



PROTECT INTERNATIONAL
RISK AND SAFETY SERVICES INC

March 3, 2017

Mr. Jerome Kennedy
Roebathan McKay Marshall
5th Floor, Paramount Building, 34 Harvey Road
St. John's, NL A1C 5W1

Re: Dunphy Inquiry

Dear Mr. Kennedy,

Please find below my findings and opinions in this matter related to the practice of risk/threat assessment in the context of protection of public officials. I have set these out in the form of responses to the series of questions you posed to me:

1. What is a risk/threat assessment in the context of protection of public officials? What are the qualifications or training you would expect from someone who works in the area of the protection of public officials?
2. Is there a difference between a risk/threat assessment in other contexts (i.e., criminal investigations) as opposed to a threat assessment in the context of the protection of public officials?
3. Would you consider that Mr. Dunphy's tweets demanded follow-up in the context of the protection of public officials?
4. Can you provide an opinion in the context of the protection of public officials on the appropriateness of the follow-up steps taken by Cst. Smyth in this present case, including visiting Mr. Dunphy's house?
5. Can you comment on the relevance or appropriateness of Dr. Terry Coleman's qualifications to give opinions in this matter, as well as the opinions themselves as outlined in a report dated February 26, 2017, a copy of which has been provided to you?

Method

To formulate my responses to these questions, I relied on the following: a Summary of Facts provided by you, undated; the report by Dr. Terry Coleman, dated February 26, 2017, as well as Dr. Coleman's curriculum vitae, both provided by you; and my knowledge of the scientific literature and professional practice with respect to violence risk/threat assessment, both in general and in

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the context of the protection of public officials. These material were sufficient in quality and quantity for me to answer your questions with a reasonable degree of professional certainty.

You also provided me with excerpts from the transcripts of Cst. Smyth's testimony, dated January 16, 2017 (pp. 25-39 and 71-92), January 17, 2017 (pp. 2-86), and January 23, 2017 (pp. 37-76), as well as location of other materials located on the Commission's website (www.ciddd.ca). Unfortunately, as I had less than 24 hours to prepare this report, I was unable to review these additional materials, but of course would do so if I am called to testify before the Commission.

Qualifications

With respect to my qualifications, I have provided you with a copy of my complete *curriculum vitae*. To summarize my general qualifications, my area of work is clinical-forensic psychology, with a special focus on threat assessment, a field also known as threat management, violence risk assessment, and violence risk management. I obtained a PhD in clinical psychology at the University of British Columbia in 1993. I am currently employed as a Professor in the Department of Psychology at Simon Fraser University and Visiting Professor in the Faculty of Psychology at the University of Bergen, where my duties include research, teaching and supervision, and administration. I also operate a professional practice through Protect International Risk and Safety Services Inc.

To summarize my specific qualifications with respect to threat assessment, my work in this field involves research, consulting, training, evaluation, and professional service. As a researcher, I have developed, implemented, and evaluated decision support tools in national security, criminal justice, health care, and workplace settings. Some of the tools I helped to develop are among those used most commonly around the world (according to international surveys), have been translated into more than 30 languages, and are used by law enforcement agencies in many different countries. Some of the research I conducted focused specifically on stalking, including people who harassed or threatened public figures, public officials, and justice officials. I have authored more than 200 journal articles and book chapters, and authored or edited more than 25 books and manuals. I have authored more than 500 papers presented at scientific and professional conferences. I have been an investigator on more than 20 research grants. I have received various awards in recognition of my research contributions, including the Distinguished Achievement Award from the Association of Threat Assessment Professionals; the Career Achievement Award from the Section on Clinical Emergencies and Crises (Section VII) of the Society of Clinical Psychology (Division 12 of the American Psychological Association); and the Saleem Shah Award for Early Career Research Excellence in Psychology and Law from the American Psychology-Law Society (Division 41 of the American Psychological Association) and the American Academy of Forensic Psychology.

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As a consultant, I have advised governmental agencies and private corporations regarding threat assessment and management. In Canada, the governmental agencies for which I have consulted include the Royal Canadian Mounted Police, Ontario Provincial Police, Calgary Police Service, Delta Police Service, Edmonton Police Service, London Police Service, Niagara Regional Police, Toronto Police Service, Vancouver Police Department, and Victoria Police Department, as well as the Ontario Police College, Alberta Integrated Threat and Risk Assessment Centre, Justice Institute of British Columbia, Correctional Service of Canada, and British Columbia Corrections Branch. Outside Canada, I have advised the US Federal Bureau of Investigation, as well as the national police agencies of Japan, Korea, the Netherlands, Norway, Slovakia, South Africa, and Sweden. Some of this consultation has focused specifically on threat assessment and management in the context of protection of public figures, public officials, and justice officials.

As a trainer, I have conducted more than 450 workshops for law enforcement, corrections, national security, mental health, legal, and human resources and other professionals in Africa, Asia, Europe, Oceania, and North America. Some of this training has included a specific focus on threat assessment and management of public figures, public officials, and justice officials; and some was general but attended by those responsible for threat assessment and management of public figures, public officials, and justice officials.

As an evaluator, I have conducted numerous threat assessments of people in criminal or civil contexts. The cases on which I have worked included those who have harassed or threatened public figures, public officials, and justice officials, and have required collaboration with law enforcement agencies responsible for protection of public figures, public officials, and justice officials. In the course of my work, I have given expert testimony before various courts, review boards, tribunals, inquests, commissions, and other forums, including: parliamentary committees in Canada and Scotland; the Federal Court of Canada; the superior courts of the provinces of Alberta, British Columbia, Manitoba, and Ontario and the states of Arizona, California, Florida, Illinois, Iowa, Kansas, Missouri, Texas, Washington, and Wisconsin; parole boards in Canada and the United Kingdom; *Criminal Code* review boards in British Columbia; and judicial reviews, inquests, and commissions following fatalities in the provinces of British Columbia and Manitoba.

Finally, with respect to professional service, I am active in professional organizations. I have served as President of the American Psychology-Law Society (Division 41 of the American Psychological Association), President of the International Association of Forensic Mental Health Services, and Director of the Canadian Association of Threat Assessment Professionals. I regularly attend and present at the annual meetings of the US-based Association of Threat Assessment Professionals, the Canadian Association of Threat Assessment Professionals, the Association of European Threat Assessment Professionals, and the Asia Pacific Association of Threat Assessment Professionals. I am the Editor of the *Journal of Threat Assessment and Management*, and prior to that

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was Co-Editor and Editor of the *International Journal of Forensic Mental Health*. I serve on the Editorial Board of nine other journals.

Responses to Specific Questions

1. What is a risk/threat assessment in the context of protection of public officials? What are the qualifications or training you would expect from someone who works in the area of the protection of public officials?

Risk assessment and threat assessment are terms of art in many fields and areas of practice (e.g., occupational health and safety, emergency preparedness, information technology, health care) and the precise and preferred definitions of those terms vary across those fields and area of practice. The most general definitions of *risk assessment* come from the national or international standards developed by different associations, including the International Standard Organization's standard on *Risk Management* (ISO 31000:2009) and the related standard *Risk Management – Risk Assessment Techniques* (ISO/IEC 31010:2009), as well as in the American National Standards Institute standard on *Risk Assessment* (RA.1-2015), developed by ASIS International and the Risk and Insurance Management Society. According to RA.1-2015 (p. xvi):

Risk assessment is the identification, analysis, and evaluation of uncertainties to objectives and outcomes. It provides a comparison between the desired/undesired outcomes and expected rewards/losses of organizational objectives. The risk assessment analyzes whether the uncertainty is within acceptable boundaries and within the organization's capacity to manage risk.

More specifically with respect to risk for violence, definitions can be found in the American National Standards Institute standard on *Workplace Violence Prevention and Intervention* (WVPI.1-2011), developed by ASIS International and the Society for Human Resource Management. According to WVPI.1-2011 (p. 3):

Violence Risk Assessment: Also termed a *Threat Assessment* and *Risk Assessment*. A Violence Risk Assessment refers to the investigative and analytical process followed by a professional qualified by education, training, or experience to determine the nature and level of risk of violence presented by a person and the steps that could be taken to respond to, manage, and mitigate the risk.

The terms violence risk assessment and threat assessment are also interchangeably in the public communications of the major professional associations—including the Canadian Association of Threat Assessment Professionals, as well as the US-based Association of Threat Assessment Professionals, the Association of European Threat Assessment Professionals, and the Asia Pacific Association of Threat Assessment Professionals—and in many scientific and professional publications written by members of those associations. Some people, however, reserve the term violence risk assessment to refer to evaluations conducted in stable, information-rich environments to

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assist legal decision making, and threat assessment to refer to evaluations conducted in dynamic, information-poor environments to assist operational decision making. But the distinction is not clear-cut, as the evaluation process is fundamentally the same: evaluators try to form the same kinds of opinions (the nature of risks posed by a person and potential mitigation of those risks) based on the same kinds of information (the person's past and recent behavior and adjustment, as well as plans for the future) using the same procedures (observation, interview, review of documentary evidence, application of decision support tools) and for the same purpose (prevention of violence).

In the context of the protection of public officials, the situation is much the same: Violence risk assessment and threat assessment are used interchangeably, but some prefer the term threat assessment as evaluations typically are conducted in dynamic, information-poor environments to assist operational decision making

One point is worth clarifying here. A common misconception is that threat assessment in the context of the protection of public officials refers to the evaluation of utterances that communicate intent to harm those officials. Instead, threat assessment refers to the evaluation of a situation in which there is potential for harm to public officials, which may or may not involve utterances that communicate intent to harm those officials.

2. Is there a difference between a risk/threat assessment in other contexts (i.e., criminal investigations) as opposed to a threat assessment in the context of the protection of public officials?

As discussed above, the process of threat assessment is universal in general terms, but the details of the process differ across contexts.

In the context of criminal investigations, the primary concern is to determine whether an offence has occurred and, if so, to gather sufficient evidence to clear that offence through arrest, charge, or conviction. The possibility that violence may occur during criminal investigations is a secondary concern, and one that arises in a minority of cases. Put simply, criminal investigations focus on past offences; their ultimate success is judged in terms of clearance rate, not the rate of new violence during the investigation.

The situation is reversed in the context of protection of public officials. Here, the primary concern is to determine whether there exists some potential for violence against public officials and, if so, to develop plans to mitigate that risk. The possibility that an offence may have occurred in the past is a secondary concern, and one that arises in a minority of cases. Put simply, protection of public officials focuses on the future; their ultimate success is judged in terms of prevention of violence against public officials, not on the clearance rate for offences that may have been committed.

Re: Dunphy Inquiry**3. Would you consider that Mr. Dunphy's tweets demanded follow-up in the context of the protection of public officials?**

In almost every context, the number of cases referred for threat assessment greatly exceeds the available resources. Decisions concerning whether and when to undertake a threat assessment typically are based on an abbreviated review, a process variously referred to as selection, sorting, prioritization, screening, or triage (Guy, Douglas & Hart, 2015; see also Federal Bureau of Investigation, 2017; WVPI.1-2011). In the context of the protection of public officials, it is routine to evaluate all incidents of concern using some sort of triage process. This may involve evaluation of people who are the subjects of concern; or, if the identity of subjects of concern is unknown, it may involve evaluation of people's communications or actions.

In light of the foregoing, as well as the content of Mr. Dunphy's tweets, it is my opinion that:

- i. Cst. Smyth should have reviewed and triaged Mr. Dunphy's tweets. He did so.
- ii. Cst. Smyth should have triaged Mr. Dunphy's tweets as positive. That is, Cst. Smyth should have concluded the tweets indicated Mr. Dunphy was experiencing violent thoughts and were recklessly or deliberately intimidating or fear-inducing utterances, and therefore that there were reasonable grounds to believe that Mr. Dunphy posed a risk of violence toward public officials. He did so.

4. Can you provide an opinion in the context of the protection of public officials on the appropriateness of the follow-up of steps taken by Cst. Smyth in this present case, including visiting Mr. Dunphy's house?

A basic principle of threat assessment is that decisions about violence risk are only as good as the information on which they are based. Therefore, the best way to improve decisions is to gather critical information, that is, information relevant to what are generally recognized as the primary risk factors for violence (as set out in various authoritative treatises and decision support tools), as well as information relevant to any case-specific risk factors.

Another basic principle of threat assessment is that the process of assessment itself may impact on risk. Done properly, assessment can help to contain or even reduce risk; but done improperly, it can escalate risk. It is particularly important that the intensity or intrusiveness of intervention or follow up, including further assessment, should be commensurate with the level of risk in a case. Common strategies to reduce the intensity or intrusiveness of assessment for assessment involve minimizing direct contact with the subject of concern (e.g., by interviewing collateral sources and reviewing records); or, alternatively, approaching the subject of concern in a way that avoids humiliation or unnecessary show of force (e.g., by traveling in unmarked rather than marked vehicles, dressing in plain clothes rather than in uniform, and interviewing subjects at their homes rather than taking them to a police station). Of course, the

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selection of tactics is guided by the facts of the case, operational requirements and limitations, agency policies and procedures, and law.

In light the foregoing, as well as my answer to Question 3, it is my opinion that:

- i. Cst. Smyth should have concluded that, although there were reasonable grounds to be concerned that Mr. Dunphy might present a risk of violence toward public officials, there were no reasonable grounds to conclude the level of risk posed by Mr. Dunphy was high in terms of likelihood, seriousness, or imminence—that is, that the level of risk was low to moderate. He did so.
- ii. Cst. Smyth should have concluded that his interim management steps must include gathering additional information about Mr. Dunphy. He did so.
- iii. Cst. Smyth should have selected assessment tactics of low to moderate intensity and intrusiveness. He did so.

The final part of this question makes specific reference to Cst. Smyth's decision to visit Mr. Dunphy's house to interview him. Home visits are a very common tactic used by threat assessment professionals, including those in law enforcement and corrections. They may provide important information regarding a person's social adjustment, private life, and mental state that are relevant to threat assessment. For example, people may keep materials in plain sight in their homes that reveal they are preoccupied or obsessed with a public official, or that they have conducted surveillance of the public official's residence or place of work. It is my experience that when there is no indication that a case is high risk, or when resources are scarce, home visits are often done by threat assessment professionals working alone.

In light the foregoing, it is my opinion that:

- i. It was reasonable and appropriate, and consistent with standards of practice in the field, for Cst. Smyth to decide to visit Mr. Dunphy's house to interview him, and to do so alone.

5. Can you comment on the relevance or appropriateness of Dr. Terry Coleman's qualifications to give opinions in this matter, as well as the opinions themselves as outlined in a report dated February 26, 2017, a copy of which has been provided to you?

With respect to Dr. Coleman, his primary area of expertise appears to be in the field of management. His graduate research was on this topic, and much of his professional work—during and after his career in law enforcement—centred on this topic. He also appears to have a secondary area of expertise related to police interactions with people suffering from mental disorder. I did not see any evidence that he has any special expertise in the field of violence risk/threat assessment. Specifically, there is no indication that he: took courses in violence risk/threat assessment, aside from those

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provided to the ordinary police officer during basic training; completed an understudy program or received other supervised training in violence risk/threat assessment; worked in a specialized law enforcement unit in which he conducted violence risk/threat assessment; taught or supervised others to conduct violence risk/threat assessments; researched or published on violence risk/threat assessment; belonged to national or international associations of threat assessment professionals, or attended their conferences; or has been qualified to give expert evidence regarding violence risk/threat assessment.

With respect to the opinions expressed by Dr. Coleman concerning violence risk/threat assessment, it is clear from my answers to Questions 1 through 4 that I disagree with him on many points. It appears that Dr. Coleman judged the appropriateness of Cst. Smyth's violence risk/threat assessment in the context of protection of public figures using standards for "personal risk assessment" in the context of the UK College of Policing and Police Executive Research Forum models for critical decision making. The latter models were developed to assist uniformed police when making decisions regarding use of force during interactions with people who are not carrying firearms; in my opinion, they are not relevant to the context in which Cst. Smyth interacted with Mr. Dunphy. Also, Dr. Coleman appears to overfocus on some issues that, in my opinion, are of limited relevance to judging the appropriateness of Cst. Smyth's violence risk/threat assessment in the context of protection of public figures or understanding the circumstances that led to Mr. Dunphy's death (e.g., Cst. Smyth's use of his notebook and his "typed notes").

Conclusion

Thank you for the opportunity to assist in this matter. Please contact me if you have any questions.

Sincerely,


Stephen D. Hart, PhD