



PROJECT DUNPHY
File No: 2015-376186

Start Date: 2015-04-05 14:28:00
Date Last Run: 2016-09-22 10:49:00
End Date: 2016-09-22 10:49:00

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Task No: 54
2015-08-06 8:20:00

Task Assignment: 54 - Independent Observer

Cpl BURKE received a phone call from Justice RICHE for an update on Lab results and he was notified that a date was identified as Sept 15, 2015.

Justice RICHE raised a couple of issues for clarification:

1. Did Meghan DUNPHY see a firearm in her father's residence the day before the incident? Was it by the chair? Could she have seen it by the chair?

2. Was Donald DUNPHY tipped off that police were looking to speak with him?

SUI

(S.D. BURKE) CPL.

/jl

Action: 919
S BURKE

Task No: 11
2015-08-06 9:00:00

Task Assignment: 11 - Notes - Team Commander

Cst BURKE advised Sgt OSMOND that he had been speaking to Judge David RICHE and RICHE mentioned an investigative 'gap' that he wanted clarified. The 'gap' specifically pertained to when Megan DUNPHY states she last saw her father's rifle in the residence. OSMOND remembered that in her interview DUNPHY had clearly offered a memory of last seeing the gun when she was cleaning the house on her father's behalf during the time he was in the hospital. This was some time before the shooting.

Originally, she had told police she didn't know he even had a gun, then later changed her mind and offered the memory of seeing it behind the couch. BURKE confirmed this verbally to OSMOND, and stated he had already reviewed Ms DUNPHY's statement to ensure that was accurate. He said he would advise RICHE where to find this material in the file so he could satisfy his concern.

/jl

Action: 134
K OSMOND



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Task Assignment: 54 - Independent Observer

Cpl BURKE reviewed the statement of Meghan DUNPHY provided to police on April 8, 2015. Cpl BURKE focused on portions of that statement that referred specifically to the gun. The reason for this statement was that DUNPHY contacted police and advised she had further information that she had not disclosed to police in her initial statement. The following are excerpts from that statement that speaks to the gun in Donald DUNPHY'S residence:

DUNPHY: ...and the guys were there to talk to me like a few hours after I had found out about dad and that so you know as time's going by I'm just I guess more stuff is coming to me and stuff. But when they asked me about if there was any weapons in the house and I said no...

Dunphy: ...well there was a gun in the house belong to my grandfather. When my grandfather died dad pretty much literally moved everything that was in his house, in my pop's house, over to our house cause everything is technically antique, or was antiques in my dad's eyes. So you know like one of the officers even mentioned they seen this big oar around and like there's lots of old junk around is what I call it like it's, it's ready for the dump.

Dunphy: But it's just really old and it was my pops and dad wanted to keep it. So there was a gun. I'm not familiar with guns. I can't tell you what it is. I can't tell you what it was. All I knows it was about this long and it was old and brown and rusty and junk like falling apart and I'm pretty sure there was a piece missing off of it.

Dunphy: So anyways and that was there in the house and when my dad got sick in January, I'm saying January my father was in the hospital sometime between January and say the first of February I'm not exactly sure of the dates..

Dunphy: And he was in there for a week. He went down by ambulance first time he got sent home and then when he went back they kept him in. And hmm, when he was in the hospital I would go down in the day time and feed the cats like I'm doing now same thing and I went down a few days and cleaned up the house like I took out all the garbage and cleaned the kitchen and stuff like that and the gun was behind the couch. When I moved the couch the gun was flat like say I didn't lift the couch there was no need to lift down the dads he wasn't particular about like you know what I mean.

Dunphy: Like I do home so I wouldn't scratch the floor so I

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S BURKE



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just probably even kicked out the couch and it was kinda stuck under the couch. So you know I looked at it and it, it, it wasn't even a big thing to me because I knew it was there in the house before so I just figured you know whatever it was just hugged behind the couch it wasn't taken out a long time there was dust and dirt and shit everywhere. So I just lifted it up and shoved it back down on the couch and just shoved the couch back in. And I did mention to dad about it but it was never it was just like yeah it was pops gun like the old thing that was there like if you, were you to the house?

Dunphy: Like there's stuff poked literally everywhere.

Dunphy: So this was probably you know he probably moved some stuff over the past years and that, he, that just got slung in there like chances are only for I mentioned it he probably would of had to turn the house upside down to look for that if he wanted it.

Dunphy: And two of my uncles, my dad's brothers, have, knew exactly what gun it was because apparently my other uncle Dick had, my pop had four guns. My uncle Dick has three.

Dunphy: And this is the one how they knew what it was because obviously dad had this one. They claimed that it was broken and all warped up and I think you might of even we told you this before I think it was all warped up and you can tie it up was it Kev said?

Corcoran: Yeah I think Kev said it was tied up yeah.

Dunphy: Yeah Kev said it was like tied up. He said it was in the stable for years like it hadn't been used and stuff like that.

Dunphy: So I did see that and it was behind the couch. And you know I've been down the dads many times since then at least once a week at the very least and you know he didn't clean up obviously after I cleaned up so everything was still there and the boxes were still shoved in the same way. So my issue thinking now is just you know the way I see it I know my dad I know where he sat I know if the officer went in where he sat so I'm just wondering how my father managed to go behind the couch and get the gun if per say that's how it went.

Dunphy: But like I said I have a lot of questions this is some of them. But I just find it a little hard to understand like the cop was invited in my father must have been home literally two minutes I'd say...



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Dunphy: ...like he pulled up in the driveway and then the officer who was parked down the road just must of came right behind him. So he invited him in openly and then within 15 minutes like I can't understand how my dad managed to get up and go behind the officer where he was sitting and haul out this gun and then point at you. It doesn't make sense to me I'll be honest.

Dunphy: It's never been in another place (the stick) SDB/CPL. My dad didn't clean up before this you know he got up enough time to get in the shower brush his teeth and go not to mention he lived at our house for a week right before all this happened. So you know it's not like he planned everything out. So you know could it have been this stick that he was getting at, reaching for and then you know if this cop had seen that gun, and I'm not saying he's bad or anything like that...

Dunphy: ...but you know my dad could of pulled a stick on him and then if he sees the gun well how did you know he didn't put the gun there.

Dunphy: But there was a stick there that he used for self, say he would use for self defense if someone came.

Dunphy: So you know the gun was never there for self defense. It was there because it was my pop's and dad was too, had too big of a heart to throw it away he didn't you know, every, he kept dressers and you now there's I bet you there's 12 dressers in our house. We had three bedrooms. He kept everything. Every bed, every everything you know what I'm saying so I just have a hard time believing this story about the gun I'll be honest.

Dunphy: ...as of right now that's what I remember about that gun.

Osmond: So the information that you wanted to pass on is that you did see the gun in house.

Dunphy: Yeah.

Osmond: But that it was sort of thrown in behind the couch.

Dunphy: Yeah.

Osmond: And to the best of your knowledge that's where it was last...



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Dunphy: Yes.

Osmond: ...like situated...

Dunphy: Hmm, hmm.

Osmond: ...kind of thing right?

Dunphy: Yeah.

Osmond: And the other pieces that he had a stick with...

Dunphy: Yeah.

Osmond: ...duct tape on it and you feel that if he had picked that up the officer might of thought it was a gun.

Dunphy: Yes.

Dunphy: Which is where his chair was.

Dunphy: And the thing is if this officer went in there would of been nowhere around where my dad was sitting that he would of been able to hide anything because his chair was out about even probably like this from the wall there was nothing in this corner by him only like a stereo. So you know that was in the corner it couldn't be in there. Then there was the window and probably his little garbage bucket and his table with all his pills and shit on it. So you know the gun could not have been around him or it would have been in plain sight is what I'm trying to say.

Dunphy: Is what he would of said, and in my head that's the scenario that's happened there. He told him to get out and he probably didn't go immediately. I still, I don't think I'll ever believe no matter what comes out of this that my father hauled a gun on a cop because you know his life was getting better. He was looking forward to turning 60 so that he was gonna get like another 600 dollars a month and like things like that like things now are say if this had the be five years ago you know dad was a little bit more unhappy and stuff, but my father was not unhappy right now. He was bitter towards certain things but like he did not want to die by no means.

Cpl BURKE believes that it is clear from the statement of Meghan DUNPHY that the last place she saw the gun was behind the couch, Cpl BURKE is satisfied with that. To go back and ask her where was the last place she saw the gun or it see could have seen it by the



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chair would be leading. DUNPHY also mentions that if the gun was by the chair she feels she would have seen it.

/jl



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Task No: 11
2015-08-06 10:25:00

Task Assignment: 11 - Notes - Team Commander

Sgt OSMOND was approached by Cst BURKE who had some concerns about the review of David RICHE. He stated he had told RICHE where to find the material about the rifle and that RICHE wants the police to re-interview Meghan DUNPHY to ask her if, the day before the shooting, she had seen the gun by the side of the her father's chair (where SMYTH states it was obtained).....or if she COULD HAVE seen the rifle in that location.

RICHE also told BURKE that he feels there was a confrontation of some kind, that DUNPHY obtained the rifle from behind the couch, that SMYTH was angry and would not leave the residence, and shot DUNPHY.

BURKE was concerned that 1) RICHE was well outside his mandate of oversight by developing investigational theories and directing police, and 2) his theory made no sense and had the potential to unduly cast doubt on the investigation. OSMOND agreed.

OSMOND understands RICHE's role to be one of oversight, to ensure the investigation is completed in a timely and professional manner without biase or favoritism toward the police. Directing police to conduct follow-up interviews is not his role.

Having said that, Sgt OSMOND as Team Commander would have no issue with anyone, in any role, at any time, identifying a valid oversight or 'gap' in an investigation so that the matter could be addressed.

In this case however, the matter has been dealt with already and the answer is clear. Ms DUNPHY has been specifically asked about this issue, she remembers when she last saw the rifle, and has clearly articulated that fact. To ask her now if she remembers seeing it by the chair is a leading question and has no basis....to ask her if she COULD HAVE seen it is a dangerously suggestive question and will not be asked. It invites speculation, and could be perceived as the police suggesting that Ms DUNPHY's memory is unreliable, or that the police prefer / desire a different answer than what was offered.

In terms of Mr RICHE's theory of a confrontation having occurred, Sgt OSMOND is aware of no evidence to support this. This idea, compared to the known scene facts as OSMOND understands them to be at this time, is in direct contrast to the evidence and has no basis in fact.

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K OSMOND



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Should evidence surface that causes concern, all possibilities will be entertained and explored at that time. The only evidence that might cause concern is the forensic evidence from the scene, which is still being analyzed. To develop theories while this evidence is still being analyzed is not investigatively sound.

Based on what is known to this point, Mr RICHE's theory of an altercation (verbal or physical), the recovery of the rifle from behind the couch by DUNPHY, DUNPHY sitting in his chair, and then DUNPHY being shot by SMYTH makes no sense. One would have to accept that SMYTH allowed DUNPHY to move a couch during a heated argument, retrieve a rifle and sit down with the rifle in the chair in which he was shot and found. Trajectory evidence to this point clearly indicates DUNPHY was shot while seated in that chair. Even without considering the known physical evidence to the contrary, Sgt OSMOND finds the likelihood that an armed police officer, during an altercation, would allow an armed citizen to roam freely with a rifle, and sit down in a chair before discharging his weapon to defend himself to be highly unlikely. When considering this theory in conjunction with the physical evidence gathered thus far, there is no reason to think this occurred.

/jl

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Sgt OSMOND asked for a meeting with Insp. CAHILL to discuss this issue.

/jl

Action: 136
K OSMOND



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Task Assignment: 54 - Independent Observer

Cpl BURKE spoke with Justice RICHE and advised him of what DUNPHY said in her statement. Justice RICHE responded that this was nothing new to him and was aware of the contents of her statement. Justice RICHE then said that he has a theory of what happened in the residence when DUNPHY was shot. He feels there was a confrontation between Donald DUNPHY and Joe SMYTH (clarified as verbal) and DUNPHY proceeded to go behind the couch and retrieve his gun and tell SMYTH to get out of his house and that was when SMYTH shot him. Cpl BURKE does not feel this theory described by Justice RICHE is logical or in line with the known evidence of this case for the following:

1. DUNPHY was found seated in a chair across the room from the couch and the scene, while trajectory has not yet been established, suggested that DUNPHY was shot while seated in the chair. Justice RICHE'S theory appears to suggest that DUNPHY retrieved his gun from behind the couch and then sat down in the chair and was then shot;
2. Unless DUNPHY was aware that police were looking for him, he would not have had time to get the gun before SMYTH'S arrival. Cpl BURKE does not have any information to suggest that DUNPHY was tipped off that police were in Mitchell's Brook looking for him;
3. While this may be difficult to prove, there is a void in the garbage on the floor that appears proportionate with the rifle found at the scene and where SMYTH said the gun came from. The couch appears as if it was not moved. The gun if on the DUNPHY'S right side may or may not have been visible and if SMYTH was standing near the fireplace towards the couch it is unlikely he would have seen the gun. (Scene photos reviewed)
4. Joe SMYTH is the only witness and provided his version of when happened at the DUNPHY residence that appears accurate when compared against the available evidence.

Cpl BURKE suggested a meeting with Justice RICHE, in person, same set up for Friday August 7, 2015 @ 10.

SUI

(S.D. BURKE) CPL.

/jl

Action: 921
S BURKE



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2015-08-06 11:30:00

Task Assignment: 11 - Notes - Team Commander

Meeting between Sgt OSMOND, Cpl BURKE and Insp CAHILL. CAHILL agreed that the investigation cannot be influenced or directed by RICHE, but that any valid concerns he has should be addressed. Agreed.

CAHILL shared OSMOND and BURKE's opinion that the question he wanted asked of Md DUNPHY was leading and had been answered in the past, so it should not be done.

OSMOND advised CAHILL of RICHE's theory and his / BURKE'S concerns that RICHE was stepping outside his mandate. OSMOND stated he didn't feel comfortable reminding RICHE of his mandate or suggesting what he should or shouldn't be doing, as it could be perceived as interference. CAHILL understood that concern and asked that meeting be set up with RICHE to discuss any issues he has.

Meeting was arranged by Cst BURKE for 1000 hrs tomorrow morning.

/jl

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K OSMOND

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Task No: 11
2015-08-07 10:15:00

Sgt OSMOND, Insp CAHILL and Cpl BURKE met with Judge RICHE. several issues were raised:

Action: 138
K OSMOND

- RICHE feels it is vitally important to clarify with Maghan DUNPHY when she last saw her father's rifle. He has trouble figuring out why it would have been beside his chair on the day of his death. MCU's position is that the question has been asked and answered by Ms DUNPHY, and only Mr DUNPHY could answer why the gun was by the chair, which is impossible. Ms DUNPHY states the last saw the rifle when she attended her father's house to feed the cats while he was in hospital several months before the shooting. It was behind the couch in the living room. RICHE was told if he wanted further clarification, he should feel free to contact Erin BREEN or Ms DUNPHY. In the opinion of investigators, the question has been asked and answered....to seek further answers to the question is a leading process and might appear as though the police were looking for a specific answer rather the one that had already been offered.

- RICHE wonders if someone called to foerewarn DUNPHY of pending police arrival. He was advised by Cpl BURKE that DUNPHY's cell phone records do not reflect this as possible, and he had no landline.

- RICHE has concerns over reconciling the bullet trajectory as compared to SMYTH's account, Dr AVIS' explanation, and his theory that perhaps DUNPHY was in a different position than reported. He was advised that the forensic results / trajectory assessments are not completed and will likely address his concerns. If there are inconsistencies, they will be explored at that time.

- RICHE stated he feels the position of the gun on the floor is not consistent with him having been shot in the manner described by SMYTH. OSMOND asked him why he felt that way and he said it simply doesn't look right. OSMOND pointed out to him that MCU members, although having investigated numerous crime scenes, cannot make such conclusions as they lack the expertise. OSMOND suggested that kind of conclusion should be left to experts.

- RICHE states he feels that SMYTH 'slipped up' by calling the chair a couch and that concerns him in terms of his honesty. BURKE advised he has reviewed the statement and feels that SMYTH mis-spoke, which is not uncommon when providing a statement. It was agreed that SMYTH would be asked about this by Cpl BURKE.

- RICHE feels the decision not to polygraph SMYTH was not the right choice. BURKE and CAHILL explained that the questions that could



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be aksed are limited, as they have to be very specific, but most importantly SMYTH is not a suspect in an offense at this point. Should the forensics show differences from SMYTH's statement, or other evidence arise that causes concern, the issue would certainly be revisited. BURKE explained that he made inquiries on the usefulness of the polygraph, and was provided the above-noted guidance.

- RICHE offered some thoughts about what might have happened, such as the alleged altercation between the two men. He also speculated that SMYTH may have been in the little hallway next to the living room when he shot DUNPHY. OSMOND has no idea on what evidence RICHE has arrived at these possibilites. OSMOND cautioned him about speculating before the forensic evidence had been received. There is no indication that anything RICHE is speculating actually occurred.

/jl



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2015-08-07 10:15:00

Task Assignment: 54 - Independent Observer

Cpl BURKE along with Insp. CAHILL and Sgt. OSMOND met with Justice RICHE at RCMP HQ. Cpl BURKE noted the following from Justice RICHE:

-The only evidence / witness police have was provided by the person who done the shooting;

-Meghan DUNPHY saw the gun behind the couch less than 24 hours before he was killed;

-People did not consider DUNPHY as a risk, he was on an up-swing. DUNPHY had lunch with his family no problems;

-SMYTH attended the DUNPHY residence on Easter Sunday like was looking for a fugitive;

-DUNPHY must have moved the gun. How did DUNPHY get gun from behind the couch. Was he tipped off?

-Problem. SMYTH had to put his story to correspond with the evidence;

-During the meeting with Dr. AVIS regarding shots fired and the direction the shots entered DUNPHY'S body. Said that the first shot killed DUNPHY and that SMYTH put two more in him for good measure. Justice RICHE is concerned with the way the gun landed;

-Wants to ask Erin BREEN to ask Meghan DUNPHY why she didn't see the gun by the chair;

-In his statement SMYTH says couch when he is referring to the chair;

-Thinks there was a confrontation between SMYTH and DUNPHY when DUNPHY when over to the couch and hauled the gun out from behind the couch;

-Justice RICHE mentions the incident where SMYTH was convicted if Mischief in the Virgin Islands and how he can be violent and loose his cool;

Task created for a second statement from SMYTH to ask why he said the work couch when he was referring to the location on the gun.

SUI

Action: 922
S BURKE



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(S.D. BURKE) CPL.

/jl

Task Assignment: 11 - Notes - Team Commander

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meeting end.

/jl

Action: 139

K OSMOND



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Task No: 108
2015-08-26 11:05:00

Task Assignment: 108 - Statement

· Start of interview. BURKE identifies himself for the recording. SMYTH identifies himself for the recording.

· BURKE notes that this is a supplemental statement to clarify an issue on the record.

· BURKE identifies the transcript of the previous statement and notes that it is a proofed transcript.

· On page 63 of the statement, there is a conversation about the scene. BURKE reads back the area needing clarification which deals with the firearm and where it was located. SMYTH uses the word couch.

· SMYTH states that he made an error and that he didn't see the gun until it was in his hands. He saw it coming from his right side on the chair..

· The gun was no where near the coach which is where SMYTH was standing.

· SMYTH says he doesn't know if it was on the side of the chair or on the floor next to him (on the right side).

· The bat was on the left side of the chair he was sitting on, situated on the floor. He recalls the bat being shorter with possibly duct tape.

· He couldn't see the gun on the other side because he was positioned on opposite side. He acknowledged that he should have seen the gun but he didn't. He stated that he's racked his brain every day since and that he should have considered "one plus one" but he didn't.

· Other than having to skirt around the couch, the couch was uninvolved in this incident.

· He said that once DUNPHY sat in the chair, he didn't get up out of it other then to lean forward.

· He again noted that anytime he referenced the couch in terms of where DUNPHY was sitting, he was in fact referencing the chair that DUNPHY was sitting in at the time of the incident and not the actual couch.

Action: 763
M HENSTRIDGE



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/jl

Cpl BURKE requested that Joe SMYTH attended B Division HQ for a statement. The statement was taken to clarify a portion of the statement where SMYTH questioned if the gun came from the couch or the floor. Why did he say couch instead of chair. The following is a synopsis that was completed by Cpl. Monty HENSTRIDGE as he monitored the statement live:

Action: 762
S BURKE

/jl

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Statement concluded.

Statement Proofed

CH

(S.D. BURKE) CPL

Action: 764
S BURKE

Task Assignment: 12 - Notes - Primary Investigator

Task No: 12
2015-08-26 12:00:00

Cpl BURKE updated Joe SMYTH on the file when he attended to provide a statement to clarify an issue for SME (Use of Force).

SUI

(S.D. BURKE) CPL.

/jl

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S BURKE



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2015-09-03 8:40:00

Task Assignment: 54 - Independent Observer

Cpl BURKE spoke with Justice RICHE to advise him that a statement was completed with Joe SMYTH with regards to him using the word couch when referring to the location of the gun. Cpl BURKE told RICHE that SMYTH used the word couch in error and that he meant to say chair. Cpl BURKE said that this statement was being transcribed and would be forwarded to him once complete. Justice RICHE said he knew SMYTH would say that. Cpl BURKE also offered Justice RICHE a meeting with FIS member Sgt. SAUNDERS to go over the scene diagram adding that Sgt. SAUNDERS now had a larger version and could answer any questions about the scene that Justice RICHE may have. Meeting tentatively set for Wednesday Sept. 9th, 2015. Justice RICHE did note the following as he was reviewing the file and starting his concluding report:

-He referred to the last shot that SMYTH took (one to the temple) as the finishing off shot;

-He said that SMYTH said that DUNPHY was following him but said that DUNPHY was seated in the chair;

-Questioned how and when the gun that DUNPHY was holding fell to the floor, it should have been as soon as DUNPHY was shot the first time;

-Mentioned DUNPHY'S broken glasses

-Said that what happened at the DUNPHY residence should not happen again.

-Referred to DUNPHY and SMYTH as two angry men;

-The fact that SMYTH went there alone

SUI

(S.D. BURKE) CPL

/jl

Action: 924

S BURKE



PROJECT DUNPHY
File No: 2015-376186

Start Date: 2015-04-05 14:28:00
Date Last Run: 2016-09-22 10:49:00
End Date: 2016-09-22 10:49:00

DAILY LOG REPORT

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Date / Time:

Action:

Action ID:

Task No: 109
2015-09-03 12:00:00

Task Assignment: 109 - Statement

Cst NIPPARD was asked to contact Richard Dunphy and obtain a statement from him regarding whether or not he contacted anyone after Joseph Smyth left his residence on the day in question.

/jl
 (No time on Supplementary Report)

Action: 765
M NIPPARD

Task No: 109
2015-09-03 15:30:00

Cst NIPPARD called Richard Dunphy's residence and spoke with a care taker worker. She advised Donald Dunphy would be home after 6 p.m. this date. My name and number were left with her for call back.

/jl

Action: 766
M NIPPARD

Task No: 109
2015-09-03 21:00:00

Cst NIPPARD had missed a call from Richard Dunphy earlier but spoke with him at this time. He agreed to meet with me tomorrow morning between 9 and 9:30 a.m.

/jl

Action: 767
M NIPPARD



PROJECT DUNPHY
File No: 2015-376186

Start Date: 2015-04-05 14:28:00
Date Last Run: 2016-09-22 10:49:00
End Date: 2016-09-22 10:49:00

DAILY LOG REPORT

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Date / Time:

Action:

Action ID:

Task No: 109
2015-09-04 9:15:00

Cst NIPPARD met with Richard Dunphy at his residence in Mitchell's Brook. We sat in his residence where Cst NIPPARD obtained an audio recorded statement from him. The following was learned:

Action: 768
M NIPPARD

Richard did not call Don, Megan or anyone after the officer left his residence to say that the police had been there concerning Don.

Richard was asked about the firearms and confirmed that his father owned 3 guns, a .22 calibre and 2 shotguns. After he died Don had the 3 guns and gave the 2 shotguns to Richard. Richard was suppose to get the .22 calibre as well but never did.

Richard was not aware in Don ever used the firearm.

Richard did not know if Don had any ammunition for the gun or if his father did either.

Richard confirmed again that he never did hear any noises from over at Don's that day and only became aware of something having happened as they happened to go down the road afterwards and seen the police vehicle at Don's.

/jl

Task No: 109
2015-09-04 9:18:00

Statement Concluded.

Action: 769
M NIPPARD

Cst.Michael Nippard 55787
 RCMP Major Crimes Unit

/jl