

RELEASE DATE: December 9, 2008



Manitoba

THE PROVINCIAL COURT OF MANITOBA

IN THE MATTER OF: *THE FATALITY INQUIRIES ACT*

AND IN THE MATTER OF: MATTHEW ADAM JOSEPH DUMAS

APPEARANCES:

Mr. R. Tapper, Q.C., and Mr. J. Kendall, for the Crown
Mr. D. Worme, Q.C., for the Dumas Family
Ms K. Carswell, for the Winnipeg Police Service

RELEASE DATE: December 9, 2008



Manitoba

THE FATALITY INQUIRIES ACT
REPORT BY PROVINCIAL JUDGE ON INQUEST

RESPECTING THE DEATH OF: MATTHEW ADAM JOSEPH DUMAS

Having held an inquest with respect to the death of Matthew Adam Joseph Dumas on June 9th, 10th, 11th, 12th, 13th, 16th, 17th, 19th and 20th, 2008 at the City of Winnipeg, in Manitoba, I report as follows:

Matthew Dumas came to his death on January 31st, 2005 at or about 3:00 p.m. in the City of Winnipeg, in Manitoba.

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

Attached to and forming part of this report are the following:

- Schedule 1: Summary of Witness Evidence - Summary of individual witness evidence from the transcript/notes of the evidence taken during hearings. Note – Evidence from witnesses Guy Dagenais, Raymond Keller and Crystal McManus is summarized from their videotaped statements which were played because at the time of their expected appearance at the inquest, their whereabouts were unknown.
- Schedule 2: Findings of the Pathologist - Summary of evidence with respect to the death and autopsy findings of pathologist Dr. Charles Littman.
- Schedule 3: Use of Force Review - Summary of evidence given by Corporal Gregg Gillis, R.C.M.P. use of force expert, with respect to a review of the use of force by Winnipeg Police Service in the death of Matthew Adam Joseph Dumas.

- Schedule 4: Conclusion
- Schedule 5: Recommendations
- Schedule 6: Witness List
- Schedule 7: Exhibit List

Dated at the City of Winnipeg, in Manitoba, this 4th day of December, 2008.

Original signed by Judge K. M. Curtis

K. Mary Curtis
Provincial Judge

copies to: Dr. T. Balachandra, Chief Medical Examiner (2)
Dr. C. Littman, Medical Examiner
The Honourable Raymond E. Wyant, Chief Judge, Provincial Court of
Manitoba
The Honourable David Chomiak, Minister of Justice
Mr. Jeffrey Schnoor, Deputy Minister of Justice
Mr. Brian Kaplan, Director of Regional Prosecutions
Mr. R. Tapper, Q.C., and Mr. J. Kendall, for the Crown
Mr. D. Worme, Q.C., for the Dumas Family
Ms Kim Carswell, Counsel for the Winnipeg Police Service



Manitoba

THE FATALITY INQUIRIES ACT
REPORT BY PROVINCIAL JUDGE ON INQUEST

RESPECTING THE DEATH OF: MATTHEW ADAM JOSEPH DUMAS

TABLE OF CONTENTS

| | <u>Paragraphs</u> |
|--|--------------------------|
| HOLDING OF THE INQUEST | 1 - 2 |
| LEGISLATIVE AUTHORITY | 3 - 4 |
| MATERIAL CIRCUMSTANCES AND OVERVIEW OF EVIDENCE | 5 - 19 |
| SCHEDULE 1 – SUMMARY OF WITNESS EVIDENCE..... | 20 - 166 |
| SCHEDULE 2 – FINDINGS OF THE PATHOLOGIST | 167 - 178 |
| SCHEDULE 3 – USE OF FORCE REVIEW | 179 - 197 |
| SCHEDULE 4 - CONCLUSION..... | 198 - 211 |
| SCHEDULE 5 - RECOMMENDATIONS | |
| SCHEDULE 6 - WITNESS LIST | |
| SCHEDULE 7 - EXHIBIT LIST | |

HOLDING OF THE INQUEST

[1] On May 16th, 2007, an inquest was called by the Chief Medical Examiner of the Province of Manitoba pursuant to section 19(3) of *The Fatality Inquiries Act* for the following reasons:

1. To fulfill the requirement for a mandatory inquest as defined in section 19(3) of the legislation;
2. To determine the circumstances relating to Mr. Dumas' death; and
3. To determine what, if anything, can be done to prevent similar deaths from occurring in the future.

[2] I want to acknowledge the presence of members of the Dumas family who, as difficult as it was for them, were present throughout the inquest. Specifically:

- Jessica Dumas, sister and family spokesperson;
- Carol and Leslie Chartrand, mother and father;
- Eva and Fred Dumas, grandmother and grandfather;
- Leann Dumas, sister;
- Robert Dumas and Cynthia McKay, brother and sister-in-law;
- Marlee Sanderson, girlfriend of Matthew Dumas;
- Nahanni Fontaine, family support and advocacy (Chairperson – Justice Committee, Southern Chiefs Organization).

LEGISLATIVE AUTHORITY

[3] Sections 19(2), 25 and 26(1) of *The Fatality Inquiries Act* are the authority for a Provincial Court Judge to hold an inquest with respect to the death and are as follows:

Inquest mandatory

19(3) Where, as a result of an investigation, there are reasonable grounds to believe:

...

(b) that a person died as a result of an act or omission of a peace officer in the course of duty;
the chief medical examiner shall direct a provincial judge to hold an inquest with respect to the death.

Ministerial direction for inquest

25 The minister may direct a provincial judge to conduct an inquest with respect to a death to which this Act applies.

Provincial judge to hold inquest

26(1) Where a direction is given by the chief medical examiner under section 19 or by the minister under section 25, a provincial judge shall conduct an inquest.

[4] The duties of the Provincial Judge at an inquest are set out in section 33(1):

Duties of provincial judge at inquest

33(1) After completion of an inquest, the presiding provincial judge shall

- (a) make and send a written report of the inquest to the minister setting forth when, where and by what means the deceased person died, the cause of the death, the name of the deceased person, if known, and the material circumstances of the death;
- (b) upon the request of the minister, send to the minister the notes or transcript of the evidence taken at the inquest; and
- (c) send a copy of the report to the medical examiner who examined the body of the deceased person;

and may recommend changes in the programs, policies or practices of the government and the relevant public agencies or institutions or in the laws of the province where the presiding provincial judge is of the opinion that such changes would serve to reduce the likelihood of deaths in circumstances similar to those that resulted in the death that is the subject of the inquest.

MATERIAL CIRCUMSTANCES AND OVERVIEW OF EVIDENCE

[5] At about 1:30 p.m. on January 31st, 2005, Winnipeg Police received a 911 call with respect to a robbery/attempted home invasion which had just taken place. The individuals involved were described as:

The male with the gun, described as native, 15 to 16 years with a blue tuque with the hood up, he was wearing a white Nike parka, gun was last seen being put into the pocket of the parka. Second male is native, 25 years with black parka, third male was about nine years old wearing a parka. (Exhibit 1, Book of Documents, B.9)

At one point another description was:

...large male with a shaved head and a black puffy jacket. (Exhibit 1, Book of Documents, B1.20, 14:48:11)

The gun was described as black with a silver barrel.

[6] The suspects were seen to be leaving the area in Spring taxi number 163. Shortly thereafter it was reported that that taxi had dropped three people off in the area of King Street and Dufferin Avenue. Various police units responded to the area in search of the suspects. Several people were spoken to (who did not match the description of the suspects) to see if they had any information which would be of assistance in finding the suspects, i.e., if they had been seen and where they might have gone.

[7] Constable Mateychuk, a one-man unit, was eastbound on Selkirk Avenue from Salter Street when he pulled over to check the computer for information. He observed a male now known as Matthew Dumas standing in front of a small building next to a parking lot. The presence of the police car appeared to be making Mr. Dumas nervous. He was described by Constable Mateychuk as about 17 years old, five feet, nine inches, average to stocky build and had on a dark navy or black jacket that was like a parka, and had dark headwear that

matched the description of one of the suspects. He noted him adjust something in the chest area of his jacket which appeared to have some weight to it. He started to pay closer attention to Mr. Dumas.

[8] As Mr. Dumas started to walk southbound Constable Mateychuk turned southbound as well, then turned westbound ending up near Flora and Powers. Mr. Dumas kept southbound between the houses and Officer Mateychuk pulled into the lane of Stella westbound. Mr. Dumas kept walking southbound and passed approximately 15 to 20 feet in front of the police car. At that point Officer Mateychuk had not decided whether or not to confront or speak to Mr. Dumas, but almost immediately he saw him reach down with his right hand and push something, three to four inches of something black and cylindrical, up his left sleeve. It was at this point he felt that this could be one of the males involved in the robbery. He opened the door and called to the male who took off running. Constable Mateychuk pursued and radioed that he was chasing a suspect southbound on Powers.

[9] The chase proceeded southbound on Powers, then westbound in the north lane of Dufferin. Constable Mateychuk saw Mr. Dumas go southbound but lost sight of him. A lady in a car on Dufferin Avenue pointed out the direction Mr. Dumas had taken. Constable Mateychuk went back northbound, then westbound, and caught up to him in the yard of 495 Dufferin where he had just got a light for his cigarette from the property owner. This property had on it a ferocious-appearing dog on a chain. By this time Mr. Dumas had dropped the bandana to his neck, revealing a shaved head.

[10] Constable Mateychuk took/grabbed Mr. Dumas by the arm/in the shoulder area and escorted him to the lane where he started to do a pat-down search. When he reached the left side about the chest/waist area he was surprised to feel something hard. (He had lost sight of Mr. Dumas a couple of times and expected that he may have discarded whatever he had up his sleeve during the pursuit.) Simultaneous with that, Mr. Dumas wheeled around and caught

Constable Mateychuk in the right side of his face with his right forearm and elbow. They grappled and spun around. Constable Mateychuk fell and Mr. Dumas ran eastbound, then southbound. Constable Mateychuk tried to tackle Mr. Dumas and hit the ground with one knee, losing his hand-held radio. Constable Mateychuk was out of breath and trying to decide whether the pursuit was worth it when Mr. Dumas stopped and turned. That is when Constable Mateychuk saw the screwdriver in Mr. Dumas' left hand. That prompted him to get up quickly to continue the pursuit.

[11] While this grappling took place, officers about 150 yards west of their position were spot-checking three males at the area of the back lane and Andrews Street, one of whom was in possession of what turned out to be a toy gun.

[12] Constable Gburek saw the scuffle, recognized that it was an officer involved (by the red stripe on the pant leg) and saw them go southbound. He ran south down Andrews, then turned to go east on Dufferin.

[13] In the meantime, Constable Mateychuk was chasing Mr. Dumas southbound on the walkway in front of 483 Dufferin Avenue which runs at a ninety degree angle to Dufferin. Just as a resident of 483 Dufferin Avenue started to call to the officer to ask if the officer wanted his help, Mr. Dumas took a swing at him with what was described as a "shanker", not a knife because it did not have a blade, but it was shiny, chrome and narrow. He got out of the way.

[14] As Mr. Dumas turned westbound onto Dufferin, Constable Mateychuk tried to pepper-spray him. He missed.

[15] On Dufferin Avenue, Constable Mateychuk was behind Mr. Dumas. Constable Gburek was advancing eastbound toward Mr. Dumas and Constable Mateychuk. When Constable Gburek realized Mr. Dumas had an edged weapon in his left hand he began to move backwards, all the while commanding Mr. Dumas to drop the weapon, stop, drop the weapon. Constable Mateychuk

ran up to try to pepper-spray Mr. Dumas again from the side. The pepper spray hit Mr. Dumas – by some accounts directly in the face, or on the right side of the face and head area, or on the back of the head. Mr. Dumas did not lose focus on the direction he was going, drop the screwdriver, stop movement or go to the ground. There was no marked departure from his previous behaviour as one might expect from a successful deployment of pepper spray. He was described by a number of witnesses as having an angry, intent look on his face, his attention fixed on Constable Gburek.

[16] Constable Gburek kept telling him to drop the weapon. Various witnesses said he sounded like he was begging him to drop the weapon. As he backed up he told Mr. Dumas he would shoot him. At that time Constable Gburek was aware that Mr. Dumas was armed and also knew that Mr. Dumas had been fighting in the lane with another officer.

[17] Constable Gburek had some problem with his footing at the same time Mr. Dumas was quickly closing the distance between them. Mr. Dumas had gone from carrying the screwdriver in his left hand by his thigh to raising his arm and moving forward in such a manner that two of the closest officers were sure that Constable Gburek would have been stabbed in the neck or shoulder if Mr. Dumas had not been stopped as he was by two quick shots from Constable Gburek's service firearm at virtually point-blank range.

[18] Mr. Dumas took two steps and fell to the ground. He was immediately handcuffed, then checked for injuries which were at first not obvious. The handcuffs were removed when emergency medical personnel arrived almost immediately and took over. Mr. Dumas was treated at the scene then transported to Children's Hospital for emergency surgery. Evidence from the pathologist, Dr. Charles Littman, was that although the treatment at the scene was appropriate, the damage from the bullet which penetrated the abdomen caused an immediate massive loss of blood. Everything was done at the time that could have been done, without success.

[19] We now know that, in fact, Mr. Dumas had no involvement whatsoever with the robbery which started this series of events. We also know that there was a warrant out for Mr. Dumas' arrest. Police at that time were not aware of the warrant. There was no evidence to show that Mr. Dumas was aware of the warrant, but it may be that he was. If so, that may be an explanation as to why he ran.

SCHEDULE 1

SUMMARY OF WITNESS EVIDENCE

Ken Warren

[20] Ken Warren is a bartender by trade. On the 31st of January, 2005 he was at his girlfriend's residence on Martin Avenue in East Kildonan. He stayed there, at the time, four or five nights a week although he had his own residence. His girlfriend had a boy and a girl in their teens: her son was 16 at the time.

[21] Mr. Warren had been asleep but heard his girlfriend's son calling and got up. Apparently he had been calling through the window back and forth with an adult outside the house. Mr. Warren told the adult not to yell at the boy and the fellow backed off.

[22] About an hour and half later, the kids had gone back to school and there was a knock on the door. Mr. Warren expected it was his ride to pick him up for work, but there was a small child asking for somebody whose name he did not recognize. The child was swinging back and forth on the screen door so Mr. Warren looked out and the same guy from earlier jumped from the side with his shirt over his head. He got right up in his face and their chests were touching. His estimate was this fellow was 25 to 30 years old.

[23] Mr. Warren heard later from the children that apparently this fellow had come to the house looking for a girl but he had the wrong address. These were row houses which all looked alike and the fellow should have been two to three addresses down from them.

[24] When the fellow was chest to chest with Mr. Warren, he grabbed Mr. Warren's silver necklace and ripped it off. At that point, Mr. Warren says he:

...jumps backwards and in the same instant as he is jumping backwards, he says "Shoot him." And at that time he turned to this....a third party, a

teenager who was standing, you know several feet back, with his hands in his pockets, a big jacket on, and the kid pulls his hand out of his coat with a stiff arm, like something's up his sleeve, and he raises it towards me. I leap back into the house, slam the door, call 911. (Transcript, Volume 1, pages 10 to 11)

[25] When he spoke to the 911 operator he asked for:

...a cop here instantly...I got three Indians outside, threatening me with a gun.

PCO: Sir, did you see a gun?

Warren: Yes I did.

PCO: Where is the gun?

Warren: It's in, in a kid's hand. He can't be more than a day over 16.

He went on to describe the one with the gun as being:

He's in a white parka, with his hood pulled up. Nike parka, it's white. The other ones, they're taking off in a cab, Spring Cab number 163.

(Transcript, Volume 1, pages 22 to 23)

[26] After the first incident, the individuals left in a cab which was sitting on the street and there was at least one passenger inside the cab at the time the other fellow got in. After the second incident Mr. Warren was crouched down on the telephone with the 911 operator as he saw the cab with the individuals in it go down the street and he gave the operator the cab name and number.

[27] There were pictures recovered which had been taken on the camera inside of the cab but Mr. Warren could not be certain about any identification.

[28] He further described the person with the gun as aged about 15 or 16 with a blue tuque on underneath his hood.

Julius William Wirffel

[29] Mr. Wirffel has been a taxi driver since 2000. On January 31st, 2005 around about 1:00 p.m. he picked up a female, a girl, in the area of Stella Walk. Two younger guys also got in the back and an older guy got in the front with him. They wanted to go to Martin Avenue in East Kildonan. They were all native and the conversation in the taxi was in a native language so he did not understand anything that they may have been talking about.

[30] When they reached Martin Avenue the girl stayed in the car when the others got out. They were gone for a couple of minutes, got back into the cab and said they wanted to go back to the North End, back to the developments. He dropped them off at a parking lot at King Street and Dufferin Avenue.

[31] Mr. Wirffel indicates that the tone of the discussion, although he could not understand the language, was not remarkable. They seemed to be happy, like they got what they wanted, and wanted to go back to the North End. He agreed they were in a hurry when they came back after being gone for four or five minutes.

[32] Mr. Wirffel could not remember the passengers except he did remember the front seat passenger paying because he got a good tip, \$20.00 for a \$16.00 trip.

Roderick Pelletier

[33] Mr. Pelletier resided at 495 Dufferin Avenue. On January 31st, 2005 around 3:00 in the afternoon a young man came to the back door of his home and asked for a boy named Jason or Justin. Mr. Pelletier thought he was looking for his little brother or something. He was breathing hard and out of breath. He thought the young man might have been out of breath because his dog scared

him. Mr. Pelletier had a rather large dog which was apparently barking quite loudly. It was later that he found out that the young man (Mr. Dumas) was out of breath because he had been running for a while.

[34] The young man asked Mr. Pelletier for a light and as he was trying to light his cigarette off Mr. Pelletier's a police officer came "sort of" running towards them. Mr. Pelletier told Mr. Dumas "Oh man, you're caught." The officer took Mr. Dumas by his left arm and told Mr. Pelletier to get into the house. As the officer was running up Mr. Pelletier says his dog was trying to attack the officer. The chain, however, allowed the dog to get only so far away from the house.

[35] Mr. Pelletier described the officer as taking Mr. Dumas quite roughly by the arm and drawing him back towards the lane, making him walk on his tiptoes. The officer was rude to Mr. Pelletier and to the boy and was swearing. He saw them make it to the back of the property by the lane. He was told by his daughter that they were fighting and when he looked out again he could see the officer falling. Then they ran around another building and ran down the back lane towards the east. He went to look through a window in the girl's bedroom which had plastic on the window to keep the cold out, but he could see Mr. Dumas running, barely running, westbound on Dufferin. He went to sit down and it was very shortly later when he heard two shots and his reaction was "Oh man. They shot him."

[36] Mr. Pelletier was quite candid that he does not trust police based on previous experiences of his own. His evidence was given in a straightforward manner, although some of what he testified to was inconsistent with the statement that he gave on January 31st, 2005, i.e., in his statement that day he said he went outside and held his dog back. In giving his evidence at the inquest he said he did not go outside at all.

[37] The above may or may not be contradictory because he cannot write so the statement was read back to him. He also indicated that his mind was focused on something else at the time the statement was being given.

[38] He was also asked if he had discussed the matter with others in the neighbourhood. His response was:

The detectives kept on coming to my place and said “Don’t talk to the media. Don’t talk to anybody at all.” so when somebody says that to you, what do you do. (Transcript, Volume 1, pages 113 to 114)

Charles Dorvault

[39] Mr. Dorvault lived at 496 Stella Avenue and was working in the back of his property putting up a lean-to on January 31st, 2005. While doing so he saw an officer chasing a young man between two houses on Dufferin when the officer hit a patch of ice and went down. He got up and kept running after the kid and caught up with him in the back lane. They had a scuffle and the kid took a swing at the officer with an overhand right. Mr. Dorvault could not tell if it was a fist and did not think there was any contact. The kid broke free and the chase was back on. His estimate was that it was about 15 minutes from that time that he heard what he thought was a backfire and later found out it was a gunshot.

[40] Mr. Dorvault was 150 to 200 feet away from where the officer caught up to the young man so he could not hear anything that was said.

Stuart Hourie

[41] In January 2005 Mr. Hourie lived at 525 Dufferin Avenue. On January 31st, 2005, he was walking eastbound on Dufferin Avenue to a walk-in clinic to pick up some pain medication for a sprained ankle. He heard footsteps behind him and saw an officer running toward him. He thought at first the officer was running to him but he went past him on the right and he realized that he was

running towards an aboriginal fellow in front of them. Mr. Hourie was at about the middle of 519 Dufferin at the time.

[42] The officer told the young man to halt, to freeze. The officer had nothing in his hand at that time. He saw a screwdriver in the right hand of the young man and could see that he was brandishing it at approximately a 45 degree angle. The officer told him to drop his weapon, repeated that several times, at least three times, but the young man did not comply. He kept on coming towards the officer, at which time the officer pulled out his bear spray. He gave two squirts; the first one missed and the second one hit the young man in the face. The young man continued to come towards the officer who backed up about five paces. He kept asking him to drop his weapon. The young man lunged at the police officer from about nine or ten feet away with the screwdriver raised upward. Momentarily later there were two shots.

[43] At the time that the officer who had passed reached for his pepper spray, he saw three officers coming up behind the young man. He did not actually see them until they were on the public sidewalk. Mr. Dumas had been running “full gauge” from the officer. At the time of the shooting the officer who shot was almost beside him, maybe four feet, three feet away. Mr. Hourie’s evidence was:

A ...He asked him repeated times to drop his weapon. He didn’t comply with the officer, and he came towards the officer with his weapon. The officer pulled out a pepper spray can, squirted once, missed him. Then the gentleman moved to the side. A second shot and that there, got him in, in the, in the face...

Q ...what, if any, effect did it have on this fellow?

A ...he still had the screwdriver in his hand...continuing to come towards the police officer...The police officer backed up about -- I’d say about five paces, five to six paces back. And then that’s when he brandished his weapon, the police officer...He [the officer] was asking

him [Dumas] to drop his weapon...he [the officer] asked him about maybe two to three times to drop it...

Q ...What was he doing?

A He was going towards the officer...He came at him with a lunging...

Q ...Where was his hand with the screwdriver?

A Upwards.

Q And after he did that, how quickly then thereafter did the officer shoot?...

A Momentarily.

(Transcript, Volume 2, pages 15 to 19)

[44] Mr. Hourie said that prior to the pepper spray Mr. Dumas' hand was down by his side with the business end of the screwdriver pointed backwards until he was sprayed in the face. When sprayed, his arm came up with the business end of the screwdriver and his fist pointed towards the officer. His evidence from personal experience was that the natural reaction to being sprayed is to raise your hands to wipe your eyes. In this case, however, he said he took Mr. Dumas' action to be an aggressive move. At the time he gave his statement to the police, he said he felt that the officer had no choice (in the way the officer responded). That was also his evidence at the inquest.

[45] Mr. Hourie was very uncomfortable with being present and giving evidence during the inquest. He was very emotional in giving his evidence although he made a good job of keeping that under control. He testified that he wished that he had never been there that day because there had been a tremendous emotional impact. He said "...it's been embedded in my head for years." There have been difficulties sleeping and nightmares which have gone

on for quite some time. He was also clearly upset that after Mr. Dumas had been shot and had fallen to his knees, that the three officers who were chasing him from behind jumped on him on his back to handcuff him when he was already down. He did not know, of course, that young Mr. Dumas had been just a brief time before in a scuffle with one of the police officers who was chasing him and had broken free so that the chase was still on at the time Mr. Dumas was running towards the officer who shot him.

[46] Mr. Hourie backed away from the scene and went home and discussed the matter with his common-law wife. Later that day he spoke to the police.

[47] At no time was assistance offered (or sought) in terms of counselling or support for him to deal with a traumatic event which had unfolded literally before his eyes a few feet away from him.

Israel Sody Kleiman

[48] Mr. Kleiman's business was located at 506 Dufferin Avenue. His business, Red Devil Heating and Manufacturing, had been located there since 1973. On January 31st, 2005 at about 3:00 p.m. he was on the telephone talking to a supplier in Montreal. His attention was drawn to three black-clad figures walking westbound on Dufferin on the north side of Dufferin about 75 feet away. There was an officer about six feet back from the person in the middle westbound and another officer in front of the person in the middle facing eastbound, walking backwards westbound. He described the three as being in "lock step". The speed of each of the individuals had not increased or decreased until just before the shot happened when the distance between the front two had decreased from six feet to five feet, perhaps, but not less than four.

[49] Mr. Kleiman said he:

...had the feeling that he was very determined to continue walking in that direction, and he wasn't stopping. It was pretty obvious from the context

that with an officer in front and the other one behind him, both facing...well, the one behind walking behind, the one in front facing him, it was obvious that they wanted to, to...him to stop...He certainly would have known that they wanted him to stop when they pulled out whatever they, they pulled out and pointed it at him. (Transcript, Volume 2, page 67)

[50] For most of the time that he was watching, Mr. Kleiman did not see anything in the hands of any of the three. His view was obstructed by a snow bank which, as he described it, came up to most people's midriff. He did just before the shooting see something of a rectangular nature that he took to be a Taser. He did not note anything with respect to the use of pepper spray. His concentration was on the three individuals that he was watching.

[51] Mr. Kleiman at no time saw anything in the hands of the young man in the middle nor did he note any "lunging" type of movement. He noted that had the first officer stopped, the young man would have had nowhere to go as he was between a snow bank and a house. He agreed that there was a path through the snow bank but that was farther to the west.

William (Willie) Sinclair

[52] Mr. Sinclair moved from a remote community to 3 - 483 Dufferin Avenue in December of 2004. On January 31st, 2005 at 2:50 p.m. he saw someone run by his front window. A minute later he saw a police officer running by and shortly thereafter saw the same police officer run by a second time.

[53] He got up to look out the window and saw that the police officer was chasing what he described as a teenager. The officer was "distressed", i.e., he had no hat on and his jacket was hanging open. Mr. Sinclair followed the officer up to Dufferin Avenue where he observed the officer seemed to have lost sight of the young man. The officer saw him and told him "to go back in my house". (Transcript, Volume 2, page 88) The officer told him that in an angry tone and

swore at him. Mr. Sinclair indicated that he stepped back to comply with the officer because he did not want to get into a dispute with the officer. As he was doing so, a neighbour pointed out to the officer the direction to where the young man was hiding behind 495 Dufferin. Mr. Sinclair was in front of his doorway but still outside of his house and shortly thereafter he saw the police escort the young man towards the back lane with the young man's left arm twisted up. The boy was walking on his toes but had his right arm free. The officer was holding onto the young man and speaking into his portable radio at the same time when there was what Mr. Sinclair described as a "commotion". The young man sucker-punched the officer on the right side of the face which knocked the portable radio and the glove off the officer. Mr. Sinclair expressed concern that the officer had not handcuffed the young man immediately.

[54] The officer struggled to get up while the young man was already in flight.

[55] Mr. Sinclair indicated he was going to stop the young man as he came near and called out to the officer to see if he wanted his assistance. Whilst the young man was running down the walkway in front of his house, he saw him shake his glove and something came out in his left hand:

...I think I identified it to be a shanker because it was not a knife. It didn't have a blade. (Transcript, Volume 2, page 92)

It was not a knife, but it was shiny, chrome and narrow. He lunged at Mr. Sinclair with a swinging motion. Mr. Sinclair was scared and thought he was going to "poke" him:

...He made two attempts on me to poke me. (Transcript, Volume 2, page 92)

[56] Rather than run into his house which was right there, he ran towards Dufferin which was about 150 feet down on the walkway because he was not sure that he could get the front door open before the boy might stab him. On Dufferin he ran west for two and a half houses or so until he got to a path through

the snow bank where he went on to Dufferin Avenue. He went back east and then hopped over the snow bank and came up following a police officer who was going westbound after Mr. Dumas. The officer had a gun in his left hand and pepper spray in his right hand. The officer was also calling on the boy to put the weapon down. The officer facing Mr. Dumas and other officers who were reaching this point were all yelling at the boy to put his weapon down. He was:

...just walking,...and making no attempt to listen to what the officers are saying to him to put the weapon down. (Transcript, Volume 2, page 128)

[57] The officer pepper-sprayed from the side of the head to the side of the young man's face. Mr. Sinclair's evidence is that the young man must have walked 100 to 150 feet before he reacted to the pepper spray. When he did react, he reacted by lunging towards the officer who was ahead of him:

The attempt that he made was, yeah, he did lunge forward. It wasn't to wipe his eyes or anything like this, it was just an attempt to, to go at the officers that were ahead of him 'cause that's when the effect of the pepper spray is starting you know...but the way his arm was, he motioned directly at the officers...but it was so far out that it wasn't near his body area. The motion that he made was to strike the person ahead of him...or the people ahead of him. (Transcript, Volume 2, page 137)

[58] Mr. Sinclair indicated that the motion was a sort of overhand left motion, the same kind of motion as the young man made when he swung at Mr. Sinclair.

[59] The officer he lunged at was, by this time, walking backwards. He lunged at the officer twice and the second time he heard the shot.

[60] Mr. Sinclair is the single parent of two daughters. He has lost over a hundred pounds since this incident and has been diagnosed clinically with post-traumatic stress disorder. He saw a psychologist but did not react well to the medication so he turned to traditional medicine. He sought help for himself on his own accord and says counselling was not offered to him. He said all they did

was give cards and write down the Victim Services phone number which he did not contact. Although it was not said expressly the impression was that although he was given a phone number he did not know what to do with it or feel that he should “bother” them. So he sought his own counselling and continues counselling with his daughters because this affects them as well, i.e., his inability to sleep, eat and function as usual. The Elder with whom he had spent time passed away two weeks prior to his giving evidence and he was at the time of the inquest looking for a new Elder.

[61] Not surprisingly, no evidence was called with respect to the process involved with handing out cards and providing the Victim Services telephone number. It could, however, be useful and/or helpful to have a system where the names of people who witnessed a traumatic event and were provided the contact information are recorded. That information could then be used for a follow-up outreach contact to see if they:

- (a) require access to resources and if so, they
- (b) could be referred/channeled to an appropriate agency or counseling program.

Dalton Dennis

[62] Mr. Dennis has a business which involves graphic design, and on January 31st, 2005 it was located at 542 Dufferin Avenue.

[63] What drew his attention at first were the police cars. Mr. Dennis said that it was not unusual to see police cars in the North End but he saw several. He saw one which blocked off the back lane between Andrews and Stella and another one on Andrews. He saw a police car come down to the stop sign at Andrews and Dufferin, make a left turn onto Dufferin and then continue down Dufferin, but make a u-turn in the middle of the road. It parked at an angle to the road. A male officer and a female officer were in the car. At this point he saw an

officer moving briskly south on Andrews and then he turned eastbound onto Dufferin. He brushed by (a civilian) and drew his weapon as he went eastbound on Dufferin. Mr. Dennis exited his building because he thought something was happening and wanted to see what was going on.

[64] Mr. Dennis' memory was not clear but was aided by viewing his videotaped statement. He adopted what was in his statement with respect to the fact that he saw the person who went down standing, looking right at the officer but also looking around, describing it as looking like he was thinking. He did not recall hearing any commands or seeing any pepper spray deployed or any lunging motion from the individual who was shot. He did not hear a gun shot. Part of the difficulty with his observations appears to have been that while everything was happening very quickly, a Canada Post van pulled up in front of him and blocked his view.

[65] He next saw the aftermath and saw a couple of officers trying to help once the suspect was down.

[66] He said somebody told him the suspect had a weapon but he did not see one. The officer with the weapon and the suspect were approximately five feet apart.

Carol Lischka

[67] Ms Lischka works at Direct Dialing Starter Drive at 512 Dufferin Avenue. She has worked in the area for over 20 years. On January 31st. 2005 she was in her office talking on the phone when:

...there was a policeman that came into view. He was walking or moving quickly backwards and he was holding a gun straight in front of him with his two hands. (Transcript, Volume 3, page 34)

[68] She was approximately 50 feet away and her viewpoint was six feet high from the street so she had some elevation to be able to see what was going on.

[69] She saw two police officers and the suspect walking west. The officer facing Mr. Dumas had a gun and was walking backwards. The other officer was behind Mr. Dumas and had a can in his hand. She indicated that eventually Mr. Dumas was closing the distance to the officer with the gun by the time they reached the end of the fence, and she thought the officer behind was gaining on Mr. Dumas. At that point she thought the distance between each of them was two to three feet. She could see that the officer with the gun was speaking constantly.

[70] Ms Lischka from her vantage point could see from approximately the hip up but did not see a weapon in Mr. Dumas' hand. She could not remember noting his hands, although indicated she thought she could have seen his left hand but did not notice anything in it. She did not see pepper spray being deployed, although she did indicate that the officer from the rear had the canister up, outstretched towards him. At the point at which the officer had backed up as far as the fence, Ms Lischka felt something was going to happen so she got down on the floor. Not long after that she heard what she thought was one gun shot. A short while later, again she looked out the window to see a female officer over top of the person on the ground. Not long after that an ambulance arrived.

Crystal McManus

[71] Crystal McManus did not appear in response to her subpoena. Ms McManus had promised Mr. Worme she would show up to give evidence but she did not. The inquest was advised that someone attended at her residence and found that her residence was vacant and the door had been left open. As a result, by consent her evidence was given by way of a sworn video statement that she gave February 1st, 2005. The following evidence is from that statement.

[72] Ms McManus lived at 631C Dufferin Avenue in 2005. On January 31st, she was on a pay phone at 2:42 p.m. at the corner of McGregor and Stella speaking to her sister for a few minutes. Once she got off the phone there she

decided that she would use the pay phone at Dufferin and Andrews to call her mother. At the time she was at the pay phone at Dufferin and Andrews she observed people in the back lane behind Dufferin Avenue. She also saw a police vehicle and some police officers who were apparently speaking to three males, two of whom were standing by the police car and one who was hunched down. She dialed her mother's number but got one digit wrong and decided to get her quarter back because she did not want to be in the area with the police around with whatever was happening. She said she did not want to be in the way.

[73] As she had decided this, a police officer was walking towards her southbound on Andrews. She turned around and walked eastbound on Dufferin. There was a guy in front of her and two kids playing at the side of the road. She could hear from behind her the police radio going loud from which she could hear "suspect armed". As she continued to walk, the officer from behind passed her and she could see two police officers come onto the sidewalk some distance down in front of her. A boy came out from between some houses onto the sidewalk in front of those officers. One of the officers sprayed him on the right side with pepper spray. She said he was sprayed three times at intervals but did not stop. She kept hearing "Drop your weapon, drop your weapon." At that point she passed the two boys who were playing on the sidewalk. She asked them where they lived and they said "Right here." She told them to move it as she did not know what was going on. "The boy walking towards me had a screwdriver (in his fist, blade out). He appeared upset and angry. He was carrying the screwdriver thigh high." He appeared to her to be 18, 19 or 20.

[74] They kept telling him "Drop the weapon, drop the weapon.", then they were yelling at him "Drop the weapon, drop the weapon." After the cop on the right side sprayed him he was squinting mostly on the right side. He did not look scared as he was walking westbound; he looked angry. After he had been pepper-sprayed on the right side and he was squinting on the right side, he looked more flustered as though he did not know what to do.

[75] The officer who was face to face with him at first had his gun pointed down to the ground with both hands on it but as the boy kept walking towards him he backed up two or three steps. It looked to her like he raised his arm to wipe his eyes, but what happened was that as the boy closed the distance, raising his arm, the officer was backing up and shot.

[76] She just stood there. The mum came and got her boys. The boy started crying when he was on the ground. He was in a fetal position and the screwdriver was behind him over his shoulder. As she looked around people came to windows and out of their businesses. The place had been empty and all of a sudden there were all kinds of people around.

Eduino Melo

[77] Mr. Melo sometimes assists his brother Emanuel Raposo in his business at Central Auto Detailing at 500 Dufferin Avenue as he was on the 31st of January, 2005 when this incident occurred.

[78] He saw three officers, one following the gentleman and another officer in front of him, and he believed it was a female officer on the street. Both officers, front and back, had something in their hands. The one in front was walking backwards and he believed he had a spray gun in his hand.

[79] While he was in the shop he heard officers say “stop, stop” but when he came outside he did not hear anything.

[80] At no time did he see the teen, as he called him, respond to the commands by the officers. He did, however, say the youth was pepper-sprayed but did not stop or get down. Initially he did not see anything in the young man’s hand but later indicated that he had something in his left hand.

[81] Mr. Melo said that when the officer who was walking backwards tripped or slipped, he saw the young man turn to challenge the officer.

[82] Mr. Melo went to the police on February 9th to give his statement, just over a week after the incident.

[83] On cross-examination by Mr. Worme, Mr. Melo agreed that English was his second language and that sometimes he did not always express himself clearly in English. He agreed to the suggestion that he knew what the police wanted to hear and he wanted to tell them what they wanted to hear. He also agreed that he and his brother and another person in the shop (for whom a subpoena was issued but was unable to be served) had discussed this matter over time as well as with his family prior to his giving his statement to the police. His evidence when he gave it at the inquest was not the same as when he gave his videotaped statement to police. Part of the videotaped statement was played. While he adopted some of it, he was ambiguous about some of it. As a result, Mr. Melo's evidence is unreliable except for the basic scenario.

Emanuel Raposo

[84] Mr. Raposo was the owner of Central Auto Detailing at 500 Dufferin Avenue in January of 2005. In mid-afternoon as he went back to his office in the front he looked out the window and saw four people: three police officers and another person. The person was walking down the sidewalk with one officer behind him, one in front of him and another one on the street. The officer who was in front of him was, at his guess, five to six feet away and that officer had what he thought looked like a gun in his hand. He did not go outside but he could hear the police telling him to stop or drop it, something like that. He also saw the officer behind the fellow, who was about seven or eight feet away, spray something at the fellow in the middle. He did not initially see anything in the hand of the fellow in the middle but at the point he saw the officer in the front apparently having some difficulty in walking backwards, kind of tripping in the snow, it was at that point he saw something like a knife or a screwdriver in the fellow's hand. He saw the fellow lift up his arm and that is the point at which he heard two shots.

[85] There was some discussion in his cross-examination as to whether that lifting of the arm was a stabbing motion. It was pointed out that during his videotaped statement it was described by the officer doing the interviewing as a stabbing motion. Mr. Raposo adopted that and then repeated it further on in his statement. He went on to say, however, when asked:

Q And you would, you would agree that that was the truth at the time and do you adopt that today, sir?

A Yeah, well that's the way I look at that time and today I probably look a little different. (Transcript, Volume 3, pages 91-92)

[86] It was later explained that because of other factors which he came to have knowledge of he might have interpreted what he saw today in a different fashion than he did at that time.

Jonathon Ross Mateychuk

[87] Officer Mateychuk has been with the Winnipeg Police Service for 17 years and currently works as a detective in the Stolen Auto Unit. On January 31st, 2005 he was a Community Policing Officer in District 4: East and North Kildonan. On the date in question he was in a marked cruiser car in full uniform and was, as usual, working alone. He was returning to East Kildonan after a lunch meeting with Probation Services on Portage Avenue near St. James when he heard a broadcast involving a gun.

[88] The radio message was to the effect "Three males outside residence armed with a gun." He related that he was near Balmoral Street at the time and turned left on Balmoral to turn onto Logan to go across the Louise Bridge or Redwood Bridge back to East Kildonan. He heard a further radio message to the effect that the suspects had left in a cab and had returned to the North End where they were left in the area of Dufferin and King. He made the decision at that point to go across the Salter Street Bridge. He told the dispatcher he was in the area and would be right there. After he crossed the bridge he spot-checked

one male near Dufferin and King. He saw no one else around so he decided to head back to East Kildonan. At that time he heard Constable Ward on the radio, which he knew was a single-manned car, saying that he had seen five males on Flora west of Main Street, some of whom matched the description that had been given of the Elmwood suspects. Constable Ward said that he was not going to approach the males but would keep an eye on them.

[89] Officer Mateychuk ended up on Selkirk Avenue travelling eastbound. Just prior to that at the south lane of Selkirk Avenue an older male in his fifties was asked if he had seen the suspects or a group of five males. The man indicated there had been a male with a white jacket but that when he, Officer Mateychuk, pulled up to the gas station where the phone booth was the male took one look at the officer and disappeared. Officer Mateychuk continued eastbound on Selkirk Avenue towards Main Street. About a block and a half east of Salter there was an open space so he pulled the car over to the curb in order to check the computer for updates. When he pulled over he observed a male standing in front of a small building next to a parking lot. The male kept looking over at the cruiser car and it was obvious to Officer Mateychuk that he was paying particular attention to the police car, and that his (Mateychuk's) presence seemed to be making him nervous. Officer Mateychuk notes that the male was approximately 17 years of age, average to stocky build, about five feet, nine inches tall. He had on a dark navy or a black jacket that was like a parka and had dark headwear that matched the description of one of the suspects that they were looking for. He appeared to be native or Métis in appearance. (Transcript, Volume 4, page 12) He noted him to adjust something in the chest area of his jacket that had some weight to it. At that point he began paying closer attention to the male and what he did.

[90] The male started to walk southbound so Officer Mateychuk turned southbound as well, then westbound and ended near Flora and Powers. Officer Mateychuk turned southbound onto Powers. The male he was watching was

southbound between the houses. Officer Mateychuk pulled into the lane of Stella and the male walked across in front of the cruiser car, about 15 to 20 feet to the west of Constable Officer Mateychuk.

[91] The male just kept walking straight southbound. At that point Officer Mateychuk had not decided if he would confront the male or speak to him or spot-check him but he:

...reached down and he adjusted something in his left sleeve.

Q What do you mean by that?

A As he was walking past the front of the cruiser car, you know, 15 to 20 feet away, he reached down with his right hand and he pushed something up his left sleeve. And what I saw was about three to four inches of something black and it appeared to be to be a cylindrical object, like a rod.

Q What was your concern, what did you think it might be?

A Because of the earlier description about the sawed-off shotgun and the fact that the suspect had it in his sleeve at the scene of the crime, at this point my, my thoughts were that this guy has this up his sleeve right now, and it's heavy enough that it's pushed itself down his sleeve, that he has to deliberately push it back up. I opened my cruiser car door and I called to the male, and at that point he bolted. (Transcript, Volume 4, page 15)

[92] At the time he saw him push the object up his sleeve, Officer Mateychuk was convinced that this possibly was the male involved in the incident under investigation.

[93] As the male ran towards Powers, Officer Mateychuk voiced over the police radio that he was chasing a suspect southbound on Powers. The radio he was

using was a standard police radio, hand-held rather than one that was detachable and worn on the shoulder.

[94] The first area of the chase was through a narrow walkway between buildings on the west side of Powers. It then took a turn southbound and as Officer Mateychuk reached the north lane of Dufferin he could see the male had gone westbound and then southbound into a yard. He followed his route and ran down the lane to 483 Dufferin, which is a set of townhouses, and ran southbound down the sidewalk to the north sidewalk on Dufferin. At that time he lost sight of him. A native male came out of one of the units at 483 Dufferin and asked if there was a problem. The male was approximately in his forties. He asked if he had seen the male run by and he said no. A woman in a car parked on Dufferin pointed, then rolled down her window and said he ran westbound and then northbound into a yard. Officer Mateychuk went back northbound, then westbound in the lane, over two houses and saw the male in a yard. He had pulled the bandana down to his neck. Officer Mateychuk walked into the yard where the male was standing with a guy in his forties or fifties and asked the older man if he knew this guy. The response was something to the effect that he just came and asked for a cigarette. A cigarette was noted in the younger male's hand. As he came into the yard Officer Mateychuk noted the younger male kept looking towards Dufferin Avenue. He also noted a large dog barking and growling at him in the yard.

[95] Officer Mateychuk walked up to the male that he had been chasing and took hold of his jacket under the left shoulder over the left bicep. He:

...told him the reason that I was taking hold of him. I told him that: I saw you had something that you put up your sleeve, and I asked him what it was. And I can't remember if he answered that question or he said nothing. And I asked him why he ran, and I don't think he responded to that question. (Transcript, Volume 4, page 19)

[96] Officer Mateychuk told him the dog was making him nervous, that they should walk to the back lane. Still holding him by the jacket in the same manner, they did so. Officer Mateychuk's thoughts were that if he could get him to walk to the back lane, maybe one of the cruiser cars that were in the area would come. He noted that the cigarette was almost gone and the male was shaking. He was very nervous and he was making Officer Mateychuk nervous.

[97] Officer Mateychuk patted down the male's torso to his right hip and noted the cigarette was almost completely gone. Officer Mateychuk was facing his back at the time and as he reached to the rear left side of chest he felt something hard and bulky. He was not expecting to find anything because there had been lots of time when he was running for the male to ditch anything that he might have had on him. As soon as he touched the hard object the male wheeled around and hit Officer Mateychuk in the right side of his face area with this right forearm and elbow. He had stepped back so he did not get the full force. Officer Mateychuk kept hold of his jacket and they spun around at least twice, reaching, trying to catch onto each other. He described it as grappling like one would in a fight while playing hockey. At the time the male was reaching, trying to get something out of his jacket while Officer Mateychuk was trying to keep him off balance. His footing was not very good and he slipped and fell on his knee and the male ran southbound towards Dufferin. As they spun around and he pulled away from Officer Mateychuk, the male said something to the effect that:

...you're not going to stop me, or, nobody's going to stop me, something to that effect. (Transcript, Volume 4, page 23)

Officer Mateychuk ran after him.

[98] They got onto the north side of Dufferin and ran 50 to 100 feet when he turned right into one of the yards. Officer Mateychuk chased him northbound through the yard again and the dog came to the end of its chain, trying to get at him. The dog's presence forced them to the east side very near the fence where there was about 12 to 24 inches of snow and the footing was difficult. The

suspect got by before the dog got to the end of the chain. Officer Mateychuk testified that the dog got his pocket at his thigh but the dog was at the end of his chain and was choking so it let go.

[99] The chase continued eastbound, then southbound. Officer Mateychuk tried to tackle and hit the ground on one knee. They were both out of breath by that point but the male straightened up right away and kept going. Officer Mateychuk had his radio in his hand and the radio hit the snow:

...So at this point I'm out of breath and he's out of breath but he stops and he turns and he faces me. And I'm down on one knee and I'm looking at him and I guess I'm deciding is this really worth it, you know, am I going to get...keep chasing this guy, and it's at that time I see he's got a screwdriver in his left hand and I can see that it's got a, a nice chrome finish. So that prompts me to get up really quickly and I start walking after the male, and he turns towards Dufferin and he's maybe 15 or 20 feet ahead of me. (Transcript, Volume 4, page 24)

As he was passing in front of the homes at 483 Dufferin Avenue a native male stepped onto the sidewalk and asked the officer something to the effect of "Do you want me to stop him or grab him?" Constable Mateychuk yelled "Get out of the way, he's got something." At that point he saw him jump back.

[100] Officer Mateychuk got to within about ten feet of him so he tried to pepper-spray him at that time. This was at the corner of Dufferin and the walkway. It was five feet from the end of the walkway and he was five feet west on the north sidewalk of Dufferin. He sprayed for several seconds and thought he got the rear ear and shoulder. Some of it blew back at him so he stopped.

[101] When they were about 50 feet west of the corner where the sidewalks meet, Officer Mateychuk was going to notify the other officers in the area that this male had a screwdriver, a weapon, but at that point he realized he did not have his radio with him anymore. He kept walking behind him on the north sidewalk

on Dufferin heading westbound. At this time they were at more of a brisk walk than running. As they continued walking westbound, Constable Mateychuk observed a male officer and a female officer coming in eastbound on the sidewalk towards the male. Officer Mateychuk called out to them that the male had a weapon but testified he thought they saw that at the same time he called it because of the look on their faces and the fact that they “slammed on the brakes and they started to back up”. (Transcript, Volume 4, page 28) He took out his pepper spray again and lunged forward, trying to spray from a 90 degree angle from the right side of the male. His estimate was that he was within five feet when he sprayed the side of his face. His observation was that the male may have hesitated for a moment but he kept walking. Officer Mateychuk indicated that he had used the last of his energy so he just kept walking.

[102] At the time Officer Mateychuk noted the officers start to back up, he noticed there were two children and a toboggan to the west of where the male and the other police officers were.

[103] During this whole time the officers were yelling “stop, drop the weapon; stop, drop the weapon”. There was a barrage of commands constantly being yelled at the male. Officer Mateychuk said he was not doing the yelling because he was too out of breath to say anything. His evidence was:

So they're yelling at him and I'm walking behind him and I'm waiting for him to, to just lay down and get on the ground, to put his hands up, or I guess there was a yard to his right with a hedge, and I thought he might try and go over that and then he'll get tackled in that yard and it'll be over. And then there was the snow bank on the left, so it was at that time there was a cruiser car pulling up, so I realized he's probably not going to try and go to the left. (Transcript, Volume 4, page 30)

[104] As the male got within about ten feet of Constable Gburek (who at that time was not known to Officer Mateychuk), the screwdriver was still in his left hand, swinging down by his side. As Constable Gburek took a step up and onto

the snow bank, the male was five to eight feet away from him. Officer Mateychuk realized that he had guns pointing at him, too, so he moved to the left. He never took his gun out because the other officers had theirs out. By the time the male was within five feet Constable Gburek, Officer Mateychuk could no longer see the left hand which had been swinging down by his side as he was walking. He had pulled his hand up. He described:

So when he gets within about five feet of Officer Gburek, he lifts his hand and I no longer see the screwdriver or his hand at his left side. And when he gets within about two feet of the end of Constable Gburek's arm, Constable Gburek fired two, two shots. And, and as he's firing these shots he's, he's back-peddling [sic] (Transcript, Volume 4, page 31)

[105] Officer Mateychuk's estimate was that Constable Gburek was able to keep about 24 inches away from the male by back-pedaling up the snow bank. The male took about two steps and fell to the ground. His estimate was that just the second before the firing of the weapon that from the end of Constable Gburek's hand or gun to the chest of the male would be about 24 inches or two feet.

[106] Constable Mateychuk was asked during the giving of his evidence why he did not radio or broadcast the information that the male that he was interested in possibly had a shotgun in his jacket. He indicated that in looking at the chronology that was presented to him it appeared that there was all sorts of radio traffic going on and there was only the one channel. So if other units were talking, there was no opportunity to break in. Another area explored was why Officer Mateychuk did not handcuff Mr. Dumas at the time that he was in the yard and had him by the jacket. Officer Mateychuk indicated that he was confident that if he had pulled out his radio or handcuffs at that particular time, the male would have bolted and the chase would have been on again. He was concerned with the presence of the older male and the large dog in the yard as well. The older male had denied knowing Mr. Dumas but that was still a question mark in his mind. He decided to try and keep things cool and talk to him. He was fairly

sure that when they reached the lane cruiser cars were nearby and the issue of searching him could then be addressed.

[107] In hindsight, Officer Mateychuk was of the opinion that:

I should have had other officers come there to the area before going in; and walking into that situation with the suspect, the older male and the dog was not the smartest thing to do. And if he had looked towards Dufferin once, twice, three times, if, if he ran to Dufferin, so be it. That should have been more...less of a concern to me than my own safety.

(Transcript, Volume 4, page 123)

Dennis Wayne Gburek

[108] In January of 2005, Constable Gburek had been an officer with the Winnipeg Police Service just over three years. On January 31st, 2005 he was in a patrol car with his partner, Constable Luer, driving along Selkirk Avenue when they heard voicing over the radio with respect to a robbery in Elmwood in which a sawed-off shotgun was possibly involved.

[109] The description he recalled was “three native males, one with a blue hoodie, a white baseball cap; two other native males wearing dark clothing”. Dispatch asked their unit to slide by to check out the area where apparently a person was ducking between the houses. This would be the area of Flora Avenue. As he was driving he turned south on Andrews, approaching a back lane. In the back lane he saw a blue hoodie or blue sweater, white baseball cap garbed male eastbound in the lane. There were two other males westbound in the lane.

[110] Mr. Worme cross-examined at length with respect to the description of the blue hoodie as that description is found nowhere in the documents that were provided of the transcripts of the communications from the Winnipeg Police Service with respect to this incident. The closest to that description that could be found is at 13:30:01 where dispatch described “blue tuque with the hood up”, a

dispatch which Constable Gburek and his partner would not have heard since they were at court at 373 Broadway at that particular time. That is, however, one of the things that Constable Gburek was looking for in terms of descriptions of the robbery suspects:

Three, three native males, from what I recall, one with a shaved head, blue hoodie, white baseball cap, and the other two males were in dark clothing.

Q Okay. And it was your intention that anybody who looked anything like that, native male, you're going to spot-check them, they become suspect; is that correct from what you're telling us?

A Well, any, any, anybody that would be in that exact area, dark clothing, dark clothing, anybody with a white baseball cap, blue hoodie, blue sweater, I would be spot-checking them.

Q Okay. And native?

A You know what, it wouldn't really matter.

Q No? You would spot-check everybody?

A Well, ideally you'd want to, I guess if you saw native people first you'd want to spot-check them but you know what, there's times where they, they get mixed up in a call and they'll, they'll voice a black male and it's not a black male or they'll voice a white male and it's not a white male, so it just depends who's in that exact area, you know, if their matching clothing. (Transcript, Volume 5, page 62)

[111] When asked about the ethnicity with respect to the males in the back lane, he felt he could say that he was pretty sure that one of the first two was native.

[112] As they stopped to spot-check, Constable Gburek was opening his door when his partner yelled "gun". One of the males had a gun in his hand but it quickly became apparent it was not a threat as the male started yelling right

away “It’s a plastic, it’s a plastic gun.” He dropped the gun and as police jumped out of their car they both put their hands up. He did not investigate that particular incident any farther as his interest was on the male with the blue hoodie and white baseball cap eastbound in the lane. He caught up to him and although at first he was described as presenting with “attitude”, Constable Gburek did a pat-down search and asked him to come back to the car to run his identification. The male complied and Constable Gburek was just about to start to type his name into a computer when:

...that’s when I see the fight...It’s about a hundred fifty yards and I see lots of commotion and you can see, can see guys spinning around and I realized that it’s a, it’s a, it’s a police officer fighting ‘cause I can see the red stripe on his pants.” (Transcript, Volume 5, page 7)

He handed back the individual his identification and ran southbound on Andrews towards Dufferin Avenue. On cross-examination he testified that he was not particularly concerned about the individual whose identity he was about to run because there were still two police officers at that location in the back lane to deal with the individuals.

[113] There was a female on the corner at Andrews and Dufferin and some kids just off the corner. He was now eastbound on Dufferin and as he was running he got his gloves out of his pocket in case he had to fight. He was trying to put his gloves on as he ran past townhouses and a big snow bank on the right.

[114] A hundred feet away he could see a suspect running southbound and he could see an officer in fresh pursuit. He slowed his pace and he was now walking as they came out onto Dufferin and proceeded westbound. He took his ASP baton out because he was pretty sure he was going to be fighting. He could see the police officer behind the male and caught a glare. He saw a butcher knife. He could see silver and at that point put the baton away and pulled out his gun. At this time they were probably about 75 feet away from him. At about 50 feet from him he started yelling “Winnipeg Police, stop, police, drop the knife,

drop the knife.” To him, he saw a butcher knife. At this point the male was travelling twice the speed of the officer and getting closer. At about 25 feet away he (Constable Gburek) was thinking, 21 feet, 21 feet, have to maintain 21 feet (in training police are taught that to allow somebody to come within 21 feet, they are now in an area where they have to use extreme caution because it is a danger zone for possibly getting hurt).

[115] Constable Gburek describes:

...his eyes are big...they're lit up...big white eyes...he's red in the face...and you can just see the anger in him....can see his teeth...he's showing his teeth...he's rigid and...he's got this weird look...it's hard to explain...It's, like, he looks like he's disturbed. (Transcript, Volume 5, page 11)

He thought there was something wrong with him. He was not worried but had a very uneasy feeling.

[116] He focused on the hand, on the knife, and began to realize at about 25 feet it was not a knife, but a screwdriver. (When shown the screwdriver his response was “I would assume it was bigger.”) (Transcript, Volume 5, page 12) He realized that he had to start to back up, that he could not keep going forward. He recalled a snow bank on his right-hand side, some chain link fence on his left-hand side and he backed up with the gun high. He was continuing to yell “Drop the screwdriver.” He kept yelling and did not stop yelling for him to drop the screwdriver.

[117] He saw Constable Mateychuk (who was unknown to him at the time) bouncing around behind him and come on the right-hand side to the north side of the sidewalk and he started to pepper-spray, a big stream of pepper spray hitting him in the side of the forehead, his cheek and spraying off. He recalled thinking that he was going to get pepper-sprayed. There was no apparent effect to the

pepper spray; they just kept coming. The male was now approximately five feet from Constable Gburek:

...that's when I start to say, you know, I'm coming to the realization here that, you know, things are getting so close here that, you know what, I might have to pull the trigger here, like, any second here. So that's when I started to say to him: You know what, I'm going to shoot you. And, and it's like: I'm going to shoot you. You know, I yell that out: I'm going to shoot you. And he just keeps coming.

Q Did the pepper spray affect him in any way that you could see?

A No...

Q Did your statement to him "I'm going to shoot you," affect him in any way that you could see?

A No. He, he never, he never even blinked his eyes. His eyes stayed big. He just focused on me like he's looking right at me. You know, he's not turning his head....I just keep backing up and now, now he's like really close. He's like five feet from me. Then I realize that, you know what, I got to brace myself here in a snow bank. Like, I'm not, I can't go back any further. He's too close. I'm, I'm not going to turn around here and run and get stabbed in the back....

Q Were you wearing body armour, Kevlar jacket?

A Yes.

Q What were you worried about? What was your concern?

A My, my concern was getting stabbed in the neck.

Q So as you brace yourself...

A So I brace my right leg in the snow bank and, like, I step into the snow bank and I kind of angle, I kind of turn myself to the left and I kind of lean back, I lean back and I keep my gun up high and then, then all I remember is, all I see is that grey hoodie, or I don't know if it's a hoodie. It's a grey sweater, like, a dark grey and I just see the sweater and it's, it's, like, right over top of me and it's, like, you know what, pull the trigger, pull the trigger and that's when, that's when I shoot.

Q Once, twice?

A I, I thought it was only once but I know this now that it was twice but I only remember pulling it, just pulling the trigger. (Transcript, Volume 5, pages 13 to 15)

[118] At the time he pulled the trigger, Constable Gburek estimated that the male was three feet or two feet close to him. In answer to the question as to why he waited so long, he indicated that he had some concern over shooting with his gloves on since they never did any training with gloves. He was concerned about his accuracy because he knew there was a police officer behind the male and was afraid he might miss and hit the officer.

[119] It was suggested to him that the chain link fence to his left (which, in fact, was further down the street and not immediately beside him as he thought at the time) and the snow bank to his right, neither of which he would have been able to jump and clear, were the reasons for his firing his gun. His response was that that was not a factor in why he discharged his firearm. He knew the male was potentially a suspect in an armed robbery and knew for sure that he had been in a fight with another police officer. When he was standing at the snow bank he also was aware that the male's attention was fixed on him and he was coming straight towards him armed with a weapon:

...I kept thinking he was going to stop.

...I didn't want to shoot him. I didn't, didn't want to pull the trigger.
(Transcript, Volume 5, page 16)

[120] At the time he pulled the trigger he testified he felt he had no other choice. He felt that if he did not he would be stabbed in the neck.

Guy Dagenais

[121] Inquest counsel attempted to serve Mr. Dagenais with a subpoena for the inquest. However, he apparently has moved out of the jurisdiction. There is some suggestion that he may currently be living in Quebec but they were unable to determine a current address for him. Mr. Dagenais, however, made a videotaped statement under oath on January 31st, 2005 at 8:06 p.m. The following is a summary of his evidence from that videotaped statement.

[122] Mr. Dagenais was in the auto detail business in 2005 and at about 3:00 to 3:30 in the afternoon he was sitting in his office at 502 Dufferin. Through the large window in his office he could see a policeman backing up with a gun westward on Dufferin Avenue. That drew his attention. A bus went by and then he could see a male facing that officer who had a kind of screwdriver in his left hand, about seven or eight inches long. He was carrying it below his waist. He stayed inside the building but he said that he could hear the male being ordered to drop his weapon. An officer who was following behind the male pepper-sprayed the male a couple of times but the guy did not back down; he just kept walking straight. Both times the pepper spray hit him on the back of his head. And during this whole time he was being ordered to drop his weapon but never listened. His attention was focused on the officer with the gun.

[123] He described the male as five foot eight to five foot nine, stocky, with a shaved head or very short hair, 17 to 18 to 20 to 21 years old, native. He described him as having an angry kind of face.

[124] He started walking faster toward the officer with the gun. He did not know if the male intended to charge the officer or pass him by but he brought his arm up to his shoulder and that was the point when he was shot. Mr. Dagenais guesstimated that at that time he (Mr. Dumas) was but two or three feet away from the officer.

Raymond Keller

[125] Inquest counsel attempted to serve Mr. Keller a subpoena to compel him to appear as a witness at the inquest. However, the house that Mr. Keller had lived in was vacant and he had apparently moved out sometime in April, 2008 to live somewhere in Ontario. Neighbours were checked but no one had a forwarding address.

[126] Mr. Keller gave a sworn videotaped statement on January 31st, 2005. The following information is a summary of evidence he gave on that videotaped statement.

[127] Mr. Keller at the time of the shooting lived at 493 Dufferin Avenue. At the time he had resided there for approximately 12 years. He lived by himself as his wife had passed away. On January 31st he went outside about 2:30 p.m. or a quarter to three. He was working on his van in his back yard. He had the hood up on his van when he saw a kid run through the walkway at the apartment block two doors down from him. He was sitting in his van having a cigarette when he saw the male run through and the officer running behind him. He opened the van and yelled to the officer to tell him which way the male had run. He saw the guy from suite 3 in the apartments open the door. After they ran towards Dufferin he lost sight of them. While working on his van he saw them run through the neighbour's yard, a neighbour who had a big dog.

[128] He saw the suspect standing, talking to his neighbour when the officer came in from the back lane and took the suspect back to the lane. He saw them walk to the rear and saw something dropped at the edge of the back lane. The

officer and the male got into a “scuffle”, as he described it. After they started fighting, he turned and walked back into his yard because it was none of his business. He says he was about 20 feet from them. He described the officer as trying to frisk the suspect. He saw two objects afterwards in the snow. The suspect pulled free and he saw the officer get up (but he did not see the officer go down). The officer got hold of him but when the officer lost his footing the suspect fled back past the same apartments. It was some 15 seconds or so later that he heard “bang, bang”.

Wojtek Andrew Luer

[129] In January of 2005, Constable Luer had been an officer with the Winnipeg Police Service for approximately one and a half years and had been partnered with Constable Gburek for about a year. On January 31st, 2005 they were in a marked cruiser car when they were asked to help in checking out the area with respect to a strong-armed robbery. The description they received over the radio was three native males, one in his twenties, one teenager and one younger wearing dark clothing, a black parka. The initial report was that a handgun was involved. They were westbound on Selkirk Avenue and turned southbound on Andrews when they saw three males exiting the back lane of Dufferin. These males had a gun. As Constable Luer exited the cruiser car he had his hand on his sidearm and told the individual with the gun to drop it, which he did immediately. It turned out that the gun was a toy gun, but until they investigated they could not be sure as Constable Luer indicated that he had had experience where real guns had been painted to look like toy guns. As they continued to spot-check the males, he observed a struggle down the back lane. Constable Antonio had arrived at this point and the males were under control so Constable Gburek said he would go and see what was going on.

[130] Constable Luer thought that Constable Gburek had run down the back lane but, in fact, he had run southbound on Andrews to Dufferin. In probably less

than a minute he heard two shots ring out and Constable Antonio radioed dispatch re shots fired.

[131] Constable Luer got into the cruiser car and travelled eastbound down the back lane to the next block and turned right and right again onto Dufferin Avenue, parking his car at an angle to block traffic, and he started to help direct traffic. Not long after that he saw Constable Gburek sitting in the back of a cruiser car by himself and went and asked him if he was okay. Constable Gburek did not respond at all.

[132] In cross-examination the suggestion was put to Constable Luer that the only reason these males were spot-checked in the back lane was that they were native. Constable Luer's response was that the first reason he spot-checked these males was because they saw the gun. He indicated that he was fairly sure the older of the three males was native but could not say whether or not the other two were.

Randy Antonio

[133] Patrol Sergeant Antonio is in his 15th year with the Winnipeg Police Service. On January 31st, 2005 he was a one-man unit. He had been with health, fire and building inspectors doing building inspections of hotels and restaurants in the Main Street area. On the radio he heard about a robbery of some type, a theft of a necklace and some weapon. Radio traffic said suspects were dropped off in the Lord Selkirk Development area which was his beat at the time. His beat area covered north of Higgins, south of Selkirk, west to McPhillips and east to Main Street. The only description that he caught was that the suspects were native in appearance, there was a white coat and dark clothing, so he headed off to the area with limited information. He headed off, however, because he had walked the beat in the area so he went to see if he could help. He knew a number of people in the area which might be of some assistance.

[134] Officer Antonio was driving westbound on Dufferin at about the 400 block when he saw Constable Mateychuk pointing westbound. He drove westbound but did not see anything. He heard that car 203 was in the back lane of Dufferin. Two officers were there dealing with three males (he did not know the other officers at the time personally although he might have seen them somewhere). He observed two males, a third one sitting on the ground with a toy gun. He was polite and cooperative and Officer Antonio dealt with him. As he went to his car to run the name, he could see Constable Mateychuk halfway down the lane being spun around by an individual who ran southbound. He knew Constable Mateychuk for a number of years as they had worked in the same district. He got into the car and left but thought that Constable Gburek and Constable Luer were both still there. He had to turn the car around as he was facing northbound before he could go back to Dufferin. He had to use the siren and lights to turn onto eastbound Dufferin in traffic. Between the time he last saw Constable Mateychuk and heard the shots was about less than a minute. As he was eastbound on Dufferin, Officer Ward flagged him down and told him he could not go any further. At that point he saw that Mr. Dumas was on the ground handcuffed. Constable Mateychuk was disheveled, breathing heavily, his shirt hanging out which was very much unlike him. His first action was to go to Mr. Dumas. He thought he might be having difficulty breathing so he put him into recovery position (turned him on his right side). He could see that there was bleeding on the back right side but there was not a lot of blood. He spoke to him and he was speaking back. All that Officer Antonio can remember is him saying "...he wanted to get out of there. He wanted to go." (Transcript, Volume 6, page 64)

[135] While he was kneeling with Mr. Dumas he saw the screwdriver and one casing consistent with police service issue bullets. He also saw other objects which turned out to be buttons. He later picked up the screwdriver because there were eight paramedics and he did not want to get the screwdriver kicked around or kicked into a snow bank and lost.

[136] Officer Antonio spoke with a couple of witnesses, one being a lady from the complex who was not involved but was very upset with police. He calmed her down some and went across the street to a business to canvass for witnesses. Just as he was about to speak to two gentlemen in the auto business across the street and was going to separate them for interviews, he was relieved as an involved officer. He was “involved” because he had seen, participated and/or heard what was going on so he was segregated. In this case that meant that he had heard the gunshots.

[137] Officer Antonio had taken charge of some of the process as to begin with there were no supervisors on scene. He sent Constable Mateychuk to Officer Ward’s vehicle and Constable Gburek to his vehicle. He checked on Constable Mateychuk, asking him if he was okay, and Constable Mateychuk told him he was not the shooter. He checked on Constable Gburek and asked him if he was okay and he said yes. He told Constable Gburek to turn off his radio and he shut the radio off in the cruiser car. He was still having some problem with Constable Gburek’s presence because he had just been talking to him at the back lane of Andrews and Dufferin, and thought he was still there, when he (Antonio) left the back lane.

Meghan Grenkow

[138] In January of 2005, Constable Grenkow had just graduated from the Police Academy and had been on the Winnipeg Police force for two months. She was partnered with Constable Dziver. They had just finished another call and were asked to assist in the Powers area re robbery suspects. The description she received was that there were three to four males, one was wearing a white parka with either a blue tuque or a blue headband, the rest were wearing dark clothing, and possibly one with a shaved head, aged 15 to 16 years. Also possibly a sawed-off shotgun.

[139] The next thing they heard was that there was a foot pursuit in the area. They came down Andrews onto Dufferin and at that time saw an officer coming out onto the sidewalk chasing a male who was later identified as Mr. Dumas. The male had a shaved head and was wearing a dark parka and jeans. The officer was quite disheveled. His shirt was untucked. He did not have his parka on and his hair looked messed up. She also saw Constable Gburek on the sidewalk backing up with his firearm out. Her partner stopped the car and she jumped out. She drew her firearm and paralleled the three by walking south of the snow bank on the roadway. She noted Constable Mateychuk pepper-spray Mr. Dumas and it hit him, from her point of view, in the side of the head or in the back of the head. She could hear Constable Gburek giving Mr. Dumas verbal commands, saying “Stop. Don’t. Put the weapon down. Stop.” (Transcript, Volume 6, page 88)

[140] After she got out of the car she could see that he had something in his hand but it was not until she got a little closer that she saw it was a screwdriver.

[141] Mr. Dumas was walking directly towards Constable Gburek and did not divert in any way from walking and did not comply with any of the demands. There was a short distance between each one of the individuals on the sidewalk:

A They maintain a distance for a short time until there was a point where Mr. Dumas closed the distance between the two of them. He brought up his hand. I’m not certain which one. But I know that I saw the screwdriver go up in the air, raised, and lunged at Mr. Gburek at the same time, closing the distance between them. Constable Gburek had kind of mounted himself up on the snowbank, and leaned back, and at that point, fired twice....I jumped over the snowbank that was on the side of the sidewalk, got up, reached him. He was still yelling. Can’t really understand what he was saying at that time, moving. He had gone to the ground, and was turtling, putting his arms underneath him.

At this point, we weren't sure, or I wasn't sure if he'd been hit or not. So by that time, I grabbed his left arm, and there was Constable Carrette, I believe, that was there, took his right arm, and Constable Dziver handcuffed him. (Transcript, Volume 6, page 89)

[142] Mr. Dumas was turned on his side and searched for weapons. At that time she noted an exit wound and blood at the lower left side of his body. She called for an ETA on an ambulance which showed up only a few seconds after her call.

[143] Constable Grenkow's evidence was that as she was drawing her firearm she was concerned about crossfire because there were people looking out of the windows of a side-by-side adjacent to the sidewalk and there were people further down the sidewalk. She stated:

A Before I saw Mr. Dumas lunge, I was wondering if there was any other way that we could stop the threat. However, when he lunged at Constable Gburek, there was nothing else that could be done. (Transcript, Volume 6, page 118)

[144] She noted that he had a weapon in his hand, he was not complying with orders to drop it and pepper spray had not worked.

[145] When asked if he could have been raising his left arm to wipe his eyes, she responded:

A I did not see him wiping his eyes. I just saw him raising the arm that had the screwdriver in it, and lunging towards Constable Gburek, which appeared if he had made contact, it would have hit him in the right upper side of his neck or shoulder.

[146] Constable Grenkow accompanied Mr. Dumas in the ambulance to Children's Hospital (because they did not know how old he was and they had been looking for 15 to 16 year olds) where she was subsequently relieved by

other officers. Mr. Dumas was unconscious during the time that she was with him.

Randall Dean Dziver

[147] Constable Dziver was partnered with Constable Grenkow on January 31st, 2005. At that time he had been with the Winnipeg Police Service for approximately ten years. They were sitting on Main Street, having just completed checking out a suicide threat and were updating their information. They heard over the radio that another unit had seen what he thought were suspects from the robbery and because they were close (practically across the street), they decided to attend. They cleared their call and were assigned to assist in flooding the area to see if they could find suspects. Constable Dziver indicated that he did not have any particular description that he recalled but was looking for anyone who looked suspicious, for example, someone who was running from the police. They heard there was a foot pursuit in the area and drove south down Andrews to Dufferin where he saw a constable running eastbound on Dufferin. He recognized him as Constable Gburek with whom he had worked on the same shift in the same district some years earlier. He saw a male come out from between houses on Dufferin onto the sidewalk. He was running at the time but slowed to a casual pace. He saw Constable Mateychuk (whom he did not know at the time) come out behind him, looking rather disheveled. He parked in the middle between Constable Gburek and Constable Mateychuk with the car angled towards the north sidewalk.

[148] He looked back to see where Constable Gburek was and saw that he now had his firearm drawn. He was challenging Mr. Dumas to drop the screwdriver and stop, constantly talking at him to stop, drop the weapon, etc. It was at that point he saw a black-handled, silver screwdriver in his hand.

[149] Constable Mateychuk ran up and closed the distance and tried to pepper-spray Mr. Dumas by reaching around his right side. Constable Dziver could see

the spray and described it as hitting the back of his head and kind of the right side of his face, probably from behind the ear to the temple and cheek area. He described the reaction by Mr. Dumas as he “just kind of shook his head, sluffed it off, kept walking”. (Transcript, Volume 7, page 50)

[150] Constable Dziver did not draw his service weapon because he did not have a clear line of sight. There were townhouses which might have been hit by an errant bullet. He did not want to get closer because he did not want to get into the danger zone. He did go up over the snow bank and fall in behind Constable Mateychuk.

[151] He could now see Constable Gburek backing up. He described Mr. Dumas as:

...just kind of moving robotically, very focused on not necessarily getting away or anything, he was focused right on Dennis.

Every time Dennis kind of stepped one way or the other, he would follow his position. So Dennis is backing up, Mr. Dumas is walking forward, but obviously he can't walk backwards as fast as he can walk forward, so Mr. Dumas was closing the distance on Dennis at this point. (Transcript, Volume 7, page 51)

His estimate was that at the very end Mr. Dumas probably was within three feet of Constable Gburek.

[152] During this time he described Constable Gburek as constantly talking to him and said:

...but at one point he almost pleaded with him, he says: Drop the screwdriver or I will shoot you...It sounded like he was pleading with him. He didn't want to do what he had to do in the end but he was pleading with him, just to drop it. (Emphasis added) (Transcript, Volume 7, pages 51, 52)

There was never a response from Mr. Dumas.

[153] At one point Constable Gburek backed up into the snow bank and at that point Mr. Dumas would have been approximately ten feet away. Constable Dziver testified:

...at that point, Mr. Dumas closed the distance quite rapidly, raised his arm above his head, up to his ear, and held that position as he lunged towards Dennis and, at that point, two shots were fired...You could clearly see the screwdriver, the shiny point, out, facing Dennis...I was thinking I couldn't believe he was doing this...I thought he was going to kill him...I thought he was going to attack Dennis with the screwdriver and hit him right in the neck with it, that's what I was thinking. And if the path continued down, as it had up, that's exactly where it would have hit.
(Transcript, Volume 7, pages 52, 53)

[154] Constable Dziver was asked whether Constable Mateychuk could have used his ASP baton. His response was "I would say probably not." (Transcript, Volume 7, page 74) He was also asked about whether or not he could have tackled Mr. Dumas from behind and his response was:

A I'd considered trying to tackle him but then, in the short frame of time, then that means I'm putting myself at risk of getting stabbed so that's not something that I would be prepared to do."
(Transcript, Volume 7, page 77)

[155] He also described, however, the air of disbelief with respect to how things were unfolding. He said:

...I don't know how many times it went through my mind that he's going to drop it any second, this is going to be over in a minute, he's just going to put it down. (Transcript, Volume 7, page 76)

[156] In the end Mr. Dumas never did put it down.

[157] Constable Dziver attended to Mr. Dumas after he was shot. His partner and Constable Carrette handcuffed Mr. Dumas as he was still struggling. Constable Carrette held Mr. Dumas by the shoulders and Constable Dziver knelt on his legs at about the thigh to try to keep him physically still so as not to exacerbate any injuries. Emergency personnel attended and took over.

[158] From the radio transcript it shows that Officer Antonio voiced at 14:58:24 “Two shots fired east of our location.” The Ambulance Patient Care Report shows EMT personnel had the monitor on at 15:03 and 15:05 CPR.

Neil Carrette

[159] In January of 2005, Constable Carrette had been with the Winnipeg Police Service for approximately 31 years. On January 31st he was patrolling in a traffic unit in the north end of the city when sometime in the afternoon he heard about the incident in Elmwood on the radio. There was chatter on the radio but he then heard a one-man car was following some males in the Charles Walk area. He headed in that direction but did not let dispatch know immediately because the traffic to and from dispatch was so busy that he was already on Mountain Avenue before the dispatch was clear enough so he could tell them he was on his way.

[160] He travelled southbound on Charles to Dufferin and could see a cruiser car to the west of him. He went south across Dufferin to go westbound on Jarvis and came up Andrews to where two cruiser cars were spot-checking three males. He was there only briefly because there were two cruiser cars there. He saw they had control of the situation and then his attention was attracted eastbound down the lane when he heard some yelling and saw three people, one with a light blue jacket and two with darker clothing, who seemed to be tussling. He was facing northbound so he headed east on Stella and southbound to Dufferin Avenue where he could hear shouting and something happening on the north sidewalk. When he got out of his car he could hear yelling, “Put it down. Put it down.” There were three people on the north sidewalk and approximately

ten feet between Constable Gburek in the front walking backwards and Mr. Dumas and Constable Mateychuk behind Mr. Dumas. Mr. Dumas had a screwdriver up in his hand with the blade forward. Constable Gburek was yelling at Mr. Dumas to put it down over and over again.

[161] Constable Carrette started to draw his pistol but put the gun back and did not pull it out after all because his position was not good. He also considered that two people already had their guns out and someone had to be prepared if there was a chance to take the male in the middle down, i.e., tackle him. His comment was that it would not be good to have something in your hand if you were going to do that.

[162] He came through a break in the snow bank behind Constable Mateychuk who was moving quickly. He tapped Constable Mateychuk on the shoulder as he went by to let him know that he was there and he was moving in as Constable Gburek was moving back. Constable Gburek either stumbled or was losing his footing and he then heard two shots. Mr. Dumas was right over top of Constable Gburek at the time the shots rang out. Constable Carrette described him as "...he had a real fixed look in his...on his face, he was really, like, angry, intent." (Transcript, Volume 7, page 103) His observation when he was asked if Mr. Dumas was close enough to Constable Gburek to deliver the screwdriver was:

A Initially no but once he closed the distance he...I, I, I am still...afterwards I was surprised that Gburek didn't get it, I thought he was...

Q Didn't get it?

A Didn't get the screwdriver in his eye or his neck....Just the way he was coming in. (Transcript, Volume 7, page 103)

[163] Constable Carrette's evidence was:

A I was coming in fairly...well, it seemed like it was fairly quick because I was there before he fell on the ground but he kind of twisted towards me and I know I got a hold of his arms somehow and as he went down, I spun him so he went face down on the sidewalk and I ended up on his back, trying to control him. (Transcript, Volume 7, page 100)

[164] Mr. Dumas was then handcuffed until emergency personnel arrived. They searched him for a wound and when that was identified Constable Carrette testified he called for an ambulance. Until the emergency personnel got there, they then spent their time trying to keep Mr. Dumas still so as not to exacerbate his injuries. The handcuffs were taken off when emergency personnel arrived.

Robert John Russell

[165] Sergeant Russell is a member of the Forensic Identification Section of the Winnipeg Police Service and has been so for eight years. He received a call around 3:30 p.m. on January 31st, 2005 and was advised there had been a police-involved shooting on Dufferin Avenue. He attended to the scene with Constable Timchuk. He was the scene photographer; she seized the exhibits. He also attended the autopsy.

[166] Basically, Sergeant Russell's testimony took us through the photographs that were taken at the scene and the graphics showing the different locations and the route of the foot chase taken by Mr. Dumas and Officer Mateychuk prior to Mr. Dumas ending up running towards Officer Gburek, who was the one who discharged his pistol and shot Mr. Dumas.

SCHEDULE 2

FINDINGS OF THE PATHOLOGIST

Dr. Charles David Littman

[167] Dr. Littman is the staff pathologist and section head of autopsies at Health Sciences Centre. During the course of his professional life he does somewhere between 10 and 20 autopsies per year which are the result of gunshot wounds. He related that a number of those will be from suicide. He noted:

...we're seeing more, more criminal activities involving, involving firearms than we've, we've seen in the past. I would say in the last five years I've seen more than I saw in the previous 10 or 15 years. (Transcript, Volume 7, page 11)

[168] When asked about police-inflicted gunshot injuries, he agreed that that had increased as well. He said:

...I've certainly seen more in the last five years or so than in the previous 10 or 15 years. And obviously, I think that that's a reflection on the, the criminal element being armed.... (Transcript, Volume 7, page 12)

[169] With respect to the autopsy done on Matthew Dumas, first of all, there were two bullets involved. There was:

a bullet wound to the left forearm. The bullet entered and exited from the forearm and then didn't re-enter the body but caused another....a third injury to the body on the abdomen. In other words, the bullet, by the time it passed through the forearm, had spent enough of the energy that it wasn't able to penetrate the abdominal wall. It left a circular abrasion on the lower abdominal wall.

[170] The second bullet:

The entrance wound was in the lower abdomen, to the left of midline. The bullet passed through the, through the abdomen, causing quite massive damage internally and exited from the left side of the back, just above the buttock.

...the wound on the front of the abdomen was a circular wound with an abrasion collar. The wound on the back, just above the buttock, was an irregular shaped wound, it was semi-lunar, elliptical in shape, with no abrasion collar.

The appearance of the wound in the abdomen was typical of an entrance wound and the wound in the back was, was certainly consistent with an exit wound.” (Transcript, Volume 7, pages 4 to 6)

[171] The effective cause of death was massive internal bleeding.

[172] There was also a toxicology analysis completed:

The toxicology analysis which was done at the RCMP laboratory showed the presence of marihuana, both the active THC product and the metabolite of, of marihuana. The presence of the active metabolite indicted that there had been marihuana usage, probably within two, three hours of the time of death.

The metabolite hangs around for some, some days and certainly the level of the metabolite indicated usage but not -- I wouldn't say that it was particularly high, indicating that he was a chronic or excessive user of cannabis. (Transcript, Volume 7, page 6)

[173] An area addressed by counsel and acknowledged by Dr. Littman is that inaccurate information gathered at the time of the incident was passed on without investigation or correction and became part of the final report. First, that Matthew Dumas was a suspect/involved in a home invasion type of robbery which is why he became involved in an altercation with the police. Secondly,

there was in the notes on the file a notation that he had been shot in the back when, in fact, that was not the case. Third, there was also an indication that he had been shot with a nine millimeter pistol when, in fact, that was not the case; it was a forty caliber pistol.

[174] With respect to the first issue, the Chief Medical Examiner, Dr. Balachandra, wrote to the Chief Judge of the Provincial Court on October 24th, 2005 directing that an inquest into the death of Matthew Dumas be held. In response to this letter, then Chief of Police J. J. Ewatski sent a letter by facsimile on November 14th, 2005 to the Office of the Chief Medical Examiner advising that there was an error with respect to the information in Dr. Balachandra's letter of October 24th, 2005 and that error was:

Although that was the initial belief of the members of the Winnipeg Police Service who attended to speak to Mr. Dumas, subsequent investigation has disclosed that he was not one of the individuals in the group that was involved in the robbery attempt in Elmwood that night. The Service has confirmed with Mr. Dumas' family that our investigation has disclosed he was not involved. (Exhibit 1A3)

[175] Dr. Littman did not recall ever seeing the letter. With respect to the autopsy itself, it would not have changed the findings or conclusions. However, having that information passed on to set the record straight, and make the history of the autopsy correct so that an amended report could be issued, would be important and perhaps some comfort to the family.

[176] Secondly, the issue of the entry and exits wounds. The distress suffered by the family goes without saying when they are told a loved one has been fatally shot. Understandably, it becomes somewhat more so when they hear conflicting reports of what happened, particularly as in this case that he may have been shot in the back. Dr. Littman observed that emergency medicine is focused on saving lives. He explained that unfortunately terminology as used by various medical professionals may not be as accurate as it should be. In this case, it would have

been preferable for the medical officer who saw two wounds on the body to not make a judgment with respect to defining which wound was which. Without expert training, mistakes in such recordings can happen.

[177] Dr. Littman, while acknowledging the issue, indicated that this is something that would most properly be addressed at the medical school level.

[178] In the end, Dr. Littman's assessment was that given the serious nature of the wound and the massive immediate loss of blood, anything and everything that could have been done was done at the time. Unfortunately, it was not successful.

SCHEDULE 3

USE OF FORCE REVIEW

Greg Gillis

[179] Corporal Gillis is a regular member of the Royal Canadian Mounted Police presently posted to Richmond, British Columbia. He is an expert with respect to the use of force. As such, he did a review and provided a report entitled “Use of Force Review: Police-Related Shooting of Matthew Dumas” which is filed as D in Exhibit 1 book of documents. That document includes the graphic with respect to the National Use of Force Framework.

[180] Corporal Gillis’ evidence is that the National Use of Force Framework is endorsed by the Canadian Association of Chiefs of Police, similar to the R.C.M.P. Incident Management Intervention Model and that these are the two primary models accepted by the courts in Canada.

[181] At page 5 of his report, Corporal Gillis gives an introduction to the National Use of Force Framework:

The model is not a continuum. Rather the framework is a matrix designed to assist in the understanding of use of force incidents and the related risk assessment process each individual officer undertakes in relation to a specific event....

The National Use of Force Model is a graphical representation of the various elements involved in the process by which a police officer assesses a situation and acts in a reasonable manner to ensure officer and public safety. The model assists officers and the public to understand why and in what manner an officer may respond with force.

As an aid to training, the model promotes continuous critical assessment and evaluation of each situation and assists officers to understand and

make use of a variety of force options to respond to potentially violent situations.

The National Use of Force Model is not intended to serve as a justification for officer use of force nor does it prescribe specific response option(s) appropriate to a situation. The model does provide a valuable framework for understanding and articulating the events associated with an incident involving officer use of force.

[182] On page 6 he identifies the basic principles of the use of force framework:

1. The primary responsibility of a peace officer is to preserve and protect life.
2. The primary objective of any use of force is to ensure public safety;
3. Police officer safety is essential to public safety.

[183] At the core of the use of force matrix is the fact that situations are dynamic, not static. Things can change rapidly and there has to be a constant reevaluation by the officer as to the risk/response. Use of force by police depends on the fact situation and is behaviour-driven.

[184] While not a continuum there are varying levels of response. Essentially those levels range from police presence which can have an effect on behaviour through to the use of lethal force.

- As indicated, police presence can have an effect on behaviour. This is not technically a use of force response but it can affect behavior (such as a full stop at a stop sign by someone who notices a police car). There is not necessarily an interaction with an individual.
- There is then communication which can take place either verbally or non-verbally through body posture, facial expression, stance, etc.

- A soft technique because the person is compliant may involve the touch of a shoulder, perhaps in a situation such as indicating that a person should leave a bar, for example, or putting handcuffs on a non-resistant person.
- Grabbing a person would be higher up the scale.
- Hard physical control may involve kicking, punching, kneeing and may have the possibility of an injury. Tackling would fall into this area as well.
- Intermediate weapons are weapons such as oleoresin capsicum spray (pepper spray) or police impact devices such as a baton or a conducted energy weapon (commonly known as Taser).
- “Lethal force is anything the officer consciously uses with the goal in mind to be, to immediately incapacitate or stop a person, knowing that the potential outcome for that event is that it could cause the loss of life of that person.” (Transcript, Volume 8, page 22)

[185] Corporal Gillis, in commenting on intervention strategies, noted:

...the concept of matching force with an equal force makes the situation static and doesn't move it forward and doesn't allow for control. So what officers are taught is to take one level higher to ensure that they get quick and effective control. It's safer for the client, the person you are dealing with specifically, and it's also safer for public safety and specifically is safer for officer safety. (Transcript, Volume 8, page 20)

[186] In order to complete his review, Corporal Gillis was provided with not only the statements of the officers involved but the independent witnesses along with a transcript of the radio transmissions and the event chronology as well as the autopsy report and the Calgary City Police review of the investigation. Corporal Gillis was aware, and the Calgary City Police review apparently included, the fact that Mr. Dumas was not involved in the initial robbery complaint. He noted,

however, that in doing a review he was looking at information that was available to the officers at the time the situation was unfolding.

[187] Corporal Gillis' evidence was that when a criminal complaint such as the one in this case occurs the public has an expectation that the police will be diligent about investigating it. In a case such as this, in particular, where information was provided that the males involved in the alleged robbery had been dropped at a specific location, that being Dufferin Avenue and King Street, there was an obligation on the police to investigate that thoroughly. That would include spreading officers into the area, firstly to see whether or not there are persons in the area that match the basic descriptors that have been provided as to those involved directly in the offence and, secondarily, to question people that are in the area to see if there may be further information forthcoming, i.e., such as somebody who might have seen the individuals described getting out of the taxi and noting what direction they took.

[188] It was in this context that Constable Mateychuk became involved. He saw a male acting suspiciously and had a duty to investigate.

[189] In the context of his report on the use of force, a number of questions were posed. For instance, should Officer Mateychuk have handcuffed Mr. Dumas in Mr. Pelletier's yard rather than taking him to the back lane where, as we know, Mr. Dumas swung at the officer and broke free? His response was:

A That's an option that he could have employed, but we have no way of knowing if that wouldn't have resulted in the assault that occurred a few moments later in the back alley and what the outcome of that would have been...the handcuffs have to be applied...I think what we heard was is the officer engaged in the search and was down in around the arm area, that the person, Mr. Dumas, suddenly turned on him and struck him with his elbow in the neck area and then that there was a follow-through, or as part of the continuation of that movement,...that that same sort of incident could have occurred right there at the side of the

yard. The differing factor would have been that there would have been the dog, potentially, there, the other member of the public, and some of the confines due to the structure of the area. (Transcript, Volume 8, page 152).

[190] He went on to say that when Constable Mateychuk saw that Mr. Dumas had an edged weapon in his hand, he had a duty to take action in the interests of public safety.

[191] It was suggested to Corporal Gillis that perhaps one of the officers could have tripped Mr. Dumas. Or that Mr. Dumas could have been tackled. In answer, Corporal Gillis pointed out that to do either of those things put an officer close enough to the person with an edged weapon to have that weapon used on them because they would be within reach of the weapon. With tackling, there is always the risk of one or the other being stabbed with the weapon. He also indicated that it has been known to happen when a person is tripped that the individual can fall on the edged weapon, thereby creating injury. He was also clear that neither historically nor currently is there an expectation that an officer is required to put himself or herself at an increased or elevated risk. That is not to say that it does not happen because it does. But it is not an expected or trained response.

[192] Officers are trained to consider the distance of 25 feet to be a danger zone. That is one of the reasons why neither the police baton nor the OC spray were considered to be appropriate responses in a situation such as this. The fact is that Constable Mateychuk did get closer than his training would have provided for when he attempted to pepper-spray Mr. Dumas by getting close enough to try to be at a ninety degree angle to deploy the pepper spray.

[193] It was suggested that with the number of officers converging in the area that containment could have been tried. In other words, having officers around some sort of perimeter to try to contain Mr. Dumas. Factors here which precluded such action were the terrain and the fact that this was a residential

area. There were people on the street. At any time an innocent bystander might walk out of their home right into the middle of the situation.

[194] In this case, the deployment of pepper spray was not effective. Corporal Gillis stated that:

A There's three general groups of people that are not generally well-affected by it:

[1] If a person's intoxicated by drugs and/or alcohol...

[2] is suffering from pre-existing mental health disease or an emotional crisis...and the third and final group are

[3] people that are goal-oriented or focused. (Transcript, Volume 8, pages 86 to 87)

[195] He testified that when it is deployed successfully, he would expect to:

...have seen the person lose focus on the direction that they were moving, the person that they are focused on, that reasonably, they would have dropped an item that was in their hand, stopped movement, maybe gone to the ground; those sort of issues; that there would have been something consistent to demonstrate a marked departure from their prior behaviour. (Transcript, Volume 8, page 140)

In this case, that did not happen.

[196] Corporal Gillis' evidence was that the correct response to the threat of a person with an edged weapon system is to draw the firearm.

[197] In the end his assessment was that throughout the incident, from the time the first foot chase took place, Mr. Dumas remained armed and did not discard his weapon. Neither did he comply with any of the demands which were given by police for him to drop the weapon. It was only as he was closing in on Constable

Gburek raising the weapon in his hand that Constable Gburek shot Mr. Dumas.

In his opinion:

Mr. Dumas was positioned in such a manner that he left police with only one means of immobilizing him to end the risk and establish a degree of control. As a result of his refusal to de-escalate Mr. Dumas was shot in the torso.

The force used was consistent with police training guidelines. The use of force was consistent with accepted police tactical intervention strategies.
(Exhibit 1, Page D21)

SCHEDULE 4

CONCLUSION

[198] The 911 call made by Ken Warren on January 31st, 2005 triggered an immediate response by Winnipeg Police. The death of Matthew Dumas approximately an hour and a half later was tragic and unexpected.

[199] As a result of specific information police had with respect to the taxi and the description of the suspects involved, combined with where they had been dropped off, there would be a reasonable expectation that if police got into the area quickly, they might locate those suspects, or at least get information from anyone who may have seen them as to their whereabouts. To that end, people who were in the general area were spoken to.

[200] In one case, officers came across three males, one of whom had what turned out to be a plastic toy gun.

[201] Constable Mateychuk, who pulled his police vehicle over to the side of the road to check the computer, had his attention caught by a male who appeared to be nervous that the police vehicle was there. His suspicions were aroused particularly when he saw the individual adjusting something heavy under his jacket in the chest area. Some of the clothing could have been a match to one of the suspects so he decided to follow this individual. When Mr. Dumas walked in front of the police vehicle shortly afterwards, Constable Mateychuk saw him adjust something black and cylindrical up his sleeve. At that time he had a suspicion that Mr. Dumas might be one of those involved in the robbery. The pursuit which has been previously described began. It covered both time and territory. At times Constable Mateychuk lost sight of Mr. Dumas. Twice he contemplated giving up pursuit but once he had seen the black cylindrical object up his sleeve and subsequently saw him with the screwdriver on the walkway in

front of 483 Dufferin Avenue, giving up the chase was not an option. There was an issue of public safety involved.

[202] When Constable Mateychuk caught up to Mr. Dumas in the Pelletier yard he took Mr. Dumas by the arm and escorted him to the back lane. His evidence was that although Mr. Pelletier denied any relationship between the two, Mr. Pelletier was an unknown to him. It was suggested that there was an irrational fear of the dog in the yard. It may not have been so irrational, however, as evidence showed that the dog was barking and growling at him. If he had attempted to handcuff Mr. Dumas at that point, the dog indeed might have become a factor if Mr. Dumas responded as he did when the officer did the pat-down search in the lane.

[203] Constable Gburek ran southbound, then east onto Dufferin Avenue to assist another officer. He knew that officer had been fighting with an individual in the back lane. As he ran he pulled out his baton but when he saw what he thought initially was a butcher knife he put his baton away and drew his firearm. The firearm was initially pointed downwards and commands to drop the weapon were issued. As Mr. Dumas kept approaching westward, Constable Gburek stopped and began to back up westward on the sidewalk. When Mr. Dumas got closer, Constable Gburek realized that it was a screwdriver and not a butcher knife but it was still an edged weapon, and Mr. Dumas was not complying with orders to drop it. As he advanced toward Constable Gburek and was within two or three feet of Constable Gburek, Mr. Dumas raised the hand in which he held the screwdriver. It was suggested that the upraised arm was a reaction to the pepper spray and was consistent with Mr. Dumas going to wipe his eyes. Given the rapid closure of the distance between them, the non-compliance with orders to drop the weapon and no deviation in his march towards him, Constable Gburek thought he was going to be stabbed in the neck or shoulder and fired at close range.

[204] As noted earlier, this pursuit took some time to unfold. By the evidence it would appear that just over 14 minutes elapsed. There were times when Constable Mateychuk lost sight of Mr. Dumas. Questions which have no answers for them are:

1. Knowing the police were interested in him, why did he not at some point along the way discard any weapon that he may have had?
2. Why did he refuse to comply with any orders of police beginning with the physical altercation with Constable Mateychuk in the back lane?
3. Why did he swing his weapon at Willie Sinclair who was not a police officer?
4. Why did he refuse to comply with any of the orders of police as he was proceeding westbound on Dufferin Avenue with Constable Mateychuk behind him and Constable Gburek in front of him with his service firearm pointed at him?

[205] In the end, the only person who could answer those questions cannot. Mr. Dumas had choices along the way. Why he chose the path he did will remain an unanswered question. From the actions of the officers, it is obviously not the outcome that they would have preferred. Constable Mateychuk got closer than his training told him he should have on Dufferin Avenue when he tried to stop Mr. Dumas by pepper-spraying him. There is ample evidence that Constable Gburek ordered him to drop his weapon on a number of occasions and told Mr. Dumas that he would shoot him. To some witnesses it sounded as though Constable Gburek was begging him to put his weapon down. Most of the witnesses also said that they kept expecting that he would put his weapon down and it would all be over. That did not happen.

[206] At the beginning of the inquest, inquest counsel advised that there was an undercurrent to the proceedings. That undercurrent was identified as racism. That racism was the reason Matthew Dumas died.

[207] The inquest heard from both aboriginal and non-aboriginal witnesses. Throughout the taking of the evidence I observed the demeanor of the witnesses and listened very carefully to both direct evidence and cross-examination. I was very much alive to the issue. At times questions were posed which had the potential to elicit a biased response. It never happened.

[208] The only time racism became a factor at this inquest was in the last minute of a lengthy submission by Mr. Worme. He compared Matthew Dumas' death to that of J.J. Harper. Mr. Harper's death was part of the impetus which led to the Aboriginal Justice Inquiry's report in 1991.

[209] Despite that last-minute assertion, counsel did not point to anything in the evidence which would support that position other than the fact that Mr. Dumas was not dressed as the original suspect with the gun was described. Some of his descriptors did match one of the suspect's companions. As Corporal Gillis observed, clothes can change and guns can be passed along. When Officer Mateychuk saw the cylindrical object up his sleeve, that is what he thought Mr. Dumas might have.

[210] While the comparison to Mr. Harper's death is not valid (there were many witnesses in this case, both police and non-police, as to the behaviour), the tragic consequences for the family do not differ. A loved member of the family is gone. As Officer Carrette put it when he testified – "It's a terrible thing". (Transcript, Volume 7, page 125)

[211] On an objective analysis of the evidence, I find nothing in the evidence to support the claim that Mr. Dumas' death was a result of racism. Mr. Dumas' behavior and choices drove the events which led to his death on January 31, 2005.

SCHEDULE 5

RECOMMENDATIONS

My mandate is limited to making recommendations with respect to “what, if anything, can be done to prevent similar deaths from occurring in the future.” To that end I make the following recommendation:

Recommendation:

Counsel for Winnipeg Police advised recruits get two days of dynamic scenario training. This training is also available on an elective basis for officers who make a specific request

Winnipeg Police Service should evaluate situations such as this and develop scenario-based training that follows a similar fact-based pattern in order to assess different techniques that may be of use in a similar kind of situation. This kind of training should be available/required at intervals during an officer’s career.

SCHEDULE 6**WITNESS LIST**

1. Ken Warren - robbery complainant
2. Julius William Wirffel - taxi driver, Spring Taxi
3. Roderick Pelletier - witness
4. Charles Dorvault - witness
5. Stuart Hourie - witness
6. Israel Soody Kleiman - witness
7. William (Willie) Sinclair - witness
8. Dalton Dennis - witness
9. Carol Lischka - witness
10. Crystal McManus – witness (sworn videotape statement)
11. Eduino Melo - witness
12. Emanuel Raposo - witness
13. Jonathan Ross Mateychuk - Winnipeg Police Service
14. Dennis Wayne Gburek - Winnipeg Police Service
15. Guy Dagenais - witness (sworn videotape statement)
16. Raymond Keller - witness (sworn videotape statement)
17. Wojtek Andrew Luer - Winnipeg Police Service
18. Randy Antonio - Winnipeg Police Service
19. Meghan Grenkow - Winnipeg Police Service
20. Randall Dean Dziver - Winnipeg Police Service
21. Neil Carrette - Winnipeg Police Service
22. Dr. Charles David Littman - Pathologist
23. Robert John Russell - Winnipeg Police Service
24. Greg Gillis - Royal Canadian Mounted Police Use of Force Expert

SCHEDULE 7**EXHIBIT LIST**

| <u>Exhibit No.</u> | <u>Description</u> |
|---------------------------|--|
| 1 | Black binder “Documents received by the Inquest Office” |
| 2 | Black binder of 153 photographs |
| 3 | Screwdriver |
| 4 | Photo of Matthew Dumas |
| 5 | Video tape - statement of Dalton Dennis |
| 6 | Video tape - statement of Crystal McManus |
| 7 | Video tape - statement of Eduino Melo (excerpt) |
| 8 | Three-page statement of Crystal McManus dated January 31, 2005 |
| 9 | Video tape - statement of Manuel Raposo (excerpt) |
| 10 A, B, C | Three photos of ambulance scene |
| 11 | Request for warrant cancellation of Matthew Dumas dated February 3, 2005 |
| 12 | Affidavit of attempted service by Cordell Smith dated June 11, 2008 on Guy Dagenais together with video statement of Guy Dagenais |
| 13 | Affidavit of attempted service by Gary P. Stelter dated May 14, 2008 on Raymond Keller together with video statement of Raymond Keller |