yes, Your Honour. The next witness for
19 counsel is Sean Hughes.

20

21

22

1 **SEAN HUGHES, sworn, testified:**

2

3

DIRECT EXAMINATION

4

5 **MR. RUSSELL:** Good afternoon, Mr. Hughes.

6 **A.** Good afternoon, sir.

7 **Q.** Could you state your full name for the Court, please?

8 **A.** My name is Sean Hughes.

9 **Q.** And Mr. Hughes, what is your current employment and
10 occupation?

11 **A.** I'm a civilian member with the RCMP. I work with the
12 RCMP's division in Criminal Analysis Section.

13 **Q.** And how long have you been employed in that capacity
14 with the RCMP?

15 **A.** Since 2006.

16 **Q.** And are you a police officer or are you a civilian
17 member of the RCMP?

18 **A.** I'm a civilian member.

19 **Q.** And just for your orientation, Mr. Hughes, in front of
20 you there's a screen. I'm going to call up exhibit number 100.
21 There's also going to be a binder in front of you that will have
22 a hard copy of that same exhibit if you have trouble seeing the

1 screen. Do you see that there?

2 **A.** I can, thanks.

3 **EXHIBIT P-000100 - CURRICULUM VITAE - SEAN HUGHES**

4 **Q.** So I'm wondering. This exhibit, Mr. Hughes, this is
5 your *curriculum vitae*?

6 **A.** Yes.

7 **Q.** I wonder if I could just briefly outline some of your
8 qualifications. What is your education, sir?

9 **A.** I have a Masters degree in Library and Information
10 Management and I have a Bachelors degree in History, Honours
11 History.

12 **Q.** And you have a history of employment that involves
13 criminal intelligence-related job experience?

14 **A.** Yes.

15 **Q.** And I'm wondering if you could just briefly take us
16 through that experience.

17 **A.** Sure. When I first took employment with the Criminal
18 Analysis Section ...

19 **Q.** We have a second ...

20 **A.** ... in 2006 there was two required courses for our
21 position in criminal intelligence analyst. I took those in 2007
22 and 2008. One of them is called the Tactical Intelligence

SEAN HUGHES, Direct Examination

1 Analysis Course. That's two weeks at the Canadian Police
2 College. The second course called the Strategic Intelligence
3 Analysis Course, also at the Police College. That was two weeks
4 as well. I did that in 2008.

5 Q. Mr. Hughes, if you could take us through your, in
6 particular, job experience, I believe, starting in 2006.

7 A. Sure. Just going to look up the paper version.

8 Q. The second page of Exhibit 100. That would be also on
9 the screen in front of you as well.

10 A. Okay, so which section did you want?

11 Q. I guess ...

12 **THE COURT:** Sorry, I missed ...

13 A. Sorry.

14 **THE COURT:** I'm going to stop you just for a second, Mr.
15 Russell. So Mr. Hughes, it will be there. It'll be in the back
16 of one of the two volumes if you're looking for a paper copy.

17 **MR. RUSSELL:** It'll be at Tab P-100.

18 A. What ...

19 **THE CLERK:** Volume 2.

20 **THE COURT:** It's the last tab.

21 A. Okay.

22 **THE COURT:** There's all the 99 tabs and then it's ... I

SEAN HUGHES, Direct Examination

1 appreciate that even though you have a Masters in Library and
2 Information Management we didn't follow any particular protocol
3 when we designed our exhibit books.

4 **A.** I'm sorry.

5 **THE CLERK:** There's a Volume 2.

6 **A.** A Volume 2? Okay, and it's 100?

7 **THE CLERK:** And it would be the very last document.

8 **THE COURT:** I think it's the very last document.

9 **A.** Okay. What tab was that?

10 **MR. RUSSELL:** Mr. Hughes, it'd be the second page, and I
11 guess you've indicated what your employment history essentially
12 was from 2006 as it relates to criminal intelligence?

13 **A.** Did you want me to cover the presentations and the
14 training section?

15 **Q.** Just your ...

16 **A.** Just the job experience?

17 **Q.** Just your ...

18 **A.** Okay.

19 **Q.** ... employment experience.

20 **A.** So initially I was employed as a federal criminal
21 intelligence analyst. It's a federal position. We provided
22 support for a number of different investigations federally,

SEAN HUGHES, Direct Examination

1 federal investigations. Primarily, that would involve doing
2 tactical or operational support for investigations, and there's
3 a number of products that we can do under that heading.

4 After doing that for about five years, around 2012 I
5 changed. I was still working with the Criminal Analysis
6 Section. I took on a different role as a Crime Reduction
7 Supervisor. So crime reduction in this case would refer to kind
8 of a statistical approach to crime with what we call as a com-
9 stat model. So it's a way to analyze crime statistics for the
10 purpose of predicting crime, directing police resources, that
11 kind of thing.

12 So I supervised a team doing that for three years and then
13 moved on to specialize in open source intelligence in 2013 ...
14 or excuse me, 2015. Again, still under the division of Criminal
15 Analysis Section.

16 **Q.** So I wonder. In your current position in terms of
17 dealing with open source and being an open-source intelligence
18 analyst, I guess it's a broad sort of description. What does
19 that involve, generally, in terms of your day-to-day duties?

20 **A.** Open source refers to any publicly available
21 information. So my job would be to assist investigations in
22 searching primarily social media and the internet, but it can

SEAN HUGHES, Direct Examination

1 also include offline holdings, government records, health
2 records, things like that. Anything that's publicly available.

3 **Q.** And so when you're eventually sort of brought into the
4 mix, I guess, to do sort of an open source analysis, whose
5 direction does that come? Who does that come from, I guess.
6 How does that get initiated?

7 **A.** The lead investigator.

8 **Q.** And I guess, Mr. Hughes, very briefly, what is an open
9 source search?

10 **A.** It's a very broad definition. It really depends on
11 what the investigation needs. Our training, open source
12 training, involves things like doing threat assessment, using
13 online information. That could be a threat assessment on a
14 public event or an individual who was threatening online. It
15 can also just be a general search and collation of a subject of
16 interest's activity, lifestyle, their connection to subjects of
17 interest on an investigation.

18 **Q.** And, in particular, does it involve checking social
19 media sort of platforms?

20 **A.** Yes.

21 **Q.** Sort of like Facebook, Instagram ...

22 **A.** Yes.

SEAN HUGHES, Direct Examination

1 **Q.** ... Twitter?

2 **A.** It does.

3 **Q.** And do you see any sort of ... encountered any sort of
4 limitations by doing an open source analysis of those platforms?

5 **A.** Yes. So the primary one is that I can only search
6 publicly available information. So in the context of social
7 media, a platform such as Facebook would allow a user to create
8 settings that would make their account very private, somewhat
9 private, or very open. So I'm limited by accounts that are
10 public.

11 **Q.** And I'm going to ask a very sort of broad question
12 and, you know, personally I just learned what Instagram was a
13 few months back. What is Facebook?

14 **A.** It's a social media platform where people can create
15 profiles and share content. Content being photographs, videos,
16 commentary, opinions. They can connect with other friends and
17 those friends can see the content on their profile.

18 **Q.** Okay. And so when you hear about a Facebook wall,
19 what is a Facebook wall?

20 **A.** The wall is the initial screen. When you open your
21 Facebook profile it's the first screen that would pop up. It's
22 called Timeline and that's where you would see most

SEAN HUGHES, Direct Examination

1 conversations or a person's posts.

2 **Q.** And when you sort of network with other people there's
3 something called Facebook friends. How does that operate and
4 what is it?

5 **A.** It's another category on a profile. It just allows
6 two Facebook profiles to ... it's essentially giving each other
7 access to each other's profile.

8 **Q.** And in terms of Facebook likes, what's a Facebook
9 like?

10 **A.** So any post, whether it's a picture or a comment from
11 a Facebook profile, there's a few ways you can interact with
12 that. So Facebook's added quite a few now, but in 2017 when I
13 did these two searches there were only ... there were two things
14 you could do. Or excuse me, I should say three. You could
15 leave a comment or you could click what was a little icon for a
16 thumbs-up, which is a like. I think there was a love icon as
17 well that you could put.

18 **(14:17:17)**

19 **Q.** So a like essentially is something you're interested
20 in or ...

21 **A.** Yes.

22 **Q.** ... the person that has the profile is interested in.

SEAN HUGHES, Direct Examination

1 **A.** Correct.

2 **Q.** So back to the question about the limitations on open
3 source searches or analysis. What sort of limitations are there
4 when you're searching an open profile on Facebook that you might
5 encounter?

6 **A.** There's quite a few. The Facebook settings can allow
7 you to open up just about every part of your account so that
8 anyone can see it, which includes a friends list. It includes
9 your full likes list. It includes the Timeline. Or you could
10 go the other way and you can lock down a profile so that the
11 Timeline itself has no content, the friends list is not
12 viewable. The only thing you're really able to see is just the
13 initial front page of the profile, which might have a
14 photograph.

15 **Q.** And does a similar sort of locking down a profile
16 apply to accounts such as Twitter and Instagram?

17 **A.** It does to different degrees.

18 **Q.** Which are other social media platforms?

19 **A.** Correct.

20 **Q.** So I understand that you became involved to some
21 extent in the matters that you're here to testify, the
22 fatalities of Lionel Desmond and his family. I'm wondering if

SEAN HUGHES, Direct Examination

1 you could take a look at Exhibit 80.

2 A. Okay.

3 **EXHIBIT P-000080 - OCCURRENCE REPORT SEAN HUGHES JANUARY 11,**
4 **2017**

5 Q. So when do you first become involved in the
6 investigation into Lionel Desmond?

7 A. So January 4th, 2017, I was emailed by Sergeant Paul
8 Vickers, who was the NCOI/C of Major Crime at that point, and he
9 had asked me to review two Facebook profiles that were known to
10 be used by Lionel Desmond and to look specifically for any
11 information pertaining to mental health issues or relationship
12 issues.

13 Q. I'm wondering if you can look at Exhibit 81.

14 **EXHIBIT P-000081 - OPEN SOURCE INTELLIGENCE BRIEF - SEAN HUGHES**
15 **- JANUARY 5, 2017**

16 Q. So Mr. Hughes, that's a six-page document. Do you
17 recognize what that is?

18 A. I do.

19 Q. And what is it?

20 A. It's the first report I provided Sergeant Vickers. I
21 think it was January 5th.

22 Q. And you provided that January 5th of 2017?

SEAN HUGHES, Direct Examination

1 **A.** Yes.

2 **Q.** And I guess the cover page, it says midway through the
3 page. It says, "Aim/Scope". So this is sort of the purpose
4 behind what it is you're doing and why?

5 **A.** Yes.

6 **Q.** And what was the purpose of you doing this open search
7 analysis?

8 **A.** The main purpose is to provide the investigation with
9 some leads. Basically at this point for this task it was a
10 status check just to see what was happening on social media. It
11 was very soon after the incident. So I think they just wanted a
12 scan of the three adults that were involved in the incident just
13 to see what was there.

14 **Q.** So was there anything in particular that entering into
15 this sort of analysis that you were interested in maybe focusing
16 in on or trying to discover?

17 **A.** I just wanted to stay to the task at this point, which
18 was just to look for any evidence or conversation or content
19 relating to mental illness or relationship issues. I was also
20 keeping an eye open for anything firearms related just because
21 of the nature of the incident.

22 **Q.** Okay, and Mr. Hughes, I guess if you can turn to page

SEAN HUGHES, Direct Examination

1 2 of that report. What are we sort of looking at here?

2 **A.** So this would be a screenshot of the top bar, the
3 black bar with the name "Lionel Demon". So that was the account
4 provided to me by the investigators that they told me was known
5 to be used by Lionel Desmond.

6 **Q.** Okay, and I guess there's a number of bullet points
7 that are made as part of your report when you looked at this
8 profile and you say, "The timeline on this profile is not
9 publicly viewable." What do you mean by that?

10 **A.** So when you would open this account you would see the
11 name Lionel Demon, the black bar, but everything under that
12 where content normally would be was empty.

13 **Q.** And the second bullet. And you indicate there's sort
14 of a listed address for the person that had this profile?

15 **A.** Yes.

16 **Q.** And what was that?

17 **A.** It just said Lionel Desmond lives in Oromocto, New
18 Brunswick.

19 **Q.** Okay, and my understanding from Facebook is there's an
20 ability to put your relationship status, single, married ...

21 **A.** Correct.

22 **Q.** ... as an option. Were you able to tell - this

SEAN HUGHES, Direct Examination

1 profile that was used by Lionel Desmond - what his relationship
2 status was listed as?

3 **A.** There was something posted there and it said, "It's
4 complicated. It's been complicated since November 29, 2016."

5 **Q.** And that's a direct sort of word for word ...

6 **A.** Yes.

7 **Q.** ... take from that profile? And it said, "The second
8 sentence here would have been typed by the user."

9 **A.** Yes.

10 **Q.** So presumably, if this is Lionel Desmond's profile it
11 would have been typed by Lionel Desmond?

12 **A.** Yes.

13 **Q.** And you indicated on the fourth bullet and you said,
14 "The friends list is viewable. No obvious links to the victims
15 were located here, however."

16 **A.** Correct. So I was looking for the names that I was
17 aware of at the time. I suppose it is possible that someone
18 could be using another name, like this account uses the name
19 Lionel Demon, but there was no obvious connection.

20 **Q.** So in terms of your, you know, limited knowledge as to
21 the background, you were aware that Shanna Desmond had been the
22 wife of Lionel Desmond?

SEAN HUGHES, Direct Examination

1 **A.** Yes.

2 **Q.** And from this profile, was Lionel Desmond a friend of
3 Shanna Desmond on this platform?

4 **A.** I did not observe it there. Facebook settings could
5 be such that they were connected, but from a public point of
6 view, I wasn't able to see it.

7 **Q.** Were you able to see if this profile, Lionel Desmond's
8 profile here, had other friends?

9 **A.** Yes.

10 **Q.** Yes, and Shanna Desmond was not one of them.

11 **A.** No.

12 **Q.** You're aware that Brenda Desmond is his mother?

13 **A.** Yes.

14 **Q.** And of his friends list were you able to tell whether
15 or not she was a linked social networked friend of his?

16 **A.** I don't recall right now, actually. I want to say no
17 for this account.

18 **Q.** We will be getting to Brenda Desmond's profile at some
19 point. So perhaps I'll circle back.

20 **A.** Okay.

21 **Q.** So here you indicated that you couldn't see any
22 photographs. They were not viewable. Videos weren't viewable.

SEAN HUGHES, Direct Examination

1 But there was a particular group and a number of likes that were
2 listed on his page? I wonder if you could indicate what they
3 were.

4 **A.** There was only one group that was listed under the
5 Groups heading. It was the Black Canada Community. I've got a
6 description saying it's a social setting to connect people. I
7 reviewed that page. So that would have been a separate Facebook
8 page. I reviewed that and I did not see any activity by the
9 account Lionel Demon or under the name Lionel Desmond.

10 **Q.** Okay, and in terms of likes. So somebody, you know,
11 Lionel Desmond gave a thumbs-up, I guess, an electronic thumbs-
12 up, to certain things that were posted online, what did you note
13 of significance?

14 **A.** There were two likes. On a Facebook profile there's a
15 category called Likes. So the one there that was relevant to my
16 task here, it was a like of a trauma healing centre. I believe
17 that was located in Oromocto. Again, it was just a like. There
18 were no comments, no other contextual information there. The
19 second one was a like of a post from a online gun accessories
20 Facebook page. So it appeared to be a Facebook page where you
21 could order gun accessories.

22 **Q.** Okay. I'm wondering if you could turn to page 3 of

SEAN HUGHES, Direct Examination

1 your report. Just scroll down a little bit. So here we see a
2 series of photos of sort of a number of people with firearms.
3 You refer to a page that Desmond had liked, Lionel Desmond had
4 liked. Is this the page you're referring to?

5 **A.** Yes, it is.

6 **Q.** And are you able to tell when this sort of page was
7 sort of up online on Facebook?

8 **(14:27:03)**

9 **A.** Yes. So on the top-right underneath the name of the
10 store, it's the **Zahal** IDF Online Store ... or Idea Online Store,
11 excuse me. There is a date and it shows the date that comment
12 was posted. And then all of the likes and the further comments
13 that you can see underneath would have happened after that.

14 **Q.** Okay, so when the comment was made it says May 19 of
15 2016?

16 **A.** Correct.

17 **Q.** And so are you able to tell when Lionel Desmond would
18 have, I guess, searched for that on Facebook and when he would
19 have said he liked that page?

20 **A.** No, I wasn't able to get the date on that.

21 **Q.** And your understanding from looking at this page, you
22 said they were into selling firearms or firearms related gear?

SEAN HUGHES, Direct Examination

1 **A.** Yeah, it appeared to be a way to ... a group that sold
2 accessories.

3 **Q.** And at the bottom of page 3 we see what appears to be
4 a second profile?

5 **A.** Yes.

6 **Q.** And it's called "Leon Jones". How did you come across
7 this particular profile?

8 **A.** That profile was also forwarded to me from the
9 investigators saying that they knew it to also have been used by
10 Lionel Desmond.

11 **Q.** And in this particular profile does it list where this
12 particular person that we know as Lionel Desmond ... where he
13 resides?

14 **A.** It also mentions Oromocto, Nova Scotia.

15 **Q.** And what does it say ...

16 **A.** Pardon me. New Brunswick.

17 **Q.** ... about his relationship status?

18 **A.** Just the "Got married" and the date of March 7th,
19 2006.

20 **Q.** If you could turn to page 4 of the report. The first
21 bullet, I'm wondering if you could tell us a little bit about
22 that, where that information came from.

SEAN HUGHES, Direct Examination

1 **A.** So on this ...

2 **Q.** And what it is.

3 **A.** Excuse me. On this account, the Leon Jones account,
4 the settings were such that I could see the initial timeline.
5 However, there wasn't a lot of content there. It was very
6 limited and there was a very brief exchange where he mentions he
7 was ... someone asks him how he's doing and he said he was
8 waiting for treatment. And the post was dated April 2016 and he
9 said that in an interaction to Facebook user Rick Pitchuck.

10 **Q.** And you indicated in the second bullet and you said,
11 "There are no more recent posts than the April 16th ... April of
12 2016 post on the timeline"?

13 **A.** Correct.

14 **Q.** And what is that suggestive of, if anything?

15 **A.** It is possible that Facebook settings will allow you
16 to block individual posts. So it's quite common for me to only
17 see a partial timeline as well. So someone who is connected to
18 this account as a friend might see the full timeline. I was not
19 able to.

20 **Q.** And in this particular profile were there any likes
21 that were made by Lionel Desmond?

22 **A.** There were two. There was a like of the same trauma

SEAN HUGHES, Direct Examination

1 healing centre Facebook book that was noted on the first account
2 under Lionel Demon, and there was another one of Marijuana For
3 Trauma Incorporated Facebook page.

4 **Q.** And in terms of the Marijuana For Trauma and the
5 treatment healing centre pages, were you able to tell whether
6 Lionel Desmond had made any comments as it related to those
7 pages?

8 **A.** No. I reviewed those pages and was not able to locate
9 any further commentary there.

10 **Q.** And were you able to view this profile, Desmond's
11 friends list on this profile?

12 **A.** Yes.

13 **Q.** And in that list of friends that he had on this
14 profile did you see the presence of a profile from his wife,
15 Shanna Desmond?

16 **A.** No, I did not.

17 **Q.** And what about Brenda Desmond?

18 **A.** I believe there was one to Brenda.

19 **Q.** So this particular profile, he was friends with his
20 mother, Brenda Desmond, and not friends with his wife, Shanna
21 Desmond.

22 **A.** Correct.

SEAN HUGHES, Direct Examination

1 **Q.** As well, Mr. Hughes, if we can look at page 4 as well.
2 Again, is this a Facebook profile?

3 **A.** Yes.

4 **Q.** And this is of Shanna Desmond?

5 **A.** It is. Just to clarify, the bullets are my comments.
6 They might look that way from the report, but those are ...

7 **Q.** Yes, thank you. So on this profile it had a little
8 bit of a description, Shanna Desmond. What was the description?
9 It talked about her occupation, I believe.

10 **A.** It did. It said she was a registered nurse at St.
11 Martha's Regional Hospital in Antigonish.

12 **Q.** And typically, I guess, is it safe to assume that you
13 would have sort of gathered that information, sort of the
14 background information of a profile - where the person lives,
15 who they say they're married to, what their occupation is - to
16 identify who it is that owns the profile?

17 **A.** It can help, yes.

18 **Q.** In terms of Shanna Desmond's friends list, were you
19 able to view that?

20 **A.** Yes, it was open.

21 **Q.** And you could see a number of individuals that she was
22 friends with.

SEAN HUGHES, Direct Examination

1 **A.** Yes.

2 **Q.** And was she friends with Lionel Desmond?

3 **A.** No, it did not appear.

4 **Q.** And were there any sort of interactions between either
5 of the two, that you could see, either of the two Lionel Desmond
6 profiles and the profile of Shanna Desmond?

7 **A.** Nothing that was publicly viewable.

8 **Q.** And does Shanna Desmond list any sort of relationship
9 status?

10 **A.** No, she does not.

11 **Q.** And I note in the fifth bullet down - I'll just read
12 it to you - your note indicates: "The most recent post on this
13 timeline is dated November 23rd, 2016. Note that on Lionel
14 Demon's Facebook profile the relationship status indicates
15 'Complicated since November 2016'."

16 Why? What's the purpose behind that particular note?

17 What's valuable about that?

18 **A.** It sort of speaks to the way I write these reports.
19 My main goal, especially following an incident like this one -
20 it was the day after - is to provide the investigators with
21 leads, just things that they can look at, that they'll make the
22 decision on whether they want to follow up or not based on their

SEAN HUGHES, Direct Examination

1 knowledge of investigative information.

2 So part of my job as an analyst is to look for trends and
3 patterns or anything that sticks out at all. So knowing that
4 they're being tasked with finding anything related to
5 relationship issues, that just stood out as a correlation.
6 Simple as that. I didn't want to read into it. I just wanted
7 to highlight that for the investigators in case the date was
8 relevant.

9 **Q.** And I appreciate that you can't definitively answer
10 this, but in your experience as an analyst, this type of
11 information and the comparison between ... and sort of your
12 expert opinion in this area, the comparison between profiles of
13 both of Lionel Desmond's profiles and Shanna Desmond's profiles,
14 the fact that he lists his relationship status as Complicated,
15 November '16, and there doesn't appear to be any sort of friends
16 link or communication back and forth, is that suggestive of
17 anything to you or worthy of any sort of followup?

18 **A.** Worthy of follow up is the way I would describe it.
19 It's something that I would have wanted to highlight for the
20 investigators and then they would need to look into that using
21 more traditional investigative techniques.

22 **Q.** And I believe you'd be qualified to say this, is what

SEAN HUGHES, Direct Examination

1 sort of follow-up would that be worthy of? What would you be
2 looking for there? What is it? Is it suggestive of anything?

3 **A.** It could mean that either this particular account,
4 Shanna's account, was ended at that point. A lot of people will
5 move. They'll start with one Facebook profile. They often move
6 to a second one. The old one stays up. You just see an end of
7 activity at a certain point. So they don't necessarily close it
8 out, they just stop using it and move to another one. That may
9 indicate when someone moves or there's a change in life. They
10 might change their social media profiles to match that.

11 **Q.** And you indicate in the sixth bulletin. The profile
12 picture seems to be dated November 23rd, 2016 but then you
13 indicate, "The comments suggest she is moving away. There are
14 no paragraphs on Lionel Desmond's ... there's no photographs of
15 Lionel Desmond viewable." So I guess, first, when you're
16 referring to, "The comments suggest she is moving away," what
17 are you seeing there?

18 **A.** I actually ...

19 **Q.** Do you recall?

20 **A.** I don't recall right now. I'd have to review the
21 captures I did of the page.

22 **Q.** But was there some suggestion that she was moving?

SEAN HUGHES, Direct Examination

1 **A.** Nothing specific. There was no specific location that
2 would have mentioned a specific location, but conversation must
3 have suggested that.

4 **Q.** And so were those comments listed under this profile
5 picture?

6 **A.** Yes. So when you click on a profile picture you'll
7 get a separate screen where you can see associated comments.

8 **Q.** So the profile picture you were able to tell was
9 posted November 23rd, 2016?

10 **A.** Yes.

11 **Q.** And the comments that suggested she was moving away,
12 were you able to tell that they would have occurred after she
13 posted that photo?

14 **A.** Yes.

15 **Q.** So from that, could we gather that around November
16 23rd there is suggestion that she may be moving?

17 **A.** Possibly.

18 **Q.** And again on this profile could you see any sort of
19 reference or comments from, or reference directed to, any
20 profile of Lionel Desmond?

21 **A.** No, I could not.

22 **Q.** I wonder if you could turn to page 5 of your report.

SEAN HUGHES, Direct Examination

1 **COUNSEL:** Which page is it?

2 **MR. RUSSELL:** 5. Page 5.

3 **THE CLERK:** I think it's stopped (inaudible - distance
4 from mic). I'm on page 5.

5 **MR. RUSSELL:** Oh, technical difficulties, I think.

6 **THE CLERK:** That's okay. It's going to take a moment to
7 reset.

8 **MR. RUSSELL:** I'm wondering, Your Honour, depending on
9 this ...

10 **THE CLERK:** Just a moment. It's rebooting.

11 **THE COURT:** Mm-hmm. Yes.

12 **MR. RUSSELL:** I just wanted to make sure if it was going
13 to be a little longer maybe we'll shut things down for a moment
14 to regroup or ...

15 **THE CLERK:** I'm wondering if there's an issue with the
16 ... we may need to do that. It looks like the issue might not
17 be in this room.

18 **MR. RUSSELL:** So perhaps, Your Honour, if we could take a
19 brief adjournment.

20 **THE COURT:** So what have we lost?

21 **THE CLERK:** It appears that the ClickShare is no longer
22 available.

SEAN HUGHES, Direct Examination

1 **THE COURT:** Okay.

2 **THE CLERK:** But I don't think it's ... I don't think it
3 has to do with our equipment here. It may be ...

4 **THE COURT:** All right. Well, we'll adjourn for a few
5 minutes until re-called. Thank you.

6 **COURT RECESSED (14:39 HRS.)**

7 **MATTER RE-CALLED (14:39 HRS.)**

8 **MR. RUSSELL:** So where we left off, Mr. Hughes, was page 5
9 of your report, exhibit number 81. This appears to be a profile
10 of Brenda Desmond. Is this again a Facebook profile?

11 **A.** It is, yes.

12 **Q.** And you made a number of points of analysis under this
13 particular profile. You talked about the most recent publicly
14 viewable post as October 23rd, 2015?

15 **A.** Correct.

16 **Q.** So as far as you could see in terms of an open source
17 analysis, the last thing you could see in terms of activity was
18 October 23rd, 2015?

19 **A.** Yes.

20 **Q.** And you note as well, you said, "This timeline review
21 does not show any posts or activity relating to Lionel Desmond."

22 **A.** Correct.

SEAN HUGHES, Direct Examination

1 **Q.** So what are you looking for there and what does that
2 ...

3 **A.** I was just looking for anything at all, and there was
4 no connection with the name Lionel Desmond or the other two
5 Facebook accounts that were associated with Lionel, Lionel Demon
6 or the Leon Jones account.

7 **Q.** And when you're looking to that friends list that's
8 sort of suggestive of who interacts with who - so who Brenda
9 Desmond may interact with and who she's social media friends
10 with - you're able to view that list?

11 **A.** Yes.

12 **Q.** And it has a number of people on the list.

13 **A.** It does.

14 **Q.** Has a number of profiles. And do you see that she is
15 Facebook friends with Shanna Desmond?

16 **A.** I did.

17 **Q.** And Shanna Desmond is her daughter-in-law.

18 **A.** Yes.

19 **Q.** And do you see if she's friends with Lionel, either
20 Lionel Jones, Lionel Desmond's one profile, or Lionel Demon,
21 Lionel Desmond's other profile?

22 **A.** Right. I did not see those there.

SEAN HUGHES, Direct Examination

1 **Q.** And are you able to see whether or not there's any
2 sort of social networking or social media interaction between
3 Brenda Desmond and either of Lionel Desmond's two profiles?

4 **A.** No, I wasn't able to see anything at all.

5 **Q.** No further questions for the witness, Your Honour.

6 **THE COURT:** Thank you. Ms. Ward?

7 **MS. WARD:** No questions, Your Honour.

8 **MR. ANDERSON:** No questions, Your Honour.

9 **THE COURT:** Thank you.

10 **MR. MACDONALD:** No questions, Your Honour.

11 **MS. WHITEHEAD:** No questions, Your Honour.

12 **MS. MILLER:** No questions.

13 **THE COURT:** Thank you.

14 **MR. RODGERS:** No questions, Your Honour. Thank you.

15 **MR. HAYNE:** Nothing, Your Honour.

16 **THE COURT:** All right. Thank you. Thank you very much,
17 Mr. Hughes.

18 **A.** Thank you, Your Honour.

19 **THE COURT:** Appreciate your time. Mr. Hughes is free to
20 go. Thank you.

21 **WITNESS WITHDREW (14:42 HRS.)**

22 **MR. MURRAY:** Your Honour, just before we start with the

SEAN HUGHES, Direct Examination

1 next witness, I know we just started not that long ago, but if
2 we could just have a couple of minutes. I just want to speak to
3 him before we begin.

4 **THE COURT:** All right. So we'll adjourn till re-called,
5 which may be about ten or 15 minutes or thereabout.

6 **MR. MURRAY:** Thank you.

7 **COURT RECESSED (14:43 HRS.)**

8 **COURT RESUMED (15:06 HRS)**

9 **THE COURT:** Thank you. Mr. Murray?

10 **MR. MURRAY:** Yes, Your Honour. We're calling Gilles
11 Marchand.

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1 **GILLES MARCHAND**, sworn, testified:

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DIRECT EXAMINATION

4

5 **MR. MURRAY**: Good afternoon.

6 **A.** Good afternoon.

7 **Q.** Could you state your name, please, for the record?

8 **A.** My name is Gilles Marchand. M-A-R-C-H-A-N-D.

9 **Q.** All right. And, Mr. Marchand, how are you employed?

10 **A.** I'm employed with the RCMP as a senior forensic

11 analyst with the Digital Forensic Unit.

12 **Q.** All right. So you're a civilian member of the RCMP,
13 are you?

14 **A.** That is correct.

15 **EXHIBIT P-000043 - CURRICULUM VITAE - C/M GILLES MARCHAND**

16 **Q.** All right. And I believe we have your CV. I think it
17 might be ... here it is, P43. That's on the screen and I think
18 it'll be in one of the binders there, as well, if you need to
19 look at it. So you said that you're currently employed as a
20 civilian member with the RCMP as a senior forensic analyst.
21 What's the nature of the work that you do as a senior forensic
22 analyst?

GILLES MARCHAND, Direct Examination

1 **A.** So it's our job to capture data off electronic
2 devices, get them ready ... parsed and ready for investigators
3 to go through the data.

4 **Q.** Yes. Okay. And is your work primarily with
5 electronic devices?

6 **A.** That is correct. Yes.

7 **Q.** Okay. And so when you say "electronic devices", what
8 type of devices are we talking about?

9 **A.** Any electronic device that would ... can hold data.
10 That could be a computer, a phone, a watch, a vehicle and
11 anything else that could hold data.

12 **Q.** Okay. And the purpose of extracting that material
13 from any of those electronic devices is for investigative
14 purposes for officers who are investigating alleged offences?

15 **A.** That's correct.

16 **Q.** All right. And you've done that work for how long?

17 **A.** Nine years.

18 **Q.** Okay. Starting in April of 2011.

19 **A.** Correct.

20 **Q.** Prior to that you were not with the RCMP. You were
21 with, it would appear, other government agencies and
22 departments?

GILLES MARCHAND, Direct Examination

1 **A.** Correct.

2 **Q.** Were you also employed in the same general field,
3 technology, I guess?

4 **A.** Technology. Correct.

5 **Q.** Okay. And your training for the work you do is what?

6 **A.** So for the job I'm in now we had to complete an
7 understudy program where we have to finish so many forensic
8 courses which are put on by the RCMP in a training facility we
9 have in Ottawa.

10 **Q.** Yes.

11 **A.** So we complete the five courses. That's the
12 foundation.

13 **Q.** Yes.

14 **A.** From there, you can move on to specialties in other
15 fields in forensics. So we're continuing to go on to other
16 courses to keep our knowledge up and keep on top of technology.

17 **Q.** Okay. So it's certainly a field where continuing
18 education is probably quite important.

19 **A.** Correct. Yes.

20 **Q.** All right. Okay. And you have been, I see also from
21 your CV, certified as an expert in your field on a number of
22 occasions in courts in Nova Scotia?

GILLES MARCHAND, Direct Examination

1 **A.** I have.

2 **Q.** All right. Now, Mr. Marchand, you were involved in
3 the investigation that's currently before the Court?

4 **A.** Correct.

5 **Q.** All right. And how did you come to be involved in
6 this investigation?

7 **A.** I was assigned this file from one of the seniors in
8 our office and I was provided with four cell phones to do
9 analysis on, to extract the data.

10 **Q.** Okay. So when a policing agency is investigating a
11 matter and there are, for example, cell phones from which data
12 should be extracted, that comes to your division, does it, and
13 then is assigned to a particular analyst?

14 **A.** That's correct.

15 **Q.** Okay. And, in this case, this ... did you know
16 anything about the investigation when it came to you or is it
17 ...

18 **A.** I didn't know much about it. It was just a potential
19 homicide/suicide. There was a bit of information but it was
20 just, more or less, four phones that we needed to get data off
21 of.

22 **Q.** Okay. And that probably is fairly typical, is it?

GILLES MARCHAND, Direct Examination

1 **A.** Correct.

2 **Q.** Yeah. Okay. Do you need to know much about the
3 investigation, necessarily?

4 **A.** Not really. It's more or less ... our job is just to
5 extract the data. It's pretty much the same when it comes to
6 phone-to-phone or device-to-device for us to get the data. Then
7 that data is provided to the investigator to go through from
8 there. So as long as we can get as much as we can, then our job
9 is done.

10 **Q.** Okay. And it was ... these phones were provided to
11 you by your supervisor. Did you liaise at all with the
12 investigating officer in this case or did you need to?

13 **A.** Didn't really need to. I believe I might have
14 contacted him to say that the reports were completed, that
15 everything was ready for pickup, would have been probably the
16 only contact I would have had.

17 **Q.** Okay. All right. So what I'm going to do, you
18 created ... well, I guess I'll ask more generally. When you
19 extract data from let's say a cell phone for an investigator,
20 you create a report, do you?

21 **A.** Correct.

22 **Q.** And that's ... do we call that an extraction report?

GILLES MARCHAND, Direct Examination

1 **A.** An extraction report. Correct.

2 **Q.** Okay. And that report contains all of the data that
3 you're able to extract from the device?

4 **A.** Correct.

5 **Q.** Okay. Now in this case, you were given four cell
6 phones to potentially work with. Were you successful in
7 extracting data from all four of those phones?

8 **A.** I was successful in three of the four. One of the
9 devices was not able to power on. We make multiple attempts
10 with different batteries, a couple of other options that we have
11 to try to get power to it. And after we exhausted all
12 resources, there was no analysis done on that device.

13 **Q.** Okay. So basically when a device won't power up, you
14 have some tools at your disposal to attempt to get it to be
15 operational?

16 **A.** Correct.

17 **Q.** And none of those worked?

18 **A.** None of them worked in this case.

19 **Q.** Okay. The other three phones that you were given,
20 however, you were able to extract data from them?

21 **A.** I was.

22 **Q.** Okay. And one of those phones, in particular, that

GILLES MARCHAND, Direct Examination

1 I'm going to ask you about was a Samsung Galaxy S6 device.

2 **A.** Correct.

3 **Q.** And that was a device, I believe we've come to
4 understand belonged to Lionel Desmond?

5 **A.** Correct.

6 **Q.** All right. And you created an extraction report for
7 that particular cell phone, did you?

8 **A.** I did.

9 **Q.** All right. Now I'm going to direct you to your
10 extraction report, portions of which we have marked as a number
11 of exhibits, starting with 99A. And in a binder there somewhere
12 in front of you ...

13 **EXHIBIT P-000099A - EXTRACTION REPORT - PAGES 1-6**

14 **THE CLERK:** Would be Volume 2.

15 **MR. MURRAY:** Got it. If you like paper more than ... all
16 right. So I want to ask you, first of all, some general
17 questions about the process by which you attempt to extract data
18 from a cellular device like a cell phone and then just ask you
19 about some of the information in your extraction report. So I
20 give you a phone. I say, you know, Let's have the data from it.
21 You're able to power the phone up. What, generally, is the
22 nature of the methodology?

GILLES MARCHAND, Direct Examination

1 **A.** So we follow a forensic process. In this case here,
2 for this device, we had some hardware tools that allow us to
3 access the phone. The company that we use is a company called
4 Cellebrite. They have a hardware device that we can plug the
5 phone in and it will get us access to the device and allow us to
6 do a full physical extraction of the data.

7 So, basically, all the data on the device we can produce a
8 package and then from there we're able to take that package to
9 another piece of software. That software will parse the data
10 into different categories; text messages, photos, web history,
11 videos, images, depending on what's on the phone, and ... yeah,
12 basically depending what's on the phone, we'll see what we get
13 from there. After that is complete, we then package it up,
14 which is then moved to the investigator to go through after it's
15 broken down into all the categories that are available.

16 **Q.** Okay. And the software that you use initially to do
17 the full physical extraction, you said that was Cellebrite?

18 **A.** Cellebrite's UFED. It's a UFED Touch. It's a piece
19 of hardware. That's what allows us to get the package of data
20 from the phone.

21 **Q.** Okay. So help me again. Cellebrite UFED?

22 **A.** Correct.

GILLES MARCHAND, Direct Examination

1 Q. What is that?

2 A. That's just the name of their tool.

3 Q. Okay.

4 A. Cellebrite is the name of the company.

5 Q. Right.

6 A. UFED is the name of the tool.

7 Q. Okay.

8 A. The software that's used is yet again made by
9 Cellebrite. It's called Physical Analyzer. And that's a tool
10 that has the software built in to parse the data into different
11 categories; i.e., SMS, through call logs and chats, so on.

12 Q. Now that's ... that particular software that you use
13 to extract that on Cellebrite's product, is that used by other
14 police agencies, as well?

15 **(15:16:33)**

16 A. It is. Yes.

17 Q. It's commonly ...

18 A. For ...

19 Q. ... used, is it, in the ...

20 A. Correct.

21 Q. ... area? All right. Now the software that you get
22 from this company, does it change over time or does it remain

GILLES MARCHAND, Direct Examination

1 constant or are there always updates?

2 **A.** There's always updates with them. It changes from day
3 to day. They're always finding new ways or writing new scripts
4 to get more data off the phone, potentially. So it can change
5 literally from day to day, depending on what's going on. As
6 other software makers, chat programs, and everything else are
7 operating their tools, they have to keep on top of theirs to
8 make sure that they can get as much data as they can.

9 **Q.** Okay. Does it matter what type of phone you're using?
10 Does that ... did the type of software you used to extract the
11 data, does it matter what type of phone that you're attempting
12 to extract it from?

13 **A.** It does. Yeah. We have multiple tools. Our main
14 tool is Cellebrite and it does a majority of the phones out
15 there today that are made for North America. But there are
16 other tools that we could use. In this case here, the biggest
17 thing is we want to get a full extraction of the device, a full
18 physical extraction. And if we have a tool that will ... that
19 can do it, then that's what we use. In this case, for this
20 phone, we got that physical so we were good.

21 **Q.** Okay. Now phones are obviously password protected.
22 Does the software allow you to get past that?

GILLES MARCHAND, Direct Examination

1 **A.** Depending on the make and model, the tool does have
2 the ability to do that. In this case, it did.

3 **Q.** Okay. Some devices, I assume, have higher levels of
4 encryption or protection.

5 **A.** Correct.

6 **Q.** Does that pose a problem for you?

7 **A.** Case to case, yes, it does. Yeah, depending yet
8 again. In this case, it was not an issue.

9 **Q.** Okay. Does the condition of the phone sometimes
10 impact whether you're able to extract data from it?

11 **A.** It does. We do have other methods that we can use to
12 get data on phones that are quite damaged. Basically, as long
13 as the right chip is not damaged, then we have ways to capture
14 data still, depending on make and model of device.

15 **Q.** Okay. So in this case, the Samsung Galaxy S6 phone
16 that you were tasked with extracting data from, you used the
17 Cellebrite program on that, did you?

18 **A.** That is correct.

19 **Q.** All right. And your extraction report, I guess even
20 starting at the very top of page two, I see a date there, Report
21 Creation Time. And just down below it, extraction start and end
22 times. So it looks like you did the extractions on February 4th

GILLES MARCHAND, Direct Examination

1 and created the report on February 5th, 2017. Am I reading that
2 correctly?

3 **A.** Correct.

4 **Q.** All right. Now just below "Report Creation Time", I
5 see time zone settings and I see, in brackets, an abbreviation,
6 "UTC". Can you explain what UTC is?

7 **A.** So UTC stands for Universal Coordinated Time, which is
8 the Greenwich Mean Time. It's a time zone that's, in our case
9 here, four hours ahead of us. So if it was that time, it would
10 show UTC just zero. So in order to get our time zone, we have
11 to minus four hours. So this report is saying that it adjusted
12 the time to our time zone. So any artifact you'll see will show
13 UTC minus four, which would be our local time zone at that time
14 of year ...

15 **Q.** Okay.

16 **A.** ... in January.

17 **Q.** So if you were doing this extraction of the phone in
18 England, for example, or wherever Greenwich Mean Time is ...
19 show my ignorance, you might not have to ... all right. I've
20 gotten laughs already. You may not have to do any adjustment?

21 **A.** Depending on where you're at, yeah, you ...

22 **Q.** Okay.

GILLES MARCHAND, Direct Examination

1 **A.** ... may not have to.

2 **Q.** Got you. All right. So in this case, the program,
3 though, automatically corrects for that and subtracts four hours
4 from the UTC time.

5 **A.** Correct.

6 **Q.** All right. Now does it matter if we're on Daylight
7 Saving Time or Standard Time?

8 **A.** It adjusts for that, too. So it would go to minus
9 three. You'd spring forward and it would ... if it's evidence
10 that would have been founded in July, you would see UTC minus
11 three. It would adjust for that also.

12 **Q.** Okay. And it has beside the UTC minus 0400 as
13 Halifax, America, the program I guess thinks that Halifax is in
14 America. I guess they would or ...

15 **A.** I guess so. Yes.

16 **Q.** All right. But it adjusts for the Atlantic Time Zone.

17 **A.** Correct.

18 **Q.** All right. So all of the times that we're going to
19 see in this extraction report are local times.

20 **A.** Correct.

21 **Q.** Okay. Now there's information, obviously, under the
22 heading, Source Extraction, that relates to the particular phone

GILLES MARCHAND, Direct Examination

1 itself. Is that correct?

2 **A.** Correct.

3 **Q.** Okay. So that's identifying information about the
4 phone?

5 **A.** About said device. Yes.

6 **Q.** Okay. And down below, there's a number of other
7 pieces of information, device information. I notice at the very
8 bottom of the page there's "Unlock Pattern". It says "Lionel
9 Desmond" and then it has a series of numbers.

10 **A.** Correct.

11 **Q.** What is that?

12 **A.** So that's the pass code for the device. So our tool
13 was able to decipher what the pass code was. In this case here,
14 you're seeing numbers. So if you were to picture I guess a
15 telephone with one to three, four to five, one would be in your
16 top left-hand corner. So this would be a swipe code. So you'd
17 start you one, go over to two, go over to three, and you'd come
18 down crossward to five, down to seven, over to eight, nine, six.
19 So it's almost like the letters that ... and then come up. And
20 that's the pattern that would unlock the phone.

21 **Q.** That was his password then?

22 **A.** Correct.

GILLES MARCHAND, Direct Examination

1 **Q.** I take it some people do ... pick a password like that
2 for ease of ...

3 **A.** There's some common ones.

4 **Q.** ... entering it?

5 **A.** Yes.

6 **Q.** Okay.

7 **THE COURT:** Did you figure that out or did your program
8 figure that out?

9 **A.** So the program figures it out what the pattern is, but
10 the phone actually stores it in a number pattern. That's how it
11 knows what it is.

12 **THE COURT:** Okay.

13 **A.** Yeah.

14 **MR. MURRAY:** Does the program simply test a number of
15 potential passwords?

16 **A.** In some cases, it does. In this case here, there's
17 actually a file on the phone that we're ... the software is able
18 to extract and produce. We leave the file and it'll figure out
19 what the ... it'll tell us what the actual password is, which in
20 this case is what ... how we got that password.

21 **Q.** Okay. So on page three of your extraction report,
22 there are two boxes there. One ... the lower one says, "Plug-

GILLES MARCHAND, Direct Examination

1 ins" and I see, "Author, Cellebrite". So are those plug-ins,
2 are those the ... just down below that, are those the different
3 types of programs created by Cellebrite that you would use?

4 **A.** So these are the scripts. So it's all these little
5 programs that are put into this Physical Analyzer software
6 that's used to interpret all the databases where the data is on
7 the devices. So these are the pieces of software that would
8 change ... would be altered so that it could read updated
9 versions of the database. And all these are all produced by
10 Cellebrite, by their engineers.

11 **Q.** Okay. All right. And I perhaps should have asked you
12 this earlier. As new software arrives, can you go back and test
13 phones that you previously tried and were unable to open?

14 **A.** We can. Yes.

15 **Q.** Okay. And do you sometimes do that if ...

16 **A.** It's an option.

17 **Q.** ... the opportunity ...

18 **A.** Yes. We have done that.

19 **Q.** Okay. All right. So on page four of our report, we
20 have what would appear to be the contents of what was extracted
21 from the phone. So, in general, what were we able to get off
22 this phone?

GILLES MARCHAND, Direct Examination

1 **A.** In this case here, there was a couple categories. We
2 had call logs, contacts, emails, MMS, search items, SMS, web
3 history, and then there's a general timeline that's produced
4 after the fact, too.

5 **Q.** Okay. So our call log, I think maybe self-
6 explanatory. That's income and outgoing calls?

7 **A.** Correct.

8 **Q.** Okay. "Contacts" are contacts that the owner of the
9 phone would have programmed into the phone ...

10 **A.** Correct.

11 **Q.** ... the way we would into any of our phones?

12 **A.** Correct.

13 **Q.** All right. And those contacts would show as they had
14 been put into the phone by Lionel Desmond.

15 **A.** Correct. And/or Instagram. There's other programs
16 that would just pull contacts also but it's as-is.

17 **Q.** Automatically, but as-is.

18 **A.** Correct.

19 **Q.** Okay. "Emails". There were some emails on the phone.
20 And the email address that was associated with the phone or
21 which seemed to be used on the phone was
22 lioneldesmond11@gmail.com. Is that correct?

GILLES MARCHAND, Direct Examination

1 **A.** That's correct.

2 **Q.** Was it just the one email then?

3 **A.** All that was found was just the one email.

4 **Q.** Okay. And the text messages, they're categorized as
5 MMS and SMS messages?

6 **A.** Correct.

7 **Q.** Can you explain the difference?

8 **A.** So when you ... the MMS messages would be any media
9 file that would be sent over text message. It could be a
10 video, could be a picture, could be an audio file. So it just
11 separates them ... the two. So MMS would be your media files.
12 Your SMS would be the actual text message, the content that was
13 written.

14 **Q.** Okay.

15 **A.** And our application just separates them into two
16 different categories.

17 **Q.** Okay. And just on page five, "Web History". So web
18 searches that were done on the phone are also extracted?

19 **(15:26:33)**

20 **A.** They're captured. Yes.

21 **Q.** Okay. And it would appear that searches were done
22 using the Chrome browsing system and also a Samsung browser?

GILLES MARCHAND, Direct Examination

1 **A.** Correct.

2 **Q.** Okay. The timeline you said is created by the program
3 itself?

4 **A.** Correct. It takes all the data that has dates
5 associated to it and it'll produce all the data in chronological
6 order or you can flip it whichever way you want. But it just
7 produces all data in one data set and one list.

8 **Q.** Okay. And below that; data files, images and videos,
9 is ... that's just ...

10 **A.** Pictures and videos.

11 **Q.** ... pictures and videos. Okay.

12 **A.** Correct.

13 **Q.** And, finally, the analytics section of the report,
14 what is that?

15 **A.** So this is an option that Cellebrite was using, which
16 they no longer use anymore. They kind of do a little bit of
17 analytics, so I kind of cross-reference to see if there's any
18 duplicates that might be able to tie together. It's added there
19 automatically. It's nothing that we would actually use. It's
20 produced by the software. But it's duplicate information that
21 was taken from all the other categories.

22 **Q.** Okay. And back on page four interspersed, I guess, in

GILLES MARCHAND, Direct Examination

1 the call log and the contacts and ... I see the word "native".

2 **A.** Correct.

3 **Q.** What does that mean?

4 **A.** That was produced by the actual ... the application
5 yet again. I'm not able to explain exactly why, but it's a
6 duplicate information of the actual data. It's the first time
7 that I actually seen it happen in this one, so we just went back
8 and double-checked. And you can see all the data. It's just a
9 duplicate copy of what was extracted.

10 **Q.** Okay. And that's something that, again, was done by
11 the software?

12 **A.** By the application. Correct.

13 **Q.** Or by the application. All right. So if we go back
14 to just the next page, to page five, the first category of
15 material or information that was taken from the phone appear to
16 be incoming phone calls. Is that correct?

17 **A.** That's correct.

18 **Q.** All right. Of which there were 159?

19 **A.** Incoming. Correct.

20 **Q.** Incoming calls. All right. And if we look to, for
21 example, the first incoming phone call on that list, it
22 indicates from unknown. Now some of these, as we look down, it

GILLES MARCHAND, Direct Examination

1 will say not just from a number, but it will have a name.

2 **A.** Correct.

3 **Q.** When it has a name, that's, I take it, a ... it
4 recognizes a contact?

5 **A.** Associated to the phone. Yeah. A contact that's in
6 the phone.

7 **Q.** Okay. So if it's my phone, a certain number, I put a
8 contact name associated with that number, when that number comes
9 up, the name will come up as well?

10 **A.** That's correct.

11 **Q.** Okay. In some of these, it's just phone numbers,
12 obviously, where there isn't a contact associated with the
13 number.

14 **A.** Correct.

15 **Q.** And then ... and the first one, in fact, on the list
16 is from "Unknown". So that's from an unknown number?

17 **A.** Unknown number.

18 **Q.** Okay. What would have come up on the phone? Would it
19 be "Unknown" or would it be "No Caller" or some other ...

20 **A.** Either "No Caller ID" or "Unknown", depending on the
21 make and model.

22 **Q.** Okay. So the program, though, would just classify

GILLES MARCHAND, Direct Examination

1 that as "Unknown".

2 **A.** Correct.

3 **Q.** Okay. Now that call, the unknown call came at ... on
4 January 3rd, 2017, at 13:54, so 1:54.

5 **A.** Correct.

6 **Q.** UTC 4, so corrected for our local time. So it would
7 be 1:54 our time?

8 **A.** Correct.

9 **Q.** Okay. And that call was a duration of six minutes and
10 57 seconds? Am I reading that correctly?

11 **A.** That is correct.

12 **Q.** Okay. So just below that, we have a call ... a
13 telephone number and a name; in this case, Catherine Chambers.

14 **A.** Correct.

15 **Q.** All right. That call would have been received at 1:15
16 on January 3rd, 2017. And the call was for 26 minutes, I
17 believe, and 45 seconds?

18 **A.** That is correct.

19 **Q.** Okay. And those appear to be the only two incoming
20 calls on January 3rd, 2017 to Mr. Desmond's phone?

21 **A.** Correct.

22 **Q.** Would ... is there any way there could have been other

GILLES MARCHAND, Direct Examination

1 numbers that, for some reason, aren't showing in this report?

2 **A.** There's always that chance that a call maybe come in
3 and they could have been deleted. We just get what we're able
4 to get off the phone.

5 **Q.** Okay.

6 **A.** But what was there is ... we know for sure two phone
7 calls came in on the 3rd.

8 **Q.** Is that, in your experience, likely that those would
9 have been deleted?

10 **A.** The call logs, not that often. I don't see it too,
11 too often, but it's an option.

12 **Q.** Okay. Something that the holder of the phone could
13 have done himself or ...

14 **A.** Correct.

15 **Q.** Okay. Absent that ... absent a deletion, the program
16 ... are you confident it would have captured all of the incoming
17 calls on that phone?

18 **A.** I would. Yes.

19 **Q.** Okay. And so on that same list, there appear to be
20 two incoming calls on January 2nd, 2017 and then after that
21 we're back to December 31st of 2016.

22 **A.** Correct.

GILLES MARCHAND, Direct Examination

1 **Q.** All right. Now if we move over to 99B, which is page
2 ten, there's a list here of missed calls. And those are calls
3 that came into the phone but went unanswered.

4 **A.** Correct.

5 **Q.** If a person had a voicemail feature on their phone,
6 that would actually be a call that was answered?

7 **A.** No.

8 **Q.** No?

9 **A.** Voicemail would still be a missed phone call.

10 **Q.** It would still be a missed phone call?

11 **A.** Correct.

12 **Q.** Okay. And there would appear to be four phone calls
13 on January 3rd, 2017 that were missed phone calls ...

14 **A.** Correct.

15 **Q.** ... if I'm counting correctly. All right. And just
16 remaining in 99B, but moving over to page 12, this would be our
17 list of outgoing calls?

18 **A.** Correct.

19 **Q.** And you were able to extract 372 outgoing calls on the
20 phone?

21 **A.** That's correct.

22 **Q.** All right. The first of these is on January 3rd, 2017

GILLES MARCHAND, Direct Examination

1 at 12:47 to a number. As you look down the list again, you see
2 names. So the same thing would apply if I'm calling to a number
3 associated with a contact. The name would appear?

4 **A.** That's correct.

5 **Q.** All right. So ... and on this occasion, 12:47,
6 someone using that phone made a call that was one minute and
7 five seconds in duration?

8 **A.** Correct.

9 **Q.** Okay. That could be a call ... if I was making an
10 outgoing call and I got someone's voicemail, that would be an
11 actual successful call, would it?

12 **A.** Correct.

13 **Q.** Okay. So I could be talking to somebody's voice
14 message for a minute and it would show as a one-minute call?

15 **A.** That's correct.

16 **Q.** All right. The next one, which is at 11:22 on January
17 3rd, 2017 is zero. So does that mean it was unanswered or does
18 that mean ...

19 **A.** It would be an unanswered. No one picked up on the
20 other end.

21 **Q.** Okay. So it was a fully completed call. In other
22 words, it started to ring at the other end but it went

GILLES MARCHAND, Direct Examination

1 unanswerd.

2 **A.** Exactly.

3 **Q.** Okay. So if I made ... if I started to punch in a
4 telephone number and didn't complete it; in other words, didn't
5 actually send the call, it would not show on this report.

6 **A.** That's correct.

7 **Q.** Okay. And then the third call on January 3rd, 2017,
8 again to a number not associated with a contact, and it was at
9 9:50 that morning, roughly, and it was 29 seconds?

10 **A.** Correct.

11 **Q.** Okay. And then, finally, the last call on January
12 3rd, outgoing, and this appears to be a number associated with
13 the name Shanna, and it's at 9:48 and it's just three seconds?

14 **A.** Correct.

15 **Q.** So a three-second call wouldn't be long enough to
16 leave a message, but it was answered?

17 **A.** It was answered.

18 **Q.** Okay.

19 **A.** It could be by the voicemail yet again.

20 **Q.** Right.

21 **A.** That pick up and ... didn't leave a voicemail but
22 something accepted the call on the other end.

GILLES MARCHAND, Direct Examination

1 Q. Okay. Not a busy signal, for example, or ...

2 A. Correct.

3 Q. Okay. So if someone were to call, get a person's
4 voicemail, not want to leave a message, and hang up quickly,
5 that could explain a three-second call, for example.

6 A. Exactly.

7 Q. Okay. Now your work does not involve, obviously,
8 determining whose numbers any of these are. That's for
9 investigators to do?

10 A. Exactly.

11 Q. You create the ... or obtain the data provided to them
12 and they can do what they want?

13 A. Correct.

14 **EXHIBIT P-000099D - EXTRACTION REPORT - PAGE 449**

15 Q. Okay. So there were some emails that you were able to
16 successfully obtain from this using ... or which used the
17 lioneldesmond11@gmail.com. Looking at 99D now. So, for
18 example, at the top of that page, there's an email which was
19 received by that email address, LionelDesmond11@gmail.com and it
20 was from a michaelbennett@forces.gc.ca?

21 **(15:36:50)**

22 A. Correct.

GILLES MARCHAND, Direct Examination

1 **Q.** All right. And in the case of emails, the content of
2 the email is also extracted.

3 **A.** Exactly. If it's available.

4 **Q.** If it's available?

5 **A.** Yeah.

6 **Q.** And, typically, it is?

7 **A.** Typically, it is.

8 **Q.** Okay. If the email happens to have attachments or
9 larger files associated with them, are you able to extract
10 those?

11 **A.** Depending on the application on the phone. If they're
12 using a native mail application, it may parse different than an
13 actual software like a gmail application compared to like an
14 Apple version or a Samsung version of a mail program. It's
15 going to vary one to one. If it is available, it will come out
16 and report. And in this case here, in our first one, the
17 attachment is available.

18 **Q.** It is available?

19 **A.** If you see at the bottom, the PDF.

20 **Q.** Okay. It doesn't show in the extraction report, but
21 it's available?

22 **A.** It's available there. Correct.

GILLES MARCHAND, Direct Examination

1 **Q.** Okay.

2 **A.** So you'll see at the bottom there the DND 2797?

3 **Q.** Right.

4 **A.** That would be the attachment and it should be
5 clickable if you have the software open to access it.

6 **Q.** Okay. In the electronic version of your extraction
7 report, though, it would not be available there?

8 **A.** The one we're looking at, it's not there.

9 **Q.** This is a print-off, I guess, from a paper version.
10 But if I looked at it electronically, I still would not have
11 access to that?

12 **A.** We could eventually ... we could go get it ...

13 **Q.** Okay.

14 **A.** ... in this one here. Yeah.

15 **Q.** All right. So ...

16 **A.** Not an option.

17 **Q.** ... the fact that a symbol like that is there
18 indicates that it's accessible ...

19 **A.** Correct.

20 **Q.** ... that you have it. It's just ... it's ... may not
21 be clickable right there in the electronic version of ...

22 **A.** Exactly.

GILLES MARCHAND, Direct Examination

1 **Q.** ... your extraction report. Got you. All right. Now
2 moving through this, I'm skipping some of the sections, but if
3 we go to 99I, this would appear to involve the outgoing text
4 messages from the phone?

5 **A.** Correct.

6 **Q.** Okay. Now we do have here several text messages that
7 are under the heading of "Outbox" and then a large number that
8 are under the heading of "Sent".

9 **A.** Correct.

10 **Q.** Is it clear what the difference is or why they're like
11 that?

12 **A.** The difference is the seven native ones are showing
13 that they're unsent. So it could have been items that were
14 typed up and never actually sent. And then the ... I have 1349
15 below, are items that were sent out by the device.

16 **Q.** Okay. So we're confident that the text messages under
17 "Sent" are ones that actually went?

18 **A.** Correct.

19 **Q.** Okay. And, again, we seem to have some copies of
20 them. Is that the native issue that you were referring to?

21 **A.** Exactly.

22 **Q.** Okay. So the last text message that was sent from the

GILLES MARCHAND, Direct Examination

1 phone on January 3rd, 2017 at 9:49 was sent to the associated
2 number to Shanna and it was, "Did Aaliyah get to school?"

3 **A.** That is correct.

4 **Q.** All right. That would have only been sent, in your
5 opinion, just once even though there's two copies of it in the
6 extraction report?

7 **A.** Correct.

8 **Q.** All right. And the first message, I guess, in the
9 Outbox up above, which was sent on January 1st at 20:34, down
10 below in the "Sent" category, that email ... or, sorry, that
11 text message is there in the "Sent" box, as well. Am I ...

12 **A.** Correct.

13 **Q.** ... correct about that?

14 **A.** So one copy just ... it just shows "Unsent." It might
15 have been typed up and then removed and then it was sent out
16 after the fact, could have been retyped. Depending on the
17 scenario, I wouldn't be able to tell you for sure, but I can say
18 that that text message was eventually sent.

19 **Q.** Okay. And if a text message is sent, does that, by
20 definition, mean that it was received by another electronic
21 device?

22 **A.** I would say yes ... it would depend on the scenario.

GILLES MARCHAND, Direct Examination

1 There's some applications that would give you a ... it would
2 receipt back, depending on the model of phone. This one here
3 would not give you a receipt back or tell you that it was
4 actually delivered. The only way to verify it is to have the
5 other device and check to see if it was there.

6 **Q.** Okay.

7 **A.** That's the only way I'd be confident in saying.

8 **Q.** Okay. That's the only way to know for a hundred
9 percent is to look at the other device.

10 **A.** Correct.

11 **Q.** Okay.

12 **THE COURT:** Mr. Murray, I'm going to stop you just for a
13 second so I can ask a question while I have you here. When
14 you're looking at the Outbox, seven, and if you look at the very
15 first one that has a time of 20:34:19 ...

16 **A.** Correct.

17 **THE COURT:** ... that same ... so that was unsent. When
18 you go below to the "Sent" messages, if you ... number seven,
19 the seventh one in the list appears to be the same message. But
20 it seems it was sent at 20:34:21. So are you saying that it was
21 composed and not sent but then it was sent two seconds later?

22 **A.** Yeah. So what'll happen is ...

GILLES MARCHAND, Direct Examination

1 **THE COURT:** Is that what happened?

2 **A.** And what we're looking at with this native option
3 here, too, when we get the data off a device, we parse all the
4 data. And there might be multiple databases that are holding
5 the information.

6 **THE COURT:** Okay. Yeah.

7 **A.** So it's ... the time of ... when you're looking at two
8 seconds, it's hard to say exactly what's happening. Usually,
9 that information, the unsent stuff, would not be there. You'd
10 just have the one.

11 **THE COURT:** Like the phone itself, the application could
12 have parked it in two different places ...

13 **A.** Exactly.

14 **THE COURT:** ... and then you pull it from both of those
15 places.

16 **A.** Exactly.

17 **THE COURT:** And one looks like it was sent and one looks
18 like it was unsent.

19 **A.** Yeah. If you look at the ... if you go back to the
20 top and you look at the ...

21 **THE COURT:** Okay.

22 **A.** ... native ... if you look at the status, so the

GILLES MARCHAND, Direct Examination

1 fourth column over ... fifth column over, it shows status
2 "unsent". So that's where it's getting it from and it's just in
3 a different spot in the database.

4 **THE COURT:** Okay. I understand. Thank you.

5 **MR. MURRAY:** Now in ...

6 **THE COURT:** Sorry.

7 **MR. MURRAY:** ... 99I, we have a large number of text
8 messages, 1349, that appear to go back to 2013. Would that ...
9 again, a person I suppose could delete a text message, as well,
10 or a series of text messages from their phone.

11 **A.** That is correct. Yes.

12 **Q.** Okay. If they were deleted, would they be gone or
13 would you be able to recover them with the program?

14 **A.** Not necessarily. Basically, if an item is set for
15 deletion, the phone basically ... the front-end user does not
16 see that artifact anymore and then the phone basically makes
17 that space available to be overwritten. So it's still
18 technically on the phone. Our tools are ... when we parse the
19 data, it can still see the database to show that the artifact is
20 still there, it may not be overwritten, in which case it'll come
21 back to us and say, Okay, well this item is here. And if you
22 notice it would show if it was deleted or not. There's a

GILLES MARCHAND, Direct Examination

1 deleted column at the end. If the data is overwritten, then
2 it's going to be gone at that point in time with other data.
3 There's no way to recover it that way.

4 Q. Okay.

5 A. But in this case here, if you see ... there is an
6 option to recover those deleted emails or text messages.

7 Q. Same would apply for emails as to text messages?

8 A. For any piece of data ...

9 Q. Okay.

10 A. ... in general, on the device.

11 Q. Web search histories, as well?

12 A. Correct.

13 Q. Okay. And in your extraction reports, typically an
14 item that was deleted but not yet overwritten that you were
15 still able to obtain, it would be categorized as deleted but you
16 would still be able to see it.

17 A. That's correct.

18 **EXHIBIT P-000099J - EXTRACTION REPORT - PAGES 570-590**

19 Q. Okay. All right. And if we go over to 99J ... and
20 I'm looking at page 575. These are searches conducted using his
21 phone with the Chrome browser. Is that correct?

22 A. That is correct.

GILLES MARCHAND, Direct Examination

1 **Q.** All right. And if we go down just a bit on the page,
2 the first search that's shown there is ... or I guess it would
3 be the last chronologically in time, is January 1st, 2017 at
4 13:51? Actually, I'm wrong. And I think the part up above is
5 with the Chrome browser. This would have been with the Samsung
6 browser. Am I correct there?

7 **A.** Okay. Yes.

8 **Q.** So the two different browsers. So one is the browser
9 on the phone?

10 **A.** Correct.

11 **Q.** The other is the Chrome browser that we may all use on
12 a particular device?

13 **A.** Which would have been downloaded. Correct.

14 **Q.** Okay. That would have been downloaded onto the phone?

15 **A.** Yes.

16 **Q.** Okay. So using the Samsung browser on January 1st,
17 2017 at 13:51, the URL of the site that was searched by somebody
18 using the phone is there. So that can be extracted from a web
19 search history?

20 **A.** Correct.

21 **(15:46:32)**

22 **Q.** And the title ... where does the title come from? Is

GILLES MARCHAND, Direct Examination

1 that something that's associated with that particular URL or ...

2 **A.** Associated to the URL. We're looking at ... this is
3 under the searches?

4 **Q.** Yes.

5 **A.** Yes. So that would be the item typed in. The title
6 ... oh, yeah, the title of the website and probably what he
7 would have searched if I'm looking at the right thing here. Oh,
8 no. Sorry. This is the browser history. So that's the title
9 of the page. Correct.

10 **Q.** Okay. So there would be a title associated with that
11 page that was created with the web page.

12 **A.** Correct. Yes.

13 **Q.** Okay. And the extraction would draw the data not just
14 related to the specific URL but also the name associated with
15 it.

16 **A.** That's correct.

17 **Q.** All right. So a search was done on that phone on
18 January 1st at 13:51 to a website that was entitled "Beretta
19 Firearms Shotguns Guns, Pistols, Rifles, Clothing and
20 Accessories".

21 **A.** Correct.

22 **Q.** All right. And if we go down just a bit on that same

GILLES MARCHAND, Direct Examination

1 page; for example, item number 13, which was also a search done
2 on January 1st, using the Samsung browser, a website entitled
3 "Firearms Leaves & Limbs Sports" was searched on that day. Is
4 that correct?

5 **A.** Correct. Are we looking at the search or are we
6 looking at the browser history?

7 **Q.** Well, you perhaps should tell me. I thought that was
8 the search history or ...

9 **A.** Yeah. Just looking at here what's ...

10 **Q.** ... or the browser history.

11 **A.** This would be the browser history we're looking at, so
12 sites he would have visited.

13 **Q.** Visited, I guess.

14 **A.** Yes. Yes.

15 **Q.** Okay. So not necessarily a search.

16 **A.** Search.

17 **Q.** My ... I was unclear. I'm sorry.

18 **A.** Correct.

19 **Q.** These are sites that he actually visited.

20 **A.** Correct. On the ...

21 **Q.** Irrespective of whether a web search was done or not.

22 **A.** Exactly.

GILLES MARCHAND, Direct Examination

1 **Q.** Got you. Okay. So he visited that site ...

2 **A.** Correct.

3 **Q.** The various sites that are listed here were all sites
4 that he visited.

5 **A.** Correct.

6 **Q.** Okay. So it would appear that the first 90 or so ...
7 I say the "first". Perhaps I should say the last because
8 they're going backwards chronologically.

9 **A.** That's correct.

10 **Q.** Ninety-or-so searches, or even a little more, 96
11 searches all appear to relate to firearms or firearms-related
12 sites. I appreciate you don't know the content of all of those
13 websites ...

14 **A.** Yeah.

15 **Q.** ... but that would appear, from the titles, to be ...

16 **A.** Correct.

17 **Q.** ... what those searches were related to? All right.
18 So it's ... all of ... I guess the same thing would apply, would
19 it, Mr. Marchand, in terms of websites visited. If the browser
20 history had been cleared, you would still be able to obtain the
21 browser history unless it was overwritten or ...

22 **A.** That is correct.

GILLES MARCHAND, Direct Examination

1 **Q.** Okay. So if a person using the phone does a search,
2 clears the browser history and immediately searches another
3 website, wouldn't necessarily overwrite that or ...

4 **A.** Not necessarily. No.

5 **Q.** Okay. Depends, I suppose, on a number of factors, the
6 volume and the number of searches?

7 **A.** Exactly.

8 **Q.** All right. And the 96 searches that I referenced
9 that he ... sorry, I say searches. The 96 websites he visited
10 using the Samsung browser all appear to have been on January
11 1st, 2017?

12 **A.** From what I'm seeing, yes.

13 **Q.** Okay. All right. Thank you, Mr. Marchand, those
14 are all the questions I have.

15 **THE COURT:** Ms. Ward?

16 **MS. WARD:** Nothing, Your Honour.

17 **MR. ANDERSON:** No questions, Your Honour.

18 **THE COURT:** Thank you, Mr. Anderson. Mr. Macdonald?

19 **MR. MACDONALD:** No questions, Your Honour.

20 **MS. WHITEHEAD:** No questions, Your Honour.

21 **THE COURT:** Thank you. Ms. Miller?

22

GILLES MARCHAND, Direct Examination1 **CROSS-EXAMINATION BY MS. MILLER**

2 (15:52:20)

3 **MS. MILLER** Mr. Marchand, my name is Tara Miller and I
4 represent Brenda Desmond.5 **A.** Okay.6 **Q.** And I share in the representation with my friend, Mr.
7 Macdonald, of Aaliyah Desmond.8 **A.** Okay.9 **Q.** My questions are just to sort of understand a little
10 bit more some of the detail ...11 **A.** Sure.12 **Q.** ... in your report. So bear with me.13 **A.** Sure.14 **Q.** The date range, so I'm going to go back to page 2 of
15 99A ... No, sorry, page 4. This is, as I understand it, the
16 different categories ...17 **A.** Correct.18 **Q.** ... that the information has been collated into -
19 Call Log, Contacts, Emails, MMS Messages, which includes the
20 media, so videos, the photos that would be sent in a text
21 message?22 **A.** Correct.

GILLES MARCHAND, Cross-Examination by Ms. Miller

1 **Q.** And then SMS Messages, which would be the text
2 messages themselves?

3 **A.** Correct.

4 **Q.** And the Web History (inaudible - paper on microphone)
5 offered?

6 **A.** Correct.

7 **Q.** Yeah.

8 **THE CLERK:** Your paper is on the microphone.

9 **MS. MILLER:** Oh, sorry.

10 What are the date ranges that get searched for each of
11 those different categories? Is it one date range that applies
12 to all of them or are there different date ranges?

13 **A.** It searches everything, so anything that has a date
14 associated to it. It's not a specific date.

15 **Q.** Yes.

16 **A.** It's literally from whatever artifact has a date
17 associated to it, so it could be anything.

18 **Q.** So as long as the phone is in existence it could go
19 back as far as there is actually an item in that phone?

20 **A.** That is correct.

21 **Q.** Okay. So when I look at page 5, for example, we're
22 looking at the Call Log here, the incoming calls.

GILLES MARCHAND, Cross-Examination by Ms. Miller

1 **A.** Okay.

2 **Q.** When I go through those, they appear to start on
3 January 3rd, 2017, and then end on November 1st, 2016.

4 **A.** Okay.

5 **Q.** So would that suggest to you that there were no other
6 calls that had been made ... there were no other incoming calls
7 made to this phone before November 1st, 2016?

8 **A.** So if we go back, I think this is all that was
9 provided to you, I'm pretty sure, so the incoming calls that
10 were available, if you look back at the Contents on page 4...

11 **Q.** Yes.

12 **A.** Under Call Log it shows Incoming, 159 were available.

13 **Q.** Um-hmm.

14 **A.** That I ... were able to be extracted. 38 of those
15 were deleted.

16 **Q.** Okay.

17 **A.** Which could have been that option where you can just
18 remove it from the phone to show that it wasn't there.

19 **Q.** Okay.

20 **A.** But, in total, there would have been 159.

21 **Q.** Okay. And we may just have in this exhibit that
22 limited period of time?

GILLES MARCHAND, Cross-Examination by Ms. Miller

1 **A.** Correct.

2 **EXHIBIT P-000099C - EXTRACTION REPORT - PAGE 363**

3 **Q.** That's helpful. Thank you. I want to go to page ...
4 This is Exhibit 99C.

5 **A.** Okay.

6 **Q.** This is page 363.

7 **A.** Okay.

8 **Q.** And I'm also going to get you to look at 99D, which
9 is page 449. I believe it comes directly after it.

10 **A.** Okay.

11 **Q.** These are emails, correct?

12 **A.** Correct.

13 **Q.** Okay. So if we look at 99C, item 58 ...

14 **A.** Okay.

15 **Q.** It looks like it is an email received from Dr. Paul
16 Smith.

17 **A.** Okay.

18 **Q.** On December 13th, 2016.

19 **A.** Okay.

20 **Q.** At 20:27. Is that ... am I interpreting that
21 correct?

22 **A.** December 13th, yes.

GILLES MARCHAND, Cross-Examination by Ms. Miller

1 **Q.** Okay. And over in the far right-hand column it says
2 Status: Unread.

3 **A.** Correct.

4 **Q.** Okay. There is an attachment there.

5 **A.** Yes.

6 **Q.** And it says Patient Update Letter.

7 **A.** Yes.

8 **Q.** So based on your earlier evidence, this attachment,
9 the contents of that attachment is available within the material
10 you've extracted, it just might not be in this report?

11 **A.** Correct.

12 **Q.** Okay. Thank you. And then on page 449, which is
13 99D...

14 **A.** Um-hmm.

15 **Q.** We see again the email, and I think this is what you
16 were referring to earlier, this is an email with an attachment
17 from DND?

18 **A.** Correct.

19 **Q.** 2797, so that's available somewhere, as well?

20 **(15:56:31)**

21 **A.** Correct.

22 **Q.** Okay. And then if you look down at item 88,

GILLES MARCHAND, Cross-Examination by Ms. Miller

1 Subject: Enterprise Rental Agreement. That says Body File.
2 Would there have been an attachment that just couldn't be
3 extracted or can you say?

4 **A.** I cannot say based on what is showing here. It looks
5 like it was a deleted email, so it may have only a portion of
6 it. It's something we'd have to look into a little deeper to
7 see for sure.

EXHIBIT P000099E - EXTRACTION REPORT - PAGE 455

9 **Q.** All right. Then, I'm going to get you to go to 99E,
10 page 455.

11 **A.** Okay.

12 **Q.** I think you had said earlier that the email account
13 that was associated with Corporal Desmond's phone was
14 LionelDesmond11@gmail.com?

15 **A.** Correct.

16 **Q.** Okay. So number one, we see an email coming from
17 that email account dealing with, it looks like, Bogs boots?

18 **A.** Correct.

19 **Q.** Okay. And then under number 2 we see a December 7th,
20 2016, timestamp, and it looks like it's an email forwarded from
21 the LionelDesmond11 gmail account to the LionelDesmond369 gmail
22 account?

GILLES MARCHAND, Cross-Examination by Ms. Miller

1 **A.** Correct.

2 **Q.** That's a different email account?

3 **A.** Correct.

4 **Q.** That Corporal Desmond would have had?

5 **A.** Potentially.

6 **Q.** And have you ... would you have been able to access
7 that separate email account?

8 **A.** Have not, no. So the only email account that was
9 associated to this device that we have is ... that had the
10 LionelDesmond11@gmail account associated to it, so anything
11 else, if it was on the phone before, it could have been, but
12 when we did the extraction the only one associated was that one.

13 **Q.** Okay. So there ... but you would ... It's fair to
14 say that, based on this From/To email, there appears to be a
15 second email account that Mr. Desmond would have had?

16 **A.** I agree, yes.

17 **Q.** Okay. But it wouldn't be contained in your report?

18 **A.** Correct.

19 **Q.** Okay. I'm almost done. I am curious about ... If we
20 can go to 99I, page 527, Mr. Marchand.

21 **A.** Okay.

22 **Q.** This is text messages.

GILLES MARCHAND, Cross-Examination by Ms. Miller

1 **A.** Correct.

2 **Q.** And we talked about, my friend just talked about
3 those, the native in the Outbox that were unsent and then the
4 native that were sent.

5 **A.** Correct.

6 **Q.** I'm just curious about, I guess, that under the
7 second column in native it says Party.

8 **A.** Correct.

9 **Q.** And then we see the first six have numbers and/or
10 names. The seventh has sort of symbols. Is that, can you just
11 give us a little bit of information, understanding about what do
12 those symbols refer to.

13 **A.** Sure. So in some of these cases this is an artifact
14 that has been deleted, if we look at the last column.

15 **Q.** Um-hmm.

16 **A.** If data gets overwritten, it could partially get
17 overwritten, what it's give the application back is gobbledy-
18 gook, just ... It's not, we're not able to say for sure what it
19 is. There is an entry in that database, there was the number 7
20 that would been there, but the content, as you can see, is not
21 going to be totally visible.

22 **Q.** Right. We don't know who it was sent to or what the

GILLES MARCHAND, Cross-Examination by Ms. Miller

1 number was sent to, we don't know the time. Under Message it
2 sort of ... The only words we have, "Dad's. Need to talk".

3 **A.** Correct. And this would have been an unsent ...
4 potentially unsent message.

5 **Q.** Okay. On that same theme, if we go to ... I want you
6 to look at two documents. So the first one I want you to look
7 at is page 571, which is 99J.

8 **A.** Okay.

9 **Q.** Do you have that?

10 **A.** Yeah.

11 **Q.** And the other one I just want you to put your hand
12 on, because I'm going to go back to it, is page 537 of 99I.

13 **A.** Got it.

14 **Q.** Okay. So let's start with 571 of 99J.

15 **A.** Okay.

16 **Q.** If we look at this page, it looks like there's a
17 whole bunch of gobbledy-gook as you ... I'm using your words.

18 **A.** Yes.

19 **Q.** Under the number. So we see items 41 down to 90 and,
20 you know, there's percentage signs, random numbers. Those
21 would be, based on your earlier evidence, those would be ones
22 that may have been overwritten or deleted?

GILLES MARCHAND, Cross-Examination by Ms. Miller

1 **A.** Correct.

2 **Q.** Okay. But is it possible that some of these would be
3 found in other places in their complete version?

4 **A.** Yes.

5 **Q.** Okay.

6 **A.** There's potential.

7 **Q.** All right. And so that's what I wanted to bring you
8 to, 99I, page 537. So if you look at item 288 ...

9 **A.** Yes.

10 **Q.** ... at page 537. It's a number, 190- ... You see
11 that one (inaudible) ...

12 **A.** Yeah.

13 **Q.** Two there's a number and a reference to Mike and it's
14 sent November 25th, 2016, it's sent, and then the content is:
15 "Hey, Mike. Just thought I'd drop you a line. Miss you,
16 buddy." And then if we look over, back at 99J, at page 571,
17 line 78 ...

18 **A.** Yes.

19 **Q.** It appears to be the exact same content.

20 **A.** Correct.

21 **Q.** "Hey, Mike. Just thought I'd drop you a line. Miss
22 you, buddy." So that helps clear up for me that you could have

GILLES MARCHAND, Cross-Examination by Ms. Miller

1 some that are overwritten in some version but they'll show up in
2 other places?

3 **A.** Correct. We're dealing with that same data,
4 different database potentially where it's at. To find out
5 exactly the scenario of the two would take more digging. If it
6 was something that the investigator would have brought up then
7 we would have kind of did a little more investigating on that
8 side to see why is it showing there and why is it not showing in
9 the other or vice versa.

10 **Q.** Okay. I may have gotten into the weeds a bit on that
11 ...

12 **A.** No, it's good.

13 **Q.** ... but that does help explain some of the questions
14 I had. Thank you very much.

15 **A.** No problem.

16 **THE COURT:** Mr. Rodgers, are you out of the weeds?

17 **MR. RODGERS:** As much as I ever am, I suppose, Your
18 Honour, yes, thank you.

19

20 **CROSS-EXAMINATION BY MR. RODGERS**

21 **(16:03:24)**

22 **MR. RODGERS:** I have just a few questions, Mr. Marchand.

GILLES MARCHAND, Cross-Examination by Ms. Miller

1 I guess I'll start with ... I mean, you're here mostly to
2 identify how you got this data, not what is in the data?

3 A. Correct.

4 Q. Okay. So I won't go through some of the websites and
5 such that Corporal Desmond visited. But these are ... I'm
6 looking ... Well, let's look at Exhibit 99J.

7 A. Okay.

8 Q. And we see the dates on these website visitations and
9 we see some, I'm looking at, starting at page 576, and we can
10 see some visits on January 1st and there's Leaves & Limbs, Henry
11 rifles, Browning, Beretta, and that sort of thing. Do you see
12 those?

13 A. Correct, yes, I do.

14 Q. All right. We see at 577, if we look back in time to
15 the 31st of December and, actually, I guess there's one
16 reference on the 1st of January, as well, to Schwartz Furniture
17 and some to Leon's Furniture there.

18 A. Yes.

19 Q. I wanted to bring you down, and you may not be able
20 to answer this, but looking at the TD references at the bottom,
21 would you be able to tell ... It looks like ... You see the
22 string of TD Bank EasyWeb references.

GILLES MARCHAND, Cross-Examination by Mr. Rodgers

1 **A.** Yes.

2 **Q.** It looks like Corporal Desmond was trying to log in
3 or create a password or create an account at TD, is that how you
4 read these entries? And I'm just looking at the last one, 113,
5 it looks like he was unable to do so.

6 **A.** You can usually, based on the URL, have an idea of
7 where it was on the site.

8 **Q.** Yes.

9 **A.** But without going to it for sure, I wouldn't be able
10 to say. It looks like ... The title of that page EasyWeb,
11 Create Password, it looks like he would have been on a page
12 where he would have been trying to create a password.

13 **Q.** Yeah. Okay. And if we go back and then page 578 we
14 see some continuations of the EasyWeb TD reference.

15 **A.** Yes.

16 **Q.** And then below that we see him appearing to try to
17 find information on how to join the YMCA in Cape Breton. Do you
18 see those?

19 **A.** Yes.

20 **Q.** And some horse tack and supplies websites, as well.
21 Okay. Just one more Just I'll point these out to you and I
22 may reference them in other contexts, too, Mr. Marchand, but

GILLES MARCHAND, Cross-Examination by Mr. Rodgers

1 page 579 we see some websites visited on the 26th of December,
2 it appears, quite a number there on the importance of dating
3 your spouse ...

4 **(16:12:29)**

5 **A.** Yeah.

6 **Q.** Courting your wife, these sorts of websites.

7 **A.** Um-hmm.

8 **Q.** There's a series of those. Is that ... So that, is
9 that correct, am I correct to say those are visited on December
10 26th of 2016?

11 **A.** You are, yes.

12 **Q.** Okay. There's one other thing that caught my eye,
13 Mr. Marchand. I noticed in the emails, and this is 99C or D.
14 Where did that go? 99E, sorry, page 455 it has ...

15 **A.** Okay, got it.

16 **Q.** And this appears to be dated December 24th and it was
17 sent from Corporal Desmond's gmail address?

18 **A.** Correct.

19 **Q.** He purchased Bogs and wants them returned?

20 **A.** Correct.

21 **Q.** He wants to exercise his rights under a warranty, it
22 appears?

GILLES MARCHAND, Cross-Examination by Mr. Rodgers

1 **A.** Yes.

2 **Q.** And I believe, if I can find the website again now,
3 that he visited this Bogs website ... No ... I don't need to
4 bring you to the website reference there, but I'll ... but that
5 was on December ... sorry, December 24th, 2016, is that correct?

6 **A.** Yes.

7 **Q.** Okay. That appears to be the last email he sent
8 out.

9 **A.** Sent out, yes.

10 **Q.** Yes.

11 **A.** From his phone.

12 **Q.** From his phone, yes. Thank you. Okay.

13 Thank you, Mr. Marchand, those are all the questions I had.

14 **A.** No problem.

15

16 **EXAMINATION BY THE COURT**

17

18 **THE COURT:** I just have a couple questions. Just give
19 me a second.

20 I'm just going to see if you can explain something to me.

21 So if you look at 99J.

22 **A.** Okay.

GILLES MARCHAND, Examination by the Court

1 **Q.** And go to page 575.

2 **A.** Okay.

3 **Q.** If you could. And there's a series of URLs and the
4 times that ... it says Last Visited. So if you look at the
5 first one dealing with Beretta, it's January 1st, 2017, at
6 13:51:51.

7 **A.** Correct.

8 **Q.** It also says that he was on a site, Beretta, looks
9 like the same URL, with some changes, at 13:51:23, so you're
10 looking at, you know, less than 30 seconds and he's gone. So is
11 he clicking around that page is that what's happening?

12 **A.** Exactly, yeah. So it could be a different menu, he
13 might be going from pistols to shotguns. In this case here ...

14 **Q.** Because some ... And the reason ... and that might
15 answer my question because on some of these he's on that site
16 and he's only there for a short period of time, then he's on
17 another one. It just didn't seem to me that you could change
18 sites but every time he clicks on something and he moves around
19 that site, it gets logged here?

20 **A.** Exactly.

21 **Q.** All right. I understand. Thank you.

22 **A.** No problem.

GILLES MARCHAND, Examination by the Court

1 **THE COURT:** Any questions, Counsel? Any more?

2 **MR. MURRAY:** No more questions, Your Honor.

3 **THE COURT:** No. We're good. Mr. Marchand, thank you
4 very much for your time. We appreciate it. You're free to go.

5 **A.** Thank you.

6 **WITNESS WITHDREW (16:11 HRS.)**

7 **MR. MURRAY:** That's all the evidence we have lined up
8 for today, Your Honour.

9 **THE COURT:** All right. Thank you, Counsel. Thank you.
10 We'll adjourn for the day and we'll return tomorrow at 10
11 o'clock. Thank you.

12

13 **COURT CLOSED (16:12 HRS.)**

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CERTIFICATE OF COURT TRANSCRIBER

I, Margaret Livingstone, Court Transcriber, hereby certify that I have transcribed the foregoing and that it is a true and accurate transcript of the evidence given in this matter, **re Desmond Fatality Inquiry**, taken by way of electronic digital recording.



Margaret Livingstone

(Registration No. 2006-16)

DARTMOUTH, NOVA SCOTIA

January 31, 2020