

'Dead men tell no tales': Former justice left with questions in Don Dunphy shooting

Former justice asked to write report about RCMP investigation, says 'a lot of it is troublesome'

By Jen White and Garrett Barry, CBC News Posted: Sep 20, 2016 7:30 PM NT Last Updated: Sep 20, 2016 7:48 PM NT



Former judge David Riche said he was asked to file a report on the RCMP investigation into the shooting death of Don Dunphy. "A lot of it is troublesome," he told CBC News. (Bruce Tilley/CBC)

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A retired judge who oversaw the police investigation into Don Dunphy's death says he is still left with many questions about the fatal shooting.

David Riche, a retired Newfoundland and Labrador Supreme Court Justice, was hired to provide oversight to the RCMP investigation.

But he says his role was limited, and he questions why the confrontation between Dunphy and Royal Newfoundland Constabulary Const. Joe Smyth ever happened.

"I find it hard to understand how this happened," he told CBC News. "Then I say to myself, 'Well maybe it shouldn't have happened at all.'"

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Dunphy, 33, was shot and killed at his home in Mitchell's Brook by Smyth on April 5, 2015. At the time, Smyth was assigned to then-premier Paul Davis' security detail.

Riche said he was hired that same week as an "independent observer" of the RCMP investigation into the incident.

But according to Riche, he wasn't allowed to question many witnesses — or speak to Smyth.

He said he found the RCMP did not always accept his suggestions, and felt investigators "leaned towards accepting Smyth's account."

"They basically accepted [Smyth's] statement, and that was basically the end of the matter," Riche said.

"Well, dead men tell no tales and ... police didn't want me to do any investigation."

'Intention to kill'

Riche said Smyth shot four bullets at Dunphy. The last, he said, was fired in close proximity — within three or four feet — with one shot going "right straight through his head."

"It showed to me that there was an intention to kill, it wasn't an intention to stop."

Police initially said Dunphy was shot after pointing a firearm at Smyth. But Riche explained he felt there was an "issue" surrounding where Dunphy got a gun as some family members said the man didn't have one in his home.

Don Dunphy aimed loaded rifle at cop prior to fatal shooting, RCMP say



Const. Joe Smyth is the RNC officer who fired the shot that killed Don Dunphy. (CBC)

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"There's a side lever on these guns. You pull them back and that's where you put the shell in, and then you close it. I think that in this particular case, it was probably open," said Riche.

'I find it hard to understand how this happened.'
- David Riche

"I'm not sure if it was loaded or not, but I don't think it could have been fired as it was, unless you did something [to it]."

'Two angry men'

Riche characterized the incident as a confrontation between "two angry men."

While Dunphy was considered to be outspoken, Riche said there was an incident in the past where Smyth "got into difficulties."

"He wasn't, what you might call, the type of person who'd be a quiet person, who would be afraid of dealing with an issue," he said. "He could be aggressive, that was my impression."

Don Dunphy wasn't violent, just outspoken: injured workers advocate

Riche said both men had tempers.

Smyth did not respond to questions from CBC News, but in a statement last week said the pending public inquiry is stopping him from answering all "necessary and valid questions."

'A lot of contradictions'

Riche said he pored over the investigation for more than eight months, and wrote a 23-page report that he handed over to the RCMP.

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And while he said he can't disclose exactly what it contains, he does have comments and criticisms for police.

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Don Dunphy was shot at his home in Mitchells Brook, N.L., on April 5, 2015. (CBC)

"When I talked to ... Dunphy's daughter, she was of the view that he said he wouldn't have allowed him in, and would have tried to get rid of him."

Riche said he was also bothered by the fact that Smyth decided to go to Dunphy's home alone.

"Because the RCMP guy in Holyrood, right alongside where he was going down [to Mitchell's Brook], had offered to go with him."

Pushing for an inquiry

Despite his criticisms, Riche said he believes the overall investigation was handled fairly by the RCMP.

"I thought they did a very thorough investigation, and what conclusions they came to are their conclusions."

'Significant value' in public inquiry, says RNC cop who shot Don Dunphy

Riche said it may never be known exactly what happened inside Dunphy's home, but hopes his report will be released and there will be an inquiry into the matter — one where people can be further questioned about the incident.

"[Then] you'll get a better handle on what likely happened."

In a statement sent Tuesday, the province's Department of Justice said significant progress is being made towards starting the inquiry process.

With files from Carolyn Stokes

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