

Release Date: August 3, 2022



THE PROVINCIAL COURT OF MANITOBA

IN THE MATTER OF: *The Fatality Inquiries Act, C.C.S.M. c. F52*

AND IN THE MATTER OF: **An Inquest into the Death of:**
Benjiman Richard
(DATE OF DEATH: April 2, 2019)

Report on Inquest
Judge Shauna Hewitt-Michta
Issued this 27th day of July, 2022

APPEARANCES:

Melissa Carlson, Inquest Counsel

Christopher Wullum, Counsel for the Manitoba First Nations Police Service

Louise Richard and Patricia Choken, Representatives of Benjiman Richard's Family



MANITOBA

THE FATALITY INQUIRIES ACT

REPORT BY PROVINCIAL JUDGE ON AN INQUEST

RESPECTING THE DEATH OF: BENJIMAN DAVID RICHARD

On April 2, 2019, three Manitoba First Nation Police Service Officers attended a residence in Long Plain First Nation in response to concerns about Benjiman Richard behaving aggressively towards his mother and discharging a firearm. Mr. Richard fired at an officer as she proceeded up the driveway, shattering the rear passenger window of the marked police vehicle. He tracked the officer to the rear of the residence where he took aim and once again fired in her direction. Two constables returned fire resulting in the death of Mr. Richard.

Mr. Richard was twenty-three years old at the time of his passing. He was not a person well known to police. He was a beloved son, brother, uncle, and friend. Mr. Richard suffered traumatic losses starting with his father in 2015. A cousin, with whom he was close friends, died in 2018 followed very shortly by Mr. Richard's uncle. Mr. Richard felt these losses deeply and unfortunately turned increasingly to drugs and alcohol, which brought him into contact with negative associates. Family witnessed changes in his personality, behaviour, and mental wellness leading up to and including the day of his passing. He was under the influence of alcohol and had cannabis in his system when he died.

An Inquest into the death of Benjiman David Richard (DOB: September 10, 1995) proceeded June 13 to 17, 2022 in Portage la Prairie, Manitoba. The evidence was neither complicated nor controversial. A Use of Force expert opined the officers who returned fire acted in accordance with standard police training and within the parameters of the Manitoba First Nation Police Service's Use of Force Policy. That policy closely mirrors use of force policies across the country and derives from the recognized national framework.

The luxury of hindsight allows a detailed dissection of the decisions and actions officers took in the context of a dynamic and high-stress incident. There is room to learn from what happened in this case but I am satisfied the officers who returned fire ultimately did what they were trained and required to do in response to the imminent threat Mr. Richard posed.

The following report details my findings and observations. In particular, this Inquest highlights the importance of adequate police resources, including access to the highest quality communications technology; the advantage of real-time information / updates during critical incidents; and the value of regular, reality-based tactical response and use of force training.

I hope the highlighted observations are helpful. I respectfully decline to make any formal recommendations.

Find attached a list of witnesses who testified and a list of exhibits filed. Pursuant to *The Fatality Inquiries Act*, I order all exhibits returned to the Exhibit Officer, Provincial Court of Manitoba, for release only upon application with notice to any party with a privacy interest.

Thank you to counsel who participated in this Inquest. Your preparation; organization; diligence; and sensitivity served the process well and made my job much easier.

Finally, I extend my sympathy to the family and friends of Benjiman Richard and thank them for their contribution to the Inquest. Benjiman Richard's final moments do not reflect or change the gentle soul they knew and will love forevermore.

Dated at the City of Portage la Prairie, in Manitoba, this 27th day of July, 2022.

“original signed by Judge Hewitt-Michta”

Judge Shauna Hewitt-Michta
Provincial Court of Manitoba

Copies to:

1. Dr. John Younes, Chief Medical Examiner (two copies)
2. Chief Judge Margaret Wiebe, Provincial Court of Manitoba
3. Honourable Kelvin Goertzen, Minister Responsible for *The Fatality Inquiries Act*
4. Mr. David Wright, Deputy Minister of Justice and Deputy Attorney General
5. Michele Jules, Acting Assistant Deputy Attorney General
6. Melissa Carlson, Counsel to the Inquest
7. Christopher Wullum, Counsel for the Manitoba First Nation Police Service
8. Louise Richard and Patricia Choken, Representatives of Benjiman Richard's Family
9. Eli Goldenberg, Counsel for the Independent Investigation Unit
10. Exhibit Coordinator, Provincial Court of Manitoba
11. Aimee Fortier, Executive Assistant and Media Relations, Provincial Court



MANITOBA

THE FATALITY INQUIRIES ACT

REPORT BY PROVINCIAL JUDGE ON AN INQUEST

RESPECTING THE DEATH OF: BENJIMAN DAVID RICHARD

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I. INQUEST MANDATE AND PARTIES WITH STANDING

Mandate

[1] The Inquest was mandatory by operation of section 19(5) of *The Fatality Inquiries Act* because Benjiman Richard's death arose from use of force by peace officers acting in the course of duty.

[2] By letter dated November 21, 2019, Manitoba's Chief Medical Examiner, Doctor John Younes, directed this court to conduct an Inquest into the death of Benjiman Richard for the following reasons:

- a. to fulfill the requirement for an Inquest, as defined in section 19(5)(a) of *The Fatality Inquiries Act*;
- b. to determine the circumstances relating to Mr. Richard's death; and
- c. to determine what, if anything, can be done to prevent similar deaths from occurring in the future.

Standing

[3] Melissa Carlson acted as Counsel to the Inquest.

[4] I granted standing to the family of Benjiman Richard, represented by his mother, Louise Richard, and sister, Patricia Choken. I further granted standing to the Manitoba First Nation Police Service [MFNP], represented by Counsel Christopher Wullum.

II. REVIEW OF THE EVIDENCE

Family Evidence regarding Benjiman Richard

[5] Benjiman Richard's mother and sister provided some photographs as well as personal history and background information about Benjiman Richard (Exhibit

10). He was born in September of 1995. Through his formative years, the family moved between MacGregor and Long Plain First Nation [LPFN]. He was a happy child who made friends easily and did well in school. He got along well with others and was especially close to his parents. His mother remembers him as a loving, kind person with a gentle heart who loved to make music.

[6] Mr. Richard was a teenager when his father fell ill. He helped to care for his father and visited with him in hospital until his death in 2015, which was traumatic for Mr. Richard.

[7] Mr. Richard first consumed alcohol on his eighteenth birthday. Family are not sure when he began to use marijuana, but suspect it started in his teenage years.

[8] In 2018, Mr. Richard lost a cousin with whom he was close friends, followed ten days later by his uncle. He had difficulty coping with these deaths and did not attend the funerals. He began associating with negative influences and increasingly lost himself in the drug subculture. His family began noticing changes in his behaviour and his mental wellness, including episodes of seeming disassociation and confusion about where he was or how he got there.

Louise Richard – April 2, 2019

[9] Louise Richard [Louise] did not testify during the Inquest but her statement to Manitoba's Independent Investigation Unit [IIU] forms part of the evidence (Exhibit 2, Tab 7).

[10] In April of 2019, Louise and Benjiman Richard lived together at 117 Ojibway Trail in LPFN. They woke in the late morning on April 2. Benjiman Richard made coffee for his mother. Louise noticed her son had about half of a 24 or 30 pack of beers left in the fridge. It was common for him to have guns out in the house and she often told him to put them away, just as she did the morning of April 2 before they ate breakfast together.

[11] Throughout the afternoon, Louise saw her son Benjamin walking around the house holding a firearm. He did not seem himself. He asked her for a dog chain. He was upset believing she had put the chain away somewhere. She again told him to put the guns in the house away, saying that she did not like him holding the gun all the time. Benjamin Richard approached his mother again. He was angry. He was holding the firearm. He demanded the keys for a vehicle he insisted belonged to him. He grabbed his mother's hand and pried open her fingers to take the keys. She worried he would leave with the vehicle, which she needed to get to work that evening. He did not leave and eventually returned the key to his mother. She heard a sound she believed was Benjamin punching a wall and told him he should not be damaging their home. Benjamin Richard then told his mother repeatedly to get out of the house. He grabbed the gun. She heard him shooting but did not believe he had any ammunition. She believed he was firing with an empty clip.

[12] Louise contacted her daughter Patricia Choken [Patricia] who was in Winnipeg. Patricia communicated with her mother through the Facebook *Messenger* application. She tried to speak to her brother but he refused. Benjamin Richard began discharging the firearm in the house as well as shooting from the step out into a field. His mother told him to stop - that neighbours would call the police. Her son did not say anything. Louise asked her daughter Patricia to contact Tammy Smith [Tammy], a relative, to come to the house and talk to Benjamin. Louise told Patricia that Benjamin was firing the gun in the hallway and living room. Louise did not leave the house because she was afraid her son would turn the gun on himself.

[13] Louise told Benjamin that Tammy was coming over. He was shooting the gun into the ceiling. She returned to her bedroom, and Benjamin went to the living room where he again started shooting. When she spoke to Patricia again she learned Tammy had driven to the house, waited for her, then left.

[14] Tammy returned to the home. Louise was talking to Patricia on *Messenger* as she left the house and got into Tammy's black SUV. She noticed damage to the house, including bullet holes through windows as she was leaving. Louise was not afraid of Benjiman and she did not want to leave the house. As they drove away, Louise saw Benjiman in the window. She also saw two police officers approaching the residence from the east on foot with rifles. She could hear Benjiman discharging the gun as they were driving away. From a distance, she saw a police truck driving fast up the driveway and she heard more gunfire.

[15] When asked about drug use that day, Louise said Benjiman was smoking weed and she saw him with knives on the stove in the kitchen. She suspected from his behaviour that he was using drugs. She called police recently asking them to take Benjiman to hospital for an assessment, but after speaking with Benjiman police advised they were unable to do so – that he was not presenting as a threat to himself or others.

Tammy Smith

[16] Tammy is a LPFN resident and cousin to Benjiman Richard. Mr. Richard was particularly close to Tammy's brother, who passed away in July of 2018.

[17] On April 2, Tammy drove to 117 Ojibway Trail at the request of Mr. Richard's sister Patricia, to check on Louise. Patricia was frantic and crying, saying her brother Benjiman was upset. Driving up to the house, Tammy noticed damage to the back door and glass on the step. There was a bullet hole in the front window. She yelled for Louise but got no response. She heard gunshots inside the house and left shortly after.

[18] From a safe distance, Tammy called Patricia. Tammy also called her own mother who encouraged her to contact police. Patricia was in contact with Louise via *Messenger*. Tammy advised Patricia to tell Louise that Tammy was returning to

the house. Tammy could hear Louise's conversation with Patricia. Louise was crying. Patricia encouraged her to jump out a window but Louise was reluctant, saying her son was just shooting at the ceiling and she was not afraid he would shoot her.

[19] Tammy drove back to the house. She was afraid Benjamin Richard might mistake her SUV for an unmarked police vehicle. She pulled up and waited. Tammy heard more shots fired. Between gunshots, she called out for Louise. Tammy was scared and finally called the MFNP office. Officer Prince [Prince] answered the phone. Tammy requested police attend the residence saying she had heard gunshots and feared for the safety of her aunt inside. Prince was aware of the situation because of Patricia's earlier call to 911 dispatch. Prince directed Tammy to leave the area, which she did.

[20] From a safe distance, Tammy again called Patricia. She heard Louise telling Patricia that Tammy was not at the residence. Tammy drove back in a third attempt to retrieve Louise who came out of the house crying and got into Tammy's vehicle. As she maneuvered the vehicle to leave the area, Benjamin Richard was visible in a window. He was shirtless. Though they waved for him to come out, he had a blank expression and did not respond. As they drove up the driveway and turned onto Ojibway Trail, Tammy noticed movement. She saw two police officers advancing towards the house on foot from a neighboring property. She believed one of the officers was male and the other female. She said the female officer had an assault style rifle in her hands and the male was holding a handgun¹.

[21] Tammy pulled her vehicle onto a neighbouring property in an attempt to maintain a line of sight. She saw Prince drive up the driveway in a large black MFNP truck and stop at the rear of the house close to the Chevy Blazer. She heard

¹ Other persuasive, corroborated evidence satisfies me Tammy is incorrect in her assertion one of the officers was female and in her belief that one officer had his service pistol drawn. The officers were both male and each carried a police-issued carbine.

gunshots while the police vehicle was still moving. Prince jumped out of the police truck. Tammy attempted to reposition the vehicle so they could see what was happening. While doing so, they heard continuous gunshots.

[22] Tammy drove closer to the house. Prince ran towards the vehicle yelling for her to stop, which she did. Prince drove the police truck up the driveway to the road. She walked to meet Tammy asking whether Louise was still in the house.

[23] Tammy and Louise both asked about Benjamin Richard to which the officer eventually responded, “*we had to shoot him; he was shooting at us but an ambulance is on its way.*” Tammy and Louise asked to go to Benjamin, but of course could not.

[24] Tammy drove Louise to a safe place. Tammy, her common-law, and her brother drove back to the scene attempting to determine the welfare of Benjamin Richard. When it became clear he was deceased, they returned home. Sergeant Tompsett [Tompsett] attended to provide a formal notification to the family.

[25] Tammy described two concerning interactions with Benjamin Richard leading up to his death. A week or two prior to his death, Louise called Tammy for help because Benjamin was wandering around the house non-responsive. Tammy’s common-law, Jordan, attempted to interact with Benjamin but he covered his ears and hummed. Minutes later, Benjamin turned to Jordan saying, “*oh bro, you’re here*” following which things were normal.

[26] A few days prior to his death, Tammy came home to Benjamin in her home which was not unusual, however, he was seated in a corner and began to slap himself in the face with both hands. Tammy took his hands and told him to stop. He did not answer when asked what was wrong. Shortly after, Benjamin pushed Jordan out the door and locked him out. Someone led him away to watch television and when Tammy approached and asked him what was wrong, Benjamin seemed to “*snap out of it*”. He asked Tammy how he got to her house. He seemed not to

recall walking there. He told her he had spent the previous evening drinking with her brother who had died a year prior. Tammy phoned Louise, told her what happened, and encouraged her to call police because she felt something was wrong with Benjiman. Louise later told Tammy police believed Benjiman was “*high*”, that he was not a danger to himself or others, and they could not do more. Jordan told Tammy police came to see Benjiman and concluded he had been using methamphetamine. Benjiman stayed with Tammy’s family for three days. He otherwise seemed fine.

Officers Involved in Critical Event

[27] The evidence of officers Delaronde, West, and Prince was consistent. Rather than summarize each officer’s evidence individually, I will deal with it collectively.

[28] The calls for service to 117 Ojibway Trail on April 2 coincided with the MFNP shift change. Constable West [West] was in the detachment finishing paperwork before going home, having worked the day shift alone. Constables Delaronde [Delaronde] and Prince were in the office preparing for the night shift. All three officers were dressed in standard MFNP uniforms and identifiable as police.

[29] The first call for service came through MFNP police dispatch over the detachment radio. A family member reported Louise Richard’s son, Benjiman, was at 117 Ojibway Trail and behaving violently. Prince responded indicating she and Delaronde would attend. While waiting for Delaronde to finish gathering his gear, Prince answered a call through the detachment’s administrative telephone line. The caller was Tammy reporting Benjiman Richard had a firearm in the residence, which he was discharging out of the house.

[30] Because the presence and discharge of the firearm elevated the seriousness of the situation, the officers agreed all three should attend. The officers consulted a map and formulated a plan of approach, deciding for strategic reasons to approach on foot from adjacent properties to the east and west of the property. Delaronde and West would travel to the location together and approach from the east, while Prince would drive solo in another marked police vehicle and approach from the west. The officers hoped to isolate and contain the threat, evacuate anyone in harm's way, and then negotiate the surrender of Benjamin Richard. They planned to contain the threat Benjamin Richard posed by creating a perimeter of officers to prevent the subject from leaving the property with the firearm.

[31] Delaronde and West readied their carbines and associated magazines. Prince elected not to ready her carbine for fear of delaying her departure from the detachment. She had her service pistol. The officers departed the detachment close in time to each other. The closest back up was in Sandy Bay First Nation. The officers assessed the risk as too substantial to wait for back up.

[32] While on route, Delaronde and West requested information about Benjamin Richard from dispatch. Specifically, they were checking for cautions or alerts related to the subject and there were none.

[33] Delaronde and West parked at a neighbouring property to the east of house 117. They moved on foot, carbines in hand, toward the residence. They hoped they were moving towards the side of the residence with few or no windows, a desired tactical advantage. As they approached the house, a dark SUV pulled up and a female approached and got into the passenger side of the vehicle before it drove up the driveway and off the property.

[34] Delaronde and West arrived at the east side of the house and paused at a wooden structure below a window. Officers identified the window as a concern. West covered the front of the residence while Delaronde watched the window and

covered the rear of the residence. The officers were awaiting the arrival of Prince whom they expected to take a position at the west side of the residence.

[35] The situation quickly evolved. Officers heard Mr. Richard discharging the firearm inside the house. Bullet holes were visible in the window. Officers heard glass breaking at the back door indicating Mr. Richard was shooting from inside through the rear door. There was sparse, intermittent chatter on the radio. Prince was visible driving on Ojibway Trail approaching the driveway. West communicated over the radio "*shots fired, coming from the inside*". Prince responded, "*Did you say you were inside?*" Both Delaronde and West feared Prince turning and advancing up the driveway. West responded to Prince's question, "*No, shots fired, shots fired*" and Delaronde is audible on the dispatch recording saying "*keep driving, keep driving*".

[36] When Prince left the detachment, she drove the approximate five minutes to Ojibway Trail. Her route was longer than that taken by West and Delaronde. She planned to park on the property for house 119 adjacent to the west from house 117. As she approached, she noticed that the properties were closer together than anticipated, that there was little cover between the houses, and that the field between was wet and potentially difficult to navigate. She feared attracting gunfire from house 117 in the direction of the occupants of house 119. Prince considered stopping but she was not receiving any updates or information over the radio and was concerned with the welfare of Delaronde and West. She did not hear radio transmissions indicating "*shots fired*" or "*keep driving*".

[37] As Prince continued toward the driveway for house 117, she rolled down her window and did not hear gunshots. Approaching the turnoff, she saw Delaronde and West on foot at the east side of the house. She also saw the tail end of a dark colored SUV (Chevy Blazer) parked to the rear of the residence. She mistook that SUV for Delaronde and West's police vehicle. She assumed if the other officers

drove onto the property that they must have updated information indicating it was safe to approach more directly. She turned down the driveway towards house 117.

[38] Delaronde yelled and waved for Prince to turn around. Delaronde and West heard multiple gunshots and the sound of bullets striking Prince's police unit. Both officers assessed she was taking rounds into her vehicle. As she accelerated and continued up the driveway towards the rear of the residence, Delaronde and West adjusted their positions, forced to give up any cover of the front of the residence.

[39] Prince recalls seeing the front door of the residence swing open when she was half-way up the driveway towards the house. Benjiman Richard, wearing shorts and no shirt, stepped out with a rifle. He leaned against the doorframe, raised the rifle, looked down the barrel and began firing from a distance of approximately thirty feet. She veered off the driveway slightly, accelerated, and moved her head and body down in an attempt to avoid the bullets. She heard her rear window shatter.² In her peripheral vision, she detected Delaronde and West moving towards the rear of the residence.

[40] There were two civilian vehicles parked behind the house. Prince stopped her truck proximate to the Chevy Blazer at an angle strategically intended to provide concealment and some cover from the rear door of the residence. She jumped out of the truck and hunkered down below the windows. Seeing no one at the rear door of the residence, she moved down the truck box with her duty pistol now in hand. When she looked up over the truck box, she saw Benjiman Richard outside the rear door pointing his rifle at her.

[41] West concealed himself behind the driver's side engine block of the Chevy Blazer, which afforded him some cover and a view of the rear door. Delaronde was

² Identification officers photographed spin marks on the driveway near the house and shards of tinted glass nearby corroborative of Prince's account.

nearing the southwest rear corner of the residence. He had his carbine raised but with a view only to covering West and Prince as they took position.

[42] From their respective positions, West and Delaronde both saw Benjamin Richard step out the rear door holding a rifle with a long barrel and a scope. He immediately raised the firearm, looked down the barrel taking aim. Both officers began to speak intending to identify themselves as police and to direct Mr. Richard to stop. Neither got the words fully out before Benjamin Richard fired. Both officers assessed the threshold met for lethal force and each fired his carbine at Mr. Richard, continuing until Mr. Richard went down. Delaronde estimated firing four times.³ West believed he fired five or six times. West fired through the windows of the Chevy Blazer for his own safety.⁴

[43] The officers communicated over the radio that the subject was down and an ambulance was required. Delaronde was relieved to hear the voices of West and Prince, fearing Mr. Richard shot one or both.

[44] The officers attended to Mr. Richard, moving the firearm a safe distance and handcuffing him out of an abundance of caution to neutralize any further possible threat. The officers entered the residence and determined there were no other subjects on scene. They noticed additional firearms and ammunition unsecured in the residence. The officers returned to Mr. Richard. It was apparent from his injuries that he was beyond any medial assistance they could offer. They checked one another for injuries and found none. They advised dispatch of the officer-involved shooting. The officers each took up strategic positions to protect and preserve the scene.

³ Identification officers located four spent Remington 223-caliber shell casings in the tall grass near the southwest corner of the house, corroborative of Delaronde's account.

⁴ Identification officers located ten spent Remington 223-caliber shell casings on the ground near the Chevy Blazer and photographed damage to the Chevy Blazer windows consistent with West firing through the vehicle towards the rear of the residence.

[45] At some point following the shooting, Delaronde and West placed tobacco at the scene in accordance with their culture, a demonstration of respect for Benjiman Richard.

[46] Prince moved her police unit to the end of the driveway to prevent vehicles from entering the scene. She had contact with some family members who approached, including Louise Richard and Tammy Smith.

[47] When the ambulance arrived, Prince escorted paramedics into the scene on foot where the senior paramedic assessed Mr. Richard and pronounced his death. Prince escorted the paramedics back out of the scene.

[48] There was limited opportunity for the three officers to discuss the incident while on scene for the following two hours. It was cold. They did not have warm clothing. There were dogs at the scene that had to be contained to preserve Mr. Richard's body.

[49] Eventually, members escorted the three officers from the scene to MFNP Headquarters in Portage la Prairie. IIU investigators attended to seize their clothing, carbines, and duty belts. The officers subsequently prepared notes and provided statements to IIU, cooperating appropriately with the necessary investigation.

[50] Prince, Delaronde, and West are experienced officers. Their training records are in evidence as Exhibits 6, 7, and 8. None has discharged a firearm in the line of duty before or since this incident.

Officers Involved After Critical Event

Sergeant Kristen Tompsett

[51] Sergeant Tompsett is a sixteen-year member of MFNP, previously known as Dakota Ojibway Police Service [DOPS] before a 2018 name change. Tompsett has been a Sergeant for thirteen years and was the Sergeant responsible for LPFN in

April of 2019. In addition to herself, there were four constables stationed in LPFN at that time. While the goal around April of 2019 was to schedule one officer per day shift and two per night shift, realistically most shifts involved a single officer working alone. Tompsett had administrative and supervisory duties but was also part of the officer shift rotation.

[52] In April of 2019, MFNP serviced seven First Nation Communities with a detachment in each of those locations – Long Plain, Roseau River, Birdtail, Waywayseecappo, Canupawakpa, Sandy Bay, and Swan Lake. MFNP Headquarters is located on the urban reserve in Portage la Prairie.

[53] In 2019, MFNP had approximately fifty-six sworn members and six civilian support staff. The civilian support members worked day shifts and had administrative duties including answering the administrative phone line in their respective detachment. In the absence of support staff at a detachment office, members were to answer the administrative phone line if they were in the office. Otherwise, calls went to voicemail. Each community had its own emergency phone number that connected to MFNP dispatch manned by a civilian staff member stationed in the city of Brandon fire hall. If an individual in one of the MFNP communities called 911, the on duty dispatcher transferred the call to the MFNP dispatcher.

[54] In 2019, each detachment and each police vehicle had a radio with a microphone. Each MFNP officer had a radio but the particular radio equipment varied according to officer preference. Some officers used a basic radio worn on the hip. Officers had the option of a microphone system attached at the shoulder and could have an extension up to an earpiece. When officers or dispatch communicate over the radio, every other officer and dispatch are privy to the information.

[55] There were issues with the radio technology in 2019. Availability and quality of radio reception varied depending on one's location within some communities. Cell reception was not good or even existent in some areas of LPFN in 2019. Tompsett testified that dispatch information did not always come through to officers in LPFN or contact would cut off or drop. In 2021, MTS made updates to benefit emergency services, including better satellites and more towers. Additionally, all officers in the province now use the same radio equipment. Upgrades and the addition of boosters addressed deficiencies in cell service within detachment offices, including LPFN.

[56] Tompsett was off duty on April 2, 2019. The on-call Sergeant was three hours away in Waywayseecappo. He called Tompsett at 1816 hours to advise of the officer-involved shooting in LPFN. She made several phone calls – to dispatch for updates; to Prince to identify the subject and other officers involved; to an Inspector who confirmed notification to RCMP Major Crimes Unit [MCU] and IIU; to Sandy Bay and Portage RCMP to confirm back up was on route. She spoke to MFNP Chief Rick Head who was out of province.

[57] Tompsett arrived at 117 Ojibway Trail. She observed Prince at the end of the driveway and noted damage to the rear passenger window of the MFNP vehicle. Delaronde and West were at the east side of the residence. She learned Benjiman Richard was deceased and present at the scene.

[58] Tompsett spoke with upset and frustrated family members seeking information. Tompsett asked them to attend the detachment where they could speak privately. Louise was not present and Tompsett preferred not to release information about Benjiman Richard's death to others before notifying his mother.

[59] Tompsett learned officers were clearing three residences, one across the road and one on either side of house 117.

[60] Tompsett left the most senior constable from Sandy Bay MFNP in charge of the scene and returned to the detachment to meet with family. When family members failed to attend the detachment, Tompsett drove to a residence where she formally notified Louise of her son's death at 1945 hours. At 2000 hours, Tompsett contacted the Chief of LPFN who attended the detachment for a generic briefing about the incident.

[61] Tompsett returned to 117 Ojibway Trail. Prince was still at the end of the driveway. Tompsett advised Prince she would be driving her to MFNP Headquarters in Portage. She then entered the scene and located Delaronde and West at the rear of the residence. They were kneeling and holding a dog to prevent it from disturbing Benjamin Richard's body. She and West secured the dog in a police vehicle. Tompsett observed Benjamin Richard's body from a distance but did not approach to avoid disturbing the scene. Delaronde advised Tompsett of the unsecured firearm near the back steps. She directed a Sandy Bay officer to alter his position to maintain continuity of the deceased, the residence, and the firearm.

[62] Tompsett escorted Delaronde and West away from the scene. Both were in possession of their carbines. Prince had her duty pistol, but no carbine. Tompsett had access to only two vehicles to escort the involved officers to MFNP Headquarters. Because Delaronde and West had been together by the residence for the previous two hours, Detective Schwartz transported them together in one vehicle. Tompsett drove Prince to MFNP Headquarters in Tompsett's personal vehicle. Tompsett notified Prince they would not be discussing the incident during transport. They arrived at 2058 hours. West, Delaronde and Prince were isolated to individual rooms awaiting arrival of IIU officers.

[63] IIU, RCMP MCU and RCMP Identification officers attended Headquarters for a briefing. IIU officers seized clothing, firearms, and duty belts from each of

the three involved officers. Tompsett arranged for family members to attend and drive the three officers home.

[64] Tompsett explained MFNP adopted Brandon Police Service's Use of Force model because most MFNP officers train initially through Brandon Police. The model draws from the Canadian National Police model. MFNP mandates bi-annual use of force training for its officers.

Detective Constable Lon Schwartz

[65] Lon Schwartz [Schwartz] is an eighteen-year police officer and current Chief of Police for Rivers Police Department. In April of 2019, he was a Detective Constable with MFNP, stationed at Headquarters in Portage.

[66] Schwartz worked a day shift on April 2, 2019 and was driving home when he heard commotion on his police radio including reference to a person being "*down*" in the context of an officer involved shooting incident. Hearing the on duty Sergeant was in Waywayseecappo and knowing he was much closer to the scene, he attended to offer assistance. Inspector Scott directed Schwartz to assist other officers with containing the scene and maintaining safety. He was in plain clothes but donned his police vest and jacket so he was identifiable as a police officer.

[67] Upon arrival, an officer advised Schwartz there was information about a second armed individual having potentially left the scene. There was discussion about officers attending to clear three or four nearby residences and two officers ultimately left the scene to perform that task. There was nothing to the rumor about a second armed individual and LPFN Chief Meeches later advised of upset in the community about the clearing of nearby homes by police.

[68] Schwartz noted civilians on the road, as well as community safety officers in yellow vests. He saw Prince's MFNP truck at the end of the driveway facing Ojibway Trail. RCMP and Sandy Bay MFNP units were already on scene providing back up.

[69] Schwartz first checked on Prince and suggested she sit in a nearby police vehicle to warm up, as it was cold and windy. She showed him the damage to her truck window. He found Delaronde and West hunkered down by a vehicle. He found them uninjured. They appeared “*solemn and stressed, but okay*”. He told the officers they would leave the scene when it was safe for them to come out. Schwartz noted a .22-calibre rifle near the base of the steps where Benjiman Richard lay. He walked out of the scene the same way he walked in and met Tompsett.

[70] Schwartz accompanied Tompsett when she spoke to family at the roadside. He was present when Tompsett notified Louise of her son’s death. He was at the detachment for the meeting with the Chief of LPFN

[71] Returning to the scene, he and Tompsett found Delaronde and West still in position by the residence. Schwartz transported Delaronde and West to Headquarters. There were not enough vehicles to separate all three officers. Delaronde and West travelled together because they were together for the preceding hours at the scene. The officers were cold having been outside a long time. During transport one of the officers said, “*He shot at us and we shot back*”. Otherwise, there was very little conversation in the vehicle. Police isolated the three involved officers in separate rooms at Headquarters until IIU attended.

Forensic Identification Evidence

Staff Sergeant Brian Harder

[72] Staff Sergeant Harder [Harder] is an experienced, long-serving RCMP Forensic Identification Service officer. He currently manages the RCMP Forensic Identification Services Unit for the Province of Nova Scotia. In April of 2019, he was a Sergeant and unit commander for RCMP Forensic Identification Services working out of Brandon, Manitoba.

[73] Harder and Corporal MacNevin attended LPFN community on the evening of April 2, 2019 to begin documenting, examining, and processing the scene. He subsequently examined other items connected to the scene. Harder's observations at the scene are corroborative of the evidence of other witnesses, most notably the civilian witnesses and the three involved officers.

[74] The Forensic Identification Occurrence Report is at Tab 2 of Exhibit 2.

[75] House 117 is a single detached house situated on Ojibway Trail with a long dirt driveway from the roadway to the house. It is approximately 215 feet from the front of the house to the roadway. The house has a front and rear entrance.

[76] Harder found the scene taped off and secured. The following observations are significant:

- A truck with MFNP decals [HZB 515] was stationary near the roadway at the end of the driveway with a shattered rear passenger-side window.
- There were spin marks on the driveway near the house and small shards of black tinted glass nearby, consistent with the shattered MFNP truck window.
- There were two civilian vehicles parked close to the residence - a Chevy Blazer and a Ford Escape. The Ford Escape was closest to the residence and had no discernible bullet damage. The Chevy Blazer sustained substantial bullet damage consistent with shots fired from outside the vehicle. Flattened passenger-side tires, shattered front passenger window, graze marks on the front dash, and proximate bullet holes in the front windshield lined up to each other and to the area to the left of the rear residence door.
- There were ten spent 223-caliber shell casings on the ground next to the driver's side door of the Chevy Blazer and four spent 223-caliber shell

casings in the tall grass near the southwest corner of the house. The 223-caliber shells were all *Remington* brand.

- There were three long rifle firearms in the living room. Forty-nine spent shell casings were seized from various locations inside the house along with sixty-six live rounds. All ammunition seized from the house were .22-caliber *Super X* bullets.
- There were six bullet holes in the living room window near the front deck. There was a single bullet hole in the ceiling of the living room. There were four bullet holes in the kitchen window at the back of the house to the right of the back steps and there was a single bullet hole in the back bedroom window, to the left of the back steps. All of these bullet holes were indicative of shots fired from inside the house.
- There were six bullet holes evident on the rear exterior wall of the house. Three of those holes were in a cluster to the left of the back door and coincide with a similar cluster of bullet holes visible inside the bathroom. All of these bullet holes are indicative of shots fired from outside the house.
- There were empty beverage alcohol cans and bottles in the kitchen, living room, and one bedroom. There were hot knives and drug paraphernalia in the kitchen.
- Benjiman Richard's body lay face up on the back deck. His feet were at the edge of the steps; his shoulders atop the doorjamb; his head in a pool of blood just inside the doorway. He had a wound on his left bicep and a catastrophic injury to his head. The exterior door glass was shattered and there were six bullet holes through the rear door as well as blood spatter.

There were ten spent .22-caliber shell casings and two live .22-caliber rounds proximate to Mr. Richard's body.

- There was a .22 Caliber Bolt-Action rifle laying in the grass near the back step. Subsequent forensic examination determined there was blood staining on the stock. The magazine contained three live rounds of .22-caliber *Super X* hollow point ammunition. The spent shell casing from the chamber was also *Super X*.

Paramedics

Paramedics - Kara Swidnicki and Alex Oliver

[77] Alex Oliver [Oliver] was a primary care paramedic in the Southern Health region at the relevant time. Kara Swidnicki [Swidnicki] has been a paramedic for eighteen years, all but three months of which she worked in the Portage area. She is an intermediate care paramedic, which is a level above primary care paramedic.

[78] Swidnicki and Oliver were working together on April 2, 2019 when dispatched shortly after 6:00 p.m. to a residence in LPFN for a gun shot wound. Their response time from Portage to LPFN is twenty to twenty-five minutes. A supervisor alerted them to the possibility this was an officer involved shooting.

[79] Upon arriving, paramedics observed Prince's MFNP vehicle blocking the driveway with a "*blown out*" back window. They saw police officers crouched down by a deck seemingly guarding the yard. They noticed damage to a vehicle at the scene. A female officer escorted them to Benjamin Richard on the rear step.

[80] Oliver did not attend to the body. He noticed the window in the rear door appeared to have been "*blown out*". Swidnicki did not notice any weapons but Oliver observed a rifle with a scope on the ground a few feet from the steps to the rear door.

[81] Swidnicki sensed it was an “*obvious death*” situation and confirmed the same from the absence of a carotid pulse, significant pooling of blood, and the presence of brain matter on the doorframe. She pronounced the death. She did not notice any injury other than the gunshot wound to the front of the head. She opined no amount of first aid would have assisted Mr. Richard even close in time to the injury.

[82] Swidnicki and Oliver provided their names to Prince. Swidnicki asked the officer if she was okay and she responded that she would be. The paramedics did not speak to West or Delaronde. Prince escorted them back to the ambulance and they left the scene.

Autopsy and Toxicology Evidence

[83] The Autopsy and Toxicology reports are at Tab 1 of Exhibit 2. The authors of those reports did not testify at the Inquest. The evidence is not controversial.

[84] The Autopsy Report confirms the cause of death as gunshot wounds. There were five gunshot wounds, three of which could be independently fatal and one of which could be fatal in the absence of medical care. The fifth wound was tangential and would not be fatal. Most of the gunshot wounds were roughly proximate to center mass in accordance with standard police training.

[85] Benjiman Richard’s blood alcohol concentration exceeded double the legal limit for operating a motor vehicle (166mg% blood; 212mg% urine; 171mg% vitreous). Analysis detected THC and metabolites in Mr. Richard’s body fluids, which indicates cannabis use. The Toxicology report opines “*[t]he effects that the combination of alcohol and THC would have on a person are dependent upon the individual’s tolerance to these drugs, the dose of each drug, and the timing of their administration in relation to each other. It can be expected, however, that the combined use of multiple drugs that affect the [central nervous system] would*

result in greater impairment of mental and / or physical processes than would be expected following their individual use.”

Use of Force Expert Evidence

Sergeant David Kelly Keith

[86] The Court qualified Sergeant Keith [Keith] to provide expert opinion evidence *“in respect of police use of force policy and the training police officers receive concerning circumstances in which they may be viewed as justified in using various levels of force, including lethal force.”*

Qualifications

[87] Keith currently serves with Ste. Anne Police in Manitoba. He has over thirty-three years experience in policing, including practical experience with Winnipeg and Victoria municipal police forces. He has extensive experience as a Master Instructor teaching in the areas of Use of Force, physical training, Communication Tactics and Tactical Firearms, including as a Sergeant at the Judicial Institute of British Columbia and as an Inspector with the Atlantic Police Academy. Keith primarily instructs the instructors, who in turn teach frontline officers. He provides instruction throughout North America and occasionally overseas. He continues to attend conferences to upgrade his own knowledge and maintains membership in the National Use of Force Committee and the International Law Enforcement Educators and Trainers Association.

[88] Keith has experience testifying as an expert witness in courts across Canada on the subject of use of force. He has experience conducting internal use of force investigations in several provinces.

Use of Force Policy

[89] The term use of force refers to police force on a spectrum ranging from laying hands on an individual all the way up to lethal force.

[90] Use of force policies vary from agency to agency, however, all derive from the 1999 Canadian Use of Force Framework for Police Officers. Provinces and police agencies took that framework and developed policies and graphics adapted to their own circumstances. While the language, tools, and techniques may vary from province to province and from police agency to police agency, all use of force policies are consistent in that subject behaviour drives the risk assessment. Use of force policy and officer training is, therefore, largely reactive. From the perception of the level of force or risk of injury that police would be able to use, based on the subject behaviour, the policies are very consistent across the country.

Use of Force Training

[91] In Canada, police officer training indicates resort to a firearm for lethal force is permissible only if the officer can articulate a fear of grievous bodily harm or death to self or another. Grievous bodily harm means substantial, not trifling, injury. While the language used to express this threshold varies across provinces and policies, the meaning and application is very consistent.

[92] There can be an incremental approach to use of force; however, it is not a staircase model. The driving consideration is always subject behavior and subject characteristics – i.e. number, size, skills and other physical characteristics of subject(s).

[93] The duration of the interaction with a subject does not really have a bearing on the use of force assessment. There is increasing emphasis in police training on tactical communication with a view to assisting or encouraging a subject to de-escalate, however, once a subject decides to act, duration of the interaction is irrelevant. Subject behaviour is the key consideration when assessing any corresponding use of force.

[94] While there are tactical considerations, the threshold assessment for lethal force involving a firearm is the same whether the officer resorts to a service pistol or a carbine.

[95] Upon meeting the threshold for lethal force, police training dictates officers shoot for the upper body and continue until the threat stops. Officers train in reality-based, stressful scenarios to shoot for the upper body because it is a large target with greater assurance of hitting and substantial potential for stopping the threat. Even a large target like center mass is difficult to hit in a high stress situation.

Review of MFNP Use of Force Policy

[96] Keith reviewed the MFNP Use of Force Policy and found it consistent with the national use of force model and with similar policies across the country. The MFNP policy authorizes resort to lethal force when either the officer or another person “*is in imminent danger and the subject is likely to cause them grievous bodily harm or death and all other tactics have been exhausted or would be ineffective.*” The policy identifies *opportunity, ability, and intent* as the preconditions for “*imminent danger*”. Again, the words used in various policies may differ, but MFNP’s policy is consistent with others across the country in meaning.

Review of IIU File

[97] Keith reviewed the IIU investigation into the shooting death of Benjiman Richard with a view to assessing whether officers acted in accordance with recognized police training and MFNP use of force policy and consistently with how Canadian police officers in similar circumstances would likely act.

[98] The officers faced an active shooter situation. The primary concern was public safety, including Louise and potential bystanders or passersby. Review of the officers’ statements to the IIU demonstrate the officers were alive to this

concern and took steps to mitigate risk before ever attending the scene. Prince directed Tammy to leave the area of 117 Ojibway Trail. Prince used the telephone instead of the radio when she alerted dispatch to the presence and discharge of a firearm from the residence. She did so to conceal the information from people in the community with scanners who might approach the scene. Officers planned a covert approach to the residence recognizing the advantage of concealing their presence from the shooter.

[99] Because identification and ongoing assessment of risk drives decisions about tactics and actions, maintaining a connection to available information sources is valuable. Keith suggested some noteworthy deficiencies in this regard. Dispatch seems not to have remained in contact with Patricia, who was in communication with Louise via social media. Prince did not obtain contact information from Tammy or arrange to obtain updates should circumstances change. Officers did not seek an update from dispatch on route to the call or when they saw a woman get into a SUV near the residence and drive away. Consequently, officers were unaware of Louise's departure from the residence leaving Benjiman Richard as the lone occupant. Had officers known Benjiman Richard was alone in the residence; their focus may have shifted to containing Mr. Richard and evacuating surrounding houses before confronting him and / or negotiating his surrender.

[100] Officers proceeded based on the information from Tammy. They planned a tactical approach from the sides of the residence in hopes of concealing their presence. Delaronde and West attended with carbines. Keith opines these were sound tactical decisions consistent with police training.

[101] Upon reaching the east side of the house, Delaronde and West heard gunshots from the residence. Seeing Prince approaching, they attempted to warn her.

[102] Prince's decision to proceed down the driveway towards the front of the residence arose from unanticipated problems with her originally planned route as well as mistaken perception. Keith asserts this approach down the driveway was tactically unsound.

[103] Delaronde and West used conceal and cover maneuvers to adjust their positions. When Benjamin Richard fired at Prince as she drove towards the front of the residence shattering the rear passenger window, she accelerated and parked her vehicle strategically to provide herself cover from the rear of the residence. West sought cover behind the engine block of a stationary vehicle. Prince got out of her vehicle and concealed herself behind the truck. These cover and conceal movements are all intended to mitigate or diminish the risk of danger / injury and are consistent with police training.

[104] When danger escalates as it did here, Keith explains police training requires a "*save the most lives*" assessment. Lethal force is required once the threshold of imminent danger of grievous bodily harm or death exists. Benjamin Richard had a firearm. A bullet is capable of causing serious injury or death. He demonstrated intent by firing at Prince from the front of the residence then changing position to track her to the rear of the residence, stepping out the back door, and pointing the firearm in the direction of West and Prince.

[105] Keith opines the threshold for lethal force materialized when Benjamin Richard took aim at Constable Prince. Delaronde and West were not obligated to wait for him to discharge the firearm. When he fired again at Prince, West and Delaronde fired several rounds each, resulting in Benjamin Richard's death. Keith opines the officers reasonably articulated fear of imminent danger from grievous bodily harm or death and that all other police officers in similar circumstances would share that fear. Their decision to shoot was reactive to Benjamin Richard's behaviour. Keith concludes that Delaronde and West acted in accordance with

police training and within the parameters of MFNP's use of force policy when they used lethal force to stop the threat.

[106] Keith testified the involved officers acted within the limits and in accordance with their training and MFNP policy when, following the shooting, they called for an ambulance, recognized Benjiman Richard's injuries exceeded their first aid training, cleared the residence, secured the scene, and cooperated with the subsequent IIU investigation.

III. OBSERVATIONS

Police Resources – More Officers, More Options

[107] There were five police officers servicing the LPFN area in 2019, including the Sergeant. Single-officer shifts were common. Had this call come one hour earlier, West was working alone. Had it come an hour later, West would have been gone leaving two officers to respond. It was only because the call coincided with shift change that three officers were available.

[108] Calls for service involving discharge of a firearm are serious. The situation was dangerous for police, for Benjiman and Louise Richard, and for the community. The three responding officers were limited in the scope of their response by their number. They therefore prioritized containing Mr. Richard. With more officers, objectives like cautioning or evacuating neighbouring residences and enhanced interaction with dispatch may have been more feasible.

[109] When Mr. Richard began firing at Prince's moving vehicle, officers had to adjust position and lost cover of the front of the residence. Had Benjiman Richard gone mobile with the loaded firearm out the front of the residence instead of tracking Prince to the rear of the house, the risk of danger to neighbours and the

community might have escalated. With more officers, police might have been better able to cover all sides of the residence throughout the incident.

[110] Keith noted the absence of an incident commander overseeing or directing the officers' tactical response. Officers actively responding to a dangerous situation make tactical decisions under substantial stress. An additional officer directing the strategic response from a safe distance will typically be advantageous. Here, Delaronde and West were close to the residence attempting to cover the front and rear, exposed to a window, hearing gunshots inside, and simultaneously worrying about and attempting to direct Prince's movement. To describe their efforts as multi-tasking is an understatement.

[111] Simply put, more officers means more options in terms of manner and intricacy of tactical response.

[112] Staffing for MFNP at LPFN has since increased to nine officers which means there are always at least two officers on shift day and night. Had this been the case at the relevant time, with the call coming at shift change there might have been four officers available to respond. However, an hour earlier or later and there would still likely be only two officers. In that sense, the increase to nine officers may not significantly address the resource issue MFNP officers face in this type of scenario. Nonetheless, the increase from five to nine officers is an important and valuable improvement.

[113] Regional police agencies face unique resource and policing challenges in comparison to their Brandon and Winnipeg Police Service counterparts, including fewer officers dispersed over larger geographic areas. Recommendations about staffing ratios have political and economic consequences and are well beyond the scope of this Inquest. Regional and remote policing models also have advantages over larger city forces, including more intimate familiarity with and connections within the communities they serve.

[114] Continuing to foster and maintain strong cooperative relationships between MFNP detachments and with other police agencies, notably RCMP, seems prudent as does clear identification of circumstances in which officers should reach out to another agency to assist in responding to higher-risk calls. This is not a recommendation but rather endorsement of current MFNP practice and encouragement to continue and to build upon it where possible. It is impossible to predict whether additional responding officers would have changed the outcome of this particular incident.

[115] Police shoulder substantial responsibility to the benefit of society. It is important they have access to the resources, human and otherwise, to realistically and safely meet their obligations.

Police Resources – Communications Technology

[116] Tompsett identified deficiencies in cell phone and police radio reception in LPFN in 2019. This appears to have been a contributing factor in the incident.

[117] Prince testified the initial cell phone call from Tammy to the LPFN detachment administrative phone line ended because of poor reception; that the call dropped. Any opportunity to obtain further information, including the caller's contact information, was lost.

[118] Prince seemingly had inadequate reception on her police radio on route to the residence. When West said, "*shots fired, coming from the inside*", Prince responded, "*Did you say you were inside?*" Prince testified she did not hear further communications from West saying, "*No, shots fired, shots fired*" and from Delaronde saying "*keep driving, keep driving*". Certainly, Prince made an error when she misidentified the SUV on scene as a police vehicle. This human error contributed to her decision to turn into the driveway but had she been able to hear the warnings from West and Delaronde over her radio, it seems probable she

would not have ventured down the driveway towards the residence, triggering the chain of events that immediately followed.

[119] In 2018, the Manitoba government awarded a tender to Bell Mobility to replace the province's outdated FleetNet system used by emergency service providers across the province. The project aimed to provide reliable communications service across the province, notably in rural and remote areas. The new equipment included radios with GPS, advanced radio encryption to ensure security of emergency communications, added stationary and mobile telecommunication towers. Because of this work, completed in 2021, cell reception and radio communication in LPFN is now notably improved.

[120] Given the work completed in 2021 and the improved reception in LPFN, I make the following observation, with no formal recommendation. **It is vital the Province of Manitoba ensure police agencies and other emergency responders have access to the highest quality communications technology, especially in rural and remote areas of the province.**

Real-Time Information / Updates

[121] Keith highlighted the value of real-time or updated information during a high-risk tactical response situation. By the time West and Delaronde arrived at the residence, they were acting on information that was over ten minutes old. Ten minutes in the context of a dynamic and dangerous situation can be a long time.

[122] Dispatch seems not to have maintained contact with Louise's daughter Patricia to facilitate real-time updates to responding officers. Prince did not obtain contact information for Tammy that might have allowed dispatch or an officer to contact her for updates. Officers on scene saw a woman come from the area of the house, get into a waiting SUV, and leave the property. Determining the presence of others in the residence with Benjiman Richard was relevant to the assessment of

risk. Real-time intelligence alerting the officers to Louise's departure from the residence may have changed the officers' risk assessment and tactical approach. It may have eliminated or delayed the need to immediately approach the residence and risk engaging with Benjamin Richard. The absence of real-time intelligence was a disadvantage.

[123] Keith suggested officers could possibly have retreated and sought an update from dispatch as to whether Louise was now out of the residence. Events happened so quickly, I am not convinced the officers could have requested and received such an update prior to Prince entering the property. Perhaps if dispatch maintained continuous contact with Patricia or been able to contact Tammy, they could have taken the initiative to update the officers in time to break the chain of events. Because things happened so quickly, I am skeptical.

[124] Real-time intelligence about Louise's departure from the residence would not likely have changed the outcome here, particularly given the lapse in police radio reception. There is insufficient evidence upon which to formulate any recommendation. The Inquest did not meander into the realm of dispatch protocols or practices. Dispatch will have a perspective that this Inquest did not explore. MFNP intends to conduct a review of the incident following release of this report. It seems prudent the internal review include consideration of dispatch protocols recognizing the potential value of real-time intelligence during dynamic high-risk calls for service. Further, recognizing regional policing resource limitations, maybe it is sensible to assess whether dispatchers can reasonably provide any enhanced support to officers

Reality-Based Tactical Response and Use of Force Training

[125] The officers who responded to this incident had appropriate training. There is no basis to conclude training had any impact on the outcome of this incident or

that recommendations related to training would avoid a repeat of this outcome in the future. I make the following observations with no formal recommendations related to training.

[126] **The incident highlights the value of reality-based training simulating high stress situations such as the one officers faced here.**

[127] **MFNP mandates use of force training for its members bi-annually whereas most police forces reportedly deliver the training annually.**

[128] MFNP's Use of Force Policy includes a visual training aid marked Appendix "A". Officers with MFNP have a different Use of Force visual training aid in their notebooks. The two visual aids differ in presentation but are consistent in content. The circular representation contained in officer notebooks comes from the National Use of Force Framework. Keith and Delaronde (a Use of Force instructor) both opined the circular model is easier to understand. **For consistency and ease of reference, MFNP might benefit from changing the visual representation of the paradigm in their Use of Force Policy to match the circular depiction in the officers' notebooks.**

I respectfully conclude and submit this Report on this 27th day of July 2022, at the City of Portage la Prairie, in the Province of Manitoba.

"original signed by Judge Hewitt-Michta"
Judge Shauna Hewitt-Michta
Provincial Court Judge

APPENDIX A

Witness List

1. Staff Sergeant Brian Harder
2. Tammy Smith
3. Constable Tyler Delaronde
4. Alex Oliver
5. Constable Billy-Jack West
6. Kara Swidnicki
7. Constable Cindy Prince
8. Sergeant Kristen Tompsett
9. Detective Constable Lon Schwartz
10. Sergeant David K. Keith

APPENDIX B

Exhibit List

1. USB Stick – Inquest File
2. Binder of Inquest Materials
3. Booklet of Photographs – RCMP Forensic Identification Section
4. Photobook submitted by Benjiman Richard’s family
5. Photo of Vehicle #2 Ford Escape
6. Training Record – Constable Delaronde
7. Training Record – Constable West
8. Training Record – Constable Prince
9. Expert Report (Use of Force) – Sergeant Keith
10. Package of Materials submitted by Benjiman Richard’s Family
11. Manitoba Government News Release August 18, 2018 – Replacement of Public Safety Communications Service
12. Photographs of MFNP Police Vehicle Decals