

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

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II **Appearances / Comparutions**

Mr. Roger Burrill

Commission Counsel /
Conseiller de la commission

Mr. Jamie VanWart

Counsel / Conseiller

Ms. Tara Miller

Counsel / Conseillère

Ms. Linda Hupman

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Halifax, Nova Scotia

--- Upon commencing on Wednesday, March 9, 2022 at 9:45 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: Good morning everyone. Bonjour et bienvenue. We join you from Mi'kma'ki, the ancestral and unceded territory of the Mi'kmaq. We begin, like we do every day, remembering those whose lives were taken or were harmed, their families, and all those affected by the April 2020 mass casualty in Nova Scotia.

Today, we will start with Commission Counsel presenting the next Foundational Document about the perpetrator's actions overnight in Debert. After that, Participants will provide their submissions about potential witnesses arising from this Foundational Document, and any Participants with opposing views may submit their arguments in writing.

Once this is complete, we will break, and following the break, we will share our decision on the first round of submissions concerning witnesses following up on the recommendations put forward by Participants over the last three days of proceedings.

So it's -- I will call on Mr. Roger Burrill now to present the Overnight in Debert Foundational Document. Mr. Burrill?

--- SUBMISSIONS BY MR. ROGER BURRILL:

MR. ROGER BURRILL: Commissioners, Participants, Nova Scotians, Canadians, and those beyond our borders, those family members and loved ones impacted by the mass casualty. My task today is now to present to you the fourth Foundational Document, entitled Overnight in Debert. Given the information available, my guess is this will be about half an hour presentation for you today.

1 I remind you that this information is information that's known to the
2 Commission as of March 9th, 2022. It is presented as foundational and not as
3 determinative. I, perhaps, was remiss last week not to remind you that the substance of
4 the material rests within the Foundational Document and not within these introductory
5 remarks.

6 This presentation covers a time period of about 10:51 on April 18th,
7 2020, to 5:45 a.m. on April 19th, 2020. So we're talking almost about seven hours, and
8 that's going to be in great contrast to what you heard last week where there was a
9 dense amount of material within about 45 minutes to an hour. This time period that I'm
10 going to be speaking about in the next half hour does not involve fatalities or casualties,
11 it represents an effort to track the movements of the perpetrator throughout the
12 overnight period and into Debert, Nova Scotia.

13 So with that brief introduction, Madam Registrar, I move to mark
14 and tender the Foundational Document, Overnight in Debert, as an exhibit in these
15 proceedings.

16 **REGISTRAR DARLENE SUTHERLAND:** That's Exhibit 214.

17 **MR. ROGER BURRILL:** Thank you.

18 **--- EXHIBIT No. 214 :**

19 Foundational Documents, Overnight in Debert

20 **MR. ROGER BURRILL:** I also move to mark and tender the
21 source material associated with Exhibit 214, the Foundational Document, Overnight in
22 Debert, as exhibits in these proceedings.

23 **REGISTRAR DARLENE SUTHERLAND:** Thank you, Mr. Burrill.
24 The source document is so marked.

25 **MR. ROGER BURRILL:** So the subject matter of today's
26 discussion is a summary of evidence currently available to the Mass Casualty
27 Commission in relation to overnight period April 18th-19th, 2020 in Debert, Nova Scotia,
28 and the subsequent discovery of physical evidence on April 26th, 2020, in Debert, Nova

1 Scotia.

2 Commissioners, I present the Foundational Document, Overnight in
3 Debert.

4 So as with last week, I'm going to do a little geographic lesson
5 simply on the basis of orienting ourselves. You will recall last week that we discussed
6 Portapique on the west of the slide before you, we also discussed Truro on the east.
7 We also had reference to Great Village. This slide introduces Debert. Debert is a
8 community about 20 kilometres northwest of Truro, so you will see how it aligns
9 geographically with the other locations that we've discussed.

10 The next effort here is to give you a sense of the travel ways, the
11 roadways between Debert, Truro, Great Village and Portapique, because it's going to be
12 important for determining where and how things moved along on April 18th and 19th. I
13 have described this slide as the "Medusa" slide, it's a bit difficult to understand, a lot of
14 information condensed, but it will give you a sense here. Bottom left corner or bottom
15 left to along to the bottom right, Highway 2. Last week, I discussed Highway 2 being
16 important as the spine or the connector of locations along that Parrsboro Shore, so
17 you'll see it located there.

18 Also, splitting the slide from the top left down to the bottom right is
19 Highway 104. That's the TransCanada Highway, or what I would have referred to as
20 the TransCanada Highway on Mainland Nova Scotia. It is a twinned highway section
21 throughout this geographical area. Highway 4 runs from the border of New Brunswick
22 all the way through Mainland Nova Scotia, into Cape Breton, and it ends at around
23 St. Peter's in Cape Breton; that is, Highway 104.

24 Highway 4 runs north to south, and this is the highway that's
25 sometimes referred to as the Wentworth Road, or what I would have referred to as the
26 "Old Highway". It's the highway that one traversed to go from Nova Scotia to New
27 Brunswick before the new Cobequid Pass highways. So it is, however, still an important
28 and very busy road in northern Nova Scotia, and it will be important for discussions in

1 the future with respect to upcoming Foundational Documents.

2 But I also want to introduce for you the road or the travel way called
3 Station Road. Station Road is right in the middle of your slide there. And Station Road
4 runs between Great Village and up to the 104. Actually, it runs north of the 104 up to
5 Londonderry in northern Nova Scotia in Cumberland County, but that's not important for
6 our purposes here today. It also connects with some other roads that go east and take
7 you to Plains Road, which is just off of Highway 4.

8 So that's a lot of geographical information, but what you need
9 perhaps for today's presentation is Highway 2, Highway 104, Highway 4 and Station
10 Road. We'll get into Plains Road in a -- in a few moments.

11 I have indicated for you here the Wilson Gas Stop, and time 10:51.
12 You will recall last week we discussed the video of Wilson Gas Stop, we'll perhaps
13 discuss that again today. I just want to point out for you a few other things that perhaps
14 are of significance that we'll discuss, and that is the location of Valerie Smith on Station
15 Road, and the location of Matthew MacGillvray. These are estimates of where these
16 witnesses were located on Station Road, Valerie Smith to the south, Matthew
17 MacGillvray to the north. They made some observations. Those observations we'll talk
18 about in a few minutes.

19 I'm going to move the slide east here to orient you to the Debert
20 area a little more closely. There are three roads of significance here. Plains Road.
21 And you will have heard about Plains Road, and Plains Road is fundamental not only to
22 this portion of the mass casualty event, but also much later in terms of what also takes
23 place.

24 Plains Road runs from the west at Highway 4 down to the
25 southeast, down to the MacElmon Road intersection, and it interconnects with Highway
26 2 and 4 in the south. It's the main road that runs through Debert and much takes place
27 on Plains Road.

28 You'll also have -- see the Masstown Road that's depicted here.

1 Masstown Road runs from Masstown in the south up pretty much south to north up to
2 Debert and intersects at the Plains Road.

3 And then I've identified for you here Ventura Drive. Ventura Drive
4 is a location that runs through the Debert Business Park. And we will too discuss that a
5 little later in this presentation.

6 Some important locations to be discussed for purposes of
7 information with respect to the overnight in Debert situation are Angelina Pizzeria. At
8 11:08, there are some observations made by a surveillance camera there. Dave's
9 Service Centre, which is on the south side of Plains Road, about 270 kilometres east of
10 Angelina's Pizzeria. There are some observations on a security camera there. And
11 then Farmhouse Bakery, which is on Ventura Drive just around the corner from Plains
12 Road. There are some observations made on a camera there.

13 So that's the geography. A week ago, I was perhaps an hour and a
14 half, two hours, on the geographic setting. I've been about five minutes on it for
15 purposes of getting you from Portapique through to Debert here today.

16 And I want to take you back to Great Village. This is where we
17 discussed last week in the prior presentation that the Perpetrator left Portapique and
18 was seen passing by the Wilsons Gas Stops at 10:51. You will recall this video.

19 **[VIDEO PLAYBACK]**

20 This shows a marked police vehicle travelling towards the Truro
21 direction from the Portapique direction at around 10:51.

22 The question then becomes where did that vehicle go or where did
23 the perpetrator go?

24 And there is some information in the materials that give us a sense
25 of perhaps where he went, keeping in mind these are observations from witnesses.

26 That is, there was an observation by Valerie Smith. Valerie Smith
27 is a resident or was residing on the southern portion of Station Road on April 18th. And
28 she made some observations that were and are pertinent to these introductory remarks

1 to the Foundational Document.

2 You'll note that she was across the river, the Great Village River,
3 compared to where Wilsons Gas Stops is. But she contacted the police on April 22nd
4 and she provided a statement to the police on April 30th with respect to her observations
5 that she made.

6 She said that she saw marked police cars heading west on
7 Highway 2 at around 10:30 on April 18th. She said she saw a marked police car coming
8 from the Portapique direction, that is the west, at approximately 11:15 p.m. She said
9 that she saw that marked police vehicle turn left and head north up Station Road. She
10 reports that that vehicle was operating with no headlights, which is an interesting
11 observation, given what we saw from the 10:51 video.

12 Matthew MacGillvray was at the northern portion of Station Road
13 on April 18th. He was in his residence at that time and he gave a statement to the
14 RCMP on May 2nd, 2020 about what he saw. He said that he was outside with his dog
15 around bed time and that he saw flashing lights on a police car travelling south on
16 Station Road. He estimated that to be at around 11:05 p.m. There was no siren, but
17 there were flashing lights and the vehicle was moving south.

18 He said that about two or three minutes later, he saw another police
19 vehicle heading north on Station Road. He described it as having its regular headlights
20 on, it had a lightbar, but the lightbar was not activated.

21 So you're putting this piece of information in with Wilsons Gas Bar,
22 you're putting it in with Valerie Smith's observations. He also said that he headed inside
23 after he made those two observations and about two or three minutes later, he saw the
24 reflection of red and blue lights and an audible siren he believed to be heading south on
25 Station Road.

26 So that's the context of the information with respect to what we
27 know about potential movements on Station Road late in the evening on April 18th.

28 We also know from the GPS records and materials provided to the

1 Mass Casualty Commission that there were two police vehicles travelling through the
2 intersection of Highway 104 and Station Road around this time. Ten fifty-two (10:52)
3 p.m., Cst. Paul Cheeseman from Cumberland District proceeded south along the 104,
4 took the exit at Station Road, and travelled south.

5 At 11:00 p.m., Cst. Mark Blinn from Cumberland Detachment took
6 the exit from the 104 and also travelled south. The blue dot on the screen will give you
7 a sense of generally where we are. They were obviously not stationary, like the blue
8 dot would indicate, but moving south.

9 So all of that information comes together for purposes of trying to
10 get a picture of the movements of the perpetrator late in the evening on April 18th.

11 And that takes us to perhaps some more valuable or reliable
12 information, keeping in mind vagaries of observations with human beings. This will lead
13 us to some video tape surveillance.

14 And Angelina Pizzeria is a name you're going to hear a lot in terms
15 of what's going on in the Debert area because they had a pretty good security or
16 surveillance system that provided some information for us.

17 Angelina's Pizzeria is located on Plains Road almost at the top of
18 Masstown. We've done our best in the slide to orient this to you, but I want to give you
19 a sense of what was seen by the cameras outside of Angelina's Pizzeria at 11:08:10
20 p.m.

21 **[VIDEO PLAYBACK]**

22 It's a short clip, but you'll notice vehicle headlights turning on to
23 Plains Road from the Masstown Road. That would leave the impression that that
24 vehicle was coming north from Masstown. And that's of some value in terms of getting
25 a sense of where he was coming from, but it also gives you a sense of where he was
26 going to.

27 I'm going to have -- just have another quick look at this.

28 **[VIDEO PLAYBACK]**

1 When you look at the video, there appears to be something on the
2 front of that vehicle. I can't say definitively, but it looks or appears to be perhaps a push
3 bar or a black push bar on the front of that vehicle.

4 The material that has been provided to the Mass Casualty
5 Commission, we are informed that the RCMP in Nova Scotia had four vehicles with
6 black push bars operational on April 18th, 2020. We're advised that three of those were
7 SUVs and those were located in Halifax District. We're advised that one of those was a
8 Taurus, a Ford Taurus, similar to that which you see in the video, and that that was
9 located in the Southwest Nova District out of the Kingston Detachment.

10 So that gives you the sense of Angelina's Pizzeria. It's actually
11 quite useful in terms of what you see.

12 We're going to move on from Angelina's Pizzeria southeast down
13 Plains Road for about 270 metres to video from Dave's Service Centre, an enterprise
14 that's run at that location. We tried to orient it for you on this slide.

15 So at around 11:09:14, these observations are made.

16 **[VIDEO PLAYBACK]**

17 So the video is not the greatest, certainly compared to what you
18 saw from Angelina's Pizzeria. Hard to discern entirely what you're seeing there and it's
19 very quick, but it gives you a sense of a vehicle travelling east on Plains Road,
20 consistent with what we've seen from Angelina's Pizzeria.

21 **[VIDEO PLAYBACK]**

22 **MR. ROGER BURRILL:** I'm going to move you along
23 geographically to the east, southeast. Farmhouse Bakery, indicated to you earlier, is a
24 enterprise on Ventura Drive. At 11:10 p.m., their security cameras captured some
25 images of a vehicle moving in a direction which would appear to be southwest on
26 Ventura Drive. I'm going to play that for you, but I just want to give you a small
27 indication that what you're going to see is a vehicle travelling artificially quick. That's not
28 because the vehicle is driving that quickly, but because of the recording mechanism,

1 we're led to understand, and I'll try to explain that a little bit later to you in more detail.
2 But this is what you see at Farmhouse Bakery. Once again, here's the location at
3 Farmhouse Bakery looking north onto Ventura Drive. You'll see the travel way in front
4 of you up to the upper portion of the screen.

5 **[VIDEO PLAYBACK]**

6 **MR. ROGER BURRILL:** So I've asked you to note that it was
7 travelling very quickly on the recording mechanism, but I'm going to ask you to note as
8 well where the vehicle seems to travel to. that as you see it come from the right-hand
9 side of the screen, it goes along to the upper left, and it would appear to turn at the top
10 left corner of the slide. Let's just look at that again, just so that -- make sure that I'm
11 correct in my assessment in that regard.

12 **[VIDEO PLAYBACK]**

13 **MR. ROGER BURRILL:** So it would appear that there is some
14 movement to the south and a turn at the top left of the video. Global Construction
15 Maritimes had a video camera surveillance system as well. We have watched that.
16 Between 11:11:12 and 11:11:43, exterior cameras mounted behind the building pick up
17 headlights, headlights flashing or headlights moving. It's very difficult from that video to
18 set the geographic location of the headlights, other than the timing of the headlight
19 shine at 11:11:12 to 11:11:43. That video is available in the materials, but it gives you a
20 sense here, I'm giving you a sense that there is movement from the northwest down to
21 the southeast along Plains Road and then north down to the southwest on Ventura
22 Drive. We have Angelina's Pizzeria at 11:08. We have Dave's Service Centre at 11:09.
23 We have at 11:10 Farmhouse Bakery. And then headlights at Global Construction. The
24 information available to the Mass Casualty Commission suggests that the perpetrator
25 headed into the Debert Business Park at around 11:10 p.m. on April 18th.

26 So, the Debert Business Park, you've heard me talk of that. What
27 is the Debert Business Park? Well, I'll just go through that a little bit here, back to the
28 geography lesson. Plains Road, discussed that earlier, Plains Road is along the top

1 right of the slide. It's the main road that runs through Debert. I draw your attention
2 perhaps for the future in this slide to the far right corner. You'll see a small geographic
3 anomaly -- or not the far right corner, the far right side, side of the slide. It's the pullout,
4 a geographical landmark on the south side of the Plains Road, and it will be important
5 for purposes of the events that took place on Plains Road much, much later in the
6 morning. It's the location of the murder of Kristen Beaton.

7 Ventura Drive I described earlier is the spine going through the
8 Debert Business Park. And I just wanted to give you a few landmarks. This is the
9 Debert Hospitality Centre. It's a big infrastructure building that's located to the north of
10 Ventura Drive. Located the Debert Diefenbunker, and I was of the impression when
11 going through this that everybody would know what the Diefenbunker was, but some of
12 my younger colleagues didn't. The Diefenbunker is a cold-war nuclear fallout shelter
13 built in the '60s. It still remains at the Debert Business Park to this day. You can have
14 access to it.

15 But for purposes of our inquiry here, Messina Drive becomes
16 important. So we've gone from Plains Road to Ventura Drive, and now we need to pay
17 some attention to Messina Drive. Messina Drive is the quasi-loop -- I called it a quasi-
18 loop because it doesn't quite connect as you can see by the graphic, that's run south on
19 Ventura -- or from Ventura Drive. I just want to close in a little bit more on Messina
20 Drive.

21 Messina Drive, you can see here in relation to the large
22 infrastructure, the Hospitality Centre, Messina Drive is as located in the graphic. Global
23 Construction Maritimes I identified earlier is kind of caught within that quasi-loop right
24 within it, and to the left is the MacDonald's Portable Welding enterprise. We'll talk about
25 that in a minute.

26 Off Messina Drive in the southwest corner, we've identified
27 something called an unmarked road, and at the end of the unmarked road is a gravel
28 parking lot, and that gravel parking lot will be important for purposes of physical

1 evidence that was located by investigators thereafter.

2 Another view of the Debert Business Park, to give you a sense, this
3 is aerial from the north down Ventura Drive, Messina Drive, Global Construction
4 location, the gravel parking lot described earlier, the unmarked road from Messina Drive
5 locating and connecting the gravel parking lot. In the bottom right corner is the Debert
6 Hospitality Centre that we showed you earlier. And then the building identified now is
7 MacDonald's Portable Welding. And you'll note that it's geographically located closer to
8 Ventura Drive and is between the gravel parking lot and Ventura Drive. So this gives
9 you a pretty good orientation as to the Debert Business Park.

10 Getting closer again, Messina Drive. You'll see the unmarked road
11 and you will see the gravel parking lot. The information available to the Mass Casualty
12 Commission is that the perpetrator spent the night or portions of the night April 18th,
13 April 19th, in this parking lot depicted in this slide. This slide will give you ground level
14 view of the unmarked road and the parking lot as described earlier.

15 Now I wish to jump to 5:30 in the morning on April 19th. And that's
16 because it's the next sort of discernible piece of important information for you in terms of
17 trying to determine what took place. At 5:30 in the morning, we have video reversed
18 from what we saw earlier, from Farmhouse Bakery at 5:42, video from Dave's Service
19 Centre at 5:45 approximately, and Angelina Pizzeria at 5:45 as well.

20 This is a graphic of the reverse trail from 5:42. I'm going to show
21 you now the video from Farmhouse Bakery at 5:42, which will give you a sense of
22 what's taking place here. The perpetrator, the Commission will submit, is travelling
23 northeast on Ventura Drive.

24 **[VIDEO PLAYBACK]**

25 **MR. ROGER BURRILL:** So as mentioned earlier, the -- it's, like,
26 the reverse of the earlier video that is only some six hours, seven hours later. You'll see
27 from the timestamp how I had mentioned earlier that the recording mechanism runs
28 quickly to give it an artificial speed to the vehicle, but you'll also see that that vehicle

1 emerges from the top left of the screen or the slide, leaving the impression that it's
2 coming from that area around Messina Drive and the gravel parking lot.

3 **[VIDEO PLAYBACK]**

4 **MR. ROGER BURRILL:** Move up to Dave's Service Centre,
5 5:45:50, the following video.

6 **[VIDEO PLAYBACK]**

7 **MR. ROGER BURRILL:** So as indicated earlier, the video quality
8 is perhaps less good or, how shall I say, helpful than the other videos that we have
9 seen, but they do give you the sense that the vehicle is travelling in the opposite
10 direction heading west.

11 And then to the third video in the series, the Angelina Pizzeria
12 video. At 5:45 a.m., we see the following:

13 **[VIDEO PLAYBACK]**

14 **MR. ROGER BURRILL:** It's a pretty clear depiction of a marked
15 police vehicle travelling west on Plains Road. For purposes of comparing it to the
16 earlier video, you'll notice it does not turn left and go south on Masstown Road. It
17 proceeds west on Plains Road and towards the Highway 4, towards Wentworth. Once
18 again, just for completion.

19 **[VIDEO PLAYBACK]**

20 **MR. ROGER BURRILL:** So as a brief summary: At 5:45 a.m., the
21 perpetrator appears to be travelling west on Plains Road, passes the Masstown Road
22 and is heading towards Highway 4, the old Wentworth Highway. There -- it's a pretty
23 good indication of the perpetrator's movements from those videos. That being said, it's
24 important for you to know that the Mass Casualty Commission was not able to locate
25 video between that 11:15 period and the 5:30 of movements within the Debert Business
26 Park. That is, there is no video at that time with respect to whether there was
27 movement or not. It doesn't mean that there was no movement, it just means that
28 there's no record of there being movement within the Debert Business Park.

1 Now, the Foundational Document references observations of some
2 people who were in the Debert Business Park at the time, and some of the observations
3 that they make are a little bit difficult to reconcile, but they are there, and they do speak
4 to some observations with respect to movement of the perpetrator. At least at this stage
5 we're not in a position to conclude there was any movement or there wasn't any
6 movement. We do know that there were no casualties that occurred between that 11:10
7 time period and the 5:30 time period.

8 So that being the case, with the witnesses observed and the videos
9 that you've seen, that information is supplemented by some observations and
10 investigations that took place on April 26th.

11 So on April 26th, the proprietor of MacDonald's Welding, you will
12 recall the building that I showed you on an earlier slide, was out behind his building,
13 behind his shop, and he made some observations or noticed some observations of
14 some physical material that he had not seen before. He contacted the RCMP. The
15 RCMP sent some investigators out, and the investigators made some discoveries and
16 felt that it was of relevance for purposes of this -- of this matter.

17 The items that were found were indicated to be around the gravel
18 parking lot that I identified earlier. They were in low brush near the edge of the parking
19 lot, and the farthest item that was located was about 15 meters from the parking lot.

20 So the following slides are to assist you in showing you what was
21 recovered on April 26th by investigators from that gravel parking lot. There was indeed
22 a significant search on the 26th and later, but for purposes of affirming or confirming
23 that the perpetrator was at that gravel parking lot, the following information is of
24 relevance.

25 There was ammunition packaging found there. Now, you'll see
26 Marker 1 and 2 on the -- on the screen shows you that there was ammunition package
27 found at that location. The next slide gives you a sense of what that ammunition
28 packaging looked like.

1 There were also slippers found around the gravel parking lot.
2 They're depicted in the slide before you here today. Size 8 slippers. No additional
3 information gained from them other than that.

4 There was a Sam Browne holster belt with empty pouches,
5 magazine and handcuff pouches, also found in that area, depicted here in the slide near
6 marker number 9.

7 There were metal brackets seized by investigators depicted in this
8 slide at marker number 5 and number 6. And also in the next slide, metal brackets
9 found at that location that the proprietor of MacDonald's Portable Welding said
10 obviously weren't his.

11 Hanger located at that location, and then a restraint control module.
12 We understand a restraint control module to be a mechanism used to bypass the airbag
13 restraint system in a Ford motor vehicle.

14 Also found in around that gravel parking lot was a municipal
15 electronics brand radar unit, the head and dash unit shown in this -- in this graphic.

16 And then finally, two high brown boots were located around the
17 gravel parking lot. The boots had the last name of the perpetrator inscribed in them.
18 The Foundational Documents will give photos of that inscription, we don't have it here.
19 Those are the boots that were found at that time.

20 So I'm coming to the end of my presentation and introduction of the
21 Foundational Document. What are the summary findings that we know? We know that
22 video surveillance from around 11:00 p.m. has the perpetrator entering the Debert
23 Business Park. We know that material located around the parking lot indicates that he
24 spent time at that location. We know an absence of video shows minimal if any
25 movement within the Debert area, business park, but it's not conclusive. And we know
26 at 5:42 a.m. video surveillance shows his departure from the Debert Business Park
27 heading west towards Highway 4. All information available to the Mass Casualty
28 Commission suggest that the perpetrator spent overnight of April 18th and 19th in the

1 Debert Business Park, most likely in the gravel parking lot so described.

2 So Commissioners, this concludes my presentation with respect to
3 Exhibit 214, the Foundational Document, Overnight in Debert.

4 **COMMISSIONER MacDONALD:** Thank you very much,
5 Mr. Burrill.

6 And ladies and gentlemen, Participants, Participants' Counsel and
7 to those watching, we are going to have to take a, just a very brief break to move the
8 podium so we can move on to the next step in our process for this morning. So we'll
9 just take a brief break and be back shortly.

10 **REGISTRAR DARLENE SUTHERLAND:** Thank you. The
11 proceedings are now on break.

12 --- Upon breaking at 10:34 a.m.

13 --- Upon resuming at 10:36 a.m.

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

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

17 Mr. VanWart?

18 **--- SUBMISSIONS BY MR. JAMIE Van WART:**

19 **MR. JAMIE VanWART:** Good morning, Commissioners. We have
20 just finished hearing from Mr. Burrill, Commission Counsel, a presentation with regards
21 to the Foundational Document, Overnight in Debert. As Commission -- as the
22 Commissioners know, this our fourth Foundational Document, the fourth building block
23 that Commission Counsel will hope, our hope will assist the Commissioners to establish
24 a record of building blocks for which the Commission can do its forward-looking work to
25 fulfill its mandate.

26 We will follow a procedure today that we followed with regards to
27 the first three Foundational Documents. That is, now that the Commissioners have
28 heard from Mr. Burrill, that the Foundational Document has been exhibited, as well as

1 all the source material referenced in that Foundational Document having been exhibited
2 as well, Commissioner's you will now hear from Participant counsel with regards to any
3 witnesses Participant counsel suggest are needed to be heard from in order to fill any
4 gaps that are left in the Foundational Document as presented to the Commission. And
5 we will be hearing from two counsel today with regards to that.

6 Before we move on to that part of the proceedings today, I just
7 thought this would also be an opportune moment to make the following comments, in
8 that just because the Foundational Document, "Overnight in Debert", has been
9 presented to you, Commissioners, it does not end the process. Commission Counsel
10 still very much values and is interested in input from Participant counsel. This is an
11 important part of our process.

12 In fact, yesterday we did hear from Mr. Bryson. We heard from Ms.
13 McCulloch with regards to questions with regards to this Foundational Document.
14 These inquiries have been passed on to our investigative team, our legal team, and we
15 will follow up on those questions.

16 And again, I emphasize, this is an important and valued part of our
17 process and we appreciate that input from Participant counsel.

18 Today we will hear from Tara Miller and Ms. Hupman with regards
19 to witnesses they propose the Commission should hear from. And I propose that we
20 hear from Ms. Miller first, and she will make comments to the Commissioners, and then
21 we will hear from Ms. Hupman.

22 And as Commissioner MacDonald indicated this morning, counsel
23 that have an interest in a reply will do so in writing and that reply will be before the
24 Commission as well.

25 So if Ms. -- I'll pass the podium over to Ms. Miller.

26 **COMMISSIONER MacDONALD:** Good morning, Ms. Miller.

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

28 **MS. TARA MILLER:** Good morning, Commissioners.

1 Again, for those watching online, my name is Tara Miller, and with
2 my colleague Alex Digout, we represent family members of Kristen Beaton and Aaron
3 Tuck.

4 I'm going to start by referencing two rules as background for our
5 submissions this morning. Rule 7, which indicates that the Commissioners can:

6 "...amend, supplement, vary, or depart from any rule as
7 they deem necessary to ensure the Commission is
8 thorough, fair, and timely."

9 And Rule 28, which we've of course heard referenced before,
10 which in respect to Foundational Documents, indicates that Participants can propose
11 witnesses:

12 "...to support, challenge, comment on, or supplement [...]
13 Foundational Document[s] in ways that are likely to
14 significantly contribute to an understanding of the issues
15 relevant to the mandate of the Commission."

16 So that's the procedural background for where I'm going to go next.

17 There are two key issues in the -- that arise in the "Overnight in
18 Debert" Foundational Document, Commissioners, that we will see continued in
19 Foundational Documents to come. And those are surveillance evidence and forensic
20 evidence. And as a result, our general submissions on witnesses here today are going
21 to be relevant and continue to be relevant as these issues continue to rise as we
22 encounter additional Foundational Documents.

23 We appreciate the Commission has an entire team of police
24 investigators. Their professional and technical experience helps these investigators
25 understand and digest technical evidence. For example, understanding how
26 surveillance evidence and forensic evidence is and should be collected, processed, and
27 analysed.

28 Family members, and I would suggest the vast majority of the

1 public, do not have the professional background or expertise to ground this technical
2 information, which leaves them at a significant disadvantage with limited knowledge to
3 process it.

4 So with a starting premise, Commissioners, that knowledge is
5 power, we ask that the Commission call witnesses to speak to surveillance and forensic
6 evidence generally and specifically as this type of evidence will significantly contribute
7 to an understanding of these issues for families and the public.

8 This information may well be buried in the thousands and
9 thousands of pages of disclosure. It may not. But even if it is, it's our suggestion that
10 expecting family members and the public to comb through this material in search of
11 something which may not exist is not fair, nor is it consistent with the Commission's
12 mandate to publicly inquire about these relevant issues.

13 And because surveillance evidence and forensic evidence will
14 continue to be relevant and permeate through the upcoming Foundational Documents,
15 we submit it's incumbent upon the Commission to lay the foundation for the knowledge
16 on these specific topics and continue to build on it as we progress through the Inquiry.

17 Specifically with respect to surveillance evidence, we suggest a
18 witness who can speak to the process for gathering, analysing, and processing
19 surveillance videos which then leads to the creation of timelines.

20 Surveillance evidence and the timelines established as a result of
21 this evidence are critical pieces and we need to have confidence in them.

22 This person, this witness, can speak to what are perceived as
23 discrepancies and inconsistencies with the surveillance evidence and help the families
24 and the public understand why they may not be as problematic as they are perceived to
25 be.

26 This may well be a technical witness who also speaks to facts,
27 giving technical experience, and context, and facts.

28 I'll give you some concrete examples of some confusion that arises

1 in this document.

2 We know we have surveillance footage from five different places.
3 Mr. Burrill reviewed them. We saw clips of them.

4 This information, there's a process that went on in terms of
5 gathering this information. That's, sure, in those Foundational Documents and in the
6 source documents, but it's largely based on what we understand are video canvas
7 reports. And we know that with respect to those five areas, those five places the
8 surveillance came, there were three members who collected surveillance, and then that
9 information seems to have been passed on to Cst. Mike Woolcock, as he's referenced
10 in three of these five. We assume he's the member responsible for reviewing these
11 results, and he appears -- and as such, he appears to be the witness most appropriate
12 to speak to it.

13 The Wilsons Gas Bar's relied on, of course, for the foundational
14 timestamp tracking the perpetrator at 10:51 in Great Village. The actual surveillance
15 shows no timestamp. We've heard this before. The video canvas report notes the
16 timestamp is 47 minutes slow. And then we have a supplementary report providing
17 additional background about why this could be off by 47 minutes.

18 Farmhouse Bakery, the video canvas timestamp is noted to be off
19 by 29 minutes.

20 Global Construction, the timestamp is noted to be accurate.

21 Angelina's Pizza, the timestamp is noted to be exact.

22 And Dave's Service Centre, the timestamp is noted to be accurate.

23 Yet despite the Angelina Pizza and Dave's Service Centre having
24 timestamps that are noted to be accurate and exact in these video canvas reports, we
25 have at page 20 of this Foundational Document, a note that the timestamp for these two
26 locations are slightly inconsistent. We have the documents showing, based on
27 timestamps, the perpetrator travelling by one before it should have in the logical flow of
28 time.

1 You can appreciate how this one example, Commissioner, raises
2 questions as to the reliability of the video canvas report, which said that these
3 timestamps were exact and accurate. Help us understand that.

4 The perpetrator is also picked up entering the Debert Business
5 Park by surveillance at Farmhouse Bakery at 11:10. Farmhouse Bakery is, as we saw,
6 on Ventura Drive, and appears directly across or near the soccer/football field and the
7 stage that the two witnesses are at and observe, you know, very detailed observations
8 about this car. But particularly, they observe it driving back and forth on Ventura live
9 doing laps -- that's Ventura Drive, doing laps.

10 When we saw the surveillance video this morning from Farmhouse
11 Bakery, we are able to see the perpetrator's car travel down Ventura Drive and turn left
12 into Messina Drive. And it is a valid question for the families as to if these -- why is
13 there no surveillance that captures the car doing those laps? And maybe there's a good
14 explanation for that. Help us understand that.

15 Paragraph 18 of this Foundational Document states:

16 “No surveillance video of the perpetrator's actions
17 overnight in Debert [have] been located.”

18 There's no source documents that reference this. And this may be
19 the case, but what's it based on? Were all the businesses canvassed in that area,
20 including the Debert Hospitality Centre, which we saw is there in the park? And
21 MacDonald's Portable Welding?

22 Again, this is another example of areas where I think if we can help
23 the families and the public understand these things, it will enhance the credibility and
24 reliability on these timestamps that flow from video surveillance.

25 We understand the RCMP has a Technical Crime Unit, TCU, that
26 extracts and analyzes digital information. Was this done here? Again, given the critical
27 importance of surveillance evidence to build reliable timelines, what efforts were made
28 to review the surveillance videos and enhance and improve their resolution and check

1 files for creation dates, those are all things I think we can address in a meaningful way
2 for families and the public to help us understand that with this type of a surveillance
3 witness that speaks to general information, context and then facts. We need to take the
4 time to ensure that family members and the public have a foundational understanding of
5 the process involved in the collection of the surveillance, so we can have collective
6 confidence in those timelines.

7 Secondly and moving to forensic evidence, again, similar
8 comments, Commissioners. We need a witness, we suggest a witness to address
9 context on how this process works and speak to the process for gathering, analyzing
10 and processing forensic evidence. Again, let's take time to help family members
11 understand how evidence is collected at a crime scene, why some is seized, and some
12 may not be, and what happens with that evidence when it's sent for analysis and
13 sometimes it's not. Specifically with respect to the forensic evidence in this document,
14 I've got a couple of examples. What happened with the drone footage that was taken of
15 this area? It was referenced in the initial draft of this document. It's not referenced at all
16 in this document. Perhaps there was nothing of it that was of any value but tell us that.
17 Tell us it was analyzed. What, if any, use was made of that? Why of the items seized
18 on April 26th, 27th and 30th only were some sent forensic testing? How extent -- tell us
19 generally how extensive crime scenes are searched and analyzed, and what searches
20 were not, and were not analyzed, and why here? And, again, general information about
21 the forensic identification services at this scene and other subsequent forensic testing
22 completed at the National Forensic Laboratory Services in Ottawa would be helpful.
23 These are all natural and, I submit, understandable questions which arise from this
24 process, and I expect could be answered by a witness who can provide this context and
25 technical and factual information.

26 In this document, it appears to be Det. Cst. Bruce Lake from the
27 northeast Major Crime Unit. He may not be, and Cst. Woolcock may not be the best
28 people to provide this evidence. I'm suggesting these as names, but surely, there is

1 somebody who can speak to these core issues and provide the foundation for digesting
2 this information for family members and laypeople who do not have this technical
3 expertise that exists within the Commission's investigation team.

4 Having witnesses who can speak to this type of information is not
5 without precedent. I reference the Desmond Inquiry where similar type of information
6 was provided to ground the actual factual information. And I again urge the
7 Commission to call this evidence, suggesting it's incumbent to do this, because if we
8 don't lay this important foundation now, there will be a critical missed opportunity to help
9 us all understand what happened, and to be thorough and fair to the families and the
10 public.

11 Subject to any questions, Commissioner, those are my
12 submissions.

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

14 **MR. JAMIE VanWART:** We'll now hear from Ms. Hupman.

15 **--- SUBMISSIONS BY MS. LINDA HUPMAN:**

16 **MS. LINDA HUPMAN:** Thank you. Good morning,
17 Commissioners.

18 **COMMISSIONER MacDONALD:** Good morning, Ms. Hupman.

19 **MS. LINDA HUPMAN:** I will be brief. I certainly want to endorse
20 the comments of my colleague, Ms. Miller. Her issues that she raise are similar to ours,
21 although she took it a step further, I would suggest. The concern we submitted
22 yesterday and wanted to speak to today has to do with the information relating to the
23 video surveillance and the timelines flowing from those or that are attempt -- that we're
24 attempting to establish based on that video surveillance information. And we echo Ms.
25 Miller's comments with respect to the critical importance of ensuring that there's
26 confident in that timeline and the information on which it ultimately is based. And for
27 that reason, we were focussing on it being important to fill what we see is a gap in the
28 existing presentation of the Overnight in Debert Foundational Document. And that is

1 the background, if you will, the support for the reading of those videos, the
2 determinating (sic) of the time accuracy in those, and how that process happens, or
3 what the process is for that, again, to ensure that families and the public who are
4 following the Commission and the information that is being put forward understand the
5 technical background, if you will, or the technical process for obtaining the videos,
6 reviewing the videos, ensuring the accuracy of timestamps on videos that were
7 timestamped. And we think that this is essential because many people have questions,
8 our clients, the families, the public in general, and this important information respecting
9 the movements of the perpetrator throughout the course of this event is very important
10 for a lot of people and for a lot of reasons. And for that reason, we support that whether
11 it is calling one of the officers who actually produced the video canvass reports for these
12 particular video surveillance clips or a more general technical witness to speak to how
13 that process is -- and how that evidence is handled and processed and conclusions
14 drawn from it, either way, we think that some attention needs to be -- and time needs to
15 be spent to ensure that that is -- that it is before the Commission and out there for the
16 public to understand.

17 In respect of this particular document and the video surveillance
18 clips contained within it that we saw this morning, and which are critical to supporting
19 the theories on his movements and the timelines, Cpl. Lane we note is referenced in the
20 Wilson Gas Stop as having prepared the video canvass report in -- which is Com 9190.
21 Cst. Deveau is referenced in the Angelina Pizza and Dave's Service Centre video
22 canvass reports, Coms 10028 and 12478 respectively. And Csts. MacFarlane and Cst.
23 Woolcock referenced in the Farmhouse Bakery and Global Construction video canvass
24 reports, Coms 12415 and 12410 respectively. Any of those, we have no preference if
25 it's the determination to call one or to speak specifically to determining -- obtaining the
26 video and the time accuracy determinations. It may be that it's looked at in a more
27 general, broader technical presentation and some other witness would be able to speak
28 to those issues. The importance -- the important fact from our -- or issue from our

1 perspective is that somebody provide the background information for you as the
2 Commissioners and for the families and the public to understand the basis of that.

3 I haven't referenced a specific rule on which we bring our request,
4 but certainly, I believe that this request addresses a gap in this and the other documents
5 which deal with video surveillance, and we know there are many examples coming
6 further down the road. And but certainly, Rule 28 in terms of providing and seeking a
7 witness to explain gaps or supply supplemental information would suffice, I would
8 suggest, and I really think that it's a very generic or -- and general request that goes to
9 the core of ensuring that there's confidence at the end of the day in whatever the
10 conclusions are drawn, in terms of the information contained in these video surveillance
11 clips that have been recovered and are being used to help establish the factual basis of
12 what happened.

13 And those are my comments.

14 **COMMISSIONER MacDONALD:** Thank you so much, Ms.
15 Hupman.

16 So, ladies and gentlemen, and Participants and Participants
17 Counsel, we will now break. After the break, we will give our decision on the
18 submissions that we heard last week. For the Registrar's purposes, we aren't going to
19 put a time on the break; just we'll be back at the earliest opportunity, so thank you.

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

21 Lunch will be served at noon, and the proceedings are now on
22 break.

23 --- Upon breaking at 10:58 a.m.

24 --- Upon resuming at 12:23 p.m.

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

26 The proceedings are again in session.

27 **--- DECISION BY COMMISSIONER MacDONALD:**

28 **COMMISSIONER MacDONALD:** Yeah, thank you so much,

1 Participants and Participants Counsel, and members of the public.

2 When we broke, I couldn't give a time for when we would return,
3 and I know everybody is anxious for this very important decision and it's important for us
4 to get it right.

5 We thought when we left on Monday, we really owe it to the
6 Participants and the public to give our decision today, and we had to put some final
7 touches on our decision during the break. And as many of us know, you have no
8 control over how long that process is going to be, and so that's what we've been up to,
9 just putting some final touches on the decision because, of course, it will be of
10 significant public interest and, as I said, we wanted just to take whatever time is needed
11 to get right, but wanted to get it to you today, and that's been the goal. So thank you for
12 that.

13 Before we share our decision on the first round of witness
14 submissions, it's helpful to remember that the Participants include the families, first
15 responders, government institutions, and various efficacy groups, all represented by
16 their own legal counsel. They represent different perspectives and positions; this
17 diversity helps makes the Commission's work as a public inquiry stronger.

18 Going into public proceedings, the Commission has had witnesses
19 we believe it important to hear from, including RCMP officers and the perpetrator's
20 common-law spouse, Lisa Banfield. In making their submissions, the Participants are
21 helping us identify material gaps and points of difference about what should go into the
22 final factual determination.

23 So I will, at this time, relay the decision of the Commissioners.

24 Beginning with an overview; the Commission has used its
25 subpoena power to compile, coordinate, and to present publicly what it has learned so
26 far about the perpetrator's initial rampage in the community of Portapique.

27 Having presented the first three Foundational Documents to the
28 public, in order to transparently build a shared understanding of the facts regarding

1 Portapique on April 18th and 19th, 2020 from our independent investigation, we have
2 asked Participants to identify further gaps, errors, or important context that can be best
3 be addressed by oral evidence.

4 Participants made submissions in the public proceedings in early
5 March about 27 proposed witnesses from whom they suggest we should hear regarding
6 these first three Foundational Documents. Today we are sharing our decision on what
7 we heard. We address each of the proposed witnesses and where we agree that their
8 testimony will be of assistance, we direct that they be subpoenaed to appear, either as
9 individual witnesses or as a witness panel. This means that they will provide sworn
10 testimony subject to questioning.

11 For the reasons set out in the decision, we have determined the
12 following: The Commission will hear from five witnesses by way of sworn testimony in
13 relation to the three Portapique Foundational Documents. They are Cst. Stuart Beselt;
14 Cst. Aaron Patton; and Cst. Adam Merchant. These officers will be called together in a
15 witness panel in accordance with the Commission's rules. Additionally, subpoenas will
16 be issued to Cst. Vicki Colford, and civilian witness Deborah Thibeault.

17 The Commission will hear from five witnesses during the time set
18 aside to present the information included in the Foundational Document about
19 Command Post Operational Communication Centre and Command Decisions, which I
20 will refer to as the Command Decisions Document throughout, and that's currently
21 scheduled for the second half of May. They are S/Sgt. Steve Halliday; S/Sgt. Brian
22 Rehill; S/Sgt. Addie MacCallum; Sgt. Andy O'Brien; and S/Sgt. Jeff West.

23 The Commission expects to hear from four witnesses at a later date
24 to be determined. They are Cst. Wayne Bent; Cst. Nathan Forrest; Cpl. Jarret
25 MacDonald; and Lisa Banfield.

26 Following the applications of Participant Counsel, two witnesses
27 who have information to provide the Commission have scheduled interviews. The
28 transcript of the interviews will be shared with Participants, and the issue of whether

1 they should provide oral evidence can be revisited after that process is complete.

2 These witnesses are Peter Griffon and Bjorn Merzbach.

3 There are two witnesses who may have specific additional
4 information to provide the Commission, and we direct that this further information be
5 requested from Cst. Chris Grund and Donnalee Williston.

6 Applications were made to hear from two witnesses who cannot be
7 subpoenaed because they reside outside of Canada. We direct our investigators to
8 continue to attempt to collect information from Sean Conlogue and Angel Patterson.

9 We have decided that there are two witnesses from whom at this
10 time the Commission does not require further information. They are David Faulkner and
11 Cst. Dave Lilly.

12 The Commission has determined that the following witnesses need
13 to be called to provide oral evidence with regard to the three Portapique Foundational
14 Documents but the Commission will revisit the need for their evidence at a later date.
15 They are Brenda Forbes; Cst. Jeff MacFarlane; Cpl. Tim mills; and Cpl. Dion Sutton.

16 A telecommunication expert retained by the Commission is
17 currently providing a sworn affidavit. Once that is complete, we will of course share it
18 and assess whether further evidence is required in this regard.

19 Additionally, while not the subject of applications from Participant
20 Counsel, the Commission has determined it will hear from the following institutional
21 witnesses later in its proceedings: Chief Superintendent Chris Leather;
22 Superintendent Darren Campbell, Assistant Commissioner Lee Bergerman, and
23 Commissioner Brenda Lucki.

24 As we continue to share our understanding of the facts in further
25 Foundational Documents and proceedings, we will also continue to provide
26 opportunities for Participants to provide us with their input as to other witnesses from
27 whom we should hear.

28 For dealing with the proposed witnesses, we will begin with some

1 general comments. We offer some general comments before turning to the reasons for
2 our decision about the 27 witnesses currently proposed by various Participants as they
3 relate to the first three Foundational Documents.

4 A great deal of the factual record will be established through the
5 use of Foundational Documents. In addition to the three already presented, there are at
6 least 27 more Foundational Documents to be presented to the public in the coming
7 weeks and months. The Commission wants to ensure that when witnesses are heard
8 from there is a full and shared basis of information and evidence so that we can benefit
9 from their testimony. Additionally, we intend to hear oral evidence when it will add to
10 the factual record in a meaningful way. Sometimes the best evidence about an event is
11 provided by recorded reliable resources, such as radio transmission transcripts and
12 9-1-1 calls.

13 Recollections two years after the fact by people who were under
14 extreme stress at the time, and may still be experiencing the effect of trauma that
15 impact the ability to recall clearly or fully or testify at all, they may not be -- that may not
16 be better evidence than the almost contemporaneous statements. However, creating
17 space for hearing from people who were present, who have now had the opportunity to
18 reflect on their experience, can provide important information on lessons we may all
19 learn from their experience in order to form the basis of recommendations that are
20 pragmatic and implementable to help prevent such things in the future. That is why we
21 will hear more witnesses -- more witness testimony in later phases of the inquiry.

22 For some of the subpoenaed witnesses, we may have to consider
23 applications for accommodation under our Rule 43. If it becomes apparent that any of
24 them are too unwell to appear, we will make every effort to offer accommodations and
25 find a way to hear from them and have Participant and the Commissioners' questions
26 answered.

27 If there are gaps or conflicting areas in the Foundational
28 Documents, oral testimony may be of assistance. This decision, deals with the current

1 list of 27 proposed witnesses, involves only the first three Foundational Documents with
2 many more to come. This means there are additional witnesses from whom we may
3 well want to hear, for example, in relation to the command decisions as well as public
4 communications. Further, there may be questions that Participants want to ask some of
5 the proposed witnesses that may arise from these additional Foundational Documents.

6 However, in our process, we determine witnesses on a rolling
7 basis. We do this by inviting feedback from Participants on draft Foundational
8 Documents, and once we have incorporated their -- that feedback, identifying gaps,
9 errors, or areas requiring important contextual information that oral evidence can
10 address.

11 Not all of the proposed witnesses are necessary to establish the
12 facts about what happened in Portapique as the facts required by the Commission in
13 pursuant and fulfillment of its mandate. The relevant Foundational Documents in
14 minute-by-minute detail set out the facts as we know them to date. The Foundational
15 Documents also provide links to source material that was relied on in the Foundational
16 Documents and disclosed by the Commission.

17 Many of the gaps, sorry, many of the gaps identified in the various
18 submissions from Participants are either already addressed in the relevant source
19 documents, capable of being addressed in other ways without the need of compelling
20 the proposed witness to testify orally, or better heard from in concert with future
21 Foundational Documents. This latter scenario does not preclude questions being put to
22 them on previous Foundational Documents if gaps or errors remain in the factual record
23 at that time.

24 We can produce a full comprehensive and effective final report
25 without the need to call every witness for oral testimony. As Participant Counsel has
26 noted, the Commission is able to determine when and how to best hear from witnesses,
27 and that subpoenas are not the only way to get evidence. We will hear from people for
28 different purposes over the course of the inquiry in ways appropriate to that purpose.

1 So we now turn to the proposed witnesses for the first three
2 Foundational Documents, which we will categorise first as civilian witnesses and then
3 as first responder witnesses.

4 Lisa Banfield. Lisa Banfield was the perpetrator's common-law
5 spouse at the time of the mass casualty. Counsel for the Participant families did not
6 have to convince us that Ms. Banfield has important evidence to give regarding the
7 Portapique Foundational Documents. It has never been a matter of if the Commission
8 wants to hear from Lisa Banfield, but rather, how and when we could best do so. She
9 also has important evidence to give regarding the presentation of an upcoming
10 Foundational Document dealing with the perpetrator's violence towards her and others.

11 Ms. Banfield is facing criminal charges, and to date she has
12 declined the Commission's requests for interviews because of the legal jeopardy she
13 faces. This week, through her counsel, she has agreed to meet with the Commission
14 immediately. Therefore, we understand that she will meet with the Commission for the
15 first time, for the first of several interviews, later this afternoon. We anticipate that we
16 will hear from her under subpoena, as well as other witnesses, to address remaining
17 questions or to provide important context later in our process. As with any other witness
18 being heard from later in the process, that does not foreclose the opportunity to ask
19 questions still outstanding at that point, including questions from the first three
20 Foundational Documents we have already presented.

21 Sean Conlogue and Angel Patterson. Mr. Conlogue and
22 Ms. Patterson live in the United States and are long time friends of the perpetrator.
23 Ms. Banfield, in her three of her statements to the RCMP reported that she and the
24 perpetrator had a virtual social engagement with Mr. Conlogue and Ms. Patterson on
25 the evening of April 18th, 2020. Ms. Banfield left the call abruptly because she was
26 upset by a comment made by Ms. Patterson. Shortly after this, the events of the mass
27 casualty began to unfold.

28 Both the FBI and the Commission have interviewed only Sean

1 Conlogue, and the statements have just been recently shared with the Participants.

2 The Commission is continuing to make attempts to locate
3 Ms. Patterson. We cannot compel them to testify before us because our ability to
4 subpoena extends only to witnesses within Canada. That said, should they cooperate
5 we would be pleased to collaborate with Participants in order to have any pertinent
6 follow up questions answered.

7 David Faulkner. Mr. Faulkner is a witness who drove out of
8 Portapique on the night of April 18th, 2020. He has provided an interview to the
9 Commission. At this time, we are not persuaded that it is necessary to hear from --
10 further from Mr. Faulkner in public proceedings. If additional information is required
11 from him, we direct that it be sought through a further interview.

12 Deborah Thibeault. Ms. Thibeault is a resident of Portapique and a
13 Participant in these proceedings. She has offered to provide relevant information
14 regarding the gate to "Blueberry Field Road" and the apparent discrepancy between her
15 statement and that of S/Sgt. Carroll about the condition of the barrier at the exit of the
16 road.

17 We direct that a subpoena be issued. Commission Counsel and
18 counsel for Ms. Thibeault should make arrangements for her to appear as an individual
19 witness to provide sworn testimony to address her knowledge of this aspect of her
20 statement when we resume proceedings in late March.

21 Peter Griffin. Mr. Griffin had previously not accepted the
22 Commission's invitation to be interviewed. He has recently been interviewed on March
23 5th, 2022. Once the Commission has had the opportunity to review and share his
24 statement with the Participants, we will seek their feedback on whether they have
25 remaining questions and reassess the need to hear from him in oral proceedings.

26 Brenda Forbes. Ms. Forbes has given interviews to the RCMP and
27 to the Commission, which have been shared with Participants. Her information is relied
28 on in two forthcoming Foundational Documents, one of which has been shared with the

1 Participants in draft form and another which will be shared soon.

2 Once the Foundational Documents are revised based on the
3 Participant feedback and questions, we will assess the need to hear from her in oral
4 proceedings.

5 In any event, any further evidence she could offer beyond the
6 interview already provided to the Commission is inextricably linked to the information
7 contained in the two Foundational Documents, “Perpetrator’s Violence Towards
8 Common-law Spouse” and “Perpetrator’s Violence Toward Others”.

9 Therefore, any need for oral evidence from her will be assessed
10 when those Foundational Documents are addressed, currently scheduled for July of this
11 year.

12 Bjorn Merzback. Mr. Merzback has not been interviewed by the
13 Commission. However, an interview is currently being scheduled. Once the
14 Commission has had the opportunity to review and share his statement with
15 Participants, we will seek their feedback on whether they have remaining questions and
16 reassess the need to hear from him in oral proceedings.

17 Cell phone expert. The National Police Federation requested that
18 the Commission obtain expert evidence to advise on the proper interpretation of GPS
19 location data derived from Lisa McCully’s cellular phone.

20 The Commission is pursuing further information in this regard. The
21 Commission previously retained a telecommunications engineer with experience on the
22 workings of mobile cellular networks and cellphone location-based services.

23 The expert is preparing an affidavit in relation to the location data
24 available with Ms. McCully’s cellphone. Upon its completion, the Commission will
25 provide this affidavit to the Participants and assess whether additional information is
26 required.

27 The proposed first responder witnesses. Where we direct that a
28 subpoena will be issued, we will expect that the testimony be directed towards clarifying

1 a dispute in the evidence that will be material to the Commission's work in Phases 2
2 and 3 to filling a material gap in the evidence and to providing important context.

3 All witnesses will be heard from as individual witnesses providing
4 sworn testimony, except for one group of three who will provide their sworn testimony
5 as a witness panel. And I'll describe that further below.

6 As we explained in an earlier ruling, we do not need expert
7 testimony to conclude that RCMP officers responding to this mass casualty may, to
8 varying degrees, be suffering the effects of their experiences.

9 Being trauma-informed does not mean not hearing from a person.
10 It does mean thinking carefully about how we hear from a person.

11 A trauma-informed approach does not automatically excuse
12 someone from testifying, but rather, seeks to create conditions in which testifying will be
13 less traumatic.

14 This is accomplished by giving clear direction about what is being
15 asked, a respectful environment, the possibility of taking breaks, et cetera. It may also
16 mean seeking accommodations such as Participant counsel suggested, insofar as the
17 person's testimony may be gathered in ways other than through subpoena, such as
18 written questions, sworn affidavits, appearing by video, et cetera.

19 This is done in order to create conditions in which it is more likely to
20 get the best, most reliable evidence from individuals who are experiencing or who have
21 experienced trauma.

22 Cst. Stuart Beselt, Adam Merchant, and Aaron Patton. At the
23 outset, we advised Participant counsel that we would hear from these three, first three
24 officers to arrive at Portapique on April 18th, 2020.

25 Before the public proceedings began, we informed Participants that
26 while we viewed the facts to be sufficiently clear from the contemporaneous evidence
27 assembled in the Foundational Documents, we anticipated hearing from these three
28 officers with respect to important context they could provide to the facts as set out in the

1 Foundational Documents. Helping us understand their experience of first responders
2 would assist us in making sense of the causes, context, and circumstances of the mass
3 casualty, and especially in making implementable recommendations for first responders
4 in future mass casualty situations in a rural setting.

5 However, we have listened carefully to counsel for the family
6 Participants and note that although many of their questions are indeed answered in the
7 Foundational Documents, what they are really asking for is an understanding of why the
8 first responders did what they did.

9 We emphasize that the second half of May will be spent focused on
10 the command decisions that occurred on April 18th and 19th, 2020, and after that, and
11 after. And that we will expect to hear from senior officers during that time to answer for
12 the orders given, the orders not given, or the policy and other frameworks that governed
13 first responders' actions that night.

14 Nonetheless, given that these three officers were the first to arrive
15 in Portapique that evening and because their roles were so central, we are persuaded
16 that we should hear from them at the earliest opportunity.

17 We will therefore issue subpoenas to them to appear on March
18 28th, 2022, when we resume proceedings.

19 We direct that they will testify under oath together at the same time
20 on a witness panel.

21 This is a practice often used in public inquiries. Witness panels are
22 effective ways to draw out facts and experiences of a group of people who shared a
23 common experience. It is also an effective approach since questions are organized by
24 Commission Counsel in order to avoid multiple lawyers asking the same questions of
25 witnesses in succession.

26 Since these witnesses will be heard regarding a mixture of fact and
27 experience, they will be questioned pursuant to the process set out in our Commission
28 rules.

1 Our rules provide for the first list of questions to be developed
2 consultatively and collaboratively to the extent possible.

3 Commission Counsel will canvas Participant counsel for their
4 questions, in addition to those raised in their recent submissions.

5 Commission Counsel will compile all the questions, many of which
6 will be the same.

7 Additionally, we direct Participant counsel to provide any further
8 questions they wish posed to these witnesses to the Commission Counsel by March
9 16th, 2022.

10 Once Commission Counsel leads the witness through their
11 questions, they will caucus with Participant counsel to see if there are any further
12 remaining questions.

13 As demonstrated by the example of the first technical witness on
14 the 9-1-1 call centre operations on March 1st, 2022, when Participant counsel have
15 additional question to ask the Commissioners -- sorry, to ask that the Commission is to
16 determine are germane to the Mandate, the Commissioners will direct how the
17 questions will be asked.

18 The Commissioners appreciate that several counsel suggested on
19 the record in their submissions in early March that they would be sensitive to the risks of
20 re-traumatizing witnesses as they considered the questions for the witnesses.

21 We now address the remaining eight proposed officers following
22 orders in Portapique. Cst. Vicki Colford. Cst. Colford was one of the first members to
23 Portapique on the night of April 18th, 2020. The Commission has already indicated an
24 interest in hearing from Cst. Colford, specifically regarding containment. We direct that
25 a subpoena be issued. Commission Counsel will make arrangements for her to appear
26 as an individual witness to address her knowledge of this aspect of her involvement at
27 Portapique when we resume proceedings in late March.

28 Cst. Chris Grund. We are not persuaded at this stage that the

1 questions asked by Participant Counsel merit Cst. Grund appearing in public
2 proceedings. We do, however, have further questions with respect to his engagement
3 on the evening of April 18th and 19th. We direct Commission Counsel to gather the
4 questions from Participants as well as our own and seek further information from Cst.
5 Grund. We note that counsel for the Attorney General, Department of Justice Canada
6 and the National Police Federation have offered that all first responders will make
7 themselves available to answer further questions. Once the Commission has had an
8 opportunity to review and share his further statement with Participants, we will seek
9 their feedback on whether they have remaining questions and reassess the need to
10 hear from him in oral proceedings. In addition, we anticipate that the orders made to
11 Cst. Grund with regard to his extraction of the children will be the subject of proceedings
12 related to the RCMP Command Decisions Foundational Document currently scheduled
13 for the last two weeks of May.

14 Sgt. David Lilly. We are not persuaded at this stage that there are
15 any material gaps in the factual record that merit Sgt. Lilly appearing in public
16 proceedings.

17 Cpl. Dion Sutton. We are not persuaded at this stage that there are
18 any material gaps in the factual record that merit Cpl. Sutton appearing in public
19 proceedings. However, we know Participants Counsel submission that it would be of
20 assistance to have further information on Cpl. Sutton's containment efforts given that he
21 was carbine trained and had night vision technology. Any further evidence he could
22 offer beyond the interview already provided to the Commission is inextricably linked to
23 the information contained in the Emergency Response Team Foundational Document.
24 Therefore, any need for oral testimony from him will be assessed when that
25 Foundational Document is addressed, currently scheduled for May 16th, 2022.

26 Csts. Wayne Bent, Nathan Forrest, and Cpl. Jarret MacDonald.
27 We acknowledge that there is currently a lack of information in the Foundational
28 Documents regarding the residence of Cobequid Court as addressed in the

1 submissions of Participant Counsel. Unlike other aspects of what happened in
2 Portapique on the night of April 18th, we do not have contemporaneous records such as
3 radio transmission and 9-1-1 calls that assist us with establishing the facts for the
4 families of Cobequid Court. The next of kin notifications to Families Foundational
5 Document includes some information about the troubling gaps in the evidence related to
6 the Cobequid Court residence. After Participants Counsel have had the opportunity to
7 review that draft Foundational Document, we expect that time should be scheduled in
8 public proceedings to address the questions raised about the evacuation plan in
9 Portapique and the delay in locating these victims. We anticipate that we will want to
10 hear from these three officers by subpoena in relation to this aspect of the factual
11 record.

12 Cst. Jeff MacFarlane. We agree with Participant Counsel that
13 would be of assistance to hear further from Cst. MacFarlane. We direct that an
14 interview be sought and anticipate that the evidence he could offer to the Commission is
15 inextricably linked to the information contained in the Foundational Document about the
16 decommissioned replica cruiser RCMP vehicle. Therefore, any need for oral evidence
17 from him will be assessed when that Foundational Document is addressed, currently
18 scheduled for April 26th, 2022.

19 Donnalee Williston. We note that Ms. Williston provided an
20 interview to the Commission and the contemporaneous call log has been disclosed to
21 Participants. We agree that there are specific questions about the information Ms.
22 Williston received during the 9-1-1 call with Jamie Blair and what information was
23 passed on to dispatch. We direct that Commission Counsel and Counsel for Ms.
24 Williston arrange to have these additional questions addressed by sworn affidavit.

25 S/Sgt. Steve Halliday, S/Sgt. Addie MacCallum, Sgt. Andy O'Brien,
26 S/Sgt. Brian Rehill, S/Sgt. Jeff West. As noted during public proceedings, the
27 Commission has determined it will hear oral evidence from these officers. These
28 witnesses will have information related to all Foundational Documents that relate to the

1 timeline of April 18th and 19th. Therefore, we anticipate hearing from them in relation to
2 the Command Decisions Foundational Document and potentially other Foundational
3 Documents in the second half of May. They will be heard as individual witnesses. And
4 as with other witnesses appearing under subpoena, the Commission's Rules with
5 respect to questioning of witnesses will apply. Again, as with other witnesses being
6 heard from later in the process, that does not foreclose the opportunity to ask questions
7 still outstanding at that point.

8 Cpl. Tim Mills. We agree with Participant Counsel that would be of
9 assistance to have further information from Cpl. Mills. Any evidence he could offer is
10 inextricably linked to the information contained in the Emergency Response Team
11 Foundational Document. Therefore, any need for oral evidence from him will be
12 assessed when that Foundational Document is addressed, currently scheduled for May
13 16th, 2022.

14 Finally, although not the subject of Participants' applications, we
15 advise that we expect certain senior officers to appear as institutional witnesses in order
16 to answer publicly on behalf of the RCMP the significant questions arising from
17 decisions made in relation to the mass casualty. However, we intend to share with the
18 public our understanding of the facts before hearing from those witnesses in order to
19 have the benefit of that factual foundation to ask all the relevant questions. In this
20 category, we anticipate issuing subpoenas to Commissioner Brenda Lucki, Assistant
21 Commissioner Lee Bergerman, Chief Superintendent Chris Leather, and
22 Superintendent Darren Campbell. They will be called as individual witnesses once the
23 Foundational Documents and supporting source material relevant to matters such as
24 command decisions, public communications, emergency alerting, and oversight and
25 accountability are in evidence.

26 Going forward, we will provide Participant Counsel with the names
27 of additional witnesses relevant to Phase 1 Foundational Documents and continue to
28 invite Participant suggestions for witnesses from whom we should hear in Phase 1.

1 I want to thank you, Participants. I want to thank you, Participants
2 Counsel. I want to thank everyone. Today, we continue to make important progress
3 together, firming our plans to call and hear from witnesses, hearing yet another
4 Foundational Document presented, another piece in the larger picture of what
5 happened, and continuing to receive input from Participants.

6 As we have said, the Commission's schedule of proceedings will
7 move forward in the most efficient and timeliest way possible. We will always try to give
8 as much certainty as possible, but also need to be agile in response to new information,
9 submissions and the availability of witnesses and others.

10 And I thank you again, and unless the -- my fellow Commissioners
11 have anything further to add, we will adjourn the -- or break the -- adjourn the
12 proceedings until the 28th of March at 9:30 a.m.

13 And as I said I believe last Thursday, Participants' Counsel and the
14 Commissioners and the Commission team during this pause will be working to continue
15 our efforts to complete Foundational Documents, consult with you and get the best
16 possible factual record we can to create an important foundation so that we can move
17 on to having -- building the -- and answering the questions of why what happened
18 happened and what we can do to make sure that we do our best so that what
19 happened, something like that may never happen again in this country, and thereby, the
20 lives of those who have been lost and those who have been injured and all their families
21 and communities, all that suffering will not have been in vain. Thank you all very much.

22 **REGISTRAR DARLENE SUTHERLAND:** Thank you. The
23 proceedings are adjourned until March the 28th, 2022 at 9:30 in the morning.

24 --- Upon adjourning at 1:03 p.m.

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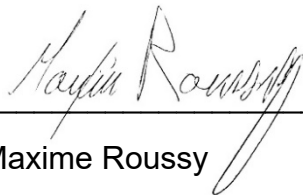
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CERTIFICATION

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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