Public Hearing

Commissioners / Commissaires
The Honourable / L'honorable J. Michael MacDonald,
Chair / Président
Leanne J. Fitch (Ret. Police Chief, M.O.M)
Dr. Kim Stanton

VOLUME 6

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--- Upon commencing on Thursday, March 3, 2022 at 9:36 a.m.

REGISTRAR DARLENE SUTHERLAND: Good morning. The proceedings of the Mass Casualty Commission are now in session with Chief Commissioner Michael MacDonald, Commissioner Leanne Fitch and Commissioner Kim Stanton presiding.

COMMISSIONER MacDONALD: Thank you so much. Hello and welcome. Bonjour et bienvenue. Good morning, everyone. We join you from Mi’gma’gi, the ancestral and unceded territory of the Mi’kmaq. And today, like every day of this inquiry, we begin by remembering those whose lives were taken or were harmed, their families and those affected by the April 2020 mass casualty in Nova Scotia.

You will see on the screen the names of the lives taken, and I just wanted to share with Participants and the public that we had requests to have pictures of the loved ones prominently displayed on the screen, but it wasn’t -- not everyone -- not all Participants though that was a good idea, so we thought we would at least put on the screen the names and, of course, if family members wish to take pictures in with them, by all means, we would wholeheartedly welcome that.

So we will, every day now, display the names of those whose lives were taken.

Yesterday we heard submissions from Participants, and hearing from Participants about their position on various issues before us is an integral part of the inquiry’s iterative process and learning about what happened. It helps identify material gaps and points of difference and shapes which witnesses we will call and the questions we will ask them.

The Participants are a broad, diverse group with divergent positions and perspectives. Our role is to hear from those different perspectives and weigh Participants’ submissions according to our mandate.
So today we continue to work through submissions from Participants focused on potential witnesses, but we will begin today continuing the discussion about whether or not we should hear from an expert dealing with our decision as to which members of the National Police Federation ought to be called and form part of our public proceedings.

I'd like to just take a minute for the public. The counsel are well versed in this, but just for the public to contextualize the proceedings this morning, I'll just offer this.

Decision-makers like us, the three Commissioners here, we have to look at the evidence and use our common sense when making findings of facts. It's our opinion of the evidence, and no one else's, that counts. However, occasionally the facts are such that our common sense doesn't necessarily do the trick if the subject matter is complicated or would be difficult for us to understand. Sometimes we need help in assessing the evidence.

That's where experts come in. They are an exception to the normal rule that we on our own must make our independent assessment of the evidence. Instead, experts can offer an opinion on what we should make of the evidence before us.

So typical experts are doctors describing injuries or scientists describing complicated terms or any number of ways in which we may need help. But because this is an exceptional way for us to find facts, certain criteria must be met, and one of those criteria is that the expert who's being proposed to help us make our decision must be qualified. And that's the process we're going to engage in in a few minutes in terms of hearing from the proposed expert.

And specifically relevant to this case is that the NPF has indicated to us that, in its view, we need help in determining whether or not members of the NPF should be called in oral proceedings. Specifically, the suggestion is that we need help in understanding how the experiences of these officers -- how their experience would
have affected them and that -- and without that knowledge, we aren't fully -- we would not be fully able to grasp the significance of -- the significance of calling them in oral proceedings.

So that's the general context in terms of -- in terms of the proceedings today.

We also want to, of course, remind everyone that we as a Commission have arranged for a number of experts ourselves on issues related to the mandate, and when we do, we ensure that we are satisfied that our experts from whom we have commissioned reports meet the standard for expert opinions.

So the process today, we're going through this qualification discussion today because the proposed expert is coming from a Participant as opposed to us as a Commission. It's been suggested by a Participant, and so we must be satisfied in this forum whether or not the standard is met or whether or not we need the help that NPF suggests we do.

So that's the context for members of the public and for counsel.

And Ms. Hnatiw, whenever you're ready.

**MS. GILLIAN HNATIW:** Yes, good morning, Commissioners.

Today, as you know, we are scheduled to continue to hear from Counsel for Participants about the witnesses they believe must be called to fill material gaps in the Foundational Documents that lay out the events in Portapique as we understand them thus far.

As we heard yesterday, counsel for the National Police Federation is seeking to introduce an expert report. As part of this motion's process, they seek to rely on this report as part of their response to requests from other counsel to call a number of NPF members to give testimony in person.

I understand that counsel, Ms. Nijhawan, will also be asking you for leave to file some related affidavit material from a non-expert.

So -- but we are, as Commissioner MacDonald mentioned, going to
start the day by addressing the threshold issue of whether you will even permit this expert's report to be introduced into evidence, so in plain language, whether or not the Commissioners will read it at all.

We are only dealing with the issue of admissibility. We are not yet talking about the merits of what the expert has to say, whether you as Commissioners should accept the opinion in full or in part, but simply whether you should be permitted to read the report at all.

As Commissioner MacDonald mentioned, as the Commission hearings move forward we will hear from a variety of experts on various topics that are related to the Commission's mandate. The Commission has already arranged to hear from a number of experts related to those issues. In those circumstances, the Commission has already had an opportunity to satisfy itself that those experts meet the legal standards and are qualified to provide the opinion that they have been retained to offer us. In this circumstance, because the expert is being proposed by our participant, we must first go through the process of satisfying ourselves that he is qualified to even offer the opinion in the first place, that it would be proper for you to receive the report at all. So that is what we are going to talk about this morning.

If you do decide to receive the report, so that you then have an opportunity to read it, there will be future opportunity for participants to address you about whether or not you should accept or reject the opinion that's offered. So to be very clear, we're just talking about whether or not we're all going to read and discuss the opinion that's reflected in this report. Once we hear arguments about qualifications and admissibility, we will wait for your direction as to next steps for the day.

So with that basis, we are going to start the morning by hearing from our proposed expert, who is Dr. Nicholas Carleton from the University of Regina. He is available to be questioned on his qualifications this morning and will appear via Zoom, I believe from Saskatchewan. We only have about an hour of Dr. Carleton's time this morning, and so we will be asking Ms. Nijhawan to walk him through his CV and his
qualifications, and then we will be offering counsel for other participants the opportunity
to ask him questions about his qualifications. The witness will then be dismissed, at
least for the time being, and we will invite Ms. Nijhawan to return and address you on
the full question of admissibility, and then participant's counsel will have an opportunity
to respond.

I do not anticipate the Commission Counsel will be taking a position
on Dr. Carleton's qualifications or on the necessity of his opinion. However, depending
on how submissions unfold, we may offer you some comments on the applicable law,
and in the event you decide to admit Dr. Carleton's report, I do anticipate that
Commission Counsel will have more to say about the substance of the opinion that is
offered.

So with that, I invite Ms. Nijhawan for the National Police
Federation to the podium, if that's acceptable, Commissioner MacDonald?

COMMISSIONER MacDONALD: Yes, thank you so much.

MS. GILLIAN HNATIW: Okay.

MS. NASHA NIJHAWAN: Good morning, Commissioners. I'll start
with just a logistical issue for you. Thank you so much for making time in our schedule
this morning to hear this application which is very important to my client. I understand
that we have Dr. Nick Carleton available for examination by Zoom. And I understand
that the Registrar has a copy of his CV, which I'll seek to have admitted as an exhibit for
the purposes of this examination. I understand that you may or may not have yet a
paper copy of that exhibit. I understand that there's some efforts being made to
produce one for you, so in the interim, I'm not sure if it's possible to have it appear on
the screen, or how we might work around it, but I'm sorry for that technical problem this
morning.

COMMISSION MacDONALD: That's fine. And we will admit it for
that limited purposes that you say.

MS. NASHA NIJHAWAN: Thank you. And I'll just note for the
benefit of Participants Counsel that it's available in the format of the affidavit that was circulated, so it's the same document that they have as an exhibit to an affidavit, which is not admitted, that I will be referring to.

So I understand we have Dr. Carleton if he could be joined to us?

Good morning, Dr. Carleton.

DR. NICHOLAS CARLETON: Morning.

MS. NASHA NIJHAWAN: Madam Registrar, has Dr. Carleton been affirmed?

REGISTRAR DARLENE SUTHERLAND: No, he has not yet.

MS. NASHA NIJHAWAN: Okay. I'll let -- I'll leave that to you then.

REGISTRAR DARLENE SUTHERLAND: Thank you.

MS. NASHA NIJHAWAN: Thank you.

--- NICHOLAS CARLETON, Affirmed

REGISTRAR DARLENE SUTHERLAND: And please state your name for the record?

DR. NICHOLAS CARLETON: I'm Dr. R. Nicholas Carleton.

REGISTRAR DARLENE SUTHERLAND: And spell your last name, please?

DR. NICHOLAS CARLETON: C-A-R-L-E-T-O-N.

REGISTRAR DARLENE SUTHERLAND: Thank you.

--- EXAMINATION ON QUALIFICATIONS BY MS. NASHA NIJHAWAN:

MS. NASHA NIJHAWAN: Good morning, Dr. Carleton. So now I'd like to tender for the purposes of this examination Dr. Carleton's affidavit as an exhibit -- sorry, his CV as an exhibit.

REGISTRAR DARLENE SUTHERLAND: And that'll become Exhibit 211.

MS. NASHA NIJHAWAN: Thank you, Madam Registrar.

--- EXHIBIT NO. 211:
CV of Dr. Nicholas Carleton

MS. NASHA NIJHAWAN: So I'm going to make reference, Dr. Carleton, to your -- to your CV as I ask you a few questions about your qualifications. You understand that you're here today because we're seeking to admit your expert opinion evidence before the Commission?

DR. NICHOLAS CARLETON: I do.

MS. NASHA NIJHAWAN: Okay. So I understand that you're a professor at the University of Regina. Can you tell us a little bit about your academic training?

DR. NICHOLAS CARLETON: Absolutely. I want to begin by just acknowledging that I am responding from Cree territory in the homeland of the Métis. I received my clinical training at the University of Regina, which has a doctoral program in clinical psychology that is accredited by the Canadian Psychological Association. I completed my PhD in Clinical Psychology at the same in 2010. I completed my clinical residency at the Carewest Operational Stress Injury Clinic in Calgary and my internship at the Anxiety Treatment and Research Centre in Hamilton.

MS. NASHA NIJHAWAN: Thank you, Dr. Carleton. And before your PhD, what was your academic training?

DR. NICHOLAS CARLETON: Prior to my PhD, I hold a master's degree in psychology. I also hold a bachelor's of administration and a bachelor's with honours in psychology.

MS. NASHA NIJHAWAN: And are you a member of any national academies related to your work in psychology?

DR. NICHOLAS CARLETON: I am. I'm a fellow of the Canadian Academy of Health Sciences, and I am also a member of the Royal Society of Canada College, both of which are two of the three national academies comprising the Council of Canadians of Academies, which represent the highest honours granted to Canadian scholars.
MS. NASHA NIJHAWAN: Thank you, Dr. Carleton. I understand also that your PhD is a clinical degree. Do you also hold any registrations in clinical psychological practice?

DR. NICHOLAS CARLETON: I do. I’m a registered doctoral clinical psychologist in Saskatchewan with an authorized practice endorsement, which is what is required to communicate a psychological diagnosis.

MS. NASHA NIJHAWAN: So you mentioned already that you completed a residency. Was that -- can you tell us a little bit about the topic of your residency?

DR. NICHOLAS CARLETON: Sure. My residency was focussed at one of the OSI clinics that we have across the country in Calgary. That means that my residency focussed very much on what we call operational stress injuries, so those are injuries specifically related to potentially psychologically traumatic events that usually occur as a function of service, and typically uniformed service, on behalf of the population.

MS. NASHA NIJHAWAN: And so you told us that that was back in 2010. Since 2010, have you maintained an active private clinical practice?

DR. NICHOLAS CARLETON: I have been in private practice since 2010. The bulk of my clientele have actually been Public Safety personnel, military, or veterans. The vast majority of those have had difficulties with post-traumatic stress injuries, including but not limited to post-traumatic stress disorder.

MS. NASHA NIJHAWAN: Thank you. And I understand you -- in addition to being a full professor at the University of Regina and maintaining a clinical practice, you also have a role at the Canadian Institute of Public Safety, Research and Treatment. Can you tell us a little bit about what that institute is and what your role is there?

DR. NICHOLAS CARLETON: Absolutely. So I serve as the scientific director for -- we call it CIPSRT for short, which CIPSRT serves as the
Knowledge Exchange Hub for helping current and former Public Safety personnel, their leaders and their families to maintain and improve their mental health and wellbeing. The institute is federally funded and is designed to bridge the gaps between our governments, our Public Safety leaders, our Public Safety frontline members, their families, and our academics researchers and clinicians across the country.

MS. NASHA NIJHAWAN: And so currently, you're engaged in a number of research projects; is that fair?

DR. NICHOLAS CARLETON: I am.

MS. NASHA NIJHAWAN: And what's the totality of the topics of your research at the moment?

DR. NICHOLAS CARLETON: I would say almost all of them, I believe all of them, actually, are focussed specifically on the mental health of Public Safety personnel, which includes our RCMP, our police, our border services, paramedics, firefighters, correctional workers, Public Safety communicators, search and rescue. I'm probably missing some there in that list, but it's a host of Public Safety personnel.

MS. NASHA NIJHAWAN: Including police officers?

DR. NICHOLAS CARLETON: Including police officers.

MS. NASHA NIJHAWAN: And how long have you held this role as scientific director at CIPSRT?

DR. NICHOLAS CARLETON: Effectively since 2015.

MS. NASHA NIJHAWAN: Thank you. And can you tell the Commission a little bit more about your scientific research at CIPSRT or through the University of Regina?

DR. NICHOLAS CARLETON: Sure. I've been awarded more than $30 million in competitive grants and contracts as principle or co-principle investigator, the overwhelming majority of which have been dedicated to researching and trying to understand the causes, and consequences, and impacts, and prevalence of mental health problems among Public Safety personnel.
health challenges experienced by our public safety personnel, including our RCMP officers and our other police officers and right now, leading numerous data collection efforts and more than 20 different research projects that are also focused specifically on public safety personnel mental health.

**MS. NASHA NIJHAWAN:** And are there any significant publications in recent days, or years I should say, which relate specifically to the issue of post-traumatic stress in public safety personnel that you’d like to tell the Commission about?

**DR. NICHOLAS CARLETON:** Sure. So I've authored or co-authored more than 180 different peer-reviewed journals, most of which have focused on describing research results that help us to better understand factors associated with increasing or decreasing risks for mental health challenges. Among those, I have authored or co-authored more than 60 peer-reviewed articles that are specifically focused on the mental health of our public safety personnel, including our police, and on understanding the factors that are associated with increasing or decreasing the risks that they experience for post-traumatic stress injuries, including PTSD.

I've also authored or co-authored numerous peer-reviewed articles describing research that is specifically focused on measuring symptoms associated with mental health challenges, including post-traumatic stress injuries. Many of those were also specifically or exclusively focused on the police.

Probably the most prominent of those would be my 2018 *Canadian Journal of Psychology -- Psychiatry*, pardon me, article, “Mental Disorder Symptoms Among Public Safety Personnel in Canada”, where, to my knowledge, we were the first to document an unprecedented national data collection effort involving thousands and thousands of PSP, which required coordinated partnerships from academics from multiple disciplines, local provincial and national leaders.

The article is, to my knowledge, also the very first research article at any time cited in the Canadian Federal Budget, specifically in 2018. It's been
downloaded more than 10,000 times and has been featured in news articles, social media posts, blogs. From an academic perspective, it’s in the top five percent of more than 13 million different research products that have been produced across all academic fields everywhere in the world.

**MS. NASHA NIHJAWAN:** And I understand that some of your work focuses on understanding mental health risk and resilience factors in public service personnel. Can you tell us what that means, risk and resilience factors, and a little bit about your work in that area?

**DR. NICHOLAS CARLETON:** Sure. So risk factors are -- very simply, risk factors are anything that is going to increase the probability that you’re going to end up with some kind of a negative outcome. So what are the things that make me more likely to have difficulties with mental health symptoms as a result of the risk factors themselves or as a result of other environmental variables that are going to impact me? So anything that makes it more likely I’m going to have difficulty with a mental health injury.

Resiliency factors are the factors that do the opposite. Those are the factors that can help to protect us against experiencing one or more mental health injuries. So a risk factor might be, for example, exposure to one or more different significant stressors. And a resiliency factor, for example, might be whether or not we feel that we are supported by our community or by our family members.

**MS. NASHA NIHJAWAN:** Can you tell us a little bit about your work in that area as it relates specifically to police officers?

**DR. NICHOLAS CARLETON:** Sure. I’ve done several research articles specifically focused on risk and resiliency related to police officers where we’ve been able to identify there are a host of different psychological and environmental variables that are associated with either risk or resilience. Those include demographic variables, such as women being at a higher risk than men among our police officers, and includes specific risk factors like psychological constructs, the number of exposures
someone has had, whether or not they feel that those exposures have been stressful for
themselves, and several resiliency factors, which includes primarily spousal and familial
support, environmental support from their own leadership, whether or not they feel
supported by their communities and understood by their communities for the roles in
which they serve.

**MS. NASHA NIHJAWAN:** Thank you. I understand that you’ve
told us that you’ve worked largely, or even primarily, with public service personnel, at
least since 2015, earlier than that in your private practice. Can you tell us about any
experiences or research that you have conducted that speak to this question of barriers
to the mental health treatment -- barriers to mental health treatment that are faced
specifically by police officers?

**DR. NICHOLAS CARLETON:** Absolutely. You may want to pause
me here because this is a significant list.

So our police officers face substantial stigma, both self-stigma and
other stigma with respect to their mental health.

**COMMISSIONER MacDONALD:** Excuse me, ---

**MS. NASHA NIHJAWAN:** Sorry, I ---

**COMMISSIONER MacDONALD:** --- Ms. Nijhawan, please direct
the witness that we’re dealing only with his qualifications. So we will not consider the
fact -- his reference to it affects women more than men, or any of his results. Just what
studies has he done and so we can understand his qualifications.

**MS. NASHA NIHJAWAN:** Absolutely, Chair Commissioner. I
apologize for not more properly directing the witness. I believe it’s his first time being
qualified in this manner, so I hope you’ll afford him a little bit of latitude.

Dr. Carleton, the Chair is correct. My questions are directed at
telling us about the nature of your expertise in the areas that I’m speaking about and we
don’t need you to tell us about the content of that work or the results of that work.

**DR. NICHOLAS CARLETON:** I apologize. Thank you for the
I have published numerous articles that are associated with identifying specific barriers facing our police officers when they are trying to access, manage, or interact with mental health.

**MS. NASHA NIHJAWAN:** Thank you. I’m going to ask you a similar question about your work, specifically relating to post-traumatic stress injuries from a longitudinal perspective and your work that focuses on exposure over time to post-traumatic stress?

**DR. NICHOLAS CARLETON:** I’m currently leading the globally unprecedented RCMP longitudinal PTSD study, which is focused specifically on understanding risk and resiliency factors associated with post-traumatic stress disorder and other mental health injuries among our RCMP officers.

I’m also currently a co-investigator for the PSP NET project, which is delivering evidence based, confidential, online treatment to PSP in several Canadian provinces.

**MS. NASHA NIHJAWAN:** And I understand from your resume that you have had a role working with the Public Health Agency of Canada on the *Federal Framework on PTSD Act*. Can you tell us a little bit about that work and what your role was there in terms of providing assistance based on your expertise, not so much the content?

**DR. NICHOLAS CARLETON:** Sure. In January 2016, I attended, at invitation of Minister Goodale, the National Roundtable on PTSD.

In 2016 I completed -- or I worked on the report of the National Standing Committee on Public Safety and National Security.

In 2019, I worked on the Public Health Agency of Canada -- with the Public Health Agency of Canada on implementing the *Federal Framework on PTSD Act* as part of the advisory committee for the Act that ultimately led to the National Action Plan on Post-Traumatic Stress Disorder.
MS. NASHA NIHJAWAN: And have you, in addition to that example that you’ve provided, ever been asked to consult with or brief government officials on this question of mental health as it relates specifically to public safety personnel?

DR. NICHOLAS CARLETON: I have been privileged to brief numerous Ministers, provincially and federally, as well as the Canadian Ambassador regarding global collaborations on PTSI, post-traumatic stress injuries for public safety personnel.

MS. NASHA NIHJAWAN: And have you ever been asked to testify before Parliament or a parliamentary committee on this topic?

DR. NICHOLAS CARLETON: I have. I’ve provided invited testimony at the Canadian House of Commons in 2015, 2016, and 2018.

MS. NASHA NIHJAWAN: Are there any other awards or recognitions of your expertise in the topic of public health -- public safety personnel’s mental health that you would like to share with the Commission in assessing your qualifications?

DR. NICHOLAS CARLETON: I’ve received more than 40 distinctions, awards, or scholarships, including the prestigious Royal-Mach-Gaensslen Prize for Mental Health Research and the Canadian Psychological Association Award for Distinguished Contributions to Public or Community Service.

MS. NASHA NIHJAWAN: And Dr. Carleton, I understand that you’ve sworn an affidavit. That affidavit is not before the Commission so I’m going to ask you this question again, which is addressed in that document.

Do you understand what your duty is to the Commission if you are called as an expert or permitted to provide expert testimony?

DR. NICHOLAS CARLETON: I believe so. And I believe I will be called to provide a fair, objective, non-partisan, and unbiased opinion based on my independent judgement.
MS. NASHA NIHJAWAN: And do you believe that you’re able to
fulfil that duty?

DR. NICHOLAS CARLETON: Absolutely.

MS. NASHA NIHJAWAN: I’m going to end there, Commissioners,
to allow other Participants time with this witness. Thank you very much. Unless you
have anything else you’d like me to address, I’ll step back for a moment.

COMMISSIONER MacDONALD: Thank you so much.

MS. NASHA NIHJAWAN: Thank you.

MS. GILLIAN HNATIW: I believe we’ll now here from Mr. Pineo.

--- CROSS-EXAMINATION BY MR. ROBERT PINEO:

MR. ROBERT PINEO: Dr. Carleton, you testified moments ago
that you’ve never been qualified before a court or a tribunal to provide expert evidence?

DR. NICHOLAS CARLETON: Not to my knowledge, not like this.

MR. ROBERT PINEO: Well, have you in any way?

DR. NICHOLAS CARLETON: Not to my knowledge.

MR. ROBERT PINEO: Before a Supreme Court?

DR. NICHOLAS CARLETON: No.

MR. ROBERT PINEO: A provincial criminal court, that sort of
thing?

DR. NICHOLAS CARLETON: No.

MR. ROBERT PINEO: Sorry; there’s music playing in the
background here. I don’t know...

COMMISSIONER MacDONALD: Take your time, Mr. Pineo, if you
want to ---

MR. ROBERT PINEO: Thank you.

COMMISSIONER MacDONALD: --- turn that off. It’s not bothering
us but apparently you can hear it.

MR. ROBERT PINEO: Okay.
Now, Dr. Carleton, you were retained by the National Police Federation to provide the report that we see in your affidavit?

**DR. NICHOLAS CARLETON:** Yes, that’s correct.

**MR. ROBERT PINEO:** And you received a letter on February 22\textsuperscript{nd}, 2022 confirming this engagement?

**DR. NICHOLAS CARLETON:** Yes, that’s correct.

**MR. ROBERT PINEO:** And you had conversations with the National Police Federation prior to receiving that letter, didn’t you?

**DR. NICHOLAS CARLETON:** Yes, that’s correct.

**MR. ROBERT PINEO:** Yeah. You make no note of the substance of those conversations in your report, do you?

**DR. NICHOLAS CARLETON:** I don’t believe so, no.

**MR. ROBERT PINEO:** You agreed moments ago with Ms. Nijhawan that you understand your duties to this Commission, should you be qualified to provide expert evidence?

**DR. NICHOLAS CARLETON:** Yes.

**MR. ROBERT PINEO:** And would you recite that again for me, please?

**DR. NICHOLAS CARLETON:** My -- as I understand it, I’m supposed to be providing unbiased, non-partisan, fair, objective opinions and evidence based on my independent judgment.

**MR. ROBERT PINEO:** Thank you.

Now, do you have a copy of your affidavit before you?

**DR. NICHOLAS CARLETON:** I do.

**MR. ROBERT PINEO:** Okay. I’m going to refer you to different portions of your *curriculum vitae*, and I’ll refer you to specific page numbers. So if you’d turn that up; and for the record, that is Exhibit A to your affidavit.

**DR. NICHOLAS CARLETON:** Okay.
MR. ROBERT PINEO: And if you turn to page 6 of 107 of your CV.

DR. NICHOLAS CARLETON: Okay.

MR. ROBERT PINEO: And in this entry, the second entry on that page, the year is 2022-2022 and it indicates that you, as a Nominated Principal Applicant, received funding of $16,000 from the RCMP; is that correct?

DR. NICHOLAS CARLETON: That’s correct.

MR. ROBERT PINEO: Okay. And that was to provide, “Assessing the Impact of Emotional Resilience Skills Training (ERST) on RCMP Depot Instructors”?

DR. NICHOLAS CARLETON: Correct.

MR. ROBERT PINEO: And have you undertaken that work, to this point in time?

DR. NICHOLAS CARLETON: We are in the process of beginning that. The data collection will probably begin in the next month or two.

MR. ROBERT PINEO: Okay. Onto the next page, page 7 of 107, and I’m looking at the penultimate entry there, 2021-2022, and, again, you’re the Nominated Principal Applicant for an RCMP and Public Works Canada contract in the amount of $2,294 million; correct?

DR. NICHOLAS CARLETON: That’s correct.

MR. ROBERT PINEO: And the subject of that was, “A Longitudinal Study of Operational Stress Injuries (OSIs) for the Royal Canadian Mounted Police”.

DR. NICHOLAS CARLETON: Correct.

MR. ROBERT PINEO: And have you completed that work?

DR. NICHOLAS CARLETON: No, that’s an ongoing study that we expect from start to finish will take 10 years.

MR. ROBERT PINEO: Okay. On to page 11 of 107. I’m looking at the third entry, 2017-2021, and, again, you are the Nominated Principal for a total funding of $8.885 million from the RCMP and Public Works Canada; correct?

DR. NICHOLAS CARLETON: That’s correct.
MR. ROBERT PINEO: And that was for, “A Longitudinal Study of Operational Stress Injuries (OSIs) for the Royal Canadian Mounted Police”; and has that work been completed?

DR. NICHOLAS CARLETON: That’s part of -- the contract is a series of contracts that get renewed over the course of the 10 years for the study. So that contract piece, yes, is completed but the overall research study is not complete.

MR. ROBERT PINEO: Okay. So you’ll agree with me that since 2017 to the present date you’ve been awarded approximately $11 million to produce studies related to the RCMP?

DR. NICHOLAS CARLETON: Yes, that’s correct.

MR. ROBERT PINEO: Further down in your CV -- and I’ll get you a page reference here in just a second; I’m looking under your various lectures that you have listed. So at page 41 of 107, just let me know when you’re there.

DR. NICHOLAS CARLETON: I’m there.

MR. ROBERT PINEO: The second entry, number 2, you provided a lecture to the RCMP back in 2021; is that correct?

DR. NICHOLAS CARLETON: Yes, that’s correct.

MR. ROBERT PINEO: January 27th?

DR. NICHOLAS CARLETON: That’s correct.

MR. ROBERT PINEO: And on the next page, number 10 and number 11, you gave lectures to the RCMP on two occasions, one in 2017 and one in 2018; correct?

DR. NICHOLAS CARLETON: That’s correct.

MR. ROBERT PINEO: On the next page, 43 of 107, numbers 22 and 24 -- sorry. Yeah, numbers 22 and 24, you gave lectures to the Canadian Police Association in March and October of 2015 and 2016?

DR. NICHOLAS CARLETON: In March of 2016 the Canadian Police Association, yes, and then in -- sorry; I’m not sure where you’re looking, the other
Canadian Police Association.

**MR. ROBERT PINEO:** Oh, apologies; I had already moved on.

Number 24 on October 6th of 2015.

**DR. NICHOLAS CARLETON:** Yeah. So the Saskatchewan Association of Chiefs of Police, yes.

**MR. ROBERT PINEO:** Okay. And number 22, then, March 6th to 9th of 2016?

**DR. NICHOLAS CARLETON:** Yes, that’s correct.

**MR. ROBERT PINEO:** If you turn now to page 94 of your CV?

**DR. NICHOLAS CARLETON:** I’m ready.

**MR. ROBERT PINEO:** And on Committees and Appointments, from 2019 to the present, you are the Research Activity Representative for the Canadian Association of Chiefs of Police (CACP) Psychological Services Subcommittee?

**DR. NICHOLAS CARLETON:** I am one of the members of that committee, yes.

**MR. ROBERT PINEO:** Okay. And you continue to serve on that committee?

**DR. NICHOLAS CARLETON:** I do.

**MR. ROBERT PINEO:** Page 96 of 107, Professional Memberships. I’m looking at the first entry, 2021 to present, International Association of Chiefs of Police, Associate Member. You hold that membership?

**DR. NICHOLAS CARLETON:** Yes, I do.

**MR. ROBERT PINEO:** And the fourth entry, 2017 to present, Canadian Association of Chiefs of Police, Associate Member. And you continue to hold that membership as well, do you?

**DR. NICHOLAS CARLETON:** Yes, I do.

**MR. ROBERT PINEO:** Now, if you would turn now to your report;
that's Tab C of your affidavit.

**DR. NICHOLAS CARLETON:** At page 116 of the PDF and page 1 of 13, just to make sure that we're on the same page?

**MR. ROBERT PINEO:** Just a second. I have page 116 of the PDF, yes, okay.

**DR. NICHOLAS CARLETON:** Yes, I'm there.

**MR. ROBERT PINEO:** Okay. So this is report that you authored and provided to the ---

**COMMISSIONER STANTON:** Excuse me...?

**COMMISSIONER MacDONALD:** Just so you know, Mr. Pineo, we don’t have the report.

**MR. ROBERT PINEO:** That's correct, I understand that. And my intention is to question him on his qualifications regarding one of his conclusions.

**COMMISSIONER MacDONALD:** Okay, thank you.

**DR. NICHOLAS CARLETON:** Thank you.

**MR. ROBERT PINEO:** Yeah.

So Dr. Carleton, if you would turn to question number 4, or your answer to question number 4, and that's at page 6 of 13, or page 120 of the PDF. And here you begin your -- to give your opinion, your analysis and opinion regarding whether or not -- I'm going to paraphrase this and you can correct me if I'm wrong, but you begin your analysis and opinion on whether to not it might be more stressful or PTSD-triggering for the members to testify at this inquiry. Is that correct?

**DR. NICHOLAS CARLETON:** Yes, I think that’s fair.

**MR. ROBERT PINEO:** And, ultimately, your opinion is that it could well be traumatic for the members to testify; is that a good summation of your opinion?

**DR. NICHOLAS CARLETON:** Ultimately, that’s based on my literature review, clinical and research experience that I have.

**MR. ROBERT PINEO:** Okay. So let's talk about that.
Your -- most of your analysis regarding the testifying portion of your opinion or that assumed fact is based on your review of the literature of other academics; correct?

DR. NICHOLAS CARLETON: That's correct.

MR. ROBERT PINEO: Yeah.

You've conducted no studies on your own of the impacts of testimony to the triggering of PTSD in RCMP members, have you?

DR. NICHOLAS CARLETON: That's correct.

MR. ROBERT PINEO: You agree with me, that is.

DR. NICHOLAS CARLETON: Yes.

MR. ROBERT PINEO: Okay. And in the articles that you cite, and they begin on the second -- in the second paragraph of your answer to number 4, and they are footnoted as articles -- sorry, footnote 62, 63, 64, 65, 66, 67, 68, 69 and 32. And perhaps -- rather than take you to those, I'll ask you some general questions, but if we can go to those footnotes if you like.

But you'll agree with me that none of those articles dealt with police officers testifying in a public inquiry setting.

DR. NICHOLAS CARLETON: Yes, that's correct.

MR. ROBERT PINEO: Okay. In fact, they deal with a multitude of different settings, including war crimes tribunal testimony, family law, human rights tribunals, et cetera; correct?

DR. NICHOLAS CARLETON: That's correct.

MR. ROBERT PINEO: And your footnote number 32 is an article that you authored in 2018; correct?

DR. NICHOLAS CARLETON: That's correct.

MR. ROBERT PINEO: Yeah.

And I've read through that article quite carefully and I don't see anywhere in that article where you discuss the impact of police officers testifying in the
context of it triggering mental health issues. Am I correct on that?

DR. NICHOLAS CARLETON: That's correct.

MR. ROBERT PINEO: Okay. As a general proposition, you'll agree with me that the strength of an expert's opinion rests largely in part on the information and evidence relied on to produce that report.

DR. NICHOLAS CARLETON: Yes.

MR. ROBERT PINEO: In producing your report, you did not treat any of the proposed -- any of the members that have been proposed to testify before this Commission.

DR. NICHOLAS CARLETON: Correct.

MR. ROBERT PINEO: You've never met them?

DR. NICHOLAS CARLETON: Not to my knowledge.

MR. ROBERT PINEO: You've never spoken to them in any way.

DR. NICHOLAS CARLETON: Not to my knowledge.

MR. ROBERT PINEO: Not reviewed their medical records.

DR. NICHOLAS CARLETON: No.

MR. ROBERT PINEO: You've relied on the assumed -- the facts you were asked to assume by Ms. Nijhawan in her letter of February 22nd.

DR. NICHOLAS CARLETON: Yes, that's correct.

MR. ROBERT PINEO: And that is it. That is all the evidence that - that you've based your report on; correct?

DR. NICHOLAS CARLETON: I'm sorry. I don't understand the question.

You're asking about the evidence upon which I based my report.

MR. ROBERT PINEO: Yes.

DR. NICHOLAS CARLETON: I drafted the responses as framed -- as framed by the questions being asked by the NPF lawyer. That I did do, but the evidence was much -- it's that word that I'm getting hung up on. I apologize.
MR. ROBERT PINEO:  Okay. Perhaps I'll clarify the question, then.

In terms of information about the proposed officers, the proposed witnesses, the RCMP officers, you relied solely on the information that Ms. Nijhawan provided to you in her letter; correct?

DR. NICHOLAS CARLETON:  Yes, that's correct.

MR. ROBERT PINEO:  Okay. Thank you. Those are my questions.

COMMISSIONER MacDONALD:  Thank you, Mr. Pineo.

Ms. Hnatiw.

MS. GILLIAN HNATIW:  Thank you, Commissioner MacDonald.

I'm just looking over at my friends to see if there's anybody else who has questions to offer.

Ms. Lenehan?

COMMISSIONER MacDONALD:  Good morning, Ms. Lenehan. You go ahead when you're ready.

MS. JANE LENEHAN:  Thank you, Commissioner.

--- CROSS-EXAMINATION BY MS. JANE LENEHAN:

MS. JANE LENEHAN:  Dr. Carleton, sorry, seeing you at an odd angle here.

I represent the family of Gina Goulet, who was the last victim of the shooter. And my questions are mostly about your clinical experience.

It seems from your resume where I noted, I think it's on page 96, that you're a member of the regulatory body in Saskatchewan for psychologists; correct?

DR. NICHOLAS CARLETON:  Yes, that's correct.

MS. JANE LENEHAN:  And you've been a member for 10 -- 12 years?
DR. NICHOLAS CARLETON: Yes, that's since 2010.

MS. JANE LENEHAN: Since 2010?

And how long have you been a full practising member?

DR. NICHOLAS CARLETON: Since 2010.

MS. JANE LENEHAN: Since 2010?

DR. NICHOLAS CARLETON: Or 20 -- well, I'd have to go back and look at the exact date, but I would imagine 2010 or early 2011.

MS. JANE LENEHAN: All right. And what about the permission from the College to make diagnoses? How long have ---

DR. NICHOLAS CARLETON: Yes, I do hold -- oh, I would have had it at the same time ---

MS. JANE LENEHAN: All right.

DR. NICHOLAS CARLETON: --- so the same length of time.

MS. JANE LENEHAN: So at the same time you became a full practising member?

DR. NICHOLAS CARLETON: Yes, that's correct.

MS. JANE LENEHAN: And that would have been either 2010 or early 2011?

DR. NICHOLAS CARLETON: That's correct.

MS. JANE LENEHAN: Okay. So it appears that you wear three hats in your career or your professional life. You're a professor and a researcher and you also run a private practice.

DR. NICHOLAS CARLETON: That's correct.

MS. JANE LENEHAN: Can you tell us how much time you allot to each of those areas?

DR. NICHOLAS CARLETON: It's shifted very dramatically over the last decade, in part as a function of COVID-19 and as a function of the research studies that I've been engaged in the last three or four years. So in the beginning, I
would say I had probably put -- I don't know. I would have to -- I would be giving you a
general guess.

The bulk of my time, though, I would say is focused on me being a
professor and a researcher with relatively less time spent being a -- being in private
practice.

MS. JANE LENEHAN: I know it's difficult, but could you give some
sort of an estimate of the amount of time that you devote to your private practice?

DR. NICHOLAS CARLETON: So my private practice specifically
where I'm treating patients for the last two years, relatively little. I would say, over the
last two years, probably less than an hour a month on my private practice. A lot of the
clinical work that I do now involves clinical supervision and support because the
research studies that I do involve clinical assessments and can involve clinical
treatment being provided at a much larger scale.

MS. JANE LENEHAN: All right. And Dr. Carleton, I assume that
you're aware of the proposed qualification for you that was tendered to the Commission
by Ms. Nijhawan.

DR. NICHOLAS CARLETON: Yes, I believe so.

MS. JANE LENEHAN: All right. So she's proposing that you be
qualified as an expert by the Commissioners and that your area of expertise be the field
of clinical psychology, with particular expertise in four different areas. And the first area
is the diagnosis and treatment of post-traumatic stress injuries among public safety
personnel, including police officers.

So would it be fair to say that that expertise is based on about one
hour a month in work?

DR. NICHOLAS CARLETON: No, I -- I don't think so. I think that
that would probably not be a fair depiction of my expertise.

So the bulk of the research work that I do involves understanding
clinical assessments and understanding how clinical assessments are conducted for
and interacted with by the RCMP. That's right now.

Over the course of my career, I've done a great many more hours
of clinical assessments myself firsthand with RCMP officers, so this is why I'm saying
the question's a complicated one for me to answer because the last two years between
COVID and a focus on overseeing hundreds and hundreds of clinical assessments for
RCMP officers as part of the work that I'm responsible for, it's difficult for me to
specifically parse apart the question that you're asking.

So if I'm supervising or supporting the supervision of graduate
students who are doing hundreds of clinical assessments of RCMP officers that is me
engaged in clinical work and I would argue that that is involve -- does involve clinical
experience and my ability and the permission that I have to engage in that is based on
the firsthand educational and research experience that I had acquired prior to beginning
the work that I'm doing or that I have been doing for the last few years.

**MS. JANE LENEHAN:** All right. So maybe I'll go at this another
way. So would it be fair to say that your expertise in that first area is based primarily on
theory and research, as opposed to on the ground diagnosing and treating police
officers or other service members with PTSD?

I'm just trying to get a handle, Dr. Carleton, on your -- really, your
on the ground experience in terms of treating various public safety personnel.

**DR. NICHOLAS CARLETON:** That's fair. Over the last several --
yes. I would say certainly for the last several years, that's true.

**MS. JANE LENEHAN:** All right. And what about the first number
of years? Could you even just give an estimate of, “I've had this many patients over my
12-year career, roughly this many patients, who are both public service personnel and
who I've treated, diagnosed and then treated for post-traumatic stress --” I want to say
disorder, but that may not be the correct term.

**DR. NICHOLAS CARLETON:** Post-traumatic stress disorder
would be ---
MS. JANE LENEHAN: Okay.

DR. NICHOLAS CARLETON: --- the correct term.

MS. JANE LENEHAN: All right.

DR. NICHOLAS CARLETON: I would -- I wouldn’t want to give you a guess because I’m concerned I would be held to the specific number. I can go and -- in theory, I could go and look it up. It would be dozens at least. So but I would have to go back and look because I would have provided services to them beginning as early as my residency, which would have been almost exclusively focused on clinical provision of services, including assessments and treatments. I continued that after I became a professor at a much-reduced rate because being a professor requires that you focus more on research and teaching, as far as clinical practice.

So I would have to say dozens, but to give you a more specific answer, I would need substantive time.

MS. JANE LENEHAN: Okay. thank you. Those are all my questions with respect to qualifications. And I just want to state that I understand, Commissioners, that we’ll have a further opportunity to question Dr. Carleton on the substance of his report.

COMMISSIONER MacDONALD: Thank you. Yes.

MS. JANE LENEHAN: Thank you.

MS. GILLIAN HNATIW: Thank you, Ms. Nijhawan.

I believe we’ll now hear from Mr. Bryson.

COMMISSIONER MacDONALD: Good morning, Mr. Bryson.

Whenever you’re ready.

--- CROSS-EXAMINATION BY MR. JOSHUA BRYSON

MR. JOSHUA BRYSON: Good morning. Thank you.

Dr. Carleton, I believe you indicated to my friend that you based your opinion on the facts set out in Ms. Nijhawan’s letter of February 22\textsuperscript{nd}, 2022; correct?
DR. NICHOLAS CARLETON: That’s correct.

MR. JOSHUA BRYSON: So you do not know the specific roles played by each member in this mass casualty; do you?

DR. NICHOLAS CARLETON: That’s correct.

MR. JOSHUA BRYSON: You do not know how long each member remained on shift on April 18th and 19th; do you?

DR. NICHOLAS CARLETON: That’s correct.

MR. JOSHUA BRYSON: You do not know who, if anyone, had pre-existing psychological disorders?

DR. NICHOLAS CARLETON: That’s correct.

MR. JOSHUA BRYSON: This would inform your opinion as to whether an individual member may be predisposed to suffer from a psychological disorder; correct?

DR. NICHOLAS CARLETON: When you say “this”, what do you mean?

MR. JOSHUA BRYSON: I’m sorry?

DR. NICHOLAS CARLETON: You said “this” will inform my opinion and I’m asking you to clarify what you mean by “this”?

MR. JOSHUA BRYSON: This would be relevant information to your opinion?

DR. NICHOLAS CARLETON: Yes.

MR. JOSHUA BRYSON: And you do not have that information; do you?

DR. NICHOLAS CARLETON: That is correct.

MR. JOSHUA BRYSON: And can you tell me specifically of the members that have been subpoenaed, who will suffer psychological trauma if they’re forced to testify before this Commission?

DR. NICHOLAS CARLETON: Neither I can, nor can anyone else.
MR. JOSHUA BRYSON: Do you know what, if any, mental health services members utilized prior to and after this mass tragedy?

DR. NICHOLAS CARLETON: I do not.

MR. JOSHUA BRYSON: Thank you. Those are all my questions.

COMMISSIONER MacDONALD: Thank you, Mr. Bryson.

Ms. Hnatiw?

MS. GILLIAN HNATIW: Yes, Commissioner MacDonald. I believe that there are no further questions for Dr. Carleton. I’m just pausing to give counsel an opportunity to correct me. Seeing none.

I believe the witness could be excused at this time and Ms. Nijhawan could be invited back to address the Commissioners on the balance of her submissions for why you should admit Dr. Carleton’s report.

COMMISSIONER MacDONALD: Thank you so much.

Ms. Nijhawan?

--- SUBMISSIONS ON QUALIFICATIONS BY MS. NASHA NIHJAWAN

MS. JANE LENEHAN: Thank you, Commissioners.

So as you know, I’m here to ask for your leave to admit the expert opinion evidence of Dr. Nicholas Carleton. A proposed expert qualification has been circulated and I will just read it for you. For your reference, I’m sure we can provide it in writing so you don’t have to write it down.

COMMISSIONER MacDONALD: That would be helpful. Thank you.

MS. JANE LENEHAN: Thank you. So Dr. Carleton is proposed as an expert having expertise in the field of clinical psychology with the ability to provide evidence about the diagnosis and treatment of post-traumatic stress injuries among public safety personnel, including police officers, mental health risk and resilience factors faced by public safety personnel, including police officers, barriers to treatment faced by police officers, and the study of the longitudinal impacts of post-traumatic
stress injuries on public safety personnel, including the incidence, prevalence, and expression of post-traumatic stress injuries.

I want to clarify at the outset that this is an opinion that he seeks to offer in theoretical terms and without reference to any particular member, and that the NPF will not be seeking to rely on it for any other purpose.

As the Commissioners well know, the test for the admissibility of expert evidence comes from the Supreme Court of Canada’s judgements in White Burgess and in Mohan. These are well understood tests. I’m not going to explain them to you except to mention that there are three factors of the Mohan test that I will address today, which are this threshold question of the qualification of the expert, the relevance, and the necessity of their testimony.

We heard just now from Dr. Carleton, and you have now before us an exhibit, his curriculum vitae and his qualifications. He has a unique expertise in Canada on this particular question of the treatment and experiences with stress and stress injuries of public safety personnel, including police officers.

He is a doctor of clinical psychology with both a research practice, a teaching practice, and a clinical practice. We submit that he is well qualified to provide the evidence which he is proposed to give.

Dr. Carleton has acknowledged his duty as an expert to provide fair, unbiased, and impartial evidence.

As my friend Mr. Pineo pointed out, he has a depth of experience working specifically with the RCMP, which includes receiving funds from the Department of Public Works or Public Safety, I may be misspeaking, and the RCMP, which fund research which he does directly with RCMP officers at RCMP Depot.

I want to remind the Commissioners, though I know you need not be reminded, that the test for bias for an expert is actual and not apparent, as the Supreme Court of Canada told us in White Burgess:

“When looking at an expert’s interest or relationship with
a party, the question is not whether a reasonable observer would think that the expert is not independent. The question is whether the relationship or interest results in the expert being unable or unwilling to carry out his or her primary duty to the court to provide fair, non-partisan and objective assistance.”

There is no reason to suggest that Dr. Carleton, despite his depth of experience working with the RCMP, is disqualified from providing that type of fair and objective evidence. In fact, it would be our submission that his experience working directly with the RCMP informs his expertise.

I’m going to turn now to the question of relevance. Relevance is a threshold issue for the admissibility of expert evidence and the question before the Commission in deciding whether to admit the expert evidence is whether the evidence is logically relevant to the question the Commission must determine.

The NPF submits that the proposed evidence is relevant. This is not a stringent requirement.

The Commission is about to hear applications by participants for the issuance of subpoenas for the live testimony of 18 RCMP members. The NPF submits that the question of necessity for oral testimony, as framed by Rule 37, must be evaluated with consideration of the Commission’s obligation to employ a trauma-informed process as set out in its Orders in Council.

The Commission must consider whether and how it is to apply a trauma-informed lens to the assessment of necessity for subpoenas to involved officers in response to requests under Rule 37.

In order to do so, it must understand how trauma impacts, manifests, and presents differently to police officers, as compared with civilians. It must know what harm it might inflict in order to know how it can adapt its processes to avoid that harm.
Traditional adversarial criminal or civil legal processes do not carry this explicit responsibility. They aim for the truth at any cost and are inflexible to the needs of witnesses impacted by trauma.

This Commission can do better. It can strive for truth without causing harm. It can be creative in its processes without sacrificing its ability to discover what happened.

The NPF respectfully submits that this question is before the Commission on these applications and that the proposed expert evidence is relevant to that question.

A bigger question, perhaps the most important question, is necessity. Is this expert evidence necessary for the Commission in conducting this analysis on the applications that are before you? Is the information contained in the report outside of the knowledge or experience of the Commission?

I have no doubt that the Commissioners drawing each on your own training and experiences and with careful attention to your mandate are aware of the issue of first responder trauma. The question then is, will the expert's evidence, nonetheless, provide information which is likely to still be outside of your knowledge?

The NPF says yes. The proposed expert evidence draws from a wealth of clinical research and practical experience on the particular impacts of trauma on first responders that is beyond the expected knowledge and understanding of even the most well-informed lawyer, Judge or police officer.

Though the idea of trauma is generally and colloquially discussed among non-experts, trauma is, in fact, the subject of scientific study and emerging clinical research. The availability of expert evidence on trauma as it relates specifically to police officers can only be helpful to the Commission in carrying out its mandate, but I wish to push this question of necessity a little bit farther.

We are not in a court of law. The Commissioners are not the only audience for this information. Necessity is not, therefore, dictated solely by the legal
question before the Commission on these applications. The public inquiry process itself
fulfils a public function.

There is no question that there is a high level of interest among the
participants echoed by the media and the public to hear firsthand accounts from
involved RCMP members live on stage subject to cross-examination. Today alone we
are dealing with applications from multiple parties for the attendance by subpoena for
live testimony by 18 RCMP officers. This is in relation to only the first three
Foundational Documents.

As the Commission seeks to apply its trauma-informed mandate to
its rules and to the traditional legal processes that we are all used to, it will have to
confront questions about police officers and trauma that are explicitly and implicitly
raised in both public debate and Participant submissions. These questions come from
our common sense and broader cultural understanding of the role that police play in
society.

Do police officers experience trauma? Aren't they trained for their
jobs? Didn't they sign up for this? Can police officers be retraumatized by testifying
even if testifying is part of their duties? Aren't police officers supposed to be
professional witnesses? Why should the Commission prioritize the health or wellness of
police officers when there are family members and Nova Scotians who want answers?

These questions are not going away. In making a decision about
how a trauma-informed process applies to the police officers involved in the mass
casualty event, the Commission will have to confront these questions. In doing so, it
must not rely only on common-sense understandings of first responder trauma. In fact,
the clinical evidence of the impacts of trauma on first responders may be
counterintuitive to conventional knowledge about policing.

For example, the Commission may assume that if a member is
apparently well or apparently willing to testify, it need not be concerned about post-
traumatic stress injuries for that member. It may not inquire if it needs to consider
alternatives. The evidence would suggest otherwise.

For example, the Commission may be more concerned about the impact of testifying or being called on more junior or more frontline members, while assuming that senior members are better equipped to handle the stress. The evidence would suggest otherwise.

But as I said yesterday, you can't take my word for it. To the extent that the evidence about first responder trauma runs counter-intuitive to common understandings of the police's role in society, of our expectations of them, of their expectations of themselves, we need to rely on the evidence of an expert to get it right.

The proposed expert evidence is a helpful foundational source not only for the Commissioners, but for the participants and for the public's understanding of the Commission's trauma-informed mandate as the Commission considers today's applications and continues to move through its process.

There's a second stage to the White Burgess analysis, and that is considering the gatekeeper role. In traditional analysis, that's the gatekeeper role of the court as it relates to its duty to find a liability on a particular issue. I'll argue that that gatekeeper role is slightly different in the case of a public inquiry.

You will hear from other Participants that if you admit this evidence, it will be improperly relied on such that it should not be admitted in the first place, that you should gatekeep it out. Participants have expressed concerns that this report is being tendered as a blanket excuse for all 18 members they seek to subpoena, that it is tendered as some sort of improper medical note with respect to specific members, that as a result of this obstruction by the NPF, important evidence will be lost or key players will evade accountability.

Nothing could be further from the truth. This is a straw man.

The NPF has supported the full cooperation of dozens of its members in attending voluntary interviews or otherwise answering the Commission's questions to date. In many of those cases, they were asked to provide complete
retellings of their involvement in the mass casualty.

For many members, these interviews followed other interviews by the Major Crime Unit as part of the RCMP’s H-Strong investigation or by \textit{Labour Code} investigators with a different statutory mandate. Each of these interviews, each of these retellings of their experiences had a dramatic negative impact on our members.

Our members want to fulfil their duty to the public. They want to provide answers to the families that are grieving and to Nova Scotians whose confidence in public safety has been shaken. They, too, are members of this community that has experienced loss.

The purpose of the expert evidence is to establish as a baseline that police officers can be expected to experience this event as traumatic and to demonstrate that being required to testify may cause further secondary, additional harm. The purpose of the expert evidence is to challenge the idea that within a trauma-informed process subpoenas to give live evidence to be cross-examined on a national stage is the only way or even the best way to get at the truth.

The argument is not that these officers should not provide further evidence to the Commission if a gap or a conflict or a need for context can be established. The argument that the expert evidence is being offered to support is that even if Participants establish this need for further evidence from the members, a subpoena may not be necessary because it is not the least harmful way for the Commission to fulfil its mandate to obtain the evidence.

Those are all my submissions on the admissibility of this evidence and the purpose for which the report is tendered, and I’m happy to take any questions from the Commission.

\textbf{COMMISSIONER MacDONALD:} Just a process question, at least for me, first.

You mentioned yesterday about an affidavit as well ---

\textbf{MS. NASHA NIJHAWAN:} Yes.
Ms. Nasha Nihjawan

COMMISSIONER MacDONALD: --- by the President.

Where are we with that?

MS. NASHA NIJHAWAN: Thank you for reminding me.

So there is an affidavit that has been circulated to the Participants. It contains -- it's an affidavit of Brian Sauvé, who is the President of the National Police Federation. It contains ---

COMMISSIONER MacDONALD: Sorry, don't want to know the results, of course. I just want to know ---

MS. NASHA NIJHAWAN: Yes.

COMMISSIONER MacDONALD: --- what it is and whether it's --

whether it's intertwined with the submissions you've just given.

MS. NASHA NIJHAWAN: It is not because it's not expert evidence. It is a simple, more fact based, straightforward affidavit which we seek to rely on in our submissions that you'll hear over the next couple of days about officers and the impact on officers. But as it's not expert evidence, I haven't addressed it. I don’t understand that there is a threshold that I need to meet before seeking -- asking to tender that exhibit, which I will do when we make our submissions on the merits.

COMMISSIONER MacDONALD: Commissioner Fitch?

MS. NASHA NIJHAWAN: Thank you.

COMMISSIONER FITCH: Thank you. My question is in follow up to one that I posed yesterday. And I’m hoping that you can help us understand, or Participants, or family members.

You say that the members are prepared to want to be part of answering, finding solutions going forward. You suggest that issuing a subpoena in cross-examination on a national stage is not the only way in which we can find those answers to satisfy the number of questions that people have. What do you propose?

You know, you've heard us talk, you've all heard us talk about the public inquiry and our ability to form our process and that we can be flexible and creative, obviously mindful of...
doing no further harm as we try to bring forward the facts that we need.

What would you propose, or what are you proposing as a way to
draw this information out, if not by way of subpoena? Have you given consideration to
what that might look like?

MS. NASHA NIHJAWAN: Sure. This is a matter that I’ll address
more completely when we address the merits, but I’m happy to answer the question
now.

To date, as you know, members have attended voluntary interviews
which are audio recorded and transcribed and entered as exhibits into evidence.

Until I understand more completely what exactly the additional
gaps, errors, or areas for clarification or context are being sought by Participants, I’ll
respond sort of more particularly about whether or not I believe that those issues have
been sufficiently addressed, such that no further information is actually necessary. It’s
our position that members should not be asked to repeat or perform their evidence, but
that the methods by which it has to date been collected are sufficiently reliable.

However, if there are any follow-up questions, there are lots of
ways in which members can be offered a trauma-informed approach to providing
subsequent evidence. It could include further interviews, it could include written
questions, it could include affidavit evidence, and it may require a subpoena. But the
argument that the NPF is making is that in determining necessity, does it require a
subpoena, because we must acknowledge the impact of trauma on first responders,
which we must understand in order to acknowledge it properly. We must look at all of
these less harmful ways to obtain evidence before we move to issuing subpoenas.

COMMISSIONER FITCH: Thank you.

COMMISSIONER MacDONALD: Thank you.

MS. NASHA NIHJAWAN: Thank you, Commissioner.

COMMISSIONER MacDONALD: Thank you. The Commissioners
will break. It’s 10 to 11:00, so let’s say 11:05. Thank you.
REGISTRAR DARLENE SUTHERLAND: The proceedings are now in break and will resume at 11:05.

--- Upon breaking at 10:49 a.m.

--- Upon resuming at 11:16 a.m.

REGISTRAR DARLENE SUTHERLAND: Welcome Back. The proceedings are again in session.

COMMISSIONER MacDONALD: Thank you again, Ms. Nijhawan, for your submissions, and for counsels’ earlier participation on the question of qualifications.

We have determined that the proposed expert evidence is not necessary for us to determine whether additional witnesses should be heard in this public proceeding. We will provide brief oral reasons, hopefully after the lunch break.

Because this is a public inquiry, I will try to explain for the public what I’ve just said.

So you will recall that this morning I indicated that typically we, as Commissioners, would have the exclusive responsibility of determining and making factual conclusions. An exception to that is sometimes the facts are such that it might be necessary to, or would be necessary to have an expert assist us in that regard. And the NPF has indicated that and made able submissions to that effect. But we have concluded, having heard those submissions, that it is not necessary for us to have that evidence. And so we will not -- there’s no need now to hear from the counsel for the other Participants because we do not need that type of evidence and are able to make that conclusion having heard the submissions from the NPF, and therefore would not need to hear from counsel in response because we’ve already concluded otherwise.

So thank you very much.

And Ms. Hnatiw?

MS. GILLIAN HNATIW: Thank you, Commissioner MacDonald.

We’ll now move forward with hearing from counsel, continuing yesterday’s proceeding,
to hear from counsel for Participants who wish us to call additional witnesses to fill
specific gaps in the factual record created by the Portapique Foundational Documents
and consider their requests, individual by individual. Yesterday we heard their
proposals in respect to additional civilians and now we will hear their proposals with
respect to additional front-line RCMP members.

As was the case yesterday, for all of these witnesses, it is
Commission Counsel’s view that the record has been established through the
Foundational Documents, the record that the Commission requires for the purposes of
doing its forward-facing work to fulfil its mandate, as well as in the source material and
the witness we heard from on Tuesday.

We are not of the view that additional evidence is required, and so
we will not be speaking to the applications, other than to indicate where there’s
information about a witness that might be helpful to you in making your decision.

In some cases, as you heard from Ms. Hill yesterday, we may also
indicate where we believe that an application to hear from a specific witness is
premature and might be revisited in the context of a future Foundational Document.

So we will begin by hearing from counsel who wish to -- wish the
Commission to call Cst. Vicki Colford and Cst. Stuart Beselt.

We will then hear from counsel for the RCMP and the NPF in
response to those requests.

I believe that we are beginning with somebody from Patterson
Law? Mr. Scott.

COMMISSIONER MacDONALD: I'm sorry, you'll have to go up to
the podium.

MR. MICHAEL SCOTT: Thank you, Mr. Commissioner. My name
is Mike Scott. I’m here on behalf of Patterson Law.

I wonder if we could ask to have this pushed off to this afternoon?

Our understanding was that today we would be dealing primarily with the expert issue.
Obviously we’d received some indication that we’d be dealing with the request for police witnesses on Monday, but we can certainly take an hour to prepare for our submissions on the remaining matters.

**COMMISSIONER MacDONALD:** Well our understanding was that counsel should be ready for -- to go. Is there any -- are there any other counsel ready to go now? Mr. Topshee?

**MR. STEPHEN TOPSHEET:** Sure.

**COMMISSIONER MacDONALD:** And of course, Mr. Scott, we will get as far as we can and break for lunch at that time.

--- **SUBMISSIONS BY MR. STEPHEN TOPSHEET**

**MR. STEPHEN TOPSHEET:** Thank you, Mr. Commissioner. I’m making a presentation on behalf of the -- my clients, the Tuck-Olivers, and Lillian Campbell.

So I’m going to address Cst. Beselt and the need to call Cst. Beselt.

He’s a front-line officer. He was the first one to the scene, as everyone knows by now. Mr. Burrill, I’m not going to go in too much to the gaps and that sort of thing. I’m going to talk to basically why he’s needed in terms of clarifying the evidence and that sort of thing.

One thing that struck me when Mr. Burrill was going through his timeline relating to -- from the initial call from Jamie -- from Jamie Blair at 10:02, and Mr. Burrill walked us through the initial call all the way through to the engagement in Portapique relating to the children and that sort of thing.

And what he did, what struck me, was that he was playing audios of 9-1-1 calls and he was playing tapes and communications between dispatch and Cst. Beselt, for example. And he was asking us to -- he invited the Commission and the Participants to make inferences based on the pace, the tone, and the nature of the radio communications between members, including Cst. Beselt.
Well it’s our submission that the Commission has the opportunity here to gather the best evidence specifically on those points by putting the conclusions drawn by Commission Counsel to Cst. Beselt, rather than relying on inferences that are drawn from his interpretation and inferences and so on from audio and transcript members -- of members’ communication.

So that’s important. And he did a great job, but I think this evidence is going to be relied upon over the years.

Let me go back to my presentation though, and I’ll get back to that in a minute, please.

So simply put, Beselt was the first member at the scene. He was the most senior officer. He was a corporal. He arrived at the scene. We remember he was at the top of the Portapique Beach Road. He then became the leader of the IARD team when they determined it was an active shooter situation. There’s a lot of facts that are to be known from his evidence.

His -- there’s a lot of evidence -- questions that will never be answered, but putting him on the stand and examining him, not in a cross-examine type of way, but in an inquisitorial way that we can get to the truth.

It’s not to put him on the stand to cross-examine him, per say, in my view. It’s to get to the truth and get to the facts. It’s not a blame-seeking situation here. It’s an inquisitorial fact-seeking situation that -- and it’s necessary to have him on the stand in that regard.

COMMISSIONER STANTON: Can you relate for us how his evidence will assist us in understanding a dispute in the evidence that’s material to Phase 2 and 3 work?

MR. STEPHEN TOPSHEE: Sure. So I would point to -- I don’t know if it’s a dispute so much, but it’s a need for clarification in terms of, for example, my colleague mentioned yesterday, David Faulkner’s evidence. What was the exchange between David Faulkner and Beselt? You know, that’s critical information.
When time is of the essence in an active shooter situation, when every second counts, that has to be explored. That’s one aspect I would point to.

COMMISSIONER STANTON: So ---

MR. STEPHEN TOPSHEE: The second ---

COMMISSIONER STANTON: --- it needs to be explored for what purpose? Just be more specific, please.

MR. STEPHEN TOPSHEE: It has to be explored in order to get the minute-by-minute conversation and fulsome conversation from both parties, and also ---

COMMISSIONER STANTON: I hear you saying that. I’m just wondering if you can point us to ---

MR. STEPHEN TOPSHEE: Sure.

COMMISSIONER STANTON: --- what, in your view, turns on the exact words of the conversation?

MR. STEPHEN TOPSHEE: Okay. What turns on it, and other factors, are Cst. Beselt’s mindset. When he determined it was an IARD situation, you have a critical obligation, I suggest, to analyse his situational awareness, his mindset, his interpretation of the facts and things that were coming at him in order -- and then he made some decisions. And it’s important for the Commission to know, and to build upon that, and it’s just very important for that. That’s one example. That’s Fraser.

I’d also point to another, I call it a gap, in relation to the -- he makes reference to Moncton as the reason why they went -- he walked -- or went down on foot.

Well, that has to be explored. That’s a gap that has to be explored. What is he talking about in terms of Moncton? We all know that in -- he mentions that, somewhere in his statement, that the Moncton -- the reason that he went -- walked down on foot sort of thing is because he remembered Moncton and the police car is like a billboard; okay? But we know that he -- prior to that, he had a conversation with Andrew MacDonald and Andrew MacDonald told him he was in a white vehicle. So that has to be explored. That has to be looked into. And the best person to give that
evidence is Cst. Beselt; right?

So with that, this issue. Thank you.

So we’d like to hear from Beselt. We think your counsel should like
to hear from Beselt. Beselt is not only an aid to fact finding in the inquisitorial process
the Commissioners are asked to undertake, but also to inform recommendations for the
future to aid policing agencies to improve their training and processes to respond to
similar events like this one.

You know, the Mass Casualty Commission was the deadliest
rampage in Canadian history. The facts underlying this inquiry will be studied for
decades by academics, experts, policing leaders across Canada and across the globe.

We want all of Canada to be safer. It’s imperative that the factual
foundation of this Mass Casualty Commission -- excuse me, I need a drink. I’m sorry.
Excuse me. So it’s important.

We all want Canadians to be safer. It’s imperative that the factual
foundation of this Mass Casualty Commission is firm, not only to inform the
recommendations of the Commission, but also to ensure future studies of this mass
casualty, looking to improve policing in the future, are based on the most accurate facts.
And the full and fulsome evidence of Cst. Beselt is indeed necessary. As I said, not
with a view of assigning blame, but getting to the truth and for future generations so that
this doesn’t happen again. And if it does happen again, these police officers are better
informed and better prepared.

I apologize for my presentation a little bit, I’m a little nervous here,
but thank you very much. That’s all I have to say.

COMMISSIONER MacDONALD: Thank you. I don’t think my
colleagues have anymore questions. Thank you, Mr. Topshee.

MR. STEPHEN TOPSHEET: Thank you.

COMMISSIONER STANTON: Were you planning to address Cst.
Colford as well?
MR. STEPHEN TOPSHEE: With -- sorry, I missed her all together.

Cst. Colford should be called. A couple of -- there's a note in one of the Foundational Documents that further exploration is necessary in relation to her exchange with Kate MacDonald because Kate MacDonald gave her some information relating to possibly another exit here. That wasn't explored. As far as we're aware, that should be explored.

The form that that can take, I'd leave that to the Commission. But it's vital information.

The other thing relating to Kate MacDonald -- or to Ms. -- Vicki -- Constable Colford is the issue when she found out from Kate MacDonald and only put the information on the dispatch, I think, or put it out on the line at, I believe, 10:48. Why the delay? Why so long? Every second, every minute in a critical -- in a shooter situation is -- lives are stake and wondering ---

COMMISSIONER STANTON: So that would be specifically with respect to the containment process.

MR. STEPHEN TOPSHEE: Yes, for sure. Yeah, exactly.

Okay. So that's it. Thank you.

COMMISSIONER MacDONALD: Thank you, sir.

It's 11:32. I don't know if other counsel are ready. If not, Mr. Scott, we can take an early lunch break, I would think.

MS. GILLIAN HNATIW: I understand that Ms. Miller may be prepared to address the panel.

COMMISSIONER MacDONALD: Thank you.

Ms. Miller.

--- SUBMISSIONS BY MS. TARA MILLER:

MS. TARA MILLER: Thank you, Commissioners. My name again, Tara Miller, and with my colleague, Alix Digout, we represent family members of Kristen Beaton and Aaron Tuck.
I follow my colleague with respect to endorsement in support of Constable Beselt and Constable Colford. I won’t reiterate the points he’s made. I’ll make some other general comments.

It’s our understanding from the correspondence that passed between Commission Counsel and Participants’ Counsel that the Commission Counsel wanted some of these first responders as witnesses. We understand that they issued and gave notice of subpoenas, which is what prompted the NPF’s application to address those subpoenas that I’m not sure if they were issued or notice was given of various first responders.

This was some time before February the 16th, and some of the members -- and after that point in time, there was a calendar and it had some of these officers on that calendar that had been identified by the Commission as being necessary to be called. Constable Beselt was one of those.

The calendar has changed, and we appreciate that things are fluid and we need to be dynamic, but I wanted the Commissioners and I wanted to make that point that we understood that the Commission had wanted to call some of these first responders, and that included Constable Beselt.

That -- you know, we’re not privy to why that may have changed. I know scheduling-wise it has changed, but I just wanted to make that clear, that this initially was a viewpoint that we were -- we saw Constable Beselt on the schedule and understood that that -- it was necessary to call him. And my friends can speak to that, I’m sure.

COMMISSIONER MacDONALD: Yeah.

MS. TARA MILLER: My final comment with respect to these two witnesses, and I do ---

COMMISSIONER MacDONALD: Sorry, Ms. Miller. I -- thank you for your initial submissions. I apologize for interrupting, but Ms. Hnatiw, can you respond to that, please?
**MS. GILLIAN HNATIW:** It's correct that the Commission still plans to hear from Constable Beselt along with Constable Merchant and Constable Patton in the form of a witness circle during -- in relation to our Phase 2 work, primarily, to hear about some of the experiential issues of being a first responder in those circumstances. They've remained -- it remains our plan to hear from them for those purposes.

We are not planning to call them to speak to any factual gaps in the narrative or to address factual questions from counsel, and so while the calendar has shifted a little bit, that plan remains the same as it was from the beginning.

**COMMISSIONER MacDONALD:** So I interrupted, Ms. Miller, just to ---

**MS. TARA MILLER:** Totally okay.

**COMMISSIONER MacDONALD:** --- provide you with that context. It may assist you in your ---

**MS. TARA MILLER:** Thank you.

**MS. GILLIAN HNATIW:** And I will say that in fairness to Ms. Miller, I think that in conversations recent week that that understanding of Commission's Counsel's purpose has really crystallized perhaps in the minds of Participant Counsel, which is where perhaps some of the misunderstanding may have arisen, but Commission Counsel's plan remains the same.

**MS. TARA MILLER:** Thank you.

Two other sort of high-level comments. I'm going to return later to speak to specific witnesses and I'll have some more specific gaps and information, I think, that will help inform the Commission's decision with respect to those officers, but you know, Commissioner Fitch, you had asked counsel for the NPF about process. And you know, I think one of the beautiful things about an inquiry which I talked about yesterday is our ability to be creative, and certainly there is an ability to, I think, make sure that we still have under oath subpoenaed evidence from first responders in a way that is also trauma informed. I don't think that the Commission can throw out
subpoenaed under oath evidence under the umbrella of being trauma informed.

Sworn evidence and the ability to test the accuracy of evidence and
the fulsomeness of evidence is a core foundation of our legal system, be that in the
traditional adversarial system or in this system. We cannot and we should not have a
system where we’re not allowed to have evidence under oath from critical witnesses
which would include first responders, which takes me to my final point, which is a
rhetorical question.

How does one have an inquiry with a mandate to inquire into what
happened and make findings of fact on the responses of the RCMP officers without
hearing from a single officer under oath about what happened, the facts, in Phase 1?

Thank you.

COMMISSIONER MacDONALD: Thank you, Ms. Miller.
I think, then, it would be an appropriate time to break. We'll break
until 12:45. Thank you.

REGISTRAR DARLENE SUTHERLAND: Thank you.
The proceedings are now on break and will resume at 12:45.
--- Upon breaking at 11:39 a.m.
--- Upon resuming at 12:53 p.m.

REGISTRAR DARLENE SUTHERLAND: Welcome back.
The proceedings are again in session.

COMMISSIONER MacDONALD: Thank you again, Participants
and their counsel; and, of course, members of the public who are engaging us today --
engaging with us today.

As promised, I will give brief oral reasons for our decision vis-à-vis
the proposed expert.

--- DECISION ON PROPOSED EXPERT (Orally):

COMMISSIONER MacDONALD: Earlier this week, we introduced
our first three Foundational Documents sharing what we know to date about events in
Portapique on April 18th and 19th, 2020. These are -- these were the first three of many Foundational Documents to be presented over the course of our inquiry.

As a next step, we have asked Participants to identify further witnesses to clarify a dispute in the evidence that will be material to the Commission’s work in Phases 2 and 3, to fill a material gap in the evidence, and to provide important context.

The National Police Federation represents RCMP officers up to and including the level of Staff Sergeant. Family Participants have identified 18 Federation members they think we should hear further from in oral proceedings.

Before doing so, the Federation suggests we need the assistance of an expert to better understand the ways trauma can visit first responders, and I quote from the Federation’s specific motion or request.

Dr. Carleton is proposed as having expertise in the field of clinical psychology with particular expertise in the -- A, the diagnosis and treatment of post-traumatic stress injuries among public safety personnel, including police officers; B, mental health risk and resilience factors faced by public safety personnel, including police officers; C, barriers to treatment faced by police officers; and D, the study of longitudinal impacts of post-traumatic stress injuries on public safety personnel, including the incidence, prevalence, and expression of post-traumatic stress injuries.

In our view, the assistance offered by the Federation is unnecessary. As Family Participant Counsel, Mr. Bryson, acknowledged yesterday in referring to the proposed evidence:

"[It is] also not necessary. The Commission can inform themselves that this was, in fact, a very traumatic process for all Participants, including police. The evidence being proffered is not...required to inform the Commission of that fact. That is accepted by everyone."
We have determined that we do not need the assistance from this proposed witness in order to make these decisions as to who should appear in oral proceedings. In other words, whether and how to hear from a proposed witness must be decided on an individual-by-individual basis with all potential accommodations in play in order to establish the facts.

Thank you.

Ms. Hnatiw.

**MS. GILLIAN HNATIW:** Thank you, Commissioner MacDonald. I believe we are going to hear from someone from Patterson Law with respect to their request for us to receive oral testimony from Cst. Beselt and Cst. Colford.

**COMMISSIONER MacDONALD:** Thank you.

Mr. Scott, whenever you're ready.

--- **SUBMISSIONS BY MR. MICHAEL SCOTT:**

**MR. MICHAEL SCOTT:** Good afternoon, and thank you, Commissioners.

My name is Michael Scott; I'm a partner at Patterson Law. I'm here on behalf of those most affected by the events of April 2020.

We echo the comments of our friends earlier about the necessity to hear from Csts. Beselt and Colford, but I would add that while we focused on certain officers, including Cst. Beselt, because of his ostensible command on the ground at the relevant time, our comments about him really extend similarly to a number of officers on the ground at the time; the entire IARD team; Csts. Merchant, Patton, Grund, Neil, Cpl. Sutton. And we need to hear from at least some of those officers for the very simple reason that they were there.

We need to know what those officers saw and heard and did. And while we've been asked to give submissions on additional witnesses that the Commission should hear from, we note that with the exception of the 911 witness
yesterday, we haven’t heard from any witnesses. And at this point in the process we’ve now moved, very quickly, through what we would consider to be one of the central timelines; a series of events that starts the mass casualty and involves a number of deaths in the Portapique area.

It also bears on the central issue of containment, and what we have are a number of Foundational Documents, but we haven’t heard from the people that were there.

So, specifically, with respect to Cst. Beselt, there are a number of items that we think the Constable can speak to that just have not been addressed in the Foundational Documents, and one of them is we know that the initial call involves the 911 call from the Blair residence. What we don’t know and haven’t heard anything about is whether the IARD team or Cst. Beselt responded to the Blair residence; and if not, why not. And perhaps if not, perhaps there’s a perfectly rational reason for that, but we would need Cst. Beselt to speak to that.

We know that at the time officers were responding to those initial calls, Greg Blair is on his front deck. He’s not discovered by RCMP until many, many hours later. And to the extent that the question can be asked, we don’t know whether, if identified earlier, he may have been able to be saved. And the only people who can speak to that are the first responders who are in Portapique at the time.

Similarly, the Foundational Documents make reference to a decision by Cst. Beselt and others to form an IARD team and proceed into Portapique. There’s a suggestion that that decision was made based on their training and their understanding of the threat that they were there to face. What we don’t know is what, if any, impact that had on containment or their assessment of what was needed to contain the scene. All we know is that they arrived on the scene, make a decision to proceed into Portapique using their IARD training.

We need those officers to speak to what their rationale was. If they knew that the issues of containment could be dealt with sufficiently, notwithstanding that
they were pushing in; was it a judgment call made in the moment, knowing that it would affect containment efforts? We don't know, but they can speak to it.

Cst. Beselt and the officers with him can also speak to a number of things that they witnessed firsthand. And I certainly don't need to tell anybody here the importance of those sources of information, people who were there, people who saw things with their own eyes, that were either overlooked in giving various statements, or the significance of which wasn't recognized at the time. We note that in Cst. Beselt's interviews, to the extent that it appears in the Foundational Documents, there's no reference to his observations about the Zahl/Thomas residence.

COMMISSIONER MacDONALD: Just for the record, Mr. Scott, you say to the extent that they appear in the Foundational Documents. The source materials are also -- been exhibited ---

MR. MICHAEL SCOTT: Yes.

COMMISSIONER MacDONALD: --- and part of the record.

MR. MICHAEL SCOTT: And I'm referencing those as well.

COMMISSIONER MacDONALD: Thank you.

MR. MICHAEL SCOTT: We now have, in the latest version of the Foundational Documents, a contingent timeline that's been proposed by Commission Counsel, but part of that timeline bears on when the Zahl/Thomas property was on fire. And it would be extremely helpful to know if when Cst. Beselt and the rest of the IRAD team and other officers are passing by that property, as they do several times as we understand it, was the house on fire. You know, these are the sort of things that we can address if we have the officers there. Of course, those things have to be constrained to relevance and speak directly to the issues at hand, but we obviously have some concerns about, you know, the depth of what's been presented in those Foundational Documents.

I, you know, recognize the comments that my friend Ms. Miller made earlier about the understanding that we have that we may be hearing from some
of, you know, these members later in the process, and we're happy to be -- to receive
further information about it. But as we are here today, our understanding is that those
members will be called at a later point in the proceedings, that they will not be
presented for the purpose of providing any testimony on the facts of the matter or what
they saw, but rather, to discuss in the context of a witness circle their experience. And I
confess that, as distinct from the issue of providing facts, things that they saw and heard
and did, I have not the slightest idea what it means that these officers will speak to their
experience. If we're being told that they will be called to give evidence, that we
understand.

Turning to Cst. Colford, you know, for the same reason, we need to
hear from Cst. Colford because she was there. She's one of the first people on scene.
She has vital firsthand information about a number of issues at the outset of the mass
casualty event, including the first containment point at the Portapique Beach Road. We
know where Cst. Colford was. We know where a number of the other first responding
officers were. What we don't know is why they were in that position. Was the
containment point that was established there chosen intentionally? Was there any
particular reason that the roadblock that's referenced later by Cpl. Sutton isn't
established closer to Highway Number 2, or farther into Portapique, and perhaps the
answer is no, but we don't know that. And to the extent that the Foundation Documents
that have been tendered this week are supposed to specifically address issues like
containment, which we would obviously agree is a central issue, these are the questions
that we would need answered.

We need to know from Cst. Colford what was the containment plan,
if any. Was Cst. Colford simply tasked with holding down the position and waiting for
the arrival of other members? Does her training or experience inform what she was
doing at that position at that time? We don't know.

Cst. Colford is also specifically important to this matter in as much
as we know from the Foundational Documents and in the supporting materials that
she's the one who receives vital information from Andrew and Kate MacDonald identifying that there may be a possible second exit from Portapique. To the extent that we assume Cst. Colford's role at that particular juncture is to contain the scene, we have questions about what was done with that information beyond what we already know. We know that it was broadcast. We don't know what Cst. Colford's intention was in broadcasting that. Would she assume that the risk manager, or that CIC, or that others would do something specific with that information? Is it her role or responsibility to ensure that that information is passed on? What -- we know she received the information and radioed it, but we don't know what the purpose or intention for doing that was, or what was expected to be done with that information, because in the result, what we know is that a containment point identifying the -- what we now know to be the Blueberry Field Road was not contained until well after the perpetrator had left the property.

With -- to the extent that it bears on those particular members, those are our only submissions unless the Commission has any questions.

COMMISSIONER MacDonald: I was just checking my memory with my colleagues, Mr. Scott, but I thought Officer Colford's information, from what I understood from earlier submissions, was from Kate MacDonald and not Andrew MacDonald, but I could be wrong.

MR. MICHAEL SCOTT: Sorry, I think that's correct.

COMMISSIONER MacDonald: Okay. Thank you.

MR. MICHAEL SCOTT: Thank you.

COMMISSIONER MacDonald: And the Blueberry Field Road was not the way out. Brown Loop was the way out; right?

MR. MICHAEL SCOTT: Via the Blueberry Field Road, yes.

COMMISSIONER MacDonald: By way of ---

MR. MICHAEL SCOTT: Yeah.

COMMISSIONER MacDonald: Thank you. Thank you, Mr.
Scott.

**MS. GILLIAN HNATIW:** I believe we're now to hear from Mr. Bryson on behalf of the Bond family.

--- **SUBMISSIONS BY MR. JOSHUA BRYSON:**

**MR. JOSHUA BRYSON:** Thank you, Commission. Yes, in regards to the IARD team, I would suggest that Cst. Beselt is probably the most integral witness that the Bond family wishes to hear from, as the first responding member to Portapique and as the team leader. The family certainly has a lot of questions. We do have a good sense of Cst. Beselt’s movements that night. We know where he went and at what time he went. We also know, based on the Foundational Document, that he relied on his training. So it was -- essentially, we know that based on their training, this is what they did. But we don’t know what observations they made to inform themselves to make these decisions. And part of the difficulty is that when we’re framing these questions, the what questions, sometimes they appear as why questions as well, and they -- there is some overlap, so it is sometimes difficult for participants when we’re meeting with their families and they’re asking us questions that ---

**COMMISSIONER MacDONALD:** That's fair enough, Mr. Bryson.

**MR. JOSHUA BRYSON:** Yeah. So, for example, Cst. Beselt made a decision on behalf of the IARD team and his entry team that they would proceed on foot initially. So what informed him that that was the best decision to make at that time? We do know that he received additional information. He proceeded on foot. He then encountered Andrew MacDonald on foot. And at the time of his encounter with Mr. MacDonald, he learned that the perpetrator was now mobile. That is new information that he had to assess, and his team had to assess. The decision was then maintained, or perhaps sustained, that the team would still continue on foot, and they did, in spite of the fact that -- sorry, it looks like you wish to -- okay. Yeah. So that decision was sustained, the fact that the team would, despite knowing that the perpetrator was mobile, would remain on foot, and they remained on foot for the entirety
of the evening, so it's difficult for the families to understand what led to that decision.

Did you incorporate this new information and still arrive at the decision that it's still best to proceed on foot? And proceed on foot they did.

In one of the mass casualty statements, we learned that the members walked roughly 9.5 kilometres throughout Portapique that evening. I think that was Constable Beselt's statement to the -- to the Commission that that was the duration of their foot travel.

The families also have lots of questions about, for example, the location of the 911 call was Orchard Beach Drive. Decision was made to stay straight, not take a left down Orchard Beach where the origin of the 911 call was made. It was to continue down Portapique Beach Road. What led to that decision being made and what led to the decision not to go down Orchard Beach where the both 911 calls originated and also where we -- where they knew that the four children were now housed and hoping to stay safe.

There are questions of what informed and, later, also why those decisions were made.

What tools were used to help inform your decisions that you made about the topography such as Google Maps? So for example, Cobequid Court is roughly 900 metres further south of 136 Orchard Drive, the Blair residence. The members never proceeded to Cobequid Court. In fact, unfortunately, the Bonds were not discovered -- they resided at 46 Cobequid Court. They weren't discovered until 17 hours after this tragedy began, and that's roughly some time after 3:20 p.m. on the 19th.

So why wasn't the entirety of Portapique canvassed by members?

So -- and in regards to the suggestion that they be called to testify about their experiential experiences -- their experiences, I would echo the comments of my friend that we're not clear on what that exactly would entail, but I submit that that's not the best use of the Commission's time, that if the witnesses are going to be brought forward that they testify as to some of these very important facts, testifying as to their
experiences. And they can certainly do so in the course of testifying to these very
important facts as well. And I don't see what value there would be to the Commission to
simply limit them to experiences while neglecting the facts. The facts will inform and did
inform their experiences, and vice versa.

They're my comments with respect to Constable Beselt and why I
think he should be called before this Commission.

With respect to Constable Colford, very briefly, we just heard that
Constable Colford did receive some information from Ms. MacDonald that there was
another access -- another exit point from Portapique. Who was -- who, if anyone, was
that information passed on to and at what time?

We heard in the containment document at what time Brown Loop
was actually contained. That was many, many hours after. We believe that that
information was conveyed. So specifically, who did you pass that information on to, and
at what time?

And also, if Constable Colford's role was containment, was that, in
fact, her role? We do have information that, for example, David Faulkner was able to
actually navigate up Portapique Beach Road, interact with Constable Colford and
without even providing a name, he was then able to exit the area. So was containment
a priority and the objective of Constable Colford at that time?

So it's questions in relation to her role that she was assuming at
that -- that evening.

So they're my comments, subject to any questions you may have.

COMMISSIONER MacDONALD: Thank you. Thank you, Mr.
Bryson.

MS. GILLIAN HNATIW: Thank you.

I believe we will now hear from counsel from the Department of
Justice on behalf of the RCMP.

--- SUBMISSIONS BY MS. LORI WARD:
MS. LORI WARD: Good afternoon, Commissioners. I want to make some preliminary comments to frame our views with respect to the calling of RCMP witnesses in general.

COMMISSIONER STANTON: Sorry. Just for the public, could you state your name?

MS. LORI WARD: Oh, I'm sorry.

COMMISSIONER STANTON: Thank you.

MS. LORI WARD: My name's Lori Ward.

COMMISSIONER STANTON: Thank you.

MS. LORI WARD: I'm here on behalf of the Attorney General of Canada, which, of course, includes the RCMP.

So we're all well aware that this Commission has a mandate to employ a trauma-informed approach. This is not what we're used to. It's a bit of a brave new world for a lot of us, and we hear the frustration from lawyers who are used to a trial style approach to gathering evidence.

We hear the frustration, but that doesn't mean that other methods or alternate methods of gathering evidence are not meaningful and do not afford an opportunity for meaningful participation.

I hope it is evident to the Commission that the RCMP has made great efforts to assist it in its monumental task. As you know, the RCMP has disclosed roughly 65,000 documents to this Commission. Not the Government of Canada. Just the RCMP.

The RCMP has facilitated or attempted to facilitate interviews of every witness identified by the Commission. All those interviews, of course, voluntary and without subpoena.

The RCMP has provided technical support, explanation, given access to its subject matter experts and demonstrations to answer questions from the Commission.
Now, I had intended to argue in support of the tendering of the report of Dr. Carleton, and I understand that ship has sailed. Suffice it to say, we want to assist this Commission. We are simply asking that the Commissioners make their decisions with respect to witnesses while balancing the sometimes competing interests of a trauma-informed approach.

We don't have a draft in this country. We have an entirely volunteer Armed Forces. When Armed Forces members came back from Afghanistan, some of them quite traumatized, some of them broken, you didn't hear people saying, "They signed up for this". What you heard was people saying, "We need to take good care of our veterans. We owe them that". What we've heard here yesterday and partially today has an undercurrent of "They signed up for this".

Ms. Nijhawan made it clear and we would make it clear that we are not seeking any blanket approach or an across-the-board pass for RCMP members but, as I said, the Commissioners, and I'm sure you're well aware, are called upon to make these decisions while balancing those competing interests. Is the evidence necessary and, if it is, can it be elicited in a different way?

Witnesses should not be interviewed more than once. They should not be called to appear more than once. We had a situation where witnesses were scheduled to appear to the point of making travel arrangements and then put off to a time uncertain. That should not happen in a trauma-informed approach.

If the evidence is necessary, there needs to be a proportionality to how it's elicited. With respect to these two members in particular, we're at a bit of a disadvantage because we had expected that Participants would be required to give a few more particulars of the gaps or errors that they had identified in their letter submitting a list of witnesses last week. So we had no notice of the particular gaps and errors.

But suffice it to say, with respect to Cst. Stuart Beselt, Beselt with an E, he addressed the exchange with Mr. Faulkner in his interview. He addressed the
reason he went in on foot in his interview. And I would say he adequately addressed
the whys and the whats, and what tools he had available, in his interview.

What we’ve heard repeatedly is we need to hear from these people
in person. And I would submit that’s not an adequate reason. It doesn’t meet the
threshold of necessity if this evidence is already on the record.

With respect to Mr. Burrill’s submissions when he presented the
Foundational Documents, we’ve been told that his submissions, or his presentations,
are just that, submissions. Any inferences that he drew are submissions. It is open to
counsel later to make -- to refute those submissions or make competing or contradictory
submissions.

With respect to Cst. Colford, her exchange with Kate MacDonald is
on record. It’s in Kate MacDonald’s statement. Cst. Colford appears in the radio
transcript, so we know exactly what she said.

We understand that there are written questions forthcoming for Cst.
Colford from the Commission and we would suggest that Participants be allowed to
submit their supplementary questions to be put to Cst. Colford in writing.

Those are my submissions in regard to these two witnesses. And
we’ll have further submissions later, but subject to any questions the Commissioners
have.

COMMISSIONER MacDONALD: Thank you very much.

MS. GILLIAN HNATIW: I believe we will now hear from Ms.
Nijhawan on behalf of the National Police Federation.

--- SUBMISSIONS BY NASHA NIJHAWAN

MS. NASHA NIJHAWAN: As you know, I’m Nasha Nijhawan. I’m
counsel for the National Police Federation. And I should take this opportunity to
introduce my co-counsel as well, Kelly McMillian and Jaime Burnet, who are sitting
there in the chairs.

I would like to respond to the issues raised by Participants. The
assertion that is made that under Rule 37 it is necessary for the Commission to issue a subpoena for the attendance in person of Cst. Stuart Beselt and Cst. Vicki Colford.

In order to frame my remarks, I will not retread the ground you have already heard me on, but I want to go back a little bit to the framework that we are working under here.

We all know that this Commission is free to set its own rules, and it has done so. Those rules were developed in consultation with participants over the summer and published in mid-August of 2021. Those rules provide for the process by which Foundational Documents are developed and introduced into evidence and include the express provision that those documents will stand in place of oral evidence where possible.

As we’ve seen over the last several days, Foundational Documents have been introduced and exhibited, along with approximately 200 source documents. And those source documents contain original interviews and other types of first-hand evidence from the officers who were involved and whose involvement is being addressed by Participants today.

The Commission has indicated that in order to issue a subpoena or direct the further collection of evidence from these individuals, Participants must identify a conflict in the evidence, a gap in the evidence, or an area where necessary context is offered, and those gaps, conflicts, or lack of context must be material to the Commission’s work in Phase 2 or 3.

There is, of course, an infinite amount of fact finding that is always possible, and this is an extremely complicated sequence of events involving hundreds of witnesses, 17 crime scenes, and a long period of time. We will never uncover every detail, so we must be attuned to the purposes of this project, which is getting to the truth of what happened and moving on towards recommendations and next steps.

You’ve heard my submissions about the consideration of necessity as it relates to a subpoena and whether or not there are other ways to get at the
evidence. And so it is our general submission, and I'll only do this once, because I'm going to stand up and respond on a number of different witnesses, it's our general submission that the Commission is obliged by its trauma-informed mandate to seek the least harmful way to obtain any necessary evidence.

Now, I'll echo my friend, Ms. Ward's comments, when she says that there appears to be frustration, conflict with the normal ways in which lawyers are used to collecting evidence, which is by sworn testimony.

But that's not the conflict that you're being asked to decide today. That, in fact, is resolved in the rules. The Commission will accept other-than live testimony as evidence and it will exhibit it.

So where are we then with respect to these witnesses? What evidence is before you and have the Participants adequately identified a gap, conflict, or a lack of context that you must address in order to fulfill your mandate, and more important, to fulfill your work in Phases 2 and 3? That’s the question. I’m going to address it.

I wanted to raise one other point before I move on to the specifics of these two witnesses, which was addressed in my correspondence of February 28th, which is this question of how and when we might address personal accommodations.

I appreciate your brief reasons with respect to the employment of a trauma-informed approach and that it will be done on an individualized basis.

I do not, of course, speak for individual witnesses today. I cannot give you evidence about their personal circumstances.

So it would be my submission that, in accordance with the rules, if the Commissioners determine that a subpoena is necessary under the test that we’ve all articulated under Rule 37, an opportunity be provided to those witnesses, with the assistance of the NPF and the Department of Justice to determine whether it would like to offer evidence to the Commission for consideration in respect of personal accommodations. And to the extent that that evidence must be presented before the...
Commission in order to seek those accommodations, with respect to a subpoena, that should be done in-camera to protect the privacy interests and the dignity of those individuals.

So there was some questions, I think, about how exactly I was proposing that would be done, and that is my submission procedurally, which is that first a determination that a subpoena is necessary must be made, and then we will revert to letting the Commission know if there is some reason that that subpoena is inappropriate in the context of its trauma-informed mandate with regard to the individual circumstances of a particular officer. I say this for sort of proportionality reasons, and also to protect the privacy and dignity interests of the individuals.

If the Commission has not yet determined that a subpoena should issue, then there is no need for the exposure of their personal information in this way. And so that’s why I’m proposing a bifurcated or two-stage process. And we can do that in short order.

COMMISSIONER MacDONALD: Can you just repeat that last sentence? I missed it.

MS. NASHA NIHJAWAN: Yes. So for example, today we’ll hear from 18 -- we’ll hear from Participants about 18 different witnesses they wish to speak about. If we were required, or if we required those witnesses to all come and tell you about their personal circumstances, it would not only be an unwieldy process, but it also may unnecessarily expose some individuals for whom a subpoena will not issue and expose their own privacy and personal information unnecessarily.

So that’s why we’re proposing that there be a second stage sort of built in for those for whom subpoenas will issue, in order to allow them to provide information to the Commission which the Commission might consider in providing accommodations. And accommodations are provided for in the rules. So working within the structure that you’ve offered.

And I can tell you that I commit, and I’m going to speak on behalf of
Ms. Ward, and she’ll tell me later if I’m speaking out of turn, that we’ll commit to making sure that that process can be done in very short order and completely and promptly to meet the Commission’s needs.

So those are my submissions on the framework that we’re working under and the methodology which we submit the Commission ought to employ.

I’m in the same position as my friend, Ms. Ward, in that particulars of the gaps, or conflicts, or lack of context for each of these two witnesses are -- were only identified by Participants in oral submissions for the first time, but I’m going to do my best to tell you why I believe that none of the issues that were raised in particular by the participants, actually constitute a gap, or a conflict, or a need for further clarification.

In order to do that, I’m going to start with Cst. Beselt. And I’d like to just make it clear, for the record, that Cst. Beselt was interviewed by the Major Crime Unit on April 23rd, 2020. That interview lasted 32 minutes. A transcript of that interview has been exhibited to the Foundational Documents. He then attended a lengthy interview with the Mass Casualty Commission on July 22nd, 2021, which lasted 91 minutes, the transcript of which is also exhibited in the Commission’s materials already. Cst. Beselt's contemporaneous actions were almost entirely captured on the Colchester radio, the transcript and audio of which have been exhibited. And the GPS location of his car at all times during the mass casualty event, which document his arrival at the scene and the movement of the car, the moment that he stopped it and got out of it and stared walking, et cetera, are also exhibited in front of the Commission.

So this is the record. It is not just the summary in the Foundational Documents. This is the record that has already been admitted as evidence. And I'm going to return to this idea that that's not real evidence. It is. The rules have accepted that these exhibits may be entered into evidence in a manner that is not usual for us lawyers who are used to running trials, but nonetheless, here we are.

So I'm going to try and address the specific issues that were identified by my friends, and I'm speaking from my own notes, so I hope that I don't
mischaracterize what they've said. I have on my list a number of issues identified with respect to Stuart Beselt.

The first is his interaction with David Faulkner. Now we all know David Faulkner was not identified to anybody until quite late in this proceeding, that the Mass Casualty Commission has conducted an interview of Mr. Faulkner, and his interview is also exhibited as part of the documents available in -- on the record. Cst. Beselt, though he did not know Mr. Faulkner's name, speaks about his interaction with Mr. Faulkner, both in his Mass Casualty Commission statement, which is available at Com-15529 at pages -- sorry, lines -- sorry, page 6, and earlier in his mass -- in his interview with the Major Crime Unit at pages -- lines 35 to 39. So his spontaneous evidence about interaction is available to the Commission and has been relied on in the Foundational Documents. To the extent that there is a follow-up question, whether he remembers any other details, or if there's some aspect of David Faulkner's account that need be put to him, it could be, in a further specific inquiry that could come in writing, in a further interview, or in any other form the Commission deems appropriate.

The question remains if there's a gap -- I don't think that's been established, but even if there is a gap, why must this detail, why must further details with interaction be explored by the Commission? Why should we be focussing on that?

The second issue that's been raised by Participants Counsel with respect to Cst. Beselt involves the decision by the IARD team to go in on foot. This is, of course, in accordance with IARD training, and Cst. Beselt speaks about this in some detail in both his Mass Casualty Commission interview and his MCU interview. But if further information is required about IARD training more broadly, that's better suited to a subject matter expert who could explain why it is that members are trained in that fashion.

COMMISSIONER MacDONALD: Ms. Nijhawan, I just -- to help frame the issue as I understood it from the submissions is, is it's one thing to ask why did they go in on foot, but then if you superimpose the information from Mr. MacDonald,
would that or should that have changed their mind. I'm not expressing an opinion on
that. I'm just trying to articulate what I think they're ---

**MS. NASHA NIJHAWAN:** Yes, and I'm loathe to express my
opinions with the evidence, but we all know that the first thing that Cst. Beselt
encountered when he arrived in the Portapique neighbourhood was a victim who had
just been shot and who was able to tell him which way the shooter went. And so the
question of why he went in the direction that he did I think is actually quite simply
answered, but certainly, if it needs to be put more particularly to Cst. Beselt, it could be.

I think I'll bore the Commission by telling you the page and line
references of every issue that is raised by participants. So I propose not to do that,
though I can. Instead, I suppose what my submission would be is that in order for there
to really be a gap or a conflict, we have to assess the existence of the gap or conflict
against the backdrop of the evidence that is actually before the Commission. This idea
that that isn't real evidence because it's not sworn, because it's not first person,
because it's not live, I submit is actually -- is not a real issue before the Commission. It
is real evidence. It has been admitted into the record.

Our submission is that the participants have not met the threshold
of identifying the existence of a gap with reference to the available evidence.

I'll move on to briefly address Cst. Colford, and I'll offer you the
same information. Cst. Colford attended a mass casualty -- sorry, a Major Crime Unit
investigation interview on April 23rd, 2020, which lasted 53 minutes, during which she
gave a complete first-person account of her involvement. That's available in the record.
Her involvement at Portapique Beach Road is detailed on the Colchester radio in real
time. Her GPS location of her car, similar to Cst. Beselt, is available and documented in
the record.

Now I understand from Ms. Ward that the Commission has
indicated written questions will be provided to Cst. Colford. I agree that those questions
could include the question of -- to seek further clarification about her interaction with
Kate MacDonald, and in particular, any details she can recall about the radio transmission she made, but we do know that she made the transmission, and we know when she made it, and we know what she said.

I also understand that Cst. Colford attended an interview with ESDC as part of the Labour Code investigation. That was a lengthy interview where she was again asked to perform a complete retelling of her involvement in these traumatic events. It lasted 71 minutes. It's my understanding that that interview recording is forthcoming to the Commission, that there were some evidentiary issues about obtaining it, but that those are expected to be resolved. So the Commission will have two complete retellings of Cst. Colford's story. And to the extent they require any clarification on those two complete retellings, they are, of course, encouraged to seek them in writing.

And I'll restate my friend, the Department of Justice Counsel, Ms. Ward's commitment that those -- those further requests from the Commission will receive the full cooperation of the National Police Federation.

We look forward to being able to continue to work with the Commission to provide any and all necessary evidence for its work from our members in the most trauma-informed way possible.

I'm happy to take any questions you have on my submissions on those two, and I would be pleased to provide more detailed references as to the line and page references, and which documents particular issues have already been addressed by these members, and I can do that in writing if you'd like it in follow up, but I do think it will be quite tedious for me to do on the stand here.

There's only one other comment I'd like to make. There are some questions, some bigger questions in particular with respect to decisions about containment, which are not for these witnesses. They are for the individuals who were in charge of the scene at the time, the commanding officers. Some of those questions have already been answered. Those officers have also been through interviews with
the Commission. But to the extent that some of the information sought by participants is not properly available from these witnesses, they cannot ground -- grant the issuance of a subpoena.

**COMMISSIONER MacDONALD:** Thank you. I agree with your approach.

**MS. NASHA NIJHAWAN:** Thank you.

**COMMISSIONER MacDONALD:** You don't need to list all the various references, but Commission Counsel may be in touch with you.

**MS. NASHA NIJHAWAN:** Okay. I'm happy to do that.

**COMMISSION MacDONALD:** Thank you.

**MS. GILLIAN HNATIW:** Yes, Commissioners, just briefly, to confirm some of what the Commission already knows from Cst. Beselt and Patton -- sorry, Colford. Cst. Beselt was interviewed by both the RCMP and the Commission. Transcripts of both interviews have been disclosed to the Commission.

As you heard earlier in my exchange with Ms. Miller, Cst. Beselt is -- it is anticipated that he will participate in what will be a series of roundtables from first responders during the second phase of the Commission's proceeding. So RCMP first responders, non-RCMP first responders, including fire and EHS, and community members to speak to the context and circumstances of the mass casualty as we look at some of the other aspects of our mandate. And so we do anticipate that we will hear from Cst. Beselt in respect to those issues and questions at that time.

In terms of the factual timeline, just to confirm what I said before the break, at this time, Commission Counsel does not have any further questions for Cst. Beselt in respect of the timeline.

I think you also heard that there are a number of other sources of evidence, including the Colchester Radio transcripts. And we're happy to make call-in numbers for those available to the Commissioners, but I believe they are on the record. They were filed as part of the source material to the Portapique documents.
I just wanted to briefly pause and note that any questions about the
severity of the injuries suffered by Greg and Jamie Blair, and what, if any, interventions
might have made any difference are questions that are really best posed to the Medical
Examiner’s Office. And I would suggest that question is best posed privately by the
Blair family.

With respect to Cst. Colford, she was interviewed by the RCMP as
part of its investigation. She retired from the RCMP in the fall of 2021 and is in the
process of answering a series of written questions sent to her, I believe in February, by
Commission Counsel. So they’re somewhere in the process at this point in time. She
did also give a lengthy statement to the Employment and Social Development Canada
that’s conducting a labour investigation into the events of the mass casualty. The
Commission has sought production of the transcripts of those interviews and our efforts
to date are reflected in correspondence that has been produced to Participants. And we
understand that a copy of that transcript will be forthcoming later this month.

Those are our comments with respect to Cst. Beselt and Cst.

Colford.

COMMISSIONER MacDONALD: Thank you.

MS. GILLIAN HNATIW: So I will now move on to inviting
submissions from counsel to address you with respect to why they believe we should
hear from Cst. Chris Grund. And I believe that Ms. Miller is also going to speak to a
request to hear from Cst. John Lilley.

So I will invite, is it Mr. Scott for Patterson? Thank you.

--- SUBMISSIONS BY MR. MICHAEL SCOTT:

MR. MICHAEL SCOTT: Thank you, Commissioners. With respect
to Cst. Grund, we have a few issues that are specific to Cst. Grund, but also some
matters that would pertain to all of these witnesses as well. So we’ll get it out of the
way.

To the extent that -- I would endorse the comments of my friends
for the Attorney General of Canada and the National Police Federation to the extent that we are frustrated. We are extremely frustrated at the prospect of having to justify seeking facts in a fact-finding process. It is not the case that because we’re lawyers, we can only accept evidence being adduced in one particular way because it’s tradition. We don’t do it because it’s tradition, we do it because facts matter. We are happy to receive facts in any manner. We are happy to weigh our needs to hear evidence against the specific needs or accommodations required by a specific officer.

To the extent that it pertains to other witnesses, including our own clients, I can advise that we have canvassed our clients, and almost without exception, every one of them is willing to give testimony before this Commission. It will be hard. It will be difficult. But they’ll do it because it’s important.

We’re not looking to attack officers or subject them to any further trauma. We’re looking to have an inquiry, and one that is public, and in which we can seek facts.

COMMISSIONER STANTON: Mr. Scott, could you address the questions being asked today?

MR. MICHAEL SCOTT: I am addressing the questions to the extent that this relates specifically to Grund so I don’t have to repeat it when we come to every other witness.

COMMISSIONER STANTON: It’s -- it would just be very helpful to know your specific questions, given that you did have the opportunity to review the draft rules last summer and provide your input and you also had the opportunity during approximately during six weeks of working meetings to identify areas that required further investigation, many of which have been followed up on, and a number of which have also raised new questions for us, which are certainly being pursued.

So it would just be very helpful to use our time today to identify the areas that, in this case, that Member Grund would be of assistance, please.

MR. MICHAEL SCOTT: What we’ve gleaned from the
Foundational Documents which have been tendered, which we’ve had no meaningful participation in the creation of, that bear no resemblance to the drafts that we were provided in the fall, ---

COMMISSIONER STANTON: Is it not your understanding that, as we’ve mentioned, the Foundational Documents were revised on the basis of the input that we received from the Participants during the course of the meetings that you attended? So of course they have changed in their content from the version that was circulated to you, because we took your input very seriously, and considered it very seriously, and attempted to address the questions that were raised at the time. So I mean, we found the input from Participants during that process very helpful, which is why the Foundational Documents have been revised considerably.

So to suggest that there was no opportunity for review or input seems to me to be a bit inaccurate. So I’m just hoping that you’ll assist the public in understanding the process a bit as we go through this today, please.

MR. MICHAEL SCOTT: And I’m happy to do so. I can say, Commissioner, that I attended those meetings. I was at those meetings personally. And we were invited to provide input with respect to the draft Foundational Documents. And I would certainly, under no circumstances, resile from the suggestion that they have been changed appreciably. What I would suggest is that having had a direct hand in the comments that were put forward, the changes that were made do not, in our view, reflect the input that we provided.

COMMISSIONER STANTON: Okay. And so that’s why we’ve asked for additional input today. So it would be very helpful if you could provide that input, please, so that we can in fact follow up if it’s helpful to do so with respect to the mandate. So, please and thank you.

MR. MICHAEL SCOTT: Absolutely. And I’m happy to do so. And one of the witnesses, among the number of witnesses, any witnesses that we would like to hear from is Cst. Grund.
Two primary examples of why we would want to hear from Member Grund would be his direct involvement in retrieving the Blair and McCully children in the early hours of the mass casualty event. We know that a 9-1-1 call was placed at approximately 10:16, I believe is when the 9-1-1 call was made. And we know that the children weren't extracted from that house until 12:24 in the morning, almost two hours later.

We have questions about why those children were left in that house, why they weren't retrieved earlier. Again, as I said earlier with respect to decisions made by Cst. Beselt, perhaps there's a perfectly good explanation, perhaps it was determined that that was the safest course of action. We've not been able to ask any questions. We appreciate the Commission Counsel has had an opportunity to interview witnesses to their satisfaction. We have not. We've been provided with transcripts. And we have questions about the circumstances under which those children were extracted. We know that there was concerns about that house being on fire with four children whose parents had been murdered waiting for assistance.

A specific area we'd also like to address with Constable Grund bears on the timeline that's been proposed by the -- by Commission Counsel to the extent that we are very interested in the timeline at which the perpetrator was allowed to escape Portapique through a secondary road.

In that part of the timeline, we would suggest that every minute matters because every minute that that containment point was not contained is another opportunity that there was to stop the perpetrator before he moved out into the community and, but for his escaping unchallenged, we know that there are a number of people that would be alive today. So that issue is very important to us to the extent of what is the timing.

And Constable Grund is important in that narrative because while we've heard certain waypoints placed in the Foundational Documents with respect to when we reasonably suspect that Corrie Ellison was killed, when we suspect different
issues happened, the various 911 calls, a lot of the Commission Counsel's emphasis on
the suggestion that the perpetrator left at around 10:45, that he exited around 10:45
from Brown Loop is predicated on a suggestion that we saw the perpetrator's vehicle
pass by the Wilson's Gas Stop a short time later. And we have some video which may
or may not depict the perpetrator's vehicle given the quality of the photograph.

But it's suggested that it was the only vehicle of its kind travelling in
that direction in that place, but what we also know, and it's contained in the
Foundational Document, is that if that's correct, if the perpetrator is passing by the
Wilson's Gas Stop at that time, he would have, at very least, passed Constable Grund
coming in the other direction.

And to the extent that Constable Grund then had a firsthand
perspective from which to see a fully-marked RCMP cruiser moving at over 100
kilometres an hour in the opposite direction from the call he was responding to,
ostensibly without lights on and didn't see it, we would suggest would seem to inform
that perhaps that's because the perpetrator didn't pass him or perhaps he'll say he
simply didn't notice. But there are questions to be asked because regardless of the end
of the day what Constable Grund saw or didn't see, the timeline upon which placement
of the perpetrator in that position is assumed is critically important to all of the steps
before that in establishing where the perpetrator was.

And for that reason, we would like to hear from Constable Grund,
subject to any questions.

COMMISSIONER MacDONALD: Thank you.

MS. GILLIAN HNATIW: Thank you.

I believe we are here for -- sorry. We are next to hear from Mr.
Russell on behalf of the Tuck, Oliver and Campbell family.

COMMISSIONER MacDONALD: Thank you.

--- SUBMISSIONS BY MR. JAMES RUSSELL:

MR. JAMES RUSSELL: Good afternoon, Commissioners. My
name is James Russell, as I've been introduced, as counsel with my colleagues for the
Oliver, Tuck families and the Campbell family.

Thank you for allowing me the opportunity to address the
Commissioners respecting Constable Grund. And I'm not going to reiterate the
importance of Constable Grund as has already been mentioned by Mr. Scott for
addressing the timeline and the evacuation of the children.

I do think that I can provide another perspective where Constable Grund can provide necessary insight into the officer's experience dealing with children
that are left in violent situations. Of particular important in connecting this with the work
of the Commission, we submit that Constable Grund can speak to his training not only
into responding to an active shooter incident, but also his training and the adequacy of
his training in interacting with victims such as a children in circumstances like these.

Constable Grund's testimony is important in the context of this
Commission's mandate as stated in the Orders in Council respecting police action and
informing meaningful recommendations for the future. Rule 28 of our Rules of Practice
state that Participants may propose witnesses to support, challenge, comment on or
supplement the Foundational Documents in ways that are likely to significantly
contribute to this work.

In particular, we believe that the Orders in Council that are directing
the Commissioners to examine Constable Grund, the issues respecting police policies
in paragraph 8 of the Orders in Council, police policies, procedures and training in
respect of active shooter incidents. And that would also canvass the victims of shooter
incidents that survive instances like this.

So subject to any further questions, these are my submissions on
the importance of Constable Grund.

COMMISSIONER MacDONALD: Thank you very much, Mr.
Russell.

MR. JAMES RUSSELL: Thank you.
MS. TARA MILLER: Good afternoon. Thank you.

I will provide the Commissioners with some particulars of gaps and inconsistencies that we believe exist with respect to critical evidence relating to the First Responder in Portapique document from Corporal Grund and Sergeant Lilley. And I propose to do them together, with your indulgence, because the same principles and comments overlap, although I'll use specific examples for each individual.

COMMISSIONER MacDONALD: By all means. Thank you.

MS. TARA MILLER: I'm going to set the context here. And you've heard from my friends already in terms of Constable Grund's role with the direct evacuation of the children, and Sergeant Lilley was also involved at a later date.

So these two members dealt directly with what we would say would be four front row witnesses to the perpetrator's actions for approximately 30 minutes. And that, of course, were the children.

Constable Grund participated in the extraction at 12:21 p.m. from Orchard Beach Road to Great Village, and that's where he met Sergeant Lilley. Constable Grund then travelled in an ambulance with them to the hospital and then stayed with the children at the hospital until relatives arrived.

Sergeant Lilley met, as I said, Constable Grund at Great Village. He followed behind the ambulance with the children and Constable Grund to the hospital for safety reasons, and he stayed with the children again until relatives arrived.

This is, from our perspective, very critical evidence in terms of what the children observed for approximately 30 minutes. There is no other witness that has that perspective and can provide that meaningful, critical information to help inform the Commissioners with respect to the causes, context and circumstances that gave rise to this tragedy.
Both Constable Grund and Sergeant Lilley gave RCMP interviews. We saw those in the Foundational Documents. They were both dated May the 5th.

Both Constable Grund and Sergeant Lilley gave interviews to the Commission, the Commission's team.

And Madam Registrar, I'll just give you the reference for those documents because I will be referring to the MCC interviews.

So for Constable Grund, that is an August 19th, 2021 statement, Comm number 15508. And for Sergeant Lilley, a February 15, 2022 statement, Comm number 51453. And I'm going to reference these statements, both of them, to demonstrate how this is a perfect example, Commissioners, of how despite these two interviews by both individuals, critical detail is missed.

I'm going to start with Sgt. Lilly.

At paragraph 143 of the Foundational Document, there's reference to Sgt. Lilly calling S/Sgt. Rehill at 2:37:39 a.m. S/Sgt. Rehill asks him about motive, and Sgt. Lilley says:

"...according to the kids here, they said the, he said I think Gabriel's girlfriend broke up with him."

That is the first time, Commissioners, that we received specific information about motive. And that's it; there's no more information about that. The context, further details that may have been gleaned from Sgt. Lilly's interaction with the children at the hospital, this information is not contained at Sgt. Lilly's statement. We don't know which child this came from; was it one of the Blair children who may have heard it at their home? Was it something that came to the children's light when they were at the McCully residence? We don't know if Sgt. Lilly took any steps to determine how the child knew this and when they knew this. And maybe he didn't but we don't know that.

And I just -- and I turn to the MCC statement to see if there's further detail there, and I'm going to direct you -- I will direct you to passage in this statement,
which is concerning, and I think highlights one of the challenges with the trauma-informed mandate.

If I can take you to page 16, and I appreciate this hasn’t been entered into evidence yet, the MCC statement, but I’ll give you the references.

So the interviewer says:

“I think that’s great. What I don’t need you to do, I know that in your statement to...” (As read)

And then he references the Staff Sergeant who took the initial interview:

“You have already talked about the conversations you had with the children.” (As read)

And Sgt. Lilly says, “Okay.” And then the interviewer says:

“Unless those conversations have changed somehow, we don’t need to know them again.” (As read)

And then the interviewer says:

“We’ve got that in writing. Unless you’ve read and you’ve got our statement in front of you, and you say, ‘You know what, no, that’s not what they said to me. I remember now it was this,’ or, ‘I remember that they said something new,’ we don’t need to go through the whole -- it’s not trauma-informed.” (As read)

And that was the end of the inquiry into the conversation that Sgt. Lilly had with the children at the hospital over a period of time while they waited for relatives to come, where he gleaned the only information we have directly from a witness, other than Ms. Banfield’s reporting of a fight, that Gabriel’s girlfriend broke up with him. And this information was never followed up on. This is a perfect example, Commissioners, as to why Sgt. Lilly would be able to provide you with critical information about motive relevant to your fact-finding mission but also relevant to
recommendations and expert evidence, I would anticipate that will be presented, looking
in totality at the issues, and maybe this was one of a domestic violence indicator.

I will move on from Sgt. Lilly to address Cst. Grund.

At paragraph 142 of the first responder document, it’s noted he
called OCC to speak with the risk manager. He wasn’t available to so he spoke with
call taker. And he relays that the boys described a weapon. It’s “possibly an assault
rifle like an AK47 or something in that nature.” And, “once again described it as a
police vehicle.”

That’s the extent of the information that’s reported in the
Foundational Document at that paragraph. And we go to the source document, which is
Cst. Grund’s statement given in May of 2020, which is in evidence as an exhibit.

This time with the children in the hospital is reviewed at line 623
and Cst. Grund says -- I'll go right to the point:

“I guess I don’t have to repeat what the kids probably
already told you, like [names of children] saw. They
kept telling me and explaining what they saw, like,
continuously. It was -- it was a little, et cetera, et
cetera, like them describing their parents get shot and
everything.” (As read)

That’s the extent until we go to line -- that’s half a page of detail of
information that was gleaned from these front-row witnesses.

Then if we go to the MCC statement, it is a very lengthy statement,
105 pages, and the references to the children and the information gleaned from the
children are largely contained at page 87 and page 92.

Page 87 deals with the actual extraction from the McCully home
and Cst. Grund being asked about using “Pineapple” code, which we heard was the
code word for extraction. And he says, “I didn’t even know about it.”

There’s no further explanation about how he managed to -- how
they managed to get in and get the children in the absence of that safe word, and there’s no explanation about why it was never given to them or any efforts that he may have taken to get that safe word.

And then if we turn to page 92, it’s about a page and a half of some detail. I’m not going to read it all, but suffice to say I’ll leave it to you to look at, Commissioners. There’s -- again, it’s a page and a half of very limited exploration into any further information of relevance from these critical witnesses for 30 minutes directly to the actions of the perpetrators.

So I’ve focused on both of these witnesses in this context, Commissioners, to highlight this is a gap; this is a specific piece of information -- pieces of information; we don’t know what’s missing but there’s enough in terms, I think, what I’ve referenced to -- that should leave us all with a considerable question of what else, if this had been drilled down on. And I think that is exactly why we would propose that Cst. Grund and Sgt. Lilly can help us and help the family members with a better understanding when specifically directed to this information here at the Commission, in a way that can be trauma-informed, but under oath.

Those are my submissions.

COMMISSIONER MacDONALD: Thank you so much.

MS. GILLIAN HNATIW: Thank you.

I believe we now have counsel attending via Zoom again, counsel for Women’s Shelter Canada, Transition Houses of Nova Scotia, and Be The Peace Institute Coalition in respect of Phase 2 of the Commission's proceedings, Megan Stephens, who is now on the screen.

COMMISSIONER MacDONALD: Good afternoon, Ms. Stephens.

--- SUBMISSIONS BY MS. MEGAN STEPHENS:

MS. MEGAN STEPHENS: Good afternoon, Commissioners.

Thank you for providing our coalition, Women’s Shelters of Canada, Transition Houses Association of Nova Scotia, and The Peace Institute, the opportunity
to make some brief submissions today about why we have asked that Cst. Grund be called to testify, specifically about his role in helping to evacuate the children from Portapique on April 19th, 2020.

Our Coalition has a particular interest in the ways in which police respond to traumatic events that affect families and children, including incidents of intimate partner violence. Victims of intimate partner violence may be hesitant to report to police if they’re concerned about what that may mean for their children.

So based on our review of both the Foundational documents but also Cst. Grund’s interview with police; that interview is from May 2020, as well as his lengthier interview with Commission Counsel from August 19th of the past summer, we believe that Cst. Grund can fill in some important gaps about the evacuation of the children from Portapique.

He does appear to have really made their evacuation a priority, even in the seeming absence of clear directions from his superiors that night.

And from the perspective of our Coalition, we would like to know if his actions that night were informed by his police training.

In particular, we think it’s important to know, thinking about the forward-looking aspect of your mandate, whether the police have specific training in dealing with children in violent and volatile situations, whether they have training in adopting a trauma-informed response to children or other vulnerable people in such situations, and if so, with respect to Cst. Grund, whether that training effected his decisions and actions that night.

If he didn’t have that training, it would be helpful to hear from him whether that would have been helpful.

While we note that Cst. Grund was briefly asked by Commission Counsel about any training that he may have received in relation to domestic violence, that was part of the interview from last summer, these particular issues were not canvassed in that interview, nor were they canvassed in the May 2020 interview with

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the police.

We see this information as important to aspects -- several aspects of your mandate.

As Mr. Russell submitted in his earlier submissions, we think this is relevant to what happened in terms of the responses of police, but it's also relevant thinking about police policies, procedures, and training, and any recommendations that may come from this Commission, thinking about responses to similar incidents in the future.

I do want to just briefly acknowledge the concerns that have been raised by counsel for the NPF in response to the Participant’s request that officers be called to testify. We certainly recognize that testifying about these events could be challenging for Cst. Grund, as it would be, really, for any witness asked to relive the tragic events of April 2020.

If this is of particular concern for Cst. Grund, certainly your rules contemplate allowing witnesses to give their evidence in different ways that would lessen any such trauma, and we would suggest that those options could be considered, instead of simply refusing to call a witness to fill these important gaps.

So subject to any questions you might have, those are my submissions on behalf of our coalition today.

COMMISSIONER MacDONALD: Thank you so much.

MS. GILLIAN HNATIW: I believe we are now to hear from counsel for the Department of Justice.

I think there’s a question and perhaps a request to take the afternoon break.

COMMISSIONER MacDONALD: Okay. It’s 2:15. We can break until 2:35 or so. Thank you very much.

MS. GILLIAN HNATIW: Thank you.

REGISTRAR DARLENE SUTHERLAND: Thank you. The
proceedings are now on break and will resumed at 2:35.

--- Upon breaking at 2:16 p.m.

--- Upon resuming at 2:42 p.m.

REGISTRAR DARLENE SUTHERLAND: Welcome back. The proceedings are again in session.

COMMISSIONER MacDONALD: Thank you so much. Ms. Hnatiw?

MS. GILLIAN HNATIW: Thank you, Commissioner MacDonald. We’re just going to start after the break with a wee piece of housekeeping that my co-counsel, Emily Hill, will speak to. I’m scrambling to find a piece of paper. Just a moment.

COMMISSIONER MacDONALD: Certainly.

MS. EMILY HILL: Thank you. I just wanted to address two matters with regard to exhibits.

Yesterday, during her submission about the cellphone expert, Ms. Nijhawan accidentally referred to an incorrect COMM number, and so we wanted to correct that for individuals who may be wanting to know. The document is COMM003909 and has already been marked as an exhibit in these proceedings.

Additionally, this afternoon, Ms. Miller made reference to a number of documents, and so I just wanted to indicate that -- which those documents were and which exhibits they were.

So she made reference to COMM15508. That’s Cst. Grund’s statement to the Mass Casualty Commission. And that has already been marked as an exhibit in these proceedings. It’s Exhibit 115.

Similarly, Cst. Grund’s statement to the RCMP, COMM03905, has been marked as Exhibit 87 in these proceedings.

Sgt. Lilly’s statement to the RCMP, COMM10033, has been marked as Exhibit 160.
And COMM number 51453, which is Sgt. Lilly’s statement to the
Mass Casualty Commission, has not yet been marked as an exhibit. And so I would
ask, Madam Registrar, whether it could be marked as an exhibit?

REGISTRAR DARLENE SUTHERLAND: Yes, Ms. Hill. That will
come Exhibit 212.

--- EXHIBIT No. 212:

COMM51453; Sgt. Lilly’s statement to the Mass Casualty
Commission

MS. EMILY HILL: And as with yesterday, because this was
something we were not able to tee up in advance, that exhibit will eventually find its way
to the website, but it won’t happen immediately.

COMMISSIONER MacDONALD: Thank you so much.

MS. EMILY HALL: Thank you.

MS. GILLIAN HNATIW: I will now invite counsel for the DOJ to
speak to the requests to hear from Cst. Grund and Cst. Lilly.

COMMISSIONER MacDONALD: Thank you.

--- SUBMISSIONS BY MS. PATRICIA MacPHEE

MS. PATRICIA MacPHEE: Good afternoon, Commissioners, and
thank you for hearing from me this afternoon. My name is Patricia MacPhee and I’m
counsel for the Attorney General of Canada.

It is ---

COMMISSIONER MacDONALD: Thank you, Ms. MacPhee.

Whenever you’re ready.

MS. PATRICIA MacPHEE: Thank you. It’s our position that there
is no need, or it’s not necessary, to call either Cst. Grund or Sgt. Lilly to testify before
this inquiry in person.

And the reason we would submit that is because after hearing from
our friends, we would submit they haven’t identified any gaps, or omissions, or
inconsistencies that would require them to appear and provide further evidence.

With respect to some of the specific requests, one of them is with regard to the removal of the children from the area on the night in question.

We would submit that Cst. Grund has spoken directly to his actions that evening. We know what he did, we know when he did it, and we know why he did it.

So any further questions as to why the children were removed at the time that they were removed is premature and not a question to be put to Cst. Grund, but to those who were in command on the night in question. And we know that those command decisions will be addressed later in these proceedings.

The second reason why Cst. Grund has been asked to appear here, or why the suggestion has been made that he need appear, is to address whether he saw the perpetrator leaving on Highway 2 on his approach on the evening of April 18th.

This issue has already been put to Cst. Grund and he has addressed it. In his interview with the Mass Casualty Commission Counsel, he indicated that in fact he did not see or take note of any vehicles travelling on Highway 2 on his approach on the night in question.

So we would submit that there is no gap that would require his appearance here.

And just for a reference, that can be found at page 59 and 60 of his transcript with the Mass Casualty Commission.

Another basis for his appearance is to address whether he has any specific training in dealing with children left in traumatic situations.

We would submit if the Commissioners determine this to be a relevant issue for your work, that it is an additional question that we would submit could be put to Cst. Grund in writing for him to address specifically. It’s a very specific question, it’s a very easily formed question to be addressed in writing.
But we would also note that the broader issues, whether there is training within the RCMP for members dealing with children in traumatic situations, again, that’s premature for this phase of the proceedings, and if we want to talk about policy or training available, it can be addressed later on, and we acknowledge that there is going to be time where those very issues will be tackled by these Commissioners.

Another basis for his appearance has been -- that has been suggested is to address the use of the code word "pineapple" with the children on the night in question. Again, we would submit that it’s not necessary to call him to address this issue because it’s already been addressed.

First of all, we know from the radio transcript that Cst. Patton actually broadcasted on the radio the fact that they were using the word -- the code word "pineapple" with the children, and this is addressed in the First Responders Foundational Document at -- I believe it was paragraph 135. And that was broadcast about eight seconds after Cst. Grund and Neil had entered in to extract the children.

We do acknowledge that in -- as my friend has pointed out, that Cst. Grund noted in his interview with the Mass Casualty Commission that he didn’t hear that broadcast, and the reference to that is at page 87 of the transcript of his interview with the Mass Casualty Commission. But he goes on to say in his interview this,

"But we let the OCC know we were there. We knocked on the front. We were instructed to go to the back."

This is significant because we know at this point in time that the OCC is actually on the phone with the children. Further, at paragraph 94 of the Portapique Foundational Document, it addresses this fact, that at -- and at 2:20 a.m., the call taker who was on the phone with the children advised the children that the police were there. So we would submit that it’s already in the evidence and that issue has been sufficiently canvassed.
In general, and this goes with -- to -- this speaks to both the request
to hear from Cst. Grund and with respect to Sgt. Lilly, there's been some suggestion
that they are required to speak to the actual exchanges that they had with the children
in those early morning hours of the 19th. And on this front, we say, again, it's not
necessary. Both members have provided statements to the RCMP that detail the
exchanges they had with the children on the night in question. More importantly, those
children have also provided statements. They've provided their own firsthand accounts,
and that is the best evidence here, not the hearsay comments of the members who had
exchanges with him during those events.

So for these reasons, it's our position that neither member is
required to appear. And if these -- if you Commissioners determine that there are
additional points or additional evidence that these members can add that is necessary
and relevant, that it can be done in other ways, such as asking them to answer written
questions, or further interviews.

So those are my submissions on this.

COMMISSIONER FITCH: Thank you. Just for point of clarification
with respect to the training question, I would expect that the RCMP could produce
training records or a training syllabus to go along with that?

MS. PATRICIA MacPHEE: And, in fact, they have submitted
training records, and they've also submitted all of the RCMP policies, so we have
provided that material to the Commission.

COMMISSIONER FITCH: Thank you for pointing that out.

COMMISSIONER MacDONALD: Thank you, Ms. MacPhee.

MS. GILIAN HNATIW: Ms. Nijhawan for the National Police

Federation.

--- SUBMISSIONS BY MS. NASHA NIJHAWAN:

MS. NASHA NIJHAWAN: Thank you. I'm sorry. I have a long
walk from the other end of the hall.

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Thank you for the opportunity to provide the National Police Federation's response to the request for subpoenas against Cst. Chris Grund and Sgt. Dave Lilly. I endorse my friend's comments from the Department of Justice in the particular ways in which she has addressed the general fact that the participants have not identified any gap, area of conflict, or need for further context in respect of these two witnesses. Ms. MacPhee addressed each of the points raised in respect of these witnesses quite aptly, and so I will not repeat her comments. But I will remind the Commission and everybody of a couple of things in general in response to this request. First of all, none of these issues could not have been raised earlier in the process, and none of these were issues could not be raised now in a manner other than a request for a subpoena. If it is the view of participants that there remain gaps in the Foundational Documents, they are free to seek further clarification. Frankly, this moment, this presentation is the first time that the respondents to this application have had notice of the particular reasons for this request, and so we’ve had a limited amount of time to look at the record and say do these -- have these issues been addressed or not. But some of them are addressed directly in the Foundational Documents. I'm going to give you an example. The question has been raised did Chris Grund see the perpetrator on Highway 2. That question was put directly to him in an interview, but the answer to that question is directly included in one of the Foundational Documents, along with a citation to the source of that information. So what we're seeing now during these presentations is an attempt by participants to find new reasons for these gaps without providing an adequate time for us to respond. So my request in general terms is that to the extent that there are particular gaps identified for the first time during these presentations that were not particularized earlier, that the respondents to these applications be provided with an opportunity to address them in writing, and we're prepared to do that in very short order. But I do not want this lack of time to point to references in the record for the Commission to result in unnecessary further contact with members for whom this would be a challenge.
So I'll repeat our earlier submission that to the extent the evidence is apparent in the record, to the extent that it's clarified in the Foundational Documents, it may not be retread with these witnesses, but that in order to properly answer this question, we must actually look at those available exhibits and we must look at other documents available in the disclosure in order to determine if, in fact, these are gaps or areas which require further clarification, it is necessary to subpoena these members.

So I'll give you one example. It has been submitted by the participants that it's necessary to get more information about what was said by the children during their time in the hospital, and that Cst. Grund and Sgt. Lilly are the best witnesses for that information. You know, in the few minutes that we've had to address this question, we can tell you that I agree with Ms. MacPhee that asking these officers two years after the events for their hearsay recollections of what the children said is of limited utility, but also that there are other witnesses that are available, if in fact, this is a gap that participants need addressed and that the Commission agree must be addressed. For example, there was a social worker present with the children during that period. Her evidence is evident from her notes, which are in a document in the record, and she is another source that could be canvassed. This idea that officers who have not remembered information in interviews that are more proximate to the events will suddenly remember that information, and for that reason we should just wait and see, maybe we can cross-examine them and get it out of them, I think is an insufficient foundation for a finding of necessity under the Rules, and so I would discourage the Commission from going down that road. And those are all our comments. Thank you very much.

COMMISSIONER MacDONALD: Thank you.

MS. GILLIAN HNATIW: Thank you, Commissioners. Just for the sake of the record, to confirm on behalf of Commission Counsel that both the RCMP and the Commission itself have interviewed both Cst. Grund and Cst. Lilly. The transcripts of both those interviews have been disclosed to all the participants in the
course of the Commission's ongoing disclosure process. I think that that was readily apparent from what you heard already, but for the sake of finality, I wanted to confirm that. And so we will now move on to hear from Mr. Bryson, I believe, in respect of his request to hear from Cst. Pattent (sic) -- make that Patton.

--- SUBMISSIONS BY MR. JOSHUA BRYSON:

MR. JOSHUA BRYSON: Yes, thank you, Commissioners. In regards to Cst. Patton, the evidence we wish to elicit is in regards to what was in the mind of IARD as they were responding to this call, because we do have some conflicting evidence on that point, and this could be elicited by either calling Constable Patton or perhaps it's an area we can address with Constable Beselt as well as team lead. So in particular, the evidence is what did they think they were responding to.

So there was a text exchange from Constable Patton early on where he's indicating, and the Comm references are 13656, where he indicates that, "I thought the call was fake". And that's not a direct quote. I'm paraphrasing. I'm sure Commission Counsel can find that particular reference.

Subsequently, Constable Patton provided a statement to police, and that Comm reference is 3893. He indicates that, "At this point, we thought the call was fake". That's when they're en route.

But he does subsequently provide a statement to the Commission at Comm references 3928 and in response to questions from Mr. Burrill, he states that, "We took it 90 percent seriously". We thought -- "90 percent serious". I think that's the quote.

So you can see the evolution of the perception of what was in their minds when they were responding to the call, and that's one of the reasons why we believe, as Participants, it's important to test some of this evidence. Had we not had these prior references to put forth and compare it to his statement to the Mass Casualty Commission, we'd be left with this most recent recollection as opposed to the former, which suggests that they really didn't know what they were dealing with when they got
And to elicit this evidence is also to further the Commission's forward-looking mandate. Some of the recommendations and thoughts we have on this is to really look at the 911 call-taking process. There appears to be a disconnect between the information that the call-taker is receiving and questions about how much of that information is actually being reduced to writing, and that's going to come up in subsequent submissions.

You know, in this case we heard from Mr. Burrill the other day indicate that there was a level of incredulity with some of the members because perhaps they weren't receiving all of the information, but we do know from the 911 call that there was the sound of gunshots, screaming, crying and the line was disconnected. We don't think that part of the information was ever conveyed to subsequent responders.

So that's to flesh that particular issue out.

And in the event that we get into areas where, if some of the evidence we're suggesting may overlap parts of a witness' testimony, the Commission does have discretion under Rule 28, as noted by my friend, to call evidence to support, challenge, comment on or supplement the Foundational Documentation in ways that are likely to significantly contribute to an understanding of the issues relevant to the mandate of the Commission.

And I would suggest that that discretion be exercised when the Commission deems it appropriate.

Thank you. They're my comments.

COMMISSIONER MacDONALD: Thank you, Mr. Bryson.

COMMISSIONER STANTON: Sorry. Just before you go, you said something just now about overlapping evidence. Can you just elaborate on that a moment?

MR. JOSHUA BRYSON: Sure. If there's a concern that you're
treading area that was already pretty clear in Commission statements and there's only certain aspects that the Participants are pointing to that may be new ground, you do have the discretion to hear the full narrative under Rule 28. That's really the point that I'm making, so that it also gives us a chance to hear the full narrative, test it in some respectful, trauma-informed ways.

COMMISSIONER STANTON: Okay. I think I hear what you're saying. Thanks.

MR. JOSHUA BRYSON: Yes. So essentially, it's my submission that it will be appropriate for the Commission to look at hearing other evidence, not just simple evidence that points to gaps. It may be evidence that will further the Commission's mandate ---

COMMISSIONER STANTON: Right. So one of the criteria was providing important context, so I assume that's the category that you're referring to there?

MR. JOSHUA BRYSON: Yes.

COMMISSIONER STANTON: And when you talked about looking forward to the 911 call-taking process, because we're -- because you're speaking to us about Patton -- I think it's Constable -- anyway, Member Patton, in what way would you expect that a further hearing from him would assist with that in particular?

MR. JOSHUA BRYSON: He could tell us what he understood he was responding to. So for example, he can confirm that he wasn't aware, likely, of the fact that the call-taker heard the sound of gunshots when the 10:01 911 call came in, that he only received some information from that 911 call, the verbal parts of the information. And that's some of the information that he can confirm.

COMMISSIONER STANTON: So you're interested in the process of how audio gets translated to members in their units?

MR. JOSHUA BRYSON: Partly, yes. Yeah. The concern is that there appears to -- in this -- I think this is a good example.
All of the -- I think I can say safely based on all of the documents we have that all of the information that was -- that was received in that 10:01 call, including the non-verbal, was not communicated to subsequent first responders, so how do we address that?

First we have to confirm that was that, in fact, the case. And we can do that by hearing from Constable Patton or Constable Beselt. We could do that ---

**COMMISSIONER STANTON:** Or by looking at how the process runs, the -- you know, in addition to what we heard from the technical witness, I believe we have a Foundational Document being constructed with respect to this process and it seems to me it would be helpful as well, just the mechanics of it. And from what I'm hearing from what you're saying, that there's -- that you have questions with respect to the mechanics of it. Is that correct?

**MR. JOSHUA BRYSON:** The mechanics, but also factually in this case. We don't have any statement in a Foundational Document that they -- for example, that the first responders thought they were responding to a fake call, to a nuisance call, essentially.

**COMMISSIONER STANTON:** One of them. Okay.

**MR. JOSHUA BRYSON:** Yes. And that's -- and Mr. Burrill addressed that when he referenced the MHA references, the mental health references that you can see in the Colchester call logs.

**COMMISSIONER STANTON:** In that first few minutes? Is that ---

**MR. JOSHUA BRYSON:** Yes, exactly.

**COMMISSIONER STANTON:** --- what you're referring to?

Yeah.

**MR. JOSHUA BRYSON:** Yes, in the first few minutes.

**COMMISSIONER STANTON:** Right.

**MR. JOSHUA BRYSON:** And which -- which was the -- well, from 10:01 to the time that they arrived, basically, so there's a 22-minute period there where
it's not clear if the members truly appreciated the nature of the call that they were responding to, so that's the factual issue I think is important to be fleshed out.

COMMISSIONER STANTON: Okay. Thanks very much.

MR. JOSHUA BRYSON: Thank you.

COMMISSIONER FITCH: Just before you go, Mr. Bryson, on the point of what Constable Patton was thinking on his way there, would you not agree that that speaks to experience and his thought process rather than fact? We want to know what the experience was of the officers that were on scene or travelling to scene. Is that fact or experience, in your estimation?

MR. JOSHUA BRYSON: Well, I'm not sure if that information impacted his decisions. I don't know, and I think that's something to flesh out with -- does that answer your question?

I don't know if -- frankly, I have a difficulty distinguishing between the -- you know, the fact and the experience of a member, but it's a factual determination as to what he thought.

So an example would be if the fire alarm went off here today and we're all to vacate, if we knew that it was a false alarm we'd react in one specific way and perhaps we may react differently if we knew, in fact, there was an actual fire on floor 2.

I don't know if they -- if all of the information at 10:01 had been conveyed if -- I'm not suggesting that they could have acted any differently. I'm just raising it as a factual determination that may impact findings of this Commission and perhaps recommendations going forward.

COMMISSIONER FITCH: Thank you. And I appreciate the difficulty that you've expressed in determining the difference between one's experience and perhaps the fact-finding, so thank you for that.

MR. JOSHUA BRYSON: Thank you.

MS. GILLIAN HNATIW: I believe we'll now hear from Counsel for
--- SUBMISSIONS BY MS. LORI WARD:

**MS. LORI WARD:** Thank you, Commissioners.

I'll be brief on this. Once again, we're at a disadvantage because we had no particular notice about what issues were going to be brought up, but -- so I can't give you pinpoint references.

On the issue of what the first responders knew or understood about the call when they were called out, they spoke at length in all of their interviews with the Commission.

And the issue of *MHA* or *Mental Health Act* was raised, at least in the interview of Cst. Beselt, that's Beselt with an E, and Cst. Merchant. And they both canvassed the fact that they deal with a lot of mental health calls. So when a call comes in that someone’s husband has been shot, he’s on the deck, and there’s a man with a big gun, possibly a police car, based on their experience, at least Beselt and Merchant said that that runs through one’s mind in the sense of, “What are we dealing with?” And that’s just the point. At that point, they don’t know what they’re dealing with. And they both said, regardless of whether it was a mental health call and whether all those facts would actually turn out to be true, they both took it seriously and they both got in their cars and went at tremendous speeds to respond to the call.

And so first I would say this point has been fully canvassed already and it’s on the record. Second, I would say whatever inferences people might draw are just that. Mr. Burrill referenced possible incredulity. I would submit that that’s possibly colouring what was said in the statements. It was just portrayed as they possibly thought it was a nuisance call. I don’t think any of the constables said anything of the sort.

So just to sum up, I think this is -- this issue has been canvassed, it’s on the record, and no further evidence on that point is necessary, and I’m not sure what purpose it would serve. Thank you.
COMMISSIONER MacDONALD: Thank you.

MS. GILLIAN HNATIW: Counsel for the NPF?

--- SUBMISSIONS BY NASHA NIJHAWAN:

MS. NASHA NIJHAWAN: Thank you, Commissioners. I can agree with my friend Ms. Ward from the Department of Justice in respect of her comments about how what was in the mind of officers has already been canvassed in their interviews.

I would just also like to add that to the extent there’s any question about what kind of information, or specifically what information each of the officers was able to access, that is also completely covered by available evidence. For example, we have a record of the radio transmissions to understand what did they hear from dispatch. We have a copy of the CAD log of the internal messaging, and of every other piece of information that was available to those officers in real time. So there is no mystery as to what they knew, and what they thought they knew, and what they did. All of that has been fully canvassed.

Thank you.

COMMISSIONER MacDONALD: Thank you.

MS. GILLIAN HNATIW: Thank you, Commissioners. On behalf of Commission Counsel, just to confirm that Cst. Patton was interviewed both by the RCMP and the Commission transcripts of both investigate -- transcripts of both interviews conducted in the course of both those investigations have been produced.

We also anticipate that Cst. Patton will be one of the Participants in the first responder round tables that will be occurring in the course of our Phase 2 proceedings. But as I explained in relation to Cst. Beselt, that is for a different purpose. So I think there’s no misunderstanding there.

And subject to any questions you may have about Cst. Patton, I move on to calling from Patterson to speak to their request in respect of hearing from Cpl. Dion Sutton.
--- SUBMISSIONS BY MR. MICHAEL SCOTT

MR. MICHAEL SCOTT: Thank you, Commissioners. We’d like to hear from Cpl. Dion Sutton because Cpl. Dion Sutton was one of the first responders on the evening of April 18th, 2020. We know from the materials that have already been gathered by the Commission that Cpl. Sutton is an experienced member of the RCMP Police Dog Services and that he arrived in Portapique on Portapique Beach Road at approximately 11:32 p.m. and that he remained there for a significant period during the relative time.

We know that he was carbine trained and that he was in possession of night vision technology.

And despite his direct involvement through the three Foundational Documents that have been provided so far, Cpl. Sutton is mentioned only at paragraph 82 of the First Responders document, in which it’s suggested that it was notified -- he notified dispatch of his presence and was directed to assist in containment of the scene. He was directed not to enter Portapique.

Our understanding is that Cpl. Sutton did enter Portapique and, at some point, deployed his service dog.

We are not clear exactly what his containment efforts were that he was directed to undertake. From the materials we’ve seen, it appears that he was using night vision to provide some sort of overwatch for Cst. Colford. But to the extent that we’re very interested in the issues of containment, we’d like to hear certainly more details about what those containment efforts are, if he’s simply directed to partake in containment at Portapique Beach Road, what does that mean to Cpl. Sutton or others for that purpose? And that is the reason why we would like to hear from him, subject to any questions.

COMMISSIONER MacDONALD: Thank you, Mr. Scott.

MS. GILLIAN HNATIW: I believe counsel for the DOJ is next.

--- SUBMISSIONS BY MS. PATRICIA MacPHEE:
**MS. PATRICIA MacPHEE:** Good afternoon again. I’m going to be extraordinarily brief with respect to Dion Sutton and just point out that he was interviewed by the Mass Casualty Commission Counsel and asked to describe his involvement during the events. So that evidence is already on the record. It’s already before you. If there are any specific questions, which I haven’t heard identified, then I would submit once again that they could be put in writing for him to address specifically. But again, his involvement has been thoroughly canvassed already. And I don’t have the doc number for you at this moment, but I can provide it shortly thereafter for your reference.

Thank you.

**COMMISSIONER MacDONALD:** Thank you.

**MS. GILLIAN HNATIW:** Counsel for the NPF?

--- **SUBMISSIONS BY MS. NASHA NIJHAWAN**

**MS. NASHA NIJHAWAN:** Thank you, Commissioners. In response to the request for the subpoena of Cpl. Dion Sutton, I can confirm that his statement given to the Mass Casualty Commission’s interviewers on December 16th, 2021, which lasted two hours and 20 minutes, is available in the disclosure at COMM43471. I’m not entirely positive if it has been exhibited or not. Commission Counsel is nodding to me that it has been. I’ll just add, in addition to the comments of the DOJ, that Cpl. Sutton, as a member of the Canine Team, was attached with ERT that night, and to the extent that he deployed within the neighbourhood, that deployment was connected with ERT’s deployment.

The involvement of the Emergency Response Team is specifically excluded from the Foundational Document, “First Responders in Portapique” and will be dealt with in a separate Foundational Document. It’s our expectation that more details about Cpl. Sutton’s involvement, including with detailed reference to his available reports and statements, will be made in that document. And so to the extent that there
remain questions about his involvement, that is premature at this stage, having not
received the Foundational Document or related exhibits that relate specifically to Cpl.
Sutton. Thank you.

**COMMISSIONER MacDONALD:** Thank you.

**MS. GILIAN HNATIW:** Thank you, Commissioners. Just to echo
Ms. -- what Ms. Nijhawan confirmed to you, which is that the Commission's interview
with Cpl. Sutton has been disclosed. It's also referenced in paragraph 82 of the
Foundational Document, First Responders in Portapique, and I do anticipate that it'll be
explored in additional detail in the context of the forthcoming IARD Foundational
Documents, and thus may well be premature to consider at this point in time.

Moving along to the next first responder on the list. I invite counsel
from Chester Law, Mr. Bryson, to speak to a trio of first responders Cst. Bent, Cst.
Forrest and Cst. MacDonald.

I just also wanted to note that we've been getting some inquiries
about the inclement weather and end time for today, so that's not to forestall Mr.
Bryson's comments, but just something for you to perhaps think about, so that we can
provide direction in response to the inquiries we're getting.

**COMMISSIONER MacDONALD:** Well, thank you for raising that,
and how about we hear from Mr. Bryson and then we'll address that issue.

--- **SUBMISSIONS BY MR. JOSHUA BRYSON:**

**MR. JOSHUA BRYSON:** Thank you, and in regards to these three
members, Peter and Joy Bond were residents of 46 Cobequid Court. They were killed
in their residence the evening of April 18th. And as we heard from the Portapique
Foundational Document, the exact timing of their death is unknown. It's unclear. But
we do know that they were discovered sometime after 3:20 on April 19th, so roughly 17
hours after this mass casualty began. It appears that -- we don't know for sure, but Cpl.
MacDonald we believe was the first officer that attended the scene at 46 Cobequid
Court, but we don't have a statement from Cpl. MacDonald. We know that the door of
the Bond residence it was ajar. We know that it was roughly 900 metres from the Blair
residence, so there's certainly lots of questions about was he in fact the first officer on
scene. Is there any -- did he make any findings that could help us or inform the
timeline? We believe that his evidence would also be relevant to subsequent
Foundational Documents like notification of next of kin, given the concerns raised with
the 17-hour timeframe, and that's of grave concern to my clients. So that's essentially
the evidence we'd be looking to elicit from Cpl. MacDonald and his team that responded
to 46, and that also applies to 41. These members also attended to 41 Cobequid Court,
the Tuck and Oliver residence.

Thank you. Subject to any questions.

COMMISSIONER MacDONALD: Thank you, Mr. Bryson.

MS. GILLIAN HNATIW: Commissioner MacDonald, I apologize for
having thrown a bit of a wrench in the works by raising the weather. If it assists you, I
can tell you that we anticipate hearing from Ms. Miller in respect of the request to call
Cst. Forrest, who's one of the trio that Mr. Bryson just spoke to. I expect we will
probably hear a brief response from the DOJ and the NPF. Commission Counsel will
offer very brief comments in keeping with our comments in respect of the other
witnesses, and so that would be the end of this trio.

COMMISSIONER MacDONALD: Right. And what I was
discussing with my colleagues is, in light of the weather, if we aren't going to finish
today, that that would inform our analysis. In other words, if we're not going to finish
anyway, then we should take heed of the weather for people who are here. But I think
what I'm also hearing you say, why don't we at least finish this round, and then we can
discuss further next steps.

MS. GILLIAN HNATIW: Sorry, I'm trying to interpret the hand
signals I'm getting from Ms. Miller across the room. It's a large room. I think she's
saying she'll be brief. And she's nodding. I've correctly ---

COMMISSIONER MacDONALD: Sure.
MS. GILLIAN HNATIW: --- interpreted the hand signals. I can confirm that I don't anticipate that we will complete the list of requested ---

COMMISSIONER MacDONALD: All right.

MS. GILLIAN HNATIW: --- today.

COMMISSIONER MacDONALD: Then why don't we finish this round anyway, and we will address next steps as soon as that's done.

MS. TARA MILLER: I will be brief.

COMMISSIONER MacDONALD: Thank you.

--- SUBMISSIONS BY MS. TARA MILLER:

MS. TARA MILLER: I echo my friend Mr. Bryson's comments as particular relevance to my client, of course, is that 41 Cobequid Court was the home of Aaron, Emily Tuck and Jolene Oliver. And the only information that is in the Portapique document is paragraph 157 which talks about general duty and other RCMP members remained in Portapique throughout the day. This included searching the community for additional casualties leading to the discovery of the homicides 16 hours after it's believed the perpetrator left the community. So the same detail that Mr. Bryson is seeking, how this came to be, how it came be the attention, what they saw, what they observed, and there doesn't appear to be statement from the lead officer, Cpl. Forrest. That's it. Thank you.

COMMISSIONER MacDONALD: Thank you so much, Ms. Miller.

MS. GILLIAN HNATIW: I invite counsel for the DOJ to respond.

--- SUBMISSIONS BY MS. LORI WARD:

MS. LORI WARD: Thanks. I'll be super brief. Cst. Bent and Cst. Forrest have been interviewed by Mass Casualty Commission. Cpl. MacDonald has not. I'm unable to tell you whether he was interviewed by the Major Crimes Unit as part of the investigation. What I understand is that a Foundational Document specifically addressing Cobequid Court will be forthcoming, and I would submit it's just premature at this point to figure out if any further evidence on those issues is required. Thanks.
COMMISSIONER MacDONALD: Thank you.

MS. GILLIAN HNATIW: Counsel for the NPF?

--- SUBMISSIONS BY MS. NASHA NIJHAWAN:

MS. NASHA NIJHAWAN: Thank you, Commissioners. As you know, we're here in respect of gaps, areas for clarification, or context in respect of the first three Foundational Documents. It's clear, I'll agree with Ms. Ward, that the Commission has made a decision not to address the period of time which related to the discovery of the victims on Cobequid Court in those documents. That doesn't mean that there's a gap that requires subpoenas of our members. It means that there is an area which is not yet addressed in the Foundational Documents. I'll let Commission Counsel speak to where and if that would be addressed, but we would say that this request is premature until such Foundational Document is prepared and tendered. There's lots of things that aren't covered in the Foundational Documents that have been presented, and until we see the full scope of those documents or understand it, it's premature to be saying that as a result we need to be subpoenaing police officers.

I will also just note for the record, Cst. Bent's interview with the Mass Casualty Commission has yet to be disclosed, I understand, so again, no reason for prematurity. With respect to Cst. Forrest, his Mass Casualty Commission interview was conducted on September 20th, 2021, and it's available at Com Number 15506.

Subject to any questions, those are all my comments.

COMMISSIONER MacDONALD: Thank you so much.

I can confirm that the facts relevant to the search of Cobequid Court notification of next of kin and other family members on the afternoon and evening of April 19th will be covered in a forthcoming Foundational Document involving notifications to next of kin. In fairness to counsel, they don't even have that draft yet, but it is forthcoming.

And so we've listened intently to some of the questions they've had in respect of these first responders and we'll keep those in mind as we work to finalize...
those draft Foundational Documents.

So in this situation, I would simply say that the request to hear from them is premature because we haven’t completed our own initial investigation into those facts, nor have the Participants had the benefit of the Commission’s investigation and thinking in respect of those facts.

So as of today, those are our thoughts.

COMMISSIONER MacDONALD: Thank you so much.

And on the weather, if I understood you correctly that it looks as though we’re not going to get through our list today in any event, is that...?

MS. GILLIAN HNATIW: Yeah. There are two more names on our list of frontline first responders that we could potentially finish. I think it would take an additional 15 or 20 minutes. There is also a list of approximately eight officers who are in more of a Command decision that we have yet to start. And so I don’t think there’s any reasonable possibility that we will have adequate time to hear from Participants in respect of the Commanders today.

COMMISSIONER MacDONALD: Thank you.

I wonder; it strikes me that it would be helpful if we just took a brief recess, then, and just decide next steps in terms of today, and we won’t be long because obviously the weather is a concern.

So we’ll break for approximately 10 minutes and come back with directions as to next steps.

REGISTRAR DARLENE SUTHERLAND: Thank you.

The proceedings are now on break for 10 minutes.

--- Upon breaking at 3:31 p.m.

--- Upon resuming at 3:56 p.m.

REGISTRAR DARLENE SUTHERLAND: Welcome back.

The proceedings are again in session.

COMMISSIONER MacDONALD: Ms. Hnatiw?
MS. GILLIAN HNATIW: Thank you, Commissioners.

I just wanted to do an update of where we’re at and where I expect we’re going.

There are two more frontline first responders, both RCMP members; one an officer and one in the Call Centre, that we will hear submissions about from Participant Counsel on Monday. There are -- we then anticipate we will hear submissions about six individuals who were in Command in various capacity in respect -- during the events in Portapique.

I note that five of the RCMP officers on that list are already among the people that the Commission anticipates hearing from slightly later in our process, as Participants and their counsel are aware. Five of the six names that we will hear about on Monday are already names that, as I say, we anticipate hearing from later in our process.

As you can start to see from the three Foundational Documents about Portapique that were introduced this week, there are a number of pieces to the timeline and to this complex puzzle that we are starting to build. And in the coming weeks and months, there will be a number of additional Foundational Documents that overlay the events of Portapique and the events on the other scenes in various ways, including one that deals specifically with ERT and one that deals specifically with the Command decisions.

As I’m sure you can appreciate, there were decisions made in respect of a number of different scenes over the course of those 13 hours, and those are canvassed -- we anticipate that those will be canvassed in a much more complete way through the Command Decisions' document that will be filed later on.

So we’re sort of building the blocks of the timeline. As you are well aware, the volume and complexity of the evidence the Commission has received and continues to gather is significant. And we are only in the early stages of sharing our work with the public in terms of building those pieces and putting them together.
Foundational Documents are a vehicle through which we have assembled and synthesized significant amounts of source material, which are also being made available to the public.

So for that reason, as we continue to build those pieces of the puzzle, it is Commission Counsel’s intention to wait and hear from a number of significant individuals in Command once we have more of those pieces of the puzzle in place.

Nonetheless, I anticipate that we will hear from some Participant Counsel, about timing around when we intend to call those witnesses, on Monday. So I think we will deal with eight potential witnesses in total; and, again, we are just dealing with witnesses that individuals want to hear from in relation to the first three Foundational Documents that set the scene in Portapique.

So to foreshadow, certainly, Commission Counsel won’t be saying we shouldn’t hear from those individuals but just that it’s, again, premature, and that we, in our view, would prefer to hear from them later in our process when more of those building blocks are in place.

So that is the roadmap of where we’re at, and I’m in your hands as to how you would like to close.

COMMISSIONER MacDONALD: Thank you.

Thank you, Ms. Hnatiw, and thank you very much, counsel, for your able and very helpful submission today. And thank you for everyone in the room for participating, and for the public as well for their participation and engagement.

It’s been -- I think everyone would agree it’s been a busy last several number of days, and we will complete this process on Monday, and we look forward to that. Of course we will give a decision and direction as a result of the submissions we’ve heard as soon as possible after we finish this process, which has been very helpful, at least for us, in terms of hearing the respective perspectives. It’s very -- always very helpful for us.
It’s encouraging, I think, that the issues on Monday for a bulk of the
witness -- proposed witnesses, anyway, will not be a question of if, but when. In other
words, the interesting question becomes do you call them early and then have to call
them again if they’re in command and could speak to a number of Foundational
Documents.

So those are the kinds of questions we can hear from you on on
Monday, and that’s for a bulk of the remaining RCMP officers, and that will be dealt with
then.

So I think it’s clear, and I’m -- I’ll speak to the members of the public
now. I think it’s clear that, as we said in our opening remarks, there’s a lot of
information here, and it’s not just the Foundational Documents, of course; it’s the tens of
thousands of pages of source materials that are related to those Foundational
Documents, and it’s an iterative process.

You will recall in my opening remarks that our first priority was to
the people of Nova Scotia and Canada. Obviously in the centre of that priority are those
most affected, including the families and loved ones of those whose lives were taken,
and to tell the public as early as possible what we know to date. And, you know, faced
with having the public wait even longer until the -- every I is dotted and every T is
crossed in the investigation was a decision we were -- or a path we were not prepared
to go down. Instead, when were in a position where we thought we could share with the
public what we know to date and then, of course, hear from Participants through their
counsel on how the Foundational Documents can be better, which is a lot -- had a lot to
do with what we did today, that that was the better course to go down.

So yes, of course, we will continue up until the end of our process
to hear from Participants as to how these documents can be better, how we can make
sure that the facts are as accurate as possible, but that we not wait until the end of the
process which, as I indicated would keep the public waiting even longer.

So I wanted to close on that basis and again thank counsel and
everyone who is participating to -- for their participation, and we will break until Monday at 9:30 unless my colleagues wish to add anything or tweak anything I've said.

COMMISSIONER STANTON: Just to acknowledge that there’s a family Stateside as well.

You talked about our priority being to get information out to Nova Scotians and Canadians, but we also acknowledge the family that is beyond the borders here and I just wanted to ensure that people know that we’re aware that not everyone is in Canada who are among the most affected and really appreciate Ms. Alberland reminding us of that when we met with her.

So thanks.

COMMISSIONER MacDONALD: Yeah. Thank you so much for that, Commissioner Stanton. You’re absolutely right.

And thank you again. Until Monday.

REGISTRAR DARLENE SUTHERLAND: Thank you.

The proceedings are adjourned until Monday, March 7th, 2022 at 9:30 a.m.

--- Upon adjourning at 4:06 p.m.
CERTIFICATION

I, Maxime Roussy, a certified court reporter, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Maxime Roussy, un sténographe officiel, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.

__________________________
Maxime Roussy