REPORT TO THE ATTORNEY GENERAL
PUBLIC INQUIRY
THE FATALITY INQUIRIES ACT

CANADA
PROVINCE OF ALBERTA

WHEREAS a Public Inquiry was held at the Provincial Court House, in the City of Red Deer on the 15st day of November, 1999 before The Honourable D. J. Plosz, a Provincial Court Judge.

A jury was not summoned and an Inquiry was held into the death of

Red Deer, Alberta and the following findings were made:

Date and Time of Death: January 28, 1998 at 8:20 a.m.

Place: Red Deer Regional Hospital, Red Deer, Alberta

Medical Cause of Death: Subdural hematoma due to head injuries

MANNER OF DEATH

The evidence that Dr. Lloyd Denmark, Deputy Chief Medical Examiner for Alberta, who performed the autopsy, concluded that died as a result of head injuries inflicted in a manner that was consistent with blows to the face which led to the head rocking back and forth, or alternatively, being knocked about the face such that the deceased was then propelled into hard, heavy or immoveable objects such as furniture, walls, etc. This caused a subdural hematoma, which is a blood clot between the skull and the brain. The hematoma, coupled with the trauma, caused the brain to swell and it compressed down on the brain stem which then shut down the child's breathing system resulting in death by suffocation. Numerous other non-fatal injuries were noted, such as rib fractures with resultant

hemorrhaging in the surrounding tissues which Dr. Denmark considered as a contributory factor in the death. There were also multiple bruises over the face, trunk and limbs, possibly of different ages. There were also bite marks on the right chest and the right leg, consistent with adult human bite marks. Dr. Denmark concluded that the overall pattern of injury here points to a violent, prolonged assault on the deceased which resulted in his death.

CIRCUMSTANCES UNDER WHICH DEATH OCCURRED

was the mother of She has never been married. From December 1995 to March 1996, she allowed her sister, to look after because she was going through some hard times which included admitting herself to the psychiatric unit at the Red Deer Hospital. When she left hospital, she took back into her care and moved to Lloydminster, where her parents resided. She and lived with them.

On June 23, 1996, her twenty-first birthday, she met at a bar. She was pregnant at the time. She had another son named who was living with his father in Saskatchewan. was not the father of any of her children.

They became friends, started dating, and shortly after decided to live together and move to Edmonton. This all occurred during the summer of 1996. When she moved to Edmonton with took with her.

had a turbulent family history and had problems with drugs and alcohol all his life. When he drank, he could become violent. He had a criminal record, including offences of violence and property offences.

first noticed bruising and injuries on in October of 1996. She said told her he had hurt himself. On October 29, 1996, took to the Boyle MacCauley Health Clinic in Edmonton where was examined by Dr. Mihiri Wanigaratne. Upon examination, the doctor's diagnosis was that suffered from concussion and multiple bruising. Bruises were noticed on the back of his head, left forearm, right neck, lower abdomen, and right groin. The doctor had been given an explanation that had hit his forehead on the edge of the bathtub and then fell backwards, hitting the back of his head on the toilet seat, However, told the doctor that was being brought in to see her because he had flu symptoms. Dr. Wanigaratne was sceptical about the explanation she had been given as to the origin of the injuries. She therefore asked Ms Lois Jack, a nurse practitioner at the Boyle MacCauley Health Centre, to do a home visit to assess the situation. Ms Jack spoke with present, and asked her if had been abused by anyone. replied that she did not think so. She suggested to to take to the Royal Alexandria Pediatric Centre if his condition worsened.

On November 2, Ms Jack made a second visit to residence and concluded that there was something not quite right with She was now concerned about abdomen and head injury which suggested to her possible child abuse. She therefore contacted Dr. Baxter, a pediatrician at Royal Alexandria Hospital in Edmonton and made an appointment for her to see on November 7. agreed to this. Ms Jack picked up and took them to Dr. Baxter's office. On November 7, Jack noticed new bruising on face and lower cheek together with some scratch marks, all of which were not there when she last saw him on November 2. then admitted to Jack that had struck in the face resulting in the fresh marks she had observed on November 7. She also stated that she was afraid to leave alone with because he gets angry at him. She also acknowledged she is worried for safety but refused to go to a Women's Shelter or to leave

Dr. Baxter's examination of determined that he had suffered past non-accidental trauma, or child abuse. Examination revealed a large cyst on his pancreas, believed to be caused by trauma. He was therefore taken to University Hospital and was operated on to deal with the pancreatic cyst. In the meantime, the Edmonton City Police were notified and an investigation was conducted resulting in being charged with assault causing bodily harm on He was released November 17 on a Recognizance, with one of the terms being that he had no contact in any manner with was discharged from hospital on November 26 and was apprehended by Child Welfare. agreed to have her sister take out a Private Guardianship Order for and have him live with her. This was done with the consent of the Child Welfare worker. preferred that to having placed in a foster home, as that was the last thing that she wanted to have happen. then went to live with his Aunt in Lloydminster under the Private Guardianship Order.

Initially, lied to the medical personnel and social workers in Edmonton about the cause of the injuries to had also misled her sister about this.

moved to Sylvan Lake and on December 14, 1996 gave birth to a baby girl at the Red Deer Regional Hospital. The Child Welfare Office in Red Deer had been notified by the Edmonton Child Welfare Crisis Line and was told that there was an apprehension alert regarding this newborn infant. Jo-Lynn Hodgson, the Red Deer Child Welfare worker assigned to this case, was also made aware that had been apprehended by the Department due to physical abuse by and was under a Private Guardianship Order with his Aunt in Lloydminster. new baby, named was apprehended by Child Welfare authorities in Red Deer on December 14, 1996. A Temporary Guardianship Order was obtained for the baby with the consent of the mother and the baby was placed in foster care in January 1997.
were not living together at this time due to the "no contact" provision in Recognizance.

The Red Deer Child Welfare Office had been provided information of all that had gone on in Edmonton between
The Red Deer office was therefore aware that was facing the charge of assault causing bodily harm against and that he was not to have any contact either with or his mother. Detective Lorne Pubantz of the Edmonton City Police had also provided Ms Hodgson with all the information he had gathered during the course of his investigation regarding this assault and also told her that in his opinion, had more loyalty toward than to her son, and that put her ability to protect him in doubt. He also told her that he felt had a violent, uncontrollable temper and that he was capable of causing injury to children. All this information was conveyed to Hodgson in March of 1997.

On March 6, 1997, the "no contact" provision in Recognizance was amended such that he could once again have contact with . He was now only to have no contact with Once the Private Guardianship Order for was obtained by on December 3, 1996, the Department of Child Welfare closed its file on as it was felt no further protection concerns existed regarding him. From that date up to the date of death on January 28, 1998, the Child Welfare Department did not obtain or apply for any further orders of any sort in relation to

Once had been allowed to once again have contact with he moved in with her, first at Sylvan Lake, and then the two of them moved to Red Deer. was employed from time to time in the oil patch, working on the rigs. Throughout the first half of 1997, the Department of Child Welfare in Red Deer as well as Heritage Family Services, which is a private agency contracted by Child Welfare to provide home support services, were working with They were treated as a family unit with the plan that the baby be eventually returned to them. Heritage Family Services dealt with issues such as protection of children, choice of male partners, and parenting skills. They offered no formal counselling in relation to anger management for Throughout this time, Ms Hodgson was cautious and concerned that had returned to the relationship, given everything she knew about what had happened in Edmonton. wished to get back and she made an application to Family Court in Red Deer to set aside the Private Guardianship Order in order to regain custody of Her sister was agreeable to this provided had a proper place to live and that was going to be properly cared for and protected from further abuse. The hearing date for this application was set for July 18. could not come to Red Deer for this application and therefore wrote a letter to Child Welfare in Red Deer indicating she would consent to living with his mother provided she and would be monitored by Child Welfare and that they take proper counselling. Neither she nor wanted to go into foster care. assumed that was attending anger management classes. The application on July 18 was adjourned without a date, thus leaving the Private Guardianship Order intact, meaning that was still the guardian of However, no one told her about the result of the July 18 court proceeding

and she therefore was unaware that she remained guardian. The Red Deer Child Welfare office, while somewhat supportive of application of July 18, did not feel it was any of their responsibility to notify of the result of the hearing. Neither did contact anybody to find out what had happened at the hearing.

Ms Hodgson felt that with the department's intervention, they were seeing progress in what were doing as a family unit.

On July 25, 1997, and Connie Ford, a home worker with the Heritage Family Services, drove to Lloydminster and picked up and brought him back to live with his mother in Red Deer. Ms Hodgson wrote a letter dated August 13, which was also signed by her supervisor, Judy Lynch, to crown, defence, probation, and that the department did not believe there were any major concerns or risks to safety, security or development from as it was their opinion that he had made genuine progress on anger management skills. The Child Welfare Department was also requesting a Supervision Order in Family Court to substitute for the Temporary Guardianship Order regarding the baby as the plan was to return the baby to This letter of August 13 would be used as support to remove the "no contact" provision against in relation to The "no contact" term was then rescinded.

On September 8, 1997, pled guilty to the included offence of assault on and received a two year suspended sentence and probation. One of the terms of the Probation Order was that he participate in counselling or treatment programs as directed by his Probation Officer, including psychiatric counselling, life skills and anger management counselling, marriage counselling, and drug and alcohol abuse counselling. Probation Order was transferred to Red Deer Probation office in September. His first appointment was scheduled for September 15, but that morning, phoned Probation Officer Sean Hartle and said he could not attend as he was at work in the oil patch. He finally reported for the first time to Mr. Hartle on September 19. He was required to report twice a month. His reporting habits to the Probation Officer from September of 1997 to the date of death in January of 1998 were abysmal . He missed numerous appointments, was sent warning letters by the Probation Officer, and was constantly phoning on his behalf, giving reasons or excuses why he could not attend and rearranging appointments.

Mr. Hartle described as very manipulative and noncompliant. He was also of the opinion that did not seem to care about any of the terms of his Probation Order and was unconcerned as to whether or not he would be breached for any violation. Hartle agreed with the assessment of others who dealt with that he was a "con man." That was also own description of himself. was told to attend counselling at the Red Deer Regional Hospital with a person named Wayne Barry for anger management. He was also to provide his Probation Officer with proof of registration. He did so. However, he did not attend any of the anger management sessions and lied to his Probation Officer when asked if he had been attending. His Probation Officer did not check

with the counsellor to see if he had been attending, but only with who lied as well, indicating that he was attending when in fact he was not. As a result, there was a widespread assumption by the Probation Officer as well as the Child Welfare workers and home care workers that was attending the anger management program when in reality he was not. It was only after death that Mr. Hartle contacted Mr. Berry, and it was only after death, and perhaps not until the Fatality Inquiry, that acknowledged he never attended any of the sessions, and that he had conned others into believing he had.

On September 10, 1997, not long after the baby had been returned to under a Supervision Order, she and after drinking, got into a fight and she ended up with stitches and a black eye. However, she lied to the Child Welfare worker as to how she got the black eye. On November 7, phoned the Child Abuse hotline and asked Child Welfare to come and take the baby because the baby was crying all the time and with being the way he was, she couldn't handle it. The child was therefore apprehended by Child Welfare. Throughout this time, Ms Hodgson and Heritage Family Services, were making numerous regular visits to home, a number of which were unannounced. Both Hodgson and the psychologist at Heritage Family Services, Dr. Neufeld, felt that they had been lied to by into believing that positive progress was being made in their family relationship, when in fact it was not. During this time, Ms Hodgson felt overwhelmed by the volume of work she had to do, and she found this particular caseload to be very labour intensive.

On December 5, 1997, a Temporary Guardianship Order was obtained with respect to the baby. Ms Hodgson was concerned in December about the family situation as the relationship between was obviously strained and they were also incurring financial hardship. Hodgson was concerned about things that were occurring in the home and was aware that she needed to establish some evidence to provide a proper basis to apply for an Apprehension Order. She was becoming increasingly concerned that there might be physical abuse occurring that were refusing to talk about, even when directly questioned about it. The decision was made to continue monitoring them as a family unit. There was also talk by that they may be separating after Christmas.

On January 16, 1998, Hodgson got a phone call from Irene Wilkinson who was a worker with Heritage Family Services saying that upon her visit to home that morning, Wilkinson noted bruising on face and a cut on his lip. She stated that told her that had fallen down the stairs the day before. Hodgson went to the house the following Monday, January 19, and noted the same injuries on When she questioned regarding the injuries, she was again given the story of having fallen down the stairs accidentally. She was very suspicious about all of this and came to the conclusion with her supervisor that they would continue monitoring the family situation. She felt that she did not have enough evidence to apply for an Apprehension Order. On January 28, she was contacted and advised that was dead.

On January 27, left the house for about an hour to pawn some videotapes, as they were short of money. She left alone with in their residence. When she returned approximately an hour later, was lying on the chesterfield covered with a blanket and did not appear to be himself. He appeared ill. told that after had his bath, he simply went to lie down. continued to be unwell for the rest of that day and the evening. gave a bath that night but said she never noticed any injuries on him once he was unclothed, and the first she was aware of any injuries, including bite marks on his body, was when she read the autopsy report. By the time she attempted to give him his bath, she knew had done something to but did not call the police or Child Welfare because she stated that she felt afraid for herself and She slept beside that night in bed and when she awoke in the morning, he was not breathing. She attempted CPR, had call 911, and was taken to the Red Deer Hospital by ambulance, arriving there at 7:55 a.m. Attempts were made to resuscitate him, but were unsuccessful. He was pronounced dead at 8:20 a.m. Both doctors that attempted to resuscitate him noted a number of bruises on his leg, face, and body, together with two bite marks, one on his chest and one on his thigh.

was charged with the second degree murder of He pled guilty to manslaughter and was ultimately given a sentence of seven years imprisonment, which he was still serving at Bowden Institution when he testified at the Fatality Inquiry. He acknowledged assaulting by grabbing him and pulling him off the bed causing to strike his head. He testified that then fell down the stairs, which attributed to dizziness from the previous blow to the head. The fall, testified, probably caused more injuries and on the basis of all of that, he said he accepted the responsibility of having caused the death of Dr. Lloyd Denmark, the Deputy Chief Medical Examiner who conducted the autopsy on is of the firm opinion that it was a more violent, prolonged assault on the child than was described by and that the bite marks on body were caused by a person who was out of control. never acknowledged biting

acknowledged that he lied to Social Workers and his Probation Officer throughout the time that he dealt with them both in Edmonton and Red Deer, and that Child Welfare workers were not given all the information about what was going on between he, He acknowledges that he has been lying all his life and that he is a good con man, and that had he been more honest with everyone, might still be alive today. He, however, attributes his failings to his own personal upbringing and his addiction to drugs and alcohol throughout this whole period of time.

also did not tell the Child Welfare workers and medical personnel, both in Edmonton and Red Deer, the truth as to what was happening between herself and and between This hiding of the truth by both of them continued from the time that the Edmonton Child Welfare workers first got involved in October of 1996, through to the date of death.

RECOMMENDATIONS FOR THE PREVENTION OF SIMILAR DEATHS

Following the death of the Department of Family and Social Services established a special case review team to examine specific areas of the department's involvement with her children, especially and the man with whom she lived with at the time in question, Ten recommendations were made, none of which were rejected, and all of them have either been acted upon or are in the process of being acted upon. Given that many of the recommendations implemented would have been the same or similar to ones this Inquiry would make upon hearing the evidence at this Fatality Inquiry, there is no need to repeat them, other than to recommend that the changes yet to be implemented should be done so as soon as possible, and sufficient resources should be provided to ensure their effectiveness.

It is further recommended that:

1. People who are placed on probation as part of their sentence resulting from a criminal conviction and who are ordered by the Court to take whatever counseling or treatment the Court or Probation Officer directs should provide proof to their Probation Officer, not only that they have registered for it, but that they are regularly attending the counseling or treatment sessions, and that they have successfully completed it.

2. The Probation Officer should advise the person or agency providing the treatment or counseling that the probationer is being sent to them as a result of a term in his/her Probation Order and that the agency is to provide the Probation Officer with whatever information the Probation Officer requests concerning attendance, participation, and success, or lack thereof, in completing the required treatment or counseling. The question of privacy should be of secondary consideration, since the order to take such counseling is part of the sentence imposed by the Court. This would better ensure that the Probation Officer has independent information and evidence as to whether or not the probationer is complying with that term in his Probation Order. If he is not, then the Probation Officer is better able to proceed with a breach of probation charge at an early date.

3. Probation Officers do more independent checking of their probationers in this regard, rather than simply speaking, as was done in this case, with the person with whom the probationer was living, and who ultimately was part of the problem, and not the solution. Probation Officers should determine the type of counseling given by Child Welfare services or any contracted agencies to a probationer in cases where Child Welfare is involved with that probationer.

4. The forensic pathologists in the Medical Examiner's office be utilized to determine whether injuries on a live child are as a result of child abuse. They have the forensic training to make such determination on live children as well as those who have died. A witness in this fatality inquiry, Dr. Lloyd Denmark, who is the Deputy Chief Medical

Examiner for Alberta, is very interested in having the office of the Chief Medical Examiner utilized as a consulting service to the police, physicians, Child Welfare workers and prosecutors, to assist in educating the various parties in signs of child abuse, and also assisting any or all of them in examining and assessing evidence of suspected child abuse before a fatality occurs.

5. Where Child Welfare workers suspect possible child abuse within a family but have been unable to obtain sufficient grounds to make an Apprehension Order under the Child Welfare Act, they should make more unannounced home visits in order to better assess what is happening to a child in the home.

6. While the department has implemented the recommendation that Child Welfare workers receive the child protection service training program for purposes of identification of child abuse, this training should be received by all workers who are in involved with a family unit where child abuse is a concern, or is suspected. This would also include contracted outside agencies such as workers with Heritage Family Services. Where cases of child abuse are suspected in a family unit, all workers, be they Child Welfare workers, home support workers, or workers of any other type involved with the family unit should have had training with respect to child protection and identification of child abuse.

DATED this 27TH day of MARCH, 2000.

A Judge of the Provincial Court of Alberta