



CANADA
Province of Alberta

Report to the Minister of Justice and Attorney General Public Fatality Inquiry

Fatality Inquiries Act

WHEREAS a Public Inquiry was held at the _____ Court House

in the _____ Town _____ of _____ Stony Plain _____, in the Province of Alberta,
(City, Town or Village) (Name of City, Town, Village)

on the _____ 10th to 20th _____ days of _____ January _____, _____ 2011 _____, (and by adjournment
year

on the _____ 1st and 4th _____ days of _____ February _____, _____ 2011 _____),
year

before _____ Assistant Chief Judge Daniel R. Pahl _____, a Provincial Court Judge,

into the deaths of _____ Cst. Anthony Fitzgerald Orion Gordon of Whitecourt, Alberta _____	28
(Name in Full / Residence)	(Age)
_____ Cst. Lionide Nicholas Johnston of Mayerthorpe, Alberta _____	32
(Name in Full / Residence)	(Age)
_____ Cst. Brock Warren Myrol of Mayerthorpe, Alberta _____	29
(Name in Full / Residence)	(Age)
_____ Cst. Peter Christopher Schiemann of Mayerthorpe, Alberta _____	25
(Name in Full / Residence)	(Age)
_____ Mr. James Michael Roszko of Mayerthorpe, Alberta _____	46
(Name in Full)	(Age)

and the following findings were made:

Date and Time of Death: _____ March 3, 2005, approximately 10:00 AM _____

Place: _____ NW 18-58-7-W5 in the County of Lac Ste Anne, Alberta, near Mayerthorpe, Alberta _____

Medical Cause of Death:

("cause of death" means the medical cause of death according to the International Statistical Classification of Diseases, Injuries and Causes of Death as last revised by the International Conference assembled for that purpose and published by the World Health Organization – The Fatality Inquiries Act, Section 1(d)).

Multiple Gunshot Wounds (Gordon, Johnston and Schiemann)
Gunshot Wound of Head (Myrol)
Gunshot Wound of Chest (Roszko)

Manner of Death:

("manner of death" means the mode or method of death whether natural, homicidal, suicidal, accidental, unclassifiable or undeterminable – The Fatality Inquiries Act, Section 1(h)).

Homicidal (Gordon, Johnston, Myrol and Schiemann)
Suicidal (Roszko)

Circumstances under which Death occurred:

The Minister of Justice and Attorney General of Alberta issued an Order on March 15, 2005, that a public Fatality Inquiry into the deaths of Cst. Anthony Fitzgerald Orion Gordon, Cst. Lionide Nicholas Johnston, Cst. Brock Warren Myrol, Cst. Peter Christopher Schiemann and Mr. James Michael Roszko be held before a Judge of the Provincial Court of Alberta.

The Fatality Inquiry commenced before me January 10, 2011 and the evidence was completed on February 4, 2011.

The next of kin of the deceased were entitled as of right to appear and participate in the Inquiry. Those attending were Reverend and Mrs. Donald Schiemann, Mr. and Mrs. Keith Myrol, Ms. Anjila Myrol, Mrs. Doreen Jewell-Duffy and Mrs. Grace Johnston. The RCMP was granted status to participate and was represented by Mr. Bruce Hughson and Ms. Stacey Dej. Mr. Alan Meikle, Q.C. and Ms. Kate Bridgett appeared as Counsel to the Inquiry.

The following witnesses testified during the course of the Inquiry. Dr. Bernard Bannoch, Assistant Chief Medical Examiner, Mr. Robert Parry, Mr. Mark Hnatiw, Mr. Gordon Wong, Q.C. and RCMP members Sgt. James Martin, Sgt. Brian Pinder, Cpl. Lorne Adamitz, Cst. Garrett Hoogestraat, Mr. Stephen Vigor (Ret.), Supt. B.K. McLeod, Sgt. Kevin Quail, Insp. James Hardy, Cst. Dale Baumgartner, Cpl. Carrie VanderKracht, Mr. Bruce Gunn (Ret.), Mr. Darryl Barr and Senior Deputy Commissioner Rod Knecht.

I. The Attempted Civil Seizure

On March 2, 2005, two civil enforcement bailiffs attended a rural property a short distance from Mayerthorpe, Alberta, for the purpose of repossessing a motor vehicle in the possession of James Michael Roszko ("Roszko"). Roszko still owed \$47,609, but had failed to make his payments. The creditor had obtained a civil warrant to retake possession of the vehicle, a white 2005 Ford F350 truck. Bailiff Robert Parry ("Parry") had relatively little information about Roszko but did have anecdotal information that suggested that in the relatively recent past, an Elections enumerator had suffered damaged tires when she drove over a homemade spike belt in Roszko's driveway. Parry, given his past experience as a police officer and this information, assumed this was "perhaps not an everyday, ordinary file". He requested a second bailiff, Mr. Mark Hnatiw ("Hnatiw"), accompany him.

Parry and Hnatiw drove to Roszko's residence, which is located northeast of Mayerthorpe, Alberta, and accessed from Mayerthorpe by traveling north on Highway 22, east on Highway 18 and about one-half mile north on Range Road 75. The property was only a 10 or 15 minute drive from Mayerthorpe and consisted of a quarter section of land with a mobile home residence, three granaries, a small shed and a relatively large metal Quonset hut. (Appendix 1)

The bailiffs arrived at about 3:00 PM, entered the driveway and were met with a locked steel gate. After some observation, they saw a male individual, thereafter believed to be Roszko, moving about the property. As they felt Roszko had seen but not acknowledged them, they honked their vehicle horn twice. Within 15 or 20 seconds, two large, aggressive Rottweilers appeared inside the property. Roszko had not responded directly to the bailiffs, but he had released his dogs. In the circumstances Parry felt he should call the RCMP given what he assessed as a "potential for confrontation" and "to avoid a breach of the peace". He testified that this was a relatively common procedure in his experience and he did not consider it unusual that three officers ultimately responded to the property. When he called the RCMP he was advised,

by an unknown respondent at the Mayerthorpe detachment, "... not to go on the property, you're at Jimmy Roszko's, stay off until we get there".

Parry and Hnatiw continued to observe Roszko moving about the property, now driving a white Ford truck they believed might be the subject of their warrant. Finally, Roszko drove out of his fenced compound, shut the gate behind him, thrust his middle finger in the air and yelled an obscenity. He got back into the truck and drove a short distance towards the bailiffs. He then suddenly accelerated, turned left and proceeded north, still on his property and parallel to Range Road 75. When he reached the northeast corner of the fenced compound, he turned sharply left, to the west, and disappeared over a small hill. That was the last that was seen of him or the truck.

Roszko had been gone from the scene for only a few minutes before the RCMP arrived. Cpl. (now Sgt.) James Martin and Cst. Peter Schiemann arrived in one police vehicle and Cst. Julie Letal arrived in a second cruiser shortly thereafter. They discussed the circumstances with the bailiffs and Cpl. Martin and Cst. Schiemann left the area to conduct a search for Roszko. Two witnesses had seen a white truck exit rapidly from the field west of Roszko's property onto Range Road 80 and proceed north. They did not see who the driver was and Martin and Schiemann were unable to locate the vehicle. In the meantime, another officer, Cpl. Jeff Whipple, had been in radio contact and met with Martin. Whipple agreed to continue a search further to the north and west of the property along Range Road 80.

II. The Discovery of Criminal Activity

The bailiffs were legally entitled to enter the Roszko property to search for the vehicle. It was not entirely clear, even then, that the vehicle in which Roszko had fled was the actual subject of the bailiffs' interest or that if it was, that Roszko had not, after leaving their sight, returned and parked it inside the Quonset.

The steel gate was forced open and entry to the property was made by the bailiffs in the company of Cpl. Martin, Cst. Schiemann and Cst. Letal. It was necessary to pepper spray the dogs and they were eventually forced into a small wooden shed behind and to the west of the Quonset. Cst. Letal's vehicle was backed against the door to confine the dogs. Letal's vehicle remained at that location to the end of this incident.

The large equipment door at the east end of the Quonset was closed and entry was made through the unlocked man door beside the larger door. Once inside the dark interior of the Quonset it soon became obvious that a "chop shop", the rendering to their parts of stolen vehicles, and a cannabis marijuana grow were in operation. A significant amount of apparently stolen property, motor vehicles, a quad, a power generation system and numerous parts, as well as the grow op and associated equipment, were present in the Quonset. It was apparent to the RCMP that they would require a search warrant in order to proceed further with a criminal investigation and ultimately, to the laying of criminal charges. The parties vacated the Quonset after a cursory 10 minute search.

To this time, approximately 4:15 PM on March 2, 2005, and while they were certainly anticipated, no criminal charges had yet been laid nor was the Ford vehicle considered to be stolen. This should be understood because at this moment, Cpl. Whipple, patrolling to the northwest, came into contact with a seismic crew which had a helicopter. Cpl. Whipple inquired as to whether he might utilize the helicopter in his search. The pilot checked with his superiors and was advised that the rental rate for the helicopter was \$900.00 per hour. Whipple relayed this information to Cpl. Martin who declined to incur the cost. There has been some criticism of this but entry had just been made into the Roszko premises pursuant to the civil warrant. Criminal charges had not

been addressed, no legally authorized search had commenced and the bailiff's documents had not yet been served on Roszko or posted on his property.

The bailiffs posted their warrant at the mobile home. In their view this meant that the status of the Ford vehicle could now be upgraded to "stolen". The RCMP called it in as such and a "BOLF", a "be on the lookout for" bulletin, was posted for Roszko and the white Ford truck. Cpl. Martin headed back to Mayerthorpe to prepare the information necessary to support a search warrant under the *Criminal Code* and the *Controlled Drugs and Substances Act*. It was now almost 4:30 PM, March 2, 2005.

III. The Initial Threat Assessment

I note that on this first entry into the Quonset, Cst. Letal had drawn her service revolver. The bailiffs were somewhat surprised by this. I do not attach too much significance to her having done so as it became clear, in later evidence, notwithstanding that Cpl. Martin and Cst. Schiemann apparently did not then draw their weapons, that drawn weapons are a standard "clearing" procedure and this was the first entry into the Quonset. Furthermore, Cpl. Martin testified that with the exception of himself, none of the members of either the Mayerthorpe or Whitecourt detachments had ever had dealings with Roszko. It was known however, and communicated to members by the Mayerthorpe staff, that Roszko had been the subject of considerable involvement, and concern, historically. Cpl. Martin's own involvement was that he had responded to Roszko's property in August of 2004 following complaints from the Elections enumerator and the power company regarding the homemade spike belt. Cpl. Martin had attracted Roszko's attention at the front driveway but Roszko would not come near enough to Martin for any discussion to ensue. As with the bailiffs on March 2, 2005, Roszko advanced toward Martin, retreated and finally fled, never having made any direct contact with Martin. This is significant to my considerations as it clearly colored Cpl. Martin's subsequent assessment of the risks inherent in conducting operations on Roszko's property. Might Roszko return, having twice fled, once from Martin and once from the bailiffs, while the RCMP were present on the property? The recent history would not suggest it was likely.

Parry testified that while waiting at the scene, he carried on discussions with Constables Schiemann and Myrol, who had accompanied Schiemann back to the scene. He said that they considered Roszko a "police hater", that "he hated authority", was "unpredictable", was "known to have weapons in the past" and was "well known" to them. I discount this evidence to a degree as Cst. Myrol had graduated from RCMP Depot and arrived at Mayerthorpe only four weeks before. It seems unlikely to me that he would have known much of this or that if he did, he would have offered much comment. Cpl. Martin, who was in a much better position to know, testified that none of the detachment's current Constables had had any involvement with Roszko. With all due respect to Parry's recall, but having regard to the passage of time, I consider it possible that these recollections may have been colored by all that has subsequently been said of this tragic incident. Parry was unable to recall which of the Constables made these comments but I find that such comments as may have been made were probably from Cst. Schiemann. In his call to establish the BOLF at about 4:10 PM, Cst. Schiemann requested the BOLF show "Extreme Caution with this guy". The operator volunteered "I could put - "may have firearms" and Cst Schiemann is heard discussing matters, possibly with Cpl. Martin who was still at the scene, and Cst. Schiemann says "(No, I haven't run the other stuff) yeah, okay, why don't you do that Control". When the BOLF is communicated to Barrhead detachment, the operator says "and extreme caution with this man. He may have some firearms with him". The Whitecourt detachment recognizes Roszko's name and again the same caution is conveyed. There does not appear to be, to this time, any factual basis for the suggestion that Roszko may have had firearms. The operator volunteered to add the caution and Cst. Schiemann seemed not to see any harm in her doing so. Clearly, justified or not, at this early point, Cst. Schiemann, possibly

Cpl. Martin and the recipients of the BOLF, had at least some awareness of a need for caution.

The bailiffs remained at the scene until approximately 6:30 PM. Hnatiw testified that they decided to leave after he observed to Parry, "I don't think this guy is coming back".

IV. The Search Warrant

An RCMP member seeking a search warrant is obliged to prepare an Information to Obtain a Search Warrant, essentially an affidavit setting forth the facts and justifications for seeking judicial permission to enter and search private property. Cpl. Martin, with the assistance of other members, compiled the Information in support, application was made and the search warrant issued. We note that Cpl. Martin obtained a search warrant of 24 hours duration because, *inter alia*, "... it will take considerable time to seize exhibits ...", "there [are] exigent circumstances regarding officer safety and continuity of evidence", "Roszko is well known to police and is considered a violent individual", "it is in the interest of public and officer safety to execute a search warrant immediately and to conduct the investigation in its entirety", and "... the informant is requesting that a 24-hour period [be] granted to complete its investigation which will run through the night". Cpl. Martin explained that all of this arose out of the complex nature of the investigation. He knew they would have to clear the mobile home and the Quonset to ensure the security of the scene during and after the initial search. He knew the grow op seizure would consume much of that evening and early morning. There was considerable apparently stolen property that the RCMP Auto Theft unit would need to address, preferably in daylight conditions. The continuity of the scene would have to be maintained to preserve the evidence necessary to support an eventual conviction and, as well, to avoid the necessity of re-clearing the property.

In the course of his warrant preparation, Cpl. Martin accessed Roszko's criminal record. It showed six convictions in the 24 years between February, 1976 and April, 2000. It also contained a "Caution ... Violence" notation and a s. 109 *Criminal Code* weapons prohibition, both of which arose on Roszko's last conviction, a sexual assault upon which he was sentenced to two years and six months incarceration on April 28, 2000. Martin did not find the caution uncommon, "50% of criminal records have that", but he did treat it as useful to have warning of "a violent background and to be extra vigilant". He was not certain if he saw all of the material now before this Inquiry, but did say he was aware of additional information. He was also aware that Roszko was subject to a Special Interest Police (SIP) designation which arises from a process of reviewing, updating and diarization of matters which remain outstanding. Roszko still had one old open file at the detachment.

While the warrant process was underway, contacts were being made, involving Cst. Schiemann, Cpl. Martin and others, to enlist the services of the Green Team, a joint RCMP/Edmonton Police Service marijuana grow operation unit, and the Auto Theft unit, both at the RCMP's 'K' Division headquarters in Edmonton, Alberta. Cpl. Martin's discussions with Auto Theft involved its senior officer, Sgt. Savage, and a member of the unit, Cst. Stephen Vigor, who also happened to be a part-time member of the Emergency Response Team ("ERT"). They discussed the current circumstances, including that Roszko had fled the scene and his whereabouts were unknown. While Martin had in mind Roszko having avoided confrontation with him in August, 2004 and this day with the bailiffs, he knew an arrest would need to be made "either at that residence or somewhere else and we were probably going to need ERT to assist us in executing his arrest warrants". It was decided that ERT would not now be activated. This was a practical and defensible decision. ERT is, and was, a specialized unit which then operated by assigning full-time members, in various disciplines, as part-time members of ERT. The Team is typically activated to deal with suspects at known locations and who are known or believed to be armed. These criteria did not then exist.

The warrant was received at 8:02 PM, March 2, 2005. Its execution would expend all the resources of Mayerthorpe's 12-member detachment. Cpl. Martin was aware that while Roszko had not been violent towards the police, he nonetheless was known to have a violent past. Martin wanted everyone to have a clear understanding of their responsibilities when the warrant was executed. He briefed his officers on those issues, expressed a need for caution (they were to work in pairs) and outlined their assigned tasks. As well, given that Roszko remained at large, two members were dispatched to conduct roving patrols in the area while the others executed the warrant. The evidence establishes that a number of vehicles or distant lights were investigated by these members, members escorting tow trucks and members at the scene over the ensuing hours. None were associated to Roszko.

Martin returned to the scene at 8:40 PM. While the RCMP had maintained effective control of the property from about 4:30 PM, with at least two officers (plus the bailiffs to 6:30 PM), proper procedure on entry into the property, and before conducting detailed searches, requires that the buildings be cleared. This entails a coordinated team entry into each room, with weapons drawn and "cover" responsibilities, to ensure no one is inside. Once secured in this manner, a property is safe for entry and detailed searches.

On entry, all members carried a Smith & Wesson sidearm, a baton, pepper spray and wore soft body armour. Their vehicles each contained a shotgun and a .308 rifle had been brought to the scene. All of this was appropriate, and sufficient, given the circumstances then known. The mobile home was cleared first and left in control of two members, one of whom was Cst. Myrol. Four members, including Cpl. Martin and Cst. Schiemann, then proceeded to the Quonset and cleared it. The execution of the search warrant could now proceed.

I do not propose to recite the details and outcome of the searches. Suffice to say they confirmed the accuracy of Martin's warrant application. A significant grow operation was ongoing, both in the Quonset and the mobile home. A large amount of automotive equipment, some dismantled, was present, including motor vehicles, ATVs, a lawn tractor and the generator set. There was significant clutter and debris. The Quonset lighting was very poor. The large machinery door was opened as it had a motion activated light above it. This light continued to turn on and off as working members activated it during their comings and goings throughout the night. Eventually, portable halogen lights found within the Quonset were utilized.

The Green Team and Auto Theft had earlier received advice on the operation. When the search of the Quonset proceeded it was discovered that the grow operation was significantly larger than first appreciated. Cpl. Martin again contacted the Green Team at about 9:30 PM. It was agreed that the circumstances justified the Green Team's attendance and that they would mobilize to attend as soon as they could. Their operation on the property would involve extensive searches, photographing, cataloging and seizures of a significant number of grow op exhibits. It was determined that Auto Theft would attend in the morning. In the meantime, in order to make room in the Quonset, Martin arranged for a towing service to attend and commence removing vehicles and equipment from the Quonset. Some of these items were removed directly to Mayerthorpe and Martin provided a security patrol for the civilian drivers during these operations.

A radio scanner tuned to the Whitecourt frequency was located in Roszko's residence. The residence also contained intelligence on the local detachments at Mayerthorpe, Whitecourt, Barrhead and Evansburg, including member's names, car numbers and cell phone numbers. A night vision scope and .308 and 9 mm caliber ammunition was also present. It was now evident that Roszko was in breach of his firearms prohibition and Martin conveyed this information, and instructions to look for firearms, to all the members at the site.

The Green Team arrived on site at 12:30 AM on March 3, 2005 and commenced their work. This allowed some relief of local members and at least four were released home. Martin, for reasons I

will discuss, wished to retain Cst. Letal's vehicle on site so she received a ride home. Cst. Myrol and Cst. Schiemann were two of the members who left the scene.

Cpl. Martin understood that the Green Team would finish up before morning and as such, the site would need to be secured until the Auto Theft unit arrived in the morning. The evidence disclosed that overnight security is often provided by only one member. This was, however, a rural location some distance removed from immediate backup. The limited resources of the Mayerthorpe detachment, with their activities into the early morning hours, court and other obligations later in the same morning, meant only Cst. Johnston, who was then off duty, was available. Cst. Johnston was requested to attend and an additional member was requested from Whitecourt to pair up with him. The first member offered was a new recruit. Sgt. Pinder declined this suggestion in favour of an experienced member. Cst. Gordon was sent out and arrived on scene at approximately 2:00 AM. Cst. Johnston arrived at about 2:30 AM.

The Green Team finished its work between 2:30 and 3:00 AM.

V. Securing the Property

The warrant had only been partially executed. The continuity of the scene had to be maintained overnight and until Auto Theft could attend in the morning and complete the stolen property investigation.

Cpl. Martin was the acting commander of the Mayerthorpe detachment because the non-commissioned officer in charge, Sgt. Brian Pinder, was then on holidays. Nonetheless, Martin had contacted Pinder and because this was a significant operation, Pinder had elected to attend the scene. This is significant in my review of subsequent events because now two senior, experienced, and in my assessment, capable officers were present. The Green Team departed at about 3:00 AM, leaving Sgt. Pinder, Cpl. Martin, Cst. Johnston and Cst. Gordon at the scene.

Cpl. Martin was forthright and credible in his testimony about what was then known and present to his, and Sgt. Pinder's, considerations to this time, now roughly 3:00 AM, March 3, 2005. They knew Roszko had fled about 12 hours earlier and had not been seen since. They knew Roszko had a history of violence. They knew Roszko was somewhat strange, given the spike belt incident and the other anecdotal information they had heard from detachment staff. They knew ammunition had been found and that this implied a substantial risk that Roszko could possess firearms notwithstanding his prohibition from doing so. They had alerted all members to look out for firearms on the property but to this point none had been located. They understood that there was a potential for Roszko to return while, at least, Cst. Johnston and Cst. Gordon were there. That said, they also knew from long experience that individuals fleeing a police presence do not typically return to the scene. Neither Martin nor Pinder had seen such an occurrence in any similar circumstances as were present at this scene. Their experience was widely shared within the RCMP. The evidence at the Inquiry established that from the Senior Deputy Commissioner on down, all the experienced officers held the same opinion and knew of few exceptions. One was an incident in Saskatchewan where an RCMP Constable was pursued to his Detachment and shot, a singularly unique event. Otherwise, situations were known of returns to surrender, in person or following contact from lawyers to arrange surrender. As well, on occasion, inadvertent "returns" to multi-unit apartment buildings occurred when the individual did not know of the police presence. No one was aware of any circumstance where an individual had fled the police only to return with the intent to do serious harm.

Martin, while he regarded Roszko's return as a possibility, did not see it as a probability. I do not find this unreasonable. His concern was that they were securing a large area, at least a quarter section of land, which could not be fully secured even had there been more members available.

He decided that the overnight security should be made highly visible. He testified that if the RCMP presence was not made obvious, a return could occur simply because Roszko, or any person in such a situation, might reasonably believe the RCMP had left. He therefore set out to make the police presence obvious. The lights were left on in the mobile home. The machinery and man doors were left open with the halogen lights on. Cst. Letal's marked police cruiser remained against the shed at the rear, west end of the Quonset. Cst. Johnston's marked pickup truck was positioned midway along the south side of the Quonset. Cst. Gordon's marked vehicle was positioned to the east of the open end of the Quonset. The effect was that there appeared to be activity at the scene. Each officer had a view of the other and a wide field of view around the entry to the property, the mobile home and the Quonset. It is apparent that they would not be able to see everywhere and it was dark. Their obvious presence was the main deterrent. I find all of this was reasonable given previous experience and the circumstances then known.

Martin and Pinder then briefed Cst. Johnston and Cst. Gordon on what had transpired during the day and in respect of their understanding of Roszko's history. Johnston and Gordon were advised to stay in touch by radio with each other, the detachment and the RCMP Operational Control Centre ("OCC") as they felt appropriate (it is known OCC was in contact with them during the night). In addition to their side arms, each had a shotgun in their vehicle and Cst. Johnson also had the .308 rifle. It was understood that they had latitude to leave their vehicles and to move about the property or re-position their vehicles, again as they saw fit. It appears, in fact, that the two members were briefed separately but essentially, to the same end. Cpl. Martin briefed Cst. Johnston and Sgt. Pinder briefed Cst. Gordon. Pinder also pointed out to Gordon that he should keep his vehicle away from the motion activated light and "just to stay alert for any vehicle traffic or anyone approaching the place". It is appropriate to comment here that both Martin and Pinder were confident in the abilities of Cst. Johnston and Cst. Gordon. Both were experienced and capable officers. Cst. Johnston had almost four years in the field and Cst. Gordon almost two and one-half years. Each had been well trained and, on their respective performances to that time, were considered exceptional members of their detachments.

Martin and Pinder left the scene between 3:30 and 4:00 AM.

The early morning passed uneventfully insofar as either Cst. Gordon or Cst. Johnston reporting any activity. It is apparent however, that at some point between approximately 3:30 to 4:00 AM and 10:00 AM on March 3, 2005, Roszko gained access to the Quonset. I discount the possibility that Roszko gained access sooner than 3:30 AM and notwithstanding that it is known that he may have been dropped off by Hennessey and Cheeseman (of whom I will later refer) as early as 1:00 AM. The site was then well lit and heavily occupied by RCMP members, both from the Green Team and the local detachments, until Martin and Pinder left the scene. In addition, I do not believe Roszko could have accessed the front of the Quonset during darkness because it is known that the motion activated overhead light was operating while the RCMP was present. This is strongly suggestive that if Roszko accessed the Quonset through the open machinery door or the man door, the only apparent possibilities, the light would have turned on and signaled his presence. I infer therefore that it is doubtful that his entry occurred during the dark hours of March 3.

Cpl. Martin spoke by telephone to Constable Johnston at about 9:00 AM in the morning. Cst. Johnston advised that the night had been uneventful; there had been "nothing". Martin arrived at the Mayerthorpe detachment shortly after 9:00 AM. Several members, including Cst. Schiemann and Cst. Myrol, were present. Cst. Schiemann was in civilian attire as he was intending to travel to Edmonton to purchase equipment for his new assignment to an interdiction unit. It was Cpl. Martin's intention, because of other commitments various members had, to send Cst. Myrol to the Roszko property to join Cst. Johnston and Cst. Gordon. Martin knew that Auto Theft was on its way and he wanted members on scene to assist them. Cst. Schiemann volunteered to drive Cst. Myrol out but they did not proceed directly to the property. The dogs had been confined on

Roszko's property for a number of hours and were a concern. It was agreed that Cst. Schiemann and Cst. Myrol would obtain a sedative from a veterinary doctor and, as well, some meat to assist in administering the sedative to the dogs.

The evidence does not establish precisely when Cst. Schiemann and Cst. Myrol arrived at the Roszko property. Cst. Hoogestraat and Cst. Vigor of Auto Theft arrived in their Yukon SUV at 9:56 AM. As they entered the property they observed four individuals, three in RCMP uniform (Cst. Johnston, Cst. Myrol and Cst. Gordon), and one in civilian clothes (Cst. Schiemann), at the wooden shed behind the Quonset. It is not known how long they had been there but Cst. Schiemann and Cst. Myrol would not likely have arrived much before 9:30 AM. Cst. Hoogestraat and Cst. Vigor had never been at the site and did not know where their work would be performed. Accordingly, they drove toward the four members and parked their vehicle opposite the rear, southwest corner of the Quonset. There were now six members on site. It is evident that none of them, at this time, a few minutes before 10:00 AM, were in a position to observe the open front, east end of the Quonset. How long this had been the case is unclear but we know that Cst. Schiemann had parked his vehicle roughly parallel to the front of the Quonset and just to the south of the doors. It is apparent that this vantage point would afford him and Cst. Myrol an oblique view of the front of the Quonset as they arrived and parked. We also know that at some earlier time, likely prior to Cst. Schiemann and Cst. Myrol arriving, Cst. Gordon had moved his vehicle to a position to the west side of the ultimate resting point of Cst. Schiemann's vehicle. These two vehicles, Cst. Johnston's pickup, Cst. Letal's cruiser and the vehicle driven by Auto Theft, all remained in place after the incident.

VI. The Shooting

As the Auto Theft members arrived, two members were standing on the rear of Letal's cruiser parked against the shed and two members were observing from the ground. I surmise that they were administering the sedative to the dogs. Hoogestraat exited the vehicle while Vigor remained inside, commencing his notes. Cst. Gordon approached Hoogestraat and they had a momentary conversation as they had recognized each other. Hoogestraat proceeded to the rear of the vehicle to change to his work clothes. He saw the other three officers walk by the vehicle, Cst. Gordon rejoined them and the four officers proceeded along the Quonset, around the corner at the east end and out of Hoogestraat's sight. Vigor now joined Hoogestraat at the rear of the Yukon. They began conversing about the job they were about to do but only a few moments had passed when they heard two loud bangs. Each thought these might have been produced by someone banging something against the inside of the metal Quonset. Suddenly however, there was a series of six to eight more loud bangs which both now recognized as gunfire. They pulled their side arms and began running toward the front of the Quonset. They had not proceeded far when Vigor, anticipating that there might be officers down, yelled to Hoogestraat to "call in a 10-33, officers down call". Hoogestraat immediately reversed direction back to their vehicle to do so. Vigor continued east and began to round the rear of Cst. Schiemann's vehicle. Hoogestraat believed Vigor had seen a uniformed leg in the front of the Quonset and had yelled that information to Hoogestraat. My assessment is that it is unlikely that Vigor had yet done so because as he was proceeding by the right rear fender of the vehicle, Roszko came out of the Quonset at about the middle of the large door. He was carrying a hunting rifle slung across his back, a pistol in his belt and a semi-automatic rifle in his hands. Vigor testified "he was just casually walking." Roszko then suddenly realized Vigor was there. Vigor said "He appeared to have a surprised look on his face. I don't think he expected to see another police officer or another person there." But he recovered very quickly, swung the semi-automatic rifle towards Vigor and fired two shots. Vigor's momentum had carried him to a point opposite the front passenger door of the vehicle. One of Roszko's shots hit the side mirror and shattered the passenger side window. Vigor immediately returned fire, directing two shots at Roszko who then appeared to stagger back inside the Quonset. Vigor did not then know if he had hit Roszko, but

he had. One of his shots struck Roszko's left hand and the other penetrated his right front thigh, fracturing his femur. This fact bears directly on all that follows because we now know that the incident was effectively over. Vigor immediately began retreating and as he did so, Hoogestraat was backing their vehicle towards Vigor, roughly to the rear of Cst. Schiemann's vehicle, to provide cover for Vigor. Vigor crouched behind the right rear corner of the Yukon as Hoogestraat backed it to the south and east away from the Quonset doors.

It is abundantly clear, based on all of the evidence, and the fact that no further shots were subsequently fired at the Roszko property (with one exception, an inadvertent discharge into the air of an ERT member's rifle later in the day), that Roszko committed suicide almost immediately after staggering back inside the Quonset. He had been seriously wounded and could not then know whether Vigor was pursuing or retreating. He would surely have known that escape was now impossible. The two wounds inflicted by Vigor would not have been fatal, but they had been pivotal in the outcome. I find that Roszko died from a self-inflicted gunshot wound to his left chest, this from a bullet fired from his semi-automatic rifle while it was near or in contact with his chest. The bullet passed through his body and was recovered behind and above where Roszko had been sitting on the Quonset floor. This suicide would have occurred within the time Vigor, now sheltering behind the Yukon, was moving backward over the crusty, snowy ground, his ears no doubt still ringing from the discharges of his and Roszko's weapons. Neither he nor Hoogestraat heard any shots after their retreat from the Quonset. Bruce Gunn, a firearms expert, testified that the sound of Roszko's self-inflicted wound would have been significantly muzzled by the barrel's proximity to his chest.

Hoogestraat and Vigor could see a pant leg of an officer down near the front of the Quonset. Apart from some screaming during the shooting inside the Quonset, nothing more was heard. Chatter on the downed officers' radios was heard for a time until radio silence was imposed in case Roszko was monitoring the system. Hoogestraat had used that system to try to communicate with the officers, broker a surrender or arrange help for anyone needing it, but there had been no response.

I find that everyone inside the Quonset was now deceased. The medical evidence is incontrovertible that none of the victims would have survived their grievous injuries. All would have been unconscious within seconds and no one would have survived for more than a minute. This tragic fact renders much of what then occurred, from this time forward, academic in practical terms. However, none of these subsequent findings were yet known and the responders properly proceeded to assess their options and take appropriate action.

VII. The Response

Cpl. Martin had intended to leave the Mayerthorpe detachment for the Roszko property at the same time as Cst. Schiemann and Cst. Myrol. He was delayed in his departure and in the result, was about half way to the property when he heard that shots had been fired.

Cpl. Martin and Cpl. Whipple were the first to arrive at the scene. There was a very brief, and understandable, uncertainty as to exactly what had transpired and if there was a shooter, just where he was. This was quickly cleared up and Martin and Whipple joined Hoogestraat and Vigor. There were no sounds from the Quonset save an occasional banging noise. This created concern because it was not then identified and for all they knew, it might have been Roszko fortifying his position. It was later established that this was a compressor unit which, throughout the remaining hours, cycled on and off.

Immediate calls had been made to request assistance and to provide what information there was. The Emergency Response Team had been called at 10:13 AM, was assembled and arrived on

scene at 11:52 AM. This was a remarkably short period of time given the logistics of assembling the Team and that Mayerthorpe is over an hour from Edmonton. Meanwhile, a command center had been established on Range Road 75. As additional assistance arrived, members were assigned to security perimeters. The Edmonton Police Service helicopter was deployed and was able to provide a limited view into the Quonset.

As has been observed, these efforts were rendered redundant by the subsequent discovery that all of the members and Roszko had already succumbed to their injuries. This, of course, was not then known and I do not minimize what I regard as a highly professional response, by all parties, to a developing and ultimately horrific event. That said, I choose not to relate the details of those efforts other than to say that the considerations and actions of the local detachments, the Emergency Response Team and others involved, were entirely appropriate. It is beyond the mandate of this Inquiry to undertake hypothetical considerations of what might have occurred had Roszko survived.

One post shooting issue should be addressed. This is whether a rescue of the downed officers should have been attempted after the exchange between Roszko and Cst. Vigor. There is no doubt that this was the strong desire of all concerned. At 10:15 AM the best case was that the four Constables might still be alive and with timely medical care, might survive. This presented an agonizing decision. Fortunately, in my view, the appropriate considerations prevailed and no rescue was attempted. Notwithstanding we now know for a certainty that a rescue would have been futile and would not have entailed any actual danger, the facts then known militated against such an effort.

The Quonset was on a slight rise relative to the rest of the property. A person shooting from inside the Quonset had an elevation advantage on anyone approaching. It was a bright, sunny morning and the interior of the Quonset was, by comparison, virtually blacked out. A shooter inside would again enjoy a significant advantage over a rescuer entering from sunlight to relative darkness. There were known to be numerous areas inside the Quonset where one might hide including elevated areas above the grow ops. A shooter hiding in any of those areas would have a significant advantage over rescuers facing not only the elevation disadvantage, but also having to determine the shooter's location before responding to him. Significantly, it was not yet known whether there was only one assailant or whether there might be accomplices. Cst. Vigor's observations made it plain that Roszko was heavily armed. He had apparently shot one and probably four officers, had attempted to shoot Vigor and would show no restraint in shooting anyone else who confronted him. Finally, and critically, Vigor did not know if his shots had struck Roszko. He thought he might have hit him but, without doubt, the prudent and worst case assumption had to be that Roszko was not wounded, had all the advantages and was ready, willing and able to resist an assault on the Quonset.

The appropriateness of deciding not to attempt a rescue was confirmed when ERT arrived. ERT is a specially trained assault team and their decision, predicated on all the same considerations, was to the same end. The tactical disadvantages dictated that ERT not enter until the Remote Mobile Investigator ("RMI"), a robot with a video camera attached, was first deployed. I commend the decision-making process of all those involved, especially in the face of an understandable, overwhelming desire to come to the aid of their fellow officers.

VIII. The Investigation

The Major Crimes unit of RCMP 'K' Division, Edmonton, was dispatched to the Roszko property within minutes of the shooting and commenced an extensive and thorough investigation as soon as the Quonset was secured.

(a) The Shooting

Again, given the mandate of this Inquiry, it is not my intention to repeat the detailed evidence generated by the investigation. The initial investigation was directed at the collection and interpretation of the physical evidence at the scene. Forensic firearm and imaging experts testified as to their involvement and the steps taken to completion of their respective inquiries. The outcome of the investigation gives us the ability to surmise, with reasonable confidence of accuracy, what probably occurred inside the Quonset on March 3, 2005.

It appears that Roszko, by cloaking his whereabouts and the sound of his approach by placing heavy socks on his boots and concealing himself underneath a sheet, likely approached to a point near the northeast corner of the Quonset. It is not known at what time this would have occurred. He had been dropped off approximately one mile west of the Quonset between 1:00 AM and 3:00 AM. There is no information of his whereabouts until the shooting occurred. It seems unlikely, as I have earlier suggested, that he accessed the Quonset before daylight. It remains a possibility that he did so. It is not known precisely on what course he approached the Quonset, but footprints were found proceeding from the west in the general direction of the Quonset. A sheet and a pillowcase containing a pair of work gloves, a small water bottle and a can of bear spray were found at the northeast corner of the Quonset. Roszko probably had concealed himself at that location for some time. Again, no definitive evidence could be found to otherwise clarify his movements during the night. He was well-equipped to spend the night outdoors. He wore long underwear, an undershirt, shirt, fleece, a winter weight bomber jacket, another fleece and two pairs of socks in addition to those over his boots. He had a hat and gloves.

At about 10:00 AM, the four members walked into the Quonset. Their intentions and precise movements within the Quonset are not known. The expert analysis of the forensic evidence clearly establishes that the majority of the shots were fired by Roszko when he was positioned in the southeast corner of the Quonset. This would be very close to the man door. There was in this area a freezer, a car hood and a large tank, any one of which, or a combination thereof, would have hid Roszko from view.

Cst. Schiemann, on his way to Edmonton and in civilian clothes, was unarmed. The three uniformed members wore soft body armour. Cst. Schiemann did not.

I am unable to determine the order of the shots inflicted on the individual officers. Cst. Gordon was found nearest the main overhead door. I speculate that he was shot first as his gun was not drawn and he was the closest to any potential escape route. It appears Cst. Schiemann and Cst. Johnston were probably the next victims. I surmise this was the case because Cst. Myrol was able to draw his weapon and move towards the rear of the Quonset, in a possible attempt to find cover, before he was fatally wounded. It is clear that the initial shots came from behind the officers. A number of those shots appear to have been directed downward, implying that the members were already down. Given the firepower Roszko brought to bear, a Heckler & Koch (“H&K”) .308 semi-automatic rifle, the four RCMP officers had little chance to survive the surprise attack. That said, it is also plain that Cst. Johnston did respond. The evidence shows he drew his sidearm and fired one shot, likely while he was on the ground and wounded. This bullet struck the handle of the Berretta handgun tucked into Roszko's waistband and did no significant damage to Roszko. It appears that Roszko probably then responded by moving in a counterclockwise, northwest, direction from his original position and firing at least two more shots at Cst. Johnston while he was on the ground. Roszko, now at the end of this flurry of shots, then headed out the large door to his unexpected encounter with Cst. Vigor.

I find that all four officers died inside the Quonset. Three were brought outside the building when ERT entered, this in the vain hope that their survival was still possible.

Cst. Johnston's sidearm was found not to have fully ejected the casing from the round fired at Roszko. Extensive testing established that the weapon was functioning properly and I am satisfied that the failure to eject likely arose because Cst. Johnston's clothing interfered with the ejector slide mechanism.

(b) The Property

The labourious investigation of the Roszko property involved manual and technical searches. Subsurface radar, x-ray and airborne infrared technology were deployed. A backhoe was brought in. These efforts produced real evidence, shell casings, bullet fragments and some weapons, but also debunked speculation about what might be found on Roszko's property. There were no tunnels or underground caches of drugs or weapons.

There were several weapons found in the Quonset. Above the most southerly, and smaller, of the grow rooms, an area accessible only by ladder, a rifle case containing a .22 rifle and a 12-gauge shotgun, was located. This case was concealed under the plywood roof structure of the room. Also found within this space was an empty Berretta gun case. On a ledge above the room, in the same area, an empty gun sack was located. I surmise that, given the two empty gun cases and that Roszko was in possession of a Beretta pistol, but was not in possession of the H&K semi-automatic rifle when he was dropped off, both weapons could have originally been concealed in this area. There is however, no definitive evidence on where the H&K weapon had been hidden. The hidden storage area was located during the detailed searches after the event. The earlier searches by the clearing team and later, by the Green Team, given the poor lighting conditions and the circumstances then known, would have been unlikely to disclose this hiding place.

Three additional rifles were found in a rifle box hidden inside a farm implement, a seed drill, located inside the Quonset. These were a Husqvarna .308 rifle and two Lee Enfield .303 rifles. Miscellaneous additional items, a rudimentary pipe bomb which could not have fired, a homemade silencer device and various types and quantities of ammunition were also found.

(c) The Weapons

A detailed follow-up investigation on the weapons utilized or carried by Roszko, and those subsequently discovered, was conducted. The essentials of that investigation disclosed that neither Roszko's H&K Model 91, .308 semi-automatic rifle nor the Beretta 92 FS semi-automatic pistol were registered in Canada. They were not listed on any database as stolen. The Winchester rifle 70 XTR 300, which we know was provided to Roszko by Hennessey and Cheeseman, was registered to Hennessey's grandfather.

The H&K .308 rifle was traced from its original import into the United States and its subsequent, apparently legal, sale and shipment into Canada in December, 1980. The individual who imported it lived near Mayerthorpe, Alberta. Roszko probably acquired it by purchase in the 1980s. This is now a prohibited weapon and a registration requirement for this weapon became effective January 1, 1995.

The Beretta 92 FS pistol was purchased by Roszko in Utah, USA in May, 1993. It appears Roszko smuggled this weapon into Canada. It is now a restricted weapon.

The .22 Remington rifle was legally imported to Canada in September, 1981. There were no further records available in respect of this firearm, a non restricted weapon.

The Defender 12-gauge shotgun, found in the same case as the .22 rifle, had been legally imported into Canada in April, 1993. No further records were available for this firearm, also a

non-restricted weapon.

The remaining three weapons, all non-restricted firearms, were those found inside the seed drill located inside the Quonset. The Husqvarna .308 rifle, the .303 MK-1 Lee Enfield rifle and the remaining rifle, a 1918 .303 Lee Enfield, all appear to have been stolen from a Barrhead, Alberta location in July of 1997.

Roszko had never had a firearm registered to him.

(d) Roszko's Whereabouts

In the immediate aftermath of the shootings, investigators had directed their attention to the questions of where Roszko had been after fleeing from the bailiffs and especially, how he had returned to the property. There was still no sign of his vehicle anywhere in reasonable proximity to the property.

A cell phone was recovered from Roszko's body. The appropriate warrants were obtained in respect of that cell phone and also Roszko's land line in the residence. The cell phone disclosed a series of calls starting at 3:34 PM on March 2, 2005, the approximate time Roszko had fled from the bailiffs, and continuing through 12:58 AM March 3, 2005, the earlier of the time parameters for his drop-off west of the property. Five of the cell phone calls were to a cell phone being used by Shawn Hennessey.

Six of the calls had been made to Roszko's mother or his sister. Interviews with his mother, Stephanie Fifield, gave some insight into Roszko's calls to her. He was "in trouble", asked her to "please pray for me", and made reference to a Will and some funds he had left for her at his trailer. He felt he "was in a significant amount of trouble with the police". He was looking for a place to hide his truck.

All these calls were made while Roszko was in the general vicinity of Mayerthorpe and Barrhead Alberta, which is approximately 60 km northeast of Mayerthorpe.

Roszko's vehicle was eventually located at his aunt's residence, 38.5 km from Roszko's property.

(e) Roszko, Hennessey and Cheeseman

It was soon apparent that Roszko must have had outside assistance. An investigation was conducted over the next two years and led to the arrest and conviction for manslaughter of two individuals, Shawn William Hennessey ("Hennessey") and Dennis Keegan Cheeseman ("Cheeseman"). Examination of this lengthy investigation is beyond the mandate of this Inquiry, but its outcome does bear directly on the circumstances of the deaths which occurred March 3, 2005.

An Agreed Statement of Facts detailing their involvement with Roszko, signed by Hennessey and Cheeseman, is an Exhibit in the Inquiry. The salient facts, insofar as this Inquiry is concerned, arise in paragraphs 49 through 77 which I reproduce (with minor editing).

The Agreed Facts disclose that during the evening of March 2, 2005, Roszko went to Hennessey's rural residence near Barrhead. Dennis Cheeseman eventually joined them there. Hennessey had earlier requested Cheeseman's help because "there were RCMP officers at Roszko's farm" and Hennessey was involved in the grow operation located on the property.

Roszko had the Beretta handgun tucked into his pants and was seeking a rifle Hennessey had been given by his grandfather, John Hennessey. Hennessey wiped the rifle down and gave it and

a box of ammunition to Roszko. Cheeseman meanwhile had found a pillowcase and some gloves, put the gloves on and placed the rifle in the pillowcase.

Roszko was enraged at the police and said he intended to return to his property and burn down the Quonset containing the grow op and the chop shop. Hennessey and Cheeseman knew armed confrontation with the police was a real possibility and that the situation was clearly trouble.

Roszko decided to hide his truck at his aunt's residence and Hennessey and Cheeseman agreed to follow him there in order to give him a ride back to his property. Hennessey asked Cheeseman to accompany him for support and comfort. Both men were intimidated and fearful of Roszko. They followed Roszko to the aunt's residence and waited while Roszko parked his truck on the property. While they waited, they discussed leaving Roszko there but decided not to act upon that plan. Roszko returned and entered the vehicle. On the drive towards his property, Roszko ranted and complained about the RCMP and threatened to get even with them. He again indicated he was going to burn down the Quonset.

Roszko directed Hennessey to a point on Range Road 80 to the west and across the field from where the police were located. Hennessey and Cheeseman could see the lights from the police cars. Roszko pulled socks over his boots, took the rifle and left in the direction of the police. It was between 1:00 AM and 3:00 AM, March 3, 2005.

Hennessey and Cheeseman drove directly home. Cheeseman suggested that they should call the police and warn them but Hennessey discouraged the idea and thought that Roszko would come after them should he evade the police. Neither Hennessey nor Cheeseman made such a call to the police, either then or at any time prior to their arrests in July, 2007.

Cpl. Martin, in his testimony before the Inquiry, was asked if he might offer any suggestions as to how the shootings might have been prevented. He replied that if they had the knowledge that Roszko was armed and taking measures to covertly enter his property, they would have pulled all the members out of there, abandoned the warrant and contacted the Emergency Response Team.

This comment is, of course, offered in hindsight almost six years after the shootings occurred. Nonetheless I find it accords with common sense. It was dark and even with the knowledge that Roszko was approaching, he would likely be difficult to detect and apprehend. He was armed. This, on any definition, would be a "high-risk takedown" and such operations were the mandate of ERT. That said, had Cpl. Martin been less cautious and sought to apprehend Roszko without the assistance of ERT, his members would still have enjoyed a considerable advantage as a result of a warning. The element of surprise would have been reversed or at least, nullified. I can only speculate on all of this but had there been such a warning, I doubt these deaths would have occurred.

I comment on the fact that Hennessey and Cheeseman were not called as witnesses at this Inquiry. Having regard to the mandate, Inquiry Counsel was of the opinion, and I agreed, that this would not be necessary. The Agreed Statement of Facts signed by Hennessey and Cheeseman is a matter of public record and was available to the Inquiry. It provides sufficient information to clearly establish three fundamental, inescapable facts. Firstly, that Hennessey and Cheeseman gave Roszko a rifle and ammunition. Secondly, that they transported Roszko to his property. Thirdly, that they did not warn the police when it was obvious that serious harm could ensue. It is not apparent that Hennessey and Cheeseman could add anything of value to these stark realities.

Further, this Inquiry should not be a forum for any rationalizations Hennessey and Cheeseman might now wish to advance. They had been represented by counsel. They had faced a

preliminary hearing and had been committed to stand trial on four counts of first degree murder. They then agreed to the entry of guilty pleas to manslaughter based upon written facts as would be established between themselves, their counsel and the Crown. This Agreed Statement of Facts was admitted by them for the purpose of dispensing with formal proof thereof, and was signed by both Hennessey and Cheeseman and their respective counsel. The public record of the entry of their guilty pleas makes clear that s. 606(1.1) of the *Criminal Code*, concerning the matters of which a court must be satisfied before accepting a guilty plea, was canvassed by counsel with both Hennessey and Cheeseman. The presiding Justice again canvassed its provisions. The appeals of their conviction were abandoned and their appeals of their sentences were dismissed. All these circumstances satisfied me that their personal attendance and reiteration of the Agreed Facts would not be necessary.

IX. Roszko's Criminal History

In the first days and succeeding months after the shootings, much commentary was directed at Roszko's criminal history and the implications of that history on the conduct of the RCMP prior to this tragic incident. This is an issue appropriately to be considered in this Inquiry and engages a review of the factual history, what the RCMP knew or should have known, and whether or not what was done was appropriate.

Cpl. Martin, as we have seen, preparatory to his application for a search warrant, obtained a copy of Roszko's criminal record. This was available to him on CPIC, the Canadian Police Information Center, a computer accessed database. The result of this search is an Exhibit before the Inquiry and I summarize it here.

February 18, 1976, Roszko was convicted of break, enter and theft, and possession of stolen property. He was fined \$150 on each count and placed on probation for one year. He was 17 years old.

November 19, 1976, just past his 18th birthday, he was convicted of theft under \$200, effectively a shoplifting offence, and fined \$250.

January 24, 1978, now 19 years of age, he was convicted of possession of stolen property over \$200 and received a suspended sentence and probation for 18 months.

April 5, 1979, now 20 years of age, he received his first custodial sentence, 30 days for harassing telephone calls and a further 15 days for two breaches of his probation.

A significant gap, 11 years and 8 months, now appeared on his record, between April 5, 1979 and his next conviction, December 5, 1990. He had just turned 32 years old and was convicted of uttering threats. He was fined \$200.

Another large gap now arose from December 5, 1990, just over nine years, to his last recorded conviction April 28, 2000, when he was convicted of sexual assault for matters which occurred between January 1, 1983 and December 31, 1989. He was then 41 years old and was sentenced to 30 months in jail and prohibited from possessing weapons pursuant to s. 109 of the *Criminal Code*.

A brief explanation of the use of a criminal record may assist. When an individual is sentenced following a conviction, if he has a prior criminal record, it is the foregoing, in condensed form, which is presented to the court. The police and the Crown prosecutor may often have additional information which appears, on their print outs, as "Summary of Police Information -- Not Intended for Sentencing Purposes". This latter information is not presented to the court. This is because

this information is historical in nature and is not a record of convictions, but rather, is a history of other matters which have proceeded to court but have been stayed, withdrawn or dismissed. The court does not see them because they are not convictions. In short, these matters have not been tried before a court to the point where the individual could be found, beyond a reasonable doubt, to have committed an offence.

The police and the Crown, who are not ultimately responsible for the decision to convict or the imposition of any penalties, may access this information for their own purposes. For example, if there are significant entries, in terms of severity or quantity, in this area of the record, the police and Crown will have a broader sense of the individual they are dealing with. This may influence the number or type of new charges police may lay and also no doubt, the Crown's attitude in the exercise of its discretion as, for example, whether they might agree to, or contest, a bail application.

Roszko's record showed three entries in this "Summary" area. A charge of sexual exploitation was stayed by the Crown September 9, 1995. His original conviction of sexual assault, September 28, 1995, in Court of Queen's Bench, had been overturned June 6, 1997, and a new trial ordered. This meant that the apparent nine year gap between December 5, 1990, and April 28, 2000, was in fact slightly less than five years. This did not materially change Roszko's record, he still had the one conviction for sexual assault, but it had arisen earlier. It should be noted that this means that Roszko's last conviction was nine and one-half years before, and related to assaults which had occurred 16 years before, March 3, 2005.

The third entry showed that Roszko had also been charged with, but not convicted of, a series of offences heard October 16, 2003, but alleged to have occurred September 9, 1999, five and one-half years before March, 2005. These were an aggravated assault, assault with a weapon, pointing a firearm and the use of a firearm during the commission of an offence. Roszko was committed to stand trial at his preliminary inquiry but at his Queen's Bench trial it became apparent that the witnesses had lied in respect of material particulars. The Crown elected not to call them and the charges were dismissed.

I have earlier commented that Roszko's record, again in the "Summary" section, bears a notation "Caution –Violence" but that Cpl. Martin explained that this was relatively common and would not cause unusual concern.

Roszko, after his ultimate sentencing of April 28, 2000, for the sexual assault, was in custody to at least December 24, 2001, one year and eight months. He was released and returned to custody on two occasions and was fully released August 14, 2002. From his release on August 14, 2002 to March 3, 2005, he had reported as required under his parole. In that period he had received two violation tickets for traffic offences. One was withdrawn and he paid a fine on the other. I have earlier referred to the spike belt incident.

In addition to the CPIC information, Cpl. Martin could also access the Police Information Retrieval System (PIRS). This provided an outline of offences but only limited information. Obtaining further detail, in March, 2005, required physically locating and reviewing the relevant file. This had obvious practical limitations and this system has been upgraded, post-March 2005, to the Police Reporting and Occurrence System (PROS). This new system now includes the file backup information.

Mayerthorpe's records also contained a "Special Interest Police" (SIP) designation for Roszko. This was the tracking mechanism which Martin considered to be in place merely because Mayerthorpe still had an open file on the September, 1999 matters which, as we have seen, had been dismissed in October, 2003.

Finally, in making a risk assessment Martin considered the recent history. He testified that he was, to his knowledge, the only current member of either the Whitecourt or Mayerthorpe detachments to have had contact with Roszko. Indeed, Roszko seems to have faded from the local scene, apparently conducting most of his business in Barrhead rather than at Mayerthorpe. Cpl. Martin had been at the Mayerthorpe detachment about three and one-half years and his only involvement with Roszko was the spike belt incident. It is instructive, as to Martin's view of its seriousness, that his first summons became stale dated and by March, 2005, he had not made an attempt to serve Roszko with the new summons. This relative lack of involvement was consistent with Roszko's dated criminal record.

The RCMP has since compiled detailed information on Roszko's entire history of offences and contact with police during the period 1976 to 2005, but most of this was not available to Cpl. Martin on March 2, 2005. I comment that there would not have been, then, any apparent pressing reason for Martin to look for it. He had the CPIC record, at least one open file and he also had anecdotal historical information, all of which had compelled him to caution his officers. The anecdotal information doubtless arose, in part, from the fact that Roszko had made 12 complaints against the RCMP during the period 1993 through 2000. There had been, apart from the two traffic tickets, only one new criminal involvement in the last five years, the mischief complaint. Roszko had fled once from Martin and on a second occasion, had fled from the bailiffs.

An objective consideration of all of this, on March 2, 2005, would not appear to suggest Roszko presented as an individual who was likely to engage in a premeditated attack against the RCMP.

Alberta Justice also conducted a review of Roszko's prosecution history. This covers much of the same ground as the RCMP report, but from the prosecution, rather than the police, perspective. Mr. Wong, who prepared the report, concluded, as is now apparent, that it was not the case that Roszko was in court on an annual basis on new criminal charges. As of March 2, 2005, of the six convictions he had on his record, four were over 26 years old, one was over 14 years old and the last, in real terms, was over nine years old. Martin had been right. Roszko was then, and had been for about five years, off the radar. It is known, now, that the years between 1993 and 2000 had been busy however. Roszko, in this period, had seven significant court attendances on various matters, six of which did not contribute to his record, before he was committed to custody, April 28, 2000. Wong further concluded that Roszko was vigorously prosecuted and that Roszko never met the criteria to be considered for a dangerous offender application. The history bears this out. He had been "flagged" as a potential dangerous offender but it is clear that this was an internal administrative procedure to enable office personnel to begin the assembly of historical material which might be required if grounds for an application arose in future. In cross-examination, Wong was asked: "In looking at Mr. Roszko's actual record, would you agree with me that there are literally hundreds, thousands of people in this province that have a considerably worse record than Mr. Roszko?" His answer: "I can't give you a number but yes, I know that there are".

A number of other issues arose from Wong's testimony. In particular, it was obvious that consideration of the basic tenets of the rule of law will naturally arise from any examination of Roszko's legal history (as distinct from his criminal record). These include the presumption of innocence, the need to prove a criminal offence beyond a reasonable doubt and prosecutorial discretion. The exercise of that discretion involves, for example, consideration of the seriousness of a charge, the likelihood it can be proven beyond a reasonable doubt and the resources available at the police, prosecution and judicial levels. There are also issues of purely practical consideration such as, for example, the willingness, availability and, especially, the credibility of witnesses. (How much trouble and expense, relative to all the other demands for time and resources, do you expend on a reluctant witness in order to get him to the courthouse, only to find that he changes his story?) Prosecutors will often solicit the views of the investigating officer in exercising this discretion. As such, many of these decisions are the outcome of such

discussions.

It may also be apparent that in a society such as ours, the rights and freedoms enjoyed by good citizens are equally enjoyed, and perhaps more often relied upon, by bad citizens. Finally, it will be obvious that rumour, speculation and innuendo will amount to nothing if charges are not laid, and of little more if such charges as are laid, are not proven.

The criminal legal system attempts to ensure that while most guilty parties are convicted, innocent parties should not suffer wrongful conviction. In the main, it succeeds in that pursuit but it is not perfect and remains subject to the foibles of any human enterprise. It is inevitable that some guilt will not be established. It should not be controversial however, to say that in general, police, prosecutors and judges work hard to discharge their responsibilities and to exercise good judgment, common sense and fairness, all within the rule of law. To the extent that they succeed or fail is ultimately for others to decide and, unfortunately, is often determined in hindsight, a difficult standard as most will agree. Unfortunately, all this presents little comfort to the families here. They are, as Mrs. Johnston said, "... just looking for some answers". Regrettably, in many circumstances, and here, there are few clear answers as to why matters coalesce to a tragic end.

X. Summary

I acknowledge that it is beyond the mandate of this Inquiry for me to speculate about this tragic event. That said, there has been much speculation but I am in the unique position of having the known facts. There are, we know, many facts which will never be determined with precision or finality. It is my hope that this Inquiry will assist the public in an understanding of what actually, and likely, transpired but also, importantly, that this Inquiry may serve to bring some closure for the families who have suffered so greatly. Informed speculation is not fact, but it may, hopefully, be close.

James Roszko was an antisocial, petty criminal and likely, a sexual predator. As of March 3, 2005, he had not been charged with a serious offence for five years. This fact was not entirely a credit to Roszko as he had spent part of that time in custody. Post custody, he seems largely to have kept to himself. This in itself may have minimized his criminal involvements as many of his associates, to that time, were themselves predisposed to criminal behaviour. Indeed, some of these people were occasionally witnesses, albeit often unreliable ones, against him. It appears, perhaps understandably, that Roszko may have developed a determination to keep others away. His most recent known involvements with any of the public, the enumerator, the RCMP and the power company, were largely in the category of nuisance issues probably directed at discouraging access to his property. We now have better insight into why this may have been so. It may also be that Roszko had been, to some degree, deterred from some of his more blatant antisocial activity by the time he had spent in custody. Whatever the reasons, we do know that his overt criminality had diminished and that at a point in this period, he turned his criminal activities to economic gain. He established the chop shop and marijuana grow operations.

The evidence is that the grow operation had significant potential to be lucrative. It is clear that Roszko was strongly committed to this endeavour and was meticulous in its execution. The grow operation seized on March 2 and 3, 2005, would have produced, on conservative estimates, returns from a low of \$66,000 to a high of \$117,000. It was estimated that the cost of Roszko's investment would have been about \$10,000. Hennessey was a partner in this effort but the grow operation was located on Roszko's property and he appeared to be primarily responsible for its nurturing.

We do not have an estimate of the value to Roszko of the chop shop operation. It involved a number of vehicles and realistically therefore, may have netted Roszko some returns.

Roszko was 46 years old on March 2, 2005. He had served more than a year in jail as a sexual assault perpetrator. He appeared to be in tenuous financial circumstances. He had not made his truck payments and had also left behind his wallet, containing \$1,585 in cash, when he fled his property. He had a good crop of marijuana which would soon be ready for market. He was, through seed cultivation, apparently intending to extend his grow operation. His chop shop was obviously busy. In sum, Roszko's prospects, criminal in nature certainly, appeared nonetheless to be promising. The intercession of the bailiffs and more importantly, the RCMP, looked to have ruined all of it.

In addition to his significant financial losses, there is little doubt that Roszko, given his record and the magnitude of the illegal operations, would have faced a jail sentence if he was convicted. The prospect of conviction, given that all the evidence was on his property, within his Quonset and therefore, clearly within his possession and control, was high. The RCMP, not his associates, would be the witnesses against him.

Roszko may have seen all of this as the loss of his last chance. He returned to his property with malicious intent. He was enraged, he was armed and he affected a stealth approach. There can be no doubt that he intended grievous harm to the RCMP. This intent may have been, in light of all the foregoing, largely retributive in nature. Nonetheless it is probable that he also harboured historical grievances, his numerous complaints against the RCMP all having been dismissed, I was told, as simply vexatious. He was clearly an antisocial individual and may also have been subject to a psychopathic disorder. In consideration of all of this, his intentions may ultimately have been driven by suicidal ideation, as once confronted and wounded, he swiftly ended his life.

What then should be expected of the RCMP in such circumstances? With the benefit of hindsight, many may claim to see how matters might have been handled differently. The imposition of hindsight analysis is however, unreasonable. I am satisfied that the RCMP acted appropriately in all circumstances as they then knew them. They were aware of Roszko's history but he had for some years been under the radar. He had fled from the bailiffs only a few hours earlier, just as he had done in the only other contact he had had with authority in recent years. Those who flee do not come back is, within the RCMP (and apparently within all police services) a commonly held presumption which is strongly supported by experience. While a return was always to be considered a possibility, it was not seen as a probability. Nonetheless, appropriate measures were taken to alert the officers involved, adequately arm them and to secure the property in order to maintain continuity of the evidence.

I find there were no failings in the training, experience or abilities of the officers who lost their lives.

Unfortunately, as is now known, but as the RCMP did not then know, Roszko's mindset and intentions did not conform to logical, reasonable or predictable assumptions. Any logical analysis, considering the history, the fact of his having twice fled and the convention that such people do not return, would suggest that within a reasonable time, (12 hours had already passed) rationality would dictate a surrender, or at worst, an eventual ERT assisted arrest. In this light, the prospect of his returning with serious criminal intentions, assisted by unknown third parties who were not prepared to warn the police, was, I find, beyond reasonable consideration.

I conclude that this was a uniquely tragic event which could not reasonably have been foreseen or prevented.

Recommendations for the prevention of similar deaths:

It will be apparent that once it is determined that an event could not reasonably have been foreseen, recommendations as to future prevention are less meaningful. That said, there is always potential for improvement. The RCMP commenced its own reviews immediately after the event. I commend the RCMP for having carefully addressed all that occurred and what might usefully be done to improve its policing operations. This effort demonstrates serious purpose commensurate with an obligation to public safety and that of all RCMP members.

The unique circumstances of this occurrence render academic some considerations which might otherwise have been addressed. As an example, Emergency Response Teams were deployed but their specialized services were ultimately not necessary or fully engaged. A team did affect entry into the Quonset and I readily acknowledge that this would have been an emotionally charged event. That said, it was immediately obvious that the threat had passed. As such, any performance appraisal or recommendations appear unwarranted. I do make clear however that this implies no criticism of the Emergency Response Teams. They performed professionally and as expected. In like manner, while I might make recommendations on the availability and disposition of armoured vehicles, those requested here, from the military, were stood down before they reached the scene. I can make no useful comments in respect of their operational necessity or performance. We were advised that armoured vehicles will be attached to Emergency Response Teams in Alberta by early 2012.

I point out that issues concerning Emergency Response Teams as well as equipment issues, including armoured vehicles, were carefully canvassed in the Alberta Fatality Inquiry into the deaths of RCMP Cpl. James Galloway and Mr. Martin Ostapovich, released in May, 2006.

The RCMP reviews led to two reports which were made available to the Inquiry. In addition, Human Resources and Skills Development Canada commenced its own Hazardous Occurrence Investigation Report. That report includes the report of an RCMP Hazardous Occurrence Investigating Team which had been tasked with investigating the incident from an occupational and safety perspective.

There is inevitable overlap in these reports but they have been of considerable assistance. They are in accord, in most important particulars, with my own views of what might usefully be recommended, recognizing however, that much of what has been recommended has already been done.

1. Threat Assessments

Those responsible for the planning and execution of operations at the Roszko property could have had better information. Whether it would have markedly affected the ultimate outcome cannot be known. It is known however, that more information is better than less and future incident commanders should have the best possible information available to them. This is especially so as the evidence is that threats to police have increased significantly in recent years. Efforts to address this information deficit commenced well in advance of this Inquiry. The old PIRS system has been upgraded to PROS, the net effect of which is to give members immediate access to background file information. Raw file information may lack depth however and the RCMP has therefore also established a Behavioral Sciences Group (“BSG”). This unit is operating in its developmental stages and will require additional resources to achieve its potential. It is intended to be a dedicated criminal threat assessment unit with professional psychological support and has access to a broader data base than will a detachment. In conjunction with this unit's mandate it has also been recommended that each detachment

maintain ongoing operational intelligence files on perceived threats. I strongly support that recommendation but I go somewhat further. The evidence at this Inquiry shows that some individual members felt the need to develop their own threat list. It was also apparent that there was a lack of continuity of information. Staff members had significantly longer service than the officers but most historical information as was available from the staff was necessarily anecdotal in nature. It is possible that without a formalized system, this approach may, however inadvertently, continue to prevail. RCMP detachments are busy places. Matters of individual initiative are often subsumed by diverse general duties and emergencies. Notwithstanding the best intentions of individuals, oversights occur. I believe that detachments should carefully avoid any ad hoc approach to the gathering and maintenance of threat assessment intelligence.

I therefore recommend that:

Each detachment should designate a member (as distinct from staff) to fill the role of Threat Assessment Coordinator (“TAC”). This person would be primarily, but not exclusively, responsible for the collection and maintenance of master and individual threat assessment files. This member would be tasked to query members on a regular basis and to brief new members. The TAC would also liaise with the Behavioral Sciences Group as appropriate and in accord with criteria established by BSG. I do not make administrative suggestions as to the day-to-day functions of a TAC. An effective system, once established, should not be overly burdensome. It would need to be understood moreover, that threat assessment would remain the collective responsibility of the detachment. All members would be charged with the responsibility to provide ongoing intelligence to the TAC, both formal and informal. This would include, and be recorded as such, speculation, rumour and the staple of much good police work, the simple hunch. Finally, a formal system of transfer of TAC responsibilities should be established in order to ensure continuity. It is not my intention that the information collected in this effort should become part of any data base or would need to be promulgated beyond individual detachments, neighbouring detachments and the BSG. I recognize that this may eventually be seen as a natural progression and I caution that the appropriate privacy issues, given especially the breadth of the information I have recommended be recorded, should first be addressed.

2. General Scene Security

I have found that Cpl. Martin and Sgt. Pinder acted appropriately in the planning and execution of the overnight scene security. That said, this incident nonetheless occurred and it is probable that there will, unfortunately, be future events which will present their own unique circumstances. I am surprised to find that RCMP National Policy does not specify how a scene is to be secured or maintained. It anticipates the need for continuity (“once a warrant is executed, continuity of police presence must be maintained throughout the search until the expiration of the warrant”) but does not go beyond this requirement to discuss how this might properly be accomplished. It may be that the establishment of scene security arises from training and experience and is therefore obvious to experienced commanders. If that is the case, these comments may be unnecessary. The establishment of effective scene security is not so obvious to me. At the least, multiple options will always be present. I would expect strategic planners might well have addressed this, all in aid of the member in the field who is dealing with many variables and may have limited experience in some important areas. As examples, a guideline might address: is the individual a known criminal, violent, known to use firearms? What is the environment, urban, rural, flat, fenced or open? How many members, in various circumstances, should be deployed and what armaments might they require? What vehicles, armour, trucks or cars might they require? What are their shifts to be, when do their responsibilities end and how are these handed off to others? What are their communications, with whom and for what purposes, to be?

There will be a host of related issues I am not qualified to suggest or assess. A professionally

developed guideline would make suggestions as to how these variables, and doubtless many others, might be addressed in specific circumstances.

This might consist merely of a checklist. At the least, this would give comfort to a commander leaving a scene that not only has he done everything he could think of, but as well, everything his superiors could think of. I appreciate that field commanders must always be entitled to think and act creatively and flexibly. Field operations do not lend themselves to dogma. That said, in the pressure of the moment it is easy to miss something important. In some environments and particularly in policing, mistakes can be fatal. I comment, as but one example, that preflight checklists are universally used in aviation.

I therefore recommend that:

The RCMP consider the establishment of National Policy guidelines for the securing of potential crime scenes.

3. Equipment

There is no dispute that on the morning of March 3, 2005, the RCMP was heavily outgunned by James Roszko. That this ultimately did not matter was directly attributable to the heroic actions of Cst. Vigor and good fortune. A long range gun battle with Roszko may well have resulted in even more death or injury. The one rifle on scene was compromised by being inside Cst. Johnston's vehicle, too close to the apparent danger to be accessed. Fortunately, that battle did not occur so the following comments are essentially prospective.

RCMP members should be appropriately armed. The evidence at this Inquiry was that the RCMP no longer offers long gun training to its recruits. This reflects the RCMP's assessment that rifles are not widely used, present a high risk of collateral damage and require individual adjustment. As well, proficiency in their use is a highly perishable skill. As a result of these and related issues, the potential for the implementation of an Active Shooter Response Program was recommended by an RCMP report and is being examined. This recommendation is designed to improve timely access to heavier, long barreled weapons, primarily for ERT, but is also addressing the availability of patrol carbines for use by general duty members. This would increase response capabilities above the current shotgun and pistol deployment. In the case of the Mayerthorpe incident, this would have given Cst. Vigor immediate access to a competitive weapon. It would also increase the defense capabilities of general duty first responders. Senior Deputy Commissioner Knecht testified that the rollover from shotguns to patrol carbines is underway and I can only suggest that this initiative be accorded high priority. I am not qualified to comment on these changes, but I am satisfied that Commissioner Knecht is and that he believes they are in the best interest of all members. I need not say more as I am satisfied that the RCMP continues to assess and enhance its ability to meet threats which are themselves constantly evolving. I have also been told that funds have been made available to detachments for armaments, binoculars, night vision goggles and any other items considered necessary, all in the discretion of the local commander. As such, I need not make further specific recommendations on these issues.

The RCMP reports also recommend that all members shall wear side arms when on duty unless they are employed in full-time clerical or identification duties. I do not see it as necessary to comment further in regards to this. The recommendation arises from the fact that Cst. Schiemann and Sgt. Pinder both attended Roszko's property in plainclothes and unarmed. It is not a criticism of either individual (Cst. Schiemann had permission and Sgt. Pinder was on holidays), but simply reflects prudent practice which I endorse.

4. Emergency Callouts

The callout process for ERT has been reviewed and revised notwithstanding that I do not find that the response, here, was anything but timely and appropriate. Subsequent study by the RCMP revealed areas for improvement and these changes reflect that effort. The current system, as between command and individual members, increasingly relies on new technology, for example Blackberry communications, rather than the old pager system. In addition, ERT callout methods have been reviewed to make them more consonant with emergency applications. Again, I am satisfied that the RCMP has a full appreciation of its needs in this area.

In addition to these recommendations, the final RCMP Incident Management Review made additional recommendations.

5. Risk Assessment

That a standardized risk assessment system for high-risk, pre-planned operations be developed. This is an appropriate recommendation and adds to our earlier recommendation for threat assessment planning. I comment that some resistance to this specific suggestion has surfaced within the RCMP. Senior field personnel prefer to deal directly with a member who is requesting, for example, ERT assistance, rather than proceeding in accord with a pre-existing matrix. I agree with this view. The RCMP should resist excessive bureaucratization. Field operations require, as I have earlier stated, flexibility and freedom of action and I encourage future planners to remain cognizant of this fundamental fact.

6. Emergency Medical Response

That an Emergency Medical Response Team program be developed to support high-risk operations. This has been started in Edmonton by the addition to ERT of one trained paramedic. All ER Teams should have at least one member with these capabilities.

7. Unintentional Discharges of Weapons

That a national policy directive be developed on unintentional discharges of firearms by ERT members. An unintentional discharge of a rifle carried by an ERT member occurred at Mayerthorpe. I have not commented on it as, fortunately, it turned out to be a benign incident, notwithstanding that it caused significant consternation at the time it occurred. The rifle was inadvertently discharged into the air without injury to the member or others. It is however, a subject for serious consideration as any such discharge, apart from its obvious direct dangerousness could, in the emergent circumstances of ERT deployments, create a cascade of misunderstanding, miscommunication and potentially, great harm. I am satisfied that the RCMP views these incidents seriously and is addressing them. That said, I recognize that ERT operations are inherently dangerous and that such occurrences may never be totally avoided.

8. Body Armour

I will briefly discuss the matter of body armour. I do not make a recommendation but strongly endorse and encourage continuing research, development and deployment of effective body protection systems. Human Resources and Skills Development Canada, following its own

investigation, issued an order to the RCMP February 5, 2007. It was to the effect that RCMP general duty members at Mayerthorpe detachment were to be provided with enhancements to current body armour to minimize risk from long gun threats. This has been done. It is worthwhile noting however, that the evidence concerning such enhancements, essentially ceramic, drop-in plates, is that few general duty members will regularly utilize them. They are effective against long guns, but are hot, heavy and generally uncomfortable to wear for any extended period. They are impractical to wear if an officer is sitting for a protracted time, such as when travelling in a vehicle. They offer relatively limited, core body protection and it is believed that sophisticated criminals may simply “shoot around” them. Nonetheless, they do offer more protection than soft body armour. They are seen to be of principal value to ERT members who will utilize them for relatively short periods and in the face of immediate threats which will render academic any concern for comfort. We know it to be a tragic fact that the soft body armour worn by three of the officers here did not protect them. Unfortunately, this would have been anticipated because the soft armour is known not to be effective against a rifle. Regrettably, the practical and ultimately personal choices of general duty members fall between soft armour at one end of the spectrum and hard armour at the other. The RCMP, in common with many other law enforcement and military organizations, is keenly interested in the continuing development of effective body armour to bridge this gap and needs no prompting from this Inquiry to continue that pursuit.

Finally, we had valuable input from the parties on the matter of recommendations, some of which have been addressed in the foregoing discussion. I wish however to briefly address three others.

9. Information Sharing

Reverend Schiemann asked whether there is a mechanism which triggers a threat assessment beyond local police initiative. He clarified his question in the following words:

“For example, if a psychological assessment at a prison facility raises significant concerns, is there a trigger mechanism which initiates a threat assessment, and is that passed on to the police? Likewise, does the behavioral sciences unit of the RCMP pass on its findings to other agencies? Also, does this threat assessment process have free access to information proportionate to the threat indicated? In other words, if the threat is significant, do privacy laws become secondary concerns when measured against public safety? An example would be when police provide information to a community that a convicted sex offender who presents a likelihood to re-offend, is released into the community. The issue, of course, is public safety.”

I comment that, as this query implies, if communication is to be meaningful it must proceed in both directions. As an example, it appears that the numerous complaints made by Roszko against the RCMP may never have gone beyond RCMP records.

It is beyond the mandate, and resources, of this Inquiry to attempt to answer these questions. It should not however, be beyond the mandate or the resources of the federal and provincial governments to do so.

I therefore recommend that:

The Federal and Alberta Departments of Justice examine whether a formal system of threat assessment information sharing, similar to that in respect of convicted sex offenders, between justice departments, correctional services and police services, exists and if it does not, whether it might practically be established.

The submissions of the families also touched on systemic issues. As I assess these submissions, the rehabilitation efforts of correctional services, statutory release, parole, and sentencing regimes, it is apparent to me that they are matters which fall into the realm of federal and provincial policy. The mandate of this Inquiry does not extend to discussion and recommendations on such policy issues. I trust however, that this tragic event will provide the catalyst to encourage such discussions amongst the responsible parties.

Finally, I will not discuss the principles of sentencing. Part XXIII, from s. 718 on, of the *Criminal Code* addresses in detail the obligations of the courts in this area. The principles set forth there have been exhaustively canvassed in numerous judicial decisions over many years. These decisions, and much learned commentary on the subject, are available to the public and I need not summarize them for the purposes of this report.

I close this Inquiry by observing that while policing will always be a dangerous business, continued good training, equipment and intelligence, supplemented by the assistance of a co-operative and supportive public, and mutual goodwill, should significantly minimize its risks. I encourage the RCMP, other police services and the public in these pursuits in the hope that we may avoid tragic and senseless events as this which occurred at Mayerthorpe, Alberta, March 3, 2005.

I thank Counsel and the Parties for their valuable assistance and co-operation in the preparation and conduct of this Inquiry.

DATED March 3, 2011 ,

at Stony Plain , Alberta.

“D. R. Pahl”

Assistant Chief Judge Daniel R. Pahl
A Judge of the Provincial Court of Alberta



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