

**In the Matter of**

**The Joint Public Inquiry into the Nova Scotia April 2020 Tragedy,  
established by the Federal and Provincial Orders-in-Council**

**P.C. 2020-822 and 2020-293**

**(“The Mass Casualty Commission”)**

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**PHASE 2 WRITTEN SUBMISSIONS  
ON BEHALF OF THE ATTORNEY GENERAL OF CANADA**

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## Overview

1. The Mass Casualty was an unprecedented tragedy in Canada and a complex challenge for a law enforcement response. There is no dispute that the response to such an event can never be perfect, and many RCMP witnesses who appeared before the Mass Casualty Commission have agreed that this response was not. Issues have been identified in the Commission's Phase 1 "What happened?" stage of proceedings, and will inform the Commission's recommendations, as well as being proactively examined by the RCMP.
2. The Commission's Phase 2 concerns an examination of "Why it happened," and broadens the scope of the inquiry from the actual events of April 18 and 19, 2020 to questions of history, background, and policy. Such an examination must begin with the fact that the perpetrator was deeply troubled, highly motivated, and clever. He also had significant resources at his disposal. His individual history coupled with a particular sequence of events form the root cause of this Mass Casualty. It is clear from the evidence that the perpetrator exhibited unlawful behaviour over the years, which went largely unreported for a variety of reasons that might have included fear, manipulation, or uncertainty as to whether it rose to the level of reporting.
3. It has often been said in this process that "hindsight is 20/20." It is very easy to unconsciously make judgments based on what we know now. This is equally so with respect to the historical interactions of the perpetrator with law enforcement that significantly predated the Mass Casualty. It is unreasonable to suggest that the risk he posed was knowable or that law enforcement could have averted the Mass Casualty.
4. Answering the "why this happened" as a means of preventing a similar tragedy must involve an analysis of the many reasons that influenced those around the perpetrator not to report his actions over the years, the supports available to victims of intimate partner violence, treatment for perpetrators, and societal attitudes towards the possession of firearms. Many of these issues have been addressed in the Mass Casualty Commission's hearings and suggestions have been made for a path forward.
5. These submissions will focus on the perpetrator and the nature of his limited involvement with law enforcement prior to the Mass Casualty.

### *Perpetrator's Personal History*

6. The unfortunate reality is that the perpetrator was a deeply troubled and contemptible person who also was resourceful and had financial means. He was able to manipulate and control many of those closest to him and helped him avoid close scrutiny and significant police and/or mental health intervention over the years.
7. Three of the foundational documents,<sup>1</sup> provide a detailed account of just some of his disturbing behaviour over much of his adult life leading up to the Mass Casualty. What becomes clear in reviewing the evidence is that the perpetrator was controlling and violent towards his common law partner over the many years of their relationship to the point where she was too afraid and traumatized to seek help. The evidence also demonstrates that he targeted vulnerable and/or marginalized people for his own gain, relying on them not being comfortable enough to come forward and report their interactions with him.
8. The perpetrator was also able to accumulate numerous firearms illegally. His possession of firearms, including high powered rifles and handguns was known to many in the community, but not reported. There were some who did not report it out of fear. For others, his outward appearance as an affable member of society, might have led them to a faulty risk assessment. It could also have been due in part to more relaxed attitudes towards firearms in rural areas.
9. It is only post Mass Casualty that a cumulative picture of the perpetrator's troubling history takes shape, of his abusive childhood, his negative peer interactions, his criminal activities, and his deeply misogynistic attitude towards women.<sup>2</sup> These factors no doubt played a role leading up to the events of April 18<sup>th</sup> and 19<sup>th</sup>, 2020 but there was not enough information known to one person or entity to be able to see this whole picture clearly and contemporaneously and predict what was to occur. Nor was there enough

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<sup>1</sup> See the Commission's Foundational Documents "Perpetrator's Violence Towards his Common-Law Spouse", COMM0059740; the "Perpetrator's Violent Behaviour Towards Others", COMM0059623; and "Firearms", COMM0056215.

<sup>2</sup> *Ibid.*

information for the police to have intervened to prevent the perpetrator from commencing his rampage.

10. The lack of reporting over the years was an issue. It was an issue for him as a child in a violent home, for his intimate partners subjected to his frightening and controlling behaviour and for those in his community who knew about his possession of firearms. The failure to report speaks to broader more ingrained societal issues about abuse, intimate partner violence, and attitudes towards firearms. It also speaks to a general apprehension about reporting illegal activity, a fear of possible retribution, or of causing more harm through reporting.
11. In order to provide meaningful recommendations, consideration needs to be given to how to address these issues. We must critically examine the suggestion that law enforcement had grounds for such intrusive intervention as searching the perpetrator's properties, based on the limited interactions they had with the perpetrator over the years and the legal constraints within which law enforcement agencies operate.<sup>3</sup> Future recommendations must take account of these legal constraints in order to be workable and effective.

### ***2010 Complaint Could Not Ground a Warrant***

12. While it is now known that the perpetrator had a history of assaultive and abusive behaviour, few reports were made to police before the Mass Casualty. Despite efforts by both the Halifax Regional Police (HRP) and the RCMP when advised about the perpetrator threatening to kill his parents, ultimately, there was not enough recent and direct evidence about the perpetrator's possession of firearms to secure a public safety warrant.

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<sup>3</sup> *R. v. Mann*, 2004 SCC 52 at para. 35, where the Supreme Court of Canada held: "Police powers and police duties are not necessarily correlative. While the police have a common law duty to investigate crime, they are not empowered to undertake any and all action in the exercise of that duty." See also: *R. v. Simpson* (1993), 12 O.R. (3d) 182, 79 C.C.C. (3d) 482, 1993 CanLII 3379 (C.A.).

13. An application for a section 117.01(4) public safety warrant must include information that is recent enough to satisfy the issuing justice that it is probable that the thing(s) sought will still be at the location. Mere possibility will not satisfy this threshold.
14. On June 1, 2010, the perpetrator made a threat to kill his parents. The perpetrator was intoxicated and angry about a property matter connected to his parents. The perpetrator said he was going to drive from Nova Scotia to his parents' home in New Brunswick and kill them. This threat was communicated by the perpetrator to his uncle Glynn Wortman. News of the perpetrator's threat spread throughout the family, including to the perpetrator's father, Paul Wortman.<sup>4</sup>
15. In the early morning hours of June 2, 2010, Glynn contacted the Codiac RCMP Detachment in New Brunswick to report the perpetrator's threat. Paul also reported the threat to the Codiac RCMP that same morning.
16. Cst. Vickers of the Codiac RCMP obtained a statement from Paul. He learned of two possible Nova Scotia addresses for the perpetrator, one in Dartmouth (the denture clinic) and a second in the area of Bible Hill. Cst. Vickers also learned that the perpetrator may be in possession of "several long barreled weapons".<sup>5</sup>
17. Cst. Vickers called HRP to report the threat and spoke with Sgt. Poirier. He and Cst. Chaulk proceeded to the perpetrator's Dartmouth address where, at approximately 3:25 am, they spoke with Lisa Banfield. HRP records state that Ms. Banfield advised that the perpetrator became upset about a lengthy legal battle he had with his parents. He began drinking and called Glynn to vent his anger and frustration. During this conversation with HRP, it was noted that "Ms. Banfield would not confirm or deny that he made the threat to kill his parents" and that "if he did it was only because he was angry".<sup>6</sup>

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<sup>4</sup> Profile for the perpetrator, pp. 45-46, COMM0003550.

<sup>5</sup>Ibid., at p. 46.

<sup>6</sup> Ibid.

18. Importantly, Ms. Banfield advised HRP there were no weapons in the house.<sup>7</sup> The Canadian Firearms Registry Online query yielded negative results for any firearms registered to the perpetrator.<sup>8</sup>
19. After this discussion with Ms. Banfield, HRP assumed carriage of the investigation as the call by the perpetrator threatening his parents originated in Dartmouth, NS. In the following days, HRP made attempts to communicate directly with the perpetrator.<sup>9</sup>
20. On June 7, 2010, the perpetrator phoned HRP Sgt. Poirier from a blocked number. On the topic of the threat, the perpetrator said that he was upset, had been drinking, and called his uncle Glynn. HRP reports state that the perpetrator would neither admit nor deny making the threat. When asked if he was in possession of any firearms, the perpetrator stated that he had a pellet rifle as well as two inoperable antique muskets. The perpetrator refused a face to face meeting.<sup>10</sup>
21. RCMP Cst. Greg Wiley worked at the Bible Hill Detachment at the time and knew the perpetrator as a community policing contact. On June 8, 2010, Sgt. Poirier spoke with Cst. Wiley. Cst. Wiley advised that he knew of the perpetrator's "family situation" and that it had been causing him stress. Cst. Wiley also shared that he had been to the perpetrator's cottage in Portapique "on a number of occasions" and had never seen a firearm. Cst. Wiley told Sgt. Poirier that he would attempt to meet with the perpetrator at his cottage and speak with him about this complaint.<sup>11</sup>
22. On July 15, 2022, Lisa Banfield testified that Cst. Wiley came to the Portapique cottage after the uttering threats complaint to ask about the presence of firearms.<sup>12</sup> It is expected that Cst. Wiley will share his recollections from that time frame during his upcoming testimony on September 6, 2022.<sup>13</sup>

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<sup>7</sup> Ibid., at p. 47.

<sup>8</sup> Ibid., at pages 48-49.

<sup>9</sup> Ibid., at pages 46-47.

<sup>10</sup> Ibid., at page 49.

<sup>11</sup> Ibid., at page 50.

<sup>12</sup> Lisa Banfield's Testimony, July 15, 2022, p. 71

<sup>13</sup> Ibid.

23. Efforts were made to contact Glynn Wortman on at least six occasions, however none of the HRP's calls was answered or returned. On June 8, 2010, Sgt. Poirier was able to connect with Paul Wortman, who explained that Glynn was an alcoholic and no longer answered his phone, communicating only by computer. Paul also told Sgt. Poirier that his other two brothers had sided with the perpetrator. Although Paul was of the belief that the perpetrator would still be in possession of firearms, the last time he had seen them was over five years before. Given his deteriorated relationship with the perpetrator, Paul did not have recent knowledge on whether his son was in possession of any firearms.<sup>14</sup>
24. Subsection 117.04(1) of the *Criminal Code* enables police to apply to a justice for a warrant to search for and seize any weapon, including firearms, if there are reasonable grounds to believe that continued possession of weapons by the suspect poses a risk to public safety.<sup>15</sup>
25. The preconditions for obtaining a public safety warrant must include information that is recent enough to satisfy the issuing justice that it is probable that the things sought will still be at the location, and not that it is merely possible that they are still there. While such information may be based on hearsay and scrutinized less than information provided by a confidential informant for the purpose of meeting the preconditions for obtaining a section 487 warrant, the affiant must exercise discretion and fairness with respect to the information they include in their application for such a judicial authorization.<sup>16</sup>
26. Without any direct evidence confirming that the perpetrator was recently in possession of firearms, Sgt. Poirier reasonably concluded that grounds for a public safety warrant were not satisfied.<sup>17</sup>In a demonstration of due diligence, Sgt. Moser of the National Weapons Enforcement Support Team (NWEST) was consulted and agreed that there was insufficient evidence to secure a warrant.<sup>18</sup>

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<sup>14</sup> Profile for the perpetrator, at pages 49-50, COMM0003550.

<sup>15</sup> *R. v. Denechezhe*, [2021 YKTC 45](#), paras. 8-9, 40-42.

<sup>16</sup> *R. v. Denechezhe*, [2021 YKTC 45](#), paras. 40, 41, 61 and 62.

<sup>17</sup> Profile for the perpetrator, page 51, COMM0003550.

<sup>18</sup> *Ibid.*, at page 51.

### *2011 CISNS Bulletin*

27. The 2011 Criminal Intelligence Service Nova Scotia (CISNS) bulletin did not provide a basis for the RCMP or any other policing agency to take enforcement action against the perpetrator. The police response should not be viewed through the lens of what we know now about the perpetrator, but what was known then.
28. On May 3, 2011, Corporal Greg Densmore of the Truro Police Service (Cpl. Densmore) received information from an unknown source that the perpetrator wanted to kill a cop. The source also claimed that the perpetrator was in possession of a handgun that he was transporting from his residence in Dartmouth to his cottage in Portapique, as well as several long rifles stored in a concealed location at the cottage.<sup>19</sup>
29. Cpl. Densmore created a source debrief report regarding the information he had received and filed it in the TPS database on the topic of “officer safety”.<sup>20</sup> As the perpetrator had previously been investigated for uttering death threats against his parents the year before, he also reached out to the HRP directly that same day and shared his source debrief document with S/Sgt. Bill Morris.<sup>21</sup>
30. Sgt. Poirier, who had investigated the uttering threats complaint the year before, read the source debrief that was provided to S/Sgt. Morris. That same day, he reached out to the perpetrator’s father who expressed concern about his son’s mental state. Paul Wortman reported that he was a heavy drinker who “likely” had weapons at his cottage. Sgt. Poirier went to the perpetrator’s business but no one was there. He then contacted the Bible Hill detachment of the RCMP to advise them of the situation and spoke with Cst. John MacMinn. He advised him of the bulletin and the previous year’s investigation as well as the fact that he had asked Cst. Wiley to do a check.<sup>22</sup>

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<sup>19</sup> Cpl. Densmore’s Report COMM0006671, p.5.

<sup>20</sup> Ibid.

<sup>21</sup> Profile for the perpetrator, at pp. 55-57, COMM0003550 at pp. 55-57.

<sup>22</sup> Profile of the Perpetrator, pp. 55-57, COMM0003550. See also the Supplemental Report of the HRP, COMM0038523.

31. Cst. MacMinn has no specific recollection of the call with Sgt. Poirier but says that if he was asked to relay a message to Cst. Wiley, he would have. He does remember going to the perpetrator's home with another member, in an unmarked car, and in plain clothes (due to the nature of the bulletin), to investigate but found no one home.<sup>23</sup> There is also evidence that Cst. MacMinn conducted a Canadian Police Information Centre (CPIC) check the same day he spoke with Sgt. Poirier, which was likely done in advance of his visit to the perpetrator's home.<sup>24</sup> Cst. MacMinn says that if he had sufficient information, he would have taken enforcement action.<sup>25</sup>
32. On May 4, 2011, Cpl. Densmore initiated a Criminal Intelligence Service Nova Scotia (CISNS) bulletin, which would have been disseminated to policing agencies across the country through the CIIDS system.<sup>26</sup>
33. Given the retention policy for PROS reports of this nature, even had a file been created by Cst. Wiley or Cst. MacMinn, it would have been purged long before the Mass Casualty occurred.<sup>27</sup> Retention policies are designed to balance privacy interests with operational needs.
34. According to Cst. Wiley's interview with the Commission, he does not recall a conversation with Sgt. Poirier or with Cst. MacMinn about the perpetrator. He cannot recall being asked to go speak with the perpetrator, although he says if he agreed to do it, he would have.<sup>28</sup> As noted above, Ms. Banfield does recall Cst. Wiley coming to the cottage at some point to ask about whether the perpetrator had firearms there.
35. The suggestion has been made that the existence of the bulletin on the heels of the 2010 investigation was a missed opportunity for law enforcement to take action. This is not legally tenable, and had there been a legal basis for police agencies to intervene, there

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<sup>23</sup> See the email attaching the written answers to questions by retired Cst. John MacMinn, COMM0058993 and COMM0058994.

<sup>24</sup> Offline Database Queries for Lisa Banfield and the perpetrator, COMM0014702.

<sup>25</sup> See the email attaching the written answers to questions by retired Cst. John MacMinn, COMM0058993 and COMM0058994.

<sup>26</sup> 2011 CISNS Intelligence Bulletin, May 4, 2011, COMM0006667. See also 2011 CISNS Bulletin Guidelines, COMM0020468.

<sup>27</sup> See the policy at IMM-ch.2.3 at COMM0039822 and its appendix at COMM0051061.

<sup>28</sup> Transcript of Cst. Wiley's interview with the Commission, COMM0004021, at pp. 50-54.

was clearly a willingness to do so. Cpl. Densmore made efforts to advise others of the source information he received. Sgt. Poirier, who had investigated him less than a year earlier, had serious concerns, but lacked a basis to take more concrete action.

36. The RCMP were in the same situation. There was only a tip from an unknown source provided to another policing agency. While an affiant can rely on hearsay evidence, it would be double hearsay in this case. Further, there was no ability for the affiant to attest to the reliability or credibility of the information, and no information as to the source or currency of the informer's knowledge.<sup>29</sup>
37. The uttering threats investigation the previous year and Paul Wortman's continuing suspicions about his son in 2011 does not cumulatively lead to reasonable grounds for a warrant. Sgt. Poirier noted that the family was dysfunctional and had very little contact with each other, which would arguably impact the credibility, reliability and currency of his father's assertions.<sup>30</sup>
38. Further, without more knowledge about the source of the anonymous information, taking further steps in response to the confidential tip could very well in itself have exposed the existence and identity of the informant to the perpetrator.<sup>31</sup>
39. Policing agencies must always keep in mind individual rights, enshrined in the *Charter* and in jurisprudence. An anonymous tip, even coupled with the general concerns raised by the perpetrator's father, is not enough to ground a warrant to search the perpetrator's cottage. The 2010 complaint and the bulletin implicated several policing agencies and their ability to take further action was similarly limited.
40. The reality is that police action and intervention is dependent on the information they receive. The more information policing agencies have, and the reliability and recency of that information, impacts their ability to respond.

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<sup>29</sup> *R. v. Dagenais*, 2015 SKQB 104, at para. 32; *R. v. Denechezhe*, [2021 YKTC 45](#).

<sup>30</sup> Supplemental report of HRP Sgt. C. Poirier, COMM0038253.

<sup>31</sup> *R v Leipert*, [1997] 1 SCR 281 at paras. 32 and 34.

### *2013 Complaint by Brenda Forbes*

41. The suggestion that the RCMP could or should have done more in response to the complaint made by Brenda Forbes in 2013 is based on the disputed premise that she had made a complaint of domestic assault by the perpetrator against his common law spouse.
42. Following the Mass Casualty, Ms. Forbes said that in 2013, she reported an alleged assault against the perpetrator's common law spouse, Lisa Banfield. According to her evidence, during the summer of that year, Glynn Wortman told her about an incident that he had witnessed where the perpetrator assaulted Ms. Banfield in front of him and others. Glynn allegedly told her that the perpetrator had beaten Ms. Banfield and choked her during the incident. Ms. Forbes said she called the RCMP but could not recall if she called the RCMP detachment or the Operational Communications Centre (OCC).<sup>32</sup>
43. Ms. Forbes claims that in response to her report, two male RCMP officers came to her workplace to speak to her. She says they asked if Glynn would talk to them about the alleged assault, so she called Glynn and put him on speaker phone and asked him if he would talk to the RCMP. He refused, stating that he was afraid the perpetrator would kill him as the perpetrator allegedly said he had killed someone in the US. She also said that she told the RCMP that the perpetrator had illegal firearms. Ms. Forbes said the RCMP members told her that there was not much they could do because they did not have Ms. Banfield's side of the story and the information about the weapons was dated, but they would keep an eye on him.<sup>33</sup>
44. Ms. Forbes's assertions must be considered in light of the contradictory evidence about the nature of her complaint, which is evidenced by the fact it was coded as "causing a disturbance" by the OCC.<sup>34</sup> While the RCMP's PROS file on this occurrence was purged after two years<sup>35</sup>, what remains is contemporaneous evidence regarding the coding of the

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<sup>32</sup> Statement of Brenda and George Forbes provided to the RCMP on May 14, 2020, pp. 27-29, 14, 20, COMM0011718.

<sup>33</sup> Statement of Brenda and George Forbes provided to the RCMP on May 14, 2020, COMM0011718, pp. 27-28.

<sup>34</sup> RCMP Task Action Report, June 3, 2020: COMM0011704 at p.2. See also the email from Cpl. McKay dated June 18, 2020 at COMM0011711

<sup>35</sup> Cite the RCMP policy on retention of PROS' files - COMM0051061.

call, which does not reflect that it was in respect of a domestic violence complaint or firearms. There would be no basis to record such a significant complaint as “causing a disturbance” particularly given the other available codes and the policies and protocols in place for investigating such complaints.<sup>36</sup>

45. The responding member, Cst. Troy Maxwell, also gave evidence. While his recollection of the complaint is limited, his notes make no reference to an allegation of a domestic assault.<sup>37</sup> He did testify that his first step in responding to the call would have been to call the complainant, to get as much information as he could.<sup>38</sup>
46. Cst. Maxwell believes Ms. Forbes told him about the perpetrator driving around the neighbourhood erratically. He believes the reference in his notes to her name and date of birth as well as a phone number reflect this call. His notes refer to “Glynn [sic] Wortman and Richard Ellison.” The name “Lisa” is also in the margin of his notes. He testified that while his notes regarding the complaint are limited, he likely would have entered more detail in the actual PROS file.<sup>39</sup>
47. Cst. Maxwell said that after speaking to Ms. Forbes, he would have tried to go to Portapique to see if he could catch the perpetrator in the act of driving around the neighbourhood erratically. He cannot remember if he went to Portapique that day or another day during that block of shifts, but he remembers going. He remembers it being dusk as the lights were just turning on, and that he went with another member.<sup>40</sup>
48. Cst. Maxwell testified that when he went to the perpetrator’s door and knocked, no one answered. Cst. Maxwell says he thinks he called the perpetrator and either spoke to him or left him a message on his phone. He then decided that as he had no evidence, he

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<sup>36</sup> RCMP Standard Operating Procedures, COMM0055936, see pp.106-109 for example.

<sup>37</sup> Handwritten notes of Cst. Maxwell, COMM0011709.

<sup>38</sup> Cst. Maxwell’s testimony before the Mass Casualty Commission, July 18, 2022, p. 25, lines 8-25.

<sup>39</sup> Cst. Maxwell’s testimony before the Mass Casualty Commission, July 18, 2022, pp. 25-31.

<sup>40</sup> Cst. Maxwell’s testimony before the Mass Casualty Commission, July 18, 2022, pp. 25-31.

would be closing the file. He said he went to see Ms. Forbes to tell her. He distinctly remembers going to see her to tell her he would not be laying any charges.<sup>41</sup>

49. Cst. Maxwell has no recollection of any allegations of domestic abuse or that the perpetrator owned firearms. He said if there had been such allegations, his approach would have been different and would have involved a closer examination by him and oversight by his supervisor.<sup>42</sup>
50. Ms. Forbes' account of her complaint does not correspond to the way her initial call was coded, nor with the RCMP's response. Given the RCMP's policy and protocol with respect to responding to intimate partner violence, there is no basis to conclude that the RCMP simply chose not to respond to what would have been a serious allegation.
51. With the passage of time, Ms. Forbes' recall of her complaint may be clouded with the knowledge of the violence eventually carried out by the perpetrator during the Mass Casualty. She was clearly afraid of him during her years in the Portapique area, she knew he was abusive towards his common law partner, and she knew he had firearms in his possession. She is not alone in her fear, which was, with the benefit of hindsight, clearly well founded. However, also significant is the overall hesitation or inertia that led many within the community not to report the perpetrator's actions in the years preceding the Mass Casualty.

### *Perpetrator's History with CBSA*

52. There may be a misconception that Canada Border Services Agency ("CBSA") had certain firearms-related concerns linked to the perpetrator prior to the Mass Casualty event of April 2020. The CBSA has no records of specific concerns linking the perpetrator to the smuggling of firearms prior to the April 2020 mass shooting, and the

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<sup>41</sup> Cst. Maxwell's testimony before the Mass Casualty Commission, July 18, 2022, pp. 36-42.

<sup>42</sup> Cst. Maxwell's testimony before the Mass Casualty Commission, July 18, 2022, pp. 55-63. See also Cst. Maxwell's interview with the Commission, dated April 29, 2022, at pp. 8-11, COMM0057751.

Agency had never received information or issued “lookouts” specific to firearms-related concerns prior to April 2020.<sup>43</sup>

53. A "Lookout" is a document issued by CBSA designed to identify a person, corporation, conveyance or shipment that, according to various risk indicators or other available intelligence, may pose a threat to the health, safety, security, economy, or environment of Canada and Canadians.
54. In 2010, the perpetrator and Lisa Banfield were identified within a larger CBSA Atlantic Region Intelligence list of individuals as part of Project Frequent Flyer based on frequent travel to Jamaica and/or the Dominican Republic, both drug-source countries of concern for the CBSA. A related Lookout was issued as part of this project in order to refer the associated individuals for secondary examination. Such a Lookout would normally expire after 180 days, unless manually expired by CBSA personnel.<sup>44</sup>
55. As a result of this Lookout, the perpetrator and Lisa Banfield were sent for secondary examination twice, with no seizures or reports being made. Following the two non-resultant examinations, on April 26, 2010, they were removed from the Project Frequent Flyer Lookout by the intelligence officer leading this project.
56. On April 23, 2016, an officer from United States Customs and Border Protection (USCBP) called the CBSA Port of Entry (“PoE”) at Woodstock, New Brunswick to inform them that, while conducting an export examination, they suspected that the exporter, the perpetrator, was undervaluing the price of four motorcycles that he had purchased in Florida and was now exporting to Canada. The term “undervaluing” indicates that an individual is declaring a purchased good but is attempting to lower or obfuscate the real purchase price in order to avoid the payment of duties and taxes.
57. Based on the information from the USCBP, the perpetrator was examined in secondary at the PoE. He provided documentation for the purchase of the four motorcycles; however, he did not allow the BSO to look at his eBay account to verify the prices. No seizures

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<sup>43</sup> For paras 51-65, Affidavit of Eric Levac, sworn September 1, 2022.

were conducted as a result of this examination, however a report was filed in the Occurrence Reporting System (ORS).

58. Following the ORS report, Lookout #1114-16-0077 for “Smuggling (Customs)” under the Customs Act was issued by CBSA Atlantic Region Intelligence for him to be referred for further examination due to the suspicion of his undervaluing imported motorcycles and ATVs. Attached as Exhibit C to this affidavit is a copy of Lookout #1114-16-0077.
59. The first secondary examination of the perpetrator, as a result of the Lookout, occurred on July 31, 2016. Due to issues pertaining to the importation of some auto equipment, on this day, the perpetrator was encountered and examined three times.
60. On August 2, 2016, September 4, 2016, and September 25, 2016 the perpetrator was encountered at a St. Stephen, New Brunswick PoE, and referred again for secondary examination, as a result of the same Lookout. No seizures or ORS reports were filed as a result of these examinations.
61. On November 19, 2016 at the Woodstock, New Brunswick PoE, the perpetrator was encountered and referred for secondary examination as a result of the same Lookout. During this examination, the perpetrator inquired as to why he was being sent for secondary examination even though he was a NEXUS card holder and had never had any enforcement action taken against him.
62. The perpetrator declared he was importing a motorcycle following a 48 hour absence from Canada. The perpetrator stated that he believed someone was “targeting him” as he had never “done anything wrong” and that he had always properly declared his goods. The examining BSO advised the perpetrator that this was a routine examination and verification of the motorcycle was a necessary step. The examination was completed and no further issues were identified. No seizures or ORS reports were filed as a result of this examination.
63. Following these seven non-resultant encounters, the Lookout on the perpetrator was expired on November 21, 2016 by CBSA Atlantic Region Intelligence. A detailed review of records going back to 1995 was conducted within ICES, including Lookouts

potentially left in the pending (non-active) stage. The search did not reveal any other Lookouts on the perpetrator.

64. From November 19, 2016 until April 2020, the perpetrator entered Canada 21 times. He was referred for secondary examination five more times based on “Selective” referrals from the Primary Inspection Line (PIL). All of these referrals happened at the Woodstock PoE on the following dates: August 19, 2018; September 27, 2018; November 11, 2018; May 11, 2019; and, June 1, 2019. No seizures or ORS reports were filed as a result of these examinations.
65. On August 31, 2019, the perpetrator was referred for secondary examination based on a “Mandatory Referral.” (This was not a referral based on a Lookout or a Target.) A traveler declaring a value of imported goods above their applicable exemption, and therefore needing to pay applicable duties and taxes prior to leaving the port of entry, is one reason for which officers would make a mandatory referral. Records show the perpetrator paid duties and taxes on this date. No seizure or ORS report was filed as result of this referral.
66. The CBSA has no record of specific concerns linking the perpetrator to the smuggling of firearms prior to the April 2020 mass shootings, and the Agency had never received information or issued Lookouts specific to firearms-related concerns prior to April 2020.
67. Absent any intelligence received with respect to the perpetrator smuggling illegal firearms, or contraband weapons being discovered in routine searches during border crossings, CBSA would not be able to intervene to intercept such illegal weapons at the border. It is clear that the only information CBSA received in relation to possible illegal activity on the part of the perpetrator pertained to undervaluing imported motorcycles.

## **Conclusion**

68. It is important to be mindful of the tendency to review events such as these through the lens of what we know now, as opposed to what was known then. Each of these events, in the context of what was known at the time it occurred, did not rise to the level of information that would ground a warrant or a charge. All the events, taken individually

or together, would not have justified a different police intervention before the shooting. Similarly, unless CBSA was aware of information that could legally give rise to more stringent scrutiny of the perpetrator specifically in relation to firearms, they were not in a position to intercept illegally smuggled weapons, except by chance.

69. In hindsight, it is easy to view past interactions between law enforcement agencies and the perpetrator as opportunities to alter the course of events that led to the Mass Casualty, but the evidence shows that the actions of law enforcement agencies were reasonable based on the information available to them at the time.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

**DATED** at the City of Halifax, in the Province of Nova Scotia, this 2<sup>nd</sup> day of September, 2022.



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