



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

Fatality Inquiries Act

WHEREAS a Public Inquiry was held at the _____ Courthouse
in the _____ Town _____ of _____ Fort Macleod _____, in the Province of Alberta,
(City, Town or Village) (Name of City, Town, Village)
on the _____ 19th – 22nd _____ days of _____ October _____, _____ 2009 _____, (and by adjournment)
year
on the _____ 19th – 21st _____ days of _____ April _____, _____ 2010 _____, (and by adjournment)
year
on the _____ 10th _____ day of _____ June _____, _____ 2010 _____, (and by adjournment)
year
on the _____ 30th _____ day of _____ July _____, _____ 2010 _____,
year
before _____ The Honourable D.G. Redman _____, a Provincial Court Judge,
into the death of _____ DARREN JOHN VARLEY _____ 26 _____
(Name in Full) (Age)
of _____ Pincher Creek, Alberta _____ and the following findings were made:
(Residence)

Date and Time of Death: _____ October 3rd, 1999 at 12:30 p.m. _____

Place: _____ Foothills Medical Centre (Hospital), Calgary, 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)).

The cause of death was a gunshot wound to the head.

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)).

Constable Michael Ferguson was convicted of manslaughter for the death of Darren John Varley, and as such, the manner of death within the meaning of s.1(h) of *The Fatality Inquiries Act* is homicidal.

Circumstances under which Death occurred:

See Attached

Recommendations for the prevention of similar deaths:

See Attached

DATED March 25, 2011,

at Lethbridge, Alberta.

A Judge of the Provincial Court of Alberta

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PART 1

Circumstances Under Which Death Occurred

A. Introduction

On October 2nd, 1999, Darren Varley was taken into custody by R.C.M.P. Constable Mike Ferguson, and while being placed into an R.C.M.P. holding cell, he sustained two gunshot wounds. He was taken to hospital, and pronounced dead on October 3rd, 1999.

B. Inquiry Process

1. Establishment of Inquiry

Pursuant to s.35(1) of the *Fatality Inquiries Act*, the Attorney General in and for the Province of Alberta ordered that a Public Fatality Inquiry into the death of Mr. Varley be conducted by a Provincial Court Judge. I was designated to conduct this Inquiry and to make recommendations (if any), for the prevention of similar deaths. Pursuant to s.49(1) of the *Fatality Inquiries Act*, the Minister of Justice appointed counsel, Neil R. Boyle and G. Epp, to appear on his behalf at the Inquiry. Counsel's role included arranging for hearing dates, gathering documentation and materials, coordinating the attendance and scheduling of witnesses, examining witnesses, and presenting argument and submissions.

2. Overriding Purpose of Fatality Inquiry

In *R.v.Faber*, [1976] 2 S.C.R. 9, the Supreme Court of Canada stated that the overall purpose of a fatality inquiry is: "to assist and reassure the public by exposing the circumstances of a death. An inquiry dulls speculation, makes us aware of the circumstances which put human life at risk and reassures all of us that public authorities are taking appropriate measures to protect human life. The Inquiry also has an important role in ensuring that the justice system operates properly because it will investigate and review the work of the medical examiner and scrutinize a role that other parts of the justice system may have played".

It is important to remember that this Inquiry is neither a criminal nor civil trial designed to determine legal liability. Indeed, s.53(3) of the Act precludes me from making a finding of legal responsibility or coming to any conclusion of law. My role is to oversee a process where all relevant facts regarding the death of Mr. Varley are examined, and, where advisable, to make recommendations to prevent the occurrence of similar tragedies.

3. Parties with Standing

Section 49(2) of the *Fatality Inquiries Act* gives status to the "next of kin" of the deceased to appear at the Inquiry, and to cross-examine witnesses and present arguments and submissions. In addition, the judge may permit any other person who has a direct and substantial interest in the subject matter to have similar status.

As a result, members of the Varley family, and the R.C.M.P., as represented by Mr. D.J. Stam, counsel, were given status and invited to attend and participate in the Inquiry.

4. The Hearings

Evidence was heard on October 19th, 20th, 21st, and 22nd, 2009, April 19th, 20th, and 21st, 2010, and June 10th, 2010. All interested parties were then invited to make submissions, which were received on July 30th, 2010. The Inquiry was then adjourned for the preparation of this report. All hearing dates and the receipt of submissions were open to the public.

5. Witnesses and Exhibits

Over the course of the hearing, the Inquiry heard testimony from 27 witnesses and received 25 exhibits. The exhibits included the entire transcript of evidence received at the third criminal trial of Constable Ferguson which trial resulted in a conviction for manslaughter, as well as numerous videotaped, handwritten and typed statements of various witnesses. The list of the witnesses is attached as Appendix A and the exhibits are listed and summarized in Appendix B. By way of brief overview, the Inquiry received evidence from individuals who were with Mr. Varley prior to his death, who were present when he was arrested and from the cell guard and other prisoners who were present at the Pincher Creek R.C.M.P. detachment. The Inquiry also heard from R.C.M.P. members who worked with Constable Ferguson, who supervised him and who were involved in investigations relative to his conduct. The Inquiry also heard from police officers who investigated the shooting, R.C.M.P. members who were involved in training and in policies and from Thomas J. Aveni, an independent expert who submitted a report to the Inquiry entitled; “An Objective Analysis of R.C.M.P. Policies and Procedures Salient to the In Custody Death of Darren Varley” and who testified in person with respect to it.

Constable Ferguson was subpoenaed to attend the Inquiry. Correspondence received from his attending medical practitioner expressed the opinion that Constable Ferguson was not able to attend due to his ongoing medical condition. Constable Ferguson was then excused from attending in October of 2009 and in April of 2010, but additional information was sought with respect to this opinion. As a result, Dr. John Alexander Carmichael, Constable Ferguson’s treating psychologist since 2001, testified by closed circuit television. He was of the opinion that Constable Ferguson continued to suffer from post-traumatic stress disorder and a major depressive disorder, and that Constable Ferguson was not capable of participating in the Inquiry in any way at that time or in the near future. He further testified that to compel Constable Ferguson to testify or participate would seriously jeopardize his health, and that his memory would not be reliable in any event. As a result of Dr. Carmichael’s opinion, and noting that the Inquiry had received in evidence all Constable Ferguson’s previous statements to the investigating authorities and the transcript of his evidence from his third criminal trial, his attendance was excused.

Piet Schiebout was the guard on duty at the R.C.M.P. station when Darren Varley was shot. He was also excused from testifying due to medical reasons. The Inquiry received his testimony from the third criminal trial and his video re-enactment of events.

C. Fact Findings

Pincher Creek is a town of about 3,700 residents and is located in the southwestern corner of Alberta. On Saturday, October 2nd, 1999, Darren Varley, a 26 year old resident of Pincher Creek, was at Leo’s Pub socializing with a number of friends, including Rod Tuckey and his fiancée Chantelle Bachand. Shortly after arriving at Leo’s Pub, Mr. Varley and Ms. Bachand had an argument.

Mr. Varley and Mr. Tuckey left the bar at approximately 3:00 a.m. and met two other individuals in the parking lot. Mr. Varley suspected that his fiancée was in their van and an argument and altercation ensued. During the course of the altercation, Mr. Tuckey received serious injuries to his head. The other individuals left in their van and Mr. Varley was convinced that his fiancée had been taken against her will.

Mr. Varley and Mr. Tuckey left the parking lot and proceeded on foot down main street. Although witness accounts vary as to their level of intoxication, both were significantly under the influence of alcohol.

At this time, Sarah Weatherill and Patricia Edwards (formerly Bitango), who were acquaintances of Mr. Varley and Mr. Tuckey, were driving down main street. They had just returned to Pincher Creek from the Bellevue Inn in Bellevue, Alberta where they had been socializing. They observed Mr. Varley and Mr. Tuckey, and noted Mr. Tuckey's injuries. Ms. Weatherill and Ms. Edwards stopped and offered to take Mr. Varley and Mr. Tuckey to the hospital. While Mr. Varley declined, Mr. Tuckey agreed, and Ms. Weatherill and Ms. Edwards then took him to the Pincher Creek hospital.

Mr. Varley continued walking home. He was met on the street by Alayna Assman, (formerly Dyck) an employee at Leo's Pub, who had been working that evening. On their walk home, they discussed the argument between Mr. Varley and his fiancée. There was no mention of any abduction. Ms. Assman left Mr. Varley at the open door to his residence and then proceeded to where she intended to stay.

By this time, it was approximately 3:17 a.m. Mr. Varley told his roommate, Jonathan Weatherill, that there had been a hit and run, that his fiancée may have been taken away in a van, and that he was going to go find her.

Mr. Varley then walked to Anthony Radvak's residence, located a few blocks from downtown. Danielle Bachand, Chandelle Bachand's sister, also lived there, and permitted Ms. Bachand to occasionally stay there when she was in Pincher Creek. Mr. Varley advised Mr. Radvak and Ms. Bachand that Mr. Tuckey had been run over by a van, and that he was looking for his fiancée, whom he believed was in the van. Mr. Varley then left. Mr. Radvak and Ms. Bachand got into their vehicle and drove around Pincher Creek for about an hour looking for Ms. Bachand. Ultimately they drove to the Pincher Creek hospital to check on Mr. Tuckey.

Meanwhile, Mr. Varley continued on to the home of Alaine Taylor, his sister. She had also been at Leo's Pub, but was home when Mr. Varley arrived. He told her he was looking for his fiancée and that she had been driven away in a van, and that Mr. Tuckey had been in a fight and was run over by the same van. Ms. Taylor drove her brother to a friend's residence to see if Ms. Bachand was there. She was not. Ms. Taylor then suggested that they drive to the hospital and see how Mr. Tuckey was doing. She observed that her brother was very upset and concerned for his fiancée's safety.

Earl Langille was a security guard at the Pincher Creek hospital. He saw Mr. Tuckey enter the hospital with Ms. Edwards and Ms. Weatherill, the women who had offered him and Mr. Varley a ride as they walked down main street.

When Mr. Varley and Ms. Taylor arrived at the hospital, Mr. Varley told Mr. Langille that his fiancée had been kidnapped. With Mr. Varley's consent, Mr. Langille then initiated a call to R.C.M.P. Red Deer telecom at 3:37 a.m. He reported a hit and run and a missing person.

Veronica Roberts, O.C.C. operator at Red Deer, Alberta, received the call from Mr. Langille. She asked to speak to Mr. Varley, who immediately stated "Get that van, and pull it over, and arrest those people". Mr. Varley then told Ms. Roberts the van was blue and had left Pincher Creek with his fiancée, running over Mr. Tuckey while doing so.

During her conversation with Mr. Varley, Ms. Roberts contacted the Pincher Creek R.C.M.P. detachment. She spoke with the only member on duty at the time, Constable Mike Ferguson, and began to supply him with information.

Ms. Roberts made a second call to Constable Ferguson before he left the detachment. She advised that Mr. Varley was intoxicated and that he was "certainly worked up". She also told him that she had received information from the police information retrieved system indicating that Mr. Varley had been involved in a fatal MVA in 1996 where a friend of his had died, and suggested that Mr. Varley could be "psyched out".

When Constable Ferguson arrived at the hospital, he parked his police cruiser and entered through the main doors into the lobby. Mr. Varley, Ms. Taylor, Ms. Weatherill, Ms. Edwards, and Mr. Langille were in the lobby.

A number of witnesses observed the interaction between Constable Ferguson and Mr. Varley. They all agree that Mr. Varley was upset about his missing fiancée, and that he was agitated and assertive in his dealings with Constable Ferguson. He kept demanding that the van be located and that Constable Ferguson act immediately.

In Constable Ferguson's re-enactment of events, he suggested he maintained a calm demeanour and was patient with Mr. Varley, but that Mr. Varley was intoxicated and confrontational. Constable Ferguson stated it was Mr. Varley who took the first swing at him, and that he simply defended himself. He said he had to strike Mr. Varley several times to gain his compliance. In the course of the struggle, Mr. Varley was able to pull Constable Ferguson's jacket over his head. This caused Constable Ferguson to start swinging, and he struck Mr. Varley once or twice while his jacket was over his head.

The statements from other witnesses do not support Constable Ferguson's version of events.

Mr. Langille had known Constable Ferguson for four or five years, having previously worked as a guard at the Pincher Creek R.C.M.P. detachment. He said that Constable Ferguson told Mr. Varley "I don't like drunks" and that Constable Ferguson then reached out and grabbed Mr. Varley. In response, Mr. Varley reached out and grabbed back, and Constable Ferguson then punched Mr. Varley in the face. Mr. Langille indicated that Mr. Varley may have punched at Constable Ferguson, but Mr. Langille recalls Mr. Varley backing away in an attempt to get away from Constable Ferguson, who would not let Mr. Varley go. Constable Ferguson then struck Mr. Varley again in the face and once in the stomach before the two of them went to the ground. Constable Ferguson then handcuffed Mr. Varley and took him out to the police cruiser. This activity surprised Mr. Langille as he did not believe Mr. Varley was being violent.

Ms. Edwards had met Constable Ferguson on prior occasions, both professionally and socially. In fact, Constable Ferguson had recognized her at the hospital and approached her in an attempt to gain some information. She observed that while Constable Ferguson was talking with Ms. Weatherill, Mr. Varley continued to interrupt. Constable Ferguson then asked Mr. Varley if he had been drinking and Mr. Varley confirmed that he had. He then asked Mr. Varley if he was drunk and Mr. Varley replied that he was. Constable Ferguson then grabbed Mr. Varley by the coat with his left hand and punched him in the face with his right. Mr. Varley put his hands up to Constable Ferguson's chest in an effort to get away, but Constable Ferguson kept punching him. Mr. Varley responded by saying he was not swinging or hitting anyone. At no time did Ms. Edwards see Mr. Varley swing at or hit Constable Ferguson, nor did she see Mr. Varley grab Constable Ferguson's jacket and pull it over his head. She observed Constable Ferguson punch Mr. Varley twice in the face and once in the stomach, then pull Mr. Varley to the ground, strike him again, and then turn him on his stomach and handcuff him.

Ms. Weatherill observed Constable Ferguson arrive at the hospital, and begin talking with her, Ms. Edwards, Mr. Varley and Ms. Taylor. She saw Constable Ferguson reach out and grab Mr. Varley by the right side of his jacket and shirt. He pulled Mr. Varley to his face and said something to the effect that he didn't like drunks and that Mr. Varley was drunk, and then he punched Mr. Varley in the face with his right hand. Constable Ferguson pulled Mr. Varley closer, and as he did so, Mr. Varley put up his hands to Constable Ferguson's chest, in what she understood to be an effort to push him away. She did not see Mr. Varley grab Constable Ferguson's jacket. When Mr. Varley began to back up in an effort to get away, Constable Ferguson struck him two more times. As he was struck, Mr. Varley said that he was not hitting or swinging at Constable Ferguson. The two of them fell to the floor and she observed Constable Ferguson punch Mr. Varley three or four more times before he was handcuffed and taken to the police car.

Ms. Taylor returned to the lobby after being advised by a nurse that her brother was in an altercation with the police. She saw that Constable Ferguson had her brother pinned to the floor, attempting to put handcuffs on him, and heard others in the lobby yelling at Constable Ferguson. She followed Constable Ferguson and Mr. Varley out to the police car, where her brother was put into the back seat. Constable Ferguson closed the door and returned to the hospital. She opened the door to speak to her brother and Constable Ferguson returned, yelling at her to close the door and get away from the car. She followed his instruction.

After being placed in the rear seat of the police vehicle, Mr. Varley kicked out the rear passenger window.

Constable Ferguson returned to his police cruiser. He observed the rear window damage, and then proceeded to drive Mr. Varley to the RCMP detachment.

Constable Ferguson indicated that on the way to the detachment, Mr. Varley threatened several times to kill him, but he did not take these threats seriously and thought he was in control of the situation. Notwithstanding the threats, he did not call for backup or otherwise advise any other officer what was occurring.

Upon arriving at the detachment, Constable Ferguson parked the police car in the secure bay and led Mr. Varley into the booking area. At the time, the Pincher Creek detachment did not have a lock box for firearms or security video cameras.

There were no other R.C.M.P. members on duty, but there were three people at the detachment: Piet Schiebout, the guard; and two prisoners, Vernon Across the Mountain and Herman Joseph No Chief. The prisoners were lodged in separate cells.

Mr. Schiebout's evidence can be summarized as follows.

Mr. Schiebout saw Constable Ferguson escorting Mr. Varley into the booking area, where Mr. Varley was searched and had his shoes removed. Mr. Varley was speaking with an elevated voice and Constable Ferguson remained calm as he told Mr. Varley he was in for being drunk. Mr. Varley complained that he was not that drunk. Mr. Schiebout did not hear any threats uttered, but heard Mr. Varley telling Constable Ferguson he had the wrong person and that he couldn't understand why he was being treated in the manner he was. Mr. Schiebout could smell alcohol but did not notice a slurring of Mr. Varley's speech.

Constable Ferguson then asked Mr. Varley to lay on his stomach on the floor so as to allow Constable Ferguson to remove his handcuffs. After removing the handcuffs, Constable Ferguson walked Mr. Varley from the counter through the door to the cell area.

Mr. Varley was ahead of Constable Ferguson and a little to his left, and Constable Ferguson had his left hand on Mr. Varley's right shoulder. Once Constable Ferguson and Mr. Varley were in the cell, and everything seemed fine, Mr. Schiebout left the cell area.

As Mr. Schiebout left the cell area he closed, but did not lock, the door between the cell area and the booking area. He walked directly towards the booking counter and, just before he got there, he heard two gun shots.

Mr. Schiebout's statements regarding the time between the shots varied somewhat. For example in a statement to the police he said they were two to three seconds apart. At the third trial he stated that they were a second to two seconds apart.

After hearing the shots, Mr. Schiebout turned and went back to the door leading to the cell area, but before he got there, Constable Ferguson opened it and came out. He was pale, and his vest was partially over his head and still on his arms. His gun was in its holster and Mr. Schiebout believes the snap was undone. Constable Ferguson took his vest off and threw it to the floor. Mr. Schiebout picked up the vest and placed it on the desk with the handcuffs that Constable Ferguson had earlier taken off Mr. Varley.

Constable Ferguson said he had just shot Mr. Varley and that Mr. Varley had pulled his vest over his head and tried to get his gun away from him. Mr. Schiebout looked into the cell from the outer door and saw Mr. Varley lying on his right side against the wall, with his head to the west. Constable Ferguson then called Constable Pitt and an ambulance.

Mr. No Chief testified that he had been out drinking in Pincher Creek and checked himself into the cells on the evening of October 2nd, 1999, a course of conduct which he had undertaken before. He had been placed in the cell at the end of the hallway, furthest away from the booking area. He was asleep, but awakened by the sounds of doors opening, swearing, and scuffling. He then heard two loud bangs. He initially thought it was the sound of someone banging on the steel bars. At the Inquiry, Mr. No Chief could not provide an estimate as to the time between the two loud bangs. He acknowledged that he had testified on two previous occasions that they might have been three or four seconds apart, or two or three seconds apart. On both these

occasions he also indicated that these were guesses as he was groggy at the time he heard the shots.

At the Inquiry, Mr. No Chief was asked to re-create the timing of the bangs by stating the sounds out loud, paying particular attention to the timing. He did so twice and in each instance they were approximately one second apart.

After Mr. No Chief heard the bangs he heard whispering. He then went back to sleep, and did not become aware that there had been a shooting until later that morning. Mr. No Chief confirmed that during the events in the cells he still felt intoxicated and had taken some form of medication to help him sleep.

Mr. Across the Mountain did not testify before the Inquiry but his previous testimony was received. He was incarcerated in the cells during the evening in question for being intoxicated. He was awoken by a commotion, and, from his cell, he could see out into the booking area, where there was a male, loud and swearing, sitting in a chair. He heard a police officer tell the male to get down on the floor. The officer struggled with the male while he took him to the cells, but Mr. Across the Mountain could not see if he was handcuffed. Once in the cell they were out of Mr. Across the Mountain's sight but he could hear the male continuing to swear at Constable Ferguson. He then heard two gunshots.

In his statement, Mr. Across the Mountain said the shots were one to two seconds apart, and that after the shots, he saw Constable Ferguson run from the cell and kick at the door leading to the booking area, yelling for help.

Constable Ferguson supplied statements and video re-enactments and testified at each of his trials. Although his evidence was not identical in all instances the following is a summary of the salient points.

Constable Ferguson parked in the secure bay at the Detachment. As he got out of the police car he removed his patrol jacket, then removed Mr. Varley from the rear seat on the passenger side. The two walked to the booking counter inside the office. While walking, Constable Ferguson told Mr. Varley he was going to jail for being drunk, and that once he was sober he would be able to assist in trying to locate his girlfriend.

Once in the booking area Mr. Varley sat down in a chair located near the counter, and Constable Ferguson removed Mr. Varley's shoes, then searched him. While Mr. Varley was standing up Constable Ferguson advised he was going to take off the handcuffs, to which Mr. Varley replied he would "show" Ferguson if he did so. This prompted Constable Ferguson to tell Mr. Varley to get down on the floor onto his stomach. In this position, near the counter, Constable Ferguson removed the handcuffs and left them on the floor. He then took off Mr. Varley's jacket and walked him to the cell. There was no pushing or shoving on his part in taking Mr. Varley to the cell but Constable Ferguson did have a hold of him.

As they approached the cell Mr. Schiebout opened the cell door, and stood near it as Mr. Varley went into the cell. At this point Mr. Varley became "explosive", telling Constable Ferguson he was going to kill him. At the door, with Mr. Schiebout still present, Mr. Varley pushed back at Constable Ferguson and grabbed him. Constable Ferguson pushed Mr. Varley back into the cell and went in with him so that the two of them were standing near the toilet. Constable Ferguson told Mr. Varley he was going to stay in the cell.

Mr. Varley grabbed at him and was able to pull his external vest carrier over his head and partially off. At this time Constable Ferguson could not see and he removed his vest, throwing it on the floor near the wall and the toilet. Immediately after doing this he noticed Mr. Varley's hands at his gun, and that his gun was almost completely out of the holster. Constable Ferguson cannot recall if Mr. Varley had one or two hands on his gun, but he immediately began to struggle with him to gain control of the weapon.

Constable Ferguson gained control of the gun with both hands and shot Mr. Varley in the stomach. He cannot recall how close Mr. Varley was to him at the time and believes an arm's length distance may be approximate. He stated one of Mr. Varley's hands was still close to his gun when he pulled the trigger. He then brought the gun up and shot Mr. Varley in the head.

Constable Ferguson stated his two shots were instinctive; "It was all one - one to the center mass and one to the computer, that's all I was thinking and I didn't know if I got him the first time." After the first shot Mr. Varley backed up towards the north wall of the cell. Constable Ferguson stated, "Ya, I - I think what happened is when I shot him the second time he was bending over from the initial shot, he was bending over and I shot him in the head." After the second shot Mr. Varley went down to the floor in a fetal position with his arms clutching his mid section.

After the shots were fired Constable Ferguson left the cell and attempted to leave the cell area, however, the door to the booking area was locked. Mr. Schiebout had to unlock the door before Constable Ferguson could leave.

Once in the booking area Constable Ferguson telephoned Constable Pitt. Constable Pitt instructed him to call an ambulance and that he would call Sergeant Mills. Constable Ferguson telephoned the ambulance then went back to the cell, where he found Mr. Varley still breathing and in the same position as when he had left.

Shortly afterwards the ambulance personnel arrived. One of them told Constable Ferguson to call a doctor, which he did. Mr. Varley was removed by ambulance to the Pincher Creek Hospital and was later transferred to Calgary by STARS Air Ambulance. He succumbed to the injuries sustained as a result of the gun shot wound to the head.

Other members of the R.C.M.P. Pincher Creek detachment and ultimately those members of the R.C.M.P. charged with the responsibility to investigate this matter came to the detachment.

During the early events after the shooting, Sergeant Mills removed Constable Ferguson's firearm without taking proper steps to secure any evidence on the firearm, such as fingerprints. In addition, Constable Ferguson was permitted to leave the Pincher Creek detachment with his uniform, without taking steps to secure any evidence which may have been on it.

Perry Kuzma of the R.C.M.P. Calgary Major Crime Unit was assigned as the primary investigator. He received a call at approximately 4:30 a.m. from Corporal Barry Leith of the Pincher Creek R.C.M.P. detachment and was advised of the incident. He then made phone calls to his team members and they arrived in Pincher Creek at approximately 7:30 a.m. on October 3rd. Their role was to conduct an investigation to determine if criminal charges should be laid. Statements, including video re-enactments, were obtained from various witnesses and were reviewed as part of the Inquiry process.

A forensic lab report was prepared, which assisted in the interpretation of the shooting scene. Amongst other things, this report concluded that the first shot to the abdomen was the higher of the two shots; the second shot struck Mr. Varley's head and left an impression on the wall, only thirteen inches from the floor.

There are several discrepancies between the statements of the guard, Mr. Schiebout and Constable Ferguson. For example:

1. Constable Ferguson states that he was threatened by Mr. Varley while taking off his handcuffs in the detachment office. Mr. Schiebout did not report any such threats.
2. Constable Ferguson stated that Mr. Schiebout led the way into the cell area. Mr. Schiebout stated that he followed.
3. Constable Ferguson indicated that when he was accosted by Mr. Varley in cells, Mr. Schiebout was near him. Mr. Schiebout indicated that he walked with Constable Ferguson and Mr. Varley to the door way of the cell and everything appeared to be under control, so he turned and left, never having seen any scuffle.
4. Constable Ferguson indicated that he had taken his vest and thrown it on the floor within Mr. Varley's cell. Mr. Schiebout indicated that when Constable Ferguson exited the cell block, his vest was still on, but partially over his head.
5. Mr. Schiebout reported that the door between the cell facility and booking area was closed but not locked whereas Constable Ferguson stated the door was locked and he had to wait for Mr. Schiebout to open it before he could exit.

It is difficult to assess the differences in the statements of Mr. Schiebout and Constable Ferguson and the internal inconsistencies in Constable Ferguson's statements. It was a traumatic event and rarely are two people's versions of the same event identical. For the purpose of this Inquiry however, it is sufficient to conclude that there was an altercation in a holding cell at the Pincher Creek R.C.M.P. detachment. The only witness was Constable Ferguson. In the course of the altercation, Constable Ferguson shot Darren Varley; first, in the stomach while he was standing, and secondly, in the head as he was falling towards the floor. There was little time between the shots, a second or so, and the second shot proved fatal.

Part 2

Recommendations for the Prevention of Similar Deaths:

A. Introduction

Section 53 of the *Fatality Inquiries Act* provides that the Judge conducting the Inquiry may make recommendations for the prevention of similar deaths. Recommendations should move from the facts that can be related to the death and should be sufficiently specific to facilitate understanding and implementation.

During the course of the Inquiry some witnesses offered recommendations and at the conclusion of the evidence, the Inquiry sought recommendations from the parties. These have been taken into account, as have the recommendations made by the independent expert who testified and prepared the report entitled “An Objective Analysis of RCMP Policies and Procedures Salient to the In-Custody Death of Darren Varley”. It was also clear from the evidence at the Inquiry that although no formal administrative review was conducted by the R.C.M.P., certain changes were made, in whole or in part as a result of this incident. What follows is a review of a variety of issues with recommendations where appropriate.

B. Topics and Recommendations

1. Lock Boxes and CCTV Cameras

In October of 1999, the R.C.M.P. detachment in Pincher Creek, Alberta did not have a lock box for securing of firearms and did not have video surveillance cameras in all areas where prisoners were handled. Since this time, a new facility has been constructed. On April 1st, 2008 the Pincher Creek R.C.M.P. detachment moved into a new facility which contains two gun lock boxes; one in the secure bay where vehicles bring in prisoners, and one outside the entrance to the cell block. In addition, this new facility has CCTV cameras which continuously monitor all cells.

R.C.M.P. members in Pincher Creek are not required to place their firearm in a lock box before going into the cell area, but they are now required to conduct a risk assessment to determine whether they should do so.

Recommendation: It is recommended that all R.C.M.P. detachments should have lock boxes for the securing of firearms and video surveillance cameras in all areas where prisoners are being handled.

2. Handling Prisoners

a. Carrying Firearms in Cell Blocks and Booking Areas

The R.C.M.P. does not have a policy which mandates the securing of firearms or the designation of “firearm free” areas. Instead both issues are left to the discretion of local commanding officers or individual members and decisions are largely dictated by individual members’ perceptions of their own ability to handle prisoners as opposed to a proper risk analysis. This may lead to an inconsistent approach without guidance from a policy statement.

Recommendation: It is recommended that firearms should be secured before a prisoner is removed from a police vehicle and/or prior to handcuffs being removed, and that prisoner processing areas and detention cell areas should be “firearm” free, except under extenuating circumstances. An officer who elects to not secure his or her firearm must be able to satisfactorily articulate the extenuating circumstances.

b. Officers on Duty Alone and Availability and Use of Backup

One R.C.M.P. witness opined that in a perfect world no R.C.M.P. member would work alone. In reality there are many members who are required to do so. What is critical is that an R.C.M.P. member have access to timely backup in the event it is required or perceived to be required. In the circumstances of this incident, situational indicia existed that should have caused Constable Ferguson to handle the matter differently, including:

1. Mr. Varley was under the influence of alcohol.
2. Mr. Varley was agitated and concerned about the perceived abduction of his fiancée.
3. Mr. Varley had a previous recent experience with a MVA death which Constable Ferguson was advised of on the way to the Pincher Creek hospital.
4. Mr. Varley kicked the window out of the police cruiser.
5. Mr. Varley threatened Constable Ferguson en route to the detachment office.

Constable Ferguson could have handled the events at the hospital in a far less aggressive manner and should have considered turning Mr. Varley over to another adult person while he investigated the abduction of Ms. Bachand.

After Mr. Varley kicked the window out of the cruiser and made threatening comments to Constable Ferguson en route to the Pincher Creek detachment, Constable Ferguson should have requested backup.

On October 3rd, 1999 there was no policy that required an R.C.M.P. officer to request backup in the event of perceived violence. In 2009 a policy was implemented, amended 2010-04-01, which makes it mandatory for one member to call another member where there is violence or violence is anticipated and/or the subject poses a threat to himself or others.

Since this policy is now in place and has been distributed to all members, no further recommendation is made.

c. Removal of Handcuffs

Darren Varley was upset as a result of his perception that his finance had been abducted. This was complicated by his consumption of alcohol. Constable Ferguson aggravated the situation by his behavior at the hospital and by refusing to release Mr. Varley into the care of other adults in attendance. Further evidence of Mr. Varley's upset state was evident when he broke out a police cruiser window and threatened Constable Ferguson while in the police cruiser. Constable Ferguson was the only R.C.M.P. officer at the Pincher Creek detachment and although Mr. Varley appeared to have settled somewhat, his handcuffs should not have been removed until he had displayed non-aggressive behaviour for an extended period of time and/or only with the assistance of another constable.

Recommendation: It is recommended that handcuffs should not be removed from a combative subject unless he or she has displayed rational behavior for an extended period of time, or an assisting constable is present to facilitate control of the subject.

3. Handgun Retention Training

There appeared to be a disconnect in the information provided by the holster manufacturer and the practical experience of some R.C.M.P. officers as to the ability of another person to remove an officer's handgun from its holster. The holster manufacturer represents in its marketing materials that it is virtually impossible for the handgun to be removed from the holster by someone other than the officer. This is not the experience of some of the members who testified at the hearing, nor does it appear to have been the experience of Constable Ferguson.

The holster in use at the time, and which is still being used by the R.C.M.P., appears, by all the evidence, to be an excellent holster for the purpose for which it was designed. It does, however, have some limitations.

Recommendation: It is recommended that all R.C.M.P. members receive initial and ongoing training in the use and limitations of their holster given its specific design characteristics. They should also receive initial and ongoing training in handgun retention techniques.

4. Training and Use of Jail Guards

Evidence was heard with respect to the hiring, training, supervision and expectations of jail guards in R.C.M.P. detachments. The role of a jail guard is limited to monitoring and providing food or water to prisoners. There is no requirement that they possess any particular physical fitness level or training on the handling of prisoners, even though in many small rural detachments they may be alone with prisoners or may be the only person present other than an R.C.M.P. member. From the evidence it also appeared that in some circumstances the guard will become more involved with escorting prisoners or assisting members than in other situations. This may lead to confusion regarding the expectations of the jail guard and the reliance to be placed upon them by R.C.M.P. members. It may also cause uncertainty as to whether or not it is necessary to call an R.C.M.P. member as backup.

Recommendation: It is recommended that the R.C.M.P. develop a policy regarding the selection, training and expectations of the jail guard position, which may vary somewhat depending upon the detachment in which the guard is working. The job description should be made known to each guard and the members with whom they work.

5. Independent Investigation (ASIRT)

Shortly after Darren Varley was shot, and while the investigation was in its infancy, Constable Ferguson was asked to surrender his firearm to the local detachment commander in a way which may have compromised the collection of evidence. He was also permitted to leave the detachment with the clothes he was wearing at the time of the incident, which had the potential of compromising further evidence.

At the time of the incident, there was no independent authority in the Province of Alberta that had a mandate to investigate deaths or serious injury incidents involving the police in Alberta. As a result of this, Varley family members, and perhaps others, questioned the independence and impartiality of those involved in the investigation.

There is such an agency today. The Inquiry heard from Mr. Clifton Purvis, the civilian director of ASIRT. ASIRT's mandate is to investigate incidents where the actions of police in Alberta cause death or serious injury.

ASIRT became operational on January 1st, 2008. It is the organization that would investigate the incident that occurred October 3rd, 1999 if it were to occur today. ASIRT assumes their power through s.46 of the *Police Act* and is separate and distinct from the R.C.M.P. and Municipal Police Services. ASIRT uses civilian investigators and seconded police officers from other forces. As an entity it is in a position to ensure both actual and apparent investigative independence and the use of competent professionals.

As a result, there is no further recommendation.

6. Detachment Commander Training

In October of 1999, the managerial training received by a detachment commander was limited. The training has evolved such that now a detachment commander is required to take at least three courses: a supervisory course, a management course and a course related to inter-personal relationships.

As a result of this change, no further recommendation is made regarding training for a detachment commander.

7. Investigations of Complaints Regarding R.C.M.P. Members

The Inquiry received substantial evidence regarding concerns and complaints about Constable Ferguson's inter-personal relationships and what was described as his anger management problem. Although this concern was identified well before October of 1999, it was not dealt with in a timely and effective manner.

The following is a summary of the complaints and investigations regarding Constable Ferguson:

Postras: Complaint #1

On May 19th, 1998, Constable Postras reported to Sergeant Mills, the officer in charge of the Pincher Creek Detachment, three incidents involving Constable Ferguson. She stated that as a result of these incidents she did not feel safe working with him. The three incidents were:

1. November 11, 1997: Constable Ferguson chastized her for not marching in the Remembrance Day Parade and called her a "bad person".
2. November 20, 1997: At a detachment meeting, Constable Ferguson stated that French speaking people who couldn't speak English should not be at the Pincher Creek or Brocket detachments. She was the only French person at the Pincher Creek detachment and felt that the comment was directed at her specifically.
3. Early 1998: Constable Ferguson refused to assist her in the release of a prisoner and he became angry at her, telling her that if she didn't like her job she should find another. She said he was "very angry at her" and that she felt he was going to physically harm her.

Sergeant Mills investigated these matters and on June 25, 1998, directed Constable Ferguson to seek counselling for anger management. Sergeant Mills noted the following in Constable Ferguson's Performance Log:

The secretarial staff and some of the members are uncomfortable in the presence of Constable Ferguson because he may explode and lose his temper at any time.

Constable Ferguson did not comply with the direction to obtain counselling other than speaking to a friend about his anger problems.

Poitras: Complaint #2

On September 24th, 1998, Constable Poitras made a second formal complaint to Sergeant Mills regarding an incident that occurred with Constable Ferguson on September 18th, 1998. She alleged that he became angry at her, called her a liar, blocked her vehicle when she was trying to leave and said, “You’re lucky you’re a woman or I would deck you.”

As a result of this complaint, on September 28, 1998, Sergeant Mills sent a memo to Superintendent Lloyd Hickman, who at the time was in charge of the Alberta South region. He advised Superintendent Hickman of all the Poitras complaints and attached Constable Ferguson’s Performance Log. He further advised Superintendent Hickman that although Constable Ferguson had agreed to seek counselling for anger management, he had not done so.

Internal Investigation Directed by Superintendent Hickman

When Superintendent Hickman received and reviewed the memorandum and Performance Log, he was in his words, “absolutely shocked” that there had been so many incidents. He elected to have the Poitras complaints dealt with by way of an internal investigation and appointed Sergeant G.E. Prouse for that purpose.

Sergeant Prouse’s Investigation and Report

Sergeant Prouse concluded his investigation and reported to Superintendent Hickman by memorandum dated March 18th, 1999. He concluded the incidents occurred but did not constitute harassment, due to lack of intent, but recommended that Constable Ferguson’s conduct towards his peers and supervisor was not proper and his anger management difficulties ought to be addressed in a more formal process.

During the course of Sergeant Prouse’s investigation other incidents came to light. They included the following:

Renae French: Renae French worked at the Pincher Creek R.C.M.P. detachment. She recalled hearing Constable Ferguson make comments on November 29, 1997, about French people. Constable Ferguson argued with her about how she was filling out fingerprint forms, and he ended up screaming at her. Sergeant Mills intervened and Constable Ferguson shouted at him, and did not stop until ex-Staff/Sgt. Stewart intervened. She stated that Constable Ferguson could be very angry one minute and your best friend the next.

Constable Angstadt: He witnessed the confrontation between Constable Ferguson, Sergeant Mills and Renae French. The matter bothered him, as he never expected to see such disrespect for rank in the R.C.M.P. Constable Angstadt described Constable Ferguson as “totally out of control”, and believed the matter would have escalated further if not for the intervention of ex-Staff/Sgt. Stewart.

Constable Young: He had one minor brush with Constable Ferguson that he described as “infantile”: Constable Ferguson was asked to move from Constable Young’s desk so Constable

Young could do some work; Constable Ferguson said because Constable Young had asked nicely he would move, otherwise he would “have to be moved”. Constable Young thought nothing of it until he heard from other members that Constable Ferguson was bragging about the incident.

Ken Murray: Mr. Murray was Vice-Principal at Pincher Creek High School. He was refereeing a basketball game in which Constable Ferguson was coaching. Mr. Murray made a call against Constable Ferguson’s player, and Constable Ferguson became upset and started yelling. After the game Constable Ferguson approached Mr. Murray and “body checked” him by pushing Mr. Murray with his chest, while at the same time criticizing the call. Mr. Murray thought Constable Ferguson was “out of control”. Constable Ferguson also threatened Mr. Murray by using his status as a police officer. Mr. Murray left the gym and then decided to return and ask Constable Ferguson for his badge number. Constable Ferguson held out his hand, which Mr. Murray believed to be a gesture of apology, so he accepted the handshake. Instead, Constable Ferguson clenched Mr. Murray’s hand and twisted his arm downward. He told Mr. Murray to lay a charge. Mr. Murray didn’t, but he asked Constable Ferguson to meet with him the following week to discuss what had happened. Constable Ferguson was defensive but not aggressive at the meeting, and Mr. Murray considered the matter settled. However, he purposely had little contact with Constable Ferguson thereafter and no longer volunteered to referee.

Constable Fred Vanderploeg: Constable Vanderploeg was an instructor and Constable Ferguson was a candidate at a SARP training session. During the training, Constable Vanderploeg formed the opinion that Constable Ferguson’s attitude was that he knew everything about the new sidearm, and as a result, he was not taking instruction well. Constable Vanderploeg perceived that Constable Ferguson took exception to the manner in which Constable Vanderploeg was instructing, and a point was finally reached where Constable Vanderploeg thought Constable Ferguson turned on him. Constable Vanderploeg did not back down, and pushing and shoving ensued. Other members intervened and the course continued. Constable Vanderploeg stated that Constable Ferguson’s anger caused him to fear what might happen, bearing in mind they were wearing loaded sidearms. Constable Ferguson later apologized.

Constable Ferguson was interviewed and his version of all events was different than the other witnesses. He admitted to losing his temper on several occasions but denied the alleged physical contact or threatening demeanor.

Superintendent Hickman’s Response to Sergeant Prouse’s Report

Superintendent Hickman disagreed with Sergeant Prouse’s opinion that Constable Ferguson did not commit harassment in his dealings with Constable Poitras. By a memo dated May 10th, 1999, Superintendent Hickman reported to K Division (Edmonton) R.C.M.P. Command Centre for the Province of Alberta that, in his opinion, Constable Ferguson’s actions toward Constable Poitras constituted harassment. Superintendent Hickman further concluded that Constable Ferguson had violated the R.C.M.P. Code of Conduct, and Constable Ferguson’s conduct towards his peers and supervisor, and a member of the general public, was not proper. He further concluded that his anger management difficulties needed to be addressed in a more formal process and recommended that Constable Ferguson receive professional counselling, a form of informal discipline under s.41(1)(c) of the *R.C.M.P. Act*.

As Superintendent Hickman received no objection to his recommended action, he proceeded to implement it.

On July 26th, 1999, Constable Ferguson acknowledged Superintendent Hickman's recommendation for informal disciplinary action, which mandated he receive professional counselling.

On August 24th, 1999, Superintendent Hickman confirmed this action with his superiors.

Sergeant Dawson's Investigation and Report

After Darren Varley was shot, an investigation was commenced into the allegation of assault on Mr. Varley, both at the Pincher Creek Hospital and in cells. During this investigation information surfaced on additional unrelated incidents of potential misconduct involving Constable Ferguson. Sergeant Dawson was directed to follow up on these other allegations.

On October 20th, 1999 Sergeant Dawson was also directed to investigate the allegations of assault on the young offender R.V.K. Sergeant Dawson determined that on June 17, 1999, Constable Ferguson was dispatched to respond to a complaint that there were a group of intoxicated males. With the assistance of Constable Geddes and Sergeant Mills, Constable Ferguson arrested four individuals and took them to the Pincher Creek detachment. Constable Ferguson placed R.V.K. in the cells. Yelling and screaming was then reported from the cell block area and one of the individuals who had been arrested and placed in the cells was heard yelling at an unknown individual to stop hitting R.V.K. R.V.K. reported this to the guard, who in turn advised Sergeant Mills. Sergeant Mills elected not to investigate because he didn't believe it and because R.V.K. was under the influence of alcohol.

R.V.K. again made a complaint to Constable Angstadt in the morning but Constable Angstadt did not follow up on it. Once home, R.V.K. was seen by witnesses to have bruising on his breast and facial area.

During Sergeant Dawson's investigation of the R.V.K. complaint other matters surfaced. Of those that could be substantiated the most disturbing is the one that occurred on March 26th, 1999. Constable LaFlamme of the Pincher Creek detachment was working with Constable Ferguson. Constable Ferguson became upset, cursing and swearing at his fellow officer. He would calm down and then, in Constable LaFlamme's words, "explode again". At one point, Constable Ferguson stood up, removed his gun belt, slammed it on the desk and challenged Constable LaFlamme to go to the secure bay and settle this "man to man" to see who the "top dog" in the office was. Constable LaFlamme initially thought Constable Ferguson must be joking, but shortly after, Constable Ferguson placed his hand on the Constable's chair and advised that if they ever worked together and the other constable needed back up, Constable Ferguson would take his time. Much of this was confirmed by a third officer who was present during part of this altercation.

The initial formal complaint from Constable Poitras was dated May 19th, 1998, and Constable Ferguson was directed to obtain counselling to deal with his anger management as early as June 25th, 1998. Over 15 months go by before the Varley shooting and it does not appear consideration was given to any interim steps to be taken, nor was the direction to obtain counselling monitored or followed up.

The Inquiry heard evidence from Inspector Raymond Munroe of the Royal Canadian Mounted Police, who holds the position of employee management relations officer. As of 1999 the RCMP was moving away from a localized administration and personnel system. An air of confusion was created for a short time during this transition period while the responsibilities to administer resources were established at the commander level. Inspector Munroe's office has become an overseer maintaining and ensuring quality. One significant change is that if there is a complaint of harassment, the alleged harasser is removed from his or her position, and placed somewhere temporarily until the harassment investigation is concluded.

Recommendation: It is recommended that all complaints with respect to the actions of R.C.M.P. members be investigated promptly, thoroughly and in accordance with timelines. These timelines should be set by policy and although they may be flexible, they should incorporate regular interim reporting requirements. In the case of investigations which may have ramifications for public safety, ie. anger management concerns, it should be mandatory that consideration be given to whether any interim action is required. The decision with respect to interim action should be reviewed as interim reporting is received. In addition, the member and direct supervisor should be kept apprised of any ongoing investigation, particularly as it may affect the ability of the member to carry out his or her duties in a safe manner.

APPENDIX A

WITNESSES

October 19, 2009

Perry Kuzma (Retired RCMP; Major Crimes Unit, Calgary)
Earl Lounsbury (Retired RCMP; Ident. Unit – Lethbridge)
Earl Langille (Security Guard – Pincher Creek Hospital)
Alayna Assman (formerly Dyck)
Laura Weatherill
Patricia Edwards (formerly Bitango)
Sarah Weatherill

October 21, 2009

Dr. Peter Rottger (Pincher Creek Hospital)
Lorne Dewart (EMT)
Herman No Chief
Derwyn Lowe (Retired RCMP – Major Crimes Unit – Calgary)
George Prouse (RCMP – Complaints & Internal Invest. Section)

October 23, 2009

Dr. Graeme Dowling (Chief Medical Examiner for Alberta)
John Cantafio (RCMP – Major Crimes Unit – Calgary)

April 19, 2010

Scott Dawson (R.C.M.P. Staff Sergeant)
Ray Ambler (R.C.M.P. Inspector)
John Ervin (R.C.M.P. Use of Force expert)
Herbert Hahn (R.C.M.P.)

April 20, 2010

Gordon Pitt (R.C.M.P.)
Gary Mills (R.C.M.P.)
Roxane Baalim (R.C.M.P.)

April 21, 2010

Graham MacRae (R.C.M.P.)
Thomas J. Aveni (Expert on police matters)
Cliff Purvis (Civilian director of ASIRT)
Ray Munro (R.C.M.P.)

June 10, 2010

Dr. John Alexander Carmichael
Lloyd Thomas Hickman (Retired R.C.M.P)

APPENDIX B
EXHIBITS

1. CD containing Ferguson Trial Transcript 2004
2. Binder of Photographs including those depicting scenes at the Pincher Creek Hospital, the Pincher Creek R.C.M.P. Detachment and cell #1
3. Binder 1 of 2 containing Medical Examiner's documents, admission of facts from criminal proceedings, the Darren Varley criminal investigation reports, the Darren Varley investigation re Code of Conduct (excessive use of force), reports and investigation reports regarding Constable Poitras and other unrelated incidents
4. Binder 2 of 2 containing R.C.M.P. policies and training materials
5. Binder 1 of 2 containing transcripts and statements of evidence of Sergeant Lounsbury, Earl Langille, Chandelle Bashand, Patricia Bitango, Sarah Weatherill, Alana Dyck, Laura Weatherill
6. Binder 2 of 2 containing transcripts and statements of the testimony of Dr. Rodger Lorne Dewart, Piet Scheibout, Vernon Across the Mountain, Herman No Chief, Bruce MacLean, Herbert Hon, Dr. Denmark and Dr. Singer Transcripts
7. CD marked 99-2287 - containing audio of 911 calls made October 3, 1999
8. DVD Marked, Ferguson, Police related Shooting Scene Video, Guard re-enactment Video
9. DVD, Video Re-enactment, Constable M. Ferguson, October 4, 1999
10. DVD Training/Safariland SS111
11. Statement of R.V.K. taken by Constable D. Lowe, dated 99 Oct 07
12. Curriculum Vitae of Dr. Graeme Dowling
13. Transcript from statement of Mike Ferguson, October 3, 1999
14. Binder containing evidence statements of Constable Gordon Pitt, October 3, 1999; transcript of taped proceedings of Constable Gordon Pitt, August 3, 2004; Queen's Bench voir dire September 24, 2001; transcript of Gary Mills, September 20, 2004; handwritten statement of Gary Mills and transcript of John Erwin, September 21, 2004
15. Constable Ferguson Disciplinary Records
16. Emails between Neil Boyle and Raymond Ambler
17. 12 photographs of the new Pincher Creek R.C.M.P. Detachment
18. Curriculum Vitae of Mr. Thomas Aveni
19. Mr. Thomas Aveni report and recommendations
20. Letter dated February 5, 2010 from Neil Boyle to Thomas Aveni
21. Article: Police Officer Characteristics and the Likelihood of Using Deadly Force, J.P. McElvan, A.J. Kposowa, Criminal Justice and Behaviour, vol. 35 No.4 April 2008
22. R.C.M.P. Operation Manual dated 2010-04-20
23. Black Binder containing info re: ASIRT
24. Commissioners Broadcast, External Investigation or Review Policy, by William J.S. Elliott, Commissioner
25. Curriculum Vitae of Dr. John Alexander Carmichael