

## **Public Hearing**

## **Audience publique**

### **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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## II Appearances / Comparutions

Ms. Gillian Hnatiw	Commission Counsel / Conseillère de la commission
Ms. Emily Hill	Commission Counsel / Conseillère de la commission
Ms. Nasha Nijhawan	Counsel / Conseillère
Mr. Robert Pineo	Counsel / Conseiller
Ms. Jane Lenehan	Counsel / Conseillère
Mr. Joshua Bryson	Counsel / Conseiller
Mr. Stephen Topshee	Counsel / Conseiller
Ms. Tara Miller	Counsel / Conseillère
Mr. Michael Scott	Counsel / Conseiller
Ms. Lori Ward	Counsel / Conseillère
Mr. James Russell	Counsel / Conseiller
Ms. Megan Setphens	Counsel / Conseillère

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Halifax, Nova Scotia

--- 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.

1                   So today we continue to work through submissions from  
2 Participants focused on potential witnesses, but we will begin today continuing the  
3 discussion about whether or not we should hear from an expert dealing with our  
4 decision as to which members of the National Police Federation ought to be called and  
5 form part of our public proceedings.

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

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

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

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

25                  And specifically relevant to this case is that the NPF has indicated  
26 to us that, in its view, we need help in determining whether or not members of the NPF  
27 should be called in oral proceedings. Specifically, the suggestion is that we need help  
28 in understanding how the experiences of these officers -- how their experience would

1 have affected them and that -- and without that knowledge, we aren't fully -- we would  
2 not be fully able to grasp the significance of -- the significance of calling them in oral  
3 proceedings.

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

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

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

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

16 And Ms. Hnatiw, whenever you're ready.

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

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

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

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

28 So -- but we are, as Commissioner MacDonald mentioned, going to

1 start the day by addressing the threshold issue of whether you will even permit this  
2 expert's report to be introduced into evidence, so in plain language, whether or not the  
3 Commissioners will read it at all.

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

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

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

24                   So with that basis, we are going to start the morning by hearing  
25 from our proposed expert, who is Dr. Nicholas Carleton from the University of Regina.  
26 He is available to be questioned on his qualifications this morning and will appear via  
27 Zoom, I believe from Saskatchewan. We only have about an hour of Dr. Carleton's time  
28 this morning, and so we will be asking Ms. Nijhawan to walk him through his CV and his



1 qualifications, and then we will be offering counsel for other participants the opportunity  
2 to ask him questions about his qualifications. The witness will then be dismissed, at  
3 least for the time being, and we will invite Ms. Nijhawan to return and address you on  
4 the full question of admissibility, and then participant's counsel will have an opportunity  
5 to respond.

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

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

14 **COMMISSIONER MacDONALD:** Yes, thank you so much.

15 **MS. GILLIAN HNATIW:** Okay.

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

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

28 **MS. NASHA NIJHAWAN:** Thank you. And I'll just note for the

1 benefit of Participants Counsel that it's available in the format of the affidavit that was  
2 circulated, so it's the same document that they have as an exhibit to an affidavit, which  
3 is not admitted, that I will be referring to.

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

5 Good morning, Dr. Carleton.

6 **DR. NICHOLAS CARLETON:** Morning.

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

9 **REGISTRAR DARLENE SUTHERLAND:** No, he has not yet.

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

11 **REGISTRAR DARLENE SUTHERLAND:** Thank you.

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

13 **--- NICHOLAS CARLETON, Affirmed**

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

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

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

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

20 **REGISTRAR DARLENE SUTHERLAND:** Thank you.

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

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

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

27 **MS. NASHA NIJHAWAN:** Thank you, Madam Registrar.

28 **--- EXHIBIT NO. 211:**

1 CV of Dr. Nicholas Carleton

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

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

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

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

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

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

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

24 **DR. NICHOLAS CARLETON:** I am. I'm a fellow of the Canadian  
25 Academy of Health Sciences, and I am also a member of the Royal Society of Canada  
26 College, both of which are two of the three national academies comprising the Council  
27 of Canadians of Academies, which represent the highest honours granted to Canadian  
28 scholars.

1                   **MS. NASHA NIJHAWAN:** Thank you, Dr. Carleton. I understand  
2 also that your PhD is a clinical degree. Do you also hold any registrations in clinical  
3 psychological practice?

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

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

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

16                  **MS. NASHA NIJHAWAN:** And so you told us that that was back in  
17 2010. Since 2010, have you maintained an active private clinical practice?

18                  **DR. NICHOLAS CARLETON:** I have been in private practice since  
19 2010. The bulk of my clientele have actually been Public Safety personnel, military, or  
20 veterans. The vast majority of those have had difficulties with post-traumatic stress  
21 injuries, including but not limited to post-traumatic stress disorder.

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

27                  **DR. NICHOLAS CARLETON:** Absolutely. So I serve as the  
28 scientific director for -- we call it CIPSRT for short, which CIPSRT serves as the

1 Knowledge Exchange Hub for helping current and former Public Safety personnel, their  
2 leaders and their families to maintain and improve their mental health and wellbeing.  
3 The institute is federally funded and is designed to bridge the gaps between our  
4 governments, our Public Safety leaders, our Public Safety frontline members, their  
5 families, and our academics researchers and clinicians across the country.

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

8 **DR. NICHOLAS CARLETON:** I am.

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

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

17 **MS. NASHA NIJHAWAN:** Including police officers?

18 **DR. NICHOLAS CARLETON:** Including police officers.

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

21 **DR. NICHOLAS CARLETON:** Effectively since 2015.

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

25 **DR. NICHOLAS CARLETON:** Sure. I've been awarded more than  
26 \$30 million in competitive grants and contracts as principle or co-principle investigator,  
27 the overwhelming majority of which have been dedicated to researching and trying to  
28 understand the causes, and consequences, and impacts, and prevalence of mental

1 health challenges experienced by our public safety personnel, including our RCMP  
2 officers and our other police officers and right now, leading numerous data collection  
3 efforts and more than 20 different research projects that are also focused specifically on  
4 public safety personnel mental health.

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

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

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

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

27 The article is, to my knowledge, also the very first research article  
28 at any time cited in the Canadian Federal Budget, specifically in 2018. It's been

1 downloaded more than 10,000 times and has been featured in news articles, social  
2 media posts, blogs. From an academic perspective, it's in the top five percent of more  
3 than 13 million different research products that have been produced across all  
4 academic fields everywhere in the world.

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

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

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

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

23 **DR. NICHOLAS CARLETON:** Sure. I've done several research  
24 articles specifically focused on risk and resiliency related to police officers where we've  
25 been able to identify there are a host of different psychological and environmental  
26 variables that are associated with either risk or resilience. Those include demographic  
27 variables, such as women being at a higher risk than men among our police officers,  
28 and includes specific risk factors like psychological constructs, the number of exposures

1 someone has had, whether or not they feel that those exposures have been stressful for  
2 themselves, and several resiliency factors, which includes primarily spousal and familial  
3 support, environmental support from their own leadership, whether or not they feel  
4 supported by their communities and understood by their communities for the roles in  
5 which they serve.

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

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

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

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

17 **MS. NASHA NIJHAWAN:** Sorry, I ---

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

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

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

28 **DR. NICHOLAS CARLETON:** I apologize. Thank you for the



1 clarification.

2 I have published numerous articles that are associated with  
3 identifying specific barriers facing our police officers when they are trying to access,  
4 manage, or interact with mental health.

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

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

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

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

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

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

25 In 2019, I worked on the Public Health Agency of Canada -- with  
26 the Public Health Agency of Canada on implementing the *Federal Framework on PTSD*  
27 *Act* as part of the advisory committee for the Act that ultimately led to the National  
28 Action Plan on Post-Traumatic Stress Disorder.

1                   **MS. NASHA NIHJAWAN:** And have you, in addition to that  
2 example that you've provided, ever been asked to consult with or brief government  
3 officials on this question of mental health as it relates specifically to public safety  
4 personnel?

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

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

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

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

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

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

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

26                   **DR. NICHOLAS CARLETON:** I believe so. And I believe I will be  
27 called to provide a fair, objective, non-partisan, and unbiased opinion based on my  
28 independent judgement.

1 **MS. NASHA NIJAWAN:** And do you believe that you're able to  
2 fulfil that duty?

3 **DR. NICHOLAS CARLETON:** Absolutely.

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

7 **COMMISSIONER MacDONALD:** Thank you so much.

8 **MS. NASHA NIJAWAN:** Thank you.

9 **MS. GILLIAN HNATIW:** I believe we'll now here from Mr. Pineo.

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

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

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

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

15 **DR. NICHOLAS CARLETON:** Not to my knowledge.

16 **MR. ROBERT PINEO:** Before a Supreme Court?

17 **DR. NICHOLAS CARLETON:** No.

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

20 **DR. NICHOLAS CARLETON:** No.

21 **MR. ROBERT PINEO:** Sorry; there's music playing in the  
22 background here. I don't know...

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

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

26 **COMMISSIONER MacDONALD:** --- turn that off. It's not bothering  
27 us but apparently you can hear it.

28 **MR. ROBERT PINEO:** Okay.

1 Now, Dr. Carleton, you were retained by the National Police  
2 Federation to provide the report that we see in your affidavit?

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

4 **MR. ROBERT PINEO:** And you received a letter on February 22<sup>nd</sup>,  
5 2022 confirming this engagement?

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

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

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

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

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

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

16 **DR. NICHOLAS CARLETON:** Yes.

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

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

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

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

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

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

28 **DR. NICHOLAS CARLETON:** Okay.

1 **MR. ROBERT PINEO:** And if you turn to page 6 of 107 of your CV.

2 **DR. NICHOLAS CARLETON:** Okay.

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

6 **DR. NICHOLAS CARLETON:** That's correct.

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

9 **DR. NICHOLAS CARLETON:** Correct.

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

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

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

18 **DR. NICHOLAS CARLETON:** That's correct.

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

21 **DR. NICHOLAS CARLETON:** Correct.

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

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

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

28 **DR. NICHOLAS CARLETON:** That's correct.

1                   **MR. ROBERT PINEO:** And that was for, “A Longitudinal Study of  
2 Operational Stress Injuries (OSIs) for the Royal Canadian Mounted Police”; and has  
3 that work been completed?

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

7                   **MR. ROBERT PINEO:** Okay. So you’ll agree with me that since  
8 2017 to the present date you’ve been awarded approximately \$11 million to produce  
9 studies related to the RCMP?

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

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

14                  **DR. NICHOLAS CARLETON:** I’m there.

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

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

18                  **MR. ROBERT PINEO:** January 27<sup>th</sup>?

19                  **DR. NICHOLAS CARLETON:** That’s correct.

20                  **MR. ROBERT PINEO:** And on the next page, number 10 and  
21 number 11, you gave lectures to the RCMP on two occasions, one in 2017 and one in  
22 2018; correct?

23                  **DR. NICHOLAS CARLETON:** That’s correct.

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

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

1 Canadian Police Association.

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

3 Number 24 on October 6<sup>th</sup> of 2015.

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

6 **MR. ROBERT PINEO:** Okay. And number 22, then, March 6<sup>th</sup> to  
7 9<sup>th</sup> of 2016?

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

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

10 **DR. NICHOLAS CARLETON:** I'm ready.

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

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

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

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

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

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

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

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

28 **MR. ROBERT PINEO:** Now, if you would turn now to your report;

1 that's Tab C of your affidavit.

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

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

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

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

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

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

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

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

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

16 **MR. ROBERT PINEO:** Yeah.

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

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

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

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

28 **MR. ROBERT PINEO:** Okay. So let's talk about that.



1                   Your -- most of your analysis regarding the testifying portion of your  
2 opinion or that assumed fact is based on your review of the literature of other  
3 academics; correct?

4                   **DR. NICHOLAS CARLETON:** That's correct.

5                   **MR. ROBERT PINEO:** Yeah.

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

8                   **DR. NICHOLAS CARLETON:** That's correct.

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

10                  **DR. NICHOLAS CARLETON:** Yes.

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

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

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

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

22                  **DR. NICHOLAS CARLETON:** That's correct.

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

25                  **DR. NICHOLAS CARLETON:** That's correct.

26                  **MR. ROBERT PINEO:** Yeah.

27                  And I've read through that article quite carefully and I don't see  
28 anywhere in that article where you discuss the impact of police officers testifying in the

1 context of it triggering mental health issues. Am I correct on that?

2 **DR. NICHOLAS CARLETON:** That's correct.

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

6 **DR. NICHOLAS CARLETON:** Yes.

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

10 **DR. NICHOLAS CARLETON:** Correct.

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

12 **DR. NICHOLAS CARLETON:** Not to my knowledge.

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

14 **DR. NICHOLAS CARLETON:** Not to my knowledge.

15 **MR. ROBERT PINEO:** Not reviewed their medical records.

16 **DR. NICHOLAS CARLETON:** No.

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

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

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

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

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

25 **MR. ROBERT PINEO:** Yes.

26 **DR. NICHOLAS CARLETON:** I drafted the responses as framed --  
27 as framed by the questions being asked by the NPF lawyer. That I did do, but the  
28 evidence was much -- it's that word that I'm getting hung up on. I apologize.

1                   **MR. ROBERT PINEO:** Okay. Perhaps I'll clarify the question,  
2 then.

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

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

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

9                   **COMMISSIONER MacDONALD:** Thank you, Mr. Pineo.  
10 Ms. Hnatiw.

11                   **MS. GILLIAN HNATIW:** Thank you, Commissioner MacDonald.  
12 I'm just looking over at my friends to see if there's anybody else who has questions to  
13 offer.

14                   Ms. Lenehan?

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

17                   **MS. JANE LENEHAN:** Thank you, Commissioner.

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

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

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

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

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

27                   **MS. JANE LENEHAN:** And you've been a member for 10 -- 12  
28 years?

1 **DR. NICHOLAS CARLETON:** Yes, that's since 2010.

2 **MS. JANE LENEHAN:** Since 2010?

3 And how long have you been a full practising member?

4 **DR. NICHOLAS CARLETON:** Since 2010.

5 **MS. JANE LENEHAN:** Since 2010?

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

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

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

12 **MS. JANE LENEHAN:** All right.

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

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

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

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

19 **DR. NICHOLAS CARLETON:** That's correct.

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

23 **DR. NICHOLAS CARLETON:** That's correct.

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

26 **DR. NICHOLAS CARLETON:** It's shifted very dramatically over  
27 the last decade, in part as a function of COVID-19 and as a function of the research  
28 studies that I've been engaged in the last three or four years. So in the beginning, I

1 would say I had probably put -- I don't know. I would have to -- I would be giving you a  
2 general guess.

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

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

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

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

17 **DR. NICHOLAS CARLETON:** Yes, I believe so.

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

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

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

27 So the bulk of the research work that I do involves understanding  
28 clinical assessments and understanding how clinical assessments are conducted for

1 and interacted with by the RCMP. That's right now.

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

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

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

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

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

22 **MS. JANE LENEHAN:** All right. And what about the first number  
23 of years? Could you even just give an estimate of, "I've had this many patients over my  
24 12-year career, roughly this many patients, who are both public service personnel and  
25 who I've treated, diagnosed and then treated for post-traumatic stress --" I want to say  
26 disorder, but that may not be the correct term.

27 **DR. NICHOLAS CARLETON:** Post-traumatic stress disorder  
28 would be ---

1                   **MS. JANE LENEHAN:** Okay.

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

3                   **MS. JANE LENEHAN:** All right.

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

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

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

18                   **COMMISSIONER MacDONALD:** Thank you. Yes.

19                   **MS. JANE LENEHAN:** Thank you.

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

21                               I believe we'll now hear from Mr. Bryson.

22                   **COMMISSIONER MacDONALD:** Good morning, Mr. Bryson.

23 Whenever you're ready.

24 **--- CROSS-EXAMINATION BY MR. JOSHUA BRYSON**

25                   **MR. JOSHUA BRYSON:** Good morning. Thank you.

26                               Dr. Carleton, I believe you indicated to my friend that you based  
27 your opinion on the facts set out in Ms. Nijhawan's letter of February 22<sup>nd</sup>, 2022;  
28 correct?

1                   **DR. NICHOLAS CARLETON:** That's correct.

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

4                   **DR. NICHOLAS CARLETON:** That's correct.

5                   **MR. JOSHUA BRYSON:** You do not know how long each member  
6 remained on shift on April 18<sup>th</sup> and 19<sup>th</sup>; do you?

7                   **DR. NICHOLAS CARLETON:** That's correct.

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

10                  **DR. NICHOLAS CARLETON:** That's correct.

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

14                  **DR. NICHOLAS CARLETON:** When you say "this", what do you  
15 mean?

16                  **MR. JOSHUA BRYSON:** I'm sorry?

17                  **DR. NICHOLAS CARLETON:** You said "this" will inform my  
18 opinion and I'm asking you to clarify what you mean by "this"?

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

21                  **DR. NICHOLAS CARLETON:** Yes.

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

24                  **DR. NICHOLAS CARLETON:** That is correct.

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

28                  **DR. NICHOLAS CARLETON:** Neither I can, nor can anyone else.



1                   **MR. JOSHUA BRYSON:** Do you know what, if any, mental health  
2 services members utilized prior to and after this mass tragedy?

3                   **DR. NICHOLAS CARLETON:** I do not.

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

5                   **COMMISSIONER MacDONALD:** Thank you, Mr. Bryson.  
6 Ms. Hnatiw?

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

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

13                   **COMMISSIONER MacDONALD:** Thank you so much.

14                   Ms. Nijhawan?

15 **--- SUBMISSIONS ON QUALIFICATIONS BY MS. NASHA NIJHAWAN**

16                   **MS. JANE LENEHAN:** Thank you, Commissioners.

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

21                   **COMMISSIONER MacDONALD:** That would be helpful. Thank  
22 you.

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

1 stress injuries on public safety personnel, including the incidence, prevalence, and  
2 expression of post-traumatic stress injuries.

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

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

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

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

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

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

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

28 "When looking at an expert's interest or relationship with

1 a party, the question is not whether a reasonable  
2 observer would think that the expert is not independent.  
3 The question is whether the relationship or interest  
4 results in the expert being unable or unwilling to carry out  
5 his or her primary duty to the court to provide fair, non-  
6 partisan and objective assistance.”

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

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

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

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

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

25 In order to do so, it must understand how trauma impacts,  
26 manifests, and presents differently to police officers, as compared with civilians. It must  
27 know what harm it might inflict in order to know how it can adapt its processes to avoid  
28 that harm.

1                   Traditional adversarial criminal or civil legal processes do not carry  
2 this explicit responsibility. They aim for the truth at any cost and are inflexible to the  
3 needs of witnesses impacted by trauma.

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

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

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

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

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

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

27                   We are not in a court of law. The Commissioners are not the only  
28 audience for this information. Necessity is not, therefore, dictated solely by the legal

1 question before the Commission on these applications. The public inquiry process itself  
2 fulfils a public function.

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

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

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

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

26           For example, the Commission may assume that if a member is  
27 apparently well or apparently willing to testify, it need not be concerned about post-  
28 traumatic stress injuries for that member. It may not inquire if it needs to consider

1 alternatives. The evidence would suggest otherwise.

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

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

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

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

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

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

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

1 retellings of their involvement in the mass casualty.

2                   For many members, these interviews followed other interviews by  
3 the Major Crime Unit as part of the RCMP's H-Strong investigation or by *Labour Code*  
4 investigators with a different statutory mandate. Each of these interviews, each of these  
5 retellings of their experiences had a dramatic negative impact on our members.

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

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

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

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

25                   **COMMISSIONER MacDONALD:** Just a process question, at least  
26 for me, first.

27                   You mentioned yesterday about an affidavit as well ---

28                   **MS. NASHA NIJHAWAN:** Yes.

1                   **COMMISSIONER MacDONALD:** --- by the President.

2                   Where are we with that?

3                   **MS. NASHA NIJHAWAN:** Thank you for reminding me.

4                   So there is an affidavit that has been circulated to the Participants.

5 It contains -- it's an affidavit of Brian Sauv , who is the President of the National Police  
6 Federation. It contains ---

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

9                   **MS. NASHA NIJHAWAN:** Yes.

10                  **COMMISSIONER MacDONALD:** --- what it is and whether it's --  
11 whether it's intertwined with the submissions you've just given.

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

18                  **COMMISSIONER MacDONALD:** Commissioner Fitch?

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

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

23                  You say that the members are prepared to want to be part of  
24 answering, finding solutions going forward. You suggest that issuing a subpoena in  
25 cross-examination on a national stage is not the only way in which we can find those  
26 answers to satisfy the number of questions that people have. What do you propose?  
27 You know, you've heard us talk, you've all heard us talk about the public inquiry and our  
28 ability to form our process and that we can be flexible and creative, obviously mindful of



1 doing no further harm as we try to bring forward the facts that we need.

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

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

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

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

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

24 **COMMISSIONER FITCH:** Thank you.

25 **COMMISSIONER MacDONALD:** Thank you.

26 **MS. NASHA NIHJAWAN:** Thank you, Commissioner.

27 **COMMISSIONER MacDONALD:** Thank you. The Commissioners  
28 will break. It's 10 to 11:00, so let's say 11:05. Thank you.

1                   **REGISTRAR DARLENE SUTHERLAND:** The proceedings are  
2 now in break and will resume at 11:05.

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

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

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

7                   **COMMISSIONER MacDONALD:** Thank you again, Ms. Nijhawan,  
8 for your submissions, and for counsels' earlier participation on the question of  
9 qualifications.

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

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

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

25                   So thank you very much.

26                   And Ms. Hnatiw?

27                   **MS. GILLIAN HNATIW:** Thank you, Commissioner MacDonald.  
28 We'll now move forward with hearing from counsel, continuing yesterday's proceeding,

1 to hear from counsel for Participants who wish us to call additional witnesses to fill  
2 specific gaps in the factual record created by the Portapique Foundational Documents  
3 and consider their requests, individual by individual. Yesterday we heard their  
4 proposals in respect to additional civilians and now we will hear their proposals with  
5 respect to additional front-line RCMP members.

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

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

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

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

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

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

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

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

27 I wonder if we could ask to have this pushed off to this afternoon?  
28 Our understanding was that today we would be dealing primarily with the expert issue.

1 Obviously we'd received some indication that we'd be dealing with the request for police  
2 witnesses on Monday, but we can certainly take an hour to prepare for our submissions  
3 on the remaining matters.

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

7 **MR. STEPHEN TOPSHEE:** Sure.

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

10 **--- SUBMISSIONS BY MR. STEPHEN TOPSHEE**

11 **MR. STEPHEN TOPSHEE:** Thank you, Mr. Commissioner. I'm  
12 making a presentation on behalf of the -- my clients, the Tuck-Olivers, and Lillian  
13 Campbell.

14 So I'm going to address Cst. Beselt and the need to call Cst.  
15 Beselt.

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

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

24 And what he did, what struck me, was that he was playing audios of  
25 9-1-1 calls and he was playing tapes and communications between dispatch and Cst.  
26 Beselt, for example. And he was asking us to -- he invited the Commission and the  
27 Participants to make inferences based on the pace, the tone, and the nature of the radio  
28 communications between members, including Cst. Beselt.

1 Well it's our submission that the Commission has the opportunity  
2 here to gather the best evidence specifically on those points by putting the conclusions  
3 drawn by Commission Counsel to Cst. Beselt, rather than relying on inferences that are  
4 drawn from his interpretation and inferences and so on from audio and transcript  
5 members -- of members' communication.

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

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

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

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

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

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

25 **MR. STEPHEN TOPSHEE:** Sure. So I would point to -- I don't  
26 know if it's a dispute so much, but it's a need for clarification in terms of, for example,  
27 my colleague mentioned yesterday, David Faulkner's evidence. What was the  
28 exchange between David Faulkner and Beselt? You know, that's critical information.

1 When time is of the essence in an active shooter situation, when every second counts,  
2 that has to be explored. That's one aspect I would point to.

3 **COMMISSIONER STANTON:** So ---

4 **MR. STEPHEN TOPSHEE:** The second ---

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

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

9 **COMMISSIONER STANTON:** I hear you saying that. I'm just  
10 wondering if you can point us to ---

11 **MR. STEPHEN TOPSHEE:** Sure.

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

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

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

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

1 evidence is Cst. Beselt; right?

2 So with that, this issue. Thank you.

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

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

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

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

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

24 **COMMISSIONER MacDONALD:** Thank you. I don't think my  
25 colleagues have anymore questions. Thank you, Mr. Topshee.

26 **MR. STEPHEN TOPSHEE:** Thank you.

27 **COMMISSIONER STANTON:** Were you planning to address Cst.  
28 Colford as well?

1                   **MR. STEPHEN TOPSHEE:** With -- sorry, I missed her all together.  
2 Cst. Colford should be called. A couple of -- there's a note in one of the Foundational  
3 Documents that further exploration is necessary in relation to her exchange with Kate  
4 MacDonald because Kate MacDonald gave her some information relating to possibly  
5 another exit here. That wasn't explored. As far as we're aware, that should be  
6 explored.

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

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

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

16                   **MR. STEPHEN TOPSHEE:** Yes, for sure. Yeah, exactly.  
17 Okay. So that's it. Thank you.

18                   **COMMISSIONER MacDONALD:** Thank you, sir.

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

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

23                   **COMMISSIONER MacDONALD:** Thank you.

24                   Ms. Miller.

25 **--- SUBMISSIONS BY MS. TARA MILLER:**

26                   **MS. TARA MILLER:** Thank you, Commissioners. My name again,  
27 Tara Miller, and with my colleague, Alix Digout, we represent family members of Kristen  
28 Beaton and Aaron Tuck.



1 I follow my colleague with respect to endorsement in support of  
2 Constable Beselt and Constable Colford. I won't reiterate the points he's made. I'll  
3 make some other general comments.

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

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

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

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

23 **COMMISSIONER MacDONALD:** Yeah.

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

26 **COMMISSIONER MacDONALD:** Sorry, Ms. Miller. I -- thank you  
27 for your initial submissions. I apologize for interrupting, but Ms. Hnatiw, can you  
28 respond to that, please?

1                   **MS. GILLIAN HNATIW:** It's correct that the Commission still plans  
2 to hear from Constable Beselt along with Constable Merchant and Constable Patton in  
3 the form of a witness circle during -- in relation to our Phase 2 work, primarily, to hear  
4 about some of the experiential issues of being a first responder in those circumstances.  
5 They've remained -- it remains our plan to hear from them for those purposes.

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

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

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

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

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

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

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

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

1 subpoenaed under oath evidence under the umbrella of being trauma informed.

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

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

11 Thank you.

12 **COMMISSIONER MacDONALD:** Thank you, Ms. Miller.

13 I think, then, it would be an appropriate time to break. We'll break  
14 until 12:45. Thank you.

15 **REGISTRAR DARLENE SUTHERLAND:** Thank you.

16 The proceedings are now on break and will resume at 12:45.

17 --- Upon breaking at 11:39 a.m.

18 --- Upon resuming at 12:53 p.m.

19 **REGISTRAR DARLENE SUTHERLAND:** Welcome back.

20 The proceedings are again in session.

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

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

26 **--- DECISION ON PROPOSED EXPERT (Orally):**

27 **COMMISSIONER MacDONALD:** Earlier this week, we introduced  
28 our first three Foundational Documents sharing what we know to date about events in

1 Portapique on April 18<sup>th</sup> and 19<sup>th</sup>, 2020. These are -- these were the first three of many  
2 Foundational Documents to be presented over the course of our inquiry.

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

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

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

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

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

23 "[It is] also not necessary. The Commission can  
24 inform themselves that this was, in fact, a very  
25 traumatic process for all Participants, including police.  
26 The evidence being proffered is not...required to  
27 inform the Commission of that fact. That is accepted  
28 by everyone."

1                   We have determined that we do not need the assistance from this  
2 proposed witness in order to make these decisions as to who should appear in oral  
3 proceedings. In other words, whether and how to hear from a proposed witness must  
4 be decided on an individual-by-individual basis with all potential accommodations in  
5 play in order to establish the facts.

6                   Thank you.

7                   Ms. Hnatiw.

8                   **MS. GILLIAN HNATIW:** Thank you, Commissioner MacDonald.

9                   I believe we are going to hear from someone from Patterson Law  
10 with respect to their request for us to receive oral testimony from Cst. Beselt and Cst.  
11 Colford.

12                   **COMMISSIONER MacDONALD:** Thank you.

13                   Mr. Scott, whenever you're ready.

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

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

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

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

26                   We need to know what those officers saw and heard and did. And  
27 while we've been asked to give submissions on additional witnesses that the  
28 Commission should hear from, we note that with the exception of the 911 witness

1 yesterday, we haven't heard from any witnesses. And at this point in the process we've  
2 now moved, very quickly, through what we would consider to be one of the central  
3 timelines; a series of events that starts the mass casualty and involves a number of  
4 deaths in the Portapique area.

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

8 So, specifically, with respect to Cst. Beselt, there are a number of  
9 items that we think the Constable can speak to that just have not been addressed in the  
10 Foundational Documents, and one of them is we know that the initial call involves the  
11 911 call from the Blair residence. What we don't know and haven't heard anything  
12 about is whether the IARD team or Cst. Beselt responded to the Blair residence; and if  
13 not, why not. And perhaps if not, perhaps there's a perfectly rational reason for that, but  
14 we would need Cst. Beselt to speak to that.

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

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

27 We need those officers to speak to what their rationale was. If they  
28 knew that the issues of containment could be dealt with sufficiently, notwithstanding that

1 they were pushing in; was it a judgment call made in the moment, knowing that it would  
2 affect containment efforts? We don't know, but they can speak to it.

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

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

13 **MR. MICHAEL SCOTT:** Yes.

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

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

16 **COMMISSIONER MacDONALD:** Thank you.

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

27 I, you know, recognize the comments that my friend Ms. Miller  
28 made earlier about the understanding that we have that we may be hearing from some

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

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

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

27                   Cst. Colford is also specifically important to this matter in as much  
28 as we know from the Foundational Documents and in the supporting materials that



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

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

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

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

21 **COMMISSIONER MacDONALD:** Okay. Thank you.

22 **MR. MICHAEL SCOTT:** Thank you.

23 **COMMISSIONER MacDONALD:** And the Blueberry Field Road  
24 was not the way out. Brown Loop was the way out; right?

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

26 **COMMISSIONER MacDONALD:** By way of ---

27 **MR. MICHAEL SCOTT:** Yeah.

28 **COMMISSIONER MacDONALD:** Thank you. Thank you, Mr.

1 Scott.

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

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

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

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

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

1 of the evening, so it's difficult for the families to understand what led to that decision.  
2 Did you incorporate this new information and still arrive at the decision that it's still best  
3 to proceed on foot? And proceed on foot they did.

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

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

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

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

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

24 So -- and in regards to the suggestion that they be called to testify  
25 about their experiential experiences -- their experiences, I would echo the comments of  
26 my friend that we're not clear on what that exactly would entail, but I submit that that's  
27 not the best use of the Commission's time, that if the witnesses are going to be brought  
28 forward that they testify as to some of these very important facts, testifying as to their

1 experiences. And they can certainly do so in the course of testifying to these very  
2 important facts as well. And I don't see what value there would be to the Commission to  
3 simply limit them to experiences while neglecting the facts. The facts will inform and did  
4 inform their experiences, and vice versa.

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

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

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

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

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

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

23           **COMMISSIONER MacDONALD:** Thank you. Thank you, Mr.  
24 Bryson.

25           **MS. GILLIAN HNATIW:** Thank you.

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

28 **--- SUBMISSIONS BY MS. LORI WARD:**

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

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

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

7                   **COMMISSIONER STANTON:** Thank you.

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

9                   **COMMISSIONER STANTON:** Thank you.

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

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

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

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

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

26                  The RCMP has provided technical support, explanation, given  
27 access to its subject matter experts and demonstrations to answer questions from the  
28 Commission.

1                   Now, I had intended to argue in support of the tendering of the  
2 report of Dr. Carleton, and I understand that ship has sailed. Suffice it to say, we want  
3 to assist this Commission. We are simply asking that the Commissioners make their  
4 decisions with respect to witnesses while balancing the sometimes competing interests  
5 of a trauma-informed approach.

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

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

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

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

27                   But suffice it to say, with respect to Cst. Stuart Beselt, Beselt with  
28 an E, he addressed the exchange with Mr. Faulkner in his interview. He addressed the

1 reason he went in on foot in his interview. And I would say he adequately addressed  
2 the whys and the whats, and what tools he had available, in his interview.

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

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

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

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

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

20 **COMMISSIONER MacDONALD:** Thank you very much.

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

23 **--- SUBMISSIONS BY NASHA NIJHAWAN**

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

28 I would like to respond to the issues raised by Participants. The

1 assertion that is made that under Rule 37 it is necessary for the Commission to issue a  
2 subpoena for the attendance in person of Cst. Stuart Beselt and Cst. Vicki Colford.

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

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

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

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

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

27 You've heard my submissions about the consideration of necessity  
28 as it relates to a subpoena and whether or not there are other ways to get at the



1 evidence. And so it is our general submission, and I'll only do this once, because I'm  
2 going to stand up and respond on a number of different witnesses, it's our general  
3 submission that the Commission is obliged by its trauma-informed mandate to seek the  
4 least harmful way to obtain any necessary evidence.

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

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

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

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

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

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

23 So it would be my submission that, in accordance with the rules, if  
24 the Commissioners determine that a subpoena is necessary under the test that we've  
25 all articulated under Rule 37, an opportunity be provided to those witnesses, with the  
26 assistance of the NPF and the Department of Justice to determine whether it would like  
27 to offer evidence to the Commission for consideration in respect of personal  
28 accommodations. And to the extent that that evidence must be presented before the

1 Commission in order to seek those accommodations, with respect to a subpoena, that  
2 should be done in-camera to protect the privacy interests and the dignity of those  
3 individuals.

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

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

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

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

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

28                   And I can tell you that I commit, and I'm going to speak on behalf of

1 Ms. Ward, and she'll tell me later if I'm speaking out of turn, that we'll commit to making  
2 sure that that process can be done in very short order and completely and promptly to  
3 meet the Commission's needs.

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

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

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

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

27                   So I'm going to try and address the specific issues that were  
28 identified by my friends, and I'm speaking from my own notes, so I hope that I don't

1 mischaracterize what they've said. I have on my list a number of issues identified with  
2 respect to Stuart Beselt.

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

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

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

26           **COMMISSIONER MacDONALD:** Ms. Nijhawan, I just -- to help  
27 frame the issue as I understood it from the submissions is, is it's one thing to ask why  
28 did they go in on foot, but then if you superimpose the information from Mr. MacDonald,

1 would that or should that have changed their mind. I'm not expressing an opinion on  
2 that. I'm just trying to articulate what I think they're ---

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

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

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

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

26 Now I understand from Ms. Ward that the Commission has  
27 indicated written questions will be provided to Cst. Colford. I agree that those questions  
28 could include the question of -- to seek further clarification about her interaction with

1 Kate MacDonald, and in particular, any details she can recall about the radio  
2 transmission she made, but we do know that she made the transmission, and we know  
3 when she made it, and we know what she said.

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

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

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

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

24 There's only one other comment I'd like to make. There are some  
25 questions, some bigger questions in particular with respect to decisions about  
26 containment, which are not for these witnesses. They are for the individuals who were  
27 in charge of the scene at the time, the commanding officers. Some of those questions  
28 have already been answered. Those officers have also been through interviews with

1 the Commission. But to the extent that some of the information sought by participants is  
2 not properly available from these witnesses, they cannot ground -- grant the issuance of  
3 a subpoena.

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

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

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

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

10 **COMMISSIONER MacDONALD:** Thank you.

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

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

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

25 I think you also heard that there are a number of other sources of  
26 evidence, including the Colchester Radio transcripts. And we're happy to make call-in  
27 numbers for those available to the Commissioners, but I believe they are on the record.  
28 They were filed as part of the source material to the Portapique documents.

1 I just wanted to briefly pause and note that any questions about the  
2 severity of the injuries suffered by Greg and Jamie Blair, and what, if any, interventions  
3 might have made any difference are questions that are really best posed to the Medical  
4 Examiner's Office. And I would suggest that question is best posed privately by the  
5 Blair family.

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

15 Those are our comments with respect to Cst. Beselt and Cst.  
16 Colford.

17 **COMMISSIONER MacDONALD:** Thank you.

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

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

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

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

28 To the extent that -- I would endorse the comments of my friends



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

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

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

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

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

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

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

28 **MR. MICHAEL SCOTT:** What we've gleaned from the

1 Foundational Documents which have been tendered, which we've had no meaningful  
2 participation in the creation of, that bear no resemblance to the drafts that we were  
3 provided in the fall, ---

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

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

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

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

26 **MR. MICHAEL SCOTT:** Absolutely. And I'm happy to do so. And  
27 one of the witnesses, among the number of witnesses, any witnesses that we would like  
28 to hear from is Cst. Grund.

1                   Two primary examples of why we would want to hear from Member  
2 Grund would be his direct involvement in retrieving the Blair and McCully children in the  
3 early hours of the mass casualty event. We know that a 9-1-1 call was placed at  
4 approximately 10:16, I believe is when the 9-1-1 call was made. And we know that the  
5 children weren't extracted from that house until 12:24 in the morning, almost two hours  
6 later.

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

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

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

26                   And Constable Grund is important in that narrative because while  
27 we've heard certain waypoints placed in the Foundational Documents with respect to  
28 when we reasonably suspect that Corrie Ellison was killed, when we suspect different

1 issues happened, the various 911 calls, a lot of the Commission Counsel's emphasis on  
2 the suggestion that the perpetrator left at around 10:45, that he exited around 10:45  
3 from Brown Loop is predicated on a suggestion that we saw the perpetrator's vehicle  
4 pass by the Wilson's Gas Stop a short time later. And we have some video which may  
5 or may not depict the perpetrator's vehicle given the quality of the photograph.

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

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

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

22 **COMMISSIONER MacDONALD:** Thank you.

23 **MS. GILLIAN HNATIW:** Thank you.

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

26 **COMMISSIONER MacDONALD:** Thank you.

27 **--- SUBMISSIONS BY MR. JAMES RUSSELL:**

28 **MR. JAMES RUSSELL:** Good afternoon, Commissioners. My

1 name is James Russell, as I've been introduced, as counsel with my colleagues for the  
2 Oliver, Tuck families and the Campbell family.

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

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

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

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

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

26 **COMMISSIONER MacDONALD:** Thank you very much, Mr.  
27 Russell.

28 **MR. JAMES RUSSELL:** Thank you.

1                   **MS. GILLIAN HNATIW:** Ms. Miller on behalf of members of the  
2 Beaton and Tuck families.

3 **--- SUBMISSIONS BY MS. TARA MILLER:**

4                   **MS. TARA MILLER:** Good afternoon. Thank you.

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

10                   **COMMISSIONER MacDONALD:** By all means. Thank you.

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

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

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

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

24                   This is, from our perspective, very critical evidence in terms of what  
25 the children observed for approximately 30 minutes. There is no other witness that has  
26 that perspective and can provide that meaningful, critical information to help inform the  
27 Commissioners with respect to the causes, context and circumstances that gave rise to  
28 this tragedy.

1 Both Constable Grund and Sergeant Lilley gave RCMP interviews.  
2 We saw those in the Foundational Documents. They were both dated May the 5th.

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

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

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

12 I'm going to start with Sgt. Lilly.

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

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

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

27 And I just -- and I turn to the MCC statement to see if there's further  
28 detail there, and I'm going to direct you -- I will direct you to passage in this statement,

1 which is concerning, and I think highlights one of the challenges with the trauma-  
2 informed mandate.

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

5 So the interviewer says:

6 "I think that's great. What I don't need you to do, I  
7 know that in your statement to..." (As read)

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

10 "You have already talked about the conversations you  
11 had with the children." (As read)

12 And Sgt. Lilly says, "Okay." And then the interviewer says:

13 "Unless those conversations have changed somehow,  
14 we don't need to know them again." (As read)

15 And then the interviewer says:

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

22 And that was the end of the inquiry into the conversation that Sgt.

23 Lilly had with the children at the hospital over a period of time while they waited for  
24 relatives to come, where he gleaned the only information we have directly from a  
25 witness, other than Ms. Banfield's reporting of a fight, that Gabriel's girlfriend broke up  
26 with him. And this information was never followed up on. This is a perfect example,  
27 Commissioners, as to why Sgt. Lilly would be able to provide you with critical  
28 information about motive relevant to your fact-finding mission but also relevant to



1 recommendations and expert evidence, I would anticipate that will be presented, looking  
2 in totality at the issues, and maybe this was one of a domestic violence indicator.

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

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

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

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

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

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

22 Then if we go to the MCC statement, it is a very lengthy statement,  
23 105 pages, and the references to the children and the information gleaned from the  
24 children are largely contained at page 87 and page 92.

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

28 There's no further explanation about how he managed to -- how

1 they managed to get in and get the children in the absence of that safe word, and  
2 there's no explanation about why it was never given to them or any efforts that he may  
3 have taken to get that safe word.

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

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

17                   Those are my submissions.

18                   **COMMISSIONER MacDONALD:** Thank you so much.

19                   **MS. GILLIAN HNATIW:** Thank you.

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

24                   **COMMISSIONER MacDONALD:** Good afternoon, Ms. Stephens.

25 **--- SUBMISSIONS BY MS. MEGAN STEPHENS:**

26                   **MS. MEGAN STEPHENS:** Good afternoon, Commissioners.

27                   Thank you for providing our coalition, Women's Shelters of Canada,  
28 Transition Houses Association of Nova Scotia, and The Peace Institute, the opportunity

1 to make some brief submissions today about why we have asked that Cst. Grund be  
2 called to testify, specifically about his role in helping to evacuate the children from  
3 Portapique on April 19<sup>th</sup>, 2020.

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

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

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

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

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

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

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

1 the police.

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

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

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

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

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

20 **COMMISSIONER MacDONALD:** Thank you so much.

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

23 I think there's a question and perhaps a request to take the  
24 afternoon break.

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

27 **MS. GILLIAN HNATIW:** Thank you.

28 **REGISTRAR DARLENE SUTHERLAND:** Thank you. The

1 proceedings are now on break and will resumed at 2:35.

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

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

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

6 **COMMISSIONER MacDONALD:** Thank you so much. Ms.  
7 Hnatiw?

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

12 **COMMISSIONER MacDONALD:** Certainly.

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

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

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

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

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

27 Sgt. Lilly's statement to the RCMP, COMM10033, has been marked  
28 as Exhibit 160.

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

4                   **REGISTRAR DARLENE SUTHERLAND:** Yes, Ms. Hill. That will  
5 become Exhibit 212.

6 **--- EXHIBIT No. 212:**

7                   COMM51453; Sgt. Lilly's statement to the Mass Casualty  
8 Commission

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

12                   **COMMISSIONER MacDONALD:** Thank you so much.

13                   **MS. EMILY HALL:** Thank you.

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

16                   **COMMISSIONER MacDONALD:** Thank you.

17 **--- SUBMISSIONS BY MS. PATRICIA MacPHEE**

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

21                   It is ---

22                   **COMMISSIONER MacDONALD:** Thank you, Ms. MacPhee.  
23 Whenever you're ready.

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

27                   And the reason we would submit that is because after hearing from  
28 our friends, we would submit they haven't identified any gaps, or omissions, or

1 inconsistencies that would require them to appear and provide further evidence.

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

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

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

11           The second reason why Cst. Grund has been asked to appear  
12 here, or why the suggestion has been made that he need appear, is to address whether  
13 he saw the perpetrator leaving on Highway 2 on his approach on the evening of April  
14 18<sup>th</sup>.

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

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

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

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

25           We would submit if the Commissioners determine this to be a  
26 relevant issue for your work, that it is an additional question that we would submit could  
27 be put to Cst. Grund in writing for him to address specifically. It's a very specific  
28 question, it's a very easily formed question to be addressed in writing.

1                   But we would also note that the broader issues, whether there is  
2 training within the RCMP for members dealing with children in traumatic situations,  
3 again, that's premature for this phase of the proceedings, and if we want to talk about  
4 policy or training available, it can be addressed later on, and we acknowledge that there  
5 is going to be time where those very issues will be tackled by these Commissioners.

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

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

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

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

23                   This is significant because we know at this point in time that the  
24 OCC is actually on the phone with the children. Further, at paragraph 94 of the  
25 Portapique Foundational Document, it addresses this fact, that at -- and at 2:20 a.m.,  
26 the call taker who was on the phone with the children advised the children that the  
27 police were there. So we would submit that it's already in the evidence and that issue  
28 has been sufficiently canvassed.



1                   In general, and this goes with -- to -- this speaks to both the request  
2 to hear from Cst. Grund and with respect to Sgt. Lilly, there's been some suggestion  
3 that they are required to speak to the actual exchanges that they had with the children  
4 in those early morning hours of the 19<sup>th</sup>. And on this front, we say, again, it's not  
5 necessary. Both members have provided statements to the RCMP that detail the  
6 exchanges they had with the children on the night in question. More importantly, those  
7 children have also provided statements. They've provided their own firsthand accounts,  
8 and that is the best evidence here, not the hearsay comments of the members who had  
9 exchanges with him during those events.

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

15                   So those are my submissions on this.

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

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

22                   **COMMISSIONER FITCH:** Thank you for pointing that out.

23                   **COMMISSIONER MacDONALD:** Thank you, Ms. MacPhee.

24                   **MS. GILIAN HNATIW:** Ms. Nijhawan for the National Police  
25 Federation.

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

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

1 Thank you for the opportunity to provide the National Police  
2 Federation's response to the request for subpoenas against Cst. Chris Grund and Sgt.  
3 Dave Lilly. I endorse my friend's comments from the Department of Justice in the  
4 particular ways in which she has addressed the general fact that the participants have  
5 not identified any gap, area of conflict, or need for further context in respect of these two  
6 witnesses. Ms. MacPhee addressed each of the points raised in respect of these  
7 witnesses quite aptly, and so I will not repeat her comments. But I will remind the  
8 Commission and everybody of a couple of things in general in response to this request.

9 First of all, none of these issues could not have been raised earlier  
10 in the process, and none of these were issues could not be raised now in a manner  
11 other than a request for a subpoena. If it is the view of participants that there remain  
12 gaps in the Foundational Documents, they are free to seek further clarification. Frankly,  
13 this moment, this presentation is the first time that the respondents to this application  
14 have had notice of the particular reasons for this request, and so we've had a limited  
15 amount of time to look at the record and say do these -- have these issues been  
16 addressed or not. But some of them are addressed directly in the Foundational  
17 Documents. I'm going to give you an example. The question has been raised did Chris  
18 Grund see the perpetrator on Highway 2. That question was put directly to him in an  
19 interview, but the answer to that question is directly included in one of the Foundational  
20 Documents, along with a citation to the source of that information. So what we're  
21 seeing now during these presentations is an attempt by participants to find new reasons  
22 for these gaps without providing an adequate time for us to respond. So my request in  
23 general terms is that to the extent that there are particular gaps identified for the first  
24 time during these presentations that were not particularized earlier, that the respondents  
25 to these applications be provided with an opportunity to address them in writing, and  
26 we're prepared to do that in very short order. But I do not want this lack of time to point  
27 to references in the record for the Commission to result in unnecessary further contact  
28 with members for whom this would be a challenge.

1                   So I'll repeat our earlier submission that to the extent the evidence  
2 is apparent in the record, to the extent that it's clarified in the Foundational Documents,  
3 it may not be retread with these witnesses, but that in order to properly answer this  
4 question, we must actually look at those available exhibits and we must look at other  
5 documents available in the disclosure in order to determine if, in fact, these are gaps or  
6 areas which require further clarification, it is necessary to subpoena these members.

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

24                   **COMMISSIONER MacDONALD:** Thank you.

25                   **MS. GILLIAN HNATIW:** Thank you, Commissioners. Just for the  
26 sake of the record, to confirm on behalf of Commission Counsel that both the RCMP  
27 and the Commission itself have interviewed both Cst. Grund and Cst. Lilly. The  
28 transcripts of both those interviews have been disclosed to all the participants in the

1 course of the Commission's ongoing disclosure process. I think that that was readily  
2 apparent from what you heard already, but for the sake of finality, I wanted to confirm  
3 that. And so we will now move on to hear from Mr. Bryson, I believe, in respect of his  
4 request to hear from Cst. Patten (sic) -- make that Patton.

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

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

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

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

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

23 So you can see the evolution of the perception of what was in their  
24 minds when they were responding to the call, and that's one of the reasons why we  
25 believe, as Participants, it's important to test some of this evidence. Had we not had  
26 these prior references to put forth and compare it to his statement to the Mass Casualty  
27 Commission, we'd be left with this most recent recollection as opposed to the former,  
28 which suggests that they really didn't know what they were dealing with when they got

1 the call.

2 And to elicit this evidence is also to further the Commission's  
3 forward-looking mandate. Some of the recommendations and thoughts we have on this  
4 is to really look at the 911 call-taking process. There appears to be a disconnect  
5 between the information that the call-taker is receiving and questions about how much  
6 of that information is actually being reduced to writing, and that's going to come up in  
7 subsequent submissions.

8 You know, in this case we heard from Mr. Burrill the other day  
9 indicate that there was a level of incredulity with some of the members because  
10 perhaps they weren't receiving all of the information, but we do know from the 911 call  
11 that there was the sound of gunshots, screaming, crying and the line was disconnected.

12 We don't think that part of the information was ever conveyed to  
13 subsequent responders.

14 So that's to flesh that particular issue out.

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

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

23 Thank you. They're my comments.

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

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

28 **MR. JOSHUA BRYSON:** Sure. If there's a concern that you're

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

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

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

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

15 **MR. JOSHUA BRYSON:** Yes.

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

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

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

27 **MR. JOSHUA BRYSON:** Partly, yes. Yeah. The concern is that  
28 there appears to -- in this -- I think this is a good example.

1 All of the -- I think I can say safely based on all of the documents  
2 we have that all of the information that was -- that was received in that 10:01 call,  
3 including the non-verbal, was not communicated to subsequent first responders, so how  
4 do we address that?

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

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

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

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

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

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

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

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

24 Yeah.

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

26 **COMMISSIONER STANTON:** Right.

27 **MR. JOSHUA BRYSON:** And which -- which was the -- well, from  
28 10:01 to the time that they arrived, basically, so there's a 22-minute period there where

1 it's not clear if the members truly appreciated the nature of the call that they were  
2 responding to, so that's the factual issue I think is important to be fleshed out.

3 **COMMISSIONER STANTON:** Okay. Thanks very much.

4 **MR. JOSHUA BRYSON:** Thank you.

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

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

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

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

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

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

27 **MR. JOSHUA BRYSON:** Thank you.

28 **MS. GILLIAN HNATIW:** I believe we'll now hear from Counsel for



1 the DOJ.

2 **--- SUBMISSIONS BY MS. LORI WARD:**

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

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

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

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

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

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

1                   **COMMISSIONER MacDONALD:** Thank you.

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

3                   **--- SUBMISSIONS BY NASHA NIJHAWAN:**

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

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

16                   Thank you.

17                   **COMMISSIONER MacDONALD:** Thank you.

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

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

26                   And subject to any questions you may have about Cst. Patton, I  
27 move on to calling from Patterson to speak to their request in respect of hearing from  
28 Cpl. Dion Sutton.

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

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

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

11 And despite his direct involvement through the three Foundational  
12 Documents that have been provided so far, Cpl. Sutton is mentioned only at paragraph  
13 82 of the First Responders document, in which it's suggested that it was notified -- he  
14 notified dispatch of his presence and was directed to assist in containment of the scene.  
15 He was directed not to enter Portapique.

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

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

26 **COMMISSIONER MacDONALD:** Thank you, Mr. Scott.

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

28 **--- SUBMISSIONS BY MS. PATRICIA MacPHEE:**

1                   **MS. PATRICIA MacPHEE:** Good afternoon again. I'm going to be  
2 extraordinarily brief with respect to Dion Sutton and just point out that he was  
3 interviewed by the Mass Casualty Commission Counsel and asked to describe his  
4 involvement during the events. So that evidence is already on the record. It's already  
5 before you. If there are any specific questions, which I haven't heard identified, then I  
6 would submit once again that they could be put in writing for him to address specifically.  
7 But again, his involvement has been thoroughly canvassed already.

8                   And I don't have the doc number for you at this moment, but I can  
9 provide it shortly thereafter for your reference.

10                  Thank you.

11                  **COMMISSIONER MacDONALD:** Thank you.

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

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

14                  **MS. NASHA NIJHAWAN:** Thank you, Commissioners. In  
15 response to the request for the subpoena of Cpl. Dion Sutton, I can confirm that his  
16 statement given to the Mass Casualty Commission's interviewers on December 16<sup>th</sup>,  
17 2021, which lasted two hours and 20 minutes, is available in the disclosure at  
18 COMM43471. I'm not entirely positive if it has been exhibited or not. Commission  
19 Counsel is nodding to me that it has been.

20                  I'll just add, in addition to the comments of the DOJ, that Cpl.  
21 Sutton, as a member of the Canine Team, was attached with ERT that night, and to the  
22 extent that he deployed within the neighbourhood, that deployment was connected with  
23 ERT's deployment.

24                  The involvement of the Emergency Response Team is specifically  
25 excluded from the Foundational Document, "First Responders in Portapique" and will be  
26 dealt with in a separate Foundational Document. It's our expectation that more details  
27 about Cpl. Sutton's involvement, including with detailed reference to his available  
28 reports and statements, will be made in that document. And so to the extent that there

1 remain questions about his involvement, that is premature at this stage, having not  
2 received the Foundational Document or related exhibits that relate specifically to Cpl.  
3 Sutton. Thank you.

4 **COMMISSIONER MacDONALD:** Thank you.

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

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

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

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

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

21 **MR. JOSHUA BRYSON:** Thank you, and in regards to these three  
22 members, Peter and Joy Bond were residents of 46 Cobequid Court. They were killed  
23 in their residence the evening of April 18<sup>th</sup>. And as we heard from the Portapique  
24 Foundational Document, the exact timing of their death is unknown. It's unclear. But  
25 we do know that they were discovered sometime after 3:20 on April 19<sup>th</sup>, so roughly 17  
26 hours after this mass casualty began. It appears that -- we don't know for sure, but Cpl.  
27 MacDonald we believe was the first officer that attended the scene at 46 Cobequid  
28 Court, but we don't have a statement from Cpl. MacDonald. We know that the door of

1 the Bond residence it was ajar. We know that it was roughly 900 metres from the Blair  
2 residence, so there's certainly lots of questions about was he in fact the first officer on  
3 scene. Is there any -- did he make any findings that could help us or inform the  
4 timeline? We believe that his evidence would also be relevant to subsequent  
5 Foundational Documents like notification of next of kin, given the concerns raised with  
6 the 17-hour timeframe, and that's of grave concern to my clients. So that's essentially  
7 the evidence we'd be looking to elicit from Cpl. MacDonald and his team that responded  
8 to 46, and that also applies to 41. These members also attended to 41 Cobequid Court,  
9 the Tuck and Oliver residence.

10 Thank you. Subject to any questions.

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

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

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

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

28 **COMMISSIONER MacDONALD:** Sure.

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

3                   **COMMISSIONER MacDONALD:** All right.

4                   **MS. GILLIAN HNATIW:** --- today.

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

7                   **MS. TARA MILLER:** I will be brief.

8                   **COMMISSIONER MacDONALD:** Thank you.

9                   **--- SUBMISSIONS BY MS. TARA MILLER:**

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

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

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

22                   **--- SUBMISSIONS BY MS. LORI WARD:**

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

1                   **COMMISSIONER MacDONALD:** Thank you.

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

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

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

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

20                   Subject to any questions, those are all my comments.

21                   **COMMISSIONER MacDONALD:** Thank you so much.

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

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



1 those draft Foundational Documents.

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

6                   So as of today, those are our thoughts.

7                   **COMMISSIONER MacDONALD:** Thank you so much.

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

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

16                  **COMMISSIONER MacDONALD:** Thank you.

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

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

22                  **REGISTRAR DARLENE SUTHERLAND:** Thank you.

23                  The proceedings are now on break for 10 minutes.

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

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

26                  **REGISTRAR DARLENE SUTHERLAND:** Welcome back.

27                  The proceedings are again in session.

28                  **COMMISSIONER MacDONALD:** Ms. Hnatiw?

1                   **MS. GILLIAN HNATIW:** Thank you, Commissioners.

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

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

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

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

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

25                   So we're sort of building the blocks of the timeline. As you are well  
26 aware, the volume and complexity of the evidence the Commission has received and  
27 continues to gather is significant. And we are only in the early stages of sharing our  
28 work with the public in terms of building those pieces and putting them together.

1 Foundational Documents are a vehicle through which we have assembled and  
2 synthesized significant amounts of source material, which are also being made  
3 available to the public.

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

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

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

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

19                   **COMMISSIONER MacDONALD:** Thank you.

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

23                   It's been -- I think everyone would agree it's been a busy last  
24 several number of days, and we will complete this process on Monday, and we look  
25 forward to that. Of course we will give a decision and direction as a result of the  
26 submissions we've heard as soon as possible after we finish this process, which has  
27 been very helpful, at least for us, in terms of hearing the respective perspectives. It's  
28 very -- always very helpful for us.

1                   It's encouraging, I think, that the issues on Monday for a bulk of the  
2 witness -- proposed witnesses, anyway, will not be a question of if, but when. In other  
3 words, the interesting question becomes do you call them early and then have to call  
4 them again if they're in command and could speak to a number of Foundational  
5 Documents.

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

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

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

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

28                   So I wanted to close on that basis and again thank counsel and

1 everyone who is participating to -- for their participation, and we will break until Monday  
2 at 9:30 unless my colleagues wish to add anything or tweak anything I've said.

3 **COMMISSIONER STANTON:** Just to acknowledge that there's a  
4 family Stateside as well.

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

10 So thanks.

11 **COMMISSIONER MacDONALD:** Yeah. Thank you so much for  
12 that, Commissioner Stanton. You're absolutely right.

13 And thank you again. Until Monday.

14 **REGISTRAR DARLENE SUTHERLAND:** Thank you.

15 The proceedings are adjourned until Monday, March 7th, 2022 at  
16 9:30 a.m.

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

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**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-hauts sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.

  
\_\_\_\_\_  
Maxime Roussy