



**IN THE MATTER OF**  
the *Fatalities Investigation Act*, and the  
*Provincial Offences Act*, Part IV (Inquiries)

**AND IN THE MATTER OF**  
an Inquiry by His Honour (former Chief) Judge  
Donald S. Luther of the Provincial Court of  
Newfoundland into the death of Norman Reid on  
26 August 2000 at the Community of Little Catalina  
Province of Newfoundland and Labrador, Canada

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**WRITTEN ARGUMENT**

*(on behalf of Royal Canadian Mounted Police and Cst. John Daley)*

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**VOLUME 1 – ARGUMENT**

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## **PART I – EXECUTIVE SUMMARY**

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A male adult civilian, Norman Reid, was pronounced dead at the hospital in the Town of Bonavista (“Bonavista”), Province of Newfoundland and Labrador (“Newfoundland”) on 26 August 2000 (“the death”). Death resulted from pistol injuries he sustained earlier same day during a perilous confrontation he initiated and pursued with three Royal Canadian Mounted Police (“RCMP”) Constables, lawfully engaged in discharge of their duties – responding to a complaint against Mr. Reid – at the Town of Little Catalina (“Little Catalina”). The confrontation culminated, without warning from Norman Reid, with his abrupt hatchet attack against one of the Constables who, inescapably, necessarily, and lawfully, answered Mr. Reid’s lethal force with lethal force.

While sympathetic, especially to the family of Norman Reid, RCMP and the three Constables submit Mr. Reid’s death was legally and humanly unpreventable, unpredictable, and unavoidable by them.

Collectively, the three involved RCMP Constables – John Daley, John Thomas Graham and John Malinay (“the three responding RCMP Constables”) – were exceptionally trained, motivated, experienced, and dedicated.

They responded expeditiously, efficiently and prudently to a complaint that Norman Reid threatened grave, potentially-fatal harm to some children in Little Catalina. Their police conduct

memorializes the appropriate law enforcement response to circumstances such as confronted them on 26 August 2000 at Little Catalina.

Having promptly responded, to investigate the complaint against Norman Reid; having located Mr. Reid on the bridge adjacent to his property's Little Catalina residence on Forest Road; and having observed Mr. Reid arm himself with a hatchet, the three responding RCMP Constables established a perimeter outside his property which, optimally, contained him and afforded safety to the gathering public and to police, on a bright August afternoon.

Norman Reid was tormented by acute, sometimes florid, mental illness. The illness was, then, irregularly if ever self-medicated to control his behavioural accesses, although medically prescribed. His was a solitary existence. He lived in spartan shelter unserved by hydro or water; dieting, largely, on tinned staples and tobacco, funded from woefully inadequate state allowances. Not infrequently, he was shunned, feared, derisively-treated, and physically mistreated by some civilians, including some family members, in Little Catalina and elsewhere. He was poorly understood. He lacked affection.

He critically wanted for consistent, effective state-provided social, mental and psychological, economic, and intellectual support, therapy, assistance, and supervision. This, despite discreet attention shown him by some professionals and public servants functioning in an overburdened and overwrought state system, and by a few of his family and acquaintances, and, by no means least, by RCMP. He lurched through a justice system whose laws, processes and resources, while always affording him legal representation and always granting him opportunity

for full answer and defence, were not equal to, and sometimes were inappropriate for or failed appreciation of, his needs.

There were some years – from onset of his mental illness at about 18 years old to his untimely passing at 43 years old – when the most human company, sometimes the only company, he experienced was Waterford Hospital mental health treatment facilities staff and RCMP Constables.

Cumulatively, the vicissitudes of his mental and psychological health and his social, economic, and intellectual condition caused him – intermittently, precipitously, incomprehensively – to behave aberrantly. The challenge of trying to predict his behaviour was, metaphorically, equivalent to “pushing an elephant up the stairs”. When severe, his aberrant behaviour sometimes engaged mental health law and, occasionally, criminal law. In these engagements, RCMP became society’s last resort, often only resort, for responding to his behaviour. Consequent application of law sometimes restricted his freedom, thus serving his best interests. Crevices in the law restored his freedom; often depreciating his best interests.

Not infrequently, due to default or dereliction of obligations of other state institutions and persons primarily and essentially responsible for Norman Reid, and due to the law’s shortcomings, the RCMP, for brief interludes became his *de facto* informal guardian; seeking to compassionately and cautiously protect him from himself, not to mention some among the public.

A panoply of state institutions and agencies, including the Newfoundland legislature, were legally and/or morally liable for the welfare of Norman Reid; liable to help him to help himself; through legislation, programs and services. Particular persons from these institutions and agencies sought faithfully to help him. Collectively, however, the state failed him; less due to conscious acts of omission or commission than due to oversight and underfunding.

Only RCMP was consistently on watch. Only RCMP always answered the call of duty. And, in doing so, RCMP expanded the definition of duty. Remember the Bonavista RCMP Constables who, for example, initiated a Norman Reid firearm's possession prohibition inquiry and drew up the requisite legal documents (Cst. Jeffrey Robert Curiston)? encountered violence with weapons in arresting Norman Reid (Sgt. Frederick Douglas Hildebrand and Csts. Howard Fitzpatrick, John Malinay and Curiston)? treated Norman Reid with the empathetic concern of a social worker or a psychologist (Cst. John Daley); alerted all RCMP personnel in Bonavista District of his abiding concerns about Norman Reid and his welfare, based on thorough research, discussion with fellow Bonavista RCMP Detachment members, monitoring of some Norman Reid legal proceedings, and consultation with the Director of Public Prosecutions (Cst. John Thomas Graham)? liaised with Bonavista Peninsula community social and health care representatives and participated in privately-organized committees whose *raison de'être* embraced mentally-ill, including Mr. Reid (Cpl. Rupert Baker and all of his Bonavista RCMP Constables)?

On 26 August 2000, at Forest Road, Little Catalina, Norman Reid's countenance, actions, and language – as he stood on and roamed his bridge to his residence on his property inside his fence in his world – were aggressive, threatening, and incongruous.

On the RCMP perimeter, the three responding RCMP Constables exhibited commendable discipline, restraint, patience, pluck, sensitivity, co-ordination, and co-operation. Their deportment mirrored a history of RCMP efforts to constructively and commiseratively deal with Norman Reid.

While Cst. Malinay provided cover, Cst. Daley and Cst. Graham, in tandem, focussed on Norman Reid. Tirelessly, they cajoled and counselled, pleaded and appealed, implored and importuned; begged and bargained. These conciliatory interventions nearly defused, harmlessly, Mr. Reid's armed confrontation of the RCMP.

The circumstantial exigencies of geography, accumulating civilian curiosity, and limited immediately-available police personnel; and the patent impossibility of forecasting Norman Reid's behaviour: these factors informed and challenged the three RCMP Constables' response. Nonetheless, their response was carefully-measured, both proactively and reactively; depending on the attitudes and actions of Mr. Reid.

Ultimately, however, the RCMP's valiant presence - attempts to persuade, commands to behave, deployment of pepper-spray, retractable stick array, and service pistol display - individually and collectively proved impotent.

Abruptly, at a time he consciously chose or his delusions dictated, Norman Reid, hatchet held over his right shoulder, bolted down his bridge steps and then, rapidly, turned, and closed the short distance toward Cst. Graham. He spurned Cst. Graham's clear, simple, sharp, repeated, verbal entreaties to "stop, stop, stop". Mr. Reid reached certain cutting-edge range of Cst.

Graham. For his part, Cst. Graham courageously stood his ground, as legal duty obligated him; in concert with Csts. Daley and Malinay.

RCMP's abiding obligations to public and police safety now, undeniably, trumped RCMP's considered anxiety for Norman Reid. RCMP was the last line of civilian defense.

What Norman Reid then intended was beyond the capacity of Cst. Graham, of anyone temporally, to devine, much less know. What Cst. Graham was, unquestionably, justified in presuming was that the probable outcome of Mr. Reid's actions, as he ran toward Cst. Graham, if not spannered by Cst. Graham in the line of police duty, was Cst. Graham's homicidal death.

Response filtered by antiseptic hindsight detachment and force measured with surgical exactitude cannot be demanded, and is not legally expected, of police in the presence of an uplifted, onrushing, sharp-edged hatchet.

As last resort, as only resort, as unavoidable resort, as his life-preserving imperative, Cst. Graham reluctantly stopped Norman Reid with his service pistol.

The legislated mandatory terms of reference of the resulting Inquiry and the response to them of the RCMP and Cst. John Daley are as follows:

- (a) the identity of the deceased: Norman Edward Reid.



- 
- (b) the date, time and place of his death: 26 August 2000, before 5:00 p.m., at Little Catalina or Bonavista, Province of Newfoundland.
- (c) the circumstances under which the death occurred: In response to a Little Catalina resident's telephoned complaint to the RCMP that Norman Reid had threatened to cut some children's throats, three responding RCMP Constables from Bonavista Detachment patrolled to Little Catalina and debarked from their two police cars. While walking up Forest Road toward Norman Reid's residence, to investigate the complaint, they were confronted by Norman Reid, waving a hatchet from his residence bridge. In defense of themselves and for protection of the Little Catalina public, the three responding RCMP Constables drew their service pistols. After about 10 minutes of communication with one or another of the three responding RCMP Constables, and while communication was in progress, Norman Reid unpredictably, abruptly, and fluidly bolted from his bridge toward one of the three Constables, leaving that Constable no legal, circumstantial or moral alternative to stopping Norman Reid with his service pistol.
- (d) the cause of death: From page 1 of the 24 January 2001 Autopsy Report of the autopsy performed on the deceased Norman Reid, by the Office of the Chief Medical Examiner (Exhibit SA #1): "Exsanguination [blood loss] due to multiple gun shot wounds of the torso and extremities."

- (e) the manner of death: Again from page 1 of the Autopsy Report: “homicide”; a legally neutral term which, in this instance, describes a life unavoidably ended in self-defense.

Should the Inquiry Judge exercise his statutory discretion to, additionally, make preventive recommendations (i.e., for preventing a similar death), he needs to direct the recommendations, exclusively, to the provincial legislature and to provincial state departments and agencies charged by statute with responsibility for the welfare – the social, mental and psychological, economic, and intellectual condition – of the Newfoundland general public, and the mentally ill in particular.

The critical circumstances that confronted the three responding RCMP Constables on 26 August 2000 on Forest Road in Little Catalina could not be clinically replicated in their police training. Unless the Inquiry evidence supports material oversights in RCMP response to Norman Reid, and does so by a clear and convincing preponderance of evidence – none exists – counsel for RCMP and Cst. John Daley submits: walk a mile in their boots before you choose to rebuke.

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## **PART II.1 – INQUIRY**

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### **A      Origin Of Inquiry**

A male adult civilian, Norman Reid, was pronounced dead at the hospital in Bonavista, Newfoundland on 26 August 2002. Death resulted from pistol injuries he sustained during a perilous confrontation he initiated and pursued with three RCMP Constables lawfully engaged in discharge of their duties – responding to a complaint against Mr. Reid – earlier same day, at Little Catalina.

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**B Authority For Inquiry**

Informed of the death, the Chief Medical Examiner, acting under the *Fatalities Investigation Act*, ss. 5(a) and 25 [Vol. 2 – Law: Legislation (General), tab 6], exercised his discretion by recommending, to the Minister of Justice for Newfoundland, conduct of an inquiry into the death. The Minister, in turn, acting under the *Fatalities Investigation Act* (presumably s. 26) [Vol. 2 – Law: Legislation (General), tab 6] and the *Provincial Offences Act* (presumably s. 43) [Vol. 2 – Law: Legislation (General), tab 13], exercised his discretion by ordering that a Judge of the Provincial Court of Newfoundland conduct an inquiry into the death (“Inquiry” and “Norman Reid Inquiry”); by letter dated 07 December 2000 to the Chief Judge of the Court [Vol. 5 – Tables And Documents, tab 4].

Honorable Donald S. Luther, Chief Judge of the Provincial Court of Newfoundland (as he then was) (“Judge Luther” and “the Inquiry Judge”) has undertaken the Inquiry.

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**C Conduct Of Inquiry**

The *Fatalities Investigation Act*, s. 26, requires that “the inquiry shall be conducted within the parameters set out in Part III of the *Summary Proceedings Act*” [Vol. 2 – Law: Legislation (General), tab 6]. Part III of the *Summary Proceedings Act* was repealed effective 01 April 1996 by the *Provincial Offences Act*, s. 54(1) [Vol. 2 – Law: Legislation (General), tab 13].

Part IV of the *Provincial Offences Act* [Vol. 2 – Law: Legislation (General), tab 13] does, however, furnish procedural parameters for an inquiry contemplated by the *Fatalities Investigation Act*, s. 26 [Vol. 2 – Law: Legislation (General), tab 6].

Judge Luther has been conducting the Inquiry under the *Provincial Offences Act*, s. 46(1). In doing so, s. 44 clothes him with “the powers of a commissioner under the *Public Inquiries Act*” [Vol. 2 – Law: Legislation (General), tab 15], which include powers authorized by the *Public Investigations Evidence Act* [Vol. 2 – Law: Legislation (General), tab 16].

Apparently under the *Public Inquiries Act* [Vol. 2 – Law: Legislation (General), tab 15], John P. Byrne, Q.C. was appointed counsel to assist the Inquiry; a role in which, with respect, he has been professionally deporting himself with thoroughness, pragmatism, and fairness.

He was assisted by an Inquiry liaison person: Sgt. Junior Small. A senior, experienced Royal Newfoundland Constabulary member, Sgt. Small has been uniformly dependable, helpful and efficient. When, as occurred, hearings of the Inquiry were twinned with those of an inquiry of similar nature, RCMP Constable Colleen Donovan very ably assisted.

On their respective applications under the *Provincial Offences Act*, s. 47(2) [Vol. 2 – Law: Legislation (General), tab 13], a number of organizations and individual persons have been determined by Judge Luther to be “interested” persons regards the Inquiry and, therefore, have been granted standing at the Inquiry. Those granted standing include RCMP and the three responding RCMP Constables: John Daley, John Thomas Graham and John Malinay. (All persons granted standing are identified on the frontispiece of this and all other volumes of this Written Argument.)

The Crown (Newfoundland and Labrador) apparently did not perceive a need to appear, or to appoint counsel, under the *Provincial Offences Act*, s. 47(1) [Vol. 2 – Law: Legislation (General), tab 13], to participate in the Inquiry on the Crown’s behalf.

Judge Luther conducted hearings of the Inquiry, all in public, at St. John’s, Bonavista, and again at St. John’s, over 97 days; on dates during the period 02 February 2001 (when organizational issues, including the “interested person” applications, were resolved) to 16 December 2002. He received evidence from 128 witnesses (126 *viva voce* witnesses and two affidavit or deposition witnesses) [Vol. 5 – Tables And Documents, tab 2].

The final 20 of the 97 days of Norman Reid Inquiry hearings (on dates during the period 04 November 2002 to 16 December 2002), involving 24 of the *viva voce* witnesses, were conducted jointly with a then-ongoing separate Inquiry, identical in legal personality – the Darryl Power Inquiry - on issues common to both inquiries.



That separate Inquiry, also conducted by Judge Luther, assisted by Byrne Q.C. as Inquiry counsel, was into the death, on 16 October 2000, of another adult male civilian, Darryl Power, during an encounter with three members of the Royal Newfoundland Constabulary at the City of Corner Brook (“Power Inquiry”). Before hearings jointly with the Norman Reid Inquiry, 39 witnesses were separately heard at the Power Inquiry over 32 days during the period 08 February to 17 October 2002.

Judge Luther also admitted numerous, often voluminous, exhibits at the Norman Reid Inquiry [Vol. 5 – Tables And Documents, tab 3].

Judge Luther was aided administratively by a succession of careful, committed, accommodating Inquiry clerks, who brought to the Inquiry their stellar procedural experience as Provincial Court administrative support staff: Madonna Vaters; Daphne Bartlett, and Maureen Quinn.

**D Inquiry Final Argument**

This document is final Written Argument on behalf of the RCMP and RCMP Cst. John Daley (consisting of this and five other volumes) which Judge Luther ordered, on 16 December 2002, to be filed by all parties with standing prior to supplementary final oral arguments by them from 24 to 27 March 2003.

The argument is based on the entire Norman Reid Inquiry and Darryl Power Inquiry records of proceedings: *viva voce* testimony (comprising 23,932 pages bound in 68 volumes), affidavits, and exhibits.

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**E      Report On Inquiry**

Under ss. 49(1) and (4) of the *Provincial Offences Act* [Vol. 2 – Law: Legislation (General), tab 13], Judge Luther’s findings and, if any, recommendations, shall be transmitted in a written report to the Attorney General of Newfoundland. His report is expected to respond to the Inquiry’s terms of reference.

His report is subject to judicial review by Newfoundland Supreme Court [Trial Division]; such as by application for orders in the nature of prerogative writs and by application for declaratory relief [Vol. 4 – Judicial Decisions And Authors, tab 12].

**F      Terms Of Reference Of Inquiry****1      Overview**

Terms of reference of the Inquiry – substantive and procedural - are informed by (i) the instrument (e.g., letter, order) directing conduct of the Inquiry; (ii) legislation; (iii) inquiry practice – such as the Inquiry Judge’s directives; and (iv) judicial decisions.

**F      Terms Of Reference Of Inquiry (*continued*)****2      Instrument directing conduct of Inquiry**

The instrument directing the Inquiry was the 07 December 2000 letter from the Minister of Justice and Attorney General, Kelvin L. Parsons, Q.C.; requesting the Chief Judge of the Provincial Court (Hon. Donald S. Luther) to “arrange for an Inquiry into the cause and circumstances surrounding this death” [Vol. 5 – Tables And Documents, tab 4].

**F Terms Of Reference Of Inquiry (*continued*)****3 Legislation**

Legislation informing the terms of reference of the Inquiry includes the *Provincial Offences Act*, ss. 49 (1) – (2) [Vol. 2 – Law: Legislation (General), tab 13]. Subsections 49(1) – (2) of the *Act* provide that Judge Luther

shall make findings as to the following:

- (a) the identity of the deceased;
- (b) the date, time and place of death ...;
- (c) the circumstances under which the death ... occurred;
- (d) the cause of death ...; and
- (e) the manner of death ...[:]

and, in what is sometimes described in practice as an inquiry's preventive function,

...may ... [make] recommendations as to the prevention of similar deaths ... .

(Underlining added for emphasis.)



Section 49(3) of the *Act* [Vol. 2 – Law: Legislation (General), tab 13] stipulates that the “findings of the judge [in the written report] shall not contain findings of legal responsibility or a conclusion of law.” The reference to “findings” in s. 49(3) of the *Act* is, evidently, to “findings” made under s. 49(1) of the *Act* [Vol. 2 – Law: Legislation (General), tab 13]. By application of the statutory rule of interpretation that licences judicially reading in words implied by words already in the statute [Vol. 4 – Judicial Decisions And Authors, tab 20], the injunction in s. 49(3) of the *Act* against Judge Luther making findings of “legal responsibility” or “a conclusion of law” in relation of “findings” under s. 49(1) of the *Act* also enjoins him from doing so in making or rationalizing any “recommendations” under s. 49(2) of the *Act*. Otherwise stated, the Inquiry serves an advisory function; it does not possess a court’s jurisdiction to make decisions occasioning criminal, penal, or civil consequences.

By implication, the Inquiry Judge must scrupulously avoid, in reporting on his terms of reference, any language capable of being construed, by a reasonable person, as calling into question the character or competence of anyone; in other words, anyone’s professional or personal reputation.

The unequivocal statutory prohibition, in s. 49(3) of the *Act* [Vol. 2 – Law: Legislation (General), tab 13], against making findings of responsibility in the report on the Inquiry’s terms of reference, is in contrast to the federal *Inquiries Act*, R.S.C. 1985, c. I-11, s. 13, which allows for a “report ... [to] be made against any person ... .”

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**F Terms Of Reference Of Inquiry (*continued*)****4 Inquiry practice**

In practice, an inquiry judge interprets the terms of reference; in this instance the statutory terms of reference prescribed by the *Provincial Offences Act*, ss. 49(1) – (2) [Vol. 2 – Law: Legislation (General), tab 13].

Judge Luther has, to date, interpreted the statutory terms of reference of the Inquiry by identifying the subjects he proposes to canvas in his Inquiry report. He did so by 17 December 2002 e-mail directive, through Inquiry counsel (“the directive”) [Vol. 5 – Tables And Documents, tab 5]; which, therefore, forms the basis for the Detailed Table Of Contents of this volume of Written Argument.

RCMP and Cst. John Daley submit, the directive, in its interpretation of the statutory terms of reference of the Inquiry, has coloured outside the lines of the Inquiry Judge’s jurisdiction regards the subjects his Inquiry report may address. Specifically, RCMP and Cst. Daley question whether the provincially-authorized and -ordered Inquiry may inquire into or make recommendations about the *Royal Canadian Mounted Police Act* or RCMP training, or about the *Criminal Code* [Vol. 5 – Tables And Documents, tab 5, the directive, pp. 2-3].

**F      Terms Of Reference Of Inquiry (*continued*)**

**5      Judicial decisions**

**(a)    Overview**

Reinforcing the strict statutory constraints on the Inquiry's terms of reference are judicial decisions which have considered various species of inquiry.

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**F      Terms Of Reference Of Inquiry (*continued*)****5      Judicial decisions****(b)      No inherent jurisdiction**

First, a judge presiding over an inquiry, generally speaking, “has only limited authority[;] he enjoys no inherent jurisdiction ...” [Vol. 4 – Law: Judicial Decisions And Authors, tab 8, p. 24]. In other words, generally speaking, an inquiry’s statutory terms of reference circumscribe the inquiry judge’s authority in conducting and reporting on the inquiry.

**F Terms Of Reference Of Inquiry (*continued*)****5 Judicial decisions****(c) Governed by rules of natural justice**

Secondly, the conduct of an inquiry, generally speaking, is governed, in varying degrees (dependant on the inquiry's terms of reference), by the rules of natural justice - which incorporate, for the conduct of inquiries, the doctrine of fairness [Vol. 4 – Judicial Decisions And Authors, tabs 4, 5]. For example, even though Judge Luther, in making findings on the terms of reference, under ss. 49(1) and (2) of the *Provincial Offences Act* [Vol. 2 – Law: Legislation (General), tab 13], is precluded from including findings of “legal responsibility” or “a conclusion of law” in relation to the findings (by virtue of s. 49(3) of the *Provincial Offences Act* [Vol. 2 – Law: Legislation (General), tab 13]), the findings he does make could, nonetheless, adversely affect professional and/or personal reputations. In the event of that prospect, Lord Diplock, in his Privy Council judgment in *Mahon v. Air New Zealand* [[1984] A.C. 808 (P.C.), at p. 821] states the governing common law, as follows (underlining added for emphasis):

[A]ny person represented at the inquiry who will be adversely affected by the decision to make the finding should not be left in the dark as to the risk of the finding being made and thus deprived of any opportunity to adduce additional material of probative value which, had it been placed before the decision-maker, *might* have deterred him from making the finding even though it cannot be predicted that it would inevitably have had that result.

The conduct of this Inquiry, including its resulting report, deserves to be substantially governed by the rules of natural justice, including the doctrine of fairness; in consideration of the Inquiry's underlying circumstances and the terms of reference as expressed by statute and as interpreted by the Inquiry Judge.

**F Terms Of Reference Of Inquiry (*continued*)**

**5 Judicial decisions****(d) Cannot inquire into management of RCMP**

Thirdly, especially specific to this Inquiry, considering that it partially relates to administration of justice in Newfoundland and Labrador, the Inquiry’s terms of reference cannot facially, or as construed and applied, be interpreted to address, either in principle or as relates to the factual circumstances underlying this Inquiry, the management of the RCMP or its individual members or their obligations under the *Criminal Code*. The Inquiry-authorizing legislation does not warrant and, constitutionally, cannot authorize, such an interpretation.

The Minister of Justice, who ordered this Inquiry, has, under the *Department of Justice Act*, s. 9(a), “the superintendence of all matters connected with the administration of justice in the province not within the jurisdiction of the Government of Canada” [Vol. 2 – Law: Legislation (General), tab 4].

Insofar as “administration of justice” is concerned, the Government of Canada has considerable jurisdiction. Included in its jurisdiction is RCMP and its individual members.

Under the *Department of the Solicitor General Act*, s. 4 (c), the “powers, duties and functions of the Solicitor General [of Canada] extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to .... the Royal Canadian Mounted Police; ... ” [Vol. 2 – Law: Legislation (General), tab 5].

Under the *Royal Canadian Mounted Police Act*, s. 5, the “Governor in Council may appoint an officer, to be known as the Commissioner of the Royal Canadian Mounted Police, who, under the direction of the Minister, has the control and management of the Force and all matters connected therewith” (underlining added for emphasis) [Vol. 2 – Law: Legislation (General), tab 17]. The “Minister”, under s. 2 of the *Act* means the Solicitor General of Canada.

(It goes without saying that “management” contemplates, among other things, “affairs that are somewhat complicated and that involve skill and judgment” [Vol. 4 – Judicial Decisions And Authors, tab 19]).

Section 20(1) of the *Act* authorizes the Solicitor General of Canada, with approval of the Governor in Council, to “enter into an arrangement with the government of any province for the use or employment of the Force, or any portion thereof, in aiding the administration of justice in the province and in carrying into effect the laws in force” in a province [Vol. 2 – Law: Legislation (General), tab 17]. Under s. 20(1) of the *Act*, Canada made a Provincial Police Services Agreement with Newfoundland which obtained during the timeframe pertinent to this Inquiry. Newfoundland entered into the Agreement under the auspices of the *Agreement for Policing the Province Act*, s. 2 [Vol. 2 – Law: Legislation (General), tab 2].

Article 3.1(a) of the Agreement provides that the “internal management of the ... [RCMP], including its administration and the determination and application of professional police procedures, shall remain under the control of Canada” (underlining added for emphasis) [Exhibit LW #3, p. ...]. And, in recognition of the pre-eminent national and divisional policing standards maintained by RCMP and its members, in management of the Force, article 2.4 of the

Agreement empowers the Minister of Justice for Newfoundland, in consultation with the Commanding Officer of RCMP “B” Division (a Division which operates in most parts of geographic Newfoundland and Labrador), to “require the ... [RCMP] from time to time to provide assistance or special expertise temporarily to other police agencies in the Province” [Exhibit LW #3, p. 14].

(In practise, under the Agreement, Newfoundland and Labrador routinely draws on the expertise of the RCMP and its members. Other institutions which draw on this RCMP expertise include, for example, Ontario Police College, in its training programs [Exhibit CL #1, tabs 1, 10, 11].)

Section 21 (1) of the *Act* includes authority for the Governor in Council to “make regulations for the organization, training, discipline, efficiency, administration and good government of the Force ...” (underlining added for emphasis) [Vol. 2 – Law: Legislation (General), tab 17]. And section 21(2) of the *Act* includes provision for the Commissioner of the RCMP, likewise, to “make rules, to be known as standing orders, for the organization, training, discipline, efficiency, administration and good government of the Force” (underlining added for emphasis) [Vol. 2 – Law: Legislation (General), tab 17].

What is the effect, relevant to this Inquiry, of these provisions of the *Department of the Solicitor General Act* and the *Royal Canadian Mounted Police Act*?

The effect, constitutionally, is considered in the principle majority judgment of Supreme Court of Canada in *Quebec (Attorney General) v. Canada (Attorney General)* [Vol. 4 – Law: Law: Judicial Decisions And Authors, tab 8, pp. 20-21], in which Pigeon J. writes:



... an inquiry into ... acts allegedly committed by members of the R.C.M.P. was validly ordered, but ... consideration must be given to the extent to which such inquiry may be carried into the administration of this police force. ... [The R.C.M.P.] is operating under the authority of a federal statute, the Royal Canadian Mounted Police Act, (R.S.C. 1970, c. R-9). It is a branch of the Department of the Solicitor General (Department of the Solicitor General Act, R.S.C. 1970, c. S-12, s. 4). Parliament's authority [under the *Constitution Act, 1867*] for the establishment of this force and its management as part of the Government of Canada is unquestioned. It is therefore clear that no provincial authority may intrude into its management. While members of the force enjoy no immunity from the ... law and the jurisdiction of the proper provincial authorities to investigate and prosecute ... acts committed by any of them as by any other person, these authorities cannot, under the guise of carrying on such investigations, pursue the inquiry into the administration and management of the force. The doctrine of colourability is just as applicable in adjudicating on the validity of a commission's term of reference or decisions as in deciding on the constitutional validity of legislation. As Viscount Simon said in *Attorney General for Saskatchewan v. Attorney General for Canada* [[1949] A.C. 110.] at p. 124) "you cannot do that indirectly which you are prohibited from doing directly".

The words ..., [of the terms of reference in issue in the case], do not contemplate an inquiry into ... acts but into the methods used by the police forces. Those are essential aspects of their administration and therefore, to the extent that those words relate to the R.C.M.P., what they purport to authorize is beyond provincial jurisdiction to inquire into. That this is the intended scope of the inquiry is apparent from the subpoenas which call for the production of all operating rules and manuals. For similar reasons, I would hold that ... [another paragraph in the terms of reference in issue in the case] is invalid in so far as it relates to the R.C.M.P. This paragraph pertaining to recommendations, following as it does provisions contemplating an inquiry into the regulations and practices of the R.C.M.P., is clearly intended to invite, as a purpose of the inquiry, recommendations for changes in such regulations and practices. In as much as these are the regulations and practices of an agency of the federal government, it is clearly not within the proper scope of the authority of a provincial legislature to authorize such an intrusion by an agent of a provincial government.

The effect, practically, is considered in the majority judgment of Laskin C.J.C. of Supreme Court of Canada in *Alberta (Attorney General) v. Putnam* [Vol. 4 – Law: Judicial Decisions And Authors, tab 1, p. 8]:

The R.C.M.P. code of discipline is applicable to officers of that force, whatever be their duties, and the fact that policing contracts are authorized with a Province or a municipality does not, as article 2 of the contract in this case expressly specifies, remove them from federal disciplinary control.

..., I recognize that there is a provincial interest in policing arrangements under this or any other contract between the Province and R.C.M.P. The Province, by this contract, has simply made an en block arrangement for the provision of policing services by the engagement of the federal force rather than establishing its own force directly or through a municipal institution. The performance of the parties under the agreement of their respective roles is, of course, a matter of continuing interest to the parties if for no other reason than the constant contemplation of renewal negotiations. The Province of Alberta, for example, must have a valid concern in the efficacy of the arrangement, not only from an economic or efficiency view point, but also from the point of view of the relationship between the Government of Alberta through its policing arrangements and the community which is the beneficiary of those police service arrangements. This, however, is a far cry from the right of one contracting party to invade the organization adopted by the other contracting party in the delivery of the services contracted for under the arrangements.

Since *Quebec (Attorney General) v. Canada (Attorney General)* and *Alberta (Attorney General) v. Putnam* (both cited immediately above), wrote Dickson C.J.C. for the majority in the Supreme Court of Canada judgment in *O'Hara v. British Columbia* [Vol. 4 – Law: Judicial Decisions And Authors, tab 6, p. 11, para. 17], “it is clear that the boundaries of the ‘administration of justice’ do not include the discipline, organization and management of the R.C.M.P.” And, further [Vol. 4 – Law: Judicial Decisions And Authors, tab 6, p. 11, para. 18], “it is beyond the competence of a province to authorize an inquiry, concerned with investigating allegations of illegal or reprehensible acts by various police forces, including the R.C.M.P., to extend its inquiry into the administration and management of that police force.”

Contrasting the scope of an inquiry’s terms of reference when a provincially-appointed inquiry is concerned with a provincial police force instead of the RCMP, Dickson C.J.C. wrote in *O'Hara v. British Columbia* that “the scope of a provincial inquiry into provincial police ... is greater than an equivalent provincial inquiry into federal police forces” [Vol. 4 – Law: Judicial Decisions And Authors, tab 6, p. 11, para. 17].

In principle, at least, this Inquiry, in an interlocutory Ruling on 10 October 2001 (p. 3, lines 12-13), appears, as *dicta*, to recognize that it cannot undertake “a veiled attempt to inquire into the human relations or other administrative concerns of the R.C.M.P.”.

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**G Admissibility Of Evidence And Standard/Burden Of Proof****1 Overview**

Judge Luther chose not to determine, during hearings of the Inquiry, (i) the criteria for admissibility? (ii) the standard of proof? (iii) whether a burden or onus of proof (whatever the standard of proof) existed on the Inquiry or on any entity with standing at the Inquiry? (iv) if a burden existed, who had the burden? and (v) whether and, if so, when the burden, if any, shifts? These determinations are not, typically, made during inquiry hearings. And, rarely, are they articulated in reports deriving from inquiry hearings. [Vol. 4 – Law: Judicial Decisions And Authors, tab 17]

Consequently, clear and comprehensive answers to these adjectival issues are not well-documented.

**G Admissibility Of Evidence And Standard/Burden Of Proof (*continued*)****2 Admissibility**

Regards the issue of admissibility of evidence to inquiries, generally, the Ontario Law Reform Commission writes [*Inquiries* (Toronto: Ontario Law Reform Commission, 1992), pp. 51-52] that:

... As early as 1922, courts have held that the admissibility of evidence at a public inquiry should not “be governed by the strict rules of evidence” but rather by a broad test of “whether or not its admission appears to be in the public interest”. [*Re Huston* (1922), 52 O.L.R. 444 (App. Div.), at p. 448.] Thus, for example, the admission of hearsay evidence might fulfil a public purpose by allowing commissions to assess the validity and extent of rumours, and thereby report on the extent of a public controversy. In *Re Bortolotti and Ministry of Housing*, [(1977), 15 O.R. (2d) 617, at p. 624] the Ontario Court of Appeal affirmed that public inquiries are not bound by the rules of evidence applied in courts. It was held that “any evidence should be admissible before the Commission which is reasonably relevant to the subject-matter of the inquiry, and the only exclusionary rule which should be applicable is that respecting privilege ... .

The rationale for this position is notoriously well-known. An inquiry is (usually) precluded (here, by statute) from making findings of criminal or civil responsibility or conclusions of law. It cannot impose sanctions. Its conclusions are not enforceable. Moreover, its conclusions are advisory; that is, they do not bind a subsequent judicial proceeding which addresses the same factual circumstances. Otherwise stated, the consequences of an inquiry do not warrant faithful adherence to evidentiary rules.

Lending support, nonetheless, to respect for the strict rules of evidence, where the inquiry involves a coroner’s inquest, is the Honourable Mr. Justice David T. Marshall’s view [Vol. 4 – Law: Judicial Decisions And Authors, tab 25] that, in the conduct of a coroner’s inquest (comparable, in purpose, to this Inquiry):

[f]ailing statutory discretion [not provided by legislation authorizing this Inquiry], the common law rule would apply. A leading case in this area is *R. v. Divine* [[1930] 2 K.B. 29; followed in Canada in *R. v. Barnes* (1921), 49 O.L.R. 374 (C.A.)], where the court states the rule: “Although a coroner need not follow the strict rules of evidence, it is desirable he should.”

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**G Admissibility Of Evidence And Standard/Burden Of Proof (*continued*)****3 Standard of proof**

An inquiry and its report may have consequences. If an inquiry – especially an inquiry which has invested the human and financial resources, time, energy, and ingenuity evident in the Norman Reid Inquiry – and its report are to beget constructive impact, whether influencing (or massaging) public opinion, public policy, or public good, the inquiry report’s findings of fact, both *per se* and in support of recommendations (if any), must be credible. For example, admitted hearsay (received in abundance at this Inquiry) – unless found to be necessary and reliable – would be a fragile foundation to recommend to the Province’s Justice Minister that particular legislation be repealed, amended or supplanted; or that public social, mental and psychological, economic, and intellectual services be reorganized, refuelled, reallocated, or refined. The Minister will, doubtless, want to mull more than the Inquiry Judge’s report, when submitted. He can be expected to want to also evaluate the probativity of the underlying record of proceedings; principally the evidence on which the Report depends.

(Parenthetically, the *Provincial Offences Act*, s. 45(2) [Vol. 3 – Law: Legislation (General), tab 13] contains an implication that inquiry evidence forms part of an inquiry report. However, this provision requires amendment; because it lacks clarity and, besides, erroneously refers to s. 50 of the *Act*. By amendment of s. 45(2) of the *Act* or, preferably, by amendment of s. 49 of the *Act* (the report submission provision of the *Act*), RCMP and Cst. John Daley submit, ***the Inquiry should recommend that the Provincial Offences Act be amended to require that an inquiry’s record of proceedings shall be forwarded to the Minister of Justice, with the inquiry report.***)

Therefore, the standard of proof should reflect the potential consequences of an inquiry's report. The choice of a standard of proof is between (i) a preponderance and (ii) "clear, strong and convincing", a specie of preponderance. (Proof beyond reasonable doubt, the criminal law burden, is unwarranted; considering the functions of an inquiry. *Prima facie* proof, the only other established burden at common law, is prone to be unreliable. Justice Horace Krever suggested as much in his 1997 *Report of the Commission of Inquiry on the Blood System in Canada*.) Given the tragic circumstances underlying this Inquiry, the vital issues of general, public importance resulting from the Inquiry Judge's interpretation of the terms of reference, and the potential substantial public impact of the resulting report, the standard of proof should be "clear, strong and convincing".



**G Admissibility Of Evidence And Standard/Burden Of Proof (*continued*)**

**4 Burden of proof**

Ascribing burden of proof appears unnecessary in responding to the terms of reference of this Inquiry; except in the event of the prospect addressed by Lord Diplock in *Mahon v. Air New Zealand* (above, at p. 23).

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## H Comparable Inquiries

Factually-comparable inquiries have been conducted in Newfoundland and Labrador, by Provincial Court Judges: the John Stephen Rich Inquiry [Exhibit RS # 3]; the Thomas Hagan Inquiry [Exhibit DM # 11], and the Nicholas John Benteau Inquiry [Vol. 5 – Table And Documents, tab 6]; and conducted elsewhere, either by a Provincial Court Judge, such as in Alberta [David Ell Inquiry: Vol. 5 – Tables And Documents, tab 8] or by a Coroner sitting with a jury, such as in British Columbia [Sai Ming Wai Inquiry: Vol. 5 – Tables And Documents, tab 9; and Thomas Alcorn Inquiry: Vol. 5 – Tables And Documents, tab 7], and in Ontario [David Melzer Inquiry: Exhibit PC #4].

Sgt. Robert James Skanes leads the RCMP Emergency Response Team (“ERT”) – a unit within RCMP “B” Division specially trained and equipped to address hostage-takings, barricading of persons, and related crisis circumstances. He lead the RCMP’s ERT response to the complaint about John Stephen Rich at Makkovik, Labrador in June 1993. He testified extensively to this Inquiry about deployment of the ERT, both generally and in the Makkovik crisis, and about challenges to the RCMP’s ERT; such as when dealing with Mr. Rich who ultimately was, unavoidably, stopped by peace officer service revolver. [Vol. 5 – Tables And Documents, tab 2, p. 20; Exhibit RS # 3.]

None of these factually-comparable inquiries disputed the conduct of police in lethally responding to complaints about aggressive civilians armed with sharpened-edged weapons or firearms.

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## **PART II.2 – FACTUAL REVIEW**

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### **A Norman Reid**

#### **1 Family**

Norman Reid was born on 27 January 1957 in the two-storey wood frame dwelling house of his paternal grandfather, which looked south over the main road, and the harbour beyond, in Little Catalina.

His father, Robert Lesley Reid, like generations of the family before him, was native to Little Catalina. His mother, Mary Jane, seven years younger, was native to Mary's Harbour, Labrador.

He was one of five male children in his family. He had five sisters. Norman was third born of the family's ten siblings.

(Three of his brothers: Hilary, William, and Robert, and one of his sisters: Roberta Abbott-Reid testified to this Inquiry [Vol. 5 – Tables And Documents, tab 2, pp. 4, 9, 21].)

Their mother's working life was spent in the family home. She devoted herself to housekeeping and caregiving for their father – her husband – and the ten children. Their father was a woodcutter, then a shipbuilder, and finally a fish plant carpenter.

The family's life, recalled Roberta Abbott-Reid, "was simple, but we always had enough ..." [Transcript, Vol. XXXXII, p. 216].

In 1969, when Norman Reid was 12 years old, the family moved from his birth home. The family re-located to a bungalow the parents acquired, almost directly across the main road. There, Mr. Reid lived until 1991.

The family's original residence was dismantled. Immediately behind, perhaps partially overlapping the foundation of, the original residence, Norman Reid's paternal uncle, Bert Reid, built and occupied a small single-storey house. (Bert Reid and at least two other extended family lived with Norman Reid's family.) Within a fortnight of Bert's death, about 22 years later, on 15 July 1991, the family agreed to the wish of Norman Reid to occupy the house; and he immediately took possession.

Norman Reid was "territorial" about the house and the piece or parcel of land it occupied; which, like his birth home, was bounded to the south by Little Catalina's main road, and bounded to the west by Forest Road.

This Forest Road, Little Catalina property, where he was born in 1957, continued to be his address until he died, as a result of his perilous confrontation of three RCMP Constables, from this property, on 26 August 2000 [Transcript, Vol. XXXXII, pp. 210-434; Exhibit DV #1].

**A Norman Reid (*continued*)****2 Community**

The community where Norman Reid lived his entire life, and perilously confronted the R.C.M.P. in an incident which, unavoidably, caused his death on 26 August 2000, is the Town of Little Catalina.

This is a quiet, largely-introspective community, of blameless and unblaming Newfoundland natives, abiding in well-kept homes. Sadly, the community manifests the gradually decreasing, declining, disappearing rural economic and social fabric in the Province.

First settled in the latter 1700s or early 1800s by the Day family, who earlier visited from Catalina to cut wood for boat-building, Little Catalina, by 1830, had the appearance of a village and, by 1845, had become well-established as an “inshore fishery” community, comprised of 195 persons. Most had immigrated from England (together with a few from Ireland) to Bonavista, Elliston, Trinity, Carbonear, Western Bay, and Catalina; and from there to Little Catalina. In fact, the community’s economic existence and social life significantly depended, and continues to depend, on the neighbouring larger village of Catalina (now 3.44 kms. by road; then accessible only by overland trail).

Ironically, boats built from timbers harvested in (and near) Little Catalina, together with other sea-going vessels, conveyed not a few male Little Catalinians to their deaths; such as in shipwrecks off the coast of the Island of Newfoundland and, to the north, off the Labrador coast, where, for many years, they annually prosecuted the “inshore fishery”. In 1891, widows

occupied 26 per cent of Little Catalina's households; due largely to marine fatalities during the Great Labrador Gale in October 1885. (Several male villagers lost their lives while crewing the schooner *Ella M. Rudolf*, which went aground on 06 December 1926; recorded in ballad and book.)

Besides lumbering and the fishery, subsistence tasks of farming and animal husbandry were undertaken, historically. Significant, although impermanent, employers on the community's west side (from which the community is accessed by road) were a cod liver oil factory (factory remains are yet discernible); a silver mine (silver traces can still be collected), and a fish plant. Another historic employer was the seal hunt, which, like the "off shore" fishery, came with a fatal price. Among sealers from Little Catalina who died during the annual hunt, historically, were six crewmembers of the *Newfoundland*; perishing on the ice in 1914. Among the deceased were four members of the Tippet family who were interned together in the community.

Traditionally, the Tippetts, together with the Dalton, Johnson and Stagg families, settled the east side of Little Catalina Harbour. Families of Cullimore, Day, Eddy, Reid, and Stead settled the west side of the Harbour. Descendants of these families include Wade Eddy who telephoned RCMP to complain about Norman Reid on 26 August 2000; Norman Reid, who unavoidably died as a result of RCMP response, same date, to the complaint; and at least 31 namesakes related by blood or marriage to the community's colonizers (including Wade Eddy) who were among Inquiry witnesses.

By 2001, Little Catalina was one of 291 municipally-incorporated settlements, classified as a town (incorporated 1965), among the 1,777 settled locations in the Province. In common

with most of the Province's settled locations, Little Catalina had, by 2001 (year of the most recent national census), experienced a population reduction: from 774 in 1986, to 630 in 1996, to 528 in 2001 (51% female); a decrease of 16.2% from 1996 (compared to an overall 7% decline in the Province's population). Of the 528 Little Catalina residents, 28.4% are aged 25 to 44 years old, and 18.9% are aged 45 to 54. Only 22.7% are under 20 years old. The median age of Little Catalina's population, in 2001, was 42.5 years. The present population is lower than at any census since 1911.

Occupying 11.15 square kms., the Town of Little Catalina, as of 2001, was clustered around Little Catalina Harbour; evidenced principally by 205 dwellings (92.7% of them owned). About 14% of the population lives alone. Nine per cent of the 14% is widowed. Twenty-nine percent of the population is single. Only English is the language used most often.

In 2001, the unemployment rate was 35.6 (compared to an overall 21.8% rate in the Province). This is not to suggest the Town's population is unproductively occupied: 71% reported hours of unpaid housework; 30.3% reported hours of unpaid child care; 18.9% reported hours of unpaid care or assistance to seniors. Those engaged in paid employment reported jobs, principally, in the manufacturing (i.e., mainly fish processing) and construction industries.

Most Little Catalina residents are adherents of the United Church faith. Some families practice the Salvation Army and Pentecostal faiths or are Jehovah's Witnesses. A few Roman Catholics living there moved to Little Catalina from elsewhere after marriage. Earliest settlers of the community were Church of England and Methodist adherents, with a small number of Roman Catholics. Methodism (now part of United Church of Canada) became the predominant

denomination, however, and its members built a church in 1913-14. By 1921, all 536 residents claimed to be Methodist adherents; only 2 of the 588 population as of 1935 disclosed any other religious faith.

By the 1930s, the Protestants in Little Catalina applied to Newfoundland's Nomenclature Board to have the community's name changed to "Orangeville". Their efforts were unsuccessful; as were later overtures to the Board, presumably by descendants of the founding Day family, to change the community's name to "Dayton".

To obtain health care (other than at a local medical clinic) and social services, Little Catalina residents must travel 12.78 kms, by road, to Bonavista (for which purpose only 17% of residents reported, in the 2001 census, being a vehicle driver).

[Contacts with Little Catalina residents requesting anonymity: June 2001; [www.statisticscanada](http://www.statisticscanada): December 2002; [www.thediscoverytrail](http://www.thediscoverytrail): 07 February 2003; Marilyn Reid, Town of Little Catalina: 10 February 2003; *Encyclopaedia of Newfoundland and Labrador* (Little Catalina entry).]



**A Norman Reid (*continued*)****3 Employment and education**

Norman Reid commenced school, in kindergarten, when he was seven years old. He repeated grades 4 and 8. He completed all grades to and including grade 10. He left school in 1977, when 19 years old, halfway through grade 11; then the high school exit year in Newfoundland. [Exhibit DV # 1, tab 11, p. 1.]

Although he was reported to be closer to his mother than his father, as a child and adolescent [Exhibit DV # 1, tab 11, p. 1], he demonstrated his father's interest in woodwork. In fact, he had first exhibited this interest while still in school. His sister, Roberta Abbott-Reid, recalled "he made some little flower stands for my mother, ..." [Transcript, Vol. XXXXII, p. 302]. He was still a teenager when he mail-ordered a book which assisted him to build a small, navigable boat [Transcript, Vol. XXXXII, p. 221; Exhibit DM # 5, photograph 77].

In grade 10 or 11, as part of his high school education, he attended what was then the District Vocational School in nearby Bonavista, once or twice weekly, and chose to be introduced to the carpentry trade [Transcript, Vol. XXXXII, pp. 302-303].

Psychiatry resident Dr. J. D'Costa and staff psychiatrist Dr. J. Angel, at Waterford Hospital in St. John's, reported in a 03 August 1995 letter that Norman "got along well with his teacher and peers, but never had close friends in school" [Exhibit DV # 1, tab 11, p. 1].

Shortly after his pre-mature departure from high school, in 1977, he obtained (what appears to have been his first) employment at the fish plant then operating in Little Catalina. The employment was seasonal. He worked at the plant until September or October 1977, when he was “laid off” for the duration of the calendar year. He resumed plant employment in January and February 1978. He apparently resigned from that employment about the end of February 1978. “He was,” stated the D’Costa/Angel 03 August 1995 letter, “competent in his work but was more interested in Carpentry”. [Exhibit DV # 1, tab 1, p. 1.]

As now appears, his education and employment were impaired, from his latter teenage years, by mental illness.

**A Norman Reid (*continued*)****4 Health****(a) Overview**

Marrying recollections of Norman Reid's sister Roberta Abbott-Reid and voluminous medical records [Vol. 5 – Tables And Documents, tab 3], Mr. Reid, when about 18 years old, appears to have first exhibited symptoms of a then-undiagnosed mental illness – while still attending high school and living with his parents in Little Catalina.

Three particular, although unscientific, memories of Norman Reid were regarded by his sister Roberta as indicia of the onset of the illness, eventually diagnosed as paranoid schizophrenia.

[Vol. XXXXII, p. 232; 234: -]

**A. [Roberta Abbott-Reid]** .... [i] he was experimenting with drugs [marihuana and alcohol] – from my understanding, ... and [ii] he beat up his car ... he's got his friends gone, because they don't want to be around him anymore because he don't have his vehicle anymore ..., ... and now ... he was sick, .... [and] [iii] I know that things would bother him like ... certain noise. .... my mother got up one morning and the refrigerator was unplugged and the stove was unplugged. Different things that made noises .... [r]eally bothered him.

Whether the factual circumstances of these sibling memories were mere coincidences or related to Mr. Reid's mental illness was never verified.

More ominous were experiences he reported as having occurred during employment at the Little Catalina fish plant in January and February 1978. They are summarized in a Discharge

Report prepared by psychiatry resident Dr. D.M. Bhide at Waterford Hospital, on 12 June 1978

[Exhibit DV # 1, tab 1, p. 1]:

.... While working, he felt that people were talking about him behind his back, making nasty remarks, and accusing him of being a homosexual. He heard them saying, "Let's see what he is and what he is made of", "he must be a queer", and "he is no good". These comments made him very upset, and the thought that all these things were done on purpose to tease and frighten him. Then he heard his colleagues saying, "he is a fag", and he also felt that his colleague wanted to harm him. He believed that his "inner conscious has awakened and the awakening of the inner conscious is a Gift of God". He said that now he has [""] an open conscious ["] and he is sharing ["] the inner conscious ["] of a next door neighbour and they are controlling each other's thoughts and actions. He started hearing voices around last week of February [1978] calling him a homosexual.

Norman Reid was not feeling well. He apparently resigned from his employment near the end of February 1978. He consulted a physician (possibly Dr. Arthur Michel Carr, in nearby Catalina) from whom he appears to have received a referral letter to a physician in St. John's. [Transcript, Vol. XXXXII, pp. 234-235.] He carried that letter, in early March 1978, to St. John's; where, on 06 March 1978, he was admitted to General Hospital and from where, on 17 March 1978, he was transferred, under the *Mental Health Act, 1971* (as then known) to Waterford Hospital [Transcript, Vol. XXXXII, pp. 236-237; Exhibit DV # 1, tab 1, pp. 1, 36].

The 12 June 1978 Discharge Report explained why Mr. Reid was transferred from the General Hospital to Waterford Hospital [Exhibit DV # 1, tab 1, p.1]:

.... While in the General Hospital, he stopped taking the medications [which had been prescribed for him at the Hospital] and became inappropriate in his actions and violent. That is why he was transferred to Waterford Hospital on March 17<sup>th</sup>, 1978. After admission ... [to the Waterford Hospital], he was uncommunicative and kept on staring vacantly into space.

Although not discharged from Waterford Hospital until 12 June 1978, he was allowed, during this first admission to the Hospital, extended leave back to his parents' Little Catalina residence for durations of two weeks, then three weeks. During his admission he was medicated with Largactil, Haldol and Cogentine. By 12 June 1978 he was "completely improved" and was, therefore, "discharged on no medications" with an appointment for outpatient follow-up in four weeks, and with provision for medication, meantime, if his symptoms recurred. [Exhibit DV #1, tab 1, p. 3.]

This proved to be the first of 13 involuntary admissions (11 therapeutic admissions, and two forensic admissions to determine fitness to stand criminal trial) of Norman Reid to Waterford Hospital, a hospital currently under jurisdiction of Health Care Corporation of St. John's, over the 22-year period from March 1978 to July 2000, the month before Mr. Reid's death.

During that period, local doctors in Bonavista and Little Catalina; general medical physicians and other health care staff at the Peninsulas Health Care Corporation hospitals in Bonavista and Clarendville; psychiatrists in Bonavista, Clarendville and St. John's; and health care service providers under the aegis of what is now Health and Community Services Eastern, provided health care to Norman Reid; all of that care, essentially, supplementary to care provided by Waterford Hospital. (See voluminous medical records listed among exhibits in Vol. 5 – Tables And Documents, tab 3.)

**A     Norman Reid (*continued*)**

**4     Health**

**(b)    Local Doctors**

(See above, at pages 45-47.)

**A Norman Reid (*continued*)**

**4 Health**

**(c) Peninsulas Health Care Corporation**

(See above, at pages 45-47.)

**A Norman Reid (*continued*)****4 Health****(d) Psychiatrists**

Although Norman Reid was occasionally seen by a psychiatrist at hospitals of the Peninsulas Health Care Corporation in Bonavista and Clarenville, he was principally and most frequently seen at Waterford Hospital in St. John's. On some occasions, he was seen there by Dr. Nizar Ladha, one of Newfoundland's two forensic psychiatrists. Based on his copious review of Mr. Reid's medical charts, for 13 admissions (all involuntary) - 11 therapeutic admissions and two "forensic" admissions (for fitness to stand criminal trial examinations) - at Waterford Hospital [Exhibits DV # 1; DV #1A], Dr. Ladha (the only Inquiry witness to twice testify), summarized the charts and his professional opinion of their contents for the Inquiry. Excerpts of his testimony follow.

[Vol. XXXVI, pp. 170-171; 204-205; 208: -]

**Q. [John Byrne, Q.C.]** .... [having] completed your summarized reference to the content of the 13 admission files in the Waterford in relation to Mr. Reid with regard to his treatment and behaviour while at the Waterford Hospital itself [Exhibits DV #1, DV #1A] ... have you been able to determine any meaningful patterns of behaviour by Mr. Reid ....

**A. [Dr. Nizar Ladha]** ... there is a thread, a common thread through the admissions. ... from the very first admission ..., the 17<sup>th</sup> of March 1978, .... 11 have been involuntary admissions under the Mental Health Act and two have been involuntary admissions under the Criminal Code. ... Mr. Reid was never admitted as a voluntary patient. He had to be brought in. .... It certainly says that he either wasn't aware that he was ill or he didn't accept that he was ill. And he became progressively more ill to the point that his behaviour was affected and his behaviour was often times threatening and sometimes aggressive and violent. The other thread that goes through ... is that the RCM Police had to be called almost every time for him to be taken for examination by a physician. The third thread ... is that many of the threats, or violent behaviour was towards a family member. And that often is not uncommon either, ... because it is the family that is the most violent institution in our society.



. . . .

**Q.** [David Day, Q.C.] .... At the bottom of page 17 and at the top of 18 [of Exhibit NL # 03] .... “[the] defining characteristic of the illness is the profound feeling of incomprehensibility and inaccessibility that sufferers provoke in other people.” ....

**A.** .... I think it’s a good literary description.

. . . .

**A.** Psychotic refers to a break with reality. And in schizophrenia or any other illness where a person does become psychotic, does develop a break with reality, the break with reality is never complete.

. . . .

**Q.** ... at page 18 there is a passage quoted from Professor Stoor, [“] .... [the] schizoid person ... appears withdrawn and inaccessible. His remoteness from human contact makes his state of mind less humanly comprehensible, since his feelings are not communicated ... [i]f such a person comes psychotic (schizophrenic). ....” ....

**A.** Yes, your Honour, with one qualification .... If such a person becomes psychotic (schizophrenic) the two necessarily are not one in the same thing.

. . . .

**A.** ... almost 10 % of schizophrenics commit suicide.

. . . .

The Discharge Report resulting from Norman Reid’s fourth involuntary admission, on 10 January 1980, to the Waterford Hospital stated that “he is said to have stopped taking his medication and had become violent and aggressive. He tried to choke his brother to death and tried to kill a cat by setting it on fire.” The Discharge Report resulting from his seventh involuntary admission, on 20 February 1987, to the Waterford Hospital stated that he “hasn’t taken medication for the past 9 months and family themselves report recent deterioration.”

[Vol. XXXVI, pp. 228-230: -]

**Q. [David Day, Q.C.]** .... Given what I understand from those exhibits [Exhibits DV #1, DV #1A] to have been Norman Reid's stated and/or demonstrated belief that he didn't require medication from time to time, or at least had a substantial dislike of medications that he articulated from time to time, why was he not yet at the Waterford Hospital to avoid or diminish the prospect of repeated relapses, that based on past history manifested his paranoid schizophrenia in behaviour perceived as threatening or harmful or dangerous, either to himself or others in the community?

**A. [Dr. Nizar Ladha]** I don't think the hospital has the legal authority to keep a person in the hospital indefinitely against the person's will. ... as soon as a patient, a voluntary or involuntary patient, ... wants to leave and ... doesn't meet the requirements of the Mental Health Act, there's no legal authority to keep him in the hospital.

**Q.** .... Did you ... detect a level of ... apprehension or concern from the record about allowing Norman Reid back into the community given the nature of his illness and the history of illness?

**A.** .... Yes, I would have a sense of apprehension when Norman Reid was discharged. ....

**Q.** And would the nature of your apprehension relate to the potential for ... Norman Reid, to relapse and experience an episode of acute psychosis with resulting predictable or unpredictable behavior amounting to harm for himself or other members of the community? Would your apprehension ..., qualitatively and quantitatively include that type of concern?

**A.** Yes, it would.

**A      Norman Reid (*continued*)**

**4      Health**

**(e)      Health Care Corporation of St. John's**

(See above, at pages 45-47.)

**A     Norman Reid (*continued*)**

**4       Health**

**(f)     Health and Community Services Eastern**

(See above, at pages 45-47.)

**A Norman Reid (*continued*)****5 Social Support****(a) Overview**

Norman Reid was tormented by acute, sometimes florid, mental illness. The illness was, then, irregularly if ever self-medicated to control his behavioural accesses, although medically prescribed. His was a solitary existence. He lived in spartan shelter unserved by hydro or water; dieting, largely, on tinned staples and tobacco, funded from woefully inadequate state allowances. Not infrequently, he was shunned, feared, derisively-treated, and physically mistreated by some civilians, including some family members, in Little Catalina and elsewhere. He was poorly understood. He lacked affection.

He critically wanted for consistent, effective state-provided social, mental and psychological, economic, and intellectual support, therapy, assistance, and supervision. This, despite discreet attention shown him by some professionals and public servants functioning in an overburdened and overwrought state system, and by a few of his family and acquaintances, and, by no means least, by RCMP. He lurched through a justice system whose laws, processes and resources, while always affording him legal representation and always granting him opportunity for full answer and defence, were not equal to, and sometimes were inappropriate for or failed appreciation of, his needs.

There were some years – from onset of his mental illness at about 18 years old to his untimely passing at 43 years old – when the most human company, sometimes the only

company, he experienced was Waterford Hospital mental health treatment facilities staff and RCMP Constables.

Cumulatively, the vicissitudes of his mental and psychological health and his social, economic, and intellectual condition caused him – intermittently, precipitously, incomprehensively – to behave aberrantly. The challenge of trying to predict his behaviour was, metaphorically, equivalent to “pushing an elephant up the stairs”. When severe, his aberrant behaviour sometimes engaged mental health law and, occasionally, criminal law. In these engagements, RCMP became society’s last resort, often only resort, for responding to his behaviour. Consequent application of law sometimes restricted his freedom, thus serving his best interests. Crevices in the law restored his freedom; often depreciating his best interests.

Not infrequently, due to default or dereliction of obligations of other state institutions and persons primarily and essentially responsible for Norman Reid, and due to the law’s shortcomings, the RCMP, for brief interludes became his *de facto* informal guardian; seeking to compassionately and cautiously protect him from himself, and from some among the public.

A panoply of state institutions and agencies, including the Newfoundland legislature, were legally and/or morally liable for the welfare of Norman Reid; liable to help him to help himself; through legislation, programs and services. Particular persons from these institutions and agencies sought faithfully to help him. Collectively, however, the state failed him; less due to conscious acts of omission or commission than due to oversight and underfunding.

**A     Norman Reid (*continued*)**

**5     Social Support**

**(b)     Income**

(See above, at pages 55-56.)

**A      Norman Reid (*continued*)**

**5      Social Support**

**(c)      Home Care**

(See above, at pages 55-56.)



**A     Norman Reid (*continued*)**

**5     Social Support**

**(d)     Human Resources and Employment Client Services Officer**

(See above, at pages 55-56.)

**A Norman Reid (*continued*)****6 R.C.M.P.****(a) Overview**

Human nature, represented by the public at large, not infrequently harbours considerable pity (however objectionable), sympathy, or empathy for the mentally ill, especially should they be observed drifting aimlessly and helplessly in the community, as Norman Reid often did. If, however, the behaviour of a person, who is mentally ill, interferes or threatens to interfere with public peace or personal safety (including his(her) own safety), RCMP peace officers are required or authorized by law, to act to administer or enforce the law. And, if they act on the basis of “reasonable grounds”, they are justified in what they are required or authorized to do to achieve the goal of administering or enforcing the law. And, they are justified “in using as much force as is necessary” to achieve that goal. [Vol. 2 – Law: Legislation (General), tab 3, pp. CC / 71 ff .] The law they are required or authorized to administer or enforce may, on occasion, be the *Mental Health Act* or the *Criminal Code*, or both.

In the approximately 13 months up to 26 August 2000 that Cst. Daley was stationed at Bonavista Detachment, more than ten, less than 20, telephoned expressions of concern about Norman Reid were being received by the Detachment. Most of the callers were anonymous. Some concerns about him were communicated, in person, to RCMP Detachment members.

When concerns expressed, before 26 August 2000, resulted in RCMP contacts with Norman Reid, they are evidenced, principally, by the following: (i) under the *Mental Health Act* – portions of Exhibit DV # 1 and (ii) under the *Criminal Code* – Exhibit OB # 23.

Alternately, Norman Reid presented to RCMP as belligerent and benign. On 04 September 1999, he was verbally and physically aggressive with RCMP Bonavista Detachment members, led by then-commander Sgt. Frederick Douglas Hildebrand; employing homemade wooden weapons – a rolling pin and a broken hockey stick – to prevent his apprehension, before reluctantly surrendering (colloquially referred to at the Inquiry as “the sticks incident”). [Vol. 5 – Tables And Documents, tab 2, p. 16 (Sgt. Frederick Douglas Hildebrand); p.16 (Cst. Jeffrey Robert Curiston); Exhibit OB #23, tab 14.] On 28 June 2000, on the other hand, he appeared as placid as the early summer day when Csts. Graham and Daley apprehended him in Little Catalina [Vol. 5 – Tables And Documents, tab 2, p. 15 (Cst. John Thomas Graham); p. 14 (Cst. John Daley); Exhibit OB #23, tab 15]. Accurately forecasting his behaviour from one contact to another, or during the congress of each contact, was difficult; usually impossible.

Globally, Norman Reid’s behaviour, in contacts with RCMP, appears to fit the three phases of mental illness identified in “Canadian Clinical Practice Guidelines for the Treatment of Schizophrenia” [(1998), 43 Canadian J. Psychiatry, p. 25 S]):

- The “acute” phase: signs and symptoms worsened, usually bringing the patient to medical attention;
- The “stabilization” phase: the illness is subsiding after an acute episode; and
- The “stable” or chronic phase: acute symptoms may have subsided, but functioning is often much impaired.

[Also see: Vol. 4 – Judicial Decisions And Authors, tabs 14, 15.]

Noteworthy about Norman Reid in his contacts with RCMP members were (i) the consistently lawful, even-tempered, sensitive manner in which they dealt with him, and (ii) the physical and psychological challenge he represented to RCMP members required to deal with him.

**A Norman Reid (*continued*)****6 R.C.M.P.****(b) Contacts with Norman Reid****(b.1) RCMP**

Before – as well as on - 26 August 2000, RCMP contacts with Norman Reid were primarily under the *Mental Health Act* (as now known) and, secondarily, under the *Criminal Code*; for protection of Mr. Reid and the public.

In contacts with Mr. Reid before – as well as on – 26 August 2000, RCMP and its frontline members, including the three responding RCMP Constables: Daley, Graham and Malinay, fulfilled – competently, compassionately, and courageously – the exceptional standards and obligations imposed by common law and legislation; enforced by RCMP internal policy, training, discipline, and practise; required by police services contract; and expected by the public.

What standards and obligations must police honor in contacts with the public?

Retired Supreme Court of Canada Justice, Peter Cory, summarized these standards and obligations in his *Report on the Inquiry Regarding Thomas Sophonow* (Winnipeg: Government of Manitoba, 30 September 2001):

.... Police officers have a fundamentally important role to play in the daily lives of all Canadians. Quite simply, it is pointless to enact laws for the protection and welfare of society if those laws are not enforced. That difficult task of enforcement falls upon the police.

By their careful investigations and fair enforcement of the law, the police serve and protect society. Their role is frequently dangerous and police forces are often understaffed. Their work is demanding and requires strict attention to the most minute details. Their training must be thorough and the lessons completely mastered in order that officers attain and maintain a high level of skill in their demanding work. They must have a high standard of integrity. They must be diligent in their work. By their courage in the face of danger, by their dedication to providing scrupulously fair and honest investigations and through their honest and courteous dealings with all members of society, they can and do become role models for young people. A career in the police force is an honourable one. The police are entitled to respect and appropriate recognition of their difficult role.

What does it take to be a good policeman? I think it requires characteristics of courage, dedication, diligence, patience and integrity.

Necessarily allied, and integral, to these police standards and obligations is police authority [Vol. 2 – Law: Legislation (General), tabs 2, 3, 17, 18; Vol. 4 – Law: Judicial Decisions And Authors, tabs 3, 7, 9, 11, 21, 22, 27].

RCMP, since it began policing in Newfoundland in 1950, has measured up to these standards and obligations through lawful exercise of police authority in this Province. RCMP did so on 26 August 2002. RCMP continues to do so, daily.

(In the course of lawful exercise of police authority in Newfoundland, two RCMP members – on 06 November 1958, Cst. J. Terrence Hoey, 21 years old, at Botwood; and on 17 December 1964, Cst. Robert W. Amey, 24 years old, at Whitbourne – died from firearm wounds. They are among 202 RCMP members, nationally, to have died, in the line of RCMP duty. And, RCMP members have been seriously injured in lawful exercise of police authority, both in Newfoundland and elsewhere in Canada; including Cpl. Albert Reginald Gulliford, of Buchans, Newfoundland, during RCMP service in Manitoba in 1986 [Exhibit JG 1, pp. 91-97; 98-101].)

As of 09 December 2002, RCMP presence in Newfoundland numbered 461 uniformed and plainclothed female and male members. They serve most rural and many urban areas of the Province; involving a large plurality of its 1,777 widely-disbursed population locations. [Exhibit RG #1, pp. 38; 39-90; Vol. 5 – Tables And Documents, tab 2, p. 27.]

Newfoundland RCMP members often have contact with persons who are or may be mentally ill. In 1999, RCMP (and Royal Newfoundland Constabulary) responded to 1,809 incidents (1,102 of them by RCMP) in which involved civilians appeared to suffer mental illness or (whether or not mentally ill) appeared to be suicidal. The comparable figures were, for 2000: 2,205 incidents (1,265 responded to by RCMP); for 2001: 2,039 (1,061 responded to by RCMP); and for 2002 (to 31 October): 1,677 (906 responded to by RCMP).

Norman Reid is the only mentally ill civilian to have been fatally stopped – and he was unavoidably stopped on 26 August 2000 - by RCMP in Canada during the period 01 January 1996 to 31 December 2001 (based on a study of the subject by RCMP). [Exhibit Consent # 104.]

There is no evidence of any complaints to RCMP about the manner in which its members in the Province made contact with persons, such as Norman Reid, who are mentally ill.

**A Norman Reid (*continued*)****6 R.C.M.P.****(b) Contacts with Norman Reid****(b.2) Contacts under *Mental Health Act***

All 11 of the involuntary admissions of Norman Reid under the *Mental Health Act* were to Waterford Hospital in St. John's. Most of the admissions originated from contacts with Mr. Reid by RCMP; in particular, RCMP Bonavista Detachment. The contacts usually involved his apprehension, detention, conveyance, and restraint, by Detachment members. What follows is a table summarizing the 11 *Mental Health Act* involuntary admissions of Norman Reid to the Waterford Hospital; together with a summary of two other involuntary admissions of Mr. Reid to the Waterford Hospital for the forensic purpose of determining his fitness to stand trial on *Criminal Code* charges [Exhibit DV #1].

<b>No.</b>	<b>Admission Date</b>	<b>Basis For Admission</b>	<b>Discharge Date</b>	<b>Reasons For Involuntary Admission</b>
1	17.03.78	<i>Mental Health Act</i>	12.06.78	Stopped taking prescribed medication
2	08.12.78	<i>Mental Health Act</i>	11.01.79	Allegedly paranoid behaviour
3	03.10.79	<i>Mental Health Act</i>	13.11.79	Allegedly “pulled apart a cat and killed it with his bare hands”
4	10.01.80	<i>Mental Health Act</i>	07.02.80	Allegedly attempted to choke one of his brothers, and to burn cat to death
5	28.05.82	<i>Mental Health Act</i>	18.06.82	Stopped taking prescribed medication; allegedly attempted to strangle one of his sisters
6	29.07.82	<i>Mental Health Act</i>	15.09.82	Stopped taking prescribed medication



No.	Admission Date	Basis For Admission	Discharge Date	Reasons For Involuntary Admission
7	20.02.87	<i>Mental Health Act</i>	28.04.87	Allegedly made threats, and sought to obtain firearm
8	19.08.88	<i>Mental Health Act</i>	30.09.88	Stopped taking prescribed medications; allegedly paranoid behaviour
9	22.02.95	<i>Mental Health Act</i>	24.03.95	Stopped taking prescribed medication; allegedly threatened arson
10	12.06.95	<i>Criminal Code</i>	07.08.95	To determine fitness to stand trial on <i>Criminal Code</i> charges
11	31.05.99	<i>Mental Health Act</i>	06.08.99	Stopped taking prescribed medications; allegedly threatened Little Catalina resident with firearm
12	09.09.99	<i>Criminal Code</i>	29.11.99	To determine fitness to stand trial on <i>Criminal Code</i> charges
13	28.06.00	<i>Mental Health Act</i>	19.05.00	Stopped taking prescribed medications; allegedly threatened harm (including death) to Little Catalina female resident who would not give him cigarette

**A Norman Reid (*continued*)****6 R.C.M.P.****(b) Contacts with Norman Reid****(b.3) Contacts under *Criminal Code***

RCMP contacts with Norman Reid under the *Criminal Code* were founded on (i) investigations and, if results of investigations warranted, charges contrary to the *Criminal Code* (and once, under a provision of the *Food and Drugs Act*, since replaced with other federal legislation) and, in two instances where *Criminal Code* charges were laid, (ii) judicial orders by a Provincial Court Judge requiring Mr. Reid's conveyance to a treatment facility for medical examination to determine whether he was fit to stand trial on the charges. What follows is a table summarizing RCMP *Criminal Code* (and *Food and Drugs Act*) contacts with Mr. Reid [Exhibit OB #23].

No.	Date complaint made	Complaint made by	Complaint made against	➤ Complaint(s) alleged ➤ Resolution(s)
1	--.--.86	RCMP	Norman Reid	➤ Convicted 13.11.86 <i>contra Food and Drugs Act</i> , s. 41(1) (possession of restricted drug) – sentenced: \$150.00 fine
2	17.08.93	Norman Reid	William Reid; Hilary Reid	➤ Assault on 16.08.93 against him ➤ Later decided not to pursue
3	11.08.94	Cassie Rumbolt	Norman Reid	➤ Assault on 11.08.94 against Lori Eleanor Reid, 16 years old (slap in face with open hand) ➤ Convicted 14.09.94 <i>contra Criminal Code</i> s. 66 (assault) – suspended sentence and 1 year probation.
4	22.09.94	Peggy Stag	Norman Reid	➤ Assault on 22.09.94 against Chad

No.	Date complaint made	Complaint made by	Complaint made against	➤ Complaint(s) alleged ➤ Resolution(s)
				Stagg (complainant's son) ➤ Later decided not to pursue
5	02.12.94	Lancelot Rumbolt	Norman Reid	➤ Assault on 02.12.94 against him (pushing) ➤ Later decided not to pursue
6	04.05.95	Norman Reid	Two of Norman Reid's brothers	➤ Assault on 02.05.95 against him ➤ Later decided not to pursue
7	08.06.95	Clifford Reid	Norman Reid	➤ Threatening with knife, on 08.06.95, boy, 12 years old, and girl, 13 years old ➤ Convicted 07.08.95 <i>contra Criminal Code</i> s. 267(1)(a) (assault with weapon) (two counts) and <i>contra Criminal Code</i> s. 740(1) (failing compliance with probation order) [see above item 3] – sentence: suspended: 3 years probation, total of \$75.00 in fine surcharges
8	07.09.95	Norman Reid	Hilary Reid	➤ Assault on 07.09.95 against him ➤ Later decided not to pursue
9	25.09.95	(Media person )	Norman Reid	➤ Unwanted interest shown in media person ➤ Investigation did not disclose offence – no further action taken
10	21.12.95	(S.P.C.A. representative)	Norman Reid	➤ Beating dog with cord ➤ Investigation did not disclose offence (no injury to dog) – no further action taken
11	17.08.96	Simeon Marvin Reid	Norman Reid	➤ Uttering threats against him for several weeks prior to 17.08.96 ➤ Norman Reid found to have

No.	Date complaint made	Complaint made by	Complaint made against	➤ Complaint(s) alleged ➤ Resolution(s)
				breached peace <i>contra Criminal Code</i> s. 810(1) – ordered to enter into recognizance for 1 year
12	21.02.97	Morley Reid	Norman Reid	➤ Assault on 21.02.97 against his son, Troy, 17 years old ➤ Acquitted 20.05.97 of charges <i>contra Criminal Code</i> s. 266 (assault) and <i>contra Criminal Code</i> s. 733.1 (failing compliance with probation order)
13	28.05.99		Norman Reid	➤ Uttering threats ➤ Investigation did not disclose offence – no further action taken
14	02.06.99	Terri Lynn Cooper	Norman Reid	➤ Uttering threats on 29.05.99 against her, 14 years old ➤ Acquitted 19.04.00 of charge <i>contra Criminal Code</i> s. 264.1 (uttering threats) because did not have mental capacity to form intent required for offence
15	04.09.99	Sgt. Frederick Hildebrand	Norman Reid	➤ Assault with weapon, assault of peace officer, and uttering threats, on 04.09.99, against him and other RCMP peace officers ➤ Found not criminally responsible by reason of mental disorder on charges <i>contra Criminal Code</i> s. 264.1(1) (uttering threats); <i>contra Criminal Code</i> s. 267(a) (assault with weapon); <i>contra Criminal Code</i> s. 270(1)(a) (assaulting police officer)
16	28.06.00	Mona Rumbolt	Norman Reid	➤ Uttering to her, 20 years old, threat (to kill) and uttering to her threat (to kill, while pipe in his possession) ➤ Apprehended and certified for

No.	Date complaint made	Complaint made by	Complaint made against	➤ Complaint(s) alleged ➤ Resolution(s)
				involuntary admission, detention, and treatment under <i>Mental Health Act</i>
17	26.06.00	Violet Paul	Norman Reid	➤ Uttering threat (to cut throat) against her son, 10 years old ➤ Immediately decided not to pursue charge – requested complaint be communicated to Review Board under <i>Criminal Code</i> part xx.1
18	29.06.00	Maureen Stagg	Norman Reid	➤ Kicked door of her motor vehicle and hit her motor vehicle with rock on 29.06.00, when she refused his request for transportation; after she observed him in Bonavista Post Office talking to a postage stamp ➤ Immediately decided not to pursue charges

Trial of the three *Criminal Code* charges in item no. 7 in the above table was conducted before Rorke (John A.), J. in the Provincial Court of Newfoundland sitting in St. John's, on 07 August 1995. Norman Reid plead guilty to and was convicted of the three charges. In then suspending sentence and imposing probation on Mr. Reid for three years, Rorke J. stated (in part) [trial transcript, 07 August 1995, p. 7, line 17 to p. 8, line 3] :

.... I am going to place you on probation for the maximum period of time of 3 years. During that time you will keep the peace and be of good behaviour. You will report to a probation officer immediately. You will attend any programs arranged for you by the probation officer and take any treatment arranged for you by the probation officer. You are not to possess or consume alcohol or enter any licensed drinking establishment and you are not to possess, consume, or traffic in any illegal drug or substance. You are not to assault any person or threaten any person with injury, death or destruction of their property. You are not to handle or possess any firearm or ammunition or carry any concealed knife or other weapon. You are to take all medications prescribed for you as prescribed.

(This sentence resulted in Mr. Reid taking his prescribed medication, under supervision of dedicated public health nurse Sheila Hancock [Vol. 5 – Tables And Documents, tab 2, p. 17], during the 3-year probationary period; although over that period (i.e., to 07 August 1998) he had 5 *Criminal Code* contacts with RCMP.)

Many facets of RCMP contact with Norman Reid were addressed in documents that various members of RCMP Bonavista Detachment took the initiative to prepare; documents not ordinarily generated by RCMP Detachments.

For example, Cst. Jeffrey Robert Curiston drafted a detailed, evidently carefully-researched, Application and supporting Affidavit sworn 20 November 1999 under *Criminal Code* s. 111(1), for “an Order prohibiting ... Norman Reid, from having in his possession any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition, or explosive substance for 5 years ...”. [Exhibit JD # 5.] The Crown did not pursue this application up to Mr. Reid’s death.

Further, Cst. Curiston had prepared and sent a Memorandum dated 14 July 2000 to Clarendville Crown Attorney’s Office. Although the Memorandum summarizes concerns of residents of Bonavista (one) and Little Catalina (two) with respect to Norman Reid’s behaviour toward them, the document indicates that considerable additional disturbing information about Mr. Reid, known to civilians, had not been communicated to RCMP [Exhibit JD # 10; Exhibit JC # 02]. At page 2 of his Memorandum, Cst. Curiston wrote:

Each of these individuals expressed a general fear of the potential of Mr. Reid's behaviour. I was informed that ... his previous behaviour and ... his steady personal decline forms the basis of their concern. I was also informed that the police are not even aware of the extent of Mr. Reid's behaviour because the police were never notified.

By July 2000, had civilians been discouraged from reporting concerns about Norman Reid to RCMP because, despite their prior complaints about him, he continued to be living in the community? Or did civilians subjectively fear (whether or not objectively founded) that reporting concerns or making complaints about Mr. Reid to RCMP would result in retaliation by him or a member of his family?

And, further, on 18 July 2000, Cst. John Thomas Graham moved an e-mail from RCMP Bonavista Detachment to all RCMP members in Bonavista District regards Norman Reid; based on his research as well as discussions with other Bonavista Detachment members and with the Director of Public Prosecution [Exhibit JD # 1].

**A Norman Reid (*continued*)****7 Provincial Court**

Professional, if not legal, propriety precludes review, in this forum, of the judicial stewardship of the Provincial Court. The only Provincial Court judicial proceeding materially addressed in Inquiry evidence was the trial of Norman Reid, on 20 January 2000 and on 19 and 20 April 2000 before the Provincial Court Judge from Clarendville sitting on circuit at Bonavista, on three charges laid by a member of Bonavista Detachment stemming from “the sticks incident”. The charges, tried in Bonavista, were as follows: (i) *contra Criminal Code* s. 264.1 (uttering threats); (ii) *Criminal Code* s. 267(a) (assault with weapon); and (iii) *Criminal Code* s. 270(1)(a) (assaulting peace officer). Found not criminally responsible by reason of mental disorder on the three charges, Norman Reid, was within an hour of the trial’s conclusion, released into the community in circumstances contemplated under, and by application of, the *Criminal Code* Part XX.1; which caused considerable public concern. However, no appeal was taken from the judicial decisions – either the verdicts or dispositions on any of the charges.

Granted the portion of the record of the trial proceedings for 20 April 2000, for which support staff was responsible, proved to be incomplete. That resulted from a chance human omission or technical recording defect. Speculation on what the missing portion of the record contained would be profitless.

Support staff at the Provincial Court which sits in Bonavista is based in Clarendville, the Court seat. Judicial notice can, and should, be taken that the support staff is extensively trained



and experienced and competently have served both the Court and its public constituency with integrity.

**A     Norman Reid (*continued*)**

**8       Regional Probation Officer and other corrections issues**

(No argument.)

**A Norman Reid (*continued*)****9 Mental Health Review Board****(a) Review Board**

The jurisdiction of the Review Board, authorized under the *Criminal Code*, Part XX.1 – the mental disorder provisions of the *Criminal Code* – was once engaged in relation to Norman Reid. Engagement resulted from the finding by the Provincial Court Judge from Clarendville, sitting on circuit at Bonavista on 20 April 2000, that Norman Reid was not criminally responsible by reason of mental disorder on the three charges tried at Bonavista on 20 January 2000 and on 19 and 20 April 2000. Based on *R. v. Winko* [ [1999] 2 S.C.R. 925 ], the resulting disposition of the Review Board respecting Mr. Reid on 18 July 2000, which had the effect of permitting him to continue to live in his residence on Forest Road in Little Catalina, appears to be legally sound.

On 07 November 2002, the Minister of Justice [Canada] announced that in spring 2003 substantial amendments of Part XX.1 of the *Criminal Code*, including some of its provisions relating to the Review Board, would be introduced into Parliament; based, substantially, on the 19 recommendations made, in 2002, to the Minister by the House of Commons Standing Committee On Justice And Human Rights.

**A Norman Reid (*continued*)****9 Mental Health Review Board****(b) Mental Health Review Board**

The Mental Health Review Board is authorized by the *Mental Health Act*, s. 15. Either a patient in a treatment facility, or a person aggrieved and affected by detention of a patient in a treatment facility “may, while a certificate [for involuntary detention and treatment in a treatment facility] or a renewal of a certificate is in force in respect of the patient, either personally or through a representative, apply for the discharge of the patient from the treatment facility ... .”

Inquiry evidence did not disclose that either Norman Reid or anyone on his behalf (e.g., a family member, a relative, a lawyer) ever applied to this Board in relation to any of Mr. Reid’s 11 involuntary admissions to Waterford Hospital treatment facility under the *Mental Health Act*, during the period 1978 to 2000.

(Two other involuntary admissions, in that period (specifically, in 1995 and 1999), were “forensic admissions” under the *Criminal Code*, ordered by a Provincial Court Judge, to facilitate determination of Norman Reid’s fitness to stand trial on *Criminal Code* charges. One of the charges ultimately brought Norman Reid into contact, on 18 July 2000, with the Review Board under the *Criminal Code*.)

**B      August 26, 2000**

**1      August 25-26, prior to complaint**

Neither on 25 August 2000 nor prior to the complaint to RCMP against Norman Reid at 3:17 p.m. on 26 August 2000 did RCMP receive any complaint or concern about, or have any contact with, Mr. Reid.

**B August 26, 2000 (*continued*)****2 (a) Complaint**

On 26 August 2000, Judy Hapgood [Vol. 5 – Tables And Documents, tab 2, p. 2] was on duty as an Operator at the Operational Communications Center (“O.C.C.”) of the RCMP, located on the third floor of RCMP “B” Division headquarters in St. John’s [Exhibit AW # 6 (Cpl. Alan Warner Deposition), paras. 3-4]. Other Operators on duty with Ms. Hapgood on 26 August 2000 were Walter Vatcher and Shawn Fleming. Geographically, “B” Division is the portion of Newfoundland and Labrador, mainly rural, to which the RCMP provides policing services under agreement between Canada and Newfoundland. (The remainder of the Province is policed by the Royal Newfoundland Constabulary.)

Technical aspects of the operation of the O.C.C. throughout “B” Division are under the management of Sgt. Terence Victor Gallant [Vol. 5 – Tables And Documents, tab 2, p. 21; Exhibit TG # 1; Exhibit TG # 2].

At 3:17:38 p.m., that August date, Operator Hapgood received a telephone call from Wade Eddy [Vol. 5 – Tables And Documents, tab 2, p. 2; Exhibit JH # 2], a resident of Little Catalina. Mr. Eddy made a complaint against Norman Reid. A transcript of Ms. Hapgood’s conversation with Mr. Eddy follows [Exhibit JH # 1, pp. 2-4]:

**Hapgood:** Royal Canadian Mounted Police ... [Hapgood] speaking.

**Eddy:** Needs a cop down Little Catalina.

**Hapgood:** Pardon?

**Eddy:** Needs a cop down Little Catalina, Norm is gone foolish again.

- 
- Hapgood:** What's your name?
- Eddy:** Wade Eddy.
- Hapgood:** And your phone number?
- Eddy:** Well I'm down by Gary's house, my brother's house now.
- Hapgood:** Phone number?
- Eddy:** Gar', what's phone, what's phone? See now. What's your phone number? Two, seven, five, eight.
- Hapgood:** Give me the whole number please I don't know ah.
- Eddy:** Four. six. nine.
- Hapgood:** Yes.
- Eddy:** Two, seven, four, eight. What? Two, seven, five, eight.
- Hapgood:** Two, seven, five, eight.
- Eddy:** Yeah.
- Hapgood:** And what's the problem there?
- Eddy:** Norm Reid, swearing on, he's threaten, threaten cut youngsters throats, bawling out. That's what I heard anyway just swearing and everything on the youngsters.
- Hapgood:** Norman Eddy?
- Eddy:** Norman Reid, Norm Reid.
- Hapgood:** How old is he?
- Eddy:** He's in his forties I guess.
- Hapgood:** Is he ah, doing this all the time or...
- Eddy:** He goes the mental hospital a lot.
- Hapgood:** Has he been drinking?
- Eddy:** No. I thinks he's not taking medication right now. That's what I think.

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**Hapgood:** What's he threatening the do to you?

**Eddy:** Now he never threaten me, just here swearing and everything, pointing fingers at me, lets out oaths.

**Hapgood:** What was he threatening to cut some children throats you said?

**Eddy:** Yes that's what I heard. Cause if nothing don't be done soon something gonna happen.

**Hapgood:** Where is he now?

**Eddy:** He's up his house.

**Hapgood:** In Little Catalina?

**Eddy:** Yes.

**Hapgood:** Does he live alone?

**Eddy:** Yes.

**Hapgood:** So he has a mental problem does he?

**Eddy:** Yes.

**Hapgood:** Okay. Well, do you have a phone number for him?

**Eddy:** He got no phone.

**Hapgood:** He doesn't have a phone? Okay I'll pass it on for ya.

**Eddy:** Okay.

**Hapgood:** Thank you.

**Eddy:** See ya.

Operator Hapgood placidly and efficiently dealt with Mr. Eddy. She obtained all essential information about his complaint (virtually everything he could tell her pertinent to the complaint) in a time-economic manner. Mr. Eddy's telephone call to Operator Hapgood, 2 minutes and 31 seconds in duration, ended at 3:20:09 p.m.



**B August 26, 2000 (*continued*)****2 (b) RCMP response**

RCMP's response to Wade Eddy's telephoned complaint to the O.C.C. was immediate.

Forty-one seconds elapsed (during which she took the technical steps necessary to contact an on-duty RCMP peace officer). At 3:20:50 p.m., Operator Hapgood made RCMP police radio contact with Cst. John Daley [Vol. 5 – Tables And Documents, tab 2, p. 14].

She reached Cst. Daley, on duty, in a marked RCMP police car, patrolling on Highway 235, near Middle Amherst Cove on the west side of Bonavista Peninsula [Vol. 5 – Tables And Documents, tab 1].

Cst. Daley had been an RCMP member and peace officer since May 1993. He had served as a general duty police person at RCMP's Terrace Detachment in British Columbia from spring 1993 to June 1999. Since July 1999, he had been serving in the same role at RCMP's Detachment in Bonavista, Newfoundland. [Transcript, Vol. XXI, pp. 207, 208, 318.]

Before entering the RCMP, he earned a Bachelors of Arts degree from Memorial University of Newfoundland (with some emphasis on psychology and philosophy), and acquired considerable skill in martial arts (specifically Shotokan Karate) which, he testified, imbued him with "self control, discipline and confidence". [Transcript, Vol. XXI, pp. 216-217.]

RCMP recruit training, provided at RCMP Depot Division, in the City of Regina, Province of Saskatchewan, taught him that “[w]e have a duty of care for all individuals that we are to use the least amount of force that is necessary in order for ... [members of the public] to be compliant with the rule of law.” [Transcript, Vol. XXI, p. 219.]

He was (and is) a proud member of the RCMP (as was and is his father, S/Sgt. David Daley). He was (and is) a competent, committed, responsible RCMP member. When asked by counsel for Norman Reid’s family, Thomas Williams, about his RCMP discipline file, he answered that none existed [Transcript, Vol. XXIII, p. 69].

The RCMP police radio communication on 26 August 2000 between Operator Hapgood and Cst. Daley lasted 34 seconds: from 3:20:50 p.m. to 3:21:24 p.m. A transcript of the communication follows [Exhibit JH # 1, pp. 4-5]:

**Hapgood:** Bonavista 97 [97 refers to XJD 97, the licensing code for the radio system at the Operational Command Centre, third floor, R.C.M.P. “B” Division Headquarters, White Hills, St. John’s, Newfoundland and Labrador]?

**Daley:** Calling Bonavista?

**Hapgood:** Do you cover Little Catalina?

**Daley:** Is there a problem?

**Hapgood:** 10-4 [“I understand what you say” or “affirmative”]. There’s a guy down there Norman Reid he’s in his forties, he’s ah, swearing and threatening to harm some children. The complainant feels he might not be taking his medication and they’d like for someone to patrol,

**Daley:** Okay we’re probably there now I’ll give ya a phone call there now in a little while.

**Hapgood:** 10-4.

Cst. Daley immediately patrolled, with haste, in his RCMP police car. [Exhibit JD # 13.]

Cst. Daley was aware that in certain areas on the Bonavista Peninsula, communications are subject to interference (fading in, fading out: Transcript, Vol. XXIII, p. 279) due to the Peninsula's undulating physical relief [Transcript, Vol. XXI, pp. 386-387]. Best illustrating the challenge to RCMP of technically establishing uninterrupted communications capacity between O.C.C. and Bonavista Peninsula and within the Peninsula is Cst. Daley's later videotaped re-patrol over the routing he travelled on 26 August 2000 after receipt of Operator Hapgood's radio communication [Exhibit JD # 13]. Sgt. Terence Victor Gallant (responsible for management of technical aspects of O.C.C.'s operation throughout "B" Division) testified that RCMP is committed (assuming adequate funds are furnished to RCMP) to reduce or eliminate geographic interference with its police communications [Vol. 5 – Tables And Documents, tab 2, p. 21]. For that purpose (among others), Operator Hapgood testified, RCMP was, as of 26 August 2000, improving the system, to reduce or eliminate static in communications which involved "growing pains" [Transcript, Vol. III, pp. 45, 63]; information confirmed by Cst. Daley [Transcript, Vol. XXII, p. 285]. RCMP counsel is instructed to inform the Inquiry that efforts to improve police communications to and from O.C.C. and among RCMP personnel throughout "B" Division are continuously in progress.

In response to Operator Hapgood's radio contact with him, Cst. Daley patrolled, with haste, from the area of Middle Amherst Cove along circuitous, undulating Route 235 south to its intersection with Route 237, and turned left onto Route 237, which crosses the Bonavista Peninsula, easterly, to Route 230 (i.e., the highway to Little Catalina and to Bonavista). [Exhibit JD # 13.]

He next patrolled, with haste, along equally-circuitous and undulating Route 237 to a ridge in the highway where he judged that cellular telephone communication could reliably be made with O.C.C.

He had driven about 3 to 4 kms. [Transcript, Vol. XXI, p. 387.]

There, he pulled onto the highway's right shoulder, parked, and cellularly dialled O.C.C. [Exhibit JD # 13; Transcript, Vol. XXI, pp. 382-387.] Cell phone communications are less susceptible to atmospheric interference and are more secure [Transcript, Vol. XXIV, p. 4]. His reason for stopping was to confirm the radio communication from Operator Hapgood and to obtain additional details (if any were available) [Transcript, Vol. XXI, pp. 386-387]. As events developed, he made three calls from this cellularly-friendly vantage point.

Five minutes and 26 seconds had elapsed from 3:21:24 p.m., when his original radio communication with Operator Hapgood at O.C.C. ended, until 3:25:50 p.m., when he made cellular contact with another Operator on duty on 26 August 2000 at O.C.C., Walter Vatcher.

The cellular contact with Operator Walter Vatcher lasted 1 minute and 11 seconds: from 3:35:50 p.m. to 3:37:01 p.m. A transcript of Cst. Daley's cellular communication with Operator Walter Vatcher follows [Exhibit JH # 1, pp. 7-8]:

**Walter Vatcher:** RCMP Walter Vatcher bon jour.

**Daley:** Hi there it's John Daley calling from Bonavista.

**Walter Vatcher:** Yes sir.

**Daley:** There was a call came in about Norman Reid acting up in Clarenville, Little Catalina? Did you take that?

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**Walter Vatcher:** No.

**Daley:** Okay.

**Walter Vatcher:** Stand by I'll, okay here it is threats.

**Daley:** What you got there?

**Walter Vatcher:** Ah, complainant was Wade Eddy.

**Daley:** Wayne Eddy?

**Walter Vatcher:** Wade, W, a, d, e.

**Daley:** Wade. Hang on now, Wade Eddy. Yeah.

**Walter Vatcher:** 469...

**Daley:** Yeah.

**Walter Vatcher:** ...2758.

**Daley:** Umm, umm.

**Walter Vatcher:** Threats, Norman Reid in his forties is swearing and threatening to cut some children's throats.

**Daley:** Oh, okay.

**Walter Vatcher:** Probably not taking his medication.

**Daley:** Yeah.

**Walter Vatcher:** Reid is at his residence in Little Catalina, no phone.

**Daley:** Reid is at his residence, yeah that's right. Okay good enough so when was the call made?

**Walter Vatcher:** Ah, we got it 3:18.

**Daley:** Three, eighteen okay, good enough. Alrighty sir thank you very much what's file number for that?

**Walter Vatcher:** 2437.

**Daley:** 2437. Thank you.

---

**Walter Vatcher:** What's your car number?

**Daley:** Ah, bravo 10 [referring to police car number].

**Walter Vatcher:** Okay sir.

**Daley:** Wait now, hang on, hang on. no I'm in bravo 9, but it's Daley.

**Walter Vatcher:** You're in bravo 9 is it?

**Daley:** Yeah I am...

**Walter Vatcher:** Okay then.

**Daley:** (Unintell) mine or not.

**Walter Vatcher:** Alright buddy. Okay.

**Daley:** See ya.

**Walter Vatcher:** Alright bud.

From the communication with Operator Walter Vatcher, Cst. Daley learned that the subject of Wade Eddy's telephoned complaint was Norman Reid. He previously knew Mr. Reid "was of a potentially violent nature, recalling the previous communications that had originated from Cst. John Thomas Graham" [Transcript, Vol. XXI, p. 389]. And he was aware that Mr. Reid was "known to suffer from schizophrenia, ... known to be a person of potentially violent nature, ... " [Transcript, Vol. XXI, p. 392.].

His knowledge of Norman Reid came from other police persons and from personal experience.

His primary source of Norman Reid information was from other police persons; specifically Cst. John Thomas Graham. He was acquainted with an e-mail generated 18 July 2000, by Cst. Graham of RCMP's Bonavista Detachment, to all RCMP members in Bonavista

District, which included Bonavista Detachment member Cst. Daley [Exhibit JD # 1; Transcript, Vol. XXI, pp. 336-337]. Page 2 of the e-mail headed “IMPORTANT PLEASE READ!!” stated:

Mr. Mills [Director of Public Prosecutions for Newfoundland] suggested that should Mr. REID act up again in even the slightest way which gives you grounds to believe that he Has or is about to breach any of the ... conditions [imposed on him by the Mental Health Review Board on 18 July 2000 under Criminal Code s. 672.54(b)] you arrest him for[th]with. (Call for Cover)

Among other things, this document is noteworthy for its demonstration of the astuteness and the dedication to duty of its author, Cst. John Thomas Graham; its dedication to rationalizing and detailing plans for any future dealings with Norman Reid; and its portentous and prescient direction to recipients to seek cover (i.e., backup) when responding to future complaints about Mr. Reid.

Cst. Daley was also personally aware of Norman Reid, from several historic personal contacts with him:

- (i) On 19 April 2000, he had, in company with Cst. Jeffrey Robert Curiston [Vol. 5 – Tables And Documents, tab 2, p. 16], conveyed Mr. Reid from his residence on Forest Road in Little Catalina to Provincial Court of Newfoundland sitting at Bonavista (for trial of charges resulting from a violent encounter with other members of RCMP’s Bonavista Detachment) [Transcript, Vol. XXI, p. 341; Vol. 5 – Tables And Documents, p. 16 (Sgt. Frederick Douglas Hildebrand (not “Hilderbrand” as spelled there and in the Transcript))]. (Sgt. Hildebrand, who was RCMP Bonavista Detachment Commander when Cst. Daley arrived at the Detachment in July 1999, informed Cst. Daley that Mr. Reid had been “diagnosed as suffering from

delusional schizophrenia ... [and] on prior occasion had been investigated in relation to alleged violent acts and/or made threats of violence nature to the local residents in and around Little Catalina area ... [that] police have had on occasion attended to his residence, that he had been arrested, ... under ... the *Mental Health Act*. That he had been a resident of the Waterford Institution.” [Transcript, Vol. XXI, pp. 324-325.]

- (ii) During Mr. Reid’s 19 and 20 April 2000 Provincial Court trial hearing dates, Cst. Daley was aware that the trial judge “requested an increased police presence in his Court ... as he had previous knowledge of Mr. Reid ...” [Transcript, Vol. XXI, p. 341; Vol. XXIII, p. 230] and, further, observed Mr. Reid, while in court, speaking in a “disjointed, rambling” fashion [Transcript, Vol. XXI, pp. 345]. Although displeased that the trial judge remanded him in custody from 19 to 20 April, during his trial, Mr. Reid accepted reassures by Cst. Daley he would be “looked after” and “fed” and “not to worry” about being held at the RCMP Bonavista Detachment cells, as a result of the remand [Transcript, Vol. XXIII, p. 229].
- (iii) On 20 April 2000, Mr. Reid had declined Cst. Daley’s offer to convey him from Bonavista back to his residence in Little Catalina after Mr. Reid’s trial concluded [Transcript, Vol. XXI, pp. 343-344; Vol. XXIII, p. 241] and later, same date, Cst. Daley observed Mr. Reid behaving vacuously on



Route 230 at the outskirts of Bonavista [Transcript, Vol. XXI, pp. 343-344; Exhibit Consent 4 (Deposition of Patti Lee Skinner), paras. 4-6.3)].

- (iv) Cst. Daley had participated, with Cst. John Thomas Graham, on 18 June 2000, in apprehending Norman Reid on a Little Catalina road, under the *Mental Health Act*, on the bases of complaints of a female resident of the same community that Mr. Reid had threatened her first without, then with, a weapon (a metal pipe) [Transcript, Vol. XXIII, pp. 186-188; Vol. XXI, pp. 348-352], and could have arrested him under the *Criminal Code* [Transcript, Vol. XXIII, p. 187]. Following apprehension on 18 June 2000, Mr. Reid was conveyed by Cst. Graham and Daley to the Bonavista hospital where he was medically sedated and certified under the *Mental Health Act* for conveyance to a mental health treatment facility; after which Cst. Graham and Daley arranged for Mr. Reid's transport by another RCMP Bonavista Detachment Constable and a Detachment prison cells guard to Waterford Hospital in St. John's. [Transcript, Vol. XXI, pp. 348-358.] While at the Bonavista hospital, he observed behaviour by Norman Reid that he again observed on 26 August 2000: "Mr. Reid was either agitated or he wasn't. ... it was very rare for him to ever slide into a different mood. He [witness makes snapping sound] would change very quickly. .... On occasion, jump up and walk directly towards us .... He'd do this a lot, wiggling his fingers, or his whole hand ... and stare directly at you ..." [Transcript, Vol. XXIII, p. 165].

- (v) And, Cst. Daley had been told by members of the Little Catalina community that “you have to have him [Norman Reid] removed from the community” and that Norman Reid made them “wanting to lock their doors, ...” [Transcript, Vol. XXI, p. 328; Vol. XXIII, pp. 107-108].

Asked by Thomas Williams, counsel for the Norman Reid Family, if “... any steps [were] taken shy of actual complaints laid against Mr. Reid to inquire with respect to his mental health status?, Cst. Daley answered [Transcript, Vol. XXII, pp. 386-387]:

... I recall it being fairly common, that we would be in receipt of information, a lot of times anonymous, from within the Bonavista detachmental area about Mr. Reid’s status, concerns about him, he’s off his medication, what are you going to do about him, he’s out there on the road, stood out there on the road staring off into space. .... and naturally we would make inquiries of our contacts and sources within the area in the course of duties, .... as he was of a potentially violent nature, it behooves one to understand his current status to the best that one can, ... [short of] becoming harassing and possibly exacerbating the situation. ....

Cst. Daley estimated that Bonavista RCMP detachment received “more than 10, less than 20” anonymous telephone calls, monthly, expressing concern about Mr. Reid’s conduct [Transcript, Vol. XXIII, p. 260].

While he became acquainted with Norman Reid, Cst. Daley also sought to develop liaisons in the Bonavista Detachment area that may help him, and fellow Detachment peace officers, to address problems, in the Detachment area, of persons experiencing mental illness, including Norman Reid.

[Vol. XXIII, pp. 107-108: -]

**Q. [Sandra Burke]** .... what actions did you take with respect to establishing partnerships in the community?

. . . . .

**A. [Cst. John Daley]** ....I am responsible for liaising with members of the town councils in that area, ...

**Q.** Would it include local clinics, medical clinics, hospitals - ... Community Health, that type of thing?

**A.** Yes, ...

**Q.** Did you ... establish those partnerships in Bonavista?

**A.** Yes, ... and of course it's an ongoing basis as personnel change and you become aware of other individuals with whom one should network. That's a dynamic process that's continually developing.

. . . . .

Asked by Thomas Williams whether "... his family have ever been contacted or any representatives of mental health institutions regarding his activities, if they were shy of any criminal involvement?, Cst. Daley answered: "I believe that occurred." [Transcript, Vol. XXII, p. 387.]

[Vol. XXIII, pp. 114-115: -]

**Q. [Sandra Burke]** Do you recall whether there was anything positive about Mr. Reid?

. . . . .

**A. [Cst. John Daley]** That there were occasions when Mr. Reid had improved or at least did not deteriorate in relation to taking medications, ....

Cst. Daley was aware of Norman Reid's frequent admissions to hospital for treatment of his mental illness.

[Vol. XXIII, p. 122: - ]

**Q. [Sandra Burke]** Were you aware prior to August 26<sup>th</sup> as to how often Mr. Reid has been in and out of the hospital?

**A. [Cst. John Daley]** I knew that it had been on numerous occasions. ....

. . . . .

[Vol. XXIII, pp. 111-112: -]

**Q. [Sandra Burke]** .... Would it be fair to say that the members were somewhat frustrated by not knowing how to handle them or not knowing what to do, having to deal with the community and not knowing how to respond to them?

**A. [Cst. John Daley]** ... that's not accurate. We are trained ..., I know of procedures that one involves, that one uses when responding to complaints about aggressive individuals and fears in that regard .... We were ... quite able to deal with situations such as that but we would of course have concerns that Mr. Reid or any other individual be getting appropriate and timely medical treatment. .... I didn't feel any particular frustration. ... one would think what is it that I can do and what is it that I should do in relation to any ... individual's alleged mental disturbance and how we would respond to same.

**Q.** And what was your answer to that? ....

. . . . .

**A.** ... monitor the situation as best one can with concerns that one not be perceived as harassing, ....

. . . . .

[Vol. XXIV, pp. 47-53]

**Q. [John Byrne, Q.C.]** ... would it have been a concern at the Bonavista detachment, the situation that apparently was unfolding around Mr. Reid, that he was, you know, inevitably getting into problems ...

**A. [Cst. John Daley]** Yes.

**Q.** Other times he would go to the Waterford Hospital for a relatively short stay, I take it -

**A.** I understand.

**Q.** - come out and the problems would continue and repeat themselves?

**A.** That was the information that was also provided to us by members of the community.

**Q.** ... if I could use the term, sometimes it's overused, revolving door.

**A.** I understand.

**Q.** ... the police are at one end of it doing everything that they can -

**A.** Yes.

**Q.** – to take care of the problem but as they put the subject, in this case Mr. Reid, into the Courts or they put him into the hospital, he quickly gains access by whatever means, .... and he's out again and he's in your face again and now you have to do something with him again.

**A.** Right, .... Of course we were concerned, .... We're concerned about all individuals who are diagnosed with mental imbalance who come to our attention.  
....

**Q.** So this is just a difference in terms, concern versus frustrate?

**A.** ... we were not frustrated in our duties. We knew what to do. We're well trained ... we knew our role and we knew our responsibilities for public safety, criminal investigation, as they developed on a daily basis, and I was concerned of course about Mr. Reid's welfare and the people around him, but I was not frustrated in my role as a peace officer ...

. . . . .

**Q.** What I mean is the effects upon your mind. .... your mind-set ..., you know, jeepers, you know, we're doing everything we can here and this problem seems to keep coming back to us. I'm suggesting could you, could there have been frustration ... ?

**A.** .... one has to be accepting .... I do what I can do to the best of my abilities and one gets satisfaction from that ....

. . . . .

**Q.** .... [Sandra Burke, representing Canadian Mental Health Association (Newfoundland and Labrador Division)] was suggesting in her questioning that there might have been some of that mental frustration? .... And I don't believe you necessarily agreed with that?

**A.** No, I do not.

**Q.** .... But you didn't see the e-mail from Graham [Exhibit JD #1, dated 18 July 2000] as evidencing anything in the line of .... mental frustration.

. . . . .

**A.** No. .... Others may interpret it as being frustrated, I don't, ... see that. I see a conscientious police officer doing what one can. And that's my read of the document.

Cst. Daley had a police person's practical working knowledge of Norman Reid's mental illness, schizophrenia, and of the resulting precautions to exercise in human relationships with him:

[Vol. XXIII, pp. 122-128: -]

**Q.** [**Sandra Burke**] You've indicated in your evidence that Mr. Reid had delusional schizophrenia, and I think I understood you to say another point in time that he had paranoid schizophrenia. Do you recall those two phrases?

**A.** [**Cst. John Daley**] Yes, I do, and I have no medical background to ... make a clinical diagnosis of Mr. Reid. Suffice it to say that I was aware that he had been diagnosed with schizophrenia and I have heard various terms or qualitative terms applied to that schizophrenia, ...

**Q.** ... when you use the adjectives delusional and paranoid, ...

**A.** ... I would define them at face value.

. . . . .

**Q.** If a person with schizophrenia was under a delusion, would there still be a possibility of them being able to reason?

**A.** I do not know.

**Q.** In your experience, ...

. . . . .

**A.** ... in my experience with people who have been diagnosed or who I have been made aware ... have been diagnosed with schizophrenia, ... they have been able to reason to various degrees.

. . . . .

**Q.** - would your response ... change in any way if I say, ... were any of these people who have schizophrenia under delusions at the time?

A. ... I wouldn't been able to make a medical diagnosis as to whether or not they were under any delusion. ....

. . . . .

Q. ... can you point to things that you should do and things that you should not do when you approach somebody who has a mental health problem and they're in a crisis?

. . . . .

A. ... appear as non-threatening as possible. ... express oneself as slowly and as clearly as one can possibly do so. ... be mindful of one's proximity to such individuals for a couple of reasons. ... you may not get any indication of an impending attack .... also be aware that, in my experience, individuals such as we described have very strong feelings about their personal space, .... be generally respectful, treat as you would wish to be treated ....

Q. What about the use of deception, ...?

A. .... it is my experience when I deal with any individual that I be as forthright as I possibly can. ... that will work much better in establishing a rapport and trust

. . . . .

[Vol. XXIII, pp. 145-146: -]

Q. [Sandra Burke] ... Do you equate people with schizophrenia as having violent tendencies?

A. [Cst. John Daley] ... no, ... I know of at least five individuals back in my previous posting of Terrace [British Columbia] as being very non-violent, however, all ... did have ... some level of aggression when a person violated their personal space, as they perceived it to be ... unless provoked or unless their space was ... invaded, they were very docile persons, ... however, I do know of individuals who were quite violent in the common understanding of the term.

Q. And you understand that one doesn't necessarily follow the other.

A. From my experience.

. . . . .

Q. ... Mr. Reid was quite resistive to taking his medication. ....

A. That was my understanding from his statements.

Q. And are you aware as to why ...?

**A.** No. He simply said that he did not have to do things that people told him to do, ... I'm paraphrasing, ... he was in control and nobody else was and no one could make him do anything that he did not wish. That was a mantra of Norman Reid, ... whenever I was in his presence ....

. . . . .

[Vol. XXIII, pp. 147-149: -]

**Q. [Sandra Burke]** ... would you agree that while on the outside it appears that a person is confused, ... there may be some kind of logic or a different sort of logic that the person is going through?

**A. [Cst. John Daley]** It's my experience that ... they perceive reality in a different manner.

. . . . .

**Q.** ... even though a person with mental illness is experiencing a delusion, ... is it your experience that you can still reach a person, that you can still contact that person to reason with them?

**A.** I have done so in the past.

**Q.** And are you aware as to how that is accomplished?

. . . . .

**A.** What I have done ... and ... I employ this in all of my conflict resolution, is ... validate the individual, try not to be judgmental, try to be understanding and compassionate as you draw out the individual and try to find out what it is that is causing the distress or what the conflict is between individuals, whether that be a property dispute or whether that be a person who's suffering from mental imbalance, ....

. . . . .

[Vol. XXII, pp. 380-381: -]

**Q. [Thomas Williams]** ... in Bonavista, was there any policy [,] ... informal, formal ... as to what a protocol may be if you had to deal with somebody for a mental illness ...

**A. [Cst. John Daley]** ... one should never expose oneself to danger without ... back up. ... where an individual is alleged to be violent and mentally disturbed, .... That is explicitly taught to us in no uncertain terms ....

**Q.** Proactive as opposed to reactive.



A. Yes.

Overall, Cst. Daley “... was aware from previous dealings with Mr. Reid the nature of his affliction. I was aware of allegations of violent behaviour in the past, that Mr. Reid ... was a very unpredictable person ... that he was a man with whom I had to be concerned vis-a-vis officer’s safety and safety of people in general, ... I had been present when Mr. Reid had been found not criminally responsible by reason of mental disorder, so I had it on good authority that Mr. Reid suffered from a serious imbalance.” [Transcript, Vol. XXII, p. 275.] And, Cst. Daley’s “sad expectation” was that RCMP would continue to be requested to respond to complaints against him [Transcript, Vol. XXIII, p. 262].

Cst. Daley, thus, concluded that “ ... one should proceed with all due caution but with all due haste in order to secure a potential situation in Little Catalina .... [a situation which] would merit our fullest attention” [Transcript, Vol. XXI, pp. 392-393]. However, Cst. Daley recognized, from the outset of his response on RCMP’s behalf, to Wade Eddy’s complaint about Norman Reid, that “ ... the veracity of the complaint ... hadn’t been determined, of course” [Transcript, Vol. XXI, p. 392].

After the cellular communication with O.C.C. Operator Walter Vatcher, which ended at 3:27:01 on 26 August 2000, Cst. Daley made his second cellular call; contacting Cst. John Thomas Graham at his residence [Vol. 5 – Tables And Documents, tab 2, p. 15].

He called Cst. Graham because “ ... given his greater experience in dealing with Mr. Norman Reid than myself [,] ... there may have been some degree of instruction that Cst.

Graham might be able to provide myself or any other attending member in relation to Mr. Reid” [Transcript, Vol. XXIII, pp. 277-278].

[Vol. XXII, p. 283: -]

**A. [Cst. John Daley]** I knew that I had to get there as quickly as possible but as safely as possible and I felt that given the individual involved, that being ... Mr. Norman Reid, ... and also being aware of Cst. Graham’s concerns about Mr. Reid, ... I should discuss that with him and that I should get some backup prior to attendance as I am aware of how Mr. Reid has responded in the past to officer attendance and I am also not ignorant of Mr. Reid’s mental imbalance.

Besides being the principal source of information from other police persons about Norman Reid, Cst. Graham was, in Cst. Daley’s estimation, “ ... a great asset. We have worked together well in the past. I trusted him and I still do.” [Transcript, Vol. XXIII, p. 189.]

As well, Cst Graham was then senior constable at RCMP Bonavista Detachment, and team leader when the Detachment commander was absent. The Detachment was then under the command of Cpl. Rupert Baker and staffed by six Constables (including Graham, Daley, Curiston, John Malinay [Vol. 5 – Tables And Documents, tab 2, p. 15], Matthew Hansen and Jackie Letto). On the afternoon of 26 August 2000, Cst. Daley and Malinay were on duty; Cst. Graham was scheduled for duty that night. [Transcript, Vol. XXI, pp. 319, 320, 338, 371-381; Vol. XXII, p. 177.]

Cst. Daley reached Cst. Graham at his Bonavista residence. He “relayed” to Cst. Graham “the events as had been relayed to ... [him] initially.” Cst. Graham “asked if I had any immediate back up and I informed him that Cst. Malinay was [also] working that afternoon.” He also

informed Cst. Graham of the nature of Wade Eddy's complaint against Norman Reid. [Transcript, Vol. XXI, p.391.]

Cst. Graham told Cst. Daley "to make certain that Cst. Malinay was aware of ... [the complaint by Mr. Eddy] .... that he would be coming in early ... to the Bonavista Detachment, to notify Constable Malinay to await his attendance [at the Detachment] and that he would accompany Constable Malinay [from Bonavista Detachment] to Little Catalina where ... [they] would meet up with myself so that there would be two police cars, three members that would be able to attend to the residence [of Norman Reid] as soon as we could so that we could ... secure that particular area, locate Mr. Reid and either stop ... any currently ongoing assault or any potential assaults." [Transcript, Vol. XXI, p. 394.]

In expanding upon these directions, Cst. Daley understood from Cst. Graham that "... [w]e would ... go to the area, find out just where Mr. Reid was located, ... and once we found Mr. Reid then we would investigate the matter and proceed as the investigation merited. We had ... one side of the matter. It would be incumbent upon us to interview Mr. Reid. But primarily, of course, we had a duty for safety ... ". [Transcript, Vol. XXI, pp. 394-395.]

"[W]e perceived it keenly," Cst. Daley and Cst. Graham agreed during their telephone conversation, "that we had to make certain that Mr. Reid was of no threat to others or himself and ... that would have been the first priority ..., and once that had been established then we would have ... had the grace of time to proceed with the background investigation for the criminal allegation of threats." [Transcript, Vol. XXI, p. 395.]

Cst. Graham told Cst. Daley that “if ..., the allegation was founded ...” arrest of Norman Reid would, in that event, “be appropriate.” [Transcript, Vol. XXI, p. 395.]

[Vol. XXII, pp.287; 290-291: -]

**Q. [Thomas Williams]** ... the statement that was given by you to the O.P.P. on the 4<sup>th</sup> of December 2000 ... [states] “I called John up and said, ‘Hey, we got it. What was that you came up with?’ ...” ....

. . . . .

**A. [Cst. John Daley]** .... what ... I’m referring to there is ... a call concerning Mr. Reid ... it was not entirely unanticipated that ... we would get further complaints about Mr. Reid. .... that would give one no pleasure what so ever, however, it’s not unentirely unexpected.

**Q.** So when you’re referring to, “Got it,” I take it you are referring ... to an opportunity in which to pursue a possible allegation which could result in his being -

**A.** It wasn’t an opportunity, it was a requirement to investigate an allegation, and ... what I’m indicating to Constable Graham here is that this has occurred and now we’re going to have to investigate and deal with this.

. . . . .

[Vol. XXII, p. 293-294: -]

**Q. [Thomas Williams]** Did he say to you that you’re probably going to have to arrest him?

**A. [Cst. John Daley]** .... If he said that ... I would understand that to be subsequent to verification and reasonable and probable grounds to do so.

**Q.** ... in your R.C.M.P. statement ... you state, “Constable Graham informed me that in his opinion Norman Reid may have to be arrested. ...”

. . . . .

**A.** .... That implies that further information would have to be gleaned.

The prospect that Norman Reid may re-offend did not surprise the Norman Reid Family. Their counsel, Thomas Williams, said as much in cross-examination of Cst. John Daley:

[Vol. XXII, pp. 383-384: -]

**Q. [Thomas Williams]** ... were there any efforts ever undertaken to see, obviously he being a high risk of re-offending due to illness, whether or not he was taking medications? Was there any method of checking on whether Mr. Reid was in fact required to take medications [,] by a psychiatrist [,] and whether or not he was in fact taking them?

**A. [Cst. John Daley]** I don't know if there was any means available for that.

Cst. Daley, while continuing to be parked beside Route 237, made a third cellular call; to Cst. Malinay who he reached at Bonavista Detachment. He repeated to Cst. Malinay the directions he (Cst. Daley) had just received from Cst. Graham. [Transcript, Vol. XXI, p. 396.]

After making the three cellular calls, Cst. Daley continued his patrol, with haste, along Route 237 to its intersection with Route 230, at Catalina. From there, Cst. Daley turned left onto Route 230 and patrolled, with haste, to the parking lot of the vacant T.A. Lynch high school, near the intersection of Route 230 with the access road, off Route 230, to Little Catalina. There he awaited Csts. Graham and Malinay. [Transcript, Vol. XXI, pp. 397-399.] These three Constables had worked in conjunction before [Transcript, Vol. XXI, p. 362].

[Vol. XXIII, p. 86: -]

**A. [Cst. John Daley]** ... for that whole event, we operated in concert. There was, to my recollection, no one individual taking any lead, as it were. We were simply, to the best of our abilities, attempting to communicate with Mr. Reid.

The distance from Middle Amherst Cove, where Cst. Daley was originally contacted by Operator Hapgood, to the Route 237/Route 230 intersection is 14.14 kms.; from there to Route 230's intersection with the Little Catalina access road is 3.44 kms.; from there to the boundary of Little Catalina on the access road is 1.0 kms.; and from there to Norman Reid's residence on Forest Road in Little Catalina is about 0.22 kms [Vol. 5 – Tables And Documents, tab 1; Transcript, Vol. XXIII, p. 275 ] – a total distance of 17.8 kms.

What followed, on 26 August 2000, is best described by Cst. John Daley from his eyewitness recollection, as a professionally-trained and experienced RCMP peace officer, giving in his testimony to the Inquiry. Cst. Daley was commended by Thomas Williams, counsel for Norman Reid's Family, for his "straightforwardness" in his Inquiry testimony – the lengthiest Inquiry testimony (1,026 Transcript pages over 6 days in October 2001). With caution and candor he articulately recounted the tragic, though wholly unavoidable, events which ensued; from his frontstall vantage point on Forest Road in Little Catalina.

**B August 26, 2000 (*continued*)****2 (b) RCMP Response****(b.1) Preparation to respond to complaint about Norman Reid**

[Vol. XXII, pp. 50-51: -]

**Q. [John Byrne, Q.C]** ... after your initial awareness of this alleged threat by Mr. Reid against children and in going to Mr. Reid's residence, in your mind were you there for investigational purposes or were you there for safety purposes?

**A. [Cst. John Daley]** My primary concern was one of safety. Life takes precedent over any investigation. .... we went there for the initial purpose of locating Mr. Reid first as he would [,] logically [,] given his history [,] present the greatest threat ... that is what we intended to do when we got there, and upon a successful resolution of that ... an investigation would ensue ...

**Q. ....** So your first purpose there was to contain the threat?

**A.** Correct.

. . . . .

[Vol. XXI, pp. 396-398: -]

**Q. [John Byrne, Q.C]** .... You weren't concerned in a proper response to this complaint, ..., ... with getting other back up other than yourself, Malinay and Graham?

**A. [Cst. John Daley]** .... we felt relatively confident with that number and those individuals, ... .

. . . . .

**Q. ....**, having spoken to Malinay and Graham now what was your understanding as to the deployment of officers?

**A.** That we would not proceed in singularly. .... That we would go as a group, mutually supportive, and that ... whoever attended to the intersection of Route 230 and Little Catalina first would await the other. .... I don't believe that there was any discussion of weapon, or at least not that I recall that there was. However, the nature of the threat indicates an edged weapon.

. . . . .

[Vol. XXII, p. 274: -]

**Q. [Thomas Williams]** ... would you think it prudent to further investigate such a matter?

**A. [Cst. John Daley]** Of course, ... that's what we intended to do upon our arrival to Little Catalina. We were going to investigate the complaint.

**Q.** Did you make any calls or inquiries while awaiting the arrival of Constable Malinay and Graham ...

**A.** No, .... I wanted to leave my communications free for Constable Graham.



**B August 26, 2000 (*continued*)**

**2 (b) RCMP Response**

**(b.2) Commencing response: patrolling to residence of complainant subject Norman Reid**

[Vol. XXI, p. 399: -]

**Q. [John Byrne, Q.C]** .... your visual observation of the other two officers what, if any contact, did you have at that time?

**A. [Cst. John Daley]** They proceeded past me. ... I radioed to them and said that I had just pulled out behind them and that I would be following them.

**Q.** ... I take it that's Malinay and Graham in a police car that's proceeding in front of you, you following?

**A.** Correct. I believe Constable Malinay was at the wheel.

. . . . .

[Vol. XXI, pp. 408-409: -]

**A. [Cst. John Daley]** ... prior to our immediate attendance after we had turned off ... [on to] the access road Constable Graham indicated to our Operational Communications Centre that he wished the repeater system to be left up. What that means, you ask our O.C.C. to keep ..., the communications open between themselves and ourselves ... They'll hear our car to car, station to station transmissions that they would not otherwise, and we have to ask them to do it. We do not have the means to open it ourselves. ... that way they'll be able to monitor it. .... it was complied with initially but ... there was some form of error or communications break down whereby that system did not work as Constable Graham had intended it to and ... our communications eventually became discreet to ourselves .... that has occurred at times. Even as much as atmospheric distortion can cause these things to occur. It's not a perfect system.

. . . . .

The "repeater request" occurred from 3:52:59 p.m. to 3:53:10 p.m. via police car radio communication with operator Hapgood at O.C.C. A transcript of the 11-second communication follows [Exhibit J.H. 1, p. 9]:

**Hapgood:** Calling 97?

**Graham:** Six bravo eight, six bravo nine we got a 10-23 [“arrived at scene”] in ah, Little Catalina. I'd appreciate is if you'd leave a repeater up please.

**Hapgood:** 10-4. I have six bravo eight and nine here same thing.

. . . . .

[Vol. XXI, pp. 399, 401: -]

**A. [Cst. John Daley]** We proceeded directly to the residence of Mr. Norman Reid [on Forest Road].

. . . . .

**A. ....** I followed Cst. Malinay's vehicle, accompanied by Constable Graham. ... I ... parked immediately to their rear. ....

. . . . .

[Vol. XXIII, pp. 181-182: -]

**Q. [Sandra Burke]** .... as you were going to the scene - .... you didn't just get a call, you got the call. You got the call to finally get this man -

**A. [Cst. John Daley]** No.

**Q.** - this nuisance out of the community.

**A.** No, .... we had a call ... that Mr. Reid had stated that he was going to cut throats of some children in Little Catalina and we were going there to ascertain his whereabouts and investigate the complaint.

. . . . .

[Vol. XXIV, pp. 66-69: -]

**A. [Cst. John Daley]** .... I never felt that we had done anything that would engender mistrust.

. . . . .

**Q. [Sandra Burke]** .... given Mr. Reid's mental health issue, given his perception that he felt that he did not trust the police officers or authorities?

**A.** He never stated it to us. I had no reason to believe it. And, of course the possibilities of Mr. Reid's perception, I will not comment on.

. . . .

**Q.** Wouldn't it be reasonable that that [referring to three incidents in which Norman Reid appeared to take issue with RCMP processing of him] would have been, that that would have been something engendered in him?

**A.** Well, one must be careful with the term "reason" and "Mr. Reid", ...

---

**B**      **August 26, 2000 (*continued*)**

**2**      **(b)      RCMP Response**

**(b.3)    Arrival of Csts. Graham, Daley and Malinay outside property  
of complaint subject Norman Reid**

[Vol. XXI, pp. 401-404: -]

**Q. [John Byrne, Q.C]** Did either of the vehicles get up and park say in front of the side of Mr. Reid's house?

**A. [Cst. John Daley]** No, they did not.

**Q.** So they were ... down towards the direction of the junction of the main road and Forest Road, ...

. . . . .

**Q.** ... they're both parked on the same side [of Forest Road], ...?

**A.** Yes.

**Q.** Did you have an opportunity to observe the other two officers upon their arrival and their parking at that location?

**A.** I followed them right in so I was immediately to their rear.

. . . . .

**A.** ... as I was parking my vehicle at that particular moment. ... I didn't notice them get out of their vehicles.

**Q.** .... what did you next observe ....?

**A.** ... John Thomas Graham and John Malinay ..., were out of their vehicle and in front of their vehicle.

. . . . .

**Q.** ... you saw no sight of ... [Norman Reid]?

**A.** No. ...

. . . . .

**Q.** .... were they in uniform at the time?

A. Yes, ...

. . . . .

A. Constable Malinay was I think an exact replication of what I have on. Constable Graham had thrown together some things quickly. I think he had his duty belt [and] vest, but I think he had on a different pair of pants that may not have had the yellow stripe. ....

. . . . .

[Vol. XXII, pp. 2-18: -]

**Q. [John Byrne, Q.C]** .... could you indicate the condition generally of the property [,] of the house [,] ... with some particular relationship to the fence, upon your arrival there that day?

**A. [Cst. John Daley]** .... The general condition of the property would be best described as dilapidated. It appeared to be in a general poor state of repair. .... the fence appeared to be poorly seated into the ground. .... it was leaning somewhat, I believe, outwards. It appeared to be, a term could be used as rickety. .... The portion of the fence that is fallen over, that being the portion immediately in front of the bridge of the Reid residence ... was standing upright. ... the next section of fence further up the road ... is ramshackle in that it appeared to have sustained damage in the past. .... these portions ... had been poorly reaffixed, that's a supposition on my part, ... They were roughly affixed here, I think close to where they probably originally were. However, they progressed at a downward angle to the next ground post.

**Q.** You mean they, instead of running horizontal they slanted, as you looked at them -

A. They were.

. . . . .

**Q.** .... your observations of the fence off from the bridge of Mr. Norman Reid's house ... ?

A. ... there was a gate there. I can not tell the inquiry whether the gate was open or closed. .... If one was to lift that up in it's current position it would probably be, ... where it stood. It looks like it's fallen over from where it was and was not moved.

**Q.** .... there has been in evidence ... [a] description of the downed fence that we see in [Exhibit] D.M. #4 as comprising three sections? .... one to the left, one to the centre and then a further one here to the extreme right .... From your recollection can you recall which of those sections comprised the gate?

A. .... It appears from the picture here [Exhibit D.M. #4] that this was probably the gate section ... .

Q. You're pointing to the ... [section] down the road on the extreme right [of Exhibit D.M. #4] ....

A. Correct, ....

. . . . .

Q. ....Is the configuration of the railing and the bridge as you see there [in Exhibit D.M. #4], ... consistent with your memory upon arrival there that day?

A. It is.

. . . . .

Q. ... were there any parts of the fence in relation to Mr. Reid's property down or was all of his fence standing?

A. I believe what I observed was standing.

. . . . .

Q. .... Could you describe that fence ... as a barrier?

A. I did not give it much consideration as a barrier. .... I didn't feel that it provided me with any sense of security, whatever. .... I felt that it wouldn't have posed me any trouble to get over ... I'm only five foot eight and my legs aren't all that long actually, and I didn't think that it would have provided me much difficulty in getting past.

. . . . .

Q. Looking at it from the other side [of the fence] - .... would it pose more of a barrier, ... ?

A. .... No, I don't believe it would have posed much of a barrier to movement.

. . . . .

[Vol. XXI, p. 404: -]

A. [Cst. John Daley] .... As I was getting out I noticed at that point that they were in conversation with Mr. Reid.

**B**      **August 26, 2000 (*continued*)**

**2**      **(b)      RCMP Response**

**(b.4)    Police presence and first sighting of complaint subject Norman Reid**

[Vol. XXI, pp. 404-408: -]

**A. [Cst. John Daley]** ... I missed ..., Mr. Reid's appearance. I can't tell you if he exited his house or he came from within or from the rear. I simply note that he had been, that he was on the porch and that John Thomas Graham and/or Constable Malinay were in conversation with Mr. Reid and that Mr. Reid was shouting and yelling. What, I can't relay but I know that Mr. Reid was irate.

. . . . .

**Q. [John Byrne, Q.C]** ... what, if anything, may have distracted you from such an observation.

**A.** Parking and exiting my vehicle actually.

. . . . .

**Q.** ... when you first saw Norman Reid where was he positioned. ...?

**A.** Appeared to me to be on his bridge, on the [west] side of the house.

. . . . .

**Q.** Where were those officers situated in relation to Mr. Reid? .... The extreme right of the photograph [Exhibit D.M. #4] ... ?

**A.** ..., I believe so.

**Q.** ... would they have been close to the grass ... [although] still on the gravel?

**A.** ..., they were probably in front of their police car on the driven portion of the road .... they were walking ahead of the vehicle and probably angling towards Mr. Reid. So they were still out a ways on the gravel.

. . . . .

**Q.** ... how long say ... [had] Graham and Malinay's car ... been there previous to your observing them walking up to where you were able to visually see Mr. Reid?

. . . . .

A. .... as long as it would take ... [to] come to a stop, place the vehicle in park, turn off the ignition, open the door and get out.

. . . . .

A. ... I do believe Constable Graham indicated to the O.C.C. that we were ... 10-23 on scene.

. . . . .

[Vol. XXI, pp. 410 – 411: -]

Q. [John Byrne, Q.C] .... when you did see Graham and Malinay walking towards the ... position where you have indicated Norman Reid was located, .... [d]id they have any guns drawn at that time?

A. [Cst. John Daley] Definitely not. I would have made note of it.

. . . . .

Q. ... did Mr. Reid have any objects in his hands at that initial time?

A. I don't believe anybody had anything in their hands, Mr. Reid, Constable Malinay, Constable Graham included.

. . . . .

Q. When you exited your vehicle where was your gun?

A. ... holstered.

. . . . .

Q. Upon exiting your vehicle did you then follow along the same route that the two other officers had ... taking?

A. I walked up behind ... Constables Malinay and Graham, ...

. . . . .

[Vol. XXII, p. 397-398: -]

A. [Cst. John Daley] ... I noted his voice before I actually saw Mr. Reid. .... he's yelling something at the members and the members are talking back to him, ...that of course drew my gaze to Mr. Reid and I saw him ... situated on the bridge, and I don't recall what he may have said but he was angry, he was mad and he was shouting at the members.



**Q. [Thomas Williams]** .... what may have precipitated his going back into his residence?

**A.** It appeared that he did so of his own volition.

. . . . .

[Vol. XXII, pp. 19 – 22: -]

**A. [Cst. John Daley]** I made note that Mr. Reid was angry. His voice was raised and at a very short moment there after Mr. Reid very quickly appeared to go inside his residence through the door that's immediately ... behind the railing on that bridge.

. . . . .

**A.** He completely went out of my line of vision.

**Q. [John Byrne, Q.C]** ... How long was he inside to your best estimation?

**A.** Momentarily.

**Q.** ... So we're talking a second or two?

**A.** Yes, a very short period of time.

**Q.** .... where [were] the various officers, including you, ... standing ... .

. . . . .

**A.** Approximately here ... .

**Q.** ... You're looking at [the photograph marked Exhibit] D.M. #4 and you're indicating the extreme ... right [of Exhibit D.M. #4] near the joining of the grass and the gravel?

**A.** Yes.

**Q.** .... And you may ... have been a little farther is what you're saying [to the right of the right edge of the ...Exhibit D.M. #4]?

. . . . .

**A.** I did not make note of the ... relative positions of Constables Malinay and Graham. .... They were ahead of me and I was further down the road towards the main road, closer to the police cars ... .

**Q.** .... when we look at D.M. #4 you might have been to the right of the area depicted in that blow up?

A. I expect I was.

Q. The two officers, would they have been somewhere in .... the area you indicated along the grass and the road there to the ... bottom right side of the photograph?

A. Yes. .... In front of ... the furthest police car in.

Q. ... how far would ... the closest officer have been at the time Mr. Reid went inside his door? ....

A. ... Mr. Reid was on ... his bridge.

. . . . .

Q. ... you're looking at extreme right of the photograph as compared to the area of the bridge?

A. Yes.

Q. ... what was your approximation of that distance? ....

A. .... Possibly 25, 30 feet maybe.

Q. .... That would be distance between the lead officer and Mr. Reid at the time that he was initially standing on the bridge?

A. I would expect.

Q. .... you indicated that Mr. Reid disappeared inside the door momentarily?

**B August 26, 2000 (*continued*)**

**2 (b) RCMP Response**

**(b.5) Police presence and second sighting of complaint subject  
Norman Reid**

[Vol. XXII, pp. 23-27: -]

**A. [Cst. John Daley]** Momentarily, very quickly.

**Q. [John Byrne, Q.C]** .... he then came out?

**A.** He did.

**Q.** When he came out had the position of the officers changed, including your position?

**A.** I believe at that point we assumed a position that didn't change very much from there up until the point that Cst. Graham fired upon Mr. Reid. ....

**Q.** .... You were out, really out of Photograph D.M. #4 -.

**A.** More than likely, yes.

**Q.** – and the other two officers were to the extreme right of bottom of Photograph D.M. #4?

**A.** They were at the very bottom, correct.

. . . . .

**Q.** ... the other two officers .... they would not have been ... on a 90 degree angle from the three sections of the downed fence that we see here?

**A.** Initially.

**Q.** Initially?

**A.** Initially. As time progressed ... Constable Graham would have been directly opposite ... the bridge. Constable Malinay assumed a position higher up and I assumed a position probably relative to here [near the right side of photograph D.M. #4]. .... And we did that in short order once Mr. Reid re-appeared from his home.

. . . . .

**Q.** .... when Mr. Reid went ... through that door momentarily did either of you officers have your guns drawn?

**A.** I did not. ... and I noticed no movement on the other officers to draw theirs ...

**Q.** .... When Mr. Reid came out ... what if anything ... was [he] holding in his hand, what if anything ... was [he] doing or saying?

. . . . .

**A.** .... He exited, he shouted at us. What he shouted I can not recall. He was hostile, angry, and he brandished an axe in his hand. .... He was raising it at us and was shaking it back and forth as if you would refer to it as shaking the axe at us.

**Q.** Where was he standing at the time?

**A.** ... I'll point [that out] to you. ....

**Q.** So the center of the bridge, and what direction was he looking?

**A.** He was looking outwards and directly at us.

**Q.** .... where were you positioned at that point in time? Where were the other officers positioned?

. . . . .

**B August 26, 2000 (*continued*)****3 Standoff****(a) “Stand off” begins with confrontational complaint subject Norman Reid**

[Vol. XXII, pp. 27-29: -]

**A. [Cst. John Daley]** As that occurred, we took a position roughly line abreast. Constable Malinay assumed a position furthest inroad, Constable Graham assumed a position directly opposite Mr. Reid’s position and I assumed a position to the right of Constable Graham, closer to the main road. ....

. . . . .

**A. ...** I did not make as good a note of Constable Malinay’s position as he was on the outskirts of my peripheral vision. ....?

**Q. [John Byrne, Q.C]** You’re indicating to the extreme left of D.M. #4, ... just in off the gravel road on the grass -

**A.** Correct.

**Q.** – and out from the standing fence as we see in D.M. #4?

**A.** Correct. Constable Graham was approximately here.

**Q.** ... you’re indicating just on the cusp of the grass and gravel directly out from the center of the bridge?

**A.** Correct. And I myself was approximately here.

**Q.** You’re indicating again on the cusp of the grass and gravel near the ... down road corner of his house. ....

**A.** Correct.

**Q.** ... the distance between the three of you [was what] ... ? ....

**A.** It probably was 30 foot.

. . . . .

**A.** ... we were in one line.

. . . . .

A. Constable Graham was to my immediate left and I believe Constable ...  
Graham's body prevented me from seeing Constable Malinay's completely ....

. . . . .

Q. ... you indicated he was angry and he was shouting at you officers?

A. Yes.

Q. He was standing on the bridge facing the officer and he was brandishing the  
axe. Can you ... demonstrate that for us?

. . . . .

Q. .... For the record, you're indicating the right hand. ....

A. I believe so, yes.

Q. And you're indicating the axe is really being held at chest height?

A. Correct.

Q. .... And you're demonstrating in front of your body and with a slight forward,  
backward movement?

A. Yes. ...

Q. .... When Mr. Reid came out, stood in that position, spoke as he did in the  
manner he did and brandished the axe as you've demonstrated was there any  
reaction by yourself or, to your observation, any reaction by the other two  
officers?

A. I immediately withdrew my firearm.

Q. .... Why ... ?

A. Because I was being presented with an edged weapon.

Q. .... Was that consistent with your training then?

A. Yes ... .

. . . . .

[Vol. XXIV, pp.. 62-63: -]

A. [Cst. John Daley] ... I have on almost too numerous to account the situations  
where I've had to place my sidearm on another individual when I felt fear. ....

I've had individuals with knives and that sort of thing who've given up and put them down, yes. Not with an axe.

. . . . .

[Vol. XXI, pp. 226-227: -]

**A. [Cst. John Daley]** If I encounter an edged weapon there should be absolutely no question in my mind that I would meet that with a firearm. That I do not carry, we are not taught to use edged weapons ourselves. There is no specific training for that and it is illogical to meet force with similar force. ... – I have to employ a firearm in that instance against an edged weapon, initially in any regard, and take it from there. If I am under a specific distance I should use edged weapon defenses if they're too close. There's no point in trying to draw a firearm in every situation when an edged weapon.

. . . . .

[Vol. XXII, p. 269: -]

**A. [Cst. John Daley]** .... there is no set pattern [in the deployment of IMIM] [Exhibits OB #25; OB #26; EB #2; EB #3; EB #4], there is nothing that indicates that one course of action is to be employed in ... an event ... threat level can either increase or decrease and one's response must be in line with that, ... it can go up and that it can go down ... there's a wide variety of options that one has when dealing with an incident, ... from simple officer presence, up to and including the use of deadly force.

. . . . .

[Vol. XXII, p. 398: -]

**Q. [Thomas Williams]** Did he give you the impression at that point in time that he may be preparing to challenge you, to attack you with a physical stance ... ?

**A. [Cst. John Daley]** Oh, yes. That's why I drew my sidearm. ....

. . . . .

[Vol. XXII, pp. 29-30: -]

**Q. [Thomas Williams]** And when you withdrew your firearm how did you position the firearm?

**A.** I positioned it directly at Mr. Reid.

. . . . .

**Q. [John Byrne, Q.C.]** .... The other two officers, what observations, if any, did you make of their reaction upon Mr. Reid coming out of the house ... with the axe ... .

**A.** I recall in my peripheral vision that the other officers replied in the same manner as I did.

**Q.** So that ... they had unholstered their guns and were pointing them at Mr. Reid in the target position?

**A.** Their guns were straight out from their bodies. I would make the assumption that they were pointing them at Mr. Reid.

**Q.** .... they weren't in that ready set or low set position, they were on target?

**A.** Straight out from their bodies.

. . . . .

[Vol. XXIII, p. 191: -]

**Q. [Mark Pike]** So you made that judgment independently of Malinay and Graham.

**A. [Cst. John Daley]** ... I did. .... I felt for my safety. .... in the drawing of it, I'm assessing the situation continuously as to whether or not I have to fire.

And as Thomas Williams, counsel for the Norman Reid Family, appreciated, "you don't take it out unless a perceived necessity is there" [Transcript, Vol. XXII, p. 322, lines 18-19].

[Vol. XXII, pp. 30-31: -]

**Q. [John Byrne, Q.C.]** At that point in time the closest officer to Mr. Reid would have been whom?

**A. [Cst. John Daley]** ... Constable Graham as he was directly opposite.

**Q.** .... At that point of time what was your estimate of the distance between Mr. Reid and Constable Graham?

**A.** We had moved inwards closer to Mr. Reid than we had been before. We drew in somewhat. It would have been roughly 20 feet possibly, give or take a degree. .... It could have been 15 but I would think it was somewhat closer to possibly 20.



. . . . .

[Vol. XXIV, p. 41: -]

**Q. [John Byrne, Q.C.]** ... is it fair to say that you drew your gun and then took up that position, moving, I believe you indicated, like a foot or so in towards the grass area?

**A. [Cst. John Daley]** Yes. I went in and to the left, approximating a closer position somewhat towards Mr. Reid when he appeared with the hatchet, ....

. . . . .

[Vol. XXIV, p. 42-43: -]

**Q. [John Byrne, Q.C.]** ... could ... the sudden appearance of Mr. Reid with the axe and your taking up position right there and then with your gun and your remaining in that position because you were in fear [influence the position you took after Mr. Reid appeared with the axe]?

. . . . .

**A. [Cst. John Daley]** ... all of it. ....

**Q.** Would it be fair to say then that the position ... you did take up and maintained was one that was largely influenced by instinct -

**A.** Yes.

**Q.** - as opposed to cool, calculated reasoning ...

**A.** ... yeah.

The confined physical location in which the three RCMP Constables were confronted by Norman Reid is illustrated by Cst. John Daley's sketch of Forest Road in vicinity of Norman Reid's residence, based on laser measurements he made in fall 2001 [Exhibit Consent # 5]. (Although not referenced on the sketch, judicial notice should be taken, based on the 19 June 2001 "taking of a view" by the Inquiry Judge and counsel for parties with Inquiry standing, throughout Little Catalina, including the sketched area, that Forest Road runs, approximately

south to north from the Main Road, with Norman Reid's residence on the east side of the Road (i.e., its west side facing the Road) .)

First, Cst. Daley measured Forest Road to be 4.58 m. in width.

Next, using as a reference point the inside door to the side entrance of Norman Reid's residence which opens onto his bridge on the east side of Forest Road, Cst. Daley made the following measurements, based on his recollection of (i) where each of the three Constables stood on Forest Road before Mr. Reid appeared wielding a hatchet and (ii) where Cst. Daley stood both before and after that event.

Before Mr. Reid appeared with the hatchet, Cst. Malinay, furthest north on Forest Road, stood about 8.2 m. from the side door; Cst. Graham, located between Cst. Malinay and Cst. Daley, stood about 6.86 m. from the side door; and Cst. Daley, nearest to the Forest Road/Little Catalina Main Road intersection stood about 8.5 m. from the side door. In relation to one another, Cst. Graham stood about 7.65 m. from Cst. Daley and Cst. Malinay stood about 4.6 m. from Cst. Graham.

After Mr. Reid appeared with the hatchet, Cst. Daley moved further up and slightly in from Forest Road in the direction of Norman Reid; whereby he stood about 8.0 meters from the side door. The other measurements stated in the sketch of Cst. Daley are distances after he moved following Mr. Reid's hatchet appearance, assuming neither of the other two Constables had not likewise moved. In fact, as Cst. Daley recalled in his Inquiry testimony, each of the other Constables moved further north on Forest Road, closer to the side door, after Mr. Reid's hatchet appearance.

(Cst. Daley's visual perspective, both before and after Norman Reid produced his hatchet, is represented in photographs in Exhibit GD #15.)

[Vol. XXI, pp. 228-229: -]

**A. [Cst. John Daley]** We were taught and demonstrated in Regina in our training ... that 21 feet has generally been established as ... a death zone. That's an area in which you are purely reactionary and you do not have time to perceive a threat, react to that threat, choose an implement, bring the implement to bear and employ it successfully so that the attacker is thwarted. Twenty-one .... feet, seven metres is perceived by the general public and myself initially as being quite a long distance and it was very, very surprising when I had prior knowledge that an individual is going to attack me in training at the 21-[foot] distance .... [that ] I was unsuccessful in employing ... [my pre-planned response]. They were on me. ... with whatever type of artificial edged weapon that they'd possess in that distance.

. . . .

[Vol. XXI, pp. 231-232: -]

**Q. [John Byrne, Q.C.]** ... if you were forced to a situation where you had to stay within that or, you know, short of that minimum distance of 21 feet ... did your training include the, I suppose the pre-attack drawing of your weapon, ...?

**A. [Cst. John Daley]** ... if an individual ... is within that distance or close to being that distance and is employing an edged weapon, yes, one should draw one's sidearm as a precaution and then attempt negotiation with the assailant so that the matter de-escalates. However, if it goes the other way and we have an escalation, ... you judge yourself accordingly.

Inquiry counsel John Byrne, Q.C. asked Cst. Daley to explain the operation of the "use of force continuum". Cst. Daley answered [Vol. XXI, pp. 277-279]:

... you're not lock into one course of action. You have to be one step ahead, if possible, of the potential assailant's actions. .... the force continuum may go up, it may go down. It depends on that individual. .... what's it's making a police officer remember is that you're not locked into any specific course of action. .... [the continuum of force] may seem common sense to all of us listening to this here right now but what we can never remove from this is the fear of the individual and the stress of the situation ... .

Inquiry counsel John Byrne, Q.C. followed up Cst. Daley's answer by asking [Transcript, Vol. XXI, p. 80] "So is there built in then at least in your training to this use of force continuum, a degree of discretion by the officer dependent upon the circumstances as he perceives it?" To which Cst. Daley answered: "yes".

Referring to Exhibit OB #25, the RCMP incident management intervention model (IMIM), Inquiry counsel John Byrne, Q.C. asked Cst. Daley: "was the information contained there consistent with your training at depot?" Cst. Daley answered: "Yes, that is." By way of amplification, he explained that IMIM was instructed to him after he graduated, in Spring 1993, from recruit training at RCMP Depot Division during the Police Public Safety Instructors course [for operational members] he attended in 1998. [Transcript, Vol. XXII, pp. 291-292.] [Exhibit AW #6, paras. 12-13.]

Asked by Inquiry counsel John Byrne, Q.C. if he was familiar with IMIM training specific to mentally ill persons, Cst. Daley answered: "yes, I am." [Transcript, Vol. XXI, p. 293.] Then shown Exhibit OB #26 [Transcript Vol. XXI, p.. 293] by Inquiry counsel, Cst. Daley said this material related to IMIM instruction unique to mentally ill people which was on file at RCMP Bonavista Detachment prior to August 2000 and had been read by him in preparation for formal RCMP testing which he successfully completed. [Transcript, Vol. XXI, pp. 298-299.]

[Vol. XXII, pp. 31-34: -]

**A. [Cst. John Daley]** ... we were on the edge of what I felt to be a safe distance from a direct personal attack.

. . . . .

**A.** ... I felt that the possibility was there for the axe to be thrown, as I know axes can be thrown with a high degree of precision as I have seen that demonstrated in

the past. .... a generalized fear that an axe can be thrown with a degree of accuracy.

. . . . .

**Q. [John Byrne, Q.C.]** .... Why the need to pull the weapon, prepare the weapon in that regard?

**A.** I felt that it would be prudent in that instance as a person who was visibly agitated, very angry. I, being aware of Mr. Reid's history of suffering from schizophrenia, his ... statements of violent intent in the past and reported assault that it would be prudent for me to prepare myself for a potential attack by Mr. Reid with the edged weapon, the hatchet.

. . . . .

**Q.** .... you had contemplated the possibility of Mr. Reid throwing the axe?

**A.** I believe that it could have been a possibility, yes.

**Q.** Did Mr. Reid make any indications at all to throw the axe?

**A.** He did not appear to do so.

**Q.** ... you indicated also that the three of you moved in a little closer when this threat was presented to you?

**A.** We drew in somewhat, yes, only so far as ... you have to balance the necessity of close observation with your feelings of personal safety and it's my experience you will draw in up to and only to that point.

. . . . .

**A.** And that's the point at which we felt that we could with relative degree of safety attempt to negotiate with Mr. Reid.

**Q.** .... In view of your reference to your training earlier, that one of the tenets to the training is if you have the opportunity and the situation presents it when you are faced with potential deadly or dangerous force like that that you would withdraw. ...

. . . . .

**Q.** why did you not withdraw when initially faced with this perceived threat from Mr. Reid?

A. Because we had a duty to protect the people of Catalina. We could not allow Mr. Reid to leave that ... initial scene in his state of agitation with an edged weapon.

Q. .... There was nobody on that little side road and you weren't aware of a grouping of people in the area at all upon your arrival?

A. Upon arrival. ....

Q. Did that change ...

A. ... As we arrived, our arrival drew immediate attention. It's a small community. People communicate well and within short order of our arrival voices could be heard outside the immediate area and I made note that there were individuals primarily off to my right, which would have been down Forest Road –

. . . . .

A. .... I'd also heard voices emanating from the house immediately opposite the road from where we were.

Q. .... the number on that house [Exhibit D.M. #3] you're referencing is number one.

A. One, ... Voices were heard from the vicinity of house number five further in Forest Road.

Q. ... We see that in D.M. #3.

A. Correct. ....

. . . . .

[Vol. XXIII, p. 204: -]

Q. [The Court] .... Who were the closest people to you other than police and Mr. Reid?

A. [Cst. John Daley] ... the people immediately to my rear in the house behind me.

Q. And did you have any communications with them, ... during the stand off?

A. Not directly but I did overhear voices coming from within that home ... Their windows were open.

. . . . .

[Vol. XXII, pp. 34-36: -]

**Q. [John Byrne Q.C.]** So at the point in time that Mr. Reid came out, back out on the bridge with the axe you indicated that you were aware then of groupings of people, at least to your right, to your rear and to your left?

**A. [Cst. John Daley]** Yes.

**Q.** Did that awareness, in your opinion, have anything to do with your not withdrawing from this threat?

**A.** Yes, ...

**Q.** Can you explain ...?

**A.** We had to stay there in order to prevent Mr. Reid from fleeing the location with the axe in his agitated state. I felt it incumbent upon myself, as I believe it would have been, ... in the minds of my other two comrades, that there was no possible way that we could withdraw and allow the potential of Mr. Reid escaping from that area and possibly doing harm to other people.

. . . . .

**A.** ... he did not attempt to flee at all while we were in negotiation, while we were talking to each other.

. . . . .

**A.** .... I have no evidence or I was not told of any flights by Mr. Reid. .... However, I felt it simply prudent to prevent that potential.

. . . . .

**A.** I never could say if there was somebody in there [Norman Reid's house] or not.

. . . . .

[Vol. XXI, pp. 235-236: -]

**A. [Cst. John Daley]** Our training specifies that you must recognize three things in an assailant, the ability, the intent, and the means to deliver an attack upon yourself. The potential assailant's state of mind is, I hesitate to state irrelevant, however, whether you are sane, whether you are psychologically disturbed, whether you are a person having a bad hair day is something irrelevant to your intent ... It would be obvious I would think that if the person is demonstratively emotionally, psychologically disturbed .... that causes always a certain amount of consternation ... you never know what decision that may make which would be outside of the norm for your average individual. But we almost never are dealing

with an average individual in that circumstance. .... if a person is holding an edged weapon against a police officer then obviously there is a problem, obviously there is a disturbance somewhere.

. . . . .

[Vol. XXI, pp. 236-237: -]

**Q. [John Byrne, Q.C.]** So I take it what you're talking about is that, that situation where you're facing imminent, grave danger to yourself?

**A. [Cst. John Daley]** Yes. .... if you do have distance/time on your side, if you're safely enough removed from an edged weapon wielding suspect there, of course, is always the potential for the throwing of such an object and you have to balance that with continued negotiation. .... to establish their intent possibly or their requirements or whatever it is that is causing them to be disturbed and attempt to verbally convince them to disarm themselves so that the matter can be dealt with, ... you do that to your own ability.

. . . . .

[Vol. XXIV, p. 20: -]

**Q. [David Day, Q.C.]** ... was there ever a time during the stand off on the afternoon of 26 August when you felt you could have abandoned the perimeter entirely for the purpose, for example, of going to the trunk of one of the police vehicles to get a rifle or some other type of firearm?

**A. [Cst. John Daley]** No, ...

. . . . .

[Vol. XXIV, p. 18: -]

**Q. [David Day, Q.C.]** Was there ... at any time during the stand off ... that in your view there was any justification whatsoever to expand the perimeter, ... ?

**A. [Cst. John Daley]** No.

. . . . .

[Vol. XXIII, pp. 304-306: -]

**Q. [David Day, Q.C.]** Had you moved back further from the reference point that I've relied on in my questions of the side door of his house - .... how, if at all, would that have influenced or impacted the effective perimeter that had been established?



**A. [Cst. John Daley]** ... the perimeter would have been broken ... I would have been hampered in my abilities to intercede had Mr. Reid fled in the direction to the right, .... one would miss the nuance of facial gesture both for him and for me ... to the degree that he was capable of recognizing it, ... I sure as heck tried to appear as non-threatening as possible, .... the further away one would go, the greater the chance of communications being hampered by outcries or outbursts by the crowd .... the further one would go, the greater chance one would have to shout and maybe be perceived as being a threat more so than what he may have been perceiving all ready.

. . . . .

[Vol. XXII, pp. 247-249, 251: -]

**A. [Cst. John Daley]** ... I had a choke point, ... on the verge of being dangerous, ... also in order to establish negotiation and communication with Mr. Reid you don't want to be shouting over a great big distance ... the closer ... you are to the person that you're talking [to], he can see your facial expressions, ... the nuance of communication, the closer that you are the more effective you can become at negotiating with the individual. ....

. . . . .

**A. .** It felt like I was right at that balance point where ... I ... felt that I would have been able to have interceded either physically or through the use of my sidearm had Mr. Reid attempted to flee in my direction, ... yet I would also be able to maintain communication to the best that I could and, ... barring Mr. Reid's continual discussion ... that was the balance point at which I struck.

. . . . .

**A. ...** A part of me placed myself at that position out of experience, prior policing, .... This just felt like the area that I could safely occupy ... whilst my primary function at that point was establishing some form of communication.

. . . . .

**Q. [Thomas Williams]** ... how could he be in a zone of safety if in fact he had no alternative, ... but to shoot?

**A. ....** Because Norman Reid closed the distance.

. . . . .

[Vol. XXII, pp. 237, 238, 243-246: -]

**Q. [Thomas Williams]** .... Is there any reasons why you would not have taken the ten steps backwards to increase the safety zone?

**A. [Cst. John Daley]** .... I have [a] duty of car[e] to prevent to the best of my abilities Mr. Reid fleeing from that residence armed, in an obvious disturbed state .... Combined that with ... my observations of the passers by, observers immediately down to the right, I concerned myself primarily with directly ahead and to the right. ... it worked out to be that was my area to cover and ... there was going to be no allowance for Mr. Reid to flee with an axe ... from that residence. .... That would have been my responsibility to prevent.

. . . . .

**A.** I would have expected that he would have come down the stairs.

. . . . .

**A.** .... I felt that ... I should be in line at least with the edge of the house so that if he was going to come down through there then he has to go down through a narrow corridor and ... I'd have a choice of options to cut off his escape and that would be the logical choke point to do so.

. . . . .

**A.** ... [Also, I] would not voluntarily increase [my] safety zone [because] the further away one goes it also cuts down on the ability to direct controlled aimed fire .... you don't want to be too far removed if you're going to use a hand gun. They're inherently inaccurate and ... the shooter ... is subject to all his stresses .... when you talk about the nine millimeter handgun the closer you are the more effective you're going to be ....

**Q.** ... [Did] the 25 metre range [of the 9 mm handgun] allow ... for sufficient accuracy given the fact that the target ... is the silhouette of a human being.

**A.** And stationary and non threatening ....

. . . . .

[Vol. XXIII, p. 203-204: -]

**Q. [The Court]** What exactly were you fearful of?

**A. [Cst. John Daley]** ... that I'd be hurt - ... and ... one is fearful ... of the taking of another human life.

**Q.** .... this was the highest point of fear in your career ...?

**A.** Yes, ...

. . . . .

[Vol. XXIII, p. 205: -]

**Q. [The Court]** ... you were willing to take all reasonable steps that wouldn't compromise safety concerns, is that correct?

**A. [Cst. John Daley]** Correct.

**B August 2000 (*continued*)****3 Standoff****(b) Contacts during standoff with confrontational complaint subject Norman Reid****(b.1) Overview**

[Vol. XXII, pp. 36-40: -]

**Q. [John Byrne, Q.C]** Can you tell us what you saw and heard from there [where he was standing], ....

**A. [Cst. John Daley]** We were all yelling at Mr. Reid to drop the axe, drop the axe, drop the axe.

**Q.** .... had either of the officers indicated to Mr. Reid why they were there?

**A.** I don't believe at that point. We were more fearful for our safety.

. . . . .

**Q.** ... what tone? ....

**A.** ... it was yelled.

**Q.** So it was a high tone?

**A.** ... Yes.

**Q.** .... At that point in time did all three officers still have their guns in target position?

**A.** I expect so. I can speak for myself in that I did.

**Q.** .... What ... was Mr. Reid's reaction, if any, to the three officers. ...

**A.** Confrontational. He would not do so and he was yelling and screaming invective at us.

**Q.** What do you mean by invective? ...

**A.** He was extremely irate. He was yelling things at us that were difficult to decipher. ....

**Q.** You were just yelling drop the axe, drop the axe, drop the axe?

A. Yes ... while all throughout we refer to him as Norm or Norman and it would have been drop the axe, Norm, or something to that effect, and his first name was used frequently in our communications.

Q. .... Do you recall him, whether or not he yelled anything particular at you three officers?

A. Yes, he said get away from here, don't you come in here, you can't come in here. .... he appeared to be hostile to any incursion onto his property by us.

. . . . .

Q. At that point in time, neither of the officers were actually on his property, they were just adjacent to his property?

A. Correct.

Q. While ... three of you were yelling at him to drop the axe and he had indicated or directed you people to go away, .... did he continue with the axe in any form or fashion ...

A. ... he would continue to shake the axe at us ...

Q. So that would be chest high with the axe out in front of him and a movement back and forth of the axe head, ... .

A. ... that's correct, and he would do so both vertically and to the side. He would hold it this way or this way and shake it, as I did, at us.

Q. .... You're indicating not just straight out, sometimes to the right side.

A. Correct. ... he never really stopped moving it at us initially. It was always in some form of motion in his hand, ... in front of him and pointed edge out towards us, in our vicinity.

Q. From your perspective at least initially ... how did you perceive his intentions with regard to the axe ...

A. I believe he wanted us to not come onto his property and he wanted to hold us off with the axe.

Q. .... Was he attempting to throw the axe?

A. No ...

Q. Was he attempting to strike either of you with the axe –

A. No.

. . . . .

**Q.** Did he appear to be warning you with the axe to stay away from the property more than anything else?

A. That's how I took it to be.

**Q.** In your statement to the R.C.M.P. ... Paragraph 16.2, you had indicated your description of his movement of the axe as, "A hatchet in his hand in a chopping motion".

A. Yes. That's as I displayed to you ... - ["he would hold it this way or this way and shake it, as I did, at us."].

**Q.** That's what you meant to note.

A. Yes ...

. . . . .

[Vol. XXII, p. 41: -]

A. [**Cst. John Daley**] .... There were times when he would, the axe would be striking the railing immediately in front of him, ...

. . . . .

**B August 2000 (*continued*)****3 Standoff****(b) Contacts during standoff with confrontational complaint subject Norman Reid****(b.2) RCMP call for “back-up”**

[Vol. XXII, pp. 154-156: -]

**A. [Cst. John Daley]** Cst. Graham used his portable radio, ... to call for extra ... police officers to attend to assist us in controlling this situation. I believe he requested Clarendville members or other Bonavista members. ....

. . . . .

**Q. [John Byrne, Q.C.]**In the Bonavista area ... at the time[,] was there ... immediate or very quick access to any special teams of the R.C.M.P. or other police forces?

**A.** Not immediately available. When I say immediate, within a matter of an hour [Vol. 5 – Tables And Documents, tab 2, p. 21 (Cpl. David J. Hickey; p. 20 (Sgt. Robert James Skanes); Exhibit AW #6, paras. 10-11] .... However, what was required would be extra police officers immediately. That would be able to make the general perimeter safer. .... it would have freed us up from having to deal with the potential of outside interference.

**Q.** .... This request by Graham for back up, .... [when] did that occur ... ?

**A.** I would place it fairly early ... in our communications with Norman Reid.

**Q.** .... So that was in the early phase when Reid was still standing on the bridge?

**A.** Correct. .... none of us whilst we were in, as you refer to it, a stand off situation ... returned to a police vehicle to use the ... cellular phone or police radio. ....

This occurred from 3:56:49 p.m. to 3:57:09 p.m. via portable RCMP police radio, carried by Cst. John Thomas Graham on his service belt, with Operator Hapgood at O.C.C.; about 3 minutes after Csts. Graham, Daley and Malinay reached Forest Road and Little Catalina, outside Norman Reid’s residence. A transcript of the 20-second communication follow [Exhibit J.H. 1, p. 9]:

- Hapgood:** Calling 97?
- Graham:** I want you to keep this channel up. I want some of the members down here right now.
- Hapgood:** 10-9 [“repeat your transmission” or “say again”] you're coming in broken.
- Graham:** I want. Have a code 3 [10-33: “help me quick”] in Little Catalina from Clarenville and from Bonavista right now,
- Hapgood:** 10-4.

The next second, at 3:57:10 p.m., Operator Hapgood, with the expedition and precision she calmly demonstrated throughout her handling of this grave, highly-stressful complaint, contacted the nearest Detachment to Bonavista’s with RCMP peace officers on duty. This was at Clarenville, 100.89 kms. from Little Catalina. Operator Hapgood spoke to Clarenville RCMP Cst. Blaine Beaumaster, as he sat in a police car outside Clarenville District office. He, in turn, radioed another Clarenville RCMP Cst., Trevor O’Keefe, who was in a police car at Shoal Harbour, about 5 kms. closer, than Cst. Beaumaster, to Little Catalina. A transcript of these communications follows: [J.H 1, pp. 9-10]:

- Hapgood:** Clarenville 97?
- Beaumaster:** Six bravo four.
- Hapgood:** 10-4, Could you guys head down to ah, Little Catalina. Ah. six bravo eight and six bravo nine are down there on a possible MHA and they need some back up as soon as possible.
- Beaumaster:** Yeah 10-4. Cst. O’Keefe are you copying?
- O’Keefe:** Yeah 10-4 Blaine ah, right here in Shoal Harbour.
- Beaumaster:** That's seven six bravo nine.
- O’Keefe:** I'm on my way.



Both Cst. Beaumaster and Cst. O’Keefe immediately set out, in haste, in their respective police cars for Little Catalina, when this communication with Operator Hapgood ended at 3:57:30 p.m..

Fifteen seconds later, Cst. Daley, from his service belt portable radio, contacted Operator Hapgood at O.C.C. Informed that two police cars were en route to assist him and the other two Bonavista RCMP Constables, now standing on Forest Road outside Norman Reid’s property in Little Catalina, Cst. Daley asked that off-duty Bonavista RCMP Constable Jackie Letto also be dispatched to assist them. The transcript of the 22-second communication – from 3:57:45 p.m. to 3:58:07 p.m. – follows [Exhibit J.H. 1, p. 10]:

**Hapgood:** Six bravo nine go.

**Daley:** How many you looking for 97? Well theres at least two more cars down here 97 right now. I want Cst. Letto called out of her residence.

**Hapgood:** I'm sorry I can't copy you very well I have six bravo four and six on the way.

**Daley:** 10-4. I want Cst. Letto called out of her residence asap.

**Hapgood:** 10-4.

Within forty-five seconds, at 3:58:52 p.m., Operator Hapgood at O.C.C. left a telephone message for Cst. Letto (apparently at her Bonavista residence) [Exhibit J.H. 1, p. 11].

About 4:00 p.m., Cst. Daley again contacted Operator Hapgood at O.C.C. and was told by her that “Clareville is on the way” [Exhibit J.H. 1, pp. 11-12].

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On Forest Road in Little Catalina, the wind was then blowing from the southwest (i.e., approximately on a 45-degree angle to the Road and Norman Reid's property) at about 35 kms. per hour, with wind gusts to about 46 kms. per hour. The temperature was about 21 degrees Celsius. Visibility was good. [Exhibit RK # 3.]

At 4:02:30 p.m., Operator Hapgood reached and called into service another off-duty Bonavista member police person, RCMP Cst. Matthew Hansen, to assist his three fellow Constables at Little Catalina [Exhibit J.H. 1, pp. 12-14]. After that call, which ended at 4:04:50 p.m., Operator Hapgood radioed the three Bonavista RCMP members at Little Catalina, at 4:05:09 p.m., to inform them that Cst. Hansen is on route. The response from whomever of them replied was unintelligible. [Exhibit J.H. 1, p. 15.]

**B August 2000 (*continued*)****3 Standoff****(b) Contacts during standoff with confrontational complaint subject Norman Reid****(b.3) Third party intervention prospects: police negotiator**

Meantime, outside Norman Reid's property on Forest Road in Little Catalina:

[Vol. XXII, pp. 156-159: -]

**Q. [John Byrne, Q.C.]** .... was there any request for a police negotiator? ....

**A. [Cst. John Daley]** .... No, ... we asked for extra police officers of a general nature.

. . . . .

**Q.** Do you have any idea where you would have to go in Newfoundland to obtain a negotiator if you felt one was required?

**A.** ... we do have a negotiator who [is]... in Holyrood. .... [Vol. 5 – Tables And Documents, tab 2, p. 21 (Cpl. David J. Hickey); Exhibit AW #6, para. 11].

. . . . .

**Q.** I take it in the Bonavista Detachment there is ... no officer with negotiating skills or training?

**A.** Correct.

**Q.** Had a negotiator been available ... do you think it may have been beneficial to you in the situation that you faced?

**A.** No, we had maintained communications with Mr. Reid throughout.

**Q.** .... What I'm speaking of is whether or not a skilled and specially trained negotiator, particularly with regard to dealing with mentally ill people ... was ... immediately available [,] would it have been beneficial to you?

**A.** .... possibly so. .... you had to have hit upon the right thing with Mr. Reid and I think ... I came as close as was possible at the last going off as I think probably anybody could, ... not to overstate it. .... all I can say is that communications never ceased throughout the whole time that we were in, as you referred to, stand off situation with Mr. Reid until he chose to act.



**B August 2000 (*continued*)****3 Standoff****(b) Contacts during standoff with confrontational complaint subject Norman Reid****(b.4) Third party intervention: other than police negotiator**

[Vol. XXII, pp. 160-162: -]

**Q. [John Byrne, Q.C.]** Was ... any contemplation given by yourself or by the other officers to the possibility before the shooting, after this stand off had started [,] to seeking out and requesting the assistance of family members in an effort to resolve this stand off?

**A. [Cst. John Daley]** No. .... I'm responsible for everybody's safety, myself, Mr. Reid, the bystanders. .... We all do as peace officers. The last thing I would have done was to put another person directly into harm's way. .... To ... potentially provoke Mr. Reid by the introduction of a family member whose relationship ... I did not understand at the time - ....

. . . . .

**Q.** You can understand the proposition, .... that in a stand off situation you may contemplate involving [,] if not a police negotiator [,] possibly somebody from in the family who you as police officers through your past experience respect and believe might be of some assistance in ending this stand off. ....

**A.** I understand your point .... However, ... I specifically did not have any experience with any of Mr. Reid's family. .... I did not know them personally. .... I did not know ... if they would exacerbate the situation or assist.

**Q.** Did, prior to the shooting, anybody from this crowd of people, either ... family or not, to your knowledge, offer themselves as assistance in resolution of this stand off?

**A.** Nobody.

. . . . .

[Vol. XXII, p. 389-390: -]

**Q. [Thomas Williams]** Do you feel that Mr. Reid may have been able to ... help [...] to resolve the incident of August 26<sup>th</sup>?

**A. [Cst. John Daley]** .... one could cleave to two different philosophies on that point. ... I would not ... involve another individual barring somebody who would

be provided to me by the R.C.M. Police, a trained negotiator or someone to that degree. ... and I would definitely not involve any individual into the immediate proximity of an armed aggressive ... individual.

**Q.** Did you give any consideration to the fact of contacting family that were nearby ... ?

**A.** ... for the above-noted reasons, no.

. . . .

[Vol. XXIV, p. 24: -]

**A. [Cst. John Daley]** .... We are your first and last line of civilian defense and it's incumbent upon us to keep ourselves safe so that we might keep you safe ... and, without us, then people without the requisite training will be put into a position of having to respond, ...

. . . .

[Vol. XXIV, p. 8: -]

**Q. [David Day, Q.C.]** Did you recall laughter on a single occasion or more than once?

**A. [Cst. John Daley]** No, it was sporadic .... It was part of the overall hubbub ... behind me, around me.

**B August 2000 (*continued*)****3 Standoff****(b) Contacts during standoff with confrontational complaint subject Norman Reid****(b.5) Early verbal contact with complaint subject Norman Reid**

[Vol. XXI, p. 237-238: -]

**Q. [John Byrne Q.C.]** ... I take it then you have some training, ... where you're not quite into the death zone or dangerous situation or grave situation, potential grave situation yourself .... in dealing with potentially mentally, people you believe to be mentally disturbed?

**A. [Cst. John Daley]** Yes, we have been taught ... it's very important to appear as non-threatening as possible and one has to balance that with one's own safety, .... you must establish a communication so that the person can talk and if there's talk there's no action, generally. .... it's very difficult to actively discuss your situation and attack at the same time. .... one should do one's best to determine what it is that the individual wishes, ... and hopefully that results in dialogue between yourself and the individual to the degree that the individual is capable of maintaining that dialogue. ... there's no magic word .... you have to establish whatever it is that you can to find out why this is occurring in the first instance.

. . . . .

[Vol. XXII, pp. 41-50: -]

**A. [Cst. John Daley]** Very quickly into our communications with Mr. Reid we determined .... that we had to allow one person to speak at a time in order for Mr. Reid to have any understanding of what was being said by us. ... Constable Graham took up ... communication with Norman, .... He ... explained to Norm that he had to drop the axe, that we weren't going to hurt him, we had to speak with him. .... Mr. Reid said he didn't want to talk to any one of us, he wanted us to go away. .... He said go ahead, shoot me, come on, shoot me. He was challenging us.

**Q. [John Byrne, Q.C.]** Was that after you had shouted at him to put down the axe?

**A.** Yes.

. . . . .

**Q.** What, if anything, was the response of you or either of the other officers ...

A. No, Norman, we don't want to shoot you, we just want to talk to you.

Q. .... Who said that?

A. I know that I said that.

Q. And in what manner did you say that to Norman Reid?

A. In a pleading voice.

Q. ... Did he appear to hear what you were saying?

A. I believe so.

Q. Did he react in any way to what you had said to him?

A. He did not appear to react to that.

Q. Did he continue on in the shouting or taunting of you three constables?

A. Yes, he did.

Q. .... when you say that you believe he heard you [,] ... on what basis do you say that?

A. After I spoke he yelled.

Q. .... So what you're saying is you think that you had his attention?

A. I believe that I did.

Q. ... did he say anything else?

A. Yes, ... he yelled at us why are you prosecuting me. I understood that to be persecuting. .... What are you here for? .... He was very suspicious as to our intent. He asked us to go again. .... He was very concerned that we would come onto his property to take him away, .... he would go back to that repeatedly, and .... he was also very concerned that you can't make me do anything. He would yell that .... You can't make me. ... this is my land or my house or my property. I'm not sure exactly what the word was ...

. . . . .

A. .... It's difficult for me to get the exact sequence of things. It does run together. .... I will make no claim that ... my evidence will be sequential .... It was very chaotic, stressful, worrisome ...

Q. .... do you recall what, if anything else, may have been said ...



A. We would communicate with Norman, primarily Cst. Graham and myself. We would alternate .... Norman would listen for a very short period of time to what one of us [e.g., Cst. John Thomas Graham] would say and then he would interject with an outburst and when that happened then I would speak and I would try to pick up the thread of the conversation or change tact and say something different. We would alternate ... so that we weren't saying something at the same time, .... We would alternate. John would pick up the thread of the conversation, it would falter, then I would try to pick it up and try, say something different, change tones of voice, ... try anything actually. .... in order to keep the communication open.

Q. .... why was it important to keep the communication open?

A. So that we could convince Norman that we weren't going to hurt him and that he didn't need to carry the axe, that he could put it down and that he would not be hurt.

Q. ... do you recall either yourself or the officers telling Norman that you wouldn't hurt him?

. . . . .

A. I believe we all said it and it occurred throughout our communication from beginning to end.

. . . . .

Q. To which he replied to the effect that he didn't want to talk?

A. Correct.

Q. ... all of you at various times telling him that you wanted to speak to him?

A. Yes. We wanted to make Mr. Reid understand that we were not there to hurt him, we were there to talk with him.

Q. ... were words expressed to convey that meaning to Mr. Reid?

A. Yes, in many different ways.

Q. How did he react?

A. I don't believe that Mr. Reid believed us at all. .... he was suspicious of our intent.

Q. .... When you were saying that ... you just wanted to speak to him, that you didn't want to hurt him [,] were your guns still targeted him?

A. For the most part. After a period of time it became ... somewhat difficult to maintain the firearm on the individual. It is not light and it does become fatiguing. You're in a very stressful, high risk situation and you burn energy at a very high rate ..., you can become physically fatigued ... and it is only prudent to try to rest as best as you can while you try to maintain your firearm in a defensive posture. .... I would alternate by low ready, ...

Q. That's the gun kind of pointed down?

A. Right. .... what I found myself doing with Constable Graham without any communication between us is when I would attempt to communicate with Mr. Reid, I would lower my firearm to a low ready position. I would make note in my peripheral vision that Constable Graham was covering Mr. Reid in what appeared to me to be an on target position. .... and I would alternate for Constable Graham ... [and] Constable Graham would take up where I faltered with Norman Reid, .... we worked together and we worked together rather well. .... Constable Malinay I don't believe engaged Mr. Reid to the degree that Constable Graham and myself did so. However, there was not a moment when one of we three did not communicate with Mr. Reid from beginning to the end. It was a continuous attempt at ... communication with Mr. Reid from the very start to the very end.

Q. .... that approach, was that part of your training or ... just common sense?

A. Common sense to the degree that as long as you are communicating it is difficult to act, and whilst there is communication there is a greater possibility of forestalling any action.

. . . . .

A. .... this is an ... officer safety involved encounter. As such we are all responsible for each other's safety and we will to the degree that we can be mutually supportive for each other ... so that there is an increased level of safety in a threatening situation.

. . . . .

Q. .... So the lead constable [who was Cst. John Thomas Graham], ... that you referenced yesterday [...] applies more to work in a nature of the investigation?

A. Correct.

Q. .... As opposed to a confrontational situation?

A. Correct, .... in something such as this [,] whoever is best able to communicate, whoever is best able to establish a rapport, ... would be the person that would obviously do the ... bulk of the communicating. If Constable Graham was getting

somewhere with Mr. Reid then the last thing I would do would be to interject or vice-versa. .... At that point, it's whatever works.

. . . . .

[Vol. XXIV, pp. 7-8: -]

**A. [Cst. John Daley]** ... I tried to personalize it with Mr. Reid and state my fears to him, and in no uncertain terms, you're scaring me with that axe, .... if you put down that axe I'll put down this gun ..... at another point ... I tried the tact ... [that] maybe he would, if he knew that the law was at work, acquiesce, and I stated that he was under arrest. .... I believe it was probably in direct answer to his questions, am I under arrest ... but I'm not certain on that point. ....

**Q. [David Day, Q.C.]** ... the number of occasions ... that he refused to put away the axe . ?

**A.** ... probably greater than ten times ...

. . . . .

[Vol. XXII, pp. 51-54: -]

**Q. [John Byrne, Q.C.]** ... did Mr. Reid at any time ... taunt you officers to come and get him?

**A. [Cst. John Daley]** Yes, he did. Come and get me.

**Q.** ... where were we in this scenario, ... when he made remarks of that nature?

**A.** I will make the guess that it was in the middle of it somewhere.

**Q.** Can you recall what he said in that regard?

**A.** Come on and get me, come on and get me, come on and shoot me, primarily. ... he would go from you can't come on to my property to the complete opposite statement of come on and get me, ... it was I believe indicative of his imbalance.

**Q.** ....what was your reaction and to your observation what was the reaction of the other officers ...?

**A.** None of us would get any closer than what we did. There was never any question that we would get any closer to Mr. Reid as long as he was in possession of the hatchet.

**Q.** .... you indicated that the three of you ... alternated in attempting to continue verbal contact with Mr. Reid?

A. Yes.

Q. Were you successful at least initially in that regard?

A. .... we were successful to the degree that Mr. Reid would listen. He would not listen to either one of us for very long. .... he appeared to have no interest in sustaining a dialogue. He wanted us to leave. .... We told him Norm, we can't go away. .... We just want to talk with you.

Q. Up to this point in time, ... had either of the officers indicated to Mr. Reid why they were there, ...?

A. I took it upon myself. He says, why are you here, why are you here, who called you here, quote, unquote, ... and I decided to try a new tact with Mr. Reid ... and said that there is an allegation that you had made a threat. I'm paraphrasing myself. ... we have to talk to you about it. And he was yelling for more information on that point. He wanted to know more, who called you and this sort of thing, ... I don't believe at any time was he informed as to who made the call but that there was a call requesting an investigation into threats ... and I then decided to tell Mr. Reid that he had no choice and that he was under arrest. He said arrest me, take me away. ....

Q. ... what words did you use in arresting Mr. ... [Reid]?

A. I said ... you're under arrest and I believe I stated for uttering threats ... and I believe I told him ... assault with a weapon. I told him you can't ... threaten people with an axe, and I believe he understood it and ... he shook the axe at me ... as soon as I said it and obviously the tack didn't work, he didn't relinquish the axe. ....

Q. Up to that point in time, at least to your observation, had you or either of the other officers been successful, at least apparently, in calming Mr. Reid down to any extent?

A. No, ... Mr. Reid was in high gear right up to that point. He was not really paying a lot of attention it seemed to me to what we were saying. He was more interested in shouting at us to go away or asking us questions about why are you here, .... And as I recall, as I told Mr. Reid ... he was under arrest and explained why ... [.]. I said ... you can call anybody .... you like, ... we'll let you call anyone and then he says well I've got to go see Dr. Larsen on Monday. .... I said, yes, ... do you want to talk to Dr. Larsen and he said you can't make me talk to Dr. Larsen. He was very fearful of being made to do anything.

. . . . .

[Vol. XXIII, p. 176: -]

Q. [Sandra Burke] He was trying to make you guys go away.

**A. [Cst. John Daley]** Go away or come and get me. ... he was at odds in his own commentary. I don't know what his purpose was. .... He would say both with apparent equal conviction. I really don't know his state of mind.

. . . . .

[Vol. XXII, pp. 261-262, 263: -]

**A. [Cst. John Daley]**.... He never stated to us any particular fear. ... I on one occasion stated to Mr. Reid that if you give up the axe, I'll put away my gun. .... and he said, no, or to the effect that he would do no such thing, ... so he never stated to me, and I don't recall him stating to either Constable Malinay or Constable Graham, any particular concern about the firearms, ....

. . . . .

**A.** I simply can't make any guesstimation as to what he may have considered a threat or not. He was so incoherent, so agitated, that I have no frame of reference for that degree of agitation in my experience, ....

. . . . .

[Vol. XXIII, p. 206: -]

**Q. [The Court]** ... would that have been within the realm of possibility to offer to Norman Reid some chicken or some tobacco to calm him down?

**A. [Cst. John Daley]** I would have tried anything and I would have offered, if I had thought of it. I would think I would have.

Assuming Mr. Reid fancied “chicken” and/or tobacco treats, and his brands were readily procurable from a takeaway (presumably by somebody other than one of the three perimeter-bound responding RCMP Constables), how was delivery to be achieved? If one of the three Constables had laid down his pistol to throw the takeaway “chicken” and/or tobacco to the bridge, he would have had to break the perimeter; or if he sought to place the treats by the fence, he would have had to enter the danger zone.

**B 26 August 2000 (*continued*)****3 Standoff****(b) Contacts during standoff with confrontational complaint subject Norman Reid****(b.6) Cst. Graham deploys pepper spray**

[Vol. XXII, p. 299-300: -]

**Q. [Thomas Williams]** At that point in time [discussions and negotiations] weren't working?

**A. [Cst. John Daley]** No, they were not.

**Q.** ... if they were not working, that meant that this gentleman was in an aggravated state -

**A.** Yes.

**Q.** - at that point in time.

**A.** Very intense.

. . . . .

[Vol. XXII, pp. 55-57: -]

**A. [Cst. John Daley]** .... Somewhat early in our speaking with Mr. Reid, Constable Graham employed pepper spray upon him.

**Q. [John Byrne Q.C.]** Did you see that?

**A.** Yes, .... I do remember the pepper spray out and I can recall the arc of the pepper spray towards approximately ... Mr. Reid's face. .... I believe that the majority of it was inaccurate. It was the extreme, I believe, range for its effective control. .... Constable Graham did not ... close any distance in using the pepper spray.

(Customarily referred to by general duty RCMP Constables as "O.C. spray"; the acronym refers to Oleoresin Capsicum, the chemical in the spray [Transcript, Vol. XXII, p. 294].)

Q. .... can you give us an approximation of the distance between the spray can and Mr. Reid's face at the time it was deployed?

A. Yes, ... 15 to 20 feet ... I approximated ...

Q. What's the normal range from your training of a spray can, ...?

A. ... I was told that it is difficult to aim it with any degree of precision past seven metres, 20 to 21 feet. ....it is very difficult to maintain it at that distance because of wind and that sort of thing. .... There was a slight breeze, .... that may account for the inaccuracy at that distance and it's also, of course, an extremely stressful situation. ... a portion of the spray I believe struck Mr. Reid possibly about the face or shoulder area. Mr. Reid was aware that the spray had been used upon him.

Q. And how did you determine that?

A. He waved at it or motioned -

Q. You're indicating the area in front of your face?

A. Correct, his face, shoulder area. .... He did not appear to be in the least affected by it and he asked somewhat incredulously ... why did you use that on me, ... words to those effect but he didn't pursue that. ... within moments he was yelling and shaking the axe and went back to what he had done previously ... I remembered in my training our instructions as per psychologically disturbed individuals and goal oriented individuals that this appeared to be a case of that.

Q. ... are you able to say with any degree of clarity whether the obviously unsuccessful nature of the spray attempt was due to Mr. Reid's mental condition or just the situation where the spray didn't hit the face, ...

A. .... I do not know, .... [t]here is a possibility that Mr. Reid is one of the few individuals in society that is not impaired by the use of pepper spray. .... it's also a possibility that Mr. Reid was so focused on his suspicion ... it may have been that it had a negligible effect.

. . . . .

[Vol. XXI, p. 245: -]

A. [Cst. John Daley] If a person is mentally imbalanced then they -- we are taught that they may be so focused upon a delusion, upon paranoia to a far greater extent than the average normal person in society. And that, the use of pepper spray ... cannot be expected to always deter them.

. . . . .

[Vol. XXI, p. 243: -]

**A. [Cst. John Daley]** ... we have been instructed that pepper spray is for the ... greater cross-section of society, ... non-injuring. Pepper spray is incapacitating. .... the spray is not in and of itself impacting upon the central nervous system of an individual. .... Pepper spray simply distracts, causes pain of a temporary nature that deflects them from their purpose.

. . . . .

[Vol. XXII, p. 298: -]

**A. [Cst. John Daley]** ... at the time ... that was appropriate given his re-appearance with the edge weapon, the hatchet, ... the situation was not rectifying itself. Mr. Reid was not responding, he would not give up the axe, and he was extremely agitated and irritated and wished us to leave, ....

. . . . .

[Vol. XXII, p. 300: -]

**A. ....** Constable Graham's position was being covered by myself and Constable Malinay. He felt that he had the opportunity to try to do so, to disable Mr. Reid by using it, and he took the occasion to do so, ... I was in agreement that that was a proper course of action to take. ....

. . . . .

[Vol. XXIII, p. 311: -]

**Q. [David Day, Q.C.]** ... how would you describe his face?

**A. [Cst. John Daley]** Tormented .... Previous to the moment at which he inclined himself towards me and changed his manner, ...



**B**     **26 August 2000 (*continued*)**

**3**     **Standoff**

**(b)**     **Contacts during standoff with confrontational complaint subject Norman Reid**

**(b.7)**   **Later verbal contact with complaint subject Norman Reid**

[Vol. XXII, pp. 58-64: -]

**A.** [Cst. John Daley] I tried another tact and that was to ask Mr. Reid how he was ... feeling, and I did so in a conversational voice, elevated enough so that it would carry ...

. . . . .

**Q.** [John Byrne, Q.C.] .... When you changed your approach what was your observation of his reaction?

**A.** He seemed to have been taken aback by the question and possibly the tone of voice or both. He looked directly at me. His focus was completely on me it appeared and he stopped, he hesitated, he bent forward, he cocked his head to one side.

**Q.** Where was the axe at the time?

**A.** In his hand. He never relinquished hold of the axe. .... The axe went down on top of the railing immediately in front of him. He placed both hands onto the railing.

. . . . .

**Q.** You're demonstrating a standing but forward leaning position with the axe in your right hand ...?

**A.** Correct. And in this position he would ... look at me and said I'm feeling alright, boy. ...

**Q.** Was the tone of his voice de-escalated?

**A.** Conversational.

. . . . .

**Q.** Did he say anything further?

A. What are you guys here for or something to that effect, but he was conversational and I had a glimmer of hope that something positive would stem from that and ... the next question I asked him is are you taking anything Norman and he got angry. ... [he said “I don’t have to take anything, I’m okay”]. However, he didn’t raise his voice to the degree that he had previously, nor did he change his position on the railing, nor did he lose his focus upon me, and I carried on. I can’t recall exactly what I said after that but we were talking a lot more calmly and it seemed that I was making some progress ...

. . . . .

Q. .... After Mr. Reid had said that he was feeling okay, boy, ... you recount to the R.C.M.P. and I quote [from Paragraph 23 of your statement to the R.C.M.P.], “He was again informed that he was accused of uttering threats”.

A. Correct.

Q. “To which he responded by becoming angry, then demanding to be arrested”.

A. Correct.

Q. So I take it this calming period that he had was short-lived?

A. It was ...

. . . . .

Q. I note in Paragraph 23 as I continue on there, ... I quote, “ I replied that he was under arrest for uttering threats and assault with a weapon”.

A. Right.

Q. “I told him that waving a hatchet at persons as he was doing was illegal. Norman Reid replied to the effect that he won’t give it up.”

A. Won’t give it up. That’s paraphrase, ...

Q. .... So you mentioned that he was under arrest for uttering threats and assault with a weapon?

A. Yes, by the holding of the hatchet.

Q. .... So that would have been in relation to his dealings with you officers?

A. Correct, ...

Q. ... at that time you felt that that constituted an assault, the manner in which he was brandishing the axe?

A. Yes.

Q. You indicated there [in your statement to RCMP] that Norman Reid's reaction was and his words were that he wouldn't give it up.

A. That's correct.

Q. That's the axe I take it.

A. That's correct. And he hadn't really gone back to his enraged tone that he had previous. ... when he spoke to me, he won't give it up, it was still somewhat conversational.

. . . . .

Q. .... you've indicated ... in Paragraph 23 [of your statement to RCMP, that] ... after you had advised him that he was under arrest for threats and assault with a weapon and that it was illegal to be waving the axe at persons as he was doing, ... that the incident then ... or shortly thereafter ... came to a head?

A. Yes, it did.

**B 26 August 2000 (*continued*)****3 Standoff****(c) Csts. Graham and Malinay re-position; Cst. Graham attempts to deploy baton**

[Vol. XXII, pp. 64-71: -]

**A. [Cst. John Daley]....** I was probably at my most focused pointed in our communications with Mr. Reid as it appeared to be getting somewhere hopefully, and I noticed to my left that Constable Graham was moving away from me latterly. He was moving inwards, upwards into Forest Road, .... my focus [on Norman Reid] was at its greatest point so I can't speak with any clarity how further in he went in my peripheral vision or back. I do know that he went away from me to the side.

**Q. [John Byrne, Q.C.]** So he went farther up the road?

**A.** Correct.

**Q.** What about Malinay?

**A.** Too far out of my peripheral vision to see. .... I don't know if positions were changed or not and I wouldn't have broken my attention with Mr. Reid to verify. I was intently speaking with Mr. Reid.

**Q.** You indicated in your R.C.M.P. statement that the observation you had of Graham at that time, I'm referring to paragraph 25.1 [of your statement to RCMP], was to the effect that Graham appeared to me to be moving slowly to his left along the dirt road and then slowly slightly forward towards Norman Reid.

**A.** Correct.

. . . . .

**Q.** .... And the movement ... was a matter of feet?

**A.** I believe so, yes.

**Q.** From your peripheral vantage point were you able to determine while Graham was making this movement to his left and slightly forward towards Mr. Reid, whether he was engaged in any other activity, ...?

**A.** It was my impression that Constable Graham was accessing his expandable baton.

. . . . .

**Q.** I take it the quiet period as you indicated had gone by ...

**A.** ... no it was still there. ....

**Q.** He was still quiet?

**A.** This was when I was starting to make what headway I could. ... I believe as soon as Mr. Reid changed his demeanor, changed his tone of voice, appeared to calm, ... at that point ... Constable Graham chose to move to his left.

**Q.** .... Did you alter your gun from target position to down at that point as well?

**A.** Yes. .... I went from low ready to actually gesticulating with my hands. I took my support hand away from my sidearm and I was talking with my hands, ... and that was intentionally done so that the appearance of the firearm would not be as threatening to Mr. Reid. .... it could rapidly be brought on target but it was a conscious decision on my part to attempt to make the firearm disappear as best I could without holstering it but yet maintain it in a position that it could be implemented as quickly as possible if needed.

. . . . .

**Q.** ... when you saw Reid with the hand on the axe in the positions that you've described, ... is it possible ... that you could look at that reasonably as being interpreted as him speaking with his hands, regardless of whether or not he had the axe in the hand or not?

. . . . .

**A.** No, ..., I took that to be very much holding us at bay with the hatchet. It appeared to be purposely done that it was, he was warning us with that and he was shaking it at us. .... I ... told him at one point, .... you're scaring me with that, and I wanted to try to get ... him to empathize.

. . . . .

**Q.** Mr. Reid, did he appear to be focused on you?

**A.** He appeared to be completely focused upon me.

. . . . .

**Q.** ... it was during this conversation period ... that you observed Graham ... taking some action by extending his baton?

**A.** Yes. ....

. . . . .

[Vol. XXII, p. 303: -]

**A. [Cst. John Daley]** .... Our training stipulates that primarily, ideally, the baton as issued is designed to strike large muscled areas of the body. ... so that it will impact upon the muscle and not impact on the bone, as that might cause undue harm greater than what you intended to inflict upon the individual.

. . . . .

[Vol. XXII, pp. 71-72: -]

**Q.** Were you able to observe whether or not he was successful in the effort to extend his baton or not?

**A.** I don't believe he was. ....

. . . . .

**Q.** Did you have any training or any education at all with regard to dealing with people suffering from schizophrenia with regard to the issue of ... quick or sudden movements in front of them, .... ?

. . . . .

**A.** ... other than common sense in that one shouldn't make sudden movements when somebody is agitated or disturbed, that would be within the field of experience of common sense. I don't think there was any specific instruction.

. . . . .

[Vol. XXII, p. 316]

**A. [Cst. John Daley]** As Mr. Reid was still in possession of the axe, ... it's my position that an impact weapon should not be employed against ... an individual so armed.

. . . . .

[Vol. XXII, pp. 312, 312-313, 315: -]

**Q. [Thomas Williams]**... the time in which he did it, was coincidental with the time in which Constable Graham took out his - .... - or was attempting to take out, [his baton] ...

. . . . .

**A. [Cst. John Daley]** There was no flicking motion. This was ... a surreptitious act. He did so very covertly. I can recall Constable Graham inclining away .... there was hand motion. It was close to the body, ... Flourishes that I have displayed [in previously demonstrating baton use] ... were not evident.

. . . . .

**A. ....** It has, as ... has been demonstrated to the Inquiry, a distinct sound when it is properly deployed as we are trained. I believe that I would not have missed that had that sound emanated that day from Constable Graham's baton.

. . . . .

[Vol. XXII, pp. 72-73: -]

**Q. ....** Were you able to observe, at least in your peripheral vision, where Graham came to rest after his movement up and slightly forward?

**A. ...** just the general area that he had moved to the left and ahead, but I do know roughly the area in which he was .... It was in front of this portion of fence [the first standing portion on Exhibit D.M. #4 north of the downed portion of fence]. I don't know if it was directly in the middle here or to the left of it. I don't believe it was further down this way [toward the south post of that standing portion of fence].

. . . . .

[Vol. XXII, p. 104: -]

**Q. [John Byrne, Q.C.]** Paragraph 25.2 of your statement [to RCMP], I quote, "However, as Constable Graham did so Norman Reid diverted his attention from me back towards Constable Graham as well as toward Constable Malinay. I stood still with my sidearm still drawn attempting to re-engage Norman Reid's attention with conversation. He disregarded me and continued to focus on Constable Graham and Constable Malinay. Constable Graham then stopped his efforts to use his baton." Is that consistent?

**A. [Cst. John Daley]** Yes, it is.

. . . . .

[Vol. XXII, p. 74: -]

**Q. [John Byrne, Q.C.] ....** as you noticed Graham moved and as you noticed him in an attempt to extend his baton to your observation did the focus of Mr. Reid change any?

**A. [Cst. John Daley]** Yes, .... at some point whether Constable Graham had ceased movement or whether he was still in movement ..., I can't say. I do know that whilst I was speaking with Mr. Reid his attention was instantly lost of me. He looked to his right sharply and acted swiftly.

**Q.** .... Did his apparent mood or demeanor change from ... the last verbal contact and focus that you had with him ....



**B 26 August 2000 (*continued*)****4 Shooting**

- (a) **Complaint subject Norman Reid abruptly leaves his residence bridge and attacks Cst. John Thomas Graham**

[Vol. XXII, pp. 74-75: -]

**A. [Cst. John Daley]** Yes. ... he appeared to be almost relaxed when he was talking to me. He was, as I stated, weight inclined forward, resting on the railing and he went from that to sudden and quick movement to his immediate right. He came off the steps to his right ... in a very sudden motion, very quickly.

**Q. [John Byrne, Q.C.]**.... you're uncertain whether Reid's quick movement to his right off the steps occurred while Graham was moving or shortly thereafter?

**A.** Correct. ... what little attention I was able to afford my peripheral vision went immediately when Mr. Reid made a sudden movement.

. . . . .

[Vol. XXII, p. 310-311: -]

**Q. [Thomas Williams]** ... I take it from your evidence that [the attitude of Norman Reid] had been changing for some period of time, ... [and] that you were having some success in your dealings with speaking and calming Mr. Reid down to the point that he had taken somewhat of a more relaxed stance.

**A. [Cst. John Daley]** No, he did that very abruptly.

**Q.** What, his relaxed stance?

**A.** .... There was no gradual decline in the rate of his activity or his invective ... It was very quick.

. . . . .

**Q.** ... I take it his sudden transfer back to bolting and running was totally, as you've described, shocking to you, totally unexpected.

**A.** Totally ... out of the blue. ... completely unexpected and he caught me off guard.

. . . . .

[Vol. XXII, pp. 75-82: -]

**Q. [John Byrne, Q.C.]** Were you expecting that?

**A. [Cst. John Daley]** It took me completely by surprise. .... he very quickly moved to his right and rushed down the steps.

**Q.** .... Immediately prior to his sudden movement to the right, can you tell us where Reid was, ...?

**A.** Yes. He was ... previously, inclined on the rail. ....

**Q.** .... Both hands on the rail, the axe in the right hand, still maintained in the right hand?

**A.** Yes, and the axe rested on the railing .... centrally located upon the bridge.

**Q.** Can you in detail and in sequence tell His Honour your observation of Reid's movement?

**A.** ... He bolted to his right. .... He went very quickly. There was no delay, hesitation. There was no telegraphing of movement. .... There was nothing of any warning in my recollection that Mr. Reid was going to move from his position. I had no anticipation of it. I was not expecting it. It was very sudden and I was caught unawares.

**Q.** Did you any understanding as to the potential cause of his unexpected movement to the right?

**A.** No, ...

**Q.** ... Just prior to his surprising movement to his right [,] was his attention then focused on Graham and/or Malinay as opposed to yourself?

**A.** He was focused directly on them. ... initially he was going in their direction and as he completed the movement I had the feeling that he was running towards Constable Graham.

. . . . .

**Q.** .... Can you take us slowly through Reid's sudden movement?

**A.** Yes. .... He moved and rotated to his right. He went down the stairs. I don't recall if he took them one step at a time or not. .... he went down them very quickly. .... the axe was initially lost to my point of view as he rotated away from me. ....

. . . . .

**Q.** .... How high was he holding the axe as he initially rotated away and to his right?

**A.** It appeared to me to be out in front of him and sweeping upwards as he's rotating.

**Q.** You're indicating in the high stomach area from centre to right?

**A.** Yes, ...

**Q.** Now you're indicating chest there ...?

**A.** He's bringing it up and rotating at the same time.

.....

**Q.** .... Did his movements heighten your concern?

**A.** ... yes.

.....

**Q.** ... how did you react, if in fact you did react, to this change in motion by Mr. Reid?

**A.** ..., it took me a very short period of time to realize that Mr. Reid was in fact moving down the stairs ... it surprised me, it shocked me, it caught me off guard ... [a]s I was trying very vigorously to maintain what contact rapport ... I felt ... I was establishing at that point in time.

**Q.** Your conversation was abruptly ended ...?

**A.** He just stopped it. ....

**Q.** .... your gun was not strictly on target at that time?

**A.** No, it was out in front of me but simply in my right hand.

**Q.** As he initiated that sudden movement to the right did you change your handling of your gun?

**A.** Yes. As he displayed quick movement and appeared to be leaving the steps I viewed that as being a potential danger ...

**Q.** What danger ...?

A. That he would strike somebody with the axe, ourselves included. And I viewed that as an escalation of the threat and I brought my support hand to my right hand and attempted to acquire Mr. Reid in an on target position.

Q. .... Were you able to ... secure that on target position?

A. I don't think that I was capable of doing it. The movement was too quick and I was unprepared.

Q. ... after this initial quick movement to the right and down the steps, did he come to rest? ....

. . . . .

A. .... He never hesitated, he never stopped his movement and changed directions or anything like that.

Q. There was a flow of movement after that?

A. There was a continual flow of movement. He descended the steps, rounded the corner railing. .... The railing which extends downwards to ... Mr. Reid's right, .... It was one flowing, fluid motion and he was running and turning to his left as he came off the steps.

. . . . .

[Vol. XXIII, p. 253-254: -]

Q. [David Day, Q.C.] .... Prior to that afternoon, August afternoon of 2000, had you ever observed behaviour comparable to that by Norman Reid?

A. [Cst. John Daley] ...yes, ... on June 28<sup>th</sup> of 2000 [at the hospital in Bonavista], Mr. Reid ... would go from a agitated position to one of relative ... motionlessness, or he would suddenly start from a stopped position .... his movements were jerky at times and he would as quickly stop them. .... He would come to sudden halt, .... Mr. Reid telegraphed no indication of his action.

. . . . .

[Vol. XXIII, p. 29: -]

A. [Cst. John Daley] .... When he came off the steps, he would have proceeded down ... in a looping fashion as he rounded the corner, would have approximated Constable Graham's general direction. He did not come to a stop and rotate.

[Vol. XXII, p. 109: -]

**Q. [John Byrne, Q.C]** .... in your R.C.M.P. statement, Paragraph 26.2 you indicate, ... “Norman Reid appeared to me to be continuing to turn to his left so that he was facing or close to facing Constable Graham who was standing on the dirt road”.

**A. [Cst. John Daley]** .... I’m assuming that he was standing more on the grass as he was on the edge all along. However, to the degree that he moved forward he was on grass. However, ... my peripheral vision wouldn’t have allowed me to see his exact foot placement on the ground. ...

. . . . .

[Vol. XXII, pp. 82-83: -]

**Q. [John Byrne, Q.C]**.... The position of the axe as he got to near the bottom of the steps and got into that turn to the left -

. . . . .

**A. [Cst. John Daley]**... as he came down off the steps ..., he had elevated his hand up to a point that was approximate to his head with the axe drawn back in an overhand motion.

**Q.** So you’re saying to the right and ... [the] hand is at eye level?

**A.** Correct.

**Q.** And then the axe obviously would be an extension of that?

**A.** Correct. And at that point the axe became visible again to me.

. . . . .

[Vol. XXIV, p. 25-26: -]

**A. [Cst. John Daley]** .... the exact area on the axe that Mr. Reid grasped it is approximate to the lower end. He didn’t, as a baseball saying, ... choke up on it. .... the axe went up as he moved. ....

. . . . .

**Q. [David Day, Q.C.]** So the head of the axe, ... at it’s highest point, was at about the top of his head?

**A.** Yes, that’s correct.

. . . . .

[Vol. XXII, p. 110: -]

**Q. [John Byrne, Q.C]** ... Paragraph 26.4 [of your statement to RCMP states], .... “Norman Reid appeared to me to step off the step or steps of the bridge to his right and with the hatchet raised over his shoulder and behind his head to move toward Constable Graham.” Fair enough?

**A. [Cst. John Daley]** Yes, correct.

. . . . .

[Vol. XXII, p. 83: -]

**Q. [John Byrne, Q.C]** How did you perceive that handling of the axe at that point in time ... ?

**A. [Cst. John Daley]** I perceive that to be an attack.

**Q.** .... He had gotten to the bottom of the steps, he had turned to the left with the axe as you’ve described. Was he saying anything at that time?

**A.** Words to the effect I’ll get you, kill you or something like that but I ... can’t recall exactly what it was. I was too intent upon trying to acquire ... Mr. Reid’s centre of mass through the sighting of my handgun.

. . . . .

[Vol. XXII, pp. 108-109: -]

**Q. [John Byrne, Q.C]** ... in your testimony ... I thought you had indicated that you heard Graham say stop, stop, stop as Reid was coming down the steps?

**A. [Cst. John Daley]** .... he did so as Mr. Reid was coming down the steps .... [o]r commencing his arc.

. . . . .

**Q.** ... you seem to indicate ... [in Paragraph 26.1 of your statement to RCMP] that Graham’s words [to stop] were after he was into his turn.

**A.** .... it would be ... almost to the point of impossible to nail down exactly at what point in time Constable Graham shouted the words [to stop]. .... my recollection is that it was somewhere as he was completing his flight down the stairs.

. . . . .

[Vol. XXII, p. 107: -]

**Q. [John Byrne, Q.C]** .... reading Paragraph 26.1 [of your statement to RCMP], “Eventually Norman Reid turned to his right, appeared to me to start down the step or steps of the bridge to his right and then began to turn to his left in the direction of Constable Graham. Norman Reid said I’m going to kill you.” That [is] as you remember it?

**A. [Cst. John Daley]** To paraphrase, correct.

**Q.** Okay. “As he said those words Norman Reid was drawing the hatchet in his hand back over his shoulder and behind the side of his head.”

**A.** Correct.

**Q.** Is that what you attempted to translate to the Court by your demonstration?

**A.** Yes.

. . . . .

[Vol. XXII, pp. 84-89: -]

**Q. [John Byrne, Q.C]** Why were you attempting to ... [acquire Mr. Reid’s centre of mass with your service pistol]?

**A. [Cst. John Daley]** Because I believed that Mr. Reid was a direct threat to our safety.

. . . . .

**Q.** .... would you be able to approximate the distance between ... [Reid] and Graham at that time? ....

. . . . .

**A.** ... possibly 15, 12 feet, ....

. . . . .

**A.** .... Constable Graham ... yelled in a very clear and loud voice stop, stop, stop, three times.

**Q.** And that was up to the point in time after the quick movement and around the time of the turn we’ll say?

**A.** Correct.

. . . . .

Cst. Daley answered Mark Pike, Cst. Graham's counsel, to the same effect; adding "I will not forget it" [Transcript, Vol. XXIII, p. 198].

**Q. [John Byrne, Q.C.]** - did they appear to have any effect, at least to your observation, upon Mr. Reid's movements?

**A. [Cst. John Daley]** None whatsoever.

. . . . .

**Q.** .... after he made that left turn at the bottom of the steps had he made any progress ... out towards Graham?

**A.** Yes, the turn was a looping, hooking left turn ....

**Q.** It wasn't a 90 degree turn?

**A.** No, ...

**Q.** It was curved turn?

**A.** Yes, ... as he ran out around the corner ..., he was turning and approximating to Constable Graham's position all at the same time.

**Q.** Okay.

**A.** It was a fluid motion.

**Q.** ... did he get any closer than the bottom of the steps -

**A.** Yes.

**Q.** - to Graham?

**A.** Yes, .... Whether it was a matter of a pace or two I can't give specifics but he did narrow the distance.

. . . . .

[Vol. XXII, p. 110-111: -]

**Q. [John Byrne, Q.C.]** [Continuing with Paragraph 26.4 of your statement to RCMP] "As he moved towards Constable Graham, Norman Reid appeared to me to start moving the hatchet forward." ... could you demonstrate what you meant by that?

. . . . .



**A. [Cst. John Daley]** .... I think he simply brought the hatchet forward. To the degree that it went forward or backward I can't specifically relate. I was too intent on Mr. Reid's center of mass.

**Q.** .... So what you're saying now, it went forward with his body?

**A.** I think that would be a fair representation of what I observed .... he did not strike forward with the axe.

. . . . .

[Vol. XXII, p. 338-339: -]

**A. [Cst. John Daley]** .... We are trained that there are two methods of sighting the hand gun ... from 15 metres and more, one is taught to sight one's side arm .... Below that distance the threat is awfully close and time may not allow for ... using your sight. You simply superimpose your sidearm over the individual's centre of mass, align it in such a fashion that is instinctive, done by training and repetition, ... and fire. ....

. . . . .

[Vol. XXII, pp. 332, 333, 335]

**Q. [Thomas Williams]** ... what is considered to be close range .... If we take the distance of the safety zone, if it was at approximately seven metres, .... - to ten metres, we'll say?

**A. [Cst. John Daley]** Under that is generally ... point blank. .... The area where aiming, traditional aiming of the firearm is not required, one simply places the firearm in the general vicinity and one can fire with reasonable expectation of accurate placement of shots, ... we are taught that our handgun is effective from a distance of zero to 25 metres and we're tested at those distances ...

. . . . .

[Vol. XXII, p. 336-337: -]

**A. [Cst. John Daley]** .... You fire your firearm at an individual until that individual's purpose is thwarted, until that individual is stopped. .... All shots are to centre mass. .... Current philosophy is that it is an option for ... an R.C.M. Police officer ... to ... reassess the target to fire upon the head, .... that has with it a greater degree of inaccuracy as it is a smaller target, but it's presented as an option and I will speculate that that may be used in times when the assailant could possibly be sporting a ballistic vest, ... or that the individual's centre of mass is not able to be properly struck by either inaccurate fire or the individual is deterred to a lesser extent by centre of mass shots, and one can expect ... a greater impact

upon an individual ... by firing upon and striking successfully the head as that is the centre of our central nervous system.

. . . . .

[Vol. XXII, p. 326-327: -]

**Q. [Thomas Williams]** If we look at the objective aspects of this, being the time it takes you to take your pistol out from its holster, have it in front of you - .... - and the time in which it took Mr. Reid, at least to get from the top of those steps to the bottom, ... it would appear that you would have had sufficient time, if your weapon had remained in it's holster to pull it.

**A. [Cst. John Daley]** If I had absolutely no fear and was doing it as an academic exercise, yes, ...

. . . . .

[Vol. XXIII, p. 326: -]

**Q. [The Court]** ... was he going off the steps after the baton effort?

**A. [Cst. John Daley]** Possibly during. It was coincident in time.

. . . . .

[Vol. XXII, pp. 366, 370, 372]

**Q. [The Court]** .... Did you have any concerns when Constable Graham fired five shots that day?

**A. [Cst. John Daley]** No. ....

. . . . .

**Q. [The Court]** .... Did you have any concerns on the day in question that Cst. Graham fired five shots as opposed to one or two?

**A.** No, I do not.

**Q.** And in thinking about this since then, have you had any concerns about him using five shots as opposed to one or two?

**A.** I have not. ....

. . . . .

**Q.** [Do you accept the evidence with respect to the location of those shots in the body of Norman Reid?]

**A.** ... I can't give any specifics about where they ... struck, but from what I encountered that day and what I observed, I have no concerns then or now.

. . . . .

[Vol. XXIV, p. 18-19: -]

**Q. [David Day, Q.C.]** .... Was there ever a time during the afternoon of the 26<sup>th</sup> of August, during the stand off, that, to your mind, you ever knew from moment to moment what Norman Reid might next say or do?

**A. [Cst. John Daley]** Not in the slightest.

However, the nature of Norman Reid's mental illness, paranoid schizophrenia, would have rendered prediction and timing of his behaviour, that afternoon, a bridge too far for either police person or psychiatrist; as Inquiry testimony of forensic psychiatrist Dr. Nizar Ladha underscored:

[Vol. XXXVI, pp. 216-220: -]

**Q. [David Day, Q.C.]** .... Is it as a general rule possible for you as a psychiatrist ... to ... predict or forecast when a period of acute psychosis is going to present with ... [a] particular patient?

. . . . .

**A. [Dr. Nizar Ladha]** The timing is difficult to predict.

. . . . .

**Q.** Once ... you observe a person as presenting with an acute episode of the illness [paranoid schizophrenia] ..., and ... you are .... observing it. .... [a]re you able as a psychiatrist to predict from moment to moment, from second to second, what types of behaviour the particular patient presenting with this acute episode is likely to engage in?

**A.** No, you can make some general observations and these general observations are made at two levels. One is you talk about the immediate future and the other one you talk about the distant future. It's effectively impossible to predict heavy on the distant future. But in the immediate future there are certain parameters we

can use to say that a certain type of behavior is more likely to occur than other times. ... But you can't go beyond "[more likely]" I don't think.

. . . . .

**Q.** ... in the case of Norman Reid are you able [,] ... [base]d on your outpatient following of him and your dealing with him at the Waterford Hospital to say generally whether the illness [paranoid schizophrenia] as suffered by him was mild, moderate or severe?

**A.** It was moderate to severe.

**Q.** Is it possible for a psychiatrist to predict the severity of say an unusual or ... [aberrant] behavior where a person suffering from paranoid schizophrenia experiences an acute bout or episode of illness?

**A.** Not in a general sense, no. .... in a specific sense ... in a particular case for a very brief period of time one may be able to say that a person is likely to behave in a particular fashion. But no, in an overall sense I don't think the prediction is a possibility in most cases.

. . . . .

**Q.** ... where a person suffering paranoid schizophrenia experiences a relapse, are you able to say whether when the person experiences the relapse that is an event ... that most probably occurs suddenly or ... gradually? ....

**A.** In most cases, it's a gradual progression. Now sometimes its internal in the sense that a person will not let anybody know what's happening with him. .... He may hear voices but may not tell anybody. And this occurs over a period of time. An event will make it appear that it's sudden. For example, a violent episode or a suicide attempt or something like that. .... To an observer, it may appear like an abrupt onset.

The testimony of Dr. Ladha had relied not only on his having, for a short time, professionally followed Norman Reid. He had also reviewed the Waterford Hospital records of Mr. Reid's 13 involuntary admissions to the Hospital from 1978 to 2000. The Discharge Report offered on the occasion of Mr. Reid's discharge on 19 July 2000, at conclusion of his thirteenth (and final) Waterford Hospital admission, included the fact Mr. Reid "was discharged against medical

advice” because, legally, “he was no longer certifiable” and wanted to go home to Little Catalina [Exhibit DV #1, Discharge Report transcribed 22 August 2000, p. 2].

**B**     **26 August 2000 (*continued*)**

**4**     **Shooting**

(b)     **Cst. John Thomas Graham stops complaint subject Norman Reid's attack**

[Vol. XXII, pp. 89-94: -]

**Q. [John Byrne, Q.C]** .... as he began narrowing the distance, as you described, what happened next?

**A. [Cst. John Daley]** He came under fire by Constable Graham.

**Q.** Were you surprised to hear the fire?

**A.** Not really as that is what my intention was going to be. ...

. . . . .

**Q.** ... when you heard the shots and at the instant just before that are you able to estimate the distance between Reid and Officer Graham?

**A.** .... I can speculate that it was anywhere from ten to 15 feet, ... Mr. Reid continued to move forward even whilst under fire. .... the distance was closed by Mr. Reid and I stated that he may have moved a pace or two.

**Q.** ....At the moment before the fire, did you observe the manner in which Reid was handling the axe?

**A.** ... I don't think anything had changed. ....

**Q.** So his right hand with the axe in it ... was at eye level to his right?

**A.** ... it was still drawn, still drawn back.

**Q.** .... Was it being moved in any fashion?

**A.** I don't believe so.

. . . . .

**Q.** .... How many shots did you hear and was there any break in the shots?

**A.** .... I believe that it was the first shot, a period of time, very short of course, followed by a more rapid succession of shots thereafter. .... A momentary pause that was I think of a longer duration than the pauses between subsequent shots.

**Q.** How many shots in total?

**A.** .... there was a succession of five shots. ....

**Q.** ... did you note any effect upon Mr. Norman Reid or upon his body of those apparent shots?

**A.** ... I was focusing on his centre of mass and as Mr. Reid was coming under fire I believe I observed him to be struck.

**Q.** Can you indicate where?

**A.** It appeared to be ... around his centre of mass. .... And Mr. Reid was giving indications of coming under fire in that he was making utterances.

**Q.** What were his utterances?

**A.** A groan, a loud groan, a hurtful noise - .... as if he was being hurt as he moved forward and he also made a clutching motion.

. . . . .

[Vol. XXII, p. 111: -]

**A. [Cst. John Daley]** .... after he came under fire [,] his hands clutched inwards towards his chest and ... in my mind's eye I don't see an axe in his hand at that point.

. . . . .

[Vol. XXII, pp. 94-102: -]

**Q. [John Byrne, Q.C]** So as the shots were being impacted -

**A. [Cst. John Daley]** Yes.

**Q.** - he continued to move forward?

**A.** He was under momentum forward, yes, but as the ... succession of shots progressed Mr. Reid slowed and rotated.

**Q.** What direction did he rotate?

**A.** To his right. ... He rotated away from Constable Graham. .... and at some point in that turning [,] firing stopped.

. . . . .

**Q.** At the point in time that Mr. Reid suddenly moved to his right and down the steps and then eventually, in an arcing turn towards the area where Graham was, ... was there ... any set of circumstances which would have prevented Graham or yourself or Malinay from moving backwards, before shooting?

**A.** .... I was too intent on trying to acquire Mr. Reid's centre of mass for a shooting situation and that took all of my focus. ... I couldn't think of anything else other than I have to do what I can to try to stop this as we're under threat, ... we're under attack.

. . . . .

**Q.** ... were there ... any physical restrictions on Graham or Malinay or yourself moving backwards?

**A.** I don't think there's any physical restrictions. It's simply ... we were reacting and when you're reacting you're already behind it. ... Mr. Reid had taken the initiative. He was the actor and we were the reactors. ... He knew what he was going to do. He had a purpose in mind and ... [presumably] a goal and he was acting upon it. We were in a position of reaction and I was attempting to change my mind set from one of attempting to do anything almost to save this situation and allow for a peaceful resolution and was at that point in time I believe the closest to that resolution.

. . . . .

**Q.** .... I take it Mr. Reid would have had to cut through the fence, over the fence -

**A.** Right.

. . . . .

**Q.** ... that would have taken at least some time.

**A.** Right.

**Q.** A second or two or three or four.

**A.** Right. Mr. Reid covered the distance so fast that, ..., I was grabbing to react and I felt very much behind the curve as it were, and I felt that I had to try to get ahead of it, .... we were covering each other. ...

**Q.** Were you too far into this situation to retreat?

**A.** Yes.

**Q.** ..., before the shots were fired?



A. Yes, ... to retreat you'd have to formulate the thought to get out of there. All I could do at that point was rely on ... my skill memory of acquiring a target and firing upon it. All I had at that point was instinct and my instinct was to adopt a shooting position, to fire upon the threat. .... And I did not have the time to successfully complete that action.

Q. At that point in time ... did you as a peace officer have concerns for the safety of any people other than you three officers?

A. At that particular moment in time ... the only concern I had was our own .... I was simply reacting to protect ourselves, and naturally one acts to protect oneself and to the degree that translates to the protection of my partners I did so as well.

. . . . .

Q. - once ... you feel that you're in peril, ... do you think it would have been reasonably feasible to be able to stop Mr. Reid by a shot to some part of his body other than ... his central mass or his head? ... if he was still ten, 15 feet away from you, there was a fence in between you [;] why not shoot him in the leg or shoot him in the arm? ....

A. In order to acquire that we would have had to done so while Mr. Reid was stationary [while on the bridge] but he was not attacking us at that point. .... there's just no possibility of being able to shoot at rapidly moving legs whilst he's in flight. It was difficult enough for me to simply acquire my target [of centre body mass].

. . . . .

Q. – you don't think you would have been able to hit or had much of a chance of hitting the arms or legs?

A. Other than shooting upon Mr. Reid whilst he is not attacking.

Q. Yeah, when he was standing there?

A. And we would not have done so. .... we're not trained to do so and I had no desire to fire upon Mr. Reid at all, but I would definitely not have fired upon him, any portion of his body when he was standing on his step.

Q. ... your observation as to how Mr. Reid's body came to rest and where it came to rest ...?

A. .... Mr. Reid rotated around 180 degrees directly away from Constable Graham after he came under fire. ... he pitched headlong forward under his own momentum.

**Q.** .... In which direction would he have been pitching headlong forward?

**A.** Away from Constable Graham.

**Q.** .... So that - as a result of his turning to the right he pitched headlong forward away from Graham.

**A.** Stumbling, pitching forward, torso going forward ahead of his legs. His legs couldn't keep up with his body falling.

**Q.** The top of the body was falling -

**A.** Toppling.

**Q.** - faster than the legs rather?

**A.** Correct. Away from Constable Graham, ... .

**Q.** .... he was now as a result of the shots, going in the other direction?

**A.** Yeah, he turned away from what was happening but he couldn't remain upright and he pitched headlong forward and went down and he went down roughly in my recollection ... where the pylons are located on the ground [as appears in Exhibit D.M. #4]. .... Head further in away from the road. .... he ... ended up on his back I believe. I believe I could see his face. .... he wasn't making much for sound.

. . . . .

[Vol. XXII, pp. 328-329: -]

**Q.** [Thomas Williams] ... what do you mean by stop the target?

. . . . .

**A.** [Cst. John Daley] That they cease whatever action they are taking.

. . . . .

**Q.** ... shoot to kill, has that ever been a philosophy of the Force?

**A.** Never.

. . . . .

**Q.** ... it's not unreasonable to think while it's not the objective to kill an offender - .... - it [is] a likely outcome.

A. ... yes, ... [or] one would expect that at the very least grievous bodily harm would be inflicted upon the assailant.

. . . . .

[Vol. XXII, pp. 343-344, 349-350, 360-362: -]

**Q. [Thomas Williams]** .... when that second shot was fired he wasn't even looking at Constable Graham.

**A. [Cst. John Daley]** I recall Mr. Reid, when shooting commenced, continuing forward. .... I recall Mr. Reid coming forward under fire. .... after the first shot, he went forward slightly. ... he was still oncoming. I'm very clear about that point, .... he actually proceeded after the first shot approximate to Constable Graham's position.

**Q.** So this is where we differ - .... in terms of your perception –

. . . . .

**A.** ... I will not have it typified as perception. That's what I recall. .... That's what I observed. .... My perception of Mr. Reid as a threat was while he remained ambulatory with an axe. That status did not change until such time as Mr. Reid ... pitched forward and fell to the ground. ... I felt no threat from Mr. Reid after he had gone to ground. .... He was in full flight as fire commenced, ... inertia carried [him] forward for a pace or two and firing re-commenced ... there was a momentary staggering of shots that ... came between shots one and two whereby Mr. Reid [']s ... inertia was carrying him still forward and the firing ... re-commenced but ... didn't stop that much ... and in so doing Mr. Reid ... turned away. ....

. . . . .

[Vol. XXII, pp. 331-332: -]

**Q. [Thomas Williams]** .... what is the expected result of an individual having been struck on centre mass as a result of a shot?

. . . . .

**A. [Cst. John Daley]** It is as different as there are persons. ....

. . . . .

[Vol. XXII, pp. 141-143: -]

**Q. [John Byrne, Q.C]** ... Considering the evidence that you gave that Norman Reid had come up to Graham at the time he's receiving shots and then considering

where the body was eventually located - .... there appears to be some distance in between. ... how [was] that distance ... accomplished ... [?]

**A. [Cst. John Daley]** He would have had to have covered that distance while ambulatory, .... he received a shot and he continued his momentum forward. ... He came forward, slowed, turned and then pitched headlong backwards, backwards from our perspective, forwards for his. .... in so doing he covered distance .... Not a lot of distance but he did cover distance in that fashion.

**Q.** .... And you indicated that he took some steps - ... in the backward direction?

**A.** Yes, ...

**Q.** Having come under fire first?

**A.** Having come under fire and turned his direction, ... away from Constable Graham whilst under fire. He did cover distance, a number of steps, and then his body preceded him, he fell forward.

**Q.** ... from your perspective, would this explain the distance difference between where you saw him at closest point to Graham after receiving the first shot and where his body eventually came to rest?

**A.** Yes. .... He covered the distance by going forward towards ... Constable Graham a couple of steps, came under fire, changed his direction away from Constable Graham's position 180 degrees and in so doing covered the distance towards his final rest position by taking a couple of steps.

. . . . .

[Vol. XXII, pp. 127-130: -]

**Q. [John Byrne, Q.C]** ... from the time that Mr. Reid left the floor of the bridge moving down the steps, ... quickly and suddenly, until the shots were fired, ... would you be able to say how many seconds or minutes that was?

. . . . .

**A. [Cst. John Daley]** .... We're talking a second, second a half possibly.

**Q.** .... with regard to the time required to fire the five bullets, .... ?

. . . . .

**A.** ... two seconds, give or take.

. . . . .

**Q.** ... from the beginning of his sudden movement down the steps, then his arcing left turn towards Graham until the shots are completed, we're talking just a few seconds?

**A.** I would think so, yes.

. . . . .

[Vol. XXII, p. 141: -]

**A. [Cst. John Daley]** ... when ... he turned, he came headlong towards Constable Graham on [an] arc and ... came under fire, slowed and turned around to go the opposite direction away from the fire and he did take some steps but he appeared to be having great difficulty in maintaining his balance. .... And his torso preceded him, and it appeared as if his legs could not keep him upright and he had difficulty and he pitched headlong forward and he went to ground.

. . . . .

[Vol. XXIII, p. 186: -]

**Q. [Nicholas Avis, Q.C.]** ... is there any possible way to simulate ... fear ...?

**A. [Cst. John Daley]** I have never experienced fear to that degree before or since. ... there's no possible way to reproduce the fear. We are instructed that you will feel it and that you have to accept it, not deny it, and attempt to carry on with the matter at hand while acknowledging your fear.

. . . . .

[Vol. XXIV, pp. 70-71: -]

**Q. [The Court]** .... as you were driving to Little Catalina was there any apprehension or fear at that point, based on your prior knowledge of incidents with Mr. Reid?

**A. [Cst. John Daley]** To a degree, there was yes, ....

**Q.** And when did that fear really increase? At what exact point or was it gradual?

**A.** No, the fear was sudden and intense when Mr. Reid left the home ... on the second occasion, hatchet in hand yelling at us.

**Q.** And there was never any thought there was a hostage ...?

**A.** No, I didn't believe that to be the case.

**Q.** .... If he hadn't moved suddenly to his right do you feel that you were physically, mentally and emotionally able to continue talking as long as it took?

A. Yes, ...

. . . . .

[Vol. XXIV, p. 64: -]

**Q. [Thomas Williams]** ... when you say that when asked about reactions positioning, things of this nature, it did what felt right? .... This is the first time that you had to do that?

**A. [Cst. John Daley]** This is the first time that I did that for this type of the specific set of circumstances, but I've been in positions where I've had to watch my distances and keep other factors going at the same time. I do that all the time.

**Q.** ... you've never been put in such a fearful situation, in a confrontational situation, in a standoff situation -

**A.** Not to the degrees.

**Q.** -to the degree that you were put here?

**A.** Not in the degrees of this particular event or the time frame. This one was perceived by me to be, to be longer.

. . . . .

[Vol. XXIV, p. 27-28: -]

**A. [Cst. John Daley]** He had to be stopped from his action. It was necessary and it was done. That does not mean that it was desired, .... It's the last thing any police officer, indeed any person, if one is able to put oneself in that position, would ever want to do. ... there was never, ever any malice borne towards Mr. Reid, .... Mr. Reid was ill. He was never perceived as a bad individual or somebody that you disliked ... and everyone wanted the best for him .... it's wholly lamentable that on the date in ... question Mr. Reid took the actions he did and necessitated our response, and I'll always regret the necessity of it. I will not regret ..., I will be thankful till the end of my days for Constable Graham's actions. ... Constable Graham did what was required, and to the degree that it kept me safe, it did.

**B. August 26, 2000 (*continued*)****4 Shooting****(c) Civilian witnesses to RCMP stopping of complaint subject Norman Reid**

Forty-one civilians (the civilian witnesses”) testified, to the Inquiry, that they saw and/or heard part or all of Norman Reid’s confrontation of the three responding RCMP Constables on 26 August 2000. Most were residents of Little Catalina. A few were visitors to Little Catalina. Each of them, in varying degrees, observed or heard part or all of the confrontation from different distances, elevations or angles. Each saw or heard the confrontation for different portions of its duration (of about 10 minutes). Each possessed different visual and ocular capacities.

For example, some civilian witnesses arrived during the confrontation or left before the confrontation ended. Some civilian witnesses present for the entire confrontation observed, then looked away, then observed again - perhaps because of dismay or because his(her) vantage location was inopportune; or observed, while concurrently talking to other civilian witnesses. Some had constantly-unobstructed sight lines; others encountered the disadvantages of intervening structures, vehicles, other persons, or the distractions of persons or pets. Some were crouched to ground or sitting, rather than standing.

There is no Inquiry evidence that any of the civilian witnesses, like the three responding RCMP Constables, possessed any training in the acquisition, retention, or retrieval of details of events s(he) observed [Vol. 4 – Judicial Decisions And Authors, tabs 24, 31]. Or that any of the civilian witnesses was as physically focused and psychologically pre-occupied as the three

Constables; with their constantly-unimpeded, frontstall view; compelling law enforcement mandate; and fixating fear of being recipient or author of injury or death.

Quite apart from eye witness science and practice, there was no evidence at the Inquiry of identification or measurement of whether or how blood or marriage relationships, or past grievances or friendships, with the complaint subject or the RCMP, impacted the manner in which civilian witnesses perceived the stand-off. Or whether or how intimidation impaired recollection (see, e.g., Transcript, Vol. I, p. 86). Or how the recollection of one civilian witness was innocently or intentionally influenced by the careful or contrived articulated recollection to him(her) by another. Or, how the sense of community affected the credit and/or credibility of the civilian witnesses.

No recounting of the stand-off on 26 August 2000 from any civilian witness substantially compared with the recounting of any of the others. Measured against careful examination, consideration, and analysis of physical forensic evidence, all of the civilian witness accounts of the confrontation are wanting in accuracy on points material to cause and manner of Norman Reid's death.

The testimony of at least several of the civilian witnesses attests to events, material to cause and manner of death, which did not occur; indeed, which could not have occurred. Specifically, Norman Reid was not struck by any missiles from an RCMP Constable's service pistol while he stood on the bridge or steps of his residence. The reason? Overwhelming, cogent forensic evidence (including evidence from surveyor Ian Edwards; pathologist Dr. Nebojsa Denic; the absence of damage to the doors, door framing, and porch exterior and interior on the



west side of Norman Reid’s house when examined by both RCMP and Ontario Provincial Police (“OPP”) peace officers); and the view-taking on 19 June 2002 [Vol. 5 – Tables And Documents; tab 2, pp. 1 (witnesses 1, 2); 2 (witness 3); 4 (witness 14); 16 (witness 73); 19 (witness 90); 20 (witnesses 91, 93) ].

Illustrating the fragility, hence unreliability, of civilian witness testimony – for some or all of the reasons advanced immediately above, or others, is the evidence to the Inquiry of Daphne Keats [Vol. 5 – Tables And Documents, tab 2, p. 6], mother of Sherry Keats; “common law” mother-in-law of Norman Reid’s brother Hilary with whom daughter Sherry often resides next door; grandmother to Sherry’s child, fathered by Hilary; and cohabitant of Norman Reid’s brother William (whom she knows as “Bill”)].

[Vol. XI, pp. 163-164; 166-168; 171-175; 178-181; 184-186; 188:-]

**Q. [David Day, Q.C.]** ... you have told Chief Judge with respect to the events at the time of the shooting of Norm Reid that you heard shots while you were outside your house. Correct?

**A. [Daphne Keats]** Yes.

**Q.** And at a time when you were not looking out through a window or a door towards Norm Reid’s house. Correct?

**A.** Yes.

**Q.** And then you spoke to your daughter [Sherry Keats] as you quickly left your house by the front door?

**A.** Yes.

**Q.** And your purpose in running out was to do what?

**A.** Use the phone.

**Q.** .... So that before you left your house, although you hadn’t seen it [,] you came to the conclusion Norm had been shot by the police? Correct?

A. Yes.

Q. So you leave your house by the front door to go over to [daughter] Sherry's house, Hilary's house [,] to use the phone? Correct?

A. Yes.

. . . .

Q. And as you pass from your front door over towards Hilary's house did you mean to go in the front door, side or back door of Hilary's house?

A. In the back door.

Q. .... So you went ... across the lane - .... [b]etween the two houses [her residence and Hilary Reid's residence] and in through the back door of Hilary's?

A. Back door, yeah.

. . . . .

Q. ... you looked down the lane towards Forest Road and Norm Reid's house [as you crossed over to Hilary Reid's house], didn't you?

. . . . .

A. ... yes, I looked when I came down the steps [of my residence] but I didn't keep looking when I was running across the lane.

. . . . .

Q. When you came out of your house -

A. Yes.

. . . . .

Q. You didn't look for a long time.

A. No.

Q. ... when you looked down [,] what you saw created the impression in your mind that Norm was still on the hoof, he was still standing up. Correct?

. . . . .

A. Yes.

**Q.** ... while you were looking briefly, very briefly [,] he was falling down and to his right?

**A.** Yes.

. . . . .

**Q.** But you didn't watch long enough to see him fall all the way down?

**A.** No.

**Q.** .... He wasn't completely down on the ground?

**A.** Not when I saw him, he wasn't.

**Q.** .... You could still see him in the process of falling when you looked away. ... correct?

**A.** Yes.

. . . . .

**Q.** .... to summarize on that point, you're in your house, Sherry's there, ..., you hear shots. As you run from your house out the main door you say something to Sherry about Norm's been shot ... and ... you get out ... your door.

**A.** Yes.

. . . . .

**Q.** Went down the steps [of your house] and as you went down the steps you looked down and they're [RCMP officers] still firing, still firing at that point.

**A.** That's what it seemed like.

. . . . .

**Q.** – but you had the impression as you ran down the steps that they were still firing?

**A.** Yes, that's what it seemed like, ...

**Q.** .... Then you looked away and went over to Hilary's, correct?

**A.** Yes.

. . . . .

**Q.** ... once you looked away from the scene down below, did you still hear shots after you looked away?

**A.** Yes, I could still hear them, yes.

. . . . .

**Q. [The Court]** .... Can you remember how many different times ... you actual hear shots?

**A.** ... It just seemed like it was ... all at once.

**Q. [David Day, Q.C.]** Unbroken?

**A.** Yes.

**Q.** Just constant?

**A.** Yes.

**Q.** .... So that the shots began while you were in house?

**A.** Yes.

**Q.** And it seemed to you that the shots were continuing as you spoke to Sherry and while you ran towards your front door, correct? ....

**A.** Yes.

**Q.** .... And did it seem to you as you ran towards your front door, to open it and go out that the shots were still being fired?

**A.** Yes, it seemed ...

**Q.** .... And as you came down the steps and very briefly looking down towards Norm Reid's house, shots continuing?

. . . . .

**A.** Yes, that's what it seemed like, ...

**Q.** .... And did you hear shots after you looked away?

**A.** Not when I was running across the lane to get to Hilary's, ....

. . . . .

Q. .... [what] [p]art of your house were you in when you first heard the shots?

A. I was in the livingroom.

. . . . .

Q. ... is there a wall separating your front door from the livingroom? ....

A. Just a half a wall, ....

. . . . .

Q. So you went through ... the opening in a half wall to get out to your front door that day?

A. Yes.

. . . . .

Q. .... [While the RCMP peace officers were shooting] he was up on the floor of the bridge outside the door of his house when you say him falling?

. . . . .

A. Yes. .... Well, he was up, like up against the door.

. . . . .

A. the green door ...

. . . . .

Q. .... He was up against this greenish door and he was falling -

A. Falling out.

. . . . .

Q. ... How many [shot] did you hear from inside your house, approximately?

A. That's what I heard them from in the house. I didn't hear any when I went down over the steps. I heard them from in the house.

. . . . .

Q. So you heard the shots - you only heard shots while you were in your house?

A. Yes.

. . . .

Q. But are you sure that ... by the time you opened your door, ... the shots had stopped?

A. Well, they might have then. I don't know.

Q. Pardon?

A. I don't know. I ... heard ... Bill been saying it's probably an echo or something from the shots that I heard.

. . . .

Q. ... but wait now, Bill was over in Catalina [when the shooting occurred].

A. Yeah, but he told me this after he came back down.

Q. Oh, he told you this after. He didn't witness this, did he?

A. No.

Q. No. But you do recall, because now you've told us, ... you heard the shots while you were in the house. ... can you say as a fact that you heard any shots after you came out of your house, running down the stairs on your way to Hilary's?

A. I didn't say that I actually heard the shots.

Q. Okay, you didn't hear.

A. I said it seemed like to me.

. . . .

Q. It seemed like you heard shots?

A. Yeah. ....

Q. .... as Norm went down it seemed to you ... that the police continued to shoot him.

A. Yes, that's what it seemed like, you know.

The testimony of the civilian witnesses, if to be accorded any weight on any issue on the Inquiry, must first be approached and assessed with extraordinary caution.

**B 26 August 2000 (*continued*)****5 Scene prior to arrival of extra police presence****(a) Events at scene immediately after confrontational Norman Reid stopped by Cst. Graham**

[Vol. XXIII, pp. 45-46]

**A. [Cst. John Daley]** ... [Norman Reid] appeared to be alive whilst on the ground. I made note of his independent movement. .... Mr. Reid appeared to be moving his mouth possibly with the intent of drawing breath, but I'm not certain. ....

. . . . .

[Vol. XXII, pp. 168-169: -]

**A. [Cst. John Daley]** Constable Graham, I believe immediately after Norman Reid had been shot and went to ground ... rotated on his heels and slowly walked away.

**Q. [John Byrne Q.C.]** Would be across the dirt road?

**A.** Correct. He was very distraught at what he just had to do. He was visibly shaken and upset. He ... initially yelled get an ambulance, get an ambulance. ... I mirrored that ... get an ambulance, somebody call an ambulance, ... then Constable Graham started saying how he didn't have a choice, how I had to do it, ... he was coming on, I had to do it, ... and he walked away further. ... this was as I was putting my attention to the right. .... Constable Graham went further away from his position from which he fired to an area immediately across the gravel road that's somewhat elevated. .... and on this portion there's ... [a] sort of a bank ... . ... Constable Graham sat down here looking in upon the property of Mr. Reid ... dejectedly with, I believe ... an R.C.M. Police baseball cap between his legs, head down, shaking his head and struggling for breath. He was breathing hard ... his breathing was laboured, ... sobbing to a degree or starting to ....

. . . . .

[Vol. XXIII, pp. 198-199: -]

**Q. [Mark Pike]** Did he mention anything about ... latex gloves, ...?

. . . . .

**A. [Cst. John Daley]** ... I believe he directed me personally. He said it quite loudly, ...



**Q.** Did Constable Graham ask you or make a request to you to get the first aid kit?

**A.** Yeah, I believe –

. . . . .

**Q.** Did he tell you to secure the area?

**A.** Yes.

. . . . .

[Vol. XXIII, pp. 201: -]

**Q. [Mark Pike]** Whose idea was it ... these brightly-coloured orangey cones, be put at the head and the feet of Mr. Reid? ....

**A. [Cst. John Daley]** Constable John Thomas Graham's.

. . . . .

[Vol. XXIII, p. 42]

**A. [Cst. John Daley]** ....the head and the foot of Mr. Reid .... would have been found wholly between .... [t]he pylons. ....

. . . . .

[Vol. XXIII, p. 203: -]

**A. [Cst. John Daley]** .... he stated ... to ... make certain that our immediate supervisory structure had been advised. That would be represented in either Staff Sergeant Tony Greene or Sergeant Jim Power, as they're one and two for our district, ...

**Q. [Mark Pike]** So Graham was still very much giving direction. ...

**A.** .... John was giving direction even as his immediate physical shock reaction was setting in, .... I am still taken back by that presence of mind.

. . . . .

[Vol. XXII, p. 145: -]

**Q. [John Byrne Q.C.]** ... I take it from your evidence ... that you did not fire?

A. [Cst. John Daley] No, I did not. .... when Mr. Reid stopped on the ground I ceased in my efforts to acquire him as a target.

Q. .... when you attempted to target Mr. Reid did you use the crouch?

A. No, I adopted what's referred to as a modified weaver stance.

. . . . .

Q. Is that a more straight legged stance?

A. Slightly.

. . . . .

[Vol. XXII, pp. 145-153: -]

Q. [John Byrne, Q.C] ... In observing the sequence of events unfolding before you, Norman Reid, as you indicated, moving down the steps in a sweeping motion, left towards the direction of Graham, at any point during that process did you contemplate shooting?

A. [Cst. John Daley] Yes, ... but I wasn't able to do so.

Q. Why were you not able to do so?

A. Because I had not properly acquired a target.

Q. .... So you contemplated shooting. Had you had the target acquired properly?

A. I expect I would have done so.

. . . . .

A. .... [When Mr. Reid's body came to rest] I believe Constable Malinay went forward. ...

. . . . .

Q. ... How was it to your observation that Malinay got by the fence?

A. I do not recall.

Q. .... Had the fence ... as it existed at the arrival of yourself and other officers ... changed any [,] up to the time that the shooting occurred?

A. I do not recall the fence being contacted at all up and to the point where Mr. Reid was shot. Nobody entered onto the property prior to that point and Mr. Reid

did not leave his property, ... I don't believe any of us struck the fence, hit the fence or cause anything else to strike or hit the fence and I don't believe Mr. Reid did anything to strike or hit the fence.

. . . . .

A. .... once I noted that Mr. Reid was on the ground and no longer posing a threat to anybody I had become aware ... of a group of individuals, ... that ... [was] to my right and they appeared to be the closest people outside of a home to Mr. Reid's residence ...

Q. .... Your indicating on [Exhibit] D.M. #3 the area between houses two and three. ....

A. Correct. In that vicinity there and also upon .... [t]he main road ... there were pedestrians and motor vehicle traffic throughout the incident. .... on occasion I actually waved individuals on who were in motor vehicles while this was happening, when Mr. Reid was in communication with Constable Graham. I was acutely aware of the people that were in our immediate area, as I had to be as I am responsible for their safety.

Q. .... during the continuing contact previous to the shooting ... you obviously had to pay some attention to the matters going on that would have been ... to your right?

A. Yes.

Q. And that was occasioned by the ... [presence] of other people in the area.

A. Yes.

Q. ... would that have diverted your eyes away from the scene near Graham and Mr. Reid?

A. Yes.

Q. .... And approximately ... [what] percent of your time would have been taken away by this diversion?

. . . . .

A. ... it commanded a sizeable amount of my intention ...

Q. So the distraction was sizeable?

A. Yes, I was rather distracted by it. It would have been better had there been nobody around. ... for their own safety but also it confuses and distracts my attention which was required to be upon Mr. Reid and his actions or any possible

action that he might take. And also I was one of the individuals who was at points communicating with him, and any distraction from that purpose was not desirable in the slightest. However, there were people in this vicinity choosing to observe ... our actions, Mr. Reid inclusive, and as such I am responsible as a peace officer for their safety.

**Q.** .... in pursuing that other role ... you were ... materially distracted at times I take it?

**A.** Yes ...

**Q.** ... is it possible then that you may have missed ... some ... of what was being said and what was being done between and amongst Graham, Malinay and Reid?

**A.** .... that would be fair to say .... I wouldn't have diverted my whole attention away, ... but there were times when .... primarily what I had to assess was that nobody was encroaching. ....

**Q.** Would you have to move your eyes away from the bridge area back in the other direction to the ... main road?

**A.** On occasion, or slightly move my head enough from my peripheral vision to ascertain that nobody at least was coming up the ... road ... and I would have done the equivalent of a shoulder check on occasion to make sure that there was nobody coming out from the house immediately opposite ... [Norman Reid's house] .... – as I was aware of conversations emanating from within. On occasion, I would ... glance over to number five further in on Forest Road, ... to make certain that nobody was coming down this road. .... How many times I did that I wouldn't be able to recount but I observed as much as I could observe whilst maintaining to the best of my ability a communication of some sort with Mr. Reid or covering my fellow officers as they attempted to do so.

**Q.** .... prior to the actual shooting - give us some content ..., whether it be verbal [,] movement or what [,] by other people in the areas that you've referenced, ...?

**A.** As per movement, people were coming and going to that area immediately between the two houses. .... between houses ... and around them. There were ... pedestrians moving on the main road. There was vehicular traffic moving on the main road. I specifically recall waving one green Chev half ton on its way. .... There were other vehicles that had driven ... on the main road, slow, crawl past and didn't stay immediately down there. That vehicle that I mentioned previously, the green Chev, had stopped and it's driver was observing .... heard a lot of unintelligible communication. .... communications amongst themselves in the general area. .... There was at times shouting amongst themselves, at times laughter but the thread of the conversation escaped me - .... and I didn't make a lot of note of it ... it just simply felt to me that there was way too many people around for my comfort. .... I just couldn't imagine why people would want to

come out and become potentially a part of this situation or impair the responding officers ability to deal with this situation. However, it was a fact and I had to contend with it to the best of my abilities.

. . . .

[Vol. XXII, pp. 159-160: -]

**Q. [John Byrne, Q.C]** .... after the shooting , ... the activity ... amongst the people that you've described there, did that continue to be a factor for you.

**A. [Cst. John Daley]** Yes. Immediately after Mr. Reid had been shot and fell to the ground the next thing that I did was determine if there's any further potential threat. I looked ... to the right. I viewed the area to the right to be my responsibility and I checked to my right immediately ...

. . . .

[Vol. XXIII, pp. 43-45]

**A. [Cst. John Daley]** .... [Cst. Graham] rotated roughly 180 degrees and walked away from Mr. Reid's property on the gravel portion of Forest Road. ... [and] after making ... [the] quick scan of what Constable Graham was doing, my immediate attention was diverted to my right, as I was hearing elevated noises, raised voices, ... and being acutely aware ... of the likelihood of family having just witnessed this tragic event, that we could reasonably expect to be engaged in some matter of self-defense.

**Q. [Thomas Williams]** And you were fairly occupied with that ...

**A.** And dealing with my own stress reaction/shock of the event. .... Constable Malinay went to check on the condition of Mr. Reid whilst I was now dealing with the possible encroachment by other parties, ...

Cst. Daley noted, in particular, that Norman Reid's brother, Hilary Reid, was "livid"

[Transcript, Vol. XXIII, p. 50].

[Vol. XXII, pp. 162-168: -]

**Q. [John Byrne, Q.C]** After the shooting [,] was the reaction of the other people ... heightened in any fashion ...?

**A. [Cst. John Daley]** Yes, .... The clamor of voices raised immediately thereafter. There was a moment of silence, ... [then] voices generally became very raised from pretty much every direction. There were people to my left, to my rear, to my right and in front of me, past Mr. Reid's home, across his field [.]

there were people on the far side. .... raised voices were heard coming from all directions .... to the general effort of they shot him, they shot him, that sort of thing.

. . . . .

**Q.** Was your attention then drawn back to the scene of Mr. Reid's body?

**A.** I looked to see Mr. Reid on his back with ... reddish fluid, taken to be blood, around his face. .... I believe I saw him struggling with breathing .... Mr. Reid [had] pitched headlong after he had been shot. In doing so, Mr. Reid ended up in a position on his back on the ground I think initially. In some fashion when he fell he ended up on his back.

**Q.** .... So he didn't lie and stay on his face?

**A.** Correct. Because I can recall seeing Mr. Reid face up. .... Constable Malinay, operating alone, ... [put Norman Reid in] the recovery position, .... on one side, one leg drawn up in order to allow for any obstruction of the airway to flow from the mouth .... or nasal passages, .... [.] I put my attention back to my immediate right to deal with any ... potentially irate individual who may come into the scene or to our presence .... I specifically recall holstering ... [my service pistol.] ... our holster has two snaps and both were snapped .... Mr. Hilary Reid came across ... the main road in Little Catalina, onto the gravel Forest Road, ... up to and alongside ... the police ... [vehicles] that we had parked there. .... this was immediately ... after [the shooting] .... [at that time] voices were still raised, people were still yelling .... I immediately checked to my right as I knew there ... [was] a grouping of individuals there whose voices were very raised, appeared to be quite irate, and I felt that there was a potential for further confrontation and I should be prepared. .... I saw Mr. Hilary Reid walking quickly ... in my immediate direction and I made certain that my sidearm was holstered and snapped and secure ... [.] Then opened my hands, arms outwards in a gesture that is generally recognized as stop, do not proceed. .... I believe that Mr. Hilary Reid was yelling you shot him, you shot him. He swore at us. I believe he said you fuckers or your bastards or something to that effect, .... and you didn't have to shoot him, you shouldn't have shot him. I'm a hunter, you should have had a rifle. You should have shot him in the legs. ... I can see that's he's dying, he's dying, look at him. He was very upset. He pushed his way past me. I was not able to hold Mr. [Hilary] Reid back. There's a sizeable disparity in our size. ... I felt that the requisite force to deter Mr. Hilary Reid from observing Mr. Norman Reid should not be employed, .... I would have had to have resorted to either pepper spray or baton in order to keep him from coming on because verbal restraint and position ... was insufficient, ... I made the judgment call that if Mr. Hilary Reid was simply going to observe the scene then that would be acceptable in order to prevent further use of any type of force. .... I can't recall if Mr. Hilary Reid actually went into and onto his brother's property or observed in.

. . . . .

[Vol. XXII, pp. 169-171: -]

**A. [Cst. John Daley]** ... I think I interposed my body between Mr. Reid and Constable Graham as ... Mr. Hilary Reid had to his satisfaction viewed his brother, Norman. He then pointed at Constable Graham and he yelled things at him but I was talking rather quickly and animatedly with Hilary Reid. ... anything that will keep at least communication as opposed to action going between Mr. Hilary Reid and myself. ... I was in direct contact with Mr. Hilary Reid as he was pointing over my shoulder and yelling at Constable Graham. Constable Graham was speaking back to Hilary Reid saying I'm sorry, I'm sorry to Hilary Reid. He said other things by way of apology .... [Hilary Reid] said there's going to be lawyers on this, there's going to be lawyers on this.

. . . . .

(The Estate of Norman Reid has taken a civil action, alleging negligence by, and claiming unspecified damages from, RCMP and Cst. John Graham, which both will defend. A date for trial of the proceeding has not yet been set.)

**A.** ... I deflected him back down the road and asked him to leave and let us secure the area for Norman, ... and as he walked away, [Hilary Reid said] sure he's dying boy, he's dying boy, I've seen animals ... [die], he's dying, he dying, ... an ambulance is no good for him, ....

**B 26 August 2000 (*continued*)****5 Scene prior to arrival of extra police presence****(b) Assistance requested to come to scene**

[Vol. XXII, p. 171: -]

**A. [Cst. John Daley]** .... My next immediate action was to make certain that medical attention ... had been requested because up until that point we had simply yelled for an ambulance [;] that is not to be relied upon, of course. .... I went back to the police car, .... I made my cellular telephone call to our Operational Communications Centre.

Cst. Daley's call, by cellular telephone from his police car on Forest Road in Little Catalina, was received at 4:05:35 p.m., by O.C.C. and lasted for 33 seconds. He estimates he made the 4:05:35 p.m. call about one minute after Cst. Graham used his service pistol to stop Norman Reid's attack on him; that is, at about 4:04:35 p.m. [Transcript, Vol. XXIII, p. 336]. Operator Walter Vatcher received Cst. Daley's call at O.C.C.; a transcript of which follows [Exhibit J.H. 1, p. 8]:

**Vatcher:** RCMP Vatcher bon jour. .

**Daley:** Hi it's Daley in Bonavista, we just shot this fellow here in Little Catalina. Would you ah, call the ah, ambulance, Fewer's ambulance, to attend Little Catalina. Norman Reid, directly.

**Vatcher:** Good enough buddy.

**Daley:** You got me?

**Vatcher:** Yeah.

**Daley:** Alright. Ah, also when that's clear if you could call Staff Sgt. Power at home and advise of what's happened.

. . . .

[Vol. XXII, p. 172-173: -]



**A. [Cst. John Daley]** .... I called for Fewer's Ambulance, ...being the ambulance service for our Bonavista Peninsula area. .... I got out of my police car, checked back again to make certain that there was nobody else coming onto Forest Road. I also, of course, had the benefit of my rearview mirror whilst in the car and I was looking at that while I was in conversation, ...

By 4:10:05 a unit of Fewer's Ambulance was en route to Forest Road in Little Catalina to treat Norman Reid. This is confirmed by a radio communication from Operator Shawn Fleming at O.C.C. to Cst. John Thomas Graham on Forest Road; a transcript of which follows [Exhibit J.H. 1, p. 19]:

**Fleming:** Bonavista 97.

**Graham:** Okay go ahead.

**Fleming:** Fewer's ambulance just called they're on the way. They're leaving from Bonavista.

**Member:** Get them over here right away.

. . . . .

[Vol. XXII, pp. 173-177: -]

**A. [Cst. John Daley]** .... I walked up to Constable Graham's location and attempted to console him. .... he said that ... his physical abilities were going to deteriorate over the next course of minutes, that he was ... going to ... experience greater difficulties with his breathing and that he was not going to have the motor control that he had previous as he was shaking and visibly very upset, sobbing .... He was ... still expressing regret over the necessity of it. .... he was feeling very bad about what he just had to do. .... I made note that Mr. Hilary Reid was attempting to return in the company of another man who I noted at the time bore a marked physical resemblance to Mr. Norman Reid. .... I was informed ... by one or both that they were indeed brothers. ... possibly ... Mr. Bill Reid [and Hilary Reid] .... I was successful in deflecting them on that occasion. They did not come up past the police cars, ... . [They engaged in] similar sorts of conversation, accusing Constable Graham of ineffective, of using excessive force, that he should not have done so and statements to that effect. .... they made no movement in the direction of Constable Graham and they were compliant with my direction to return. .... after that I went and used the tape to cordon off the lower portion of the road. ...

. . . . .

**Q. [John Byrne, Q.C]** That would be the area where Forest Road joins with the main highway ... through Little Catalina?

**A.** That is correct.

**Q.** .... that was in an effort to keep vehicular as well as pedestrian traffic out of there?

**A.** Yes, it's easily transgressed but the transgressor would know that they were doing same so. ..., it would hopefully make our job a little easier to keep people out. .... I called Clarendville and was speaking with .... I believe it might have [been] a Corporal ... McKinnon, ... I was aware overhearing it on the police radio that there were members attending to Little Catalina as assistance from Clarendville.

**B 26 August 2000 (*continued*)****5 Scene prior to arrival of extra police presence****(c) Norman Reid's Forest Road boundary fence**

A number of civilian witnesses asserted, with varying or conflicting descriptions, that one or another of the three responding RCMP Constables dismantled three sections of fence (a gate section, and two adjoining sections north of the gate section) along the west boundary of Norman Reid's property [Exhibit DM # 5, photograph 8], after Norman Reid went to ground. The inference the Norman Reid Family appears to encourage the Inquiry to draw from that testimony is that the three Constables knew or should have known that those three fence sections, somehow, comprised a barrier that diminished or eliminated the necessity for the Constables to unholster or discharge their service pistols and the Constables, imbued with that awareness, sought to misrepresent the scene by altering the posture of those fence sections to shed them of their barrier characteristics.

The fence was not a barrier. Rather, it was a decaying, frangible artifact, about three feet high. Further, the three Constables denied, on oath, altering the fence's posture. Further, the evidence, *contra*, was conflicting and imprecise. Most significantly, Cst. John Thomas Graham's testimony [Vol. 5 – Tables And Documents, tab 2, p. 15] was to the effect he was positioned behind the post and edge of a section of fence along the west boundary of Norman Reid's property [Exhibit DM # 5, photograph 264, bottom left quadrant], immediately north of the three downed fence sections. (His evidence is supported by surveyor Ian Edwards; pathologist Dr. Nebojsa Denic; the absence of damage to the doors, door framing, and porch exterior and interior of the west side of Mr. Reid's house when examined by both RCMP and OPP peace officers; and

the view-taking on 19 June 2002 [Vol. 5 – Tables And Documents; tab 2, pp. 1 (witnesses 1, 2); 2 (witness 3); 4 (witness 14); 16 (witness 73); 19 (witness 90); 20 (witnesses 91, 93)].) If the three Constables were bent on altering the fence's posture, and on doing so for ulterior reasons, one expects they would have downed the section of fence beside which Cst. Graham positioned himself when he stopped Mr. Reid; which was never down.

**B 26 August 2000 (*continued*)****6 Scene after additional police presence****(a) First additional police presence arrives at scene**

[Vol. XXII, p. 177-178: -]

**A. [Cst. John Daley]** .... Cst. Matt ... [Hansen] who was literally brand new to our detachment ... attended to the location in his private vehicle and he was the first person to attend to the Reid property as physical back up for us.

He started out from Bonavista to Little Catalina in his personal vehicle about 4:14 p.m. [Exhibit J.H. #1, p. 19], a distance of about 13 kms. away; meaning an arrival time at Forest Road, in Little Catalina of about 4:27 p.m.

[Vol. XXII, pp. 178-179: -]

**A. [Cst. John Daley]** .... when he arrived I got into my police vehicle and I stayed there as there was no requirement for me to take any further ... active role.

**Q. [John Byrne, Q.C]** Did ... [Hansen] take over the security from you at that point in time?

**A.** He did, .... he was an uninvolved police officer ... able to take an active role in ... posting security or investigating as required because it's desirable that when one becomes a subject or potentially subject to an investigation that one keep one's role to an absolute minimum. ... if nothing else, for appearances sake. .... anything that one ... [did] might be called into question, so the least that one can do one should.

**Q.** When you made that determination was it apparent that there was really nothing else that could be done for Mr. Reid at that time?

. . . . .

**A.** ... The nature and scope of his injuries were far beyond anything that I had ever been trained to deal with. ... I do not know really how to medically intervene for significant gun shot wound trauma.

**B 26 August 2000 (*continued*)**

**6 Scene after additional police presence**

- (b) **Ambulance arrives at scene and leaves for hospital with Norman Reid and Cst. Graham, followed by Cst. Malinay**

[Vol. XXII, pp. 179-187: -]

**A. [Cst. John Daley]** .... It was some period of minutes after the event that the ambulance arrived.

**Q. [John Byrne, Q.C]** ... it would have had to get past ... your cordon tape?

**A.** Correct. .... Constable ... [Hansen] might have taken a role in that.

**Q.** But you saw it ...

**A.** Yes, .... The ambulance attended and the ambulance attendants went in to check on Mr. Reid. I didn't observe how they did that.

. . . . .

**A.** ...the ambulance parked up alongside the portion of the fence that we've been discussing previous.

**Q.** That's a little bit past Norman Reid's house ...?

**A.** Correct. .... The ambulance attendants exited the vehicle, opened up the rear of their ambulance - .... - they were using their issue ambulance uniform.

**Q.** ... I'm referring to the Inquiry Exhibit Consent # 1 .... would that ... [uniform they wore] been comparable or similar in any fashion to the R.C.M.P. uniform that you were wearing or other officers?

**A.** Not so much mine. ... it could approximate the pants of Constable Graham as he was using a blue combat pant of a style similar to that without a yellow cavalry stripe ...

. . . . .

**Q.** ... I note that the ambulance attendant here depicted in Inquiry Exhibit Consent # 1 has patches on his shoulders outside similar to the patches that you were wearing there?

**A.** Yes, ....

**Q.** ... that would have been similar to R.C.M.P. officer's shirts, ...

A. Similar positioning, dark in colour, ...

. . . . .

A. ... I don't know exactly how they attempted to gain access. I wasn't looking at that particular time. I think at that moment in time I had gone to Constable Graham ... as they were either going in or coming out ... I heard cracking of wood. .... when they were in possession of a stretcher. ...

Q. Other than that ..., did you observe anything which would have changed the state of that standing fence ... ?

A. No, ... I didn't see anybody do anything to it or anything like that.

. . . . .

Q. ... you had no idea how that fence or part of it might have come down?

A. ... I gave it none of my attention whatever.

Q. .... Did you observe then Mr. Reid's body being removed ...

A. I made note of the fact that it was occurring and I believe I continued then with my commiserations with Constable Graham ... .

Q. ... When you were noting ... the removal of Mr. Reid's body ... did you notice the fence?

A. No, I can't recall the condition of the fence. ... they were coming out from the vicinity of ... [the upper left section of the downed fence in Exhibit D.M. #4]. Yes ... but I can't state that with 100 percent clarity.

Q. .... So if that was the case I take it they would have had to go over or through that fence in some fashion?

A. ... one of two things. The fence was no longer causing a significant obstruction or they moved it wholly in order to get out, ... I made no note of what they were doing –

. . . . .

A. ... I was with Constable Graham on the other side of that ambulance. .... I can hear the cracking but I didn't see the boot that did it, ....

Q. ... you ... previously identified the area where you saw Mr. Reid's body come to rest subsequent to the shooting.

A. Yes.

**Q.** And you would have identified that ... as the area between the orange pylons ... ?

**A.** Correct.

**Q.** Did you see those orange pylons actually being placed while Mr. Reid's body was in position?

**A.** Yes, they were placed there, I believe, by Constable Malinay.

**Q.** .... Is that placement then consistent with what you see in [Exhibit] D.M. # 4?

**A.** Correct.

**Q.** Did Graham, to your observation, go to the ambulance?

**A.** Yes, Cst. Graham realized that he was having a stress reaction set in. .... he said I need oxygen, ... and he said that he's going to need to get to the hospital. .... I believe I assisted him up and walked with him around to the front of the ambulance to the passenger's seat, front right, whereupon Cst. Graham got in, sat down and at that time I told Cst. Graham ... I'll stay here, .... and somewhere along the way he said that Criminal Operations would have to be notified.

**Q.** That would be a provincial policy.

**A.** Yes, .... John was still looking after business, so to speak.

**Q.** Still thinking police -

**A.** Yeah, ..., a credit to him that he would be able to recall that requirement ...  
.....

[Vol. XXII, p. 188: -]

**A. [Cst. John Daley]** ... as he was getting ready to leave they were getting some oxygen ready for him.

.....

[Vol. XXII, p. 188: -]

**Q. [John Byrne, Q.C]** .... Did you see the ambulance depart the scene?

**A. [Cst. John Daley]** Yes. ....

**Q.** Other than Graham, were there any other officers in the ambulance?



A. No, ...

. . . . .

Q. .... Did Malinay ... in a police car follow the exiting ambulance.

A. Yes, ...

**B 26 August 2000 (*continued*)****6 Scene after additional police presence****(c) Cst. Daley remains at scene; more additional police presence arrives**

[Vol. XXII, pp. 188-194: -]

**A. [Cst. John Daley]** ... I remained with my police car and Constable ... [Hansen].

**Q. [John Byrne, Q.C]** ... in your R.C.M.P. statement, Paragraph 36 ... [you state] “After Constable ... [Hansen] arrived at the scene, I prepared in my patrol car notes which generally summarized events which had occurred that afternoon at the scene.

**A.** Yes, ...

. . . . .

**A.** .... I recall Constable Blaine Beaumaster attending and Constable Trevor O’Keefe attending, ... somewhat separately in time. .... They came at our request for assistance. ...

. . . . .

**A.** .... We were notified by O.C.C. that a person had been found near Bonavista dead in the water. It was another sudden death. .... Completely separate to this event which we’re discussing today, ... I directed Constable Trevor O’Keefe to attend at that location and investigation .... Constable Blaine Beaumaster remained to assist Constable ... [Hansen] with scene control .... I was not unaffected by what had transpired and it takes some focus in order to put pen to paper and recount with some degree of accuracy what you had just witnessed and what you were involved in. .... once that was completed ... it feels to me that there was a significant amount of time passed where I was sitting in the seat of the patrol car. .... Inspector, now Superintendent Bob Herman who is stationed in Clarendville ... in the company of Staff Sergeant Doug Hyde with whom he works in Clarendville ... eventually ... did attend. And Inspector, now Superintendent Herman asked me what had happened and prior to my telling him he said ..., why don’t you get out and show me roughly what had occurred. ... I got out of the police car and went down over with him in the barest of detail roughly what had transpired previously, and I ... signed and provided my notes to Staff Sergeant Doug Hyde and he took those from me. At that point I believe either Staff Sergeant Hyde or Inspector Herman directed me to return to Bonavista ... and ... that Constable Gerry Parsons from Clarendville Detachment ... would meet me there.

**B 26 August 2000 (*continued*)**

**6 Scene after additional police presence****(d) Cst. Daley leaves scene**

[Vol. XXII, pp. 194-199: -]

**Q. [John Byrne, Q.C]** .... Approximately what time ... did you ... drive to the Bonavista detachment of the R.C.M.P.?

. . . . .

**A. [Cst. John Daley]** I can't recall .... there was still light. I didn't require my headlights.

. . . . .

**A.** At no point did I proceed past the fence or ... come up to it,

. . . . .

**A.** Constable Blaine Beaumaster, ... prior to my departure, strung cordon tape to a greater degree [than I had] around the property.

. . . . .

**A.** ... there was never any ... interference [with the scene while I was there].

. . . . .

**Q.** .... After the departure of the ambulance and before your departure from the scene did you make any observations of the fence, particularly the three sections of fence that were directly out in front of Mr. Reid's bridge?

**A.** I made note of the fact that it was down and that it hadn't been previously. ... I can see that the fence was down as I was showing Inspector Herman.

**Q.** We look at [Exhibit] D.M. #4 .... We see ... a depiction of the area ... and there appears to be three sections of fence that are down ...?

**A.** Correct. That appears to be representative of my recollection of the scene immediately thereafter. .... I don't know if I gave it much consideration beyond the fact that it may have been necessary in order to remove Mr. Reid to the ambulance.

. . . . .

[Vol. XXIII, p. 31: -]

**A. [Cst. John Daley]** .... He was on the other side of that ... [standing post] .... he would have been behind that [portion of fence north of the standing post in Exhibit D.M. 4, Photograph 154] from my angle, ....

. . . . .

[Vol. XXII, p. 258: -]

**A. [Cst. John Daley]**.... I was aware of no anecdotal evidence that Mr. Reid suffered from any physical impairment and I observed no indications of any physical impairment on ... August 26<sup>th</sup>, 2000.

. . . . .

[Vol. XXII, p. 259: -]

**Q. [Thomas Williams]** ... you do not feel that that would have resulted in any time delay in terms of his ability to attack?

**A. [Cst. John Daley]** .... My immediate concern was ... that he would simply blow right through it.

. . . . .

[Vol. XXII, pp. 201-214: -]

**A. [Cst. John Daley]** .... I brought back the police car ... to the Bonavista Detachment.

. . . . .

**A.** .... Constable Parsons requested ... [my service pistol which was in it's holster on my belt]. .... I took it off and passed it over to him and he took it from there.

. . . . .

**A.** .... Constable Parsons provided me with transportation back to my residence ...

. . . . .

**Q.** ...tell us of the emotional impact, the mental impact that this incident had upon you ...?

**A.** .... it's ... the gravest of situations. One does not witness the taking of another human life very often, thank God, and one hopes one would never ever do it

again. ... that is always a possibility and to the degree that one is prepared to play a role in such a tragic event one is prepared and one does not know how prepared one will be until you are in that situation .... It sets in over a period of time, the gravity of the situation. .... You question what you did, why you did it, when you did it, how you did it, could you have done it better, ... you become the greatest critic of yourself, .... And after that process plays itself out you ... come to the realization that what was done had to be done ... and what we did was done to the best interest of our ability and I am satisfied with such, but left with an abiding sadness and a wish that it could have been averted .... maybe it will always figure into my life, ... as it should.

. . . . .

A. .... I feel that we three performed to the ... best and highest standard of policing. I think we did an admirable job given the situation that we were faced, ... I don't believe that there was any other way that we could have handled this situation as we were not in direct control of that situation. We were reactive and we had to respond to the initiative of Mr. Reid ... and I believe that we did the best that we can do .... as best as probably anybody could have done, and I want that to be understood with all modesty.

. . . . .

A. Training is good. The more training the better, as long it's relevant training. And I can't tell you what is or what isn't relevant training that's best left to the experts, but the greater opportunity that one has for any degree of training I would whole heartedly endorse. ....

. . . . .

A. I was taken to a friend's home ... Auxiliary Constable Sam Prince, a good friend, .... met with Constable Graham and .... There was no discussion of what had transpired as there was no requirement to do so, ... Constable Malinay met with us ...

. . . . .

A .... we left with Auxiliary Constable Sam Prince, his wife and Constable John Malinay, Constable John Graham, myself and we departed for Clarendville where we were given to understand that we would take part in a post traumatic incident debriefing.

Q. Would that be policy and practice of the R.C.M.P. where officers are involved in such traumatic events?

A. Yes.

. . . . .

A. I have never had any psychological, medical concern whereby I was relieved of duty or felt necessary to do so.

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**C      Autopsy**

The autopsy on Norman Reid was conducted by Dr. Nebojsa Denic, a pathologist who serves as a part-time Medical Examiner under supervision of the Office of the Chief Medical Examiner. He performed the autopsy, with an assistant. The autopsy was recorded in photographs taken by Sgt. Ronald John Bradley [Vol. 5 – Tables And Documents, tab 2, p. 2] who attended throughout the procedure, on 27 August 2000, the day after Mr. Reid's death. (Mr. Reid's remains were transported, by Fewer's Ambulance unit, under supervision of Sgt. Ronald John Bradley, from the hospital in Bonavista to Health Sciences Center in St. John's [Transcript, Vol. I, p. 83; Vol. II, p. 219])

The resulting Autopsy Report, signed by Dr. Denic on 24 January 2001 [Exhibit SA # 1] provided findings (principally and materially, five gunshot wounds to torso and extremities); cause of death (exsanguination); manner of death (homicide); and toxicology (negative for blood ethanol and drug screen). Each of these subjects is supported by a detailed supplement, attached to, and forming part of, the Report (including sketches and corollary reports).

For a full appreciation of its significance to the Inquiry, however, the Autopsy Report must be read in conjunction with the Inquiry testimony of Dr. Denic [Vol. 5 – Tables And Documents, tab 2, p. 16]; Chief Medical Examiner Dr. Simon Avis [Vol. 5 – Tables And Documents, tab 2, p. 15] and Chief Coroner for Ontario, Dr. James Gordon Young [Vol. 5 – Tables And Documents, tab 2, p. 21].

In summary, the significance of the Autopsy Report, in the context of the testimony from these three medical expert witnesses, is as follows.

When Norman Reid died, no medication reaching a therapeutic level was in his body. He was not then taking his prescribed medication.

When he was shot by RCMP service pistol, he was not on his bridge or the steps leading north or south from the bridge to the adjoining turf. He was on the turf. (There was no evidence of damage, from any of the five missiles discharged from Cst. John Thomas Graham's RCMP service pistol, to any part of Mr. Reid dwelling house other than the extreme northeast corner. There was no evidence of blood on any part of the house. There was no evidence of pistol missile residue on any part of the house. Blood from his upper torso was found near the easternmost pylon which, with a second pylon, both clearly on turf, were placed by RCMP to mark, respectively, Mr. Reid's head and feet where he came to rest after the shooting).

Further supporting the conclusion Mr. Reid was not shot on his bridge or on the adjacent steps is the trajectory of each of the five missiles; further, both the location, in a cluster, of shells from all five missiles; and further, the existence and location of a small hole in the extremity of the northeast corner of the house [Vol. 5 – Tables And Documents, tab 2, p. 2 (Cpl. Christopher Robert Lohnes)].

Of the five missiles which struck Norman Reid, two were embedded, a third was cradled in his outer clothing, and the remaining two were not found. These two missiles, most probably the first and fourth shots, passed through him. One of those two missiles, most probably, continued on through the northeast corner of the house. The trajectory of the missile which passed through Mr. Reid and the house's northeast corner, was exhibited by Cpl. Douglas



Charles Morris [Transcript, Vol. II, p. 200; Exhibit DM #5]. That trajectory was consistent only with Mr. Reid being off his bridge and steps when struck.

Most importantly, Dr. Denic's Autopsy Report and testimony verify, forensically, the recall of the three responding RCMP Constables; including Cst. John Daley, whose testimony is reproduced *in extenso* in this Written Argument. Referencing the pistol missile wounds to Norman Reid, as numbered in the Autopsy Report: (i) wound 1 is consistent with Mr. Reid inclining slightly forward and moving forward (i.e., approximately eastward); (ii) wounds 2 and 3 are consistent with Mr. Reid commencing and continuing to rotate; and (iii) wounds 4 and 5 are consistent with Mr. Reid commencing and continuing to move and fall in the opposite direction (i.e., approximately westward). Thus, Mr. Reid was in motion, and vertical to varying degrees, during discharge of all five missiles. So long as Mr. Reid continued to have brain oxygen, he could continue to move, at least briefly, in spite of the torso injuries caused by the missiles. (Dr. Denic recounted an autopsy involving a male person who negotiated a distance of about 100 meters despite a firearm missile wound to his heart.) In other words, Cst. John Thomas Graham and the other two responding RCMP Constables, their mental capacities taxed by the circumstances (as opined by Drs. Denic, Avis and Young), saw a person, who had confronted Cst. Graham and had started to run toward him with a hatchet, continuing to move, continuing to be erect, while Cst. Graham discharged five pistol missiles at his body mass (as taught in RCMP training). Cst. Graham continued, necessarily and properly, to employ his pistol until, from his perspective as a law enforcement officer, he perceived the threat of Mr. Reid to have been stopped.

And because Mr. Reid was inclined and moving forward when struck by the first missile, and ultimately fell back while being struck by the fourth and fifth missiles, the location of his feet, marked by the westernmost pylon (i.e., nearest Forest Road), marked his maximum distance from Cst. Graham on 26 August 2000. When Cst. Graham commenced to employ his service pistol, therefore, Mr. Reid was even closer to him.

Not to be overlooked, the best evidentiary estimate (supported by the demonstration given to the Inquiry by S/Sgt. Dominic Broaders at RCMP “B” Division Headquarters in St. John’s) is that events the three responding RCMP Constables were required to address occupied about 2.5 seconds; the approximate time required to discharge the pistol five times.

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### **PART III – R.C.M.P. INVESTIGATION**

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This Inquiry cannot inquire, *per se*, into the RCMP investigation (e.g., the capacity to investigate or the sufficiency of the investigation) of the 26 August 2000 confrontation of the three responding RCMP Constables by Norman Reid (other than to consider the fruits of the investigation; e.g., exhibits, statements from civilian witnesses). To do so would amount to inquiring into a subject which, on constitutional and legislative grounds, is beyond the jurisdiction of a provincially-appointed inquiry, such as this Inquiry. (See above, at pages 22-29.)

If any concerns were warranted about the RCMP investigation, *per se* (e.g., the methodology of the investigation), they are subjects for internal RCMP debriefing or review (such as referred to by Supt Michael Shard in a 27 November 2000 Memorandum to Det./Insp. Ronald James Gentle [Exhibit RG #1]; such as is customarily undertaken by both RCMP and provincial police forces across Canada). This debriefing or review has occurred. As Assistant Commissioner Warren testified [Transcript, Vol. XXXXIII, pp. 114-115], the debriefing or review took into account a schedule of points annexed to the 07 December 2000 letter from Det./Insp. Ronald James Gentle to Assistant Commissioner Warren [Exhibit RG # 13]; points which OPP suggested to the Assistant Commissioner be used “to assist in your review of the matter” [p.2]. The debriefing or review also considered the written response [Exhibit RG # 14] to the OPP schedule of points, prepared by S/Sgt. Kevin Slaney, one of the pivotal RCMP investigators of Norman Reid’s death under the RCMP’s Major Case Management protocol. RCMP counsel is instructed to inform the Inquiry that, although beyond the Inquiry’s reach to

examine and consider, the internal RCMP debriefing or review of its Norman Reid investigation, as is customary, was painstaking and instructive; a result which would comfort Dr. James Young, Chief Coroner for Ontario [Exhibit RG # 9, p.4].

As for external accountability; generally, RCMP is accountable to the Solicitor General of Canada. Through the Solicitor General, it is accountable to Parliament. And through Parliament, it is accountable to the public. Accountability has fostered, and will continue to foster, integrity and competence; which underpin the credit and credibility of RCMP – essential in RCMP dealings with informants, complainants, witnesses and the courts. As for external accountability, specifically, Parliament and RCMP have established an elaborate system for processing citizen complaints against RCMP and its peace officers and other personnel. Included is the apparatus of the Public Complaints Commission, under Part VII of the *Royal Canadian Mounted Police Act* [Vol. 2 – Law: Legislation (General), tab 17, pp. 46-54]; about which S/Sgt. Francois DesFosses testified [Vol. 5 – Tables And Documents, tab 2, p. 20].

Moreover, the RCMP's role in this matter has been accessible, for public scrutiny, worldwide; via 128 hearing days of media reporting by traditional technologies and the internet.

Without prejudice to that position, RCMP and Cst. John Daley address the RCMP investigation into the death of Norman Reid on 26 August 2000.

The RCMP began its investigation into Mr. Reid's death as a criminal investigation. Inquiry testimony of the Director of Public Prosecutions [Vol. 5 – Tables And Documents, tab 2, p. 19] and the 07 December letter from the Assistant Director of Public Prosecutions [Exhibit

TM #01, pp. 7, 10] appear to suggest the investigation should have been commenced under the *Fatalities Investigation Act*.

Instead, RCMP commenced its investigation, under the *Criminal Code*. The reason?

Had RCMP commenced the investigation, into Mr. Reid's death, under the *Fatalities Investigation Act*, procedural and substantive precautions, both under the *Criminal Code* and under the *Canadian Charter of Rights and Freedoms* ("the *Charter*") – pertaining, for example, (i) to searches for and seizures of exhibits and (ii) to receiving statements, such as from the three responding RCMP Constables - need not have been taken.

However, had the investigation by RCMP disclosed evidence that, in RCMP judgment, crystallized as reasonable grounds to believe one or other of the three responding RCMP Constables had committed an offence, during contact with Mr. Reid on 26 August 2000, that evidence could not be depended upon to lay or prosecute *Criminal Code* (or other federal penal) charges; because the evidence was accumulated under the *Fatalities Investigation Act*, either in disregard of, or without sufficient adherence to, the *Criminal Code* and/or the *Charter*. That was the effect of *R. v. Jarvis* [[2002] S.C.J. No. 76 (QL)], in which Iacobucci and Major JJ., for the Supreme Court of Canada, wrote [at para. 98] that

... wherever the predominant purpose of an inquiry or question is the determination of penal liability, criminal investigatory techniques must be used. As a corollary, all charter protections that are relevant in the criminal context must apply [to the criminal or other penal investigation].

(The reasoning in *R. v. Jarvis* was adopted by Rowe J. in *R. v. Mercer and Button* [ [2003] N.J. No. 65 (Nfld. T.D.) (QL), para. 26].)

Granted, the *Fatalities Investigation Act*, s. 12(3), requires the Chief Medical Examiner to obtain a warrant (presumably under the *Criminal Code*) to use, in a criminal investigation, “items” seized under the *Act* during, and for purposes of, the *Act*’s investigation. Resort to that procedure, however, does not ensure rectification of any *Criminal Code*- or *Charter*-offensive steps involved in seizing the “items” under the *Act*, that would, in a criminal proceeding, bar admission. And, unquestionably, no provision of the *Act* would rehabilitate an oral or written statement from one or other of the three responding RCMP Constables – if taken under the *Act* while he was under suspicion – to qualify it for use in laying or prosecuting a criminal charge against that Constable.

In principle, and in this Inquiry’s factual circumstances, what compelling reason would warrant RCMP preference to a *Fatalities Investigation Act* investigation over a *Criminal Code* investigation; where the subject of a complaint to RCMP dies during the RCMP’s response to the complaint? None has been offered to the Inquiry.

Beyond vital legal reasons under common law, statute (principally, the *Criminal Code*), and the *Charter*, which impact a criminal investigation, the Chief Medical Examiner [Vol. 5 – Tables And Documents, tab 2, p.15] was of the same view as RCMP, for practical reasons. In a “Memo to Police Officers re Medical Examiner”, dated 04 September 1996 – the only general circular to the RCMP to date from the Chief Medical Examiner’s office, that is designed for police consumption – he wrote (in part) [Exhibit KS # 6]:

There appears to be considerable confusion as to the role of the medical examiner and police officer in death investigation and thus the following is an attempt to clarify this situation.

Sudden or violent death in the community is, in most instances going to be reported to a police officer. The police officer in the course of their duties will undoubtedly attend the scene. At the scene the police officers are responsible for determining if the death involves a breach of the criminal code or a provincial statute. If there is no breach of the criminal code or provincial statute and the death is reportable (i.e. the death is violent or the family doctor will not sign the death certificate or the victim has not been under the care of a physician) the investigation is the responsibility of the medical examiner, and in such cases the police officer will act as the medical examiners investigator.

Having decided the death is reportable, the investigator will notify the medical examiner of the death. ....

It should be stated that it is NOT the function of a medical examiner to pronounce death.

To briefly recount, after Cst. John Thomas Graham stopped Norman Reid at about 4:05 p.m. on 26 August 2000, Cst. John Malinay straightaway attended to Norman Reid, lying on the ground in his property's backyard. Within a minute, Cst. John Daley had requested O.C.C. to send an ambulance to Mr. Reid's Forest Road property in Little Catalina. He next strung "police – do not cross" tape around part of Forest Road and part of Norman Reid's property (particularly the portion of the western boundary outside the west-boundary fence to the property). Both before and after requesting an ambulance and erecting police tape, he dealt with civilian onlookers. For example, immediately after Cst. Graham stopped Mr. Reid, his brother Hilary hurriedly ran toward the backyard of Mr. Reid's property, where Mr. Reid lay. Cst. Daley signalled to Hilary Reid to stop. He did not. Cst. Daley regarded Hilary Reid's superior size as a deterrent to physically obstructing his passage. Cst. Daley's recollection is that Hilary Reid went forward to the boundary of brother Norman Reid's property, looked in at his brother Norman, then retreated.

Within a half hour after Norman Reid's confrontation of the three responding RCMP Constables had ended, Norman Reid had been removed by Fewer's Ambulance service to the Bonavista hospital. Cst. Graham, acutely distressed by events comprising the end of the confrontation, traveled aboard the ambulance for medical treatment. Cst. Malinay followed in his police car.

Norman Reid was moved from his property to Bonavista Hospital as soon as practicable because the three responding RCMP Constables were not qualified to treat him or to declare him deceased. Further, they feared his presence, lying in his backyard, would galvanize one or some of the more than 50 visibly distraught civilians, in the vicinity of Mr. Reid's property, to engage in another or other confrontations with the clearly-outnumbered RCMP Constables.

By 4:50 p.m., in response to back-up requests made during Norman Reid's confrontation of the three responding RCMP Constables, three additional RCMP Constables reached the scene. Cst. Matthew Hansen, RCMP Bonavista Detachment member (apparently his first deployment from the Detachment) arrived, plainclothed, in his personal vehicle. He was followed by Cst. Trevor O'Keefe, a member from RCMP Clarendville Detachment, and then Cst. Blaine Beaumaster, another Clarendville Detachment member.

By the time these three Constables arrived – Hansen, O'Keefe, and Beaumaster - Cst. Daley had confined himself to his police vehicle. There he made general notes. He also spoke on his cellular telephone (about matters not germane to the Inquiry).



Cst. Beaumaster or Cst. Daley detailed Cst. O’Keefe to respond to two unrelated matters; one of them, a civilian report of the discovery of male remains on a beach near Bonavista. Next, he undertook “taping” of more extensive areas of the Forest Road area and Norman Reid’s property (both already partially “taped” by Cst. Daley). He did so assisted by Cst. Hansen. Csts. Beaumaster and Hansen also maintained scene security on and around Norman Reid’s property.

Except for the two ambulance attendants [Vol. 5 – Tables And Documents, tab 2, p. 13 (Clayton Crewe; Grant Sheppard)] who moved Norman Reid from his backyard to their Fewer’s Ambulance unit they staffed, and a licensed practical nurse [Vol. 5 – Tables And Documents, tab 2, p. 12 (Connie Denise Kennedy)] who assisted the ambulance attendants, no other civilians appear to have entered onto the portion of Mr. Reid’s property, germane to the RCMP investigation, after he went to ground. Whether Hilary Reid entered the property to view his brother, Norman, after he had fallen, is unclear. Cst. Daley’s conclusion is that he most probably did not. In any event, the probability is that the investigation scene was not contaminated.

Cst. Beaumaster also canvassed residents of the Forest Road neighbourhood around Norman Reid’s dwelling house for information, to assist the *en route* RCMP investigative team and made a sketch and accompanying notes [Exhibit BB #1].

Over the next seven hours, RCMP plainclothed investigators and forensic specialists, as well as an RCMP dog person, reached the Forest Road scene in Little Catalina. RCMP’s Major Case Management protocol was deployed. A comprehensive understanding of the comprehensive investigation RCMP conducted – by RCMP members unaffiliated with Bonavista RCMP Detachment – is provided by evidence of the following witnesses [Vol. 5 – Tables And

Documents, tab 2: Cpl. Gerald O'Brien (p. 1.); Cst. Douglas Charles Morris (p.1); Sgt. Ronald John Bradley (p. 2); Corp. Christopher Robert Lohnes (p. 2); Cst. Blaine Beaumaster (p. 2); Cpl. Rupert Francis Baker (who arranged for and advertised mental health support services for Norman Reid's family and other community members) (p. 5); Cst. Wayne Howard Russell (p. 6); Corp. Gerald Joseph Dwyer (p. 6); and S/Sgt. Kevin Slaney (p. 20), assisted by survey engineer Ian Edwards (p. 4) and Dr. Nebojsa Denic (p. 16)].

The casings from the five missiles discharged from Cst John Thomas Graham's service pistol were seized (undamaged by any pedestrian traffic prior to their discovery) by RCMP about 10:20 p.m. on 26 August 2000 (Cpl. Lohnes and Cpl. Morris). This was done due to idiosyncrasies of the police dog used to locate them.

The hatchet wielded by Norman Reid, which Cst. John Malinay threw onto the bridge from its resting place near Norman Reid immediately after Mr. Reid went to ground, was seized by RCMP about 12:09 a.m. on 27 August 2000. This was done due to concerns that the prospect of forensically determining whether the hatchet bore firearm powder residue and/or fingerprints would be diminished if the hatchet was left outside, even if covered up, due to outdoor humidity generated by night dampness and falling light mist.

The dwelling house was entered to ascertain whether anyone was incapacitated inside and, further, to retrieve any evidence, considering that the side door was open, exposing the house's interior to the same weather as the hatchet.

If neither *Criminal Code* section 487.11 [Vol. 2 – Law: Legislation (General), tab 3, pp. CC/838 – CC/839], nor the search warrants (under *Criminal Code* s.487.01, effective from 10:45 p.m. on 26 August 2000; and under *Criminal Code* s. 487, effective from 2 a.m. 27 August 2000 [Vol. 2 – Law: Legislation (General), tab 3, pp. CC/0803 – CC/807] covered the removal of Norman Reid, seizure of the shell casings and hatchet, and entry of the house, common law does: *R. v. Jones* [(1999), 133 C.C.C. (3d)1 (Ont. C.A.) ]. Further, any irregularities in the RCMP investigation, in these respects, did not affect the integrity of the investigation (in the view of Dr. Simon Avis; Dr. James Gordon Young; and the OPP investigators (see Part IV, next following) ).

The Office of the Chief Medical Examiner was contacted by Cpl. Gerald O’Brien about 9:10 a.m. on 27 August 2000; to arrange for the autopsy of Norman Reid. Cpl. O’Brien spoke with part-time Medical Examiner Dr. Nebojsa Denic. Dr. Denic told Cpl. O’Brien that his call was expected – he was already aware, informally, of Norman Reid’s death. Although the telephone call’s focus was autopsy arrangements, Dr. Denic asked why this call was in effect “the first official notification” to the Chief Medical Examiner’s Office. Cpl. O’Brien understood RCMP had earlier contacted the Office. Apparently, a Clarendville RCMP member, on restricted duties, was supposed to have called the Office earlier. She overlooked doing so. She later apologized to the Office. Nonetheless, was the RCMP obligated to notify the Office? First, consider the Chief Medical Examiner’s 04 September 1996 Memorandum [Exhibit KS # 6]. Secondly, not until Norman Reid was brought, wounded, into the Bonavista hospital, did someone – a physician – have contact with him who was qualified to determine whether he was dead and obligated, if he was dead, to notify the Office. And that person did not notify the Office.

The RCMP report of its extensive and intensive investigation, which commenced as a criminal investigation and, no grounds for criminal charges being found, which continued as a *Fatalities Investigation Act* investigation, was substantially completed and its resulting report submitted to the Director of Public Prosecutions by first week September 2000; a remarkable achievement.

Next following came an investigation by OPP.

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## PART IV – O.P.P. INVESTIGATION

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### 1 Background to OPP investigation

This Inquiry cannot inquire, *per se*, into the Ontario Provincial Police investigation *per se* (e.g., the capacity to investigate or the sufficiency of the investigation) of Norman Reid's confrontation of the three responding RCMP Constables; other than to consider results of the investigation (e.g., exhibits or statements from civilian witnesses not produced by the RCMP investigation). The Province of Ontario may authorize an inquiry into how the OPP acquits itself; Newfoundland cannot. Further, the Inquiry cannot inquire, *per se*, into the OPP investigation of the RCMP's investigation into the confrontation. To do so would amount to inquiring into subjects which, on constitutional and legislative grounds, is beyond the jurisdiction of a provincially-appointed inquiry, such as this Inquiry. (See above, at pages 22-29.)

If any concerns were warranted about the RCMP investigation, *per se* (e.g., the capacity to conduct or the methodology of the investigation), they are subjects for internal RCMP debriefing (such as referred to by Supt Michael Shard in a 27 November 2000 Memorandum to Det./Insp. Ronald James Gentle [Exhibit RG #1]; such as is customarily undertaken by both RCMP and provincial police forces across Canada).

RCMP counsel is instructed to inform the Inquiry that, although beyond the Inquiry's reach to examine and consider, the RCMP investigation of the confrontation was subject to the

customary, painstaking RCMP internal debriefing (even though no OPP police person or forensic medical specialist, or anyone else, found the RCMP investigation to be wanting in any manner that adversely affected the investigation).

Without prejudice to that position, RCMP and Cst. John Daley address the OPP investigations of (i) the confrontation on 26 August 2000, and (ii) the RCMP investigation commenced 26 August 2000 into the confrontation.

RCMP, since it began policing in Newfoundland in 1950, has investigated deaths of civilians stopped by its members in Newfoundland. The investigations have been undertaken by members in “B” Division (Newfoundland) from outside the Detachment whose members were involved in the death circumstances. Death circumstances involving RCMP have been rare. One or another form of inquiry into each of those deaths was undertaken by a Judge. Resulting inquiry reports heaped no criticism on RCMP for having investigated those circumstances. The reasons were that (i) no inquiry evidence supported chastisement and (ii) no reproachful public perception was identified.

In fourth week August 2000, while he was at meetings in New Brunswick, RCMP “B” Division’s Assistant Commissioner Lawrence Warren learned, by telephone calls from RCMP “B” Division Headquarters in St. John’s, of “[c]oncerns about the R.C.M.P. investigating the R.C.M.P.” in relation to Norman Reid’s death, “and generally [about] police investigating police ... ” [Transcript, Vol. XXXXIII, p. 102]. Persons relating the concerns were, or included, members of Norman Reid’s family. No issue is taken, of course, with them exercising their common law and constitutional rights to do so.

In response, RCMP took a step unprecedented for RCMP, in Newfoundland; perhaps for RCMP anywhere in Canada. It retained another police force, OPP, to inquire into Norman Reid's death. In practice, other police forces are not retained to discharge RCMP responsibilities. The Police Services Agreement [Exhibit LW # 3] says as much [Art. 2.2, p. 7]. Under Article 5.1 of the Police Services Agreement [Exhibit LW # 3, p. 36], the Minister of Justice for Newfoundland "may, by giving notice in writing to the Solicitor General, ... exclude any ... function within a geographic area, from the responsibility of the ... RCMP ... ." This was not done in relation to investigation of Norman Reid's death. Nonetheless, authority to do so exists. This Inquiry cannot, legislatively or constitutionally, weigh in on this matter to recommend how RCMP should handle an investigation in the circumstances of this Inquiry. Whether the Inquiry wishes to exercise its jurisdiction to recommend how the Minister of Justice should exercise his discretion under the Police Services Agreement is not an issue upon which RCMP and Cst. John Daley intend to submit.

In other jurisdictions which have entered into a Police Services Agreement for RCMP services, another police force would not be retained to supplant RCMP for a particular investigation, where RCMP members are involved in a civilian death requiring investigation. Instead, as in British Columbia, for example, Assistant Commissioner Warren testified, "they [RCMP] ... put a so called specialist squad of some 39 members of the R.C.M.P. to investigate serious incidents ... [involving other RCMP members]" [Transcript, Vol. XXXXIII, p. 140].

## 2 Arrangements for OPP investigation

By 06 September 2000 letter to Gwen Boniface, OPP Commissioner, in Orillia, Ontario [Exhibit RG #1], Assistant Commissioner Warren requested OPP “to conduct an independent criminal investigation into the police shooting death of Norman Reid.” The reason for the request, he added, was “to alleviate any concerns the public may have regarding a perception of ... [partiality] by the investigators.” A Letter of Request, also dated 06 September 2000 and appended to the letter to Commissioner Boniface, repeated that letter’s request for “an independent parallel criminal investigation ...”.

Concurrently, Assistant Commissioner Warren, no doubt with the concurrence of Chief Superintendent G. J. (Gerry) Lynch – both outstanding, senior career police officers who harbor an abiding loyalty to RCMP and its uniformed, plainclothed, and administrative personnel – issued a message “To All Employees of “B” Division”. The message included the statement that “ “B” Division has asked the Ontario Provincial Police to conduct an independent parallel criminal investigation to our own.” The RCMP investigations – first, a criminal investigation and, secondly, a *Fatalities Investigation Act* investigation - by then well underway (for 12 days from 26 August 2000) would continue. The message added that the request to OPP “is not a sign of loss of faith or trust in our organizational abilities or our members’ abilities to be impartial but rather a public declaration that our investigations are, in fact, impartial and open to public scrutiny.” [Exhibit LW # 4.]



### 3 OPP investigation and report

OPP, having been retained, conducted an investigation into Norman Reid's death. Investigation began in second week September 2000. Early in its investigation, OPP received a letter from Thomas Williams, counsel for the Norman Reid family, listing 26 areas of concern about Mr. Reid's death [Exhibit RG #2] which was thoroughly addressed in the OPP investigation. OPP, in the first week December 2000, submitted the substantial report of its investigation to the Director of Public Prosecutions and RCMP.

Not entirely clear is the nature of the investigation OPP undertook. Its members assigned to the investigation proceeded under the *Fatalities Investigation Act*. However, Det. Insp. Ronald James Gentle, nonetheless, took the position OPP conducted a criminal investigation. He testified:

[Vol. XXXX, pp. 1, 53]

**Q. [David Day, Q.C.]** Permit me to quote the entire sentence, Your Honour. "The assistance of the Ontario Provincial Police to conduct an independent criminal investigation into the police shooting death of Norman Reid." .... On what authority were the O.P.P. members in Newfoundland doing an investigation other than a criminal investigation?

**A.** Well, from my opinion, the term "criminal investigation", .... I interpreted ... to mean to come and to do an investigation to determine if a criminal act had taken place in the death of Norman Reid. In order to conduct an investigation to determine whether a criminal act has taken place, you have to start somewhere, and you start in Ontario under the Coroner's Act. Here, I believe, it would be the Fatalities Investigation Act.

Suffice to say, proceeding in that manner would now offend the Supreme Court of Canada decision in *R. v. Jarvis* [[2002] S.C.J. No. 76 (QL)].

In performing its investigation, OPP investigators were uncertain whether in the RCMP investigation, an appropriate case management approach had been employed. [Vol. 5 – Tables And Documents, tab 2, p. 19 (Det./Insp. Ronald James Gentle); p. 20 (Det./Insp. Robert Craig Knudsen).] Curiously, this veiled criticism was nowhere documented in the OPP’s resulting report or in any correspondence related to the OPP’s investigation. However, Det./Insp. Gentle acknowledged, on cross-examination, that OPP had not examined all documentation generated by the RCMP investigation:

[Vol. XXXX, p. 63]

**Q. [David Day, Q.C.]** .... Do you recall examining either a volume of that type or any of the documents contained in that volume that I’ve passed you immediately prior to the recess [on 28 May 2002] in the course of your Fatalities Investigation Act investigation from September to December, 2000?

**A. [Det./Insp. Ronald James Gentle]** I believe I observed some of these documents, may be in a different format, Sir, but there are a large number of them in the activity log, the tasks reports that I have not seen before.

In fact, a weighty binder of documents – many of the forms used by RCMP in employing its Major Case Management protocol [Exhibit KS # 3; Exhibit KS # 4; Vol. – 5 Tables And Documents, tab 2, p. 20] – although given by RCMP to OPP Norman Reid death investigators, had not been opened or scrutinized by OPP. No evidentiary basis exists to find fault with the RCMP’s methodology in investigation of Norman Reid’s death. Quite the contrary, the lengthy testimony of RCMP members about their investigation of Norman Reid’s death – especially Cpl. Gerald O’Brien [Vol. 5 – Tables And Documents, tab 2, p. 1], S/Sgt. Kevin Slaney [Vol. 5 – Tables And Documents, tab 2, p. 20], and Cpl. Gerald Joseph Dwyer [Vol. 5 – Tables And Documents, tab 2, p. 6], three of RCMP “B” Division’s most skillful, innovative and pragmatic

investigators – overwhelmingly refutes OPP suggestions of slack in the investigatory protocol used, or in its employment.

What did the OPP investigation find [Vol. 5 – Tables And Documents, tab 2, p. 19 (Det./Insp. Ronald James Gentle); p. 20 (Det./Insp. Robert Craig Knudsen)]?

First, OPP concluded no reasonable grounds existed for any criminal charges against any of the three responding RCMP Constables. An opinion obtained by OPP from the Assistant Director of Public Prosecutions, Harold J. Porter [Exhibit TM # 1] reached the same conclusion.

Secondly, OPP concluded that any shortcomings in the RCMP investigation of Norman Reid's death made no difference. Opinions obtained by OPP from Dr. James Young, Chief Coroner for Ontario [Exhibit RG # 9] and Supt. Michael Shard, OPP Professional Standards Bureau [Exhibit RG #11; Vol. 5 – Tables And Documents, tab 2, p. 20] came to the same conclusion.

In his opinion, Dr. Young provides comments which assist understanding of events during Norman Reid's confrontation of the three responding RCMP Constables. They include the following [Exhibit RG # 9]: (i) "Often such persons [as Mr. Reid] have been apprehended by the police on multiple occasions, and on some of those occasions may have involved the use of force. This can, of course, make the person more fearful of police in future. It is also a common pattern that persons with mental illnesses, such as paranoid schizophrenia may respond better to one person than another. It appears in this instance that Mr. Reid seemed calmed by one officer in particular [Cst. John Daley]" [p. 2]. (ii) "... it is also a feature of cases such as this that pepper

spray may be used with no affect” [p. 2]. (iii) “One of the ... common features of this case to others that I have seen, is the fact, that Mr. Reid was shot multiple times by the police. It is very common to see a situation where once an officer has fired, they fire multiple times in rapid succession” [p. 2]; a point reinforced by testimony of Dr. Peter Collins [Vol. 5 – Tables And Documents, tab 2, p. 25] and Exhibit CL # 2. (iv) “I do not believe in this instance, that the removal of the body or the failure to properly preserve the scene alters the case significantly” [p. 4]. (v) “ ... I believe in this instance the actions taken by all of those at the scene do not make it impossible to accurately draw conclusions” [p. 5].

The views of both the Chief Medical Examiner, Dr. Simon Avis [Vol. 5 – Tables And Documents, tab 2, p. 15], and Dr. Nebojsa Denic, the Medical Examiner who conducted the autopsy [Exhibit SA # 1] of Norman Reid [Vol. 5 – Tables And Documents, tab 2, p. 16], are consistent with the views of Dr. Young.

Supt. Michael Shard’s opinion [Exhibit RG # 11] found no evidence of misconduct by any of the three responding RCMP Constables.

The results of the OPP investigation and its resulting report did not, however, placate Norman Reid’s Family.

[Vol. XXXIX, pp. 297-298: -]

**Q. [David Day, Q.C.]** .... You summarized, on the eighth page [of the second “will say” statement of your Norman Reid investigation], your contact with Mr. Williams, representing the family, that there would be no criminal charges, based on your investigation?

**A. [Dect/Insp. Ronald James Gentle]** I did, sir.

**Q.** When I say “your investigation”, the investigation by your O.P.P. team?

**A.** Correct, sir.

**Q.** .... And towards the top of the eighth page you continue “Mr. Williams told me the family would be very disappointed with the news. I told him I had to deal with the evidence, that the judicial inquiry ... would be in a better position to address the concerns of the family outside of the criminal issues. Mr. Williams expressed his disappointment with the results (no criminal charges) and commented this was to be expected when police investigate police.”

**A.** Yes, sir.

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#### 4 OPP (and RCMP) event reconstructions

Corollary to the OPP investigation, as well as the RCMP investigation, is a particular issue of evidence weight.

Computer-assisted reconstructions were attempted, by the OPP and by an independent contractor retained by RCMP, of events which transpired immediately before, and when, Norman Reid's confrontation of the three responding RCMP Constables ended ("the reconstructs"). They were admitted in evidence above objection from a number of Inquiry parties, including RCMP and Cst. John Daley. Both of them object to any weight being accorded either of the reconstructs.

First, the only potential value of the reconstructs, material to the Inquiry, was to show the trajectory of the five missiles from Cst. John Thomas Graham's service pistol. That could have been, and usually is, far more accurately demonstrated on an anatomical model. That accuracy was achieved by resort to a living anatomical model, in the person of Inquiry liaison person, Sgt. J. Small. The reconstructs, therefore, are not required to assist the Inquiry to identify and understand the trajectories.

Secondly, the reconstructs are replete with inaccuracies; taking account of testimony of the three Inquiry witnesses best positioned to observe the confrontation: the three responding RCMP Constables. Consider, in this respect, for example, testimony given by Cst. John Daley as he was shown the two reconstructs [RCMP reconstruct: Transcript, Vol. XXII, pp. 118-127; OPP reconstruct: Transcript, Vol. XXII, pp. 131-140].

Thirdly, related to the previous point, neither reconstruct had the benefit of input from any of the three responding RCMP Constables. They were not asked by the producers of the constructs.

Fourthly, the reconstructs do not portray events in real time or what any of the three Constables saw in real time.

For these reasons alone, the reconstructs fail the criteria for deserving weight: they are not helpful to issues material to the Inquiry [Vol. 4 – Law: Judicial Decisions And Authors, tabs 2, 10].

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## PART V – ISSUES OF LEGISLATION

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### Overview

The statistical magnitude of the challenge to both public and private sector of responding to mental illness is, perhaps, most recently – and comprehensively – expressed in *The World Health Report – Mental Health: New Understanding, New Hope* (Geneva: World Health Organization, 2001). Based on data from 191 member countries of the Organization, the report estimates that about 450 million persons globally, in 2001, experienced mental illness or neurological disorder; including depression (120 million), epilepsy (50 million), Alzheimer’s (37 million), and schizophrenia (24 million). If international and Canadian statistics are reasonably accurate; the lifetime risk of experiencing mental illness is 1 in 4; and of experiencing mental illness involving schizophrenia is 1 in 100. Considering the “sheer magnitude of the problem”, not to mention its multifaceted etiology – involving biological, psychological and social factors, and the “widespread stigma and discrimination” it generates, the Organization recommends, as the most appropriate response, an integrated public health approach involving continuity of care.

More than a few of the persons who require treatment for mental illness do not receive care because of stigma associated with this species of the illness. “Stigma”, states the United States Surgeon General’s *Report on Mental Health*, in 1999, “erodes confidence that mental disorders are valid, treatable health conditions. It leads people to avoid socializing, employing or working with, or renting to or living near persons who have a mental disorder.” Further, “stigma



deters the public from wanting to pay for care and, thus, reduces consumers' access to resources and opportunities for treatment and social services. A consequent inability or failure to obtain treatment reinforces destructive patterns of low self-esteem, isolation, and hopelessness. Stigma tragically deprives people of their dignity and interferes with their full participation in society.”

The Norman Reid and Darryl Power Inquiries, their media coverage, and resulting parlour conversation throughout Newfoundland, have substantially appreciated consciousness and understanding, and illuminated requirements for treatment, of mental illness in this Province. These developments have, in turn, served to help destigmatize public perception of mental illness.

Of particular interest to RCMP and Cst. John Daley, the Inquiries have demonstrated the significant demands and expectations, and resulting substantial impact, on law enforcement resources, of responding to provide assistance regards mentally ill persons; including, in not a few responses, imperilment of physical safety and psychological health of responding peace officers. Many mentally ill persons first come to public attention during a peace officer response. This is because stigma identified with mental illness has often caused both the ill and their families to avoid both detection and outreach for help until serious crisis compels resort to police intervention. This point was instructively, eloquently and fervently made by witnesses Philomena Kavanagh and Anne Marie Hagan [Vol. 5 – Tables And Documents, tab 2, pp. 24, 26], deriving from their wrenching personal experiences.

Ideally, police should be the recourse of last resort in responding to mentally ill persons – particularly, those in serious crisis.

Police deployment is, perforce, often unavoidable, however; either because more adequate or appropriate resources have not been provided or facilitated by the state, or because only police intervention will suffice.

**A      Mental Health Act****1      Overview**

Collectively-addressed, under the imprimatur “*Mental Health Act*”, are legislative aspects of the *Mental Health Act*, *Neglected Adults Act*, *Advance Health Care Directives Act*, and *Hospitals Act*; as well as the *Department of Health Act*.

**A Mental Health Act (*continued*)****2 Historical considerations**

In the wake of the horrific homicide of Thomas Hagan at his residence at Kingman's Cove, Newfoundland on 12 August 1979, Provincial Court Judge Edward Langdon conducted a judicial inquiry (the equivalent of this Inquiry). His resulting Report [Exhibit DM # 11] to the Minister of Justice, on or about 30 September 1980, contained six recommendations; the substance of all of which have also been the subject of evidence, and are likely to be issues in argument, from one or another of parties with standing at this Inquiry. Expressly or inferentially, all six recommendations reference the *Mental Health Act*, enacted in 1971, and the necessity for its revision. Several internal initiatives by the Province, to review and revise the *Act*, were undertaken in the 20 years since Judge Langdon's 1980 Report. Those initiatives proved unproductive.

Included in one of the recommendations (no. 6) of Judge Langdon's Report into Thomas Hagan's death was a proposal for "a further inquiry ... not limited to a particular case but rather an overall look at mental health in Newfoundland ...". The Luther Inquiry into Norman Reid's death, of its own initiative, may fulfill that recommendation, now almost 23 years old. In so doing, the Inquiry may be helped by the work of a Stakeholder Committee.

**A Mental Health Act (*continued*)****3 Policy paper of Stakeholder Committee on Mental Health Care And Treatment Act**

A Stakeholder Committee established in 2001 is currently preparing a paper tentatively entitled “Policy Considerations For A New Mental Health Care And Treatment Act In Newfoundland And Labrador”. The Committee is comprised of co-chairpersons Debbie Sue Martin, an Inquiry witness [Vol. 5 – Tables And Documents, tab 2, p. 23] and Joy Maddigan, Department of Health and Community Services, and representatives of Canadian Mental Health Association [Moyra Buchan and John Collins, Inquiry witnesses: Vol. 5 – Tables And Documents, tab 2, p. 26], the Health Care Corporation of St. John’s [Colleen Simms and Dr. Tom Cantwell, Inquiry witnesses: Vol. 5- Tables And Documents, tab 2, p. 24]; Department of Health and Community Services; the Schizophrenia Society of Newfoundland, the Eastern Regional Health and Community Services Board, psychiatrists [Dr. Nizar Ladha, twice an Inquiry witness [Vol. 5 – Tables And Documents, tab 2, pp. 18, 25], and Dr. Howard Strong; the Royal Canadian Mounted Police, and the Royal Newfoundland Constabulary. (The Committee membership historically included representatives from the Consumer Health Awareness Network Newfoundland and Labrador (CHANNAL).

The policy paper has developed through several drafts. As of 11 October 2002, the policy paper was a work in progress, then in its fifth draft. Inquiry witness Philomena Kavanagh [Vol. 5 – Tables And Documents, tab 2, p. 24] provided the Inquiry with a copy of the paper’s third draft dated 20 February 2002. The focus of the policy paper is the *Mental Health Act*, enacted in 1971 and not since amended or supplemented by regulations. The content of the policy paper’s tentative title suggests, however, that the paper will also address other Newfoundland statutes

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which currently contemplate aspects of mental health care and treatment. Likely to be included will be aspects of the *Advance Health Care Treatment Act*.

Accordingly, RCMP and Cst. John Daley submit, *the Inquiry should recommend that the Province concurrently consider the report from the Inquiry and the policy paper from the Stakeholder Committee in formulating and implementing mental health legislation reform.*

**A Mental Health Act (*continued*)****4 Mental health legislation****(a) Overview**

Each province and territory of Canada has legislation comparable in principle to, although for the most part more advanced in substance than, Newfoundland's *Mental Health Act* [Vols. 3.1 and 3.2 – Legislation (Mental Health) ].

The purpose of Newfoundland's *Mental Health Act*, expressed or implied, is twofold: (i) to facilitate and provide involuntary assessment and treatment to mentally-ill persons and (ii) to protect them and the public from manifested or apprehended dangerous behavior caused by mental illness [Vol. 4 – Decisions And Authors, tab 18; tab 30, pp. 81-82]. The comparable legislation of other provinces and the territories is, expressly or implicitly, purposively similar [Vols. 3.1 and 3.2 – Legislation (Mental Health)].

The most comprehensive, if selective, treatment of provincial/territorial mental health legislation is provided by Canadian Mental Health Law and Policy [Gray, John E., Shone, Margaret A. and Liddle, Peter F. (Toronto: Butterworths, 2000), esp. chaps. 5 to 7]; including carefully-rationalized recommendations for a Mental Health Treatment Act (summarized in chapt. 12). (This book is also part of the curriculum of RCMP mental health training [Exhibit RM #8B].)

RCMP and Cst. John Daley submit that, to the extent not presently underway, *the Inquiry should recommend establishment of a process for (i) comprehensive examination and*

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*analysis of Newfoundland’s mental health legislation, as stated, construed, and applied; and, (ii) resulting legislation which responds to shortcomings in present legislation and otherwise affords the enlightened, fair, and effective attainment of the Mental Health Act’s two-fold purpose; either in the existing legislation or in a supplanting statute. Further, the Inquiry should recommend that the Assistant Commissioner and Chief Superintendent of RCMP “B” Division be invited to appoint a member to participate throughout that process to the extent of RCMP responsibility.*

Meantime, RCMP and Cst. John Daley address mental health legislation issues deriving from the Inquiry; specifically, peace officer authority to (i) apprehend, (ii) detain, (iii) convey, and (iv) restrain a person under the existing *Mental Health Act*.



**A Mental Health Act (*continued*)****4 Mental health legislation****(b) Apprehension**

Three aspects of apprehension under the *Mental Health Act* are addressed: under ss. 12, 11 and 10 [Vol. 3 – Law: Legislation (Mental Health – Part I), tab 5, pp. 7, 6].

**Section 12.** Included in s. 12 is provision that “where a peace officer observes a person acting in a disorderly or dangerous manner, the peace officer may, where he or she has reasonable cause for believing that the person is suffering from mental disorder to the degree specified in subsection 5(1), and it is impracticable in the circumstances to obtain a warrant from a Provincial Court judge under section 11, apprehend the person, ...”. From 01 December 2000, Newfoundland has been the only jurisdiction which holds to the requirement that a peace officer “observes” behaviour before warranting apprehension by him(her) under mental health legislation. [See: Exhibit TM # 1, pp. 3-4.] Elsewhere, a peace officer may rely on information from other persons, whether or not the peace officer him(her)self has observed actionable behaviour. The infirmity of the Newfoundland statutory provision is considered in *Canadian Mental Health Law and Policy* [Gray, John E., Shone, Margaret A. and Liddle, Peter F. (Toronto: Butterworths, 2000), p. 153]:

... The problems this can cause were illustrated in an inquest into the stabbing death of a child by a woman with untreated schizophrenia when Ontario had ... [the Newfoundland] requirement. The coroner’s jury found that “when Police Officers responded to calls, she was not a threat to herself or other persons and was behaving calmly as a ‘normal’ person and did not appear to have a mental disorder. Therefore, the officer’s ... powers ... under the *Mental Health Act* restricted them from taking her to a facility for assessment, as they were unable to observe the disorderly conduct”. The jury recommended deleting the words “observes a person who acts in a manner that in a normal person would be

disorderly” [from the Ontario *Mental Health Act*]. The amendments effective December 1, 2000 changed the “observes” requirement to a “reasonable and probable grounds” requirement but retained the “disorderly” requirement.

Police officers may use information from other people under most statutes which authorize the police to act on “reasonable and probable” grounds or cause (Alberta, Saskatchewan, Nova Scotia and Northwest Territories). ... Other jurisdictions use “reasonable grounds” without mention of “probable” (Manitoba, New Brunswick and the Yukon Territories) ... In British Columbia, the police officer or constable must be “satisfied” that the criteria are met. British Columbia is the only jurisdiction to specifically mention that the police officer may use information “from personal observations, or information received”. [quote]

(For ease of reference, this will be described as the “reasonable grounds apprehension authority”).)

Inquiry witness, Philomena Kavanagh, for The Schizophrenia Society (Newfoundland), testified in support of amendment of the *Mental Health Act*, s. 12, to incorporate a “reasonable grounds apprehension authority” provision; authorizing peace officers to apprehend under the *Act*, if they have ascertained and formulated reasonable grounds to do so, whether or not they have personally observed that person. [Transcript, Vol. J-V, pp. 131-133.]

The RCMP, likewise, supports a “reasonable grounds apprehension authority” amendment to the *Mental Health Act*, s. 12. Rationale for its position is provided by testimony of Cst. John Daley under cross-examination by Nicholas Avis, Q.C., counsel for Cst. John Malinay [Transcript, Vol. XXIII, pp. 187-188]:

**Q.** .... Isn’t it true that you apprehend a lot of people based on the allegations of another person?

**A.** The majority of the ... allegations that come forward are in that nature, ...

**Q.** .... As a member of the police would it be fair to say that the majority of your contact with the public are complaints about other people in the community, ... negative things about things in the community.

**A.** That appears to be my experience.

Cst. Daley had, until Norman Reid's death, understood that peace officers in Newfoundland possessed a "reasonable grounds apprehension authority", under the *Mental Health Act* in mental health law matters; as is provided for under the equivalent legislation of British Columbia, where he had served as an RCMP general duty member from spring 1993 to June 1999; and as is provided under the *Criminal Code* in criminal law matters (see, e.g.: *Criminal Code*, s. 495(1), which states (in part) "A peace officer may arrest without warrant ... a person ... who, on reasonable grounds, he believes has committed or is about to commit an indictable offence; ...").

On 18 June 2000, Cst. Daley participated with Cst. Graham in apprehension of Norman Reid on a Little Catalina public road, under the *Mental Health Act*, s. 12, on the strength of what he regarded as "reasonable grounds". His "reasonable" grounds were complaints of a female Little Catalina resident that she had been twice threatened on that date by Mr. Reid; first without, later with, a weapon (the weapon being a piece of metal pipe).

The 18 June 2000 incident is bathed in irony. First, as Nicholas Avis, Q.C., counsel for Cst. John Malinay, elicited in cross-examination from Cst. Daley:

**Q.** .... the complaint at that time [June 2000] was that Mr. Reid was at a home with a metal pipe and wouldn't leave?

**A.** That's correct. ... there were two aspects of the complaint initially that a threat had been made. ... and subsequent to that [,] information was provided that he was at a residence and the complainant was fearful because he was armed with a lead pipe or a metal pipe or something to that effect.

Q. .... you could have apprehended Mr. Reid under ... [the *Criminal Code*].

A. ... Yes.

Instead of precisely maintaining the law (as etched in French in the RCMP coat of arms, and long established at common law), in aid of the imprecise public interest, Cst. Daley purported to apprehend Mr. Reid under the *Mental Health Act*, s. 12, in Mr. Reid's private interests. Secondly, Mr. Reid's behaviour, on 18 June 2000, also warranted his apprehension under the *Mental Health Act*, s. 12. Because, however, Cst. Daley had not personally observed the actionable behavior – he had been informed by another RCMP member who, likewise, had not personally observed the actionable behaviour – Cst. Daley was not authorized to apprehend Mr. Reid under the *Mental Health Act*, s. 12. Despite the considerable contact of the Bonavista RCMP Detachment with Mr. Reid – characterized by Inquiry counsel John Byrne Q.C. as involving a “revolving” door [Transcript, Vol. XXIV, pp. 47-53] – both Cst. Graham and Cst. Daley, both from the Detachment, displayed patience, sensitivity, and concern with Mr. Reid. They would have spent considerably less time with Mr. Reid on 18 June 2000 by simply arresting and charging him under the *Criminal Code*. Rather, they appear to have spent most of an afternoon and evening conveying him to the Bonavista Hospital; there waiting for him to be medicated and to be seen and certified by two medical doctors under the *Mental Health Act*; then conveying him to the Detachment; and there arranging for a third Detachment member and a Detachment cells guard to convey him to Waterford Hospital in St. John's on authority of certificates from the two medical doctors which authorized Mr. Reid's transport to, and detention and treatment at, the Waterford Hospital.

RCMP counsel is instructed to inform the Inquiry that all RCMP members have, since 26 August 2000, been clearly reminded that they must rely on personal observation to invoke the *Mental Health Act*, s. 12.

Accordingly, RCMP and Cst. John Daley submit, *the Inquiry should recommend amendment of the Mental Health Act, to provide that a peace officer may invoke s. 12 of the Act where he has “reasonable” grounds to do so (whether or not the “reasonable” grounds include information acquired from the peace officer’s personal observation).*

**Section 11.** Instead of invoking s. 12 of the *Mental Health Act* (i.e., warrantless apprehension to have a person examined to determine if s(he) should be involuntarily detained for treatment at a treatment facility), a peace officer may resort to s. 11 of the *Act* which provides for application to a Provincial Court judge for a warrant for that purpose.

Section 11(1) of the *Act*, however, requires the person for whom the warrant is sought to be “present within the district in which the Provincial Court judge [receiving the warrant application] exercises jurisdiction ...”. (See also: s. 11(2)(b) of the *Act*.) Districts are provided for in the Provincial Court Districts Regulations [CNLR 1152 / 96]. The rationale for this requirement is not apparent. Further, s. 11(3) of the *Act* refers to the “*Summary Jurisdiction Act*”, repealed effective 01 April 1996, and replaced with the *Provincial Offences Act* and related legislation.

Accordingly, RCMP and Cst. John Daley submit, *the Inquiry should recommend (i) amendment of the Mental Health Act, s. 11, to provide that an application for an*

*apprehension warrant under s. 11 may be made to any Provincial Court Judge in the Province of Newfoundland in respect of a person present anywhere in the Province; and (ii) further amendment of s. 11 of the Act to substitute the Provincial Offences Act and/or related or other appropriate legislation for the Summary Jurisdiction Act.*

**Section 10.** Where a patient who has been in a treatment facility under the *Mental Health Act* absents him(her)self from the treatment facility without authority of the treatment facility’s medical director the person may, under s. 10(1) of the *Act*, be apprehended by “a peace officer or other person appointed by the administrator or medical director” of the facility and returned to the facility; provided that if the patient is absent for a period of more than three days, the power to apprehend and return, under s. 10(1) of the *Act*, may only be exercised “upon the authority of a written order from the administrator or medical director” of the facility.

Further, s. 10(2) of the *Act* provides that where the absenting patient “is not returned to the treatment facility within 2 months from the date of commencement of his or her absence, he or she shall ... be considered to be discharged from the treatment facility” unless subject to detention otherwise than under the *Act*.

The rationale for these provisions is not apparent. Further, under s. 10(1) of the *Act*, a peace officer involved in searching for an absenting patient would strongly prefer, from the outset of, rather than 3 days after, a patient’s unauthorized absence, to be informed of – better still, to be in receipt of the original or, by electronic communication such as e-mail or telecopier, to be in receipt of an authentic copy of – documentary authority to apprehend the absenting patient. And further, the written authority should include sufficient information to enable a peace officer to identify the absenting patient contemplated by the written authority. And further, the

written authority should apply to each absenting patient unless or until the responsible treatment facility is satisfied that an absenting patient has graduated to a mental condition which is no longer certifiable.

Accordingly, RCMP and Cst. John Daley submit, *the Inquiry should recommend amendment of the Mental Health Act, s. 10, to provide (i) that peace officers involved in searching for an absenting patient be immediately furnished with the original or an authentic, electronically-transmitted copy of documentary authority to apprehend the absenting patient; and (ii) that the documentary authority include sufficient information to enable the searching peace officer to identify the absenting patient contemplated by the documentary authority; and (iii) that the documentary authority apply to each absenting patient unless or until the absented facility is satisfied that the absenting patient has graduated to mental health which is no longer certifiable.*

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**A      Mental Health Act (*continued*)****4      Mental health legislation****(c)      Detention; Conveyance; Restraint**

*The Inquiry should recommend the Province and Health Care Corporations strike a committee, to which law enforcement agencies may be invited to participate, to address whether and, if so, to what extent and in what manner police are or should be empowered to detain, convey and restrain under the Mental Health Act and related legislation (including Neglected Adults Act, Advanced Health Care Directives Act, Hospitals Act, and Department of Health Act).*



**B      Neglected Adults Act**

(See above, at pages 248-264.)

**C      Summary Proceedings Act**

No submissions are made because this statute has been repealed [SNL 1995, c. P-31.1, s. 54 (1), in force 01 April 1996].

**D Fatalities Investigation Act****1 Generally**

A proceeding such as this Inquiry was historically described, legislatively, as a “magisterial”, then “judicial”, inquiry. Under current legislation this Inquiry is termed, statutorily, an “inquiry”.

This specie of public inquiry is authorized by the *Fatalities Investigation Act*, ss. 25-26 [Vol. 2 – Law: Legislation (General), tab 6] and by the *Provincial Offences Act*, s. 43 [Vol. 2 – Law: Legislation (General), tab 13].

(Whereas this specie of public inquiry is confined to investigation of deaths in circumstances specified or referred to in the *Fatalities Investigation Act*, ss. 5-8, and the *Provincial Offences Act*, s. 43, [Vol. 2 – Law: Legislation (General), tab 13], the other specie of public inquiry in Newfoundland is provided for under the *Public Inquiries Act* [Vol. 2 – Law: Legislation (General), tab 15], and investigates terms of reference respecting such matters as the “peace, order and good government” (s. 2) of Newfoundland.)

**D Fatalities Investigation Act (*continued*)****2 Notifying Chief Medical Examiner or a medical examiner’s investigator of a death**

Section 5 of the *Fatalities Investigation Act* [Vol. 2 – Law: Legislation (General), tab 6] commences by requiring a person, e.g., an RCMP constable, “having knowledge of or reason to believe that a person has died”, under one or another of the circumstances thereafter specified, to “immediately notify a medical examiner or an [medical examiner’s] investigator ...”.

Cst. John Daley, quite responsibly, did not regard himself qualified to conclude that Norman Reid had “died” as a result of Reid confronting Cst. Daley and fellow Constables John Thomas Graham and John Malinay on 26 August 2000. He testified:

[Vol. XXII, p. 228: -]

**A.** .... I had no medical training to make that determination [whether or not a person was dead.]

. . . . .

[Vol. XXII, p. 229-231: -]

**Q. [Thomas Williams]** Are you suggesting that ... he was not passed away at the time his body was removed?

**A. [Cst. John Daley]** There is that possibility. .... It’s not my function or role .... that remains the purview of a medical doctor.

. . . . .

**A.** First and foremost is carefully see if .... this person is deceased, ...

**Q.** Would you say that was the case ... in the case of Norman Reid ...?

**A.** No, it wasn’t.

**Q.** It wasn’t obvious that he was deceased?

A. Not completely. I believe that he probably was deceased ... that's my opinion. However, I ... couldn't verify it and I wouldn't take the chance. ....

Further, there is no evidence general duty RCMP Constables, such as Csts. Daley, Graham and Malinay, are trained medically to reach that conclusion or, further, that training them to do so is practicable considering the nature and extent of governing medical science required to qualify them to determine death, and considering the mostly generalized (rather than specialized) functions of general duty RCMP Constables. Further, in the context of the *Fatalities Investigation Act*, determination of whether a person has “died” should be exclusively a medical decision. Therefore, Inquiry interpretation of s. 5 of the *Act* that imposes a duty on Constables Daley, Graham and Malinay to determine whether a person has “died” would be unreasonable. Pragmatically, a less onerous duty is warranted.

Equally unreasonable is the duty, imposed on a person, e.g., an RCMP constable, by s. 5 of the *Act*, to give notification “immediately” of a death. Police safety and public safety are among considerations which may, justifiably, impede a police person from “immediately” giving notification of death. Pragmatically, a less onerous duty is warranted.

Accordingly, RCMP and Cst. John Daley submit, *the Inquiry should recommend amendment of the Fatalities Investigation Act, s. 5, by adding the following quoted words, whereby a person “having knowledge of or reason to believe that a person has died or reasonably appears to have died”, under one or another of the circumstances thereafter specified in s. 5, to “immediately or as soon afterwards as practicable notify a medical examiner or a medical examiner’s investigator ...”.*

**D Fatalities Investigation Act (*continued*)****3 Ordering Public Inquiry**

Under the *Fatalities Investigation Act*, ss. 25-26 [Vol. 2 – Law: Legislation (General), tab 6], the Minister of Justice (Newfoundland) may exercise his (her) discretion to order a public inquiry, after reviewing the “report” into a death from the Chief Medical Examiner, if the Chief Medical Examiner exercises his (her) discretion to make a “recommendation” to the Minister for a public inquiry, supported by reports, documents and certificates that the Examiner regards as relevant to the recommendation. Accordingly, RCMP and Cst. John Daley submit, *the Inquiry should recommend amendment of the Fatalities Investigation Act, s. 26, to require the Minister of Justice to review the Chief Medical Examiner’s “recommendation” for a public inquiry, in the same way as the Minister is now required to review the “report” of the Chief Medical Examiner.*

Under the *Provincial Offences Act*, s. 43 [Vol. 2 – Law: Legislation (General), tab 13], in contrast to the *Fatalities Investigation Act*, ss. 25-26, the Minister of Justice may exercise his (her) discretion to order a public inquiry, without involvement in the process of the Chief Medical Examiner.

The different processes, under the *Fatalities Investigation Act*, ss. 25-26 and the *Provincial Offences Act*, s. 43, for ordering a public inquiry, warrant consideration of amendments.

First, the *Fatalities Investigation Act*, ss. 25-26, contemplate consideration of the recommendation of the Chief Medical Examiner by the Minister of Justice in making his (her)

decision whether to order a public inquiry. This probably contributes to a more informed decision by the Minister. The equivalent provision of the *Provincial Offences Act* - s. 43 - does not likewise provide. Accordingly, RCMP and Cst. John Daley submit, *the Inquiry should recommend amendment of the Provincial Offences Act to incorporate provisions comparable to the Fatalities Investigation Act, ss. 25-26.*

Secondly, the rationale for inclusion of “inquiries” provisions in the *Provincial Offences Act* is unclear. Certainly, the subjects of the other Parts of the *Act* appear incongruent with the content of Part IV, entitled “Inquiries”. Accordingly, RCMP and Cst. John Daley submit, *the Inquiry should recommend (i) amendment of the Provincial Offences Act by repealing Part IV entitled “Inquiries” and, (ii) the concurrent amendment of the Fatalities Investigations Act to incorporate provisions comparable to those in present Part IV of the Provincial Offences Act; including replacement of s. 43 in the current Part IV of the Provincial Offences Act with ss. 25-26 of the Fatalities Investigations Act.*

**D Fatalities Investigation Act (*continued*)****4 Public Inquiry procedure**

Where authorized under the *Fatalities Investigation Act*, ss. 25-26 [Vol. 2 – Law: Legislation (General), tab 6], an inquiry is, by reason of s. 26 of the *Act*, procedurally conducted under “Part III of the *Summary Proceedings Act*” (which, historically, provided for inquiries (other than inquiries under the *Public Inquiries Act* [Vol. 2 – Law: Legislation (General), tab 15]), including their procedures). However, the *Summary Proceedings Act* was repealed 01 April 1996. Accordingly, RCMP and Cst. John Daley submit, *the Inquiry should recommend amendment of s. 26 of the Fatalities Investigations Act to supplant “Part III of the Summary Proceedings Act” with “Part IV of the Provincial Offences Act” (which, now, provides for inquiries, including their procedures) and /or with related or other appropriate legislation.*

If not repealed, Part IV of the *Provincial Offences Act* will continue, procedurally, to govern an inquiry authorized under s. 43 and Part IV of the *Act*, and will do so supplemented, on authority of s. 44 in Part IV of the *Act*, by procedure provided for under the *Public Inquiries Act* [Vol. 2 – Law: Legislation (General), tab 15].



**E      Advance Health Care Directives Act**

(See above, at pages 248-264.)

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**F      Royal Canadian Mounted Police Act**

This Inquiry cannot inquire into the *Royal Canadian Mounted Police Act* [Vol. 2 – Law: Legislation (General), tab 17]. To do so would amount to inquiring into RCMP management – the pith and substance of the *Act* – which, on constitutional and legislative grounds, is beyond the jurisdiction of a provincially-appointed inquiry, such as this Inquiry. (See above, at pages 22-29.)

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**G      Criminal Code of Canada**

This Inquiry cannot inquire into the *Criminal Code* [Vol. 2 – Law: Legislation (General), tab 17]. To do so would amount to inquiring into legislation which, on constitutional and legislative grounds, is beyond the jurisdiction of a provincially-appointed inquiry, such as this Inquiry. (See above, at pages 22-29.)

**H      Hospitals Act**

(See above, at pages 248-264.)

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## **PART VI – ISSUES OF HEALTH CARE**

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### **Overview**

(No argument.)

**A      Health Care Corporation of St. John’s**

**1      Services past**

(No argument.)

**A      Health Care Corporation of St. John’s (*continued*)**

**2      Services present and future**

(No argument.)

**B      Peninsulas Health Care Corporation**

**1      Services past**

(No argument.)



**B      Peninsulas Health Care Corporation (*continued*)**

**2      Services present and future**

(No argument.)

**C Grenfell Regional Health Services Board**

**1 Service past**

(No argument.)

**C Grenfell Regional Health Services Board (*continued*)**

**2 Services present and future**

(No argument.)

**D      Assertive Case Management**

(No argument.)

**E      Community Treatment Orders/Conditional Leave**

Involuntary detention, and involuntary treatment during detention, of Norman Reid, under the *Mental Health Act*, from 1978 to 2000 did not prevent his death on 26 August 2000. Perhaps, however, enactment of community treatment order (“CTO”) legislation authorizing, in appropriate circumstances, involuntary medication of mentally ill persons, unable or unwilling to self-medicate – persons such as Mr. Reid – will help to prevent a similar death.

An assessment of the examination, by Inquiry counsel John Byrne Q.C., of Dr. John H. Hylton [Vol. 5 – Tables And Documents, tab 2, p. 25], Inquiry witness who testified about CTOs in Canada, warrants the conclusion that Byrne Q.C., cautiously, although confidently, perceives significant merit in community treatment order legislation; provided the legislation clearly delineates circumstances necessitating a CTO and provided the CTO legislation is accompanied by corollary community care and services for CTO subjects. RCMP and Cst. John Daley support that position. (In the transcript, Dr. Hylton’s surname is mis-spelled “Hilton”.)

J. L. Geller, in “Clinical Guidelines for the Use of Involuntary Outpatient Treatment” [(1990), 41 Hospital and Community Psychiatry, at p. 754], submits that “Involuntary outpatient treatment represents an effort to provide more suitable care for patients who, in the present system, are either overconfined or undertreated.”

CTOs comprise a form of involuntary outpatient treatment.

CTOs (and related conditional leave) are authorized in the mental health legislation of many Commonwealth jurisdictions and most states of the United States of America. The legislation and experience with the legislation is canvassed, for the United States, by E.F. Torrey and R.J. Kaplan in “A National Survey of the Use of Outpatient Commitment” [(1995) 46 *Psychiatric Serv.*, at pp. 778-784] and, for Commonwealth countries, by R. McIvor in “The Community Treatment Order: Clinical and Ethical Issues” [(1998), 32 *Aust. And N.Z. J. Psychiatry*, at pp. 223-228].

Canadian jurisdictions which have enacted CTO statutory provisions (including conditional leave) are Saskatchewan (in 1995), Manitoba (1997), British Columbia (1999) and Ontario (2000).

Although a paper tendered to the Inquiry by Dr. Hylton [Exhibit JH # 4, p. 1] reported that New Brunswick, “after careful consideration, ... decided not to adopt CTO legislation”, the “careful consideration” appears to have consisted, primarily, of a CTO “Consultation Day” in Fredericton on 19 November 1998 and consideration of the small numbers of persons would may benefit from CTOs. As New Brunswick’s Minister of Health and Community Services told the New Brunswick legislature on 27 November 1998, “The consensus from the consultation is that, at this time, New Brunswick should not pursue this approach as the number of individuals that would be affected by such legislation is small (between 60-80 persons through the province). Concerns were also raised about the human rights and Charter of Rights test on the legality of Community Treatment orders.” This legislative statement, with respect, leaves the impression that the concept of CTOs, generally, was not adequately considered and, further, appears not to fully comprehend the scope of s. 1 of the *Canadian Charter of Rights and Freedoms*.

A study, by R.L. O'Reilly, D. Keegan, and J.W. Elias, of the implementation of Saskatchewan's CTO mental health legislation [(2000), 45 Canadian J. Psychiatry, at pp. 79-81] concluded that "CTOs are viewed by psychiatrists in Saskatchewan as a valuable legal tool in the treatment of patients with serious mental illness." And, Dr. Hylton's paper concludes [p. 15] that despite reservations he reported in the paper, "CTO's in Canada tend to be used as intended, and fears about abuses have generally not ... [been] borne out in practice. Some family members and mental health professionals believe that mandated treatment does make a difference in at least some cases, and it certainly cannot be argued that they are never effective."

The most recent Canadian CTO legislation – the Ontario *Mental Health Act* [R.S.O. 1990, c. M.7, s. 33.1, in force 01 December 2000, as am.] – is also unique: it includes a purpose statement, in s. 33.1 (3):

The purpose of the community treatment order is to provide a person who suffers from a serious mental disorder with a comprehensive plan of community-based treatment or care and supervision that is less restrictive than being detained in a psychiatric facility. Without limiting the generality of the foregoing, a purpose is to provide such a plan for a person who, as a result of his or her serious mental disorder, experiences this pattern. The person is admitted to a psychiatric facility where his or her condition is usually stabilized; after being released from the facility, a person often stops the treatment or care and supervision; the person's condition changes and, as a result, the person must be re-admitted to a psychiatric facility.

Section 33.1 (4) of the *Act* provides the strict and detailed criteria for issue of a CTO. Nonetheless, the criteria appear to facilitate more extensive use of CTOs than under legislation in Saskatchewan, Manitoba or British Columbia.

Notwithstanding cautions expressed in Dr. Hylton's paper [Exhibit JH # 4], especially in relation to persons with serious mental illness such as schizophrenia and manic-depressive disorder [p. 2], RCMP and Cst. John Daley submit *the Inquiry should recommend passage of legislation that incorporates the points regards community treatment orders and conditionally leave, manifest in the following portions of a proposal for a Mental Health Treatment Act from John E. Gray, Margaret A. Shone, and Peter F. Liddle in Canadian Mental Health Law and Policy [(Toronto: Butterworths, 2000), at pp. 365-366; 364-365]* (a text used by RCMP in its recruit and operational member training):

**[Community Treatment Order]**

1. A community treatment order (CTO) may be issued where two physicians, one of whom is a psychiatrist, have independently examined the person named in the community treatment order within the preceding 7 days and that, on the basis of the examination and any other pertinent facts, each physician is of the opinion that
  - (a) the person is suffering from a mental disorder for which he or she is in need of treatment and care or supervision in the community, and that this can be provided in the community;
  - (b) if the person does not receive the treatment and care or supervision while residing in the community, the person is likely to cause serious harm to him or herself or to others, or to suffer substantial mental or physical deterioration, as a result of the mental disorder; and
  - (c) is not suitable as a voluntary patient.
2. Before issuing the CTO the psychiatrist shall:
  - (a) discuss with the patient any previously expressed capable wishes about the CTO and the patient's current capable and incapable wishes;
  - (b) where appropriate, obtain additional information from records, family members and others relevant to the development of the



- CTO and consult with those involved in assisting the patient to maintain the conditions of the CTO;
- (c) formulate conditions of the CTO the patient is capable of complying with, based upon the psychiatrist's examination of the patient and information received under paragraphs (a) and (b);
  - (d) ensure that the conditions of the CTO are in accordance with good medical practice and in the patient's best interests, including that the conditions are the least intrusive and least restrictive that will lead to release from the CTO as soon as is reasonable;
  - (e) ensure that appropriate treatment and support to meet the conditions of the CTO will be provided in the community;
  - (f) If the physician responsible for assisting the patient to maintain the conditions of the CTO is unable to fulfill his or her responsibilities, the physician may name another physician to act in his or her place, with the consent of that physician.
3. The patient on a CTO shall have the same rights and protections as if he or she were an in-patient including rights notification, notification of near relatives, frequency of renewal certificates, access to the review board and appeals to the court.
4. The patient shall comply with the conditions of the CTO.
5. If the physician responsible for assisting the patient to maintain the conditions of the CTO has reasonable cause to believe that the person has failed to comply with the CTO the physician may order that an examination for an in-patient admission be performed.

**[Conditional leave]**

1. The designated facility psychiatrist may release the patient on leave from the designated facility providing appropriate services are available in the community to meet the conditions of the leave. Prior to authorizing the leave this psychiatrist shall:
- (a) discuss with the patient any previously expressed capable wishes about leave and the patient's current capable and incapable wishes;
  - (b) where appropriate, obtain additional information from records, family members and others relevant to the development of the leave conditions and consult with those involved in assisting the patient to maintain the conditions of the leave;

- 
- (c) formulate conditions of leave the patient is capable of complying with, based upon the psychiatrist's examination of the patient and information received under paragraphs (a) and (b)
  - (d) ensure that the conditions of leave are in accordance with good medical practice and in the patient's best interests, including that the conditions are the least intrusive and least restrictive that will lead to release from involuntary status as soon as is reasonable;
  - (e) ensure that appropriate treatment and support to meet the conditions of the leave will be provided in the community;
  - (f) obtain the agreement of the community physician responsible for assisting the patient to maintain the conditions of the leave.
- 2. Placement in the community does not impair the authority of the detention, and that authority may be continued according to the same procedures and to the same extent as if the patient were detained in a designated facility.
  - 3. The designated facility psychiatrist may delegate to the community physician authority for the clinical care of the patient, renewal examinations, renewal of leave, changing the conditions of the leave, recall and discharge, provided that the community physician agrees.
  - 4. The provision of rights information, renewal certificate periods and access to the review board are the same as if the patient were an in-patient except that if the patient is re-admitted following six months on leave, the recall shall be treated as a new admission for purposes of access to the review board and renewal certificate time periods.
  - 5. If in the opinion of the community physician the patient is not following the conditions of the leave or the patient's condition is significantly deteriorating and recall is necessary the physician may recall the patient to any designated facility.

This submission is made with the proviso that state community care and other services, flagged by Dr. Hylton's paper and contemplated by this submission, are essential corollaries to introduction of CTOs. The crucial importance of state community care is illustrated by Dr. Hylton in his paper [p. 2] in discussing why some jurisdictions have adopted CTOs:

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Unlike many other illness[es], serious mental illnesses, including schizophrenia and manic-depressive disorder, are often cyclical. A person may recover spontaneously following an episode, or they may do well for a long period with the help of drugs or other support. But a change in housing or employment, a change in personal circumstances or relationships, a loss, an increase in stress, or hormonal or other changes in body chemistry can trigger a relapse. A period of stabilization may then be required, either in a hospital or in a community setting, before the serious symptoms of these illnesses can again be controlled ...

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## **PART VII – ISSUES OF SOCIAL SUPPORT**

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### **Overview**

(No argument.)

**A      Income**

(No argument.)

**B      Home Care And Other Human Resources And Employment Services**

(No argument.)

**C      C.H.A.N.N.A.L.**

(No argument.)

**D      C.M.H.A.**

(No argument.)



**E      Other Advocates In Addition To C.H.A.N.N.A.L. And C.M.H.A.**

(No argument.)

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## PART VIII – ISSUES OF POLICING

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### Overview

Policing issues specified by the Inquiry are (i) training and (ii) less-lethal force.

Training issues, in turn, are specified by the Inquiry to comprise (i) use of force continuum; (ii) mental illness; and, inexplicably, (iii) information database recording and access.

Globally, this Inquiry cannot inquire into these policing issues in respect of RCMP. To do so would amount to inquiring into matters which, on constitutional and legislative grounds, is beyond the jurisdiction of a provincially-appointed inquiry, such as this Inquiry. (See above, at pages 22-29.)

Without prejudice to that position, RCMP and Cst. John Daley address issues of policing.

From a practical perspective, RCMP, in dealing with the subjects of policing issues specified by the Inquiry, develops, tests, establishes, implements, and maintains standards that, for the most part, are national in effect. Standards are not achieved, piecemeal, from one Canadian jurisdiction to another.

While policing recommendations of a provincially-authorized inquiry may be capable of having persuasive influence on Newfoundland’s police force, they cannot, from legal and practical perspectives, influence a federal police force: RCMP.

That is not to say RCMP is disinterested in the subjects of policing issues specified by the Inquiry. To the contrary, RCMP had, and has, an enduring interest in these issues. Programs of formal training involving each of these issues are constantly being meticulously re-examined and, if and when needed, they are improved by RCMP; for benefit of both RCMP cadets (formerly known as recruits) and operational members. [Vol. 5 – Tables And Documents, tab 2, p. 22 (Cpl. Ernest Stanley Brock); p. 23 (Sgt. Robert Thomas Miller).]

Beyond formal training, for RCMP cadets and operational members, there is ongoing, nationally, within RCMP, on-job skills acquisition. For example, under memoranda of understanding entered into by RCMP with Central Regional Health Board in 1998 [Exhibit AW # 6, pp. 1-2 of attachment] and with Grenfell Regional Health Services in 2002 [Exhibit DC # 2], RCMP members in Newfoundland, like RCMP members elsewhere in Canada, develop and resort to national practices, then tailor them to local circumstances, to provide a multi-discipline approach to dealing with mentally ill persons in crisis. In this example, learning when not to act is a crucial feature of skills acquisition.

RCMP cadets and operational members welcome opportunities for additional training; in the subjects of the Inquiry-specified issues, among many others. As Cst. John Daley testified, generally, as to training: “ ... the more training the better .... As long as it’s relevant and balanced training, .... As long as it comes from a certified and qualified source ... ” [Transcript,

Vol. XXI, p. 290]. And, particularly, reference mental health training, Cst. Daley testified: “of course, yes”, when asked by Inquiry counsel John Byrne Q.C. “... with regard to dealing with the mentally ill, [are] you personally ... open to further and additional training, if available?” [Transcript, Vol. XXI, p. 300.]

Preliminary to identifying training requirements, determinations must be made as to: Whether training needs exists? What are they? And, how should they be met.

Fundamental to these determinations is retention, by an inquiry, of qualified, impartial personnel, to identify, assess, and analyze existing training programs; to advise whether those programs require improvement; and to advise who is best qualified to improve the programs, and who is best qualified to instruct them.

Regards the continuum of force, considerable anecdotal evidence of slightly varying models and, therefore, training [Exhibits EB # 2; EB # 3; EB # 4; EB # 5; DK # 4; DK # 5; DK # 6; DK # 7; DK # 8; DK # 9; DK # 10; RM # 4; RM # 5; CL # 1; JC #6; Deposition of Cpl. Alan Warner (Exhibit AW # 6), paras. 12, 13] was offered. There was no evidence which supported altering or replacing any of them. There was no evidence which called into question the competency of personnel, in RCMP or Royal Newfoundland Constabulary, who instruct; or of the adequacy of content - materials, participatory exercises, and testing methods - of the programs they instruct. There was no evidence that, in application, any of the slightly varying models was found wanting. There was no evidence policy underlying each of the slightly varying models was deficient. There was no evidence that the slightly varying models were assessed and

analyzed by qualified personnel to determine whether and, if so, which of the models is sufficiently more appropriate to prompt its adoption by all police forces.

Regards mental health, the scope of the subject is enormous and complex [Vol. 4 – Law: Judicial Decisions And Authors, tabs 13, 14, 15, 16]. No doubt, every police officer in Canada, not to mention every judge, lawyer and other professionals, could, usefully, be better informed about mental health. The same, arguably, may be stated for a host of subjects; for example, communication skills with the mentally well. Whether additional mental health training is beneficial is not the issue. The benefit of additional mental health training is recognized by RCMP and Cst. John Daley. Rather, the issues are whether general duty RCMP members and cadets being trained to become members should require more mental health training, if needed? Or, should additional mental health training, if needed, be provided to special RCMP units, such as the Emergency Response Team and police negotiators. And, if additional training is needed, what training do they require and who is qualified to instruct them? These issues are, constitutionally and legislatively, the responsibility of Solicitor General of Canada and RCMP, exclusively, to determine.

In any event, as with the continuum of force, the Inquiry received substantial anecdotal evidence about the benefit of mental health training. However, there was no evidence that assessed and analyzed existing RCMP or Royal Newfoundland Constabulary mental health training; identified any shortcomings; challenged the competency of personnel, in RCMP or Royal Newfoundland Constabulary, who presently instruct; or challenged the adequacy of the content of programs they instruct. There was no evidence which identified or prescribed

additional training needs, or which recommended a competent source to supply additional training, or proposed the outline of a curriculum for additional training.

For example, RCMP presently uses, in mental health training, perhaps the most recent (2000) and comprehensive text on mental health law, practice and policy, entitled *Canadian Mental Health Law and Policy* [Exhibits RM # 8A; RM # 8B]. There was no evidence that present RCMP mental health training, for cadets, general duty RCMP members, and special units (e.g., ERT and negotiators), tailored to the needs of each of these constituencies, is lacking.

Regards information database recording and access, this is not a training issue. Rather, it is a data acquisition, privacy protection, and access issue; of federal-provincial importance; of inter-police force importance; of multi-disciplinary importance. Some of the issues were referenced by RCMP Sgt. Frederick Ayris, responsible in Newfoundland for C.P.I.C., and by Corp. Albert Reginald Gulliford, Informatics Field Systems Reviewer whose responsibilities include P.I.R.S. [Vol. 5 – Tables And Documents, tab 2, p. 27; Deposition of Patti Lee Skinner (Exhibit Consent # 4)]. Embraced by this subject is Newfoundland legislation providing for medical record administration [e.g., see: Vol. 2 – Law: Legislation (General), tab 7, pp 14-15]. Insufficient evidence was received by the Inquiry, considering the complexity of this issue, to expect the Inquiry to make recommendations. Instead, RCMP and Cst. John Daley submit *the Inquiry should recommend the Province and Health Care Corporations strike a committee, to which law enforcement agencies may be invited to participate, to address whether and, if so, to what extent and how health care records, for example, committals under the Mental Health Act or community treatment orders, if authorized by provincial legislation, may be accessed by law enforcement agencies.*



**A     Training**

**1       Use of Force Continuum**

(See above, at pages 299-304.)



**A      Training (*continued*)**

**2      Mental Illness**

(See above, at pages 299-304.)

**A      Training (*continued*)**

**3          Information Database Recording and Access**

(See above, at pages 299-304.)

**B Less-Lethal weapons**

This Inquiry cannot inquire into this policing issue in respect of RCMP. To do so would amount to inquiring into matters which, on constitutional and legislative grounds, is beyond the jurisdiction of a provincially-appointed inquiry, such as this Inquiry. (See above, at pages 22-29.)

Without prejudice to that position, RCMP and Cst. John Daley address issues of policing.

Although considerable testimony and exhibits were tendered to the Inquiry on less-lethal weapons, RCMP has decided that Taser best serves its needs for a less-lethal weapon. Assistant Commissioner Lawrence Warren [Vol. 5 – Tables And Documents, tab 2, p. spoke to this issue in his Inquiry testimony.

[Vol. XXXIII, pp. 140-141; 143: -]

**Q. [The Court]** .... could you tell us whether or not “B” Division is looking at the introduction of other types of weapons as opposed to police service revolvers and batons ... ?

**A.** Yes, sir. We have purchased 60 Tasers. We have them in the province. We haven’t put them into use as yet because there’s training required and we’re putting those things here. That’s the beginning, Your Honour.

**Q.** .... you’re always looking at ways of improving and looking at what developments there are in technology dealing with weapons and so on?

**A.** Constantly, Your Honour.

**Q.** .... Is there any time frame for the training of your members here in Newfoundland in the use of the Tazers?

**A.** It’s in the planning stages just now, Your Honour, and it’s about affordability as well here and our capacity to provide that training in terms of getting the expertise in to provide it and in terms of getting our people to the location. It’s approximately one day I think is required and we’ll eventually have more than 60 Tazers. ... we’re way ahead of some of the other [RCMP] divisions in that

respect. We have 60. New Brunswick has only 6 at this point in time by the R.C.M.P. But we have intentions of expanding way past the 60 and making those available as much as we possibly can to all our operational personnel or at least at the units, the various units.

**Q.** .... with the R.C.M.P. and the other divisions, I take it that some of them have had the Tazers for a little bit longer and they have members that are already trained?

**A.** I'm not sure, Your Honour, as to the extent. .... they've been around for a couple of years now ...

. . . . .

**Q. [David Day, Q.C.]** ... about approximately how much does a Tazer unit cost, ... ?

**A.** ... The 60 Tazers that we have, including training costs, all in all costs us \$124,000.00.

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**PART IX – ISSUES OF AN ADJUDICATIVE AND JUDICIAL NATURE**

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**A Mental Health Review Board****1 Criminal Code (s. 672.38)**

This Inquiry cannot inquire into the Mental Health Review Board under the *Criminal Code* [Vol. 2 – Law: Legislation (General), tab 17]. To do so would amount to inquiring into legislation which, on constitution and legislative grounds, is beyond the jurisdiction of a provincially-appointed inquiry, such as this Inquiry. (See above, at pages 22-29.)

**A      Mental Health Review Board (*continued*)**

**2      Mental Health Act**

(No argument.)

**B      Judicial Inquiries**

(No argument.)



**C      Mentally Ill Person Ombudsman**

(No argument.)

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## **PART X – CONCLUSION**

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**A      Circumstances Of The Death**

In response to a Little Catalina resident's telephoned complaint to the RCMP that Norman Reid had threatened to cut some children's throats, three responding RCMP Constables from Bonavista Detachment patrolled to Little Catalina and debarked from their two police cars. While walking up Forest Road toward Norman Reid's residence, to investigate the complaint, they were confronted by Norman Reid, waving a hatchet from his residence bridge. In defense of themselves and for protection of the Little Catalina public, the three responding RCMP Constables drew their service pistols. After about 10 minutes of communication with one or another of the three responding RCMP Constables, and while communication was in progress, Norman Reid unpredictably, abruptly, and fluidly bolted from his bridge toward one of the three Constables, leaving that Constable no legal, circumstantial or moral alternative to stopping Norman Reid with his service pistol.

**B      Cause Of Death**

From page 1 of the 24 January 2001 Autopsy Report of the autopsy performed on the deceased Norman Reid, by the Office of the Chief Medical Examiner (Exhibit SA #1):

“Exsanguination [blood loss] due to multiple gun shot wounds of the torso and extremities.”

**C      Manner Of Death**

From page 1 of the Autopsy Report: “homicide”; a legally neutral term which, in this instance, describes a life unavoidably ended in self-defense.

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## **PART XI – RECOMMENDATIONS**

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### **A      Social Support**

(None.)

**B Health Care*****Community Treatment Orders***

1. A community treatment order (CTO) may be issued where two physicians, one of whom is a psychiatrist, have independently examined the person named in the community treatment order within the preceding 7 days and that, on the basis of the examination and any other pertinent facts, each physician is of the opinion that
  - (a) the person is suffering from a mental disorder for which he or she is in need of treatment and care or supervision in the community, and that this can be provided in the community;
  - (b) if the person does not receive the treatment and care or supervision while residing in the community, the person is likely to cause serious harm to him or herself or to others, or to suffer substantial mental or physical deterioration, as a result of the mental disorder; and
  - (c) is not suitable as a voluntary patient.
2. Before issuing the CTO the psychiatrist shall:
  - (a) discuss with the patient any previously expressed capable wishes about the CTO and the patient's current capable and incapable wishes;
  - (b) where appropriate, obtain additional information from records, family members and others relevant to the development of the CTO and consult with those involved in assisting the patient to maintain the conditions of the CTO;
  - (c) formulate conditions of the CTO the patient is capable of complying with, based upon the psychiatrist's examination of the patient and information received under paragraphs (a) and (b);
  - (d) ensure that the conditions of the CTO are in accordance with good medical practice and in the patient's best interests, including that the conditions are the least intrusive and least restrictive that will lead to release from the CTO as soon as is reasonable;
  - (e) ensure that appropriate treatment and support to meet the conditions of the CTO will be provided in the community;
  - (f) If the physician responsible for assisting the patient to maintain the conditions of the CTO is unable to fulfill his or her responsibilities,

the physician may name another physician to act in his or her place, with the consent of that physician.

3. The patient on a CTO shall have the same rights and protections as if he or she were an in-patient including rights notification, notification of near relatives, frequency of renewal certificates, access to the review board and appeals to the court.
4. The patient shall comply with the conditions of the CTO.
5. If the physician responsible for assisting the patient to maintain the conditions of the CTO has reasonable cause to believe that the person has failed to comply with the CTO the physician may order that an examination for an in-patient admission be performed.

***Conditional leave***

1. The designated facility psychiatrist may release the patient on leave from the designated facility providing appropriate services are available in the community to meet the conditions of the leave. Prior to authorizing the leave this psychiatrist shall:
  - (a) discuss with the patient any previously expressed capable wishes about leave and the patient's current capable and incapable wishes;
  - (b) where appropriate, obtain additional information from records, family members and others relevant to the development of the leave conditions and consult with those involved in assisting the patient to maintain the conditions of the leave;
  - (c) formulate conditions of leave the patient is capable of complying with, based upon the psychiatrist's examination of the patient and information received under paragraphs (a) and (b).
  - (d) ensure that the conditions of leave are in accordance with good medical practice and in the patient's best interests, including that the conditions are the least intrusive and least restrictive that will lead to release from involuntary status as soon as is reasonable;
  - (e) ensure that appropriate treatment and support to meet the conditions of the leave will be provided in the community;
  - (f) obtain the agreement of the community physician responsible for assisting the patient to maintain the conditions of the leave.



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2. Placement in the community does not impair the authority of the detention, and that authority may be continued according to the same procedures and to the same extent as if the patient were detained in a designated facility.
  3. The designated facility psychiatrist may delegate to the community physician authority for the clinical care of the patient, renewal examinations, renewal of leave, changing the conditions of the leave, recall and discharge, provided that the community physician agrees.
  4. The provision of rights information, renewal certificate periods and access to the review board are the same as if the patient were an in-patient except that if the patient is re-admitted following six months on leave, the recall shall be treated as a new admission for purposes of access to the review board and renewal certificate time periods.
  5. If in the opinion of the community physician the patient is not following the conditions of the leave or the patient's condition is significantly deteriorating and recall is necessary the physician may recall the patient to any designated facility.

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**C      Police**

*That the Province and Health Care Corporations strike a committee, to which law enforcement agencies may be invited to participate, to address whether and, if so, to what extent and how health care records, for example, committals under the Mental Health Act or community treatment orders, if authorized by provincial legislation, may be accessed by law enforcement agencies.*

**D      Judicial And Adjudicative**

(None.)

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**E      Legislation**

1      *That the Provincial Offences Act be amended to require that an inquiry's record of proceedings shall be forwarded to the Minister of Justice, with the inquiry report.)*

2      *That the Province concurrently consider the report from the Inquiry and the policy paper from the Stakeholder Committee in formulating and implementing mental health legislation reform.*

3      *Establishment of a process for (i) comprehensive examination and analysis of Newfoundland's mental health legislation, as stated, construed, and applied; and, (ii) resulting legislation which responds to shortcomings in present legislation and otherwise affords the enlightened, fair, and effective attainment of the Mental Health Act's two-fold purpose; and that the Assistant Commissioner and Chief Superintendent of RCMP "B" Division be invited to appoint a member to participate throughout that process to the extent of RCMP responsibility.*

4      *Amendment of the Mental Health Act, to provide that a peace officer may invoke s. 12 of the Act where he has "reasonable" grounds to do so (whether or not the "reasonable" grounds include information acquired from the peace officer's personal observation).*

5      *(i) Amendment of the Mental Health Act, s. 11, to provide that an application for an apprehension warrant under s. 11 may be made to any Provincial Court Judge in the Province of Newfoundland in respect of a person present anywhere in the Province; and (ii)*

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*further amendment of s. 11 of the Act to substitute the Provincial Offences Act and/or related or other appropriate legislation for the Summary Jurisdiction Act.*

6      *Amendment of the Mental Health Act, s. 10, to provide (i) that peace officers involved in searching for an absenting patient be immediately furnished with the original or an authentic, electronically-transmitted copy of documentary authority to apprehend the absenting patient; and (ii) that the documentary authority include sufficient information to enable the searching peace officer to identify the absenting patient contemplated by the documentary authority; and (iii) that the documentary authority apply to each absenting patient unless or until the absented facility is satisfied that the absenting patient has graduated to mental health which is no longer certifiable.*

7      *That the Province and Health Care Corporation strike a committee, to which law enforcement agencies may be invited to participate, to address whether and, if so, to what extent and how police are or should be empowered to detain, convey and restrain under the Mental Health Act and related legislation (including Neglected Adults Act, Advanced Health Care Directives Act, Hospitals Act, and Department of Health Act).*

8      *Amendment of the Fatalities Investigation Act, s. 5, by adding the following quoted words, whereby a person “having knowledge of or reason to believe that a person has died or reasonably appears to have died”, under one or another of the circumstances thereafter specified in s. 5, to “immediately or as soon afterwards as practicable notify a medical examiner or a medical examiner’s investigator ...”.*

9        *Amendment of the Fatalities Investigation Act, s. 26, to require the Minister of Justice to review the Chief Medical Examiner’s “recommendation” for a public inquiry, in the same way as the Minister is now required to review the “report” of the Chief Medical Examiner.*

10       *Amendment of the Provincial Offences Act to incorporate provisions comparable to the Fatalities Investigation Act, ss. 25-26.*

11       (i) *Amendment of the Provincial Offences Act by repealing Part IV entitled “Inquiries” and, (ii) the concurrent amendment of the Fatalities Investigations Act to incorporate provisions comparable to those in present Part IV of the Provincial Offences Act; including replacement of s. 43 in the current Part IV of the Provincial Offences Act with ss. 25-26 of the Fatalities Investigations Act.*

**F      Education**

(None.)

**G      Other**

(None.)



**DATED** at the City of St. John's, Province of Newfoundland and Labrador this 18<sup>th</sup> of March 2003.

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