



# Banner Page

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52	T	
BURKE, Steve	P	

**Supplementary Occurrence Report**

RCMP-GRC , B Division

Printed: 2015/05/21 12:13 by 000132482

Occurrence: **2015376186 Pointing a firearm 87(2) CC (FIP) @2015/04/05 14:28**

Author: #000101976 BURKE, S.

Report time: 2015/04/08 17:56

Entered by: #000101976 BURKE, S.

Entered time: 2015/04/08 17:56

**Remarks:**

Folder 052 - Re-enactment Notes of Cpl. BURKE

**Report:**

2015-04-07 20:00 to 22:00 (time is approximate)

Member and Sgt. OSMOND discussed the benefit and have SMYTH complete an re-enactment. Both agreed that if SMYTH was up for it a re-enactment would help to provide a clear picture of the events at the scene as detailed by SMYTH.

Member called SMYTH and he was willing to complete an re-enactment adding he would assist in anyway he could. Member advised SMYTH to take some time to think about it.

Member called Sgt. SAUNDERS of FIS and advised him of our intentions of completing an re-enactment over the next couple of days.

Member received a return call from SMYTH advising that he would do an re-enactment but he had a 2 pm appointment (critical debriefing) that he wanted to attend and suggested mid-morning.

Member discussed timeframe with Sgt. SAUNDERS and 11 am for re-enactment with Cpl. Kelly LEE was a possibility.

Re-enactment was arranged for 11 am on 2015-04-08 through SMYTH and FIS.

2015-04-08

09:30

Member with Cpl. FOOTE departed B Division HQ en route to Mitchell's Brook to complete the re-enactment.

10:00

Member received a call from Sgt. OSMOND advising that they were in the process of arranging to have an observer attend the re-enactment and wanted same delayed. Member stressed the wish to accommodate SMYTH'S schedule, Sgt. OSMOND understood and would get back to member.

10:05

Member spoke with SMYTH and advised that we were in the process of having a person oversee our investigation and that we were making arrangements to have that person attend the re-enactment. Member added that this would cause a delay. SMYTH said he was happy to have the observer then and said he was willing to make arrangement to alter his schedule.

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10:23

Member was advised by Sgt. OSMOND that retired judge David RICHE was names as the independent observer and they were leaving St. John's at 12 noon to attend the re-enactment (now set for 1 pm). Member advised SMYTH and he was fine with the new time.

12:50

Member and Cpl. FOOTE arrived in Mitchell's Brook and completed a walk through of the residence with Cpl LEE (FIS) to ensure the residence was setup as it was on the day of the incident.

13:22

Re-enactment started: Present was the following:

- Cpl. Kelly LEE - FIS - operating audio/video
- A/Sgt Joe SMYTH
- Retired Judge David RICHE - independent observer
- Bill JAMES - RNC, support for SMYTH
- Cpl. Dion FOOTE - assisting member

14:10

Re-enactment completed. Synopsis to be completed when video is available.

SUI

(S.D. BURKE) Cpl.

2015-04-09 15:55

Cpl. Kelly LEE, FIS attended member's office and advised that the video/audio for the re-enactment have been deleted and is unrecoverable. Cpl. LEE explained that there are sometimes issues with the new software and camera she was using. Cpl. LEE expressed her apologies. Cpl. BURKE asked Cpl. LEE to document the occurrence in her report and also to provide in as much detail as possible what she witnessed during the re-enactment.

Member asked Cpl. FOOTE to provide a detailed report of his observations during the re-enactment as well.

16:30

Cpl. BURKE advised Sgt. OSMOND that the re-enactment video was deleted. (Sgt. OSMOND was in a meeting prior to this time)

16:55

The following is a detailed account of the re-enactment from memory by the member (Cpl. BURKE):

- The video camera was running and member opened up the re-enactment by stating the date and the people that were present (as noted above). The re-enactment was then turned over to Cst. SMYTH. He started out by explaining that he initially completed database checks on Donald DUNPHY prior to attending his residence. He also advised that he attended DUNPHY'S neighbours, who happened to be Donald's brother and sister-in-law and he was there about 20 minutes.
- When SMYTH left the neighbours he noted that there was now a Jeep in Donald's driveway (SMYTH had attended Donald's residence previous to going to the neighbours and there was no one home)
- SMYTH walked to the corner of the house and observed a sign posted on the corner of the house that

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- talked something about how government were not welcome.
- SMYTH then noticed the screen door open of the residence and saw Donald DUNPHY, SMYTH walked to the bottom of the stairs and presented his police identification from his jacket left inside pocket. SMYTH explained that his identification is located in the top portion of the wallet and his police badge falls downward
  - SMYTH said he was invited in the house by Donald and he proceeded to enter the house. Once SMYTH stepped in the residence he appeared to be taken back by the smell in house and said that he would never forget it. SMYTH has to stop for a few seconds and I told SMYTH to take his time.
  - SMYTH continued and said he spoke with Donald while he was in the porch as Donald sat down in the living room, in a chair
  - SMYTH said he eventually moved into the living room and positioned himself for the majority of the time on the opposite side of the living room from the exit (front door) and Donald seated in the chair. SMYTH added that he was walking back and forth in front of the fireplace as he was talking to Donald. SMYTH advised he was there to clarify information he received for a Twitter posting. SMYTH said they were talking about various topics and Donald would get upset and would calm down
  - SMYTH said that he was in the house for about 15 minutes talking Donald. SMYTH commented on the number of cats in house and the garbage that was around. SMYTH then saw a red stick/bat with Duct Tape lying on the floor on the left hand side of Donald's chair, Donald said something to the effect it was for protection
  - SMYTH said he had a folder with him and he was writing on the folder / or pretending the write on the folder trying to deescalate Donald who appeared upset. SMYTH added that his threat assessment of Donald remained low. Then out of his peripheral vision he saw the barrel of a gun come up from the right hand side of the chair that Donald was sitting in. SMYTH said he dropped the folder and put up his left hand and said "no" as he reached for his sidearm. SMYTH said his jacket was open and he could not remember taking the gun out of his holder. SMYTH said he was waiting for the bullet to hit him and to feel the pain. SMYTH said he thinks he shot four times as he was running out of the room. SMYTH showed the route he took was around the coffee table and the couch that was against the wall towards the back of the house.
  - SMYTH said he looked around the doorway from the porch to living room to ensure Donald was not longer a threat and told Donald to drop the weapon. SMYTH then saw the gun on the floor left hand side next to Donald who was still seated in the chair. SMYTH added that he knows the guns was not lying directly on the floor and that it was propped up on something. SMYTH mentioned a plastic container that he saw in the room and thinks the gun was lying on that with the stock on the air and the barrel facing down. SMYTH noted the bullet wounds to Donald's forehead and temple and was confident he was deceased.
  - SMYTH said he cleared the rest of the residence to ensure there was no one else in the house. He said he went in the kitchen and in the back porch saw marihuana plants. He also saw a large marihuana plant in a bedroom.
  - SMYTH said that once the house was cleared he called RCMP telecom's and then RNC telecom's. He said he stayed in porch area thinking that the neighbours may have heard the shots and assessed the risk of them coming with firearms to check on their brother.
  - Member asked SMYTH the total amount of time he was in the residence and he answered about 15 minutes but it could have been 20 minutes
  - Member asked SMYTH that once the firearm was presented how long it took him to exit living room. SMYTH replied 1 to 1.5 seconds. SMYTH then re-enacted in real time exiting the room from where he was standing by the fireplace. SMYTH said that he did not know how he managed to get the four shots off in such little time.
  - Member asked SMYTH to show where Donald was in the residence during his interaction with him. SMYTH replied that he was seated in the chair the whole time. Member then went over by the chair, ensuring he understood where Donald was seated as directed by SMYTH.
  - When asked by member SMYTH showed that the gun that Donald produced came from somewhere on the right hand side of the chair but as he look could not figure out where it came from. He said first thought there was some sort of a hostler on the chair but he could see that was not the case
  - SMYTH exited the residence and said he was outside for a period of time. He turned on the emergency lights in his police car so the attending members know where he was.
  - Member asked SMYTH who was the first person he encountered when he went outside and he said it was RCMP member Adrian COX.

The version of events provided by SMYTH in the re-enactment are consistent with the statement he provided on Monday. The points that member wishes note that were gleaned from the re-enactment not borne out in the statement are as follows: It established the escape route that SMYTH used to exit the room and the little

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amount of time it took him to leave the room: It also showed him recounting that he was waiting to feel the bullet and the pain.

Efforts are being made to recover the video of this re-enactment.

This task to be concluded.

CH

(S.D. BURKE) Cpl.

Primary Investigator