

**COMMISSION OF INQUIRY RESPECTING
THE DEATH OF DONALD DUNPHY**

SUBMISSION BY NICK AVIS, Q.C.

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Smyth's Threat and Risk Assessment

On 3 April 2015 Smyth received "the tweet of concern" from Donna Ivey, the media relations person in the premier's office. Part of her role was to monitor media and social media.

She testified that she was aware of Donald Dunphy's postings on social media but in the tweet of concern she felt she saw a higher level of frustration. That it is not her job to interpret but to pass on. If the Premier is named or tagged, she is to bring the matter to the Premier's attention. She did not take the tweet of concern as a threat. She was merely flagging something for review by the PSU. The tone and language was different from what she was used to.

There was no written protocol or policy with respect to when anyone from the premier's office or any other government office should pass information on to the PSU. Ivey's instructions from the PSU were that if she ever felt there was a social media message of concern that she should pass it on even if she is uncertain as to its meaning or how serious it might be; and that no circumstance is too small to bring to the PSU's attention. The basic principle regarding social media postings, according to Smyth, was to err on the side of caution and to investigate.

Everyone agreed that the tweet of concern warranted further investigation. Smyth did not see it as a threat nor did anyone else although Coleman and Massine appear to be confused whether or not it was actually a threat. Dr. Hart put it best when he said that most do not make utterances with a clear intent to harm.

There was some confusion from the police witnesses, as well as Coleman and Massine, regarding what was a threat and risk assessment particularly in the context of proactive policing. Only Lenahan clearly defined the two terms as they are used in his unit and Hart explained the various views on the subject and how the terms are used interchangeably.

Regardless, Smyth was conducting a threat assessment to determine if Dunphy posed a threat to government officials, which he did not complete; and he continuously conducted a personal risk assessment (PRA) regarding officer safety, which in his opinion remained low regardless of what he learnt.

The only two experts qualified in risk and threat assessment in proactive policing, Dr. Hart and Sgt. Lenahan, agreed that Smyth conducted a thorough risk/threat assessment and took the appropriate steps including going to interview Dunphy by himself on Easter Sunday. Their expert opinion was corroborated, more or less, by every officer who was questioned on the subject. All agreed that Smyth's PRA was low. Knappman, the RCMP use of force expert who also had training and experience nationally and provincially in intelligence related threat and risk assessment, agreed completely and added that "There was nothing to indicate that Smyth would face what transpired that day." Similarly, the opinions of Jones (the ombudsdman) and Hughson

(ASIRT), which found that the RCMP investigation did not have any material deficiencies, conclude by implication at least that Smyth's PRA was appropriate.

Hart and Lenehan felt generally that two officer patrols were preferable and the best practice but not always necessary. Coleman and Massine felt that they should be the norm. At the time there were only two officers in the PSU, the other being off duty. Further, one-person patrols are the norm in the RNC, except for certain areas in street patrol, and have been since 1992-1993 when the government eliminated most two officer patrols for budgetary reasons.

Most, including Smyth, agreed that he should have taken his notebook with him and made notes in a more timely fashion. Officers often make their notes at the end of a shift and at times, especially undercover operators in the field, make jot notes that are later put into the officer's notebook. Smyth should have made notes after the incident but having regard to his state of mind it is understandable that he did not.

A file had not been opened by Smyth from the outset and one could have been. Smyth testified that he would have opened a file after visiting Dunphy but under the circumstances he did not get to finish his work.

The issue over Smyth's 1029 request took on a life of its own. He did testify that if he had been advised of the caution for violence he would have taken a second person with him but this was his answer to a question in isolation without any follow up questions. Later he testified to the effect that he knew anyway and it did not make a difference. He did learn of the uttering threats charge, that it had been withdrawn and that Dunphy had signed a peace bond from Cst. Cox, and Dick and Debbie Dunphy. So, he knew what the caution for violence meant anyway.

RNC – RCMP Jurisdiction

Under s. 8(2) of the *RNC Act*, SNL 1992, C. R-17: "A police officer has authority to act throughout the province." The RNC therefore has jurisdiction over the whole province (as do the RCMP). However, the province is divided into areas for funding and administrative purposes. When an RNC officer enters RCMP jurisdiction for investigative purposes, or visa-versa, as a matter of courtesy they notify the other force although they are not required by law to do so nor do they do so in all situations

The Protective Services Unit

The PSU is a part of the CID – Intelligence and Organized Crime Section (IOC), which has a much broader mandate.

Concerns arose during the Inquiry that the relationship between the Premier's Office and the PSU was a little too close; that the premier decided how many officers were in the PSU and that the protective detail should have a low profile due to concerns over public perception; there was no formal complaint system; that government determined to some extent what would be

investigated and if charges would be laid; and files were not always opened. There was also a concern that Smyth passed on information to Ivey regarding his investigation, in particular if Dunphy had a criminal record. Lenehan agreed that these are concerns that should be addressed and that no investigative information should have been passed on.

Since the Inquiry began, the PSU has moved from Confederation Building back to RNC HQ, formal complaints will be taken, files will always be opened, the PSU will determine the size of and how the protective detail works, what will be investigated and if charges will be laid.

The RNC's position regarding the PSU is found at Tab 1 and was presented in Phase 2 of the Inquiry.

The PSU policy and procedure in effect at the time (Exh P0031) was been amended by general order 353 (Exh P0032) on 25 May 2016 (Tabs 2 and 3).

Training and the PSU - IOC

Smyth's training also became an issue at the Inquiry. The PSU and the IOC are specialized units that require specialized training.

In 2012 Smyth trained with the OPP with an emphasis on bodyguard protection; and by then he had had some experience with close protection.

With regard to threat and risk assessment, in addition to the regular training all police officers receive, Smyth did a two week course in Nova Scotia in 2009 for criminal intelligence. In 2012 in St. John's, NL he did a five day course put on by the Judicial Institute of British Columbia called Managing Targeted Violence which focussed on threat and risk assessment.

Lenehan, who was fully aware of Smyth's training and background, opined that since Smyth's risk assessment was thorough and complete, his training must have been appropriate, and that he had no recommendations to make regarding training. While Hart was not asked to comment, he found that Smyth did everything he should have done that day, which implies that he was trained properly.

Recently, the RNC had all 6 members of the IOC attend a five day advanced intelligence course (27 to 30 March 2017) offered by CSIS. One member will attend *Using the Internet as an Intelligence Tool* (24 to 28 April 2017) put on by the Canadian Police College in Ottawa. One member will attend a course on *Computer Facilitated Crime and Investigative Strategies* (19 to 21 June 2017) put on by the International Association of Crime Analyst's Symposium. And, the RNC has secured two seats in the next two months for *Policing and Social Media* put on by the Toronto police College.

As with all training, there are limited resources and it is not always possible to obtain seats in courses given by other organizations even when given in NL. In-house training and utilizing outside expertise can also be used.

Two Person Patrol Units – Response Units

While 2 person patrols or response units may be the best practice and the ideal situation, the RNC has managed for over 25 years (since 1991-1992) using one person patrols in most instances. The history leading to the practice of one person patrols is that in 1992-1993 the government threatened lay-offs if the RNCA did not agree with one person patrols, so the RNCA reluctantly agreed to this. The RNC does not take the position that the current practice of one person patrols must change, as Chief Janes testified, current RNC staffing is "just enough".

1029 Requests

The RNC feels that the content of the training is fine. Obviously there are issues although the RNC takes the position that Oram knew full well what was being asked of him and what information he should have given Smyth, namely: he should have advised Smyth of the caution for violence and done a criminal records check.

The RNC does not have a technical or a policy and procedure manual with respect to the communications centre, and intends to create both provided there are sufficient resources. Further, as with training in general, the RNC needs to better document its training. The RNC is in the process of confirming and ensuring that all communications personnel are familiar with the call codes.

Province-Wide Emergency Communications Centre

While not an issue at the Inquiry the RNC would like to see a province-wide emergency communications centre developed.

With today's technological advances, emergency services in Newfoundland and Labrador would be better served with one province-wide Emergency Communications Centre (ECC). There are numerous ECCs responding to police, fire, and ambulance calls throughout the province, as well as two 911 centres located in St. John's and Corner Brook.

The Royal Newfoundland Constabulary (RNC) and the Royal Canadian Mounted Police (RCMP) are supportive and have discussed such an initiative in 2012 and again in 2016 during the RNC's efficiency review under the Government Renewal Initiative (GRI).

Such a seamless service delivery model would not only enhance emergency responses, but provide clearer lines of communication between responding agencies. In addition to enhanced service delivery, efficiencies would be achieved through efficient utilization of human resources, and reduced infrastructure/ technology costs. The province is currently considering the acquisition of a province-wide radio system for use by these services, and the establishment of such a centre could be included in those discussions.

Smyth's Use of Lethal Force

There were three experts qualified in the use of force: James, Knappman and Massine. All three concluded that Smyth's use of lethal force was reasonable and necessary under the circumstances. The RCMP investigation agreed with this conclusion. The opinions of Jones (the ombudsdman) and Hughson (ASIRT), which found that the RCMP investigation did not have any material deficiencies, conclude by implication at least that Smyth's use of lethal force was appropriate.

Smyth was in conversation with Dunphy when the situation deteriorated rapidly. Dunphy suddenly pointed a rifle at Smyth while he was distracted "making notes." Smyth responded by raising his hand, calling out "No" three times and firing four shots as he attempted to leave the room. He saw Dunphy follow him with the rifle and after two shots to the body he was uncertain if the third shot to the head struck Dunphy so he fired a fourth. Firing two shots to the body and one to the head is consistent with Smyth's training. Initially there were questions regarding the number of shots but not by the end of the hearings.

While Smyth would not have known at the time, the rifle was loaded. But, as Knappman pointed out, "It is unclear if the bolt became locked and fell back when dropped or if it was in this condition when it was pointed."

While there was agreement that Smyth committed some tactical errors while in Dunphy's residence, all, except Coleman and Massine, agreed that these would not have changed the outcome.

In addition to the concerns surrounding Smyth's tactical errors in Dunphy's residence, Dunphy's daughter raised, without any evidentiary foundation, issues with respect to staging, whether or not there had been a struggle and Dunphy's physical ability to grab and point the rifle. The RNC's training in threat and risk assessment, use of force and de-escalation was questioned by Coleman and Massine. The impartiality and thoroughness of the RCMP investigation was also brought into question.

The autopsy, the forensic evidence and the evidence of others all support Smyth's version of events and there is no evidence to the contrary.

Donald Dunphy's Physical Condition and State of Mind

Dunphy's physician and daughter both denied that Dunphy had any mental illness or even a mental health problem or that he was in crisis. While the condition of Dunphy's residence and his Tweets may raise mental health concerns these are inferences and there is no clear evidence to support any specific mental health issue. The evidence of his daughter on that Easter Sunday does not suggest he was in any particular crisis on that day.

Even though Lenehan indicated in the last line in paragraph 3 on page 8 of his report (P-00784) that "there is nothing reasonable to suggest that Dunphy posed any risk to Sgt. Smyth's safety," which all officers and experts essentially agreed with except Coleman and Massine, Dunphy's Tweets indicate he was exasperated with government and had some violent ideation.

There was no evidence that Dunphy had any physical disability that would impair his ability to take a rifle from the right side of his chair, point it and follow the movements of Smyth with it. None is found in his Workplace NL or WHSCC files; his daughter gave no such evidence and his doctor testified that he had no problems with his right arm or hand.

Dunphy had at some time hid the rifle behind the couch and this would take as much if not more effort than leaning over to grab the rifle and pointing it. He then, at another unknown time, took it from behind the couch and placed it near the right side of his chair – again requiring as much if not more effort than grabbing and pointing it.

There are five very significant inferences that arise from Dunphy removing his rifle from behind the couch and placing it next to his chair in the living room, and that it was loaded:

1. He had the physical ability to handle his rifle.
2. He would have put the rifle in a location such that he could readily access it.
3. He would have put the rifle in a location such that it would not be visible to anyone in the living room, keeping in mind that no one had seen it before except his daughter who saw it hidden behind the couch when she was cleaning.
4. He would not have invited Smyth into his living room if the rifle had been visible.
5. He was clearly preparing and planning to use his rifle if he chose to do so which he did on that Easter Sunday.

These inferences imply rational and considered thought processes. Furthermore, Dunphy waited for Smyth to be distracted before he went for his rifle and followed Smyth with it as Smyth tried to leave, so he was thinking pretty clearly in those few moments.

Staging and the Struggle

There is no evidence of a struggle nor is there any evidence of staging. These allegations are purely speculative.

The Coleman – Massine Report

Before discussing what transpired in Dunphy's residence, it is necessary to review the Coleman-Massine Report.

While the RNC accepts many of the recommendations of the Coleman-Massine report (see attached response to the recommendations) and appreciates the fact that Commission has made efforts to assist the RNC by providing their analysis, the RNC would be remiss if it did not point out the following significant weaknesses in and concerns with their report.

This report is so one-sided, so unreasonable, so lacking in objectivity and contains such serious errors it is of minimal use to the Commission. Coleman and Massine question and make findings of credibility against Smyth, draw unreasonable conclusions and base their opinion with respect to lack of training without having fully examined the RNC training and having made at least one very serious error regarding the RNC's use of force training not being up to national standards.

The conclusions they reach in their report, except for a few, are contrary to the opinions and evidence of everyone else who testified regarding the issues raised in their report. They have nothing positive to say about the RNC or Smyth.

In Coleman's words, "it is interesting" that their opinions, however, are entirely consistent with the position of Meaghan Dunphy and the Don Dunphy Coalition as expressed through her evidence and the lawyers' cross-examination of witnesses, the media and social media.

Coleman and Massine clearly had some agenda. This is best exemplified by their highly prejudicial and irrelevant attempts to undermine Smyth's credibility, the lack of which is essential to Meaghan's and the Coalition's theory or theories.

While they each wrote their own sections of the report, except that Coleman wrote summaries for both of them, they presented it as a joint report and must accept that it as such for which they are both equally responsible.

Coleman's and Massine's Qualifications

Both of them no longer work in the real world of policing. Coleman's academic qualifications and background may make him an excellent administrator but his experience and expertise in de-escalation deals with persons who have mental illnesses or who are in crisis usually in the context of the police being called to a crisis situation. His CV on page 6 (P-0771) indicates that his work in risk assessment is a recent interest. He has not written a single paper on T and RA. It is no surprise that he has never been qualified to give opinion evidence before.

Massine has more experience as an officer, although it is dated, and he too was primarily an administrator and not an active front-line police officer. He has never given expert testimony in a situation like this one.

Attacks on Smyth's Credibility

Coleman repeatedly raises issues regarding Smyth's credibility. In questioning, let alone deciding Smyth's credibility, Coleman loses all objectivity and independence; and this undermines his entire "expert opinion."

In the first 14 pages of the report Coleman repeatedly uses certain words or phrases in a rhetorical fashion that comment upon Smyth's evidence and question directly or indirectly, though perhaps not in every case, Smyth's credibility. The objectionable words and phrases are: apparently, asserts, assuming, it seems, maintains that and when he says that something is interesting. There are also other ways in which he questions Smyth's credibility later in the report on pages 55 (11th bullet), 56 ("these are important inconsistencies to note"), 58 - 3d paragraph ("the interaction with Mr. Dunphy might have been more aggressive and disrespectful than we have initially been told"), 60 and 61 (paragraph 2) in particular.

Everybody knows that the only evidence of what transpired between Donald Dunphy and Smyth is the evidence of Smyth. It only need be stated once in the entire report. The fact that these qualifying words and phrases are used 24 times in only 14 pages and on six other occasions during his summary at the end raises the obvious concern that Coleman is questioning Smyth's credibility. These qualifying words or phrases are redundant and no other expert recited Smyth's evidence in this manner.

On page 9, in the 5th paragraph beginning "One explanation," Coleman argues that Smyth is presenting a "spurious" argument. This is an outright accusation that Smyth is being deceitful both by definition of the word and its context. In the 6th edition of the OED (p 2979) the principle meaning of spurious is superficially resembling or simulating something, but lacking genuine character or qualities; not true or genuine; false, counterfeit.

Coleman refers to Smyth's failure to take notes on pages 7, 8, 9 and 10 and on two of those occasions as if this was somehow deliberate. The Commission heard ample evidence that Smyth did not have his notebook with him and did not make adequate notes which Smyth himself admitted, although some of his lack of note taking can be explained under the circumstances.

Coleman repeatedly uses the phrase with quotation marks "typed notes" which repeatedly questions the propriety of what Smyth did. It was Smyth's occurrence report not his notes, and

Coleman for some reason does not accept this fact and questions it. It would appear that he got this phrase from the RCMP report.

On page 7, third paragraph, Coleman states "Apparently, Cst. Smyth did not use his police notebook for the risk assessment and investigation of Mr. Dunphy." The word apparently carries the connotation that things are apparent as opposed to real. Coleman is questioning Smyth's evidence in this regard. Coupled with the comment below at page 8, the implication is that Smyth chose not to make notes.

On page 8, at the end of the third paragraph Coleman states:

Cst. Smyth should have been told that CPIC indicated Mr. Dunphy had a VIOLENT caution and record for possession in drugs. Cst. Smyth did not become aware of this until 2016 when he was interviewed in preparation for the Inquiry. He says that had he known, he would not have attended Mr. Dunphy's residence alone. Although this begs to question about the reliability of those conducting CPIC checks, that Cst. Smyth did not record the various checks made by Oram and his notebook or later in his 'typed notes' is interesting.

Here Coleman is clearly questioning why Smyth did not record his 1029 and other checks in his notes as if there was an ulterior motive or he had something to hide.

On page 10, in the first paragraph Coleman questions how Smyth introduced himself. Whether or not Dunphy knew Smyth was a police officer was an issue raised by Meaghan Dunphy even though it was obvious that Dunphy clearly knew he was. Coleman states "Cst. Smyth apparently had a police badge attached to his belt concealed under his jacket next to his pistol." Here the word apparently is clearly intended to question Smyth's evidence. Massine raises the same unfounded concern.

On page 11, in the last paragraph, Coleman states

Cst. Smyth says he showed his police ID and wallet badge from a distance estimated by Smyth is 10 to 30 feet; however, although his "typed notes" states he introduced himself as Sgt. Smyth, he said when interviewed in 2016 as well as in his Inquiry testimony that he introduced himself as Joe Smyth of the RNC as opposed to Cst. or Sgt. Smyth.

Coleman should not be raising issues of credibility, let alone determining them. In this instance, he should have discussed each option as to how Smyth introduced himself and how each way he

(could have) introduced himself may have impacted the situation and improved communication with Dunphy. Instead he merely raises rhetorical questions and provides nothing useful to the Commission. His opinions regarding Smyth's credibility are irrelevant and only prejudicial, and not in his terms of reference.

In Massine's portion of the report, pages 14 to 44, he too questions Smyth's credibility on pages 14, 33, 36 (twice), 41 and 42; and Massine repeats on four of those occasions that his "expert opinion" that the shooting was justified is limited by the fact that the only evidence comes from Smyth, something that only needed to be stated once in the entire report and not in the way he does.

On page 14 he states:

In order to put Cst. Smyth's response to **the alleged actions** of Mr. Dunphy's behavior in context, this writer feels that it is important to conduct an analysis of Cst. Smyth's response in relation to the use of force and firearms training he has received from the RNC. [emphasis added]

The word allege can have a neutral meaning but its other meanings include: affirm, assert, especially without proof; and to advance an argument or excuse. The word allegedly, the adverb, is used especially in statements for which the author disclaims responsibility. (OED, p56)

On page 33 under the heading **Synopsis of Incident**, Massine states in one paragraph no less than three times that his opinion is limited to Smyth's evidence:

It should be noted that the only account of the interaction between Cst. Smyth and Mr. Dunphy, leading to the death of Mr. Dunphy, comes from Cst. Smyth. Lacking evidence to the contrary, the writer's assessment and subsequent opinions are based on the information provided by Cst. Smyth as that is his sole source of information of the interaction between Cst. Smyth and Mr. Dunphy.

At page 41 of the report:

Because there is no evidence to the contrary, the writer is of the opinion that Cst. Smyth's application of lethal force (four rounds from his pistol) on Mr. Dunphy was appropriate in the circumstances which Cst. Smyth described.

At page 42 he says yet again that there is no other evidence:

Absent evidence to the contrary, the writer feels that Cst. Smyth responded to what he perceived as a Lethal Force threat appropriately. Where the writer struggles is in what he feels is an inappropriate risk assessment and Cst. Smyth's reasoning for attending Mr. Dunphy's residence alone when any trained police officer should suspect a tenor of violence for a *Criminal Code* investigation of uttering threats.

The second sentence is another attempt to undermine Smyth's credibility. It is however an excellent example of how Massine ignores the facts and has no idea what a threat assessment is since there was no criminal investigation underway. Massine repeats this error twice on page 38. There was not even an allegation of a threat since Smyth was investigating if there was a threat at all.

On page 36 Massine questions Smyth's credibility regarding whether or not he attempted or pretended to make notes when in Dunphy's living room:

It is worth mentioning that the writer saw no mention of a pen belonging to Cst. Smyth being recovered by the investigators.

From his right peripheral vision Cst. Smyth observed what he believed to be the barrel of a rifle being moved toward him. He stated that he simultaneously yelled, "NO," several times while dropping the file folder and possibly the pen that he may have been holding...

Clearly Massine, like Coleman, is questioning Smyth's credibility which is irrelevant, only prejudicial and not within his expertise or terms of engagement. His opinion that Smyth's use of lethal force was appropriate is undermined by the numerous irrelevant unnecessary and prejudicial qualifications he adds to that opinion. Similarly, he is questioning whether Smyth is being truthful about using a pen simply because the RCMP did not look for it.

Smyth's Attitude

Coleman focuses on what he refers to as Smyth's attitude premised upon his texts with his friend Trevor and the fact that he continued to gather information on his way out to Mitchells Brook. Coleman assumes that Smyth had a negative attitude towards Dunphy from the outset, had decided to go to his residence regardless and had more or less made up his mind to arrest him. Massine follows suit.

This however is a good example of Coleman's attitude and approach throughout the report. He takes a minimal amount of "evidence" and gives it its most negative connotation and fails to consider any other reasonable possibilities. Smyth was texting a close friend in a personal exchange. He had no basis to arrest Dunphy although it was possible that grounds may have evolved on the way or when he went to see him. Police officers frequently do code checks while in transit and Smyth could have turned around at any time if he had learnt anything different and obtained the assistance of a second officer. There is no other evidence to support Coleman's assumptions and inferences.

The Meaning of Threat

Coleman does not clarify or define for the Commission what is meant by or involved in a threat and/or risk assessment. Instead he confuses the matter. So does Massine. This begs the question whether or not they should be allowed to discuss the issue, let alone give an "expert opinion" on it. Coleman's confusing comments are found on pages 3 (last paragraph), 9 (twice in the paragraph beginning "The day in question") and on page 11 in the paragraph that begins with "However, Cst. Smyth chose not to contact Meaghan." This confusion continues in Coleman's summary of Smyth's PRA on pages 54 to 62.

As noted above, Massine makes a similar same error when he states: "Cst. Smyth's reasoning for attending Mr. Dunphy's residence alone when any trained police officer should suspect a tenor of violence for a *Criminal Code* investigation of uttering threats." And he repeats this error twice on page 38.

The Tweet of concern was not a threat, an allegation of a threat or threatening. The language used was sufficiently disconcerting that it needed to be ascertained if it was a threat or if it was threatening. There was no criminal investigation of uttering threats.

The RNC's Use of Force Training

Massine decides that the RNC use of force training, including de-escalation and defusing techniques and PRA is not up to national standards and the RNC teaches the wrong model or framework, both of which are based on very significant errors and faulty assumptions. Coleman follows suit.

As Coleman notes on page 63 of the report, there are no national standards for use of force education and training, so it begs the question how Massine and Coleman can conclude that the RNC's training is not up to national standards.

On page 19 of the report Massine states with respect to the kind of training the RNC receives that:

Because of the reference in RNC training material made to the "Use of Force Continuum," the writer believes that Sgt. James does not have a clear understanding of the National Use-of-Force Framework/Model and how it relates to Canadian police/law enforcement and especially police officers of the RNC, as opposed to the United States based PPCT training which teaches the PPCT Resistance/Control Continuum.

This is inaccurate and totally absurd. Hardly the kind of error an expert makes.

On pages 66 to 81 during cross-examination (Tab 2) Massine eventually concedes that the entire basis of his opinion that the RNC are not adequately trained is because the RNC training is not adequately documented and there is no curriculum (no lesson plans etc.).

Massine eventually concedes in cross on p.73: "I don't know what they taught." Then, ". . . the whole basis of my opinion is they do not appear to know what they're doing when it comes to teaching, Sir, as far as the curriculum." The on page 74 he is asked: "You just assumed because you can't find a [teaching] plan they don't do it. Is that correct?" To which he replies, "That's the basis of my opinion, Sir."

At no time did Coleman or Massine attempt to contact the RNC to determine anything about their use of force training nor did they request any additional training materials other than those they had been provided with. Their opinion is based solely on what they had been provided with. The RNC provided all materials that were requested and had no idea where Coleman and Massine were going. Had they been asked or if the report had been filed in a timely manner, the RNC could have clarified all of these issues.

One determination by Coleman, which is of great concern and involves training, is found on page 13:

The attempts to 'read' the situation and take steps to defuse/de-escalate should have been such that the situation did not deteriorate as it did. Of relevance to this, it does not appear that the RNC has dedicated sufficient attention to the de-escalation of difficult situations. The RNC Use of Force Training Manual has less than one page of its 370 pages that raises the issue of verbal communications/de-escalation. In addition to its brevity, the content is certainly inadequate to teach the necessary skills including by means of well-designed role play scenarios.

The first sentence is a conclusion that Coleman does not have the expertise to arrive at and is (potentially) an ultimate issue before the Commission. There is no evidence to support his opinion which is irrelevant and highly prejudicial. His statement about training is incorrect. Coleman's opinion could result in notices of misconduct being issued to Smyth and the RNC, and suggests that both were negligent.

When it comes to the RNC's training, surely it follows that if Smyth did everything he was supposed to do properly then he was adequately trained. Even Massine admits when being cross-examined by Avis and Kennedy (Tab 2) that Smyth's conduct during the shooting incident was appropriate. But rather than admit that Smyth was trained properly he tries to avoid this obvious conclusion and suggests without any evidence that Smyth was some kind of an elite officer and that there are those who get it quicker than others or just perform better, all of which contradicts just about everything Coleman and Massine had to say about Smyth.

Massine was caught out in a very serious error and was trying unsuccessfully to dig his way out. His evidence is disingenuous and contradictory. Smyth was aware that Dunphy was following him with his rifle, which means he was continuously assessing the situation. He reassessed after two shots to the centre of mass and reassessed again after the third shot to the head because he thought he did not hit Dunphy in the head, so then he fired a fourth shot. Smyth was following the NUFF/NUFM and not the US PPCT approach which suggests three shots automatically without re-evaluation. Massine is clearly wrong and would not admit it.

Knappman testified that Smyth's training and conduct on that day were consistent with the NUFF/NUFM and his conduct was consistent with an officer of his experience.

Massine was also cross-examined regarding the RNC's use of force policy (Exh P-0801, p1, 1.6 to 1.9, and 2.1 to 2.4) and agreed that they are appropriate and that they are consistent with NUFF/NUFM.

The following is from page 151 from the Luther Report (December 2003):

14.1 Training

a. Use of Force Continuum

The Inquiry is satisfied that R.N.C. officers, including the incident officers, have been adequately trained in use of force. The present model, "National Use of Force Model", was adopted by the R.N.C. in 2001 with the input of academics and leading police trainers, including Inspector James Carroll.

The training programme of the R.N.C. in this subject area is consistent with Ontario, British Columbia, R.C.M.P., etc. It also adheres to the principles set out by the United Nations in its Code of Conduct for Law Enforcement Officials and Use of Force and Firearms by Law Enforcement Officials.

The expert from the Ontario Police College, Chris Lawrence, did not fault the three incident officers in their response to Darryl Power's threat.

Inspector James Carroll, now a deputy chief, was the RNC's use of force trainer at the time and the person who assisted in the training of Sgt. James. Massine's opinion and his version of the history regarding the RNC's use of force manual and training is contrary to the evidence and the findings of the Luther Report which he did not review.

In 2003 the RNC's use of force training was based upon the NUFF/NUFM and even Luther uses the word continuum; and it was found to be up to standard. Further, the RNC's use of force instructor, who trained the current instructor James, was one of the participants in developing the model. Finally, the RNC shooting in Power was found by Luther to be without fault which implies they were trained properly back then.

In 2014, some 11 years later, the RNC use of force training is still up to standard although the RNC accepts that there is always room for improvement and it needs to better document its training with lesson plans, evaluations and so on. Further, the RNC adopted all of the Luther Inquiry recommendations, all of which were related to mental health training (Tab 4). This demonstrates a strong commitment to mental health issues that has continued since then.

James testified that the RNC follows and teaches the NUFF/NUFM and that he did the PPCT course because it is essential to maintain the skills needed to use weapons such as the baton, OC spray or handcuffs effectively and without causing injury. He further testified that PRA, de-escalation, mental health issues, use of force options, and all other principles found in the NUFF/NUFM are taught in all forms of training as well as requalification, often on an individual basis. Officers and cadets are constantly being observed, counselled and coached. James and the RNC concede however that better documentation is necessary.

During Smyth's testimony a one year sample of his use of force when he was in patrol (some 18 examples) and all situations in which he drew his weapon were examined and on each occasion he followed his NUFF/NUFM training and on each occasion his use of force was found to be reasonable and appropriate. This shows that his training was in accordance with the NUFF/NUFM, that he was well trained and has a perfect record in use of force. His evidence

was not even challenged and Massine, for some reason, did not see fit to even look at (or comment upon) Smyth's prior use of force which is surely a very significant piece of evidence.

There was also criticism regarding the RNC's recruitment and cadet training, again without reviewing or requesting the appropriate documentation from the RNC. Based on the absence of supporting documentation Massine makes his usual assumption that none of this is done properly or up to standard – whatever that standard is.

Found at Tab 5 is the RNC's response to the Coleman-Massine recommendations and at Tab 6 there are supporting and other documents, which have already been filed with the Commission, that demonstrate the current situation with regard to cadet recruitment and training, as well as documentation showing when, for example, de-escalation techniques are taught and by whom.

The cadet recruitment process is a rigorous one with very high admission standards and managed by a staffing specialist. The RNC training section has the appropriately qualified staff in the areas of mental health and de-escalation. And it is apparent from this documentation that RNC members and cadets receive first class training although there is always room for improvement.

The Shooting Incident – PRA, De-Escalation and Tactical Errors

Everything happened very quickly. Smyth had only moments to consider his next step and during the shooting itself only split seconds. The situation seemed fine for most of the time and only deteriorated in and for a matter of seconds at the very end. It really was not foreseeable that Dunphy would point a rifle at Smyth and this is the crux of the matter.

The measure of Smyth's conduct is officer perception not what actually happened (Knappman). This is a very significant element when evaluating Smyth's actions and decisions.

All of the issues surrounding PRA, de-escalation and tactical errors during the incident were identified by others, and Coleman and Massine added nothing in that regard. They differ, of course, in their analysis of the event and like all of their other evidence it is at odds with and contradicts all the other witnesses and experts.

Coleman and Massine opine that Smyth did not do a proper PRA nor did he take the appropriate steps to de-escalate the situation, and if he had done either correctly or had been trained properly, this would never have happened. Essentially Smyth did everything wrong. No one else agrees with this. Coleman and Massine are classic armchair quarterbacks with 20-20 hindsight and these opinions are well beyond their expertise.

Since no one knows why Dunphy pulled his rifle, how can anyone state with any certainty what would or would not have made him do so? It is one thing to discuss for the benefit of future training other options Smyth might have considered but how can anyone possibly conclude Smyth incited Dunphy to pull a rifle on him (officer induced jeopardy) because he did or did not do this or that?

A major problem is that Coleman's expertise in de-escalation, according to his CV, is with respect to the mentally ill or emotionally disturbed people or people in crisis. Dunphy was none of these so how much actually applies? Knappman stated that the de-escalation techniques that have been developing, while they may be useful considerations in any situation, are meant for mentally ill or disturbed people or those in crisis.

Based on Smyth's PRA a second officer was not necessary. There is no assurance that the presence of two officers would have made any difference. Knappman mentioned a study of police officer deaths as a result of vehicle stops in robbery cases. Some 54% of deaths occurred with 2 officers and 48% of deaths with one officer, indicating that more officers does not necessarily mean there is less likelihood of officers being shot.

Should Smyth have sat down? If he had he would have compromised his ability to draw his weapon, his ability to leave and his ability to get to the stick before Dunphy did. Knappman thought he should have been standing. Smyth said he did not sit down because of the condition of the premises. Under the circumstances Dunphy's residence is a health concern if not a hazard. Cat faeces, urine and vomit, and god knows what else might have been on that couch. The fact that Coleman and Massine do not even acknowledge this as being a reasonable concern shows again how one-sided and unreasonable their opinions are.

Hart saw nothing wrong with Smyth telling Dunphy to calm down and Knappman said it depends how it was said yet Coleman suggest it should never be said. Moreover, Smyth said words to the effect, "Calm down, I am not going to arrest you," which is not the same as a bald statement that he should calm down because he is being told to by a police officer. Smyth is telling him he has nothing to worry about. How can anyone really take issue with this?

Perhaps when Dunphy got agitated because Smyth was looking around, Smyth could have looked directly at him and listened instead of "making notes" but how can anyone possibly conclude that this would have made any difference?

There is agreement that Smyth made tactical errors but again it cannot possibly be concluded that doing or not doing any of them, or doing them differently would have made any difference. Smyth, for example, perhaps should not have taken his eyes off Dunphy or his hands but Smyth did not see Dunphy as a risk and was trying to calm the situation down because he perceived that

Dunphy was upset by him looking around. Similarly Smyth perhaps should have left his hands free and not pretended to make notes but it clearly had no impact on his ability to draw and fire his weapon in time.

The most outrageous suggestion, which came from Simmonds, Q.C. in cross-examination, was that Smyth was negligent for taking his eyes off Dunphy since he would have seen the rifle before it was pointed at him and have been able to do something other than shoot Dunphy. Coleman and Massine infer, more or less, the same thing.

Everyone agreed that once the rifle was presented that Smyth's only option was to draw and discharge his weapon. Having regard to how quickly this occurred, an extra second or two could not possibly have made any difference and it is absurd to suggest he could or should have attempted to wrestle the rifle from Dunphy under any circumstances.

Smyth was conducting a routine threat and risk assessment, something he had done many times before including going alone to visit the subject at home. Dunphy's Tweet was not a threat, an allegation of a threat or threatening. Smyth's PRA was low. Knappman testified that, "There was nothing to indicate that Smyth would face what transpired that day." Lenehan stated at page 8 of his report, "there is nothing reasonable to suggest that Dunphy posed any risk to Sgt. Smyth's safety." Smyth's conduct in Dunphy's living room that day reflects these two simple truths and, as indicated at the beginning of this section, this is the crux of the matter.

The RCMP Investigation

Notwithstanding all of the criticism and the issues over independence, it was determined by two independent agencies (Jones, the ombudsman and Hughson with ASIRT) that the RCMP investigation did not have any material deficiencies. All of the evidence supports this conclusion.

While concerns were raised with respect to the liaison between the RNC and the RCMP, it was clear from the evidence that Sheppard, who was chosen as the liaison because he had no other involvement, performed his role without ever discussing with or commenting upon the investigation to the RCMP, hence maintaining the independence of the investigation from this perspective.

Finally, all of the communication between the RNC management with each other and the RCMP at the outset and throughout was reviewed and found to be entirely appropriate.

Communication with Smyth

All of the communication with Smyth by members of the RNC, especially management, was reviewed at length but there was nothing inappropriate or improper with any of their communications.

The Use of Force Forms

Issues arose with respect to the fact that the use of force forms in the past at least had not been filled out (left blank) which led to the concern that the use of force by members was not being reviewed. This was also an issue with the Auditor General along with an issue regarding the inventory of firearms and ammunition.

Once again, the issue was more a matter of properly documenting the process rather than a failure in the process itself since the forms were reviewed and all the appropriate steps were taken.

Deputy Chief Singleton did testify about these issues (16 Feb 2017, pp. 108 to 114) and Chief Janes responded to the concerns in correspondence to the Commission dated 21 March 2017 (Tab 6).

In summary, Singleton testified as follows: that prior to 2012 all members of the Use of Force Review Board would receive between 200 and 300 forms which they would have to review and assess in what was a very cumbersome process. In 2012 there were changes in the use of force policy (Tab 8) in which the role of the Use of Force Review Board was changed. After this new policy, the Use of Force Review Board would only review incidents where remedial training was recommended by the inspectors.

The policy has been further amended in August 2016 (Tab 9, Exhibit P-0499) as well as the creation of new forms. There will now be a use of force training log and a record will be maintained of all reported incidents of use of force with a detailed report going to the Chief of Police by 31 January of the following year. Further to the policy change in August 2016 and as a result of questions raised during discovery phase for the Inquiry, the RNC made amendments to their Use of Force Reports (Form 096) and their Use of Force Monthly Summary Report (Form 324) on February 7, 2017. Form 096 now provides fields for the comments, signature and signature date for the submitting officer's supervisor, Inspector and Superintendent (Divisional Commander). The Inspector and Superintendent will be responsible to identify if remedial training is recommended for the submitting officer. Each month Use of Force forms will be submitted along with the Monthly Summary Report (Form 324) to the respective Deputy Chief of Police. This form has been amended to now include a signature and date line for the Deputy Chief.

If remedial training or other issues have been identified the Use of Force Report will be submitted to the Use of Force Board for review.

In addition to any Divisional review undertaken, the new procedure (February 2017) requires that on a quarterly basis, the NCO of the Use of Force Unit will attend at the Office of the Chief of Police and sign out the monthly summary reports for that quarter.

The NCO of the Use of Force Unit will be responsible for the following:

- (a) review all submitted Use of Force Report RNC #096;
- (b) maintain and update a spreadsheet identifying all current members of the RNC and each officer's use of force; and
- (c) maintain an archive of all quarterly reviews for each calendar year.

With respect to Smyth and the shooting incident with Dunphy, Singleton testified that in light of the fact there was a criminal investigation and an upcoming Inquiry, under the circumstances it would not really make much sense for this to go to the Review Board.

Policy Planning and Research Capacity

See Tab 10

Police Communication with the Public Following Serious Incidents and During Active Investigations

See Tab 11.

Investigation of Officer-Involved Serious Incidents – a NL SiRT

See Tab 12.

Mobile Crisis Response Team

See Tab 13. This is a recommendation from the RNC that resulted from recommendations from the Luther Inquiry.

Protecting Freedom of Expression in an Age of Social Media

See Tab 14 attached.

Tab 1



Policies and Protocols of Government or the Royal Newfoundland Constabulary with respect to the Security of the Premier and Cabinet Members

Protective Service Unit & Inspector Position

Background

Protective Service Unit

Protective services for the Premier of Newfoundland and Labrador can be traced backed over 36 years, however, prior to 2012, it was staffed on an ad hoc basis. In 2012, the Protective Service Unit was formalized with the assignment of four full-time members and the introduction of formal policy. While this unit was formalized, there was no permanent supervisory rank identified. In 2014, the number of members assigned to the Protective Service Unit was reduced and the number of resources varied depending on the Premier. The mandate, however, remained constant.

The mandate of the Protective Service Unit as outlined in policy was two-fold:

- To provide close protection services to the Premier of Newfoundland and Labrador and other designated dignitaries;
- To gather intelligence on persons and groups of interest, demonstrations and other matters that could potentially cause direct or indirect harm to the Premier, the Office of the Premier or any other elected official.¹

On occasion, the Protective Service Unit has been viewed by some as a political perk rather than the need to ensure that elected officials who are tasked and given the responsibility to make sometimes unpopular decisions, are safe and free from violence, threats and harassment, just like any other worker throughout Canada.

A jurisdictional scan of protective service units in the provinces of Ontario, Quebec and Alberta shows that units in these provinces divide these functions into two different areas of responsibility, namely:

- Members assigned to close protection services are only responsible for the specific role of close protection
- Gathering of intelligence and the investigation of any matter that could cause direct or indirect harm to elected officials/dignitaries are assigned and investigated separately by

¹ Royal Newfoundland Constabulary Protective Service Policy

investigators in the Intelligence Unit of the police service responsible for the jurisdiction. They also have the responsibility to conduct threat and risk assessments.

These three provinces were selected for review because the Provinces of Ontario and Quebec have their own provincial police service similar to Newfoundland and Labrador; while Alberta has experienced a significant increase in the number of threatening or perceived threatening comments against their current Premier on social media.²

The Protection Service Units in Quebec and Ontario are staffed by members of the respective provincial police service; while Alberta's close protection service is provided by the Alberta Sheriff's Office. In each of these provinces there are legislative provisions in their police/peace act or memorandums of agreement with the government for the establishment of these units. Personnel are selected by the Chief or Manager of these units based on skill, ability, and merit with no involvement from the Government or other elected officials, thus making the unit free of political interference. Each unit has a formal reporting structure that remains intact regardless of whom or what party is elected to power, thus guaranteeing this unit from being politicized.

There is an expectation of all citizens of Canada that all law enforcement personnel or peace officers be free of political influence, and in fact, in the case of the Royal Newfoundland Constabulary, such expectations are outlined in the provisions of Section 7(1)(d) of the Royal Newfoundland Constabulary Regulations under the *Royal Newfoundland Constabulary Act*.³

The duties and responsibilities of all elected officials in a democratic society is a very difficult task and its citizens expect that those elected officials be permitted to do their job free from harassment, threats, perceived threats and violence directed towards them and their families. As a civilized progressive democratic society, the principles related to the safety of elected officials and their families should be and must be a high priority for all its citizens.

Inspector Position – Criminal Investigation Division (Intelligence and Organized Crime Section)

In October 2014, the RNC's Criminal Investigation Division was reorganized from three sections into four as the RNC Executive recognized that management oversight was deficient. The current structure includes the following sections, each of which are managed by one Inspector position:

- Crimes Against Persons
- Intelligence and Organized Crime
- Property and Economic Crimes
- Science and Technology

² National media reports from CBC and CTV

³ *Royal Newfoundland Constabulary Act and Regulations*

This reorganization was necessary to ensure adequate management oversight was in place to meet operational needs, address shortcomings identified during trials before the courts and to reduce liabilities. The primary structural change saw the movement of science and technology-based units into a new section, with an increased focus on organized crime and intelligence led policing.

At the time of this restructuring Staff Sergeant Joseph Gullage was assigned Acting Inspector as the Officer in Charge (OIC) of the Intelligence and Organized Crime Section. This Inspector position did not exist prior to that time and remains a temporary “unapproved” and “unfunded” position. The Intelligence and Organized Crime Section is comprised of the following units:

- Criminal Intelligence
- Crime Analysis
- **Protective Services**
- Compliance and Enforcement of Orders (CEO)
- National Weapons Enforcement Support Team (NWEST)
- Informant Control Officer
- Joint Forces Operations between the RNC and RCMP
 - Criminal Intelligence Service of NL (CISNL)
 - Crime Stoppers NL

In addition to regular duties, the Inspector oversees the management of undercover agents and their handlers. Furthermore, he is the point of contact with the Premier’s Office when protection services are required.

Since 2013, the RNC eliminated three (3) Staff Sergeant positions in the Criminal Investigation Division. The removal of these positions has resulted in added responsibilities for the Superintendent and Inspectors remaining in this division.

The RNC has one manager for every twenty-two employees as compared to one manager for every four employees in the core public service. These managers are responsible for supervision, labour relations, human resources, policy development and financial management. The ratio of 1 manager to 22 employees becomes even more precarious when considering the RNC’s hours of operation are 24/7.

In addition to regular duties, the management team is also responsible for a number of secondary duties including incident command, public order, tactics & rescue and honour guard, and serving on an on-call schedule in order to respond to after-hour/emergency situations. In keeping with the RNC’s Corporate Plan and being community-minded, RNC managers conduct after-hours work with numerous community organizations such as the John Howard Society, Stella Burry, United Way, Coalition of Persons with Disabilities and many others. Such work on external committees and boards serves the RNC and government well in meeting the unique needs of these community groups. As well, the work of the management team and front line

officers often overlaps with a number of government departments including Health and Community Services, Department of Children, Seniors and Social Development (DCSSD) Tourism, etc.

The RNC management team oversees and monitors police officers in front line roles. These roles directly relate to ensuring public safety, reducing liability and being accountable to the communities served.

Recommendations

- The Protective Services Unit should be given the sole mandate to provide close protection services for the Premier of Newfoundland and Labrador and other designated dignitaries.
- In consultation with the management commission responsible for the elected officials of the House of Assembly, transparent/clear policies and protocols of government and the RNC with respect to the security of the Premier and other elected government officials should be established.
- The mandate to gather intelligence on persons and groups of interest, demonstrations and any other matter that could cause direct or indirect harm to the Premier, the Office of the Premier, or to any other government official, should be transferred to the Intelligence & Organized Crime Section.
- One additional permanent Inspector position is required. The absence of this management position will result in:
 - reduced oversight of policies and protocols with respect to the security of the premier, cabinet members and other designated dignitaries
 - decreased sharing of intelligence between the various CID sections & units; and
 - significant workload increases for the three remaining Inspectors. These Inspectors recently lost the support of three Staff Sergeants which were eliminated in the 2013 budget.
- A permanent rank structure is required to ensure consistency and accountability in the Protective Services Unit.
- ✓ ▪ Members assigned to Intelligence and Organized Crime Section should receive formal training for the purposes of conducting formal risk and threat assessments.

Tab 2



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General Order # 316
June 5, 2013

Protective Services Unit (PSU)

1.0 General

- 1.1 The purpose of this chapter is to identify the mandate of the Protective Services Unit and to outline the responsibilities of the officers assigned to the Unit.

2.0 Structure of Protective Services Unit

- 2.1 The Protective Services Unit is under the direction of the OIC of the Intelligence and Organized Crime Section of the Criminal Investigation Division.
- 2.2 The number of personnel and unit structure will be at the discretion of the Chief of Police or designate, and will be regularly evaluated based on threat assessment and operational requirements.
- 2.3 All members in the Protective Services Unit must possess the knowledge, skills and abilities to perform all duties in support of the Section's mandate.

3.0 Mandate of Protective Services Unit

- 3.1 To provide close protection services for the Premier of Newfoundland and Labrador and other designated dignitaries. Specific close protection roles include bodyguard, secure transport and advance security/liaison officer.
- 3.2 To gather intelligence on persons and groups of interest, demonstrations and any other matter that could potentially cause direct or indirect harm to the Premier or the Office of the Premier or to any other elected Government Official.

4.0 Function and Responsibilities

- 4.1 The Unit's function and responsibilities include:
 - a. security for the Premier of Newfoundland and Labrador while in the Province of NL;
 - b. security for the Premier when travelling outside of NL based on threat assessments and operational requirements;

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- c. performing daily operational functions as Bodyguard, Driver, and Advance as required;
- d. conduct investigations, in conjunction with the applicable unit of the RNC Criminal Investigation Division, into people or groups who pose a potential threat to the Premier, Office of the Premier or other elected Government Official;
- e. gather intelligence on persons and groups of interest, demonstrations and any other matter that could potentially cause direct or indirect harm to the Premier or the Office of the Premier, or other elected Government Official;
- f. act as a liaison between various Provincial Government departments and RNC investigative units as deemed appropriate by the Chief of Police or designate;
- g. prepare and execute operational plans that will include itineraries, contact lists, floor plans, health plans, routes, safe houses, anticipated financial expenditures; and thorough threat assessments that will be completed in accordance with the intelligence led policing model;
- h. where a full and comprehensive operation plan is not required for travel outside of Newfoundland and Labrador, PSU officers will prepare a Protective Services Travel Briefing and forward to the respective law enforcement agencies;
- i. work closely with government officials who are responsible for event and scenario planning;
- j. liaise with law enforcement, other Dignitary Protection Units and government officials for events and travel in respective jurisdictions;
- k. utilize assistance from other protective details where available and appropriate. All travel outside of jurisdiction will be approved through the Office of the Chief of Police by way of Journey Authorization;
- l. provide protective services to visiting Premiers or dignitaries or assist visiting Protective Units as necessary;
- m. liaise with RCMP B Division VIP Section as requested by the RCMP and/or Chief of Police;

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- n. act as a point of contact for intelligence gathering and dissemination for the Criminal Intelligence Unit in relation to threats towards the office of the Premier; and any other Government Official that could be associated to the Office of the Premier;
 - o. complete administrative duties as assigned; and
 - p. attend training sessions as needed.
- 4.2 Additional duties of the NCO in charge of Protective Services include:
- a. act as a point of communication between the Office of the Premier, the RNC Protective Services Unit and the Office of the Chief of Police in relation to matters directly applicable to the PSU mandate;
 - b. identify and coordinate resource and personnel needs for all PSU escorts;
 - c. recommend security level for escorts;
 - d. liaise and converse with other government officials and police agencies in relation to Protective Services operational requirements;
 - e. advise supervisor on the status of ongoing operational details and security assignments;
 - f. prepare and submit member attendance;
 - g. monitor and prepare scheduling;
 - h. prepare and submit quarterly reports for Protective Services; and
 - i. provide orientation to newly assigned members.

5.0 Operational Guidelines

- 5.1 The following general operational guidelines apply to all positions including bodyguard, driver, advance and investigator:
- a. maintain a continuous conscious effort in assessing and evaluating the situation and environments, while maintaining security and observations. Mentally plan defensive actions at all times;
 - b. be prepared for planned events, become familiar with itineraries, expected guests, intelligence;

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- c. wear appropriate footwear and supportive belts to accommodate issued use-of-force options;
- d. carry assigned communication devices (cell phone/blackberry) on vibrate mode;
- e. be attentive, anticipate threats, do not become complacent, expect the unexpected, be vigilant;
- f. keep in constant communication with other members of the team;
- g. communicate your observations to other members of the team;
- h. consider carrying a flashlight in case of dimly lit situations or power outages;
- i. make use of issued portable radio/wires to ensure proper/private communication between members of the team or other details;
- j. carry vehicle keys/spare keys/office keys/entry passes as required;
- k. when on assignment, both on duty and off be able to mentally and physically respond to any incident which may arise by:
 - (1) abstaining from the use of alcohol;
 - (2) abstaining from the use of prescribed drugs which could impair judgement (Cold tablets, sleeping pills);
 - (3) abstaining from physical activity which would preclude the ability for immediate response;
 - (4) ensuring a general proximity to the Premier and other members of the protective detail.

6.0 Training and Qualifications

6.1 Officers being assigned to the Protective Services Unit must be able to:

- a. complete all modules of Use of Force;
- b. pass the PARE test; and
- c. pass a 2.4 km run within 12 minutes (subject operational requirements).

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6.2 Protective Services Unit officers shall successfully complete:

- a. firearms annual re-qualifications; and
- b. any other training deemed pertinent to the Unit.

7.0 Dress and Deportment

7.1 These guidelines represent a clear expectation for all officers performing operations with Protective Services Unit. The expectations parallel what is outlined in RNC Policy and Procedure. There is however a higher expectation on the officers assigned to Protective Services due to the nature of their duties. Officers shall:

- a. view themselves at all times as police professionals representing all officers of the RNC and the Office of the Premier;
- b. maintain a high level of confidentiality and not disclose any information obtained in the course of their duties. Non-disclosure is inclusive of other RNC and Protective Services members as it relates to information that has no relevance to Protective Services duties;
- c. remain focused that their primary duty is the protection of the Premier or other designated dignitaries from harm;
- d. maintain a high level of professionalism at all times (be aware of personal habits, no gum chewing, smoking, biting nails, personal phone calls etc.) and project a firm, confident image;
- e. refrain from language or conduct which could be viewed in a disparaging light given the high profile of the type of duties performed;
- f. refrain from offering or soliciting opinions related to current internal/external controversial topics. If specifically asked for an opinion, officers should remember they are non-partisan and remain tactful in their response;
- g. not speak negatively about the RNC, Provincial Government or partner agencies while in the presence of the Premier or staff. Any internal grievances will be directed through appropriate RNC chain of command;
- h. dress in business attire unless a specific operation dictates otherwise; suits should be conservative in nature and not stand out; and all items of

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clothing should be professional and not show obvious signs of age or wear;

- i. ensure their level of physical conditioning is maintained to allow them to perform their duties and work extended hours without having a detrimental effect on their health; and
- j. maintain Protective Services vehicles in top condition ensuring: all emergency equipment is functional; the interior of the vehicle is kept immaculate and the exterior of the vehicle is kept clean and free of debris when weather conditions permit.

8.0 Firearm Storage and Transport

8.1 Firearms storage and transport shall be in accordance with the policy outlined in the Firearms chapter in this Manual.

8.2 Out of Province/Country Travel:

- a. Officers shall not carry service firearms out of the Province without the following:
 - (1) prior authorization of the Chief of Police or his/her designate; and
 - (2) lawful authority to carry a firearm in the jurisdiction being visited.

8.3 Firearms/Use of Force options:

- a. Officers assigned to the Protective Services Unit travelling outside the Province of NL will seek authorization to carry all use of force options with them while outside the Province and exhaust all avenues to ensure this authority is secured.

Note: OC Spray shall not be carried on board an aircraft.

- b. Officers will only be armed if they are endorsed within the jurisdiction that they are visiting.
- c. Officers shall take all necessary steps to obtain special authorization and/or special constable status when travelling to other Provinces and carry that authorization with them during the visit.
- d. Officers travelling outside of Canada and the United States will contact the RCMP and coordinate with them or the Local Embassy.

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- (1) RCMP's International Operations Branch has offices in 26 countries. Contact the RCMP's International Operations Branch in Ottawa at 613-993-3870 or 613-993-5598 for a list of current Liaison Officers, contact numbers and countries with offices throughout the world.
- (2) Carrying of firearms, related rules and regulations vary from jurisdiction to jurisdiction. The RCMP liaison officer will be able to provide further required information.
- (3) The safe storage of weapons is essential when off duty and officers will make every effort to do so, in compliance with storage requirements set out in the Firearms chapter in this Manual.

Tab 3

**GENERAL ORDER**
REVISION 353**SUBJECT: Protective Services Unit**

Effective immediately the chapter of policy entitled "*Protective Services Unit*" has been revised.

There were a number of changes to the format and content of this policy. The most notable changes and/or additions were made in sections:

2.0 *Structure of Protective Services Unit; and*

6.0 *Training and Qualifications.*

All personnel are required to visit the on-line manual and familiarize themselves with this policy.

Divisional Commanders will ensure that all officers under their command are thoroughly briefed on this policy revision.

Personnel are again reminded the contents of the manual are "confidential".

Original signed by

Wm. Janes
Chief of Police

Distribution: All Divisions
General Order: 353
Date: May 25, 2016



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Policy and Procedure Manual
General Order 353
May 25, 2016

Protective Services Unit (PSU)

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2.0 Structure of Protective Services Unit

- 2.1 The Protective Services Unit is under the direction of the OIC of the Intelligence and Organized Crime Section of the Criminal Investigation Division.
- 2.2 The number of personnel and unit structure will be at the discretion of the Chief of Police or designate, and will be regularly evaluated based on threat assessment and operational requirements.

3.0 Mandate of Protective Services Unit

- 3.1 To provide close protection services for the Premier of Newfoundland and Labrador and other designated dignitaries. Specific close protection roles include bodyguard, secure transport and advance security/liaison officer.
- 3.2 To gather intelligence on persons and groups of interest, demonstrations and any other matter that could potentially cause direct or indirect harm to the Premier or the Office of the Premier or to any other elected Government Official.

4.0 Function and Responsibilities

- 4.1 The Unit's function and responsibilities include:
- a. security for the Premier of Newfoundland and Labrador while in the Province of NL;
 - b. security for the Premier when travelling outside of NL based on threat assessments and operational requirements;
 - c. performing daily operational functions as Bodyguard, Driver, and Advance as required;
 - d. conduct investigations, in conjunction with the applicable unit of the RNC Criminal Investigation Division, into people or groups who pose a potential



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threat to the Premier, Office of the Premier or other elected Government Official;

- e. gather intelligence on persons and groups of interest, demonstrations and any other matter that could potentially cause direct or indirect harm to the Premier or the Office of the Premier, or other elected Government Official;
- f. act as a liaison between various Provincial Government departments and RNC investigative units as deemed appropriate by the Chief of Police or designate;
- g. prepare and execute operational plans that will include itineraries, contact lists, floor plans, health plans, routes, safe houses, anticipated financial expenditures; and thorough threat assessments that will be completed in accordance with the intelligence led policing model;
- h. where a full and comprehensive operation plan is not required for travel outside of Newfoundland and Labrador, PSU officers will prepare a Protective Services Travel Briefing and forward to the respective law enforcement agencies;
- i. work closely with government officials who are responsible for event and scenario planning;
- j. liaise with law enforcement, other Dignitary Protection Units and government officials for events and travel in respective jurisdictions;
- k. utilize assistance from other protective details when available and appropriate, all travel outside of jurisdiction will be approved through the Office of the Chief of Police by way of Journey Authorization;
- l. provide protective services to visiting Premiers or dignitaries or assist visiting Protective Units as necessary;
- m. liaise with RCMP B Division VIP Section as requested by the RCMP and/or Chief of Police;
- n. act as a point of contact for intelligence gathering and dissemination for the Criminal Intelligence Unit in relation to threats towards the office of the Premier; and any other Government Official that could be associated to the Office of the Premier;



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- o. complete administrative duties as assigned; and
- p. attend training sessions as needed.

4.2 Additional duties of the NCO in charge of Protective Services include:

- a. act as a point of communication between the Office of the Premier, the RNC Protective Services Unit and the Office of the Chief of Police in relation to matters directly applicable to the PSU mandate;
- b. identify and coordinate resource and personnel needs for all PSU escorts;
- c. recommend security level for escorts;
- d. liaise and converse with other government officials and police agencies in relation to Protective Services operational requirements;
- e. advise supervisor on the status of ongoing operational details and security assignments;
- f. prepare and submit member attendance;
- g. monitor and prepare scheduling;
- h. prepare and submit quarterly reports for Protective Services; and
- i. provide orientation to newly assigned members.

5.0 Operational Guidelines

5.1 The following general operational guidelines apply to all positions including bodyguard, driver, advance and investigator:

- a. maintain a continuous conscious effort in assessing and evaluating the situation and environments, while maintaining security and observations, mentally plan defensive actions at all times;
- b. be prepared for planned events, become familiar with itineraries, expected guests, intelligence;
- c. wear appropriate footwear and supportive belts to accommodate issued use-of-force options;



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- d. carry assigned communication devices (cell phone/blackberry) on vibrate mode;
- e. be attentive, anticipate threats, do not become complacent, expect the unexpected, be vigilant;
- f. keep in constant communication with other members of the team;
- g. communicate your observations to other members of the team;
- h. consider carrying a flashlight in case of dimly lit situations or power outages;
- i. make use of issued portable radio/wires to ensure proper/private communication between members of the team or other details;
- j. carry vehicle keys/spare keys/office keys/entry passes as required;
- k. when on assignment, both on duty and off, be able to mentally and physically respond to any incident which may arise by:
 - (1) abstaining from the use of alcohol;
 - (2) abstaining from the use of prescribed drugs which could impair judgement (cold tablets, sleeping pills);
 - (3) abstaining from physical activity which would preclude the ability for immediate response;
 - (4) ensuring a general proximity to the Premier and other members of the protective detail.

6.0 Training and Qualifications

- 6.1 Officers being assigned to the Protective Services Unit must be able to complete all modules of Use of Force.

7.0 Dress and Deportment

- 7.1 These guidelines represent a clear expectation for all officers performing operations with Protective Services Unit. The expectations parallel what is outlined in RNC Policy and Procedure. There is however a higher expectation on

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the officers assigned to Protective Services due to the nature of their duties.
Officers shall:

- a. view themselves at all times as police professionals representing all officers of the RNC and the Office of the Premier;
- b. maintain a high level of confidentiality and not disclose any information obtained in the course of their duties, non-disclosure is inclusive of other RNC and Protective Services members as it relates to information that has no relevance to Protective Services duties;
- c. remain focused that their primary duty is the protection of the Premier or other designated dignitaries from harm;
- d. maintain a high level of professionalism at all times (be aware of personal habits, no gum chewing, smoking, biting nails, personal phone calls etc.) and project a firm, confident image;
- e. refrain from language or conduct which could be viewed in a disparaging light given the high profile of the type of duties performed;
- f. refrain from offering or soliciting opinions related to current internal/external controversial topics, if specifically asked for an opinion, officers should remember they are non-partisan and remain tactful in their response;
- g. not speak negatively about the RNC, Provincial Government or partner agencies while in the presence of the Premier or staff, any internal grievances will be directed through appropriate RNC chain of command;
- h. dress in business attire unless a specific operation dictates otherwise; suits should be conservative in nature and not stand out; and all items of clothing should be professional and not show obvious signs of age or wear;
- i. ensure their level of physical conditioning is maintained to allow them to perform their duties and work extended hours without having a detrimental effect on their health; and
- j. maintain Protective Services vehicles in top condition ensuring: all emergency equipment is functional; the interior of the vehicle is kept



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immaculate and the exterior of the vehicle is kept clean and free of debris when weather conditions permit.

8.0 Firearm Storage and Transport

8.1 Firearms storage and transport shall be in accordance with the policy outlined in the Firearms chapter in this Manual.

8.2 Out of Province/Country Travel:

- a. Officers shall not carry service firearms out of the Province without the following:
 - (1) prior authorization of the Chief of Police or his/her designate; and
 - (2) lawful authority to carry a firearm in the jurisdiction being visited.

8.3 Firearms/Use of Force options:

- a. Officers assigned to the Protective Services Unit travelling outside the Province of NL will seek authorization to carry all use of force options with them while outside the Province and exhaust all avenues to ensure this authority is secured.

Note: OC Spray shall not be carried on board an aircraft.

- b. Officers will only be armed if they are endorsed within the jurisdiction that they are visiting.
- c. Officers shall take all necessary steps to obtain special authorization and/or special constable status when travelling to other Provinces and carry that authorization with them during the visit.
- d. Officers travelling outside of Canada and the United States will contact the RCMP and coordinate with them or the Local Embassy.
 - (1) RCMP's International Operations Branch has offices in 26 countries. Contact the RCMP's International Operations Branch in Ottawa at 613-██████870 or 613-██████598 for a list of current Liaison Officers, contact numbers and countries with offices throughout the world.



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- (2) Carrying of firearms, related rules and regulations vary from jurisdiction to jurisdiction. The RCMP liaison officer will be able to provide further required information.
 - (3) The safe storage of weapons is essential when off duty and officers will make every effort to do so, in compliance with storage requirements set out in the Firearms chapter in this Manual.

Tab 4

Luther Inquiry Recommendations

Recommendation #30:

It is hereby recommended that the RNC make available one digital cell phone for each police car being used on patrol.

Action: Implemented.

Recommendation #31:

It is hereby recommended that the RNC replace the long batons, presently in use, with collapsible batons.

Action: Implemented.

Recommendation #32:

It is hereby recommended that the RNC training program for dealing with mentally ill persons be fully developed and put in place no later than June 30, 2004 and that the necessary time and resources be made available to the person responsible for its development to complete this work.

Action: Implemented. Current Standards:

Changing Minds: A program of the Canadian Mental Health Association. It provides tools to recipient to help recognize mental health issues.

Applied Suicide Intervention Skills Training (ASIST): Proven to significantly reduce instances of suicide. ASIST provides intervention skills and help to build a community suicide prevention network.

Mental Health First Aid: Assist officers in recognizing various mental health issues. Provides strategies to reduce further harm and provide the initial assistance towards wellness. Similar in principal to traditional first aid.

R2MR: Designed to reduce stigma and building resistance to stress for employees.

Corporate Plan 2014-2017: Mental Health First Aid/ R2MR
Liaison with Community Stakeholders
Research on calls for service
Share information with Health Authority 40 to 84 hours
Presented to All Party Committee Mental Health and Addictions

Recommendation #33:

It is hereby recommended that the RNC acquire a minimum number of Tasers so that training can commence no later than June 2004, with a view to having trained and equipped personnel in each region served by the RNC in the 2004-5 fiscal year; thereafter a timetable to be developed so that adequate equipment and trained personnel are available as required.

Action: Implemented. The RNC awaited outcome of Braidwood Inquiry in B.C. Conducted energy weapons are now in place in all three regions.

Recommendation #34:

It is hereby recommended that the RNC, within 12 months of the release of this report, provide a one day seminar to all its members, the seminar to be held at various locations and to include the following subjects:

1. This report;
2. A minimum one hour presentation highlighting the most recently developed RNC training on mental illness and appropriate police response;
3. Current Mental Health Act issues;
4. The status of all RNC agreements with various health boards in the province pertaining to the apprehension and transport of mentally ill persons; and,
5. Updates in Taser training and deployment.

This seminar would serve as a comprehensive debriefing on the sudden death of Darryl Power.

Action: Yes this was completed and a mental health practitioner, Gerry Dooley, was involved. 244 staff trained.

Recommendation #35:

It is hereby recommended that the RNC amend its policy and procedure manual to ensure that in major incidents, such as police shooting, that;

- i. Incident officers are clearly identified;
- ii. Incident officers are removed from the scene as soon as possible;
- iii. Incident officers are provided with all necessary counselling and reasonable time away from active duty;
- iv. Incident officers not be alone together until full statements are taken, unless in the presence of a third party such as a counsellor or member of the clergy, and,
- v. An incident officer never be the person required to notify family members of the death.

Action:

- i. Covered 20.1 Firearms Policy 2016
- ii. Covered 20.1(f) Firearms Policy 2016
- iii. Covered 20.2(b) Firearms Policy 2016
- iv. Covered 20.1 (c) Firearms Policy 2016
- v. Covered 20.1 (f) Firearms Policy 2016

Recommendation #36:

It is hereby recommended that the RNC develop an organized comprehensive database, consistent with principles of patient confidentiality, so that relevant, important information for its members is made available when dealing with mentally ill persons who are dangerous.

Action: Covered in CPIC under “special interest police” for persons with behavior which pose a danger or cause concern for safety of others or found not criminally responsible in a case due to mental disorder.

Recommendation #37:

It is hereby recommended that the RNC actively participate in future consultations in relation to a new Mental Health Act and the provision of mental health services throughout the Province and that the Minister of Health and Community Services invite them to do so.

Action: This was accomplished through a liaison person on Police/ Mental Health Committee.

Tab 5

The RNC Response to Recommendations from the Coleman-Massine Report

The following will provide the response of the RNC to the recommendations contained in the Coleman-Massine Report completed for the Commission of Inquiry into the Death of Donald Dunphy.

The RNC submits that although Sergeant Massine's opinion about the RNC Firearms and Use of Force training is of limited assistance due to the fact that Sergeant Massine restricted his analysis to the written material provided to him and did not seek to interview RNC Use of Force instructors to determine the full content and the approach to Use of Force/Firearms training employed by the RNC, the RNC is nonetheless committed to fully reviewing its Use of Force training programs to ensure and confirm this training is relevant and fully in line with current national standards.

The RNC is also in agreement with the idea of formally incorporating de-escalation and tactical communication training as a necessary part of compulsory officer training. In addition, the RNC recognizes the need to develop and utilize a standardized curriculum for officer training including lesson plans and a corresponding standardized evaluation system.

The remainder of the portion of the RNC's written submission will detail the response of the RNC to specific recommendations contained in the Coleman-Massine Report.

1. *The program selected to certify the current RNC Training Sergeant and Use of Force instructor is delivered by a profit-oriented civilian company that does not teach the National Use of Force Framework Model (NUFFM) as its foundation to decision making in dynamic situations. Rather it teaches participants a USA based philosophy that conflicts with the concept and principles of the NUFFM (see page 64 of the Coleman-Massine Report).*

The RNC employs a Use of Force model that is the same as the Canadian National Framework for the Use of Force (NUFFM). The training for RNC Use of Force instructors is provided by Setcan, which is a company based in the U.S.A., however, the Setcan instructor, Keith Kelly, is based in Winnipeg and the training he provides the RNC Use of Force instructors is based on NUFFM, the Canadian National Model for Use of Force. The fact that this training is offered by a for-profit organization does not negatively affect the quality of the training. On this point, it is notable that there are no additional products or services sold by Setcan that are associated with this training which might give rise to a perception of bias on the part of instructors and/or course materials. Further, it is worthwhile to note that the fees charged to the RNC for this training are reasonable and in line with the costs of comparable training offered by the

Atlantic Police Academy. It is important to note as well that Setcan instruction is specifically related only to the physical 'hands on' defensive control tactics taught to police officers such as handcuffing, hand blocks, and defensive takedown techniques.

The decision making process during situational scenarios utilized by the RNC in Use of Force training of officers is directly derived from the current Canadian National Model for the Use of Force (NUFFM). It is not based on the American model as suggested in the Coleman-Massine report. This issue became a point of contention/confusion during Sgt. Massine's testimony, it appears, because of the use of the word 'Continuum' to describe the Use of Force model used by the RNC. The RNC submits the following background information regarding the development of the Use of Force model currently used by the RNC:

- During the 1990's the RNC moved to adopt a Use of Force model that would assist officers in assessing a situation, formulating a plan and acting on that plan to a successful resolution;
- In 1999, the RNC adopted the Ontario Use of Force model which was circular in design and called the "Use of Force Continuum". This model was taught until 2001 when the Canadian National Model for the Use of Force (NUFFM) was created;
- The RNC had direct involvement in the design and implementation of the Canadian National Model for the Use of Force (NUFFM). The design of NUFFM is circular and similar to the former Ontario Use of Force Continuum which was adopted by the RNC in 1999;
- In 2001 the RNC moved from the Ontario model to NUFFM, however, the RNC did not adopt the name 'Canadian National Model for the Use of Force' and instead continued to use the name 'Use of Force Continuum' for the newly adopted 'Canadian National Model for the Use of Force' as it was believed that there was no need to change the name of the model as long as the content of the new national model itself was fully adopted.

The RNC submits that Sgt. Massine's misconceptions about the origins of the content of the Use of Force model used by the RNC in officer training and his mistaken conclusion that it does not meet national standards which are reflected throughout his report could have easily been avoided entirely if Sgt. Massine had simply contacted the RNC to seek clarification regarding the origin and content of the RNC's Use of Force model.

The RNC further notes that in the report from Commissioner Luther from the Reid-Power Inquiry, Commissioner Luther wrote at page 151 under the title **Issues of Policing**:

- a. Use of Force Continuum

The Inquiry is satisfied that R.N.C. officers, including the incident officers, have been adequately trained in use of force. The present model, 'National Use of Force Model' was adopted by the R.N.C. in 2001 with the input of academics and leading police trainers, including Inspector James Carroll.

The training programme of the R.N.C. in this subject area is consistent with Ontario, British Columbia, R.C.M.P., etc. It also adheres to the principles set out by the United Nations in its Code for Law Enforcement Officials and Use of Force and Firearms by Law Enforcement Officials.

The expert from the Ontario Police College, Chris Lawrence, did not fault the three incident officers in their response to Darryl Power's threat.

2. *The RNC's Use of Force training manual in its current form is a Use of Force reference manual at best. Although the content is comprehensive, it does not adhere to best practices in police/law enforcement practices in police/law enforcement training documentation. There is no course training standard or lesson plans that describe the learning in detail. These documents should form the results of a review and overhaul (see page 64 of the Coleman-Massine Report).*

The RNC agrees with the observations contained in this recommendation and is committed to reviewing the RNC Use of Force training content as well as developing standardized lesson plans and curriculum and corresponding evaluations for the Use of Force Training Program. In order to undertake this project of reviewing and creating standardized lesson plans, curriculum and evaluations for the RNC Use of Force training, the RNC will require additional resources, specifically two (2) full time qualified curriculum developers.

To assist in ensuring that training of RNC officers adheres to the best practices in police/law enforcement training, the RNC is establishing a Curriculum Advisory Board (CAB) comprised of senior managers in the organization. The role of this board is to work with the Director for Police Education and Training to ensure all RNC curriculum is relevant, defensible and current. This Board will also approve and advise on any changes to internal RNC courses and will be in place by the end of April, 2017.

3. *Certain terminology ("bad guys" and "perp") used in the RNC training materials perpetuate the creation of implicit bias against certain persons when used in the*

context of specific scenario training. These terms should be replaced with a neutral term such as "subject" or "subject of complaint".

The RNC will take steps to replace terms such as "bad guy" and "perp" in any RNC training material where the terms appear to more neutral terms such as "subject" or "subject of complaint". For clarification purposes, it is noted on behalf of the RNC that the terms 'bad guy' or 'perp' have only been used to explain the role actors would be playing to those actors taking part in officer training scenarios. The terms 'bad guy' or 'perp' have not been used to explain to members who they would be encountering in role-playing scenarios during the training.

The RNC also notes that the descriptive title "Use of Force" for this training is under review in light of this recommendation. The RNC is aware of the fact that some police services use the more neutral descriptive title "Officer Safety and Tactics" for this training.

4. *All scenario based training should be assigned a context of where it fits into the training program. If the scenarios are used to re-inforce a specific skill that has been learned, they should form part of that lesson plan (see page 64 of the Coleman-Massine Report).*

Scenario based training will be incorporated into the standardized lesson plans and curriculum as part of the improvements planned for the RNC Use of Force training/firearms training program which the RNC hopes to accomplish with the assistance of qualified curriculum developers.

5. *The RNC Pistol courses of fire are not training police officers in skills in pistol handling, marksmanship or judgment. They are simply tests to determine the suitability of RNC Police Officers to carry a pistol while in the course of their duties. Other drills that incorporate the skills required to pass should be included and the instructor/learner interactions should be documented in a lesson plan (see page 64 of the Coleman-Massine Report).*

As part of the current RNC Use of Force training program the pistol course of fire does include one on one training in pistol handling skills and marksmanship. Judgement regarding the use of firearms is taught and evaluated as part of scenario based training for officers. The RNC agrees that training in relation to the skills of pistol handling, marksmanship and judgment should be documented as part of lesson plans, course

objectives and curriculum for the Use of Force training which the RNC is committed to developing with the support of additional resources in the form of curriculum developers.

The RNC has also recently struck a Firearm Requalification Committee which has sought input from RNC Patrol Officers with a view to improving training and resourcing around annual firearm requalification's and use of force training. To date this committee has recommended in addition to the annual firearms requalification, RNC Patrol Officers be required to attend an additional full day session annually with instructors on the shooting range, that they receive an additional training day each year in Use of Force tactics, and, that officers be strongly encouraged to spend more time on the range generally to practice their skills throughout the year. It should be noted as well that challenge drills which utilize a scenario requiring an officer to draw a weapon have been incorporated into all officer annual firearms requalification and the RNC Cadet Training Program.

6. *That all RNC officers be educated and trained in personal risk assessment during basic "training". Further, that all serving police officers be educated and trained in personal risk assessment in the next (time to be determined by the Commissioner) (see page 63 of the Coleman-Massine Report).*

While the RNC submits that education and training in personal risk assessment does currently form a component of an RNC officer's basic training, the RNC will review the basic training program for officers to ensure that personal risk assessment is a topic which is specifically identified and sufficiently incorporated into the lesson plans, curriculum and evaluations for officer's basic training that will be developed by the RNC on a go forward basis.

7. *That the RNC ensure that verbal and non-verbal communications are well covered by an expert during basic police "training" to create a foundation for learning programs such as the CID. Further, that all serving police officers receive the same education and training in the next (time to be determined by the Commissioner) (see page 63 of the Coleman-Massine Report).*

The RNC agrees that training for officers in verbal and non-verbal communication by an expert would be of benefit to RNC officers, however, the RNC will require additional financial resources in order to implement this training for all officers.

8. *That the RNC implement the Crisis Intervention and De-Escalation (CID) education and training for police basic training. Further, that all serving police officers receive CID education and training in the next (time to be determined by the Commissioner) (see page 63 of the Coleman-Massine Report).*

While the RNC does currently provide training to cadets and officers which includes crisis intervention and de-escalation as an important component of the following training programs, R2MR, ASSIST, Use of Force, Legal Aspects of Use of Force, Changing Minds and Mental Health First Aid, the RNC agrees that receipt of a specialized training course in Crisis Intervention and De-Escalation (CID), would be of benefit to officers.

The RNC previously recognized the value of enhancing de-escalation training in techniques, and as part of a review of cadet training programs in 2015-2016, determined that further training in de-escalation techniques as part of the officer training program would be beneficial. Sgt. Bill James, Officer in Charge of the Use of Force Unit, was tasked with researching this issue. To date, contact has been made with the Director of the Atlantic Police Academy who has developed a de-escalation course and the RNC is currently reviewing and assessing same. The RNC will require additional financial resources in order to implement a specific specialized training course for officers in Crisis Intervention and De-Escalation.

9. *That all RNC police officers requalify every three (3) years in verbal, non-verbal communications as well as Crisis Intervention and De-Escalation (CID) education and training. That failure to qualify results in a police officer not permitted to be operational until they have been qualified/re-qualified (see page 63 of the Coleman-Massine Report).*

While the RNC does not object to the idea of mandatory qualification/requalification for officers in verbal/non-verbal communications and Crisis Intervention and De-Escalation training, the RNC submits that it will take additional time and significant additional financial resources to ensure that all officers maintain up-to-date qualifications in relation to these courses throughout their careers in officers must re-qualify every three years.

10. *That all education and training concerning crisis resolution take a balanced approach that includes de-escalation as well as the Use of Force (see page 63 of the Coleman-Massine Report).*

The RNC is committed to reviewing the training provided to officers/cadets in crisis resolution and use of force to ensure that the topic of de-escalation is adequately covered as a component of the training. The RNC is also committed to ensuring that the degree to which de-escalation is covered is documented in lesson plans, curriculum and evaluations. The RNC will require additional resources by way of qualified curriculum developers to complete this review and to develop the necessary lesson plans, curriculum and corresponding evaluations for the training.

11. *That all instructors of Crisis Resolution Education and Training, including that which is traditionally referred to as Use of Force training be selected on a behavioral as well as technical competency profile (see page 63 of the Coleman-Massine Report).*

The RNC agrees with the idea of careful selection of instructors for crisis resolution/use of force training and notes that the RNC does select instructors for Crisis Resolution and Use of Force training based on a technical competency profile and behavioral profile (see attached Personnel Orders circulated to RNC members advertising position of Use of Force trainer in 2012 and 2015).

12. *That the RNC establish a committee comprised of internal and external representatives to guide and ensure implementation of the recommendations of the Inquiry (see page 63 of the Coleman-Massine report).*

The RNC fully implemented all recommendations of the Lamer and Luther Inquiries in a timely manner without the involvement of external oversight to ensure these recommendations were implemented. The RNC remains receptive to any recommendations for improvement that might arise from Commissioner Barry's report and submits that it will not be necessary to appoint external oversight to ensure that these recommendations are implemented.

13. *That police instructors, including those responsible for instructing and facilitating communication skills, de-escalation and Use of Force be qualified adult educators (see page 63 of Coleman-Massine Report).*

Work in this direction is underway. Recently the RNC hired a civilian Director of Training who has a Masters in Adult Education as well as considerable work experience in this area. The Director of Training is responsible to ensure that the training provided to RNC officers meets required educational standards and the Director is actively working with the RNC Training Section and individual instructors towards achieving this goal.

14. *That instructors responsible for delivery and facilitating Crisis Resolution education and training have first completed the Canadian Police College Crisis Negotiation education and training course as well as the related re-qualification education and training (see page 63 of the Coleman-Massine Report).*

The RNC is committed to determining through research whether and to what extent the Canadian Police College Crisis Negotiation training course is a pre-requisite to general Crisis Resolution training and notes that there is a distinction between the general communication skills necessary for a front line officer who encounters a person or person in crisis and the specialized skill set necessary for a trained crisis negotiator.

15. *Whereas the existing Use of Force framework is, arguably, of limited value to the education and training of the Use of Force that a modified version of the PERF's Critical Decision – Making model be used as an aid for problem solving and crisis resolution education and training (see page 63 of the Coleman-Massine Report).*

Although the RNC submits that the existing Use of Force framework employed by the RNC as a basis for the Use of Force training for officers meets national standards and is sufficient to meet the educational and training needs of RNC officers, the RNC agrees with the recommendation to incorporate a modified version of the PERF's Critical Decision – Making model into Use of Force and Crisis Resolution training for RNC officers as an aid to problem solving.

16. *That applicants for RNC police officers be carefully screened based on a competency profile that includes empathy, superior verbal and non-verbal communication skills, problem solving and the ability to defuse/de-escalate difficult situations (see page 63 of Coleman-Massine Report).*

Currently, applicants for positions as RNC officer are carefully screened for interest, knowledge of policing duties, communicative skills, teamwork, leadership, problem solving, interpersonal skills, initiative, tenacity and deportment. Applicants who demonstrate empathy by volunteering their time to activities which provide help and assistance to other people in a socially conscience manner are given preference in the selection process.

17. *That the RNC ensure police officers maintain an active notebook in compliance with RNC policy (see page 64 of the Coleman-Massine Report).*

Currently, in accordance with Section 10 of the RNC Police Notebooks policy, supervisors are required to monitor member's notebooks, conduct notebook inspections quarterly and to sign and date officers' notebooks at the time of inspection to ensure that officers maintain active notebooks in compliance with RNC policy (see attached excerpt from the RNC Notebook policy).

In his testimony, Sgt. Massine also pointed out that Module 4 of the RNC Use of Force training has been provided to officers without any corresponding evaluation or means of determining officer participation in the training. In response to Sgt. Massine's comments on this training, the RNC will review the means of presenting Module 4 to officers and explore whether in-class presentations might be a more effective way to teach officers the Module 4 material as well as gauge officer attendance and participation in the training.

Tab 6

Background

The Strategic Staffing Division has supported the RNC annual Cadet Recruitment Program since 2007/2008. Prior to this, a departmental Human Resource employee would provide the necessary oversight and guidance. The movement to request Strategic Staffing Division support was aligned with structural changes that were happening at the time with the centralization of recruitment functions with the Public Service Commission (PSC). It is important to note that the RNC Cadet program does not fall under the Public Service Commission Act, and the role of HRS is by invitation. The Staffing Specialist acts as an independent and neutral Selection Board Chair for the assessment of interested candidates for the RNC Cadet Training Program.

Currently the Strategic Staffing Division, which transferred from the PSC to the Human Resource Secretariat (HRS) in 2012, assigns a full-time Staffing Specialist to the Cadet Recruitment Program from September-July of each year. The role of the Staffing Specialist is attached.

The Cadet Recruitment Program usually yields an average of 20-25 individuals who will pursue the Police Studies program at Memorial University. The intent of this recruitment program is not to hire actual employees or RNC Officers, but to identify individuals who will train to become RNC Officers upon successful completion of the training program. The RNC is responsible and accountable for hiring the successful participants of the training program as RNC Police Officers.

POSITION DESCRIPTION

POSITION: Staffing Specialist (assigned to Royal Newfoundland Constabulary)

INCUMBENT: Vacant

DIVISION: Strategic Staffing

LOCATION: 2 Canada Drive
Sir Brian Dunfield Building
St. John's, NL

DATE: 2007 February 22

GENERAL ACCOUNTABILITY

This position is accountable for the performance of professional staffing and recruitment functions related to the administration and implementation of the *Public Service Commission Act*, Chapter P-43 (1990), in ensuring that appointments to and promotions within the provincial public service are made on the basis of merit principles. The public service includes all government departments, agencies, boards scheduled to the Act and the provincial post-secondary college system. This position primarily involves the provision of recruitment and selection, but will include also advisory and consulting services to the Commission, the division, the RNC, and employees on a wide range of existing and new recruitment projects. This also has impacts for the general public of the province.

STRUCTURE

This position is one of 22 within the Strategic Staffing Division. The others include: 1 Director of Strategic Staffing, 1 Manager of Strategic Staffing (Training and Certification), 1 Manager of Strategic Staffing (Audit), 1 Manager of Strategic Staffing (Policy and Planning), 1 Manager of Strategic Staffing (Staffing Services), 1 Manager of Strategic Staffing (Social Sector), 1 Manager of Strategic Staffing (Resource Sector), 1 Manager of Strategic Staffing (Executive Council), 1 Manager of Strategic Staffing (Justice), 1 Manager of Strategic Staffing (Transportation and Works), 3 Staffing Specialists (Recruitment Unit), 1 Administrative Officer I, 1 Clerk IV, and 1 Clerk Typist III, and 5 additional Clerk Typist III positions.

While there are no direct reports to this position, the incumbent will, as required, direct and assign work to the administrative support group for Managers of Strategic Staffing. The incumbent may also supervise Work-Term Placements as well.

NATURE AND SCOPE

Environment:

The Strategic Staffing Division is one of three within the Public Service Commission. The programs delivered by the division derive from the core Commission mandate as referenced in the *Public Service Commission Act* and MC96-0358, Section 3:

“The Commission is to retain the legislative mandate set out in Section 11, 12 & 13 of the Public Service Commission Act as an adjudicative body to supervise the recruitment process and hear complaints arising from staffing activities delegated to the departments.”

Current programs focus on the maintenance of the merit principle, and the development of policy and approval of selection process. This constitutes the core legislated mandate of the Public Service Commission. Errors could result in major financial liabilities for government as well as major erosion of confidence in government’s commitment to maintain a competent and non-partisan public service.

The Royal Newfoundland Constabulary is one of two police forces providing policing services to the Province. The Force polices the areas of St. John’s, Mount Pearl, Corner Brook, Labrador West/Churchill Falls and the metropolitan area of the northeast Avalon. The Royal Canadian Mounted Police provides services to the remainder of the Province.

Functions:

Delivers personnel selection processes;

- Participates directly, through the chairing of Selection Boards, in the recruitment of Officer and other positions at the RNC and other select positions as requested;
- Oversees the RNC’s Police Cadet Selection Process;
- Ensures the proper administration and delivery of staffing policy and processes;

Provides Staffing Advisory and Consultation Services;

- Acts as a liaison between the RNC, the Department of Justice and the Strategic Staffing Division;
- Provides expert advice and guidance to client groups pertaining to recruitment and selection, staffing policy and processes, and other staffing related inquiries;
- Oversees recruitment campaigns for the Police Cadet Program;

Compiles Staffing Related Data;

- Compiles and analyzes RNC recruitment statistics for reporting purposes;
- Assists with the development and maintenance of electronic human resources management information systems (i.e. includes applications used by divisional staff and those used by client departments / agencies);
- Ensures staffing transactions are properly documented and recorded.

Controls:

The position reports to the Manager of Strategic Staffing (Department of Justice). The incumbent is required to exercise initiative and judgment and operate in accordance with the provisions of the *Public Service Commission Act*. The incumbent is required, on a regular basis, to work closely with Departments and Agencies, outside of PSC offices, with no direct supervision or support. This requirement, along with the significant level of competition for all advertised positions and the substantial number of related inquiries contribute to the need for a high level of professionalism, independence and discretion.

Contacts / Clients:

The Staffing Specialist operates at a management level and provides advice and assistance on recruitment, selection and internal promotion matters to the Executive, Management and staff of the Strategic Staffing Division and the RNC. Chairs numerous selection boards and has contact with a wide variety of individuals both within the PSC, RNC, the Department of Justice, other Public Service organizations and external groups such as Memorial University of Newfoundland, other educational institutions, other police forces, career groups, and has excessive contact with the public.

Challenges:

A major challenge for this position is to ensure that efficient, fair and transparent recruitment processes are utilized within a fast-paced and volatile environment. As the police cadet and experienced officer competitions are very sensitive and public in nature, they attract a high degree of public scrutiny, thus placing excessive demands upon the Staffing Specialist to professionally conduct the entire process. This function must be carried out by exercising sensitivity, confidentiality, balancing competing interests, and maintaining an effective arm's-length working relationship with all client groups.

Freedom to Act:

Under the general direction of the Manager of Strategic Staffing (Department of Justice), the Staffing Specialist is expected to exercise considerable initiative and independent judgement in performing assigned functions.

Work is reviewed through periodic discussions and review of reports with the Director and Managers of Strategic Staffing. The incumbent is expected to carry out the full scope of duties and responsibilities at this level.

Dimensions:

Provincial Salary Budget	\$339 Million + effect on other Provincially funded organizations that may adopt PSC policies
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Specific Accountabilities:

Delivery of staffing and recruitment services to the RNC and other departments and agencies as required. The incumbent will:

- Chair Promotional Boards and Selection Boards for competitions for Police Cadets, Commissioned Officers, Non-Commissioned Officers, and other positions as required;
- Assess and recommend cadets for the Diploma in Police Studies;
- Ensure organizations comply with approved selection processes in appointments and promotions to positions in the public service, ensuring that appointments are based on merit, free from political influence and are made in accordance with the values of fairness, equity and transparency thereby protecting the integrity of process;
- Develop, coordinate and promote RNC recruitment campaigns, including participation in information sessions, career fairs and other marketing strategies and the management of the RNC recruitment website;
- Prepare job advertisements and ensure necessary posting requirements and clearances/approvals are obtained.
- Review and screen applications to identify appropriate skills, experience and knowledge in relation to position requirements.
- Develop and administer competency based selection processes (interviews, presentations, tests, etc) and assess applicant's performance.
- Perform reference checks on recommended applicants.
- Prepare recommendation of qualified candidates for appointment to positions.
- Ensure necessary documentation is completed and maintained for all staffing transactions.

- Consult with PSC, RNC and Departmental Executive, Management, Human Resources staff, and union representatives to provide information, advice and guidance on the recruitment process.
- Field inquiries from clients and applicants regarding selection processes.
- Provide post-board feedback to interviewed applicants, as required.
- Liaise with appropriate personnel to obtain various statistics and information relating to recruitment and retention.
- Develop and deliver specialized recruitment training for participants involved in Promotional Boards and Selection Boards for uniformed services personnel.
- Participate in various legal proceedings to justify staffing actions and decisions.

APPROVED BY:

INCUMBENT: _____ **DATE:** _____

SUPERVISOR: _____ **DATE:** _____

DEPUTY MINISTER: _____ **DATE:** _____

Role of Staffing Specialist in RNC Cadet Program

- **Advertisement:** Lead the develop of the job ad/application package with RNC Representative. Facilitate electronic posting/advertising.
- **Outreach:** Address email inquiries related to recruitment process. Prepare video and/or website materials relating to FAQs regarding application process, screening and assessment. The SBC will not attend all outreach activities and may connect, as required via Lync or teleconference as needed within regular business hours. Pursue alternatives that focus on social media and electronic advertising and marketing.
- **Screening:** Receive application packages. Assist with application organization. Screen applications. Provide feedback. Notify unsuccessful applicants.
- **Physical Ability Requirements Evaluation (PARE):** Once applicants are successful in the screening stage, they move to the PARE testing. The Staffing Specialist provides RNC with list of candidates to be offered a PARE.
- **Interviews:** Facilitate the development of interview questions. Schedule interviews for those who have passed PARE. Chair the interviews with the Selection Board. Lead the final assessment of candidates based on interview. Notify unsuccessful candidates. Provide feedback to candidates as requested.
- **Polygraph:** Candidates who are successful in the interview stage proceed to polygraph to determine if candidates were truthful in their application as well as their interview and it is a means to disclose and collect any further information. The Staffing Specialist, in conjunction with RNC Representative, select candidates for further assessment. Assist with set up during working hours. Discuss results with polygraphist, and provides feedback.
- **Psychological Assessment:** Meet with Psychologist and Departmental rep to discuss results. Notify unsuccessful applicants.
- **Follow-up Meetings:** Staffing Specialist schedules and meets (with the RNC representative) with candidates to discuss a number of items including any points of concern arising from the polygraph and psychological assessments.
- **Background Investigation:** Provide RNC constable with candidate's file for background checks. Notify unsuccessful applicants.
- **References:** Conduct references. Notify unsuccessful applicants at this stage.
- **Medical Assessments:** Staffing Specialist receives results from Doctor's Office. Notify unsuccessful applicants.
- **Memorial Screening:** Staffing Specialist provides names and student numbers to contact at Memorial University to ensure candidate eligibility.
- **Recommendation Package:** Staffing Specialist will prepare a recruitment summary for Chief of Police in the form of a recommendation package.
- **Conditional Offers:** Selection Board confirms content of offer. Staffing Specialist drafts offers. Board meets with Chief of Police to discuss candidates and contacts successful candidates.
- **Feedback:** Staffing Specialist provides feedback via phone and email or in-person with unsuccessful candidates.

It is my understanding that Cst. Smyth did not go through the RNC Police Studies Diploma Program, he attended the APA and I have attached the current requirements for acceptance at the Atlantic Police Academy.

Admission Requirements

- Proof of Canadian Citizenship or Landed Immigrant Status
- Must be 19 years of age by program start date
- Grade 12 or equivalent with credits at or above the general level
- Completion of a Holland College **Medical Form**
- Successful completion of **PARE (Physical Ability Requirement Evaluation) Test**
- **Vision exam**
- Must hold a valid unrestricted Canadian driver's license (must have been driving for a minimum of one year prior to start of program)
- Driver's Abstract indicating 1 year with no moving violations and an acceptable driving record
- **Criminal Records Check (CRC) and Vulnerable Sector Verification (VSV)** with no findings of guilt
- Successful completion of a **full background check**
- Three **letters of reference**, not from family members
- Successful completion of the Police Officer Selection Test (P.O.S.T.), the Police Science Test (P.S.T.), and the Minnesota Multiphasic Personality Inventory (MMPI-2) – to be arranged by Holland College Admissions
- Successful completion of polygraph interview
- Completion of Immunization Verification Form (download **PDF** or **MS Word**). This completed form is not required until **after** an applicant has been accepted.
- Certification in Standard First Aid and CPR Level C – must be valid for the duration of the program
- Automated external defibrillator certification
- Resumé including work and volunteer experience with applicable dates, membership in groups, associations or athletics, awards and distinctions, and any other information about yourself relevant to the program

The person in charge of Admission at the APA is not available today and thus I cannot determine whether an interview is a step in their process.

Dear Mr. Avis

RE: Royal Newfoundland Constabulary Police Studies Diploma Program Recruitment and Selection

I, Sergeant Sharon Warren, am in my third year as the RNC representative on the Selection Board for the RNC Police Studies Diploma Program and my partner is a staffing specialist from the Human Resource Secretariat.

The application process for the RNC Recruitment and Selection opens each year in September and closes in November. The application package is screened by the staffing specialist and any applications that are more difficult and require discussion are held so we can meet. The screening criterion was decided at the onset of the RNC/MUN police studies diploma program and I had no personal involvement in that discussion however I do believe that it has been consistent since 2004.

Screening Criteria:

- Degree or completion of 15 credit hours. The 15 credit hours are preferably in English (2 courses), Psychology (2 courses) and Sociology (1 course) (Equivalencies may be considered).
- Be at least 19 years of age upon graduation of the Police Studies Diploma Program with Memorial University of Newfoundland (MUN).
- Be a Canadian Citizen upon graduation of the Diploma Program.
- Meet RNC Vision Standards.
- Possess a valid, unrestricted driver's license upon graduation of the Diploma Program.
- Submit a completed application package including all outlined required documentation.
- Be of high moral and ethical character.

We do take into consideration recent drug use, recent impaired operation and also assess behavior that is significant, recent and discerns a pattern.

All candidates that have their applications screened in are invited to attend a Physical Abilities Requirement Evaluation (PARE) session (physical testing assessment). Anyone who passes the PARE requirement of 4 minutes 45 seconds is guaranteed an interview. The interview is behavioral in nature and consists of 10 questions that are designed to extract the candidates experience and enable us to assess the desired competencies. We score each candidate on a matrix with weight given to interest, knowledge of policing, communication, teamwork, initiative, interpersonal skills, deportment, tenacity, leadership and resistance to stress. I also take some extra time to go through the applications with the candidate to ensure they gave careful consideration to the questions and to their answers. The assessment is holistic in nature as all information provided by the candidate is used to assess them

We normally interview over one hundred candidates each year and the invitation to the next stages are not guaranteed and will depend on the rating given to each candidate. The other stages include Polygraph, Psychological Assessment, Hearing Assessment, Medical assessment and background investigation which includes reference checking. You would have to be successful in each stage in order to proceed to the next.

In order to be offered employment with the RNC a cadet who graduated from the APA would still have gone through a selection process, I cannot access that process at this time but if you require it, I can continue my endeavors to locate the selection criteria that would have existed at that time.

As for me, I have 28 years in policing; I have worked in Patrol Division, Child Abuse Sexual Assault and Major Crime. I did short secondments in Information Management and the Readers Office. I held positions as Acting Sergeant in Major Crime and Patrol Division and was promoted to Sergeant in 2012. I am in the Inspectors pool and have been since 2014. I have approximately 19 years volunteer experience in various areas of violence prevention. I am the Chair of Coalition against Violence Avalon East and I have conducted three Executive Director Competitions since I have been on the Board.

I have requested an outline of the qualifications as well as the selection process for persons employed as a staffing specialist with the Human Resource Secretariat and I have not received that information yet. I will forward it once I receive it.

I am also attaching a copy of our call for applications should you require it.

Respectfully submitted,
Sergeant Sharon Warren

RNC Training Section Staff

Lynn Best is the Director of the Training Section with the RNC. She assumed this position in October of 2016. Lynn holds a Master's degree in Adult Education (St. Francis Xavier University) and two undergraduate degrees in Post-Secondary Education and Arts (Memorial University). She also has a Post-graduate Certificate in Executive Coaching from Royal Roads University.

Jackie Cabot is a training officer with the RNC training section. She has a Bachelor of Post-Secondary Education and Bachelor of Arts degrees. Jackie is a certified trainer in ASIST (Suicide Intervention), certified by Living Works, and Mental Health First Aid, certified by the Canadian Mental Health Commission.

The training section also has a Use of Force team (1 sergeant and 2 Constables). There is a sergeant in charge of the cadet program, as well as a sergeant and constable who oversee internal training.

De-Escalation Training

In the cadet curriculum, de-escalation is taught as part of tactical principles in the Use of Force continuum. Training is provided by internal RNC trainers who have been certified by the Atlantic Police Academy and SetCan, a police training organization. De-escalation takes a variety of forms and is repeated in different ways, with significant opportunities to apply these skills. Cadets are taught that their presence (including use of voice, uniform, and personal demeanor) are tools that can de-escalate a situation. As Sgt. Bill James has testified, there are a variety of scenario-based training exercises provide cadets with opportunities to apply their communication skills, develop police presence, and learn when to move further along the use of force continuum based on the presenting situations. As careers progress at the RNC, there are opportunities for officers to participate in Crisis Negotiating training, as well as a wide variety of police-specific training.

Mental Health Training

Mental Health First Aid for those who Interact with Youth is taught to cadets. This is facilitated by Cst. Karen Hemmons and Ms. Jackie Cabot, both certified as trainers by the Mental Health Commission of Canada. This program teaches participants how to identify and provide safety to people experiencing a mental health episode until professional help can be accessed. This is a two day program (14 hours).

Cadets are also taught **Changing Minds** which is facilitated by trainers from the Canadian Mental Health Commission, and focuses on various types of mental illness. Stigma and discrimination is covered as part of this program. There is a significant emphasis on communication skills in this program, with communication skills being stressed in each module. This is a two day program (16 hours).

Cadets are required to complete **Applied Suicide Intervention Skills Training (ASIST)**, which is a two-day program taught by Ms. Jackie Cabot and another facilitator certified by Living Works.

The Road to Mental Readiness, a mental health program for first responders, is taught to all cadets, members and civilians by internal RNC certified trainers who have been certified by the Canadian Mental Health Commission. This program is also taught to other first responders such as fire fighters, paramedics and the military. There is an entire module dedicated to stigma and discrimination for

people with mental health concerns. This is a ½ day program for frontline workers and a 1 day program for supervisors.

Cadets also learn about the Mental Health Act as part of their training in law.

Royal Newfoundland Constabulary - Centre for Police Education and Training

The Centre for Police Education and Training has undertaken a number of initiatives that will strengthen police education and training, and address some of the issues emerging from the Commission of Inquiry into the Death of Donald Dunphy.

- Curriculum Advisory Board (CAB): The RNC is establishing a curriculum advisory board comprised of senior managers in the organization. The role of this board is to work with the Director of the Centre for Police Education and Training to ensure all RNC curriculum is relevant, defensible and current. This Board will also approve and advise on any changes to internal RNC courses and will be in place by the end of April 2017.
- Use of Force: The Use of Force resource manual is currently being reviewed by internal subject matter experts and adult educators to ensure the content is relevant and in keeping with national standards for policing in use of force. This review will include a jurisdictional scan of use of force training in other police services. Additionally, the Centre for Police Education and Training has initiated the process of creating lesson plans for the use of force curriculum that are consistent with best practices in adult education. Furthermore, the naming of the curriculum as "Use of Force" is under review, as some police services have renamed this training as "Officer Safety and Tactics".
- Communications Centre: The Inspector for Operational Support Services Division and the Director of the Centre for Police Education and Training will develop an onboarding and training program for Communications Centre Technicians. The intention is to have a comprehensive, thorough process for ensuring new employees are appropriately introduced to the RNC organization, as well as ensuring every employee receives consistent training. Components of the training will include the computer systems used to access and disperse information, responding to calls, Suicide Intervention, 10 Codes, mental health training, tactical communications, mentoring, and First Aid/CPR. This program will be developed by the end of June 2017.
- CPIC Training and Refresher: Canadian Police Information Centre (CPIC) is a central police database where Canada's law enforcement agencies can access information on a number of matters. The system consists of one central automated data bank located in the Royal Canadian Mounted Police complex in Ottawa and it is linked through a communications network to remote computer terminals, mobile workstations, and hand held devices. CPIC is an important investigational tool for law enforcement personnel and CPIC policies and procedures are implemented to safeguard its use.

The RNC has identified the Communication Centre staff, patrol officers, Criminal Investigation Division (CID) officers, the Telephone Reporting Centre and members at CFSEU as critical users of CPIC. The Centre for Police Education and Training is currently conducting an audit to ensure all officers and civilians in each of these

sections have completed the CPIC course through the Canadian Police Knowledge Network. All officers and civilians who have not completed the course will be required to do so. The RNC is also working on policy to make this course mandatory to be completed on a regular basis, as there are components of CPIC that are only used occasionally and a refresher is required to ensure that knowledge and skills are retained. The RNC intends to have this completed by August 2017.

- Supervisory Development: The provision of supervisory training to new managers is a critical part of career development especially where the majority of promotions come from within the ranks. In the past number of years, the RNC provided supervisory training through Memorial University's Gardiner Centre. While considered high quality, this training did not meet the specific operational and training needs of the organization. As a result, the RNC's Centre for Police Education and Training is redeveloping the Supervisory Development program. The program will begin in September 2017 and will run over the course of 8 months. The program will rely on a variety of internal and external subject matter experts.
- Adult Education Training: The RNC has a number of subject matter experts that it relies on to develop and deliver internal training. Many of these subject matter experts lack the background in adult learning, course development and facilitation. The RNC's Centre for Police Education and Training is currently developing an internal program that all instructors must complete before developing and facilitating courses. This program will begin in the fall of 2017 and will include principles of adult education, curriculum development, adult learning styles, and facilitation skills.
- RNC Cadet Program: In 2016, the RNC completed a review of the Police Studies Program. The review recommended some changes to curriculum and structure. The Centre for Police Education and Training is currently implementing those changes including a strengthened curriculum and a more streamlined structure. For example, more emphasis will be placed on tactical communications and de-escalation training, among other curriculum improvements.
- Performance Evaluation Program: There is a program currently being developed to conduct performance reviews of RNC officers. This is an important program, which will ensure feedback is provided on corrective measures in job performance, as well as to acknowledge when work is performed well. The Deputy Chief of Patrol Services is leading this initiative and much of the preliminary work has been completed. This program will likely rest with the Centre for Police Education and Training for oversight, as well as to link performance to training initiatives. The anticipated rollout of the performance evaluation program is 2018.
- Resources: There are a number of significant initiatives under development in the Centre for Police Education and Training, consequently, having the right people with the right skill set is critical. The Centre is currently staffed by:

- Director (former Inspector position civilianized in October 2016)
- 3 Sergeants (Cadet Program, Use of Force, and Training/Emergency Management)
- 4 Constables (Drill, Physical Training, Use of Force and Training)
- 1 civilian Training Officer
- 1 civilian Administrative Assistant

The RNC also has a number of subject matter experts who develop and deliver training, but do not have appropriate adult education supports. The Centre for Police Education and Training requires a minimum of two instructional developers/adult educators (civilian employees) to work with Centre staff and subject matter experts in the development of curriculum and courses. These positions can also be engaged in special projects, such as Communication Centre and Adult Education training for subject matter experts.

From: Lynn Best
Sent: Friday, January 06, 2017 4:02 PM
To: Wendy Zdebiak
Cc: Jackie Cabot; Karen Hemmens; Dwight Feltham
Subject: RE: Mental Health First Aid training for first responders

Hi Wendy,

Here is the outline for the Mental Health First Aid program. You will see almost each unit has a "crisis first aid for..." section, which Karen and Jackie (MHFA Instructors) can provide specifics on to any de-escalation elements there. Also, Sgt. Feltham is reviewing the cadet curriculum to see what else may be relevant on this topic.

I am away in Labrador most of next week but available by email if you need anything else. In the meantime, Jackie, Karen and Dwight can assist with on the ground inquiries you might have. Hope this is helpful.

Lynn

Mental Health First Aid Basic

Mental health first aid (MHFA) is the help provided to a person developing a mental health problem or in a mental health crisis. The first aid is given until appropriate professional treatment is received or until the crisis is resolved.

Mental Health First Aid Basic is a 12-hour course focused on adults interacting with adults in all environments. The course discusses the following mental disorders:

- Substance related disorders
- Mood related disorders
- Anxiety and trauma related disorders
- Psychotic disorders

Crisis first aid skills for the following situations are learned:

- Substance overdose
- Suicidal behaviour
- Panic attack
- Acute stress reaction
- Psychotic episode

Course outline

Session One: Mental Health and Mental Health Problems

- What is Mental Health First Aid?
- Common mental health problems
- Five basic actions of mental health first aid
- Stigma and discrimination?
- What is a substance-related disorder?
- Signs and symptoms

- Risk factors
- MHFA for substance-related problems
- Crisis first aid for overdose
- Treatment and resources

Session Two: Mood Disorders

- What is a **mood disorder**?
- Types of mood disorders
- Signs and symptoms
- Risk factors
- Substance use and mood disorders
- Suicide in Canada
- MHFA for mood problems
- Crisis first aid for suicidal behaviour
- Treatment and resources

Session Three: Anxiety and Trauma Related Disorders

- What are **anxiety and trauma related disorders**?
- Types of anxiety and trauma related disorders
- Signs and symptoms
- Risk factors
- Substance use and anxiety disorders
- MHFA for anxiety and trauma related problems
- Crisis first aid for panic attacks
- Crisis first aid for acute stress reactions
- Treatment and resources

Session Four: Psychotic Disorders

- What is a **psychotic disorder**?
- Types of psychotic disorders
- Signs and symptoms
- Risk factors
- Substance use and psychotic disorders
- MHFA for anxiety problems
- Crisis first aid for psychotic episodes

2015-2016 RNC Activities Report

Objective 4.1: Educate police officers on mental health response protocols

Progress and Accomplishments

Educating police officers in the area of mental health has two goals: to ensure officers are aware of and can appropriately respond to individuals who are experiencing mental health challenges; and to ensure officers are taking care of their personal mental health. The unique stressors of providing police services can result in increased personal stress. To support these goals, the RNC was involved in the following initiatives to educate police officers on mental health responses:

Mental Health First Aid is the assistance provided to a person developing a mental health problem or experiencing a mental health crisis. The RNC trained 120 members in Mental Health First Aid, a program developed by the Mental Health Commission of Canada.

Mental Health First Aid for Youth Training, designed by the Canadian Mental Health Association, was provided to all front line officers, other first responders and other community groups in Newfoundland and Labrador. The year 2015 was the third year of a three-year partnership with the Bell Aliant Pioneers through which funding of \$250,000 was provided to support this program.

Operational Stress Injuries refer to any persistent psychological difficulty resulting from operational duties performed while serving as a police officer. The RNC and the RNCA partnered to bring together a psychologist, individuals who experienced operational stress injuries and representatives of the Employee Assistance Program to educate frontline members. The sessions focused on recognizing signs of injury and how to access help. Approximately 180 officers participated in this training.

Road to Mental Readiness (R2MR) is a program developed by the Canadian Armed Forces and is being adopted by police agencies across Canada. This training encompasses the entire package of resilience and mental health training that is embedded throughout Canadian Armed Forces members' career, including the deployment cycle. In February 2016, the RNC held a "train the trainer session" and certified 12 internal facilitators who will deliver R2MR throughout the organization.

Police Studies Program cadets received training in mental health as an important part of their program. Training for cadets included: Applied Suicide Intervention training; the Changing Minds program; and awareness of conditions such as Tourette syndrome, fetal alcohol spectrum disorder and autism.

Objective 4.2: Work with stakeholders to improve response

Progress and Accomplishments

The RNC and Eastern Health continue to collaborate on initiatives focused on improving the response to persons experiencing a mental health crisis. In October 2015, RNC and Eastern Health officials traveled to Halifax to study the Mental Health Mobile Crisis Response Team model currently being used in Nova Scotia. The model used in Halifax is more commonly known as the Memphis Model and is widely regarded as the most effective and efficient model throughout North America for persons experiencing a mental health crisis. Both the RNC and Eastern Health were extremely impressed with the Halifax model and are in full support of this concept for Newfoundland and Labrador. On March 16, 2016, the RNC presented this concept to the Provincial Government's All Party Committee on Mental Health in Newfoundland and Labrador.

Tab 7



Royal Newfoundland Constabulary
Office of the Chief of Police

March 21, 2017

Commissioner Leo Barry
Commission of Inquiry into the
Death of Donald Dunphy
Unit 1, 425 Topsail Rd.
St. John's, NL A1E 5N7

**Re: 2012 Report by the Auditor General
Royal Newfoundland Constabulary – Firearms**

Dear Commissioner Barry:

This letter is provided in response to your request made during the last session of the hearing proceedings of the Commission of Inquiry into the Death of Donald Dunphy (CIDD) on March 10, 2017, that I provide a letter outlining the Royal Newfoundland Constabulary's (RNC) response to the 2012 report by the Auditor General regarding firearms.

I can advise that the RNC has responded to the issues raised in the Auditor General's 2012 report in six separate reports submitted to the Provincial Government since 2012 (please see attached reports), and, the RNC sent a delegation of representatives to speak to the Provincial Public Accounts Committee regarding these issues on October 16, 2012 (please see attached transcript which can also be accessed via [http://www.assembly.nl.ca/business/committees/ga47session1/2012-10-16%20\(PAC%20Justice-RNC.htm\)](http://www.assembly.nl.ca/business/committees/ga47session1/2012-10-16%20(PAC%20Justice-RNC.htm))). I note that the RNC's first response to the Auditor General's report dated January 11, 2012 is actually included at pages 146-154 of the Auditor General's report.

Since the date of the last report submitted by the RNC providing an update on the status of the Auditor General's recommendations, May 30, 2016, I can report the following by way of further update in relation to these recommendations:

1. *The RNC should ensure that members are in compliance with established use of force training.*

Safer Communities through Policing Excellence

In 2016, Module 1 was completed by all operational officers with the exception of 1 officer from Corner Brook in 2016. The one officer who did not complete Module 1 is not a front line officer and is currently out of the province. Plans have been made to have this officer complete Module 1 upon return to the province in April, 2017. Module 2, control tactics (handcuffing etc.) was completed by all operational RNC officer in 2016.

2. *The Royal Newfoundland Constabulary should ensure that basic inventory management procedures and relevant inventory system functions are used to produce accurate and complete information on firearms, ammunition and other use of force inventory.*

The RNC hired an Audit Manager on December 2, 2015 who is a Chartered Accountant – Certified Professional Accountant who will conduct our annual firearms audit on a go forward basis.

3. *The Royal Newfoundland Constabulary should ensure that all use of force reports are signed by required officials to indicate review to ensure compliance.*

On February 7, 2017 the RNC implemented a revised Use of Force Report Form #096 which now includes:

- a. a comment section with a signature line and date for the supervising NCO;
- b. a comment section with a signature line and date for the submitting officer's Inspector (Platoon/Section/Regional);
- c. a comment section with a signature line and date for the submitting officer's Divisional Commander (Superintendent). The Inspector and Superintendent will be responsible to identify if remedial training is recommended for the submitting officer.

On February 7, 2017, the RNC also implemented a revised Use of Force Monthly Report Form #324 which now includes a signature line for the respective Deputy Chief (please see attached Routine Order 2017-005 and copy of revised form #096 and #324).

4. *The Royal Newfoundland Constabulary should ensure that the Firearms and Use of Force instructors review all use of force incidents.*

The RNC Use of Force policy was amended on February 7, 2017 as follows:

- Subsection 14.3 f has been added requiring that on a quarterly basis the NCO of the Use of Force Unit will attend at the Office of the Chief of Police and sign out the Use of Force Monthly Reports (#324) for that quarter.
- The NCO of the Use of Force Unit will be responsible for the following:
 - a) Review all submitted Use of Force Reports (#096);
 - b) Maintain and update a spreadsheet identifying all current members of the RNC and each officer's use of force, and;
 - c) Maintain an archive of all quarterly reviews for each calendar year
(Please see attached Routine Order 2017-005).

I note as well that Deputy Chief Ab Singleton testified about the above noted recent changes to the Use of Force Report Form during the CIDD hearing proceedings (reference: Transcript of CIDD proceedings from February 16, 2017, pages 109, 111, 112, 114 and 115).

I hope the above is of some assistance to you. Please do not hesitate to contact me if you have any further questions related to the RNC's response to the Auditor General's 2012 report recommendations.

Yours truly,



William J. James
Royal Newfoundland Constabulary
Chief of Police

Tab 8



ROUTINE ORDER 2012-018

SUBJECT: Changes to *Use of Force* Policy

Effective immediately, the following revisions will be made to the Use of Force policy and a new form entitled *Use of Force Monthly Summary Report* Form RNC-324 has been issued.

Section 4.0 Use of Force Training has a new subsection added requiring the creation and maintenance of a training log. The new subsection will read as follows:

- 4.5 The Use of Force Training Unit shall maintain an annual use of force training log in accordance with the training documentation procedures.

Section 10.0 Reporting Use of Force has been modified to incorporate the use of the new *Use of Force Monthly Summary Report* Form RNC-324. Subsection 10.3 has been changed and will now read as follows:

10.3 Procedure

- a. Every Police Officer who engages in the use of force shall complete Form 096 and forward it with the corresponding file to the File Management Unit.
- b. Upon completion of the file review by the File Management Unit, the form will be forwarded through the Police Officers' chain of command to their respective Inspectors and Superintendents for review.
- c. Platoon and Divisional Commanders will:
 - (i) review Form 096;
 - (ii) forward a monthly covering report of their review along with the original Form 096 to the office of the Chief of Police. The review shall include general comments, reference to policy compliance, and other recommendations; and

- (iii) maintain a record of all reported incidents of use of force and submit a detailed report to the Office of the Chief of Police by January 31 of the following year.
- d. Inspectors and Superintendents will forward a *Use of Force Monthly Summary Report* Form RNC-324 summarizing their monthly review of all completed Form 096 forms along with the original Use of Force Report Form 096 forms to the Office of the Chief of Police. The review shall include general comments, reference to policy compliance, all instances where remedial training is recommended and all other recommendations.
- e. The original Form 096 will be retained by the Office of the Chief of Police.

Section 14.0 Use of Force Review Board has been changed to reflect the use of the new *Use of Force Monthly Summary Report* Form RNC-324. Subsection 14.1 will now read as follows:

- 14.1 The RNC and its individual police officers have a vested interest in maintaining the highest standards in relation to use of force training and authorities granted under the *Criminal Code of Canada*. To accomplish this objective requires ongoing evaluation of RNC procedures, practices and training in relation to the use of force. The responsibility for such evaluation shall be vested with the RNC Use of Force Review Board. This board will review all instances where remedial training is recommended by the Inspectors and Superintendents as documented on the *Use of Force Monthly Summary Report* Form RNC-324 but will not act as a disciplinary committee. Meetings will be held on a need basis or as directed by the Chief of Police or his/her designate.

The *Use of Force Monthly Summary Report* Form RNC-324 has been added to the RNC Intranet.

These changes will be reflected in future policy revisions.



A.G. Singleton
Deputy Chief of Police
Patrol Operations

Distribution: All Divisions
Routine Order: 2012-018
Date: September 28, 2012

Tab 9



USE OF FORCE

- m. Firearm - Discharged.

14.3 Procedure

- a. Every Police Officer who engages in the use of force shall complete the Use of Force Report Form RNC # 096 and forward it with the corresponding file to the File Management Unit.
- b. Upon completion of the file review by the File Management Unit, the form will be forwarded through the police officers' chain of command to their respective Inspectors and Superintendents for review.
- c. Platoon and Divisional Commanders will:
 - (i) review all submitted Use of Force Report Forms RNC # 096;
 - (ii) forward a monthly covering report of their review along with the original Use of Force Report Form RNC # 096 to the Office of the Chief of Police. The review shall include general comments, reference to policy compliance, and other recommendations; and
 - (iii) maintain a record of all reported incidents of use of force and submit a detailed report to the Office of the Chief of Police by January 31 of the following year.
- d. Inspectors and Superintendents will forward Use of Force Monthly Summary Report RNC # 324 summarizing their monthly review of all completed Use of Force Report Forms RNC # 096 along with the original Use of Force Report Form RNC # 096 to the Office of the Chief of Police. The review shall include general comments, reference to policy compliance, all instances where remedial training is recommended and all other recommendations.
- e. The original Use of Force Report Form RNC # 096 will be retained by the Office of the Chief of Police.



USE OF FORCE

the incident. However; the Chief of Police may designate the RNC Professional Standards Section to conduct an internal investigation to ensure compliance with the RNC Act or any other relevant statutes.

17.0 Use of Force Review Board

17.1 The RNC and its individual police officers have a vested interest in maintaining the highest standards in relation to use of force training and authorities granted under the *Criminal Code*. To accomplish this objective requires ongoing evaluation of RNC procedures, practices and training in relation to the use of force. The responsibility for such evaluation shall be vested with the RNC Use of Force Review Board. This board will review all instances where remedial training is recommended by the Inspectors and Superintendents as documented on the Use of Force Monthly Summary Report RNC # 324, but will not act as a disciplinary committee. Meetings will be held on a quarterly basis or as directed by the Chief of Police or his/her designate.

17.2 The Board Members shall be:

- a. Deputy Chief of Police, Patrol Operations;
- b. Member of Strategic Planning & Research Section;
- c. Firearms & Use of Force Instructor;
- d. RNC Inspections Officer;
- e. A representative of the RNCA to be determined in consultation with the Chief of Police; and
- f. RNC Legal Counsel.

17.3 The Board is responsible to:

- a. evaluate and where necessary, make recommendations concerning RNC policy and training;



USE OF FORCE

- b. recommend training for individual police officers;
- c. report to the Chief of Police as requested and where considered necessary; and
- d. review and approve the use of new equipment.

Tab 10



Policies and protocols of Government or the Royal Newfoundland Constabulary with respect to the Security of the Premier and Cabinet Members

Policy Planning and Research Capacity

Background

The Strategic Planning and Research (SPR) Division has been in existence since the early 1990s and undertakes a wide variety of tasks including, but not limited to:

- Ensuring police procedures, policies and forms are created, updated and communicated to employees in keeping with all relevant legislation, best practices and executive decisions
- Designing, planning, developing and publishing corporate plans and annual activity reports
- Conducting research and environmental scans through identifying, analyzing and interpreting data from internal and external sources to forecast demand and impact on corporate resources
- Remaining current on issues affecting policing services and resources
- Reviewing and advising the Executive on research requests from external sources (e.g. government, public and private agencies)
- Developing and maintaining the RNC's intranet and website
- Conducting stakeholder and internal consultations

A particularly significant responsibility of the SPR Division is maintaining the RNC's Policy and Procedure Manual which involves developing, updating and revising policies. This manual currently consists of 154 operational and administrative policies and is the foundation for the RNC's operations.

The need to develop/update/revise policies is generally initiated by such things as new case law, legislative changes, emerging issues and changing technology.

Properly developed, implemented and updated policies are critical as they:

- Provide police officers with the information to act decisively, consistently and legally;
- Minimize the potential for problems resulting from police-public interaction (For example, outdated policies can be the underpinnings of police actions that trigger lawsuits); and
- Promote confidence and professional conduct among RNC employees.

A reasonable timeframe for policy review and/or update is five years; however, this timeline is not always achieved. Approximately 40% of the RNC's policies have not been updated in over five years.

Meeting the demands of the SPR Division is challenging; the volume of work has been increasingly tasking on the current staff complement of one Manager, two Constables and one part-time administrative support position.

Recommendation

It is recommended that two Policy, Planning and Research Analyst positions (CG-35) be created in the RNC's Strategic Planning and Research Division to:

- help accommodate updates/revisions to RNC policies within the five year revision timeframe;
- provide experience and knowledge in the area of policy, planning and research;
- ensure a balanced workload among divisional employees; and
- assist in meeting the diverse work demands of the SPR Division.

Tab 11



Police Communications with the Public Following Serious Incidents and During Active Investigations

Communications Manager

Background

▪ Integrity of the Investigation

From a law enforcement perspective it is of utmost importance to maintain the integrity of any active investigation. Due to the inherent risk of serious jeopardy to an active investigation, which arises from a premature release of information, evidence gathered is protected at law by an investigation privilege while an investigation is ongoing.

In recognition of the importance of protecting the integrity of ongoing investigations, the evidence gathered during the course of an investigation is given special protection by the *Access to Information and Protection of Privacy Act, 2015* (ATIPPA) which states in Section 5 (1) (k):

5. (1) This Act applies to all records in the custody of or under the control of a public body but does not apply to

(k) A record relating to an investigation by the Royal Newfoundland Constabulary if all matters in respect of the investigation have not been completed;

and, 31(1)(a)) which states:

31. (1) The head of a public body may refuse to disclose information to an applicant where the disclosure could reasonably be expected to

(a) interfere with or harm a law enforcement matter;

Section 16(1)(a)(ii) of the federal *Access to Information Act* also protects information that relates to an investigation from release to the public.

16 (1) The head of a government institution may refuse to disclose any record requested under this Act that contains

(a) information obtained or prepared by any government institution, or part of any government institution, that is an investigative body specified in the regulations in the course of lawful investigations pertaining to

(i) the detection, prevention or suppression of crime,

(ii) the enforcement of any law of Canada or a province.

Additionally, the release of information to the public during an active investigation is governed by current RNC policy including Section 8.1(a) of the RNC Media Relations policy (See Appendix A), and Section 19 of the RNC Major Case Management policy (See Appendix B).

▪ **Impartiality of the Chief of Police**

The Chief of Police is a unique role within the RNC, which is governed by the *Royal Newfoundland Constabulary Act* and, includes amongst other things specified in section 6, the responsibility to administer discipline in accordance with the Act and Regulations enacted thereunder. The responsibility of the Chief of Police to administer discipline to police officers requires that he or she remain and appear to remain impartial when it comes to investigations which may result in discipline to police officers, at least until the necessary investigation(s) have been completed.

▪ **RNC Communications with the Media During the Investigations related to the Death of Donald Dunphy**

The RNC communication strategy reflected the need to preserve the integrity of the ongoing investigations, the need for the Chief of Police to remain impartial and the need to inform the public. During the media question and answer session with Chief Janes on April 6, 2015, in addition to providing the general factual outline of the circumstances surrounding the incident itself, Chief Janes primarily wanted to offer condolences to the family of Mr. Dunphy and explain RCMP jurisdiction over the investigation. (See speaking notes in Appendix C) This was the RNC's only communication with media during the investigations. Much of the information regarding the incident was previously released by RCMP in a live interview and a media release.

To discuss in detail the topics of proactive policing, the role of the Protective Services Unit, single officer home visits and/or use of force/use of force training would necessarily involve a discussion of issues which were central to the ongoing investigations. Any detailed statement on these topics by the RNC during the active investigations would be interpreted as a statement or opinion on the actions of Acting Sergeant Smyth which would negatively impact the perceived impartiality of the Chief of Police and could well influence a witness' testimony during any future proceeding related to the case. Further, in this case given that the RCMP and the Saskatoon Police Service were conducting these investigations, it would be inappropriate for the RNC to comment publically on matters related to the substance of the investigations.

It is worth noting that the RCMP provided a very detailed media release in April of 2015 which did not resolve issues of public perception in relation to this case, and to date, despite the public inquiry process there are still detractors. In light of this, it is submitted that it is not realistic to expect that a news conference by the Chief of Police covering the topics of proactive policing, use of force/use of force training, single officer home visits and the role of the Protective Services Unit in detail while the investigations were ongoing would have significantly improved the public perception of the RNC, the investigative process or Acting Sergeant Joe Smyth.

▪ **Volume and Significance of RNC Media Communications and Current RNC Media Relations Resource**

There are over 1,000 media releases by the RNC per year, an average of between 5-10 inquiries from the media per day and 2-3 radio, newspaper and television interviews involving the RNC per week. The RNC deals with matters of significant public interest such as homicides, fatal car crashes, sexual assaults, home invasions and armed robberies. Currently, an officer who holds the rank of Constable fills the position of Media Relations Officer at the RNC. Amongst many other duties, the Media Relations Officer assists in developing strategies for the controlled release of information around active investigations or other incidents, which have gained significant public attention.

Social media plays an increasingly important role in community awareness and engagement and as a result it plays a significant role in the communication the RNC has with the public. The RNC Media Relations Officer communicates with the public and shares a large volume of information through the traditional media streams as well as via social media through Twitter, Facebook, Snapchat, Instagram and YouTube.

The RNC has conducted a jurisdictional scan, which has revealed that it is standard for police services across Canada to have Managers or Directors of Communication on staff with specific media relations expertise and education. Given the large volume of media requests, interviews and communications that the RNC must manage on an ongoing basis, a civilian Manager of Communications would be of great value to the RNC. Furthermore, the challenges of balancing the interests of protecting the integrity of an investigation, and maintaining the impartiality of the Chief of Police with the need to inform the public, along with the need to remain responsive to the public in the ever expanding social media context, a Manager of Communications would significantly benefit both the RNC and public.

Recommendation

It is recommended that a Manager of Communications position be created to oversee communication functions with the Royal Newfoundland Constabulary including media relations and social media.

Royal Newfoundland Constabulary Policy and Procedure Manual

Media Relations

8.0 Guidelines for Release of Information

8.1 Restrictions

a. Information shall not be released to the media when release of information could potentially:

- (1) deal with RNC policy or procedure;
- (2) deal with discipline of RNC employees;
- (3) endanger human life (e.g. ransom kidnapping or the use of an informant);
- (4) interfere with an investigation or arrest (e.g. disclosing the amount of money obtained in a holdup, or other details of a crime which could be known only to the perpetrator might impair an investigation);
- (5) violate the law (e.g. releasing the name of a Young Offender or the names of family members which may lead to the identification of a Young Offender);
- (6) prejudice court proceedings or violate the rights of an accused, for example;
- (7) disclose any confidential investigative techniques or operational tactics;
- (8) disclose any confession or statement made by the accused;
- (9) comment on cases before the courts; or
- (10) describe the criminal record of the accused.

Appendix B

Royal Newfoundland Constabulary Policy and Procedure Manual

Major Case Management

19. Media Relations:

- a) The RNC must maintain a consistent approach when dealing with the media regarding the investigation of major cases (see Part 1 Chapter F - Release of Information). Investigations may be impacted by the manner and conduct of relationships with the media. The information released, and the manner by which it is released, can have consequences to the ongoing investigation and any subsequent prosecution. The media can be a valuable asset in an investigation. It is imperative that the RNC maintain a positive relationship with the media.
- b) In addition to the procedures outlined in Part 1 Chapter F - Release of Information, the following procedures shall apply to Major Cases:
 - (1) in all major case investigations the Major Case Manager is responsible for, and shall, with the direction of the Chief of Police or his/her designate, approve any and all releases of information to the media;
 - (2) no RNC member will release information to, nor speak with the media without the prior approval of the Major Case Manager, in consultation with the Media Relations Officer;
 - (3) the Media Relations Officer shall be the designated spokesperson for the release of any and all information to the media;
 - (4) in some situations, the Major Case Manager may consider the release of information to the media in the interest of public safety;
 - (5) in some situations, the Major Case Manager may make a public appeal for information through the media;
 - (6) whenever information is to be released to the media, the person directed to prepare the media release shall:
 - (a) research, compile and draft the relevant information;
 - (b) submit the draft of the media release to the Media Relations Officer for editing;
 - (c) submit the edited draft to the Major Case Manager for final approval;
 - (d) submit the approved media release to the Media Relations Officer for distribution to the media; and
 - (e) forward a copy of the media release to the File Coordinator; and
 - (7) when speaking with the media, under no circumstances shall personal opinion regarding the case be discussed.

- c) The Media Relations Officer shall provide advice on media strategies, including: briefing investigators regarding avenues the media will explore when attempting to obtain information, such as court documents, and addressing the requirements of the media community.
- d) The Media Relations Officer shall monitor all press coverage of an incident and brief the investigative team on any potential problems which such coverage may lead to, including interviews of potential witnesses.
- e) In some circumstance the media may request specific information (e.g., photographs, access to crime scene). In such cases advice will be sought from RNC Legal Counsel prior to responding to the media.

Appendix C

Chief's Speaking Notes Mitchell's Brook Shooting

I would like to begin by saying that on behalf of myself and the RNC I would like to offer our sincere condolences to the family of Mr. Dunphy. Any premature loss of life in this way is always a tragedy. I am hopeful that in the end the family will find the answers that they need.

At approximately 2:30 p.m. yesterday, a member of the RNC was in the area of Mitchell's Brook conducting inquiries regarding an investigation. The officer was confronted and shots were fired. As a result a 59 year old male Mr. Dunphy was confirmed deceased at the scene. Our officer did not receive physical injuries during the incident. At this time we are ensuring our officer receives the support necessary for his well-being while cooperating with the RCMP to ensure they have all the information needed to conduct their investigation.

Q. Premiers security detail?

A. Our officer was assigned to the Protective Services Unit on a full time basis and was acting in that capacity. The nature of the officer's inquiry would at this point form part of the RCMP investigation.

Q. Ongoing threats?

A. As always we will continue to do threat assessments as part of Protective Services Unit's mandate. We deploy resources based on operational requirements.

Q. Why was a RNC Officer in RCMP jurisdiction?

A. Common to cross jurisdiction borders during investigation.

Q. Why was the officer alone?

A. Sometimes our officers work alone and other times with a partner. This will likely form part of the RNCs internal inquiry after the RCMP have completed their investigation.

Q. Was the officer Joe Smyth?

A. Won't be confirming identity at this time. I can tell you it is a mid-career officer who has significant training and experience in Protective Services.

Q. Mental Health concerns?

A. I have received no information to suggest this case involves mental health issues. It is a priority of the RNC to enhance our response to persons with mental health challenges. We are currently conducting training for front line staff in partnership with Canadian Mental Health Association in Mental Health First Aid.

Q. Will outside agency be called in?

A. This incident occurred in RCMP jurisdiction. In past cases when we called in an outside police service the incident was in RNC jurisdiction. As it is their jurisdiction, the RCMP will have carriage of this investigation and I believe that supplies the independence and impartiality that we need and the public expects.

Q. Has police officer involved been removed from duty?

A. As per policy any member involved in a shooting is removed from active duty. We will also be making sure that the officer involved receives the appropriate support.

Q. What kind of support are you talking about?

A. We have an employee assistance program to aid employees and there will be a debriefing for the member as well. Whenever there is a loss of life it can be a traumatic experience.

Q. How long will they remain off the job?

A. Will depend on the needs of the officer but we have a mandatory minimum.

Q. Will there be support for the family of the deceased?

A. Yes, Victim Services will be offering them guidance and support.

Q. Was the man who died known to police?

A. I am not aware of that information.

Q. Evidence question?

A. That will be the focus of the RCMP investigation and we cannot comment on that at this time.

Tab 12



Investigation of Officer-Involved Serious Incidents in Newfoundland and Labrador

Serious Incident Response Team

Background

There is significant public discussion throughout Newfoundland and Labrador regarding the ability of one police service to conduct objective investigations of another police service. A number of high profile matters, including the Commission of Inquiry into the Death of Donald Dunphy, give rise to that discussion. In order for policing to be effective, the public needs to have confidence in the integrity of the investigations of police officers. Investigations need to be seen as transparent and unbiased. The importance of public confidence cannot be understated as there is a detrimental impact on the community and the administration of justice if public confidence is eroded.

The Royal Newfoundland Constabulary (RNC) acknowledges the need of a mechanism for the independent investigation of serious incidents involving police. The establishment of a Serious Incident Response Team (SIRT) would enhance public trust in both the RNC and RCMP in Newfoundland and Labrador. A SIRT would protect the perception of transparency and the ideal that everyone is treated equal. While the RNC and RCMP have confidence in their ability to conduct fair, thorough and objective investigations for other agencies, there is a fine line between perceived independence and investigative excellence.

Several jurisdictions in Canada have adopted various SIRT models and provide criminal investigative oversight of police. Such units are generally viewed as a necessary and valuable part of policing in Canada. SIRTs operate independently of law enforcement agencies to ensure a more transparent and unbiased investigative service. While they all have a Civilian Director, the human resource component varies throughout, for example:

- **British Columbia – Independent Investigations Office of BC (IIO)**
Investigators are former police officers and civilians. Those without policing backgrounds have significant experience in other investigative agencies. No IIO investigator has been a police officer in BC within five years of their appointment.
- **Alberta – Alberta Serious Incident Response Team (ASIRT)**
ASIRT has a blend of civilian investigators and investigators seconded from various Alberta police agencies.

- **Manitoba – Independent Investigation Unit (IIU)**
Manitoba's IIU consists of civilian investigators and seconded police officers. Investigators must have experience in major crime investigations or experience conducting and managing a wide range of complex investigations.
- **Ontario – Special Investigations Unit (SIU)**
SIU is comprised of all civilian investigators with a variety of backgrounds ranging from policing, workplace health and safety, national security and intelligence, immigration, corrections and the legal profession. They do not avail of secondment opportunities from police agencies.
- **Quebec – Bureau Des Enquetes Independantes (BEI)**
BEI investigators are a combination of civilians and former police officers.
- **Nova Scotia – Serious Incident Response Team (SIRT)**
SIRT investigators are a combination of civilian (former police) and seconded police officers.

Investigators must have the skill set to conduct a criminal investigation which will stand up to the scrutiny of the courts in relation judicial authorizations, and the interviewing of witnesses, victims and suspects. The courts have high standards as to how these activities are conducted. Investigators will also need to be aware of the most up to date techniques in the science and technology of evidence gathering.

Although investigative team structures vary, they are similar in mandate in that they independently and objectively investigate incidents that involve:

- death or serious injury
- sexual assault; and
- serious and sensitive allegations of police misconduct that are of significant public interest (e.g. corruption, breach of trust, trafficking in controlled substances, etc.).

These investigations can include allegations that involve conduct both on and off-duty.

The RNC has a Memorandum of Understanding (MOU) with the Ontario Provincial Police (OPP) since October 1, 2002, to investigate serious incidents involving the actions of members of the RNC. While the MOU has been in place for almost 15 years, there are occasions where other police organizations have been requested to conduct investigations on our behalf such as matters in which there is a conflict of interest or matters which would overburden the resources of the OPP. In the past three years the number of RNC files investigated by outside agencies is as follows:

- 2014 – 3
- 2015 – 8
- 2016 – 7

The RNC has adopted a formalized process to determine the investigative path such files will take. A Criminal Complaint Advisory Board (CCAB) was established with the following members:

- Chief of Police
- Deputy Chiefs of Police (2)
- Officer in Charge of Criminal Investigation Division
- Officer in Charge of Professional Standards Section; and
- RNC Legal Counsel

Upon notification of a serious file/ incident, the Chief or his designate, will convene the CCAB for discussion and assignment of the investigation. These incidents are treated as criminal until determined to be otherwise and in keeping with the MOU with the OPP, and considering the other factors mentioned, the decision is then made to:

- investigate the matter internally
- request an investigation by outside agency; or
- investigate the matter internally and have it reviewed by an outside agency.

Although the CCAB has worked well, the establishment of a SIRT in Newfoundland and Labrador would take internal decision making from RNC hands. SIRT would automatically be tasked with the investigation of serious incidents arising from the actions of RNC and RCMP in the province. The civilian oversight and the summaries published at the conclusion of investigations ensure the public understands the decisions made.

“As Inquiry Commissioner, Justice Leo Barry, has made clear, justice in these circumstances must not only be done, it must also be seen to be done, as the maxim goes. Any whiff of favoritism or lax treatment of a police officer at the heart of an investigation undermines public confidence in the process” (Telegram column: Pam Frampton, February 6, 2017)

Recommendation

- Newfoundland and Labrador should establish a Serious Incident Response Team, comprised a Civilian Director and Investigators with significant experience in complex investigations.

Tab 13



Use of Force Training for Police Including De-escalation Techniques for Dealing with People in Crisis

Mobile Crisis Response Team

Background

Eastern Health's Mobile Crisis Response Team (MCRT) was established in April 2010 and is comprised of a team of psychiatric nurses, licensed practical nurses and social workers, who travel as a team to assist mental health clients determined to be in crisis.

There are challenges in the current MCRT providing this service to clients in 'crisis' due to safety concerns, information sharing, and a limited level of response/availability. There is also a less than ideal relationship between police, health care professionals and consumers due to a lack of understanding of each other's roles, responsibilities and knowledge base.

In most instances, the RNC is the initial contact for many people experiencing mental health crisis. Being the most available does not necessarily mean a police response is the most appropriate in all situations. Many of those experiencing a mental health crisis do not want to talk to police nor have police come to their homes.

The RNC completed a nation-wide scan in 2014 to determine the best approach to mental health crisis. The Memphis Model is an organizational and community intervention that involves changes in police department procedures as well as collaboration with mental health providers and other community stakeholders. This model is utilized in many law enforcement agencies and is considered a "Best Practice" model in law enforcement. The Memphis Model is an internationally recognized model that allows for the community demographics and its available services to shape the unit to best fit the needs and capabilities of the community.

The Memphis model has a foundation in Crisis Intervention Team (CIT) training which is designed to improve officers' ability to de-escalate and safely intervene, link individuals to mental health services, and divert them from the criminal justice system when appropriate.

One of the core elements of the model is collaboration with community partners, including mental health providers. This collaboration involves the training of RNC officers in Crisis Intervention Training alongside health professionals, social workers, and community advocates. It also includes expanding the current MCRT to include 4 plain clothed police officers to increase the response to higher risk crisis incidents by the MCRT mental health professionals. By expanding the MCRT it will also increase the availability of the team to respond to crisis situations.

The Honourable Donald S. Luther released his findings and recommendations into the sudden deaths of Norman Edward Reid and Darryl Brandon Power on December 16, 2003.

- Recommendation #15:

"It is further recommended that the Regional Health Boards establish mobile health units to respond to mentally ill persons in crisis where no criminal offence is alleged. Each unit would be developed locally and based on local needs. In the greater St. John's area, a model along the lines of Vancouver's Car 87 or Hamilton's Coast Programme should be developed. In other areas, the models would vary. Intervention would be by experienced mental health workers. Police officers would only be called to assist where the workers determine there is a concern for personal safety."

The concept of a combined unit for crisis intervention incorporating mental health professionals and the police is in practice across Canada. The configurations of those combined units take into consideration the demographics and best interest of the communities. Vancouver has a Mental Health Team, "CAR 87", this team is a uniformed police officer and a psychiatric nurse operating out of a marked police unit; Calgary also has a co-responder response, the "PACT" team which also contains a uniformed officer and a nurse or social worker operating out of a marked "Mental Health Services" unit. London and Halifax have implemented their mental health teams based on the CIT Memphis Model and their teams are comprised of an un-uniformed police officer and a nurse or social worker in an unmarked vehicle that does not identify as a police unit.

- Recommendation #36:

"it is hereby recommended that the RNC develop an organized comprehensive database, consistent with principles of patient confidentiality, so the relevant, important information for its members is made available when dealing with mentally ill persons who are dangerous."

The collaboration within the combined MCRT of mental health professionals and police would include the sharing of information as it specifically relates to determining the best health care plan to the individual in crisis. In the absence of a mental health professional, the training of the first responder RNC officers in Crisis Intervention would create a line of communications between the Mental Health & Addictions Crisis Line and would also include some sharing of information to ensure the best health response is actioned.

Recommendations

Develop a collaborative approach that safely and effectively addresses the needs of persons experiencing a mental health crisis, links them to appropriate services and diverts them from the Criminal Justice System, when appropriate.

- A collaborative approach by the Department of Health and Community Services and the RNC in responding to persons experiencing mental health crises.

- Establishment of an Implementation Team, comprised of an RNC representative, mental health professional and community advocate.
- Crisis Intervention Team (CIT) training and Train the Trainer for specified RNC officers, Communications Technicians and mental health professionals.
- A Mobile Crisis Response Team (MCRT) comprised of:
 - Clinical Team Lead (nurse/social worker) – New position required for Eastern Health
 - mental health professionals (current resources only)
 - 4 plain clothed RNC officers (current resources only)

Tab 14



Protecting Freedom of Expression in an Age of Social Media

Statements on Government's Social Media Sites

Background

- **The use of social media in promoting the public's right to free expression and as a tool for critiquing government policy and action.**

Social Media is a tool for communications, which has become an integral part of the daily lives of people of all ages. Social media accounts for 22 percent of all time spent on the internet¹ and even among people age 65 and older - who are not generally considered prime users of new technologies - one in four are now active on social media websites.² Facebook claimed to have 955 million monthly active users worldwide at the end of June 2012.³

Many groups and individuals have used social media as a tool for criticizing all levels of government as it relates to policy and action. Social media platforms such as Facebook, Twitter, YouTube, Snapchat, texting, etc., are merely another avenue for freedom of expression which allows individuals to exercise free speech. The right to free speech is protected by Section 2(b) of the *Canadian Charter of Rights and Freedoms* (Charter). Section 2(b) of the Charter states:

Everyone has the following fundamental freedoms:

(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.

Charter rights and freedoms, such as the right to freedom of expression, are subject to limits prescribed by law as can be reasonably justified in a free and democratic society pursuant to Section 1 of the Charter which states:

The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Case law has set out some limits to the right to freedom of expression in accordance with Section 1 of the Charter, including, for example, expressions which promote hatred (*R. v.*

¹ <http://blog.nielsen.com/nielsenwire/global/social-media-accounts-for-22-percent-of-time-online/>

² See www.cbsnews.com/stories/2010/11/15/national/main7055992.shtml

³ See <http://newsroom.fb.com/content/default.aspx?NewsAreaId=22>

Keegstra 1990 CarswellAlta 192 (S.C.C.)), violence as a form of expression (Irwin Toy Ltd. V. Quebec (Attorney General) 1989 CarswellQue 115 (S.C.C.), para. 43), speech which constitutes defamation (eg. King v. Power 2015 NLTD (G) 32, para. 28); and threats (R. v. Clement (1994) 2 S.C.R., 758)

Freedom of expression as protected by Section 2(b) of the Charter is an important component of a fully functioning democratic society, and remains a protected right in this age of social media, but, this right is subject to some reasonable limits pursuant to Section 1 of the Charter as defined by case law in this area.

- **The monitoring of and response to social media by Government or the RNC and, specifically, the potential risk of such activities having a chilling effect on freedom of expression.**

Law enforcement agencies like the RNC are finding ways to use social media to disseminate information to the public. In fact, police services are finding their communities expect them to have an online presence on platforms such as Facebook, Twitter and YouTube.

The RNC, like most other police services throughout Canada, has started exploring social media to obtain information, especially for tactical purposes such as gathering information and intelligence about threats, violence, protests, or isolated criminal activity.

Social media has now given protesters and criminals the ability to informally and very quickly organize and communicate with each other in real time. Police must, as a part of its mandate to serve and protect, know how to assess whether threats of criminal activity are developing and stay apprised of these criminal activities.

Criminal activities such as child luring, human trafficking, fraud, drug trafficking, blackmail, and intimidation are constant activities that are found on social media sites throughout Newfoundland and Labrador, Canada and North America.

Another consideration is that crime victims and witnesses can quickly transmit information about a crime scene or a criminal act to the world impeding an investigator's ability to control the release of information about a case. Similarly, social media sites in the aftermath of an incident/crime are used to identify victims, witnesses and perpetrators. Witnesses to crime and even perpetrators often post photographs, videos, and other information about these incidents/crimes which can be used as investigative leads or evidence.

In a democratic country like Canada and a province like Newfoundland and Labrador, most social media users, we believe, support the monitoring of social media by policing agencies to curtail and investigate criminal activity offered on these sites. We believe that most

law-biding users of social media believe that the potential risk to freedom of expression is small when compared to their need for safe and secure communities.

Recommendation:

It is recommended that both the Government of Newfoundland and Labrador and the Royal Newfoundland Constabulary, as part of an initiative to ensure openness and transparency, should affix a statement on their social media sites to the effect that these social media sites are monitored for criminal activity and anything that is suspected of being criminal in nature, will be referred to the appropriate policing agency for investigation.