



Royal  
Canadian  
Mounted  
Police

Gendarmerie  
royale  
du  
Canada

"E" Division  
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Vancouver, B.C.  
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Security Classification / Designation  
Classification / Désignation sécuritaire

June 26, 2008

Your file      Votre référence

PC-2006-0385

Mr. Paul Kennedy  
Office of the Chair  
Commission for Public Complaints Against the RCMP  
P.O. Box 3423, Station D  
Ottawa, Ontario K1P 6L4

Our file      Notre référence  
2006-060

Dear Mr. Kennedy:

**Re: CPC Chair Initiated Public Complaint into the Police Shooting Death of Mr. Kevin St. Arnaud - December 19, 2004**

This letter is in response to your Chair-initiated public complaint against members of the RCMP pursuant to subsection 45.37(1) of the RCMP Act in relation to the shooting death of Mr. Kevin St. Arnaud on December 19, 2004 in Vanderhoof, British Columbia.

A thorough and comprehensive investigation has been conducted into your allegations which detail your concerns regarding the actions of the RCMP Officers involved and the resulting investigation into the death of Mr. St. Arnaud. The investigation is now concluded and I am in a position to comment on your concerns.

You have previously been provided with the full detailed investigative report into this matter as well as responses to a series of questions posed by Mr. Richard Grounds, your Analyst throughout this investigation. This letter will focus on the issues surrounding your concerns and provide a detailed analysis of the information of which this investigation was based upon.

I am also aware that your office has been provided with a copy of an independent review completed by Toronto Police Service into this incident and the investigation conducted by our North District Major Crime Unit.

**Background Information**

The Vanderhoof RCMP Detachment is located in north central British Columbia situated along the Yellowhead Highway Number 16 west of Prince George. The detachment consists of thirteen RCMP regular members and was fully staffed on December 19, 2004. The detachment area encompasses a large rural area from Bednesti to the east and half way to Fort Fraser in the west, and, half way to Fort St. James in the north to

approximately sixty miles north of Anahiem lake to the south. The detachment serves an entire population of 15,000 including 4800 people situated in the community of Vanderhoof.

On December 19, 2004 at 0051hrs Chubb Security advised the RCMP Prince George Operational Communications Center (OCC) of an intruder alarm at the Rexall Pharmacy located in the Vanderhoof Mall situated at 188 East Stewart Street, Vanderhoof. At 0052hrs Constable Ryan Sheremetta of the Vanderhoof Detachment was advised of the alarm by the Prince George OCC. Constable Sheremetta attended the scene and was advised by a witness outside the premises that he had just witnessed a male drop from the ceiling of the Pharmacy.

Constable Erickson, also from Vanderhoof Detachment, was enroute to the location to assist. At 0104hrs Constable Erickson advised Constable Sheremetta that the suspect was inside the mall running from the Pharmacy toward a restaurant at the back of the mall. At 0108hrs, Constable Sheremetta advised Constable Erickson that the suspect had just jumped from the roof and was heading toward Stewart Street by the Access Center and that he was pursuing the suspect. Constable Sheremetta reported on his location and direction of travel as he pursued the suspect.

At 0109hrs Constable Erickson called the Prince George OCC and reported, "I've got a man down." Constable Sheremetta called Prince George OCC and reported, "Shots fired Prince." Constable Erickson then advised Prince George OCC that they were in the middle of the soccer field and requested a supervisor and ambulance attend Code 3 (Emergency response required).

At 0112hrs Vanderhoof Emergency Health Services were dispatched and arrived on scene at 0124hrs. Upon arrival the Paramedics approached the suspect, Mr. St. Arnaud, and were unable to locate a pulse.

It was subsequently learned that during the foot pursuit across the soccer field the suspect, Kevin St. Arnaud, turned, initially put his hands in the air then began advancing on Constable Sheremetta. Constable Sheremetta ordered Kevin St. Arnaud to stop and as Mr. St. Arnaud neared Constable Sheremetta, Constable Sheremetta discharged his service pistol, shooting Mr. St. Arnaud three times, fatally wounding him.

At 0145hrs Corporal MacLellan and Staff Sergeant Kowalewich of the Vanderhoof Detachment arrived on the scene. Members of the Major Crime Unit in Prince George were requested and subsequently attended the scene and assumed conduct of the investigation.

It should be noted at the outset that the weather conditions at the time of the shooting were adverse, with blowing wind and rain, and immediately following the shooting the weather further deteriorating which made examination of the scene problematic, and also made it difficult to make some conclusive findings.

### **Summary of Allegations**

On March 15, 2006 pursuant to subsection 45.37(1) of the RCMP Act you alleged that:

1. *Members of the RCMP improperly entered into a situation with Mr. St. Arnaud that resulted in his death.*
2. *A member of the RCMP improperly discharged his firearm in the incident.*

On April 26, 2007, as a result of evidence heard during the January 2007 inquest of Mr. St. Arnaud, you amended your public complaint to add the following allegation:

3. *Members of the RCMP failed to conduct an adequate investigation into the death of Mr. St. Arnaud.*

Given the extensive volume of information reviewed in the case and the complexities surrounding the evidence, each allegation will be addressed separately in order of events.

**First Allegation:** *Members of the RCMP improperly entered into a situation with Mr. St. Arnaud that resulted in his death.*

In order to address this allegation a comprehensive overview of the event will be covered that lead the RCMP members to respond to a complaint and subsequently confront Mr. St. Arnaud.

On December 19, 2004 at 0051hrs Chubb Security advised the RCMP Prince George Operational Communications Center (OCC) of an intruder alarm at the Rexall Pharmacy located in the Vanderhoof Mall situated at 188 East Stewart Street, Vanderhoof. During this time Constable Ryan Sheremetta and Constable Colleen Erickson were both working the evening shift at the Vanderhoof RCMP Detachment and were conducting administrative work at the detachment building.

At 0052hrs both members were advised by Prince George OCC of the alarm at the pharmacy. Constable Sheremetta immediately responded and departed the office in his police vehicle and Constable Erickson responded shortly after in a separate police vehicle. While enroute to the pharmacy the OCC updated Constable Sheremetta that the alarm was coming from the pharmacy dispensary. Constable Sheremetta attended to the rear of the pharmacy but was unable to locate anyone. He spoke to a witness, John Thiessen, who was waiting for the Greyhound Bus outside the pharmacy and who advised that he witnessed a male drop from the ceiling into the pharmacy. Constable

Sheremetta used the police radio to advise Constable Erickson of this information. Enroute to the scene Constable Erickson checked several youths in the area and then proceeded to Constable Sheremetta's location.

At 0102hrs Constable Sheremetta advised that he would proceed to the rear of the mall where the pharmacy was located while Constable Erickson waited out front in an effort to contain the possible suspect. Constable Erickson saw someone crouching down in the mall and advised Constable Sheremetta of this. Constable Erickson held a perimeter at the front of the mall waiting for the property owner to arrive with a key. As Constable Erickson was waiting in her police vehicle a witness in a green truck approached her and advised he saw a person running through the mall. She had previously told the individual there was someone in the pharmacy and asked him to watch the building. A Police Dog was requested to attend the scene from Prince George.

At 0104hrs Constable Erickson advised Constable Sheremetta the male was seen running through the mall toward the restaurant.

At 0108hrs Constable Sheremetta advised Constable Erickson that the suspect had just jumped from the roof of the mall and was running toward Stewart Street by the Access Centre. He stated he was in pursuit of the suspect who was running past the courthouse on the right side of the curling rink. In his statement Constable Sheremetta advised that he tried to intercept the suspect with his police vehicle by blocking him but slid on the ice and stopped in the snow. Constable Sheremetta stepped out of his vehicle and continued to pursue the suspect on foot. The foot pursuit continued onto a soccer field where Constable Sheremetta confronted the suspect.

Abe Klassen, who was waiting in his vehicle at the mall to pick up mail from the Greyhound Bus, was approached by the witness John Thiessen. Thiessen asked him about the break in and as a result Klassen parked his vehicle on the street by the mall and not long after saw a person running from the rear of the mall. He stated he observed a member chase the person across the soccer field on foot. Klassen drove east in hopes of assisting the member and there he observed the member gaining on the fleeing male. Klassen reported hearing the member screaming at the suspect. He then saw the male come to a stop, raise his hands, turn around and start walking toward the member. Klassen reported hearing two gunshots and thought the member must have fired warning shots and thought the suspect must have surrendered.

As the backup unit, Constable Erickson was in her vehicle and while monitoring Constable Sheremetta's radio transmissions was attempting to maneuver her vehicle to provide a perimeter and contain the suspect. Constable Erickson drove her police vehicle onto East Street and proceeded easterly along the perimeter of the soccer field where she observed Constable Sheremetta in the field standing in a combat stance with arms extended while the suspect was aggressively walking towards Sheremetta. Constable Erickson stated she heard two gun shots and saw Sheremetta fire two

rounds. She saw muzzle flashes, observed the suspect fall to the ground, and then she walked over to the location.

Before commenting on the decision of the RCMP members to enter into an investigation on this file that subsequently involved a confrontation with the suspect, we must first consider the authorities to which they are directed to perform their roles as Peace Officers in the RCMP and upon which they rely to carry out their duties.

***RCMP Act:***

***Section 37. It is incumbent on every member***

*© to perform the member's duties promptly, impartially and diligently, in accordance with the law and without abusing the member's authority;*

***RCMP Act Regulations:***

*17. (1) In addition to the duties prescribed by the Act, it is the duty of members who are peace officers to*

*(a) enforce all Acts of Parliament and regulations made thereunder, and render such assistance to departments of the Government of Canada as the Minister may direct;*

*© maintain law and order in those provinces and municipalities with which the Minister has entered into an arrangement under section 20 of the Act and carry out such other duties as may be specified in those arrangements*

***Criminal Code of Canada:***

*Section 25 (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law*

*(b) as a peace officer or public officer,*

*is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and using as much force as is necessary for that purpose.*

Both members were dispatched to an intrusion alarm and promptly responded as required. While investigating the incident they discovered the alarm was actually a break and enter into a premises and within a few short minutes were able to establish that a suspect was still inside. The members made attempts to contain the individual and in the process he was observed attempting to flee the scene. The members acted on reasonable grounds to promptly execute their authority in an attempt to arrest the suspect and were diligent in their efforts to pursue him. During the pursuit of the suspect there was a violent confrontation. Constable Sheremetta feared he would be suffer grievous injury or death based on his observations and the assessment of circumstances. He resorted to using deadly force to deal with his threat which resulted in the death of Mr. St. Arnaud.

Considering all the circumstances, Constable Sheremetta's and Constable Erickson's actions in responding to the complaint of the break and enter to the Rexall Pharmacy were appropriate and in keeping with their tactical training. Break and Enter is a serious indictable criminal offence, punishable by imprisonment up to 14 years. When Mr. St. Arnaud fled the mall our members took the most appropriate action in pursuing a break and enter suspect first in a police vehicle, then on foot. The police response to the situation was in large measure dictated by the actions of Mr. St. Arnaud and our RCMP members were reacting to the circumstances which were quickly unfolding. The response was reasonable in the circumstances.

In relation to the allegation I find that both Constable Sheremetta and Constable Erickson responded appropriately to the investigation they were tasked with, acted in accordance with authorities by which their duties are governed, and, given the resources available responded appropriately from a tactical standpoint. As such I do not support the allegation that the members improperly entered into a situation with Mr. St. Arnaud that resulted in his death.

**Second Allegation:** *A member of the RCMP improperly discharged his firearm in the incident.*

With respect to this allegation we must first examine Mr. St. Arnaud's history and the significant events which occurred leading up to the confrontation between Constable Sheremetta and Mr. St. Arnaud and the known circumstances that would have contributed to Constable Sheremetta's decision of to discharge his firearm at Mr. St. Arnaud. These significant details are highlighted as follows:

- a) Kevin St. Arnaud had a very disturbing personal history which evolved around drug and alcohol abuse, dysfunctional relationships, mental health problems and violence. Records checks clearly indicate that he had a lengthy criminal record for violence, weapons, and drug offences as well as for property crimes.
- b) A former girlfriend of Mr. St. Arnaud, Jackie Vaillancourt stated the following, "*near the end when he started to lose it that he would kill himself this way that he would get the cops to kill him.*" Further, "*he was gonna kill himself, he'd make a cop shoot him. Cause he couldn't do it.*" She was disturbed over a situation where Kevin St. Arnaud cut off the feet of a hawk and the hawk subsequently died. She detailed a picture of a troubled individual with violent tendencies.
- c) Kevin St. Arnaud had a relationship and fathered two children with a Jennifer Stead. She stated they both had a bad drug and alcohol problem. Their children were taken from them due to the drug problem. She indicated Kevin used a lot of cocaine. Stead described him as having violent tendencies and related the incident with the hawk, advising he was charged with cruelty to animals

by "stumping" on it. Stead stated he was, *"Paranoid of the police, paranoid of anybody being in the house, and he yeah, just really afraid."*

d) On the evening of December 18, 2004 at approximately 2000 hrs Kevin St. Arnaud and his girlfriend, Rebecca Gingera, attended the P&H Supplies Christmas party at Glen's Bar in Vanderhoof. Bar staff Christa Siemens and Jackie Thiessen reported that he was served a total of six alcoholic beverages referred to as "Greyhounds". Glen's Beer Store employee, Ryan Chow advised St. Arnaud purchased a 375ml bottle of Vodka between 2100hrs and 2300hrs.

e) At approximately 2330hrs Mr. St. Arnaud had a fight with a Matt Malo inside the Bar and was subsequently ejected from the premises. Once outside he became involved in another fight with Malo which was broken up and he then left the area.

f) During the P&H Christmas party Gingera became upset with St. Arnaud regarding his behaviour that evening and subsequently departed Glen's Bar before his altercation with Malo and attended a friend's place for the remainder of the evening to wait for St. Arnaud. In her testimony at the Coroner's Inquest into this death, she stated that she was not going to tolerate him embarrassing her so she left the premises. She stated that St. Arnaud consumed obscene amounts of "greyhound and tequila shots" and estimated the number to be about twenty drinks. She indicated that he arrived at their friend's residence between midnight and 0030hrs. She stated that he was, "absolutely 100% hammered" and described him as "incoherent, pale, and ghostly white". St. Arnaud stood at the doorway and did not enter the residence. He departed, but immediately returned, spoke inaudible words, and then departed once again. When he did not return she commenced a search for him.

g) At approximately 0030hrs St. Arnaud attended the residence of Michael Bulkley and knocked on his door. After five minutes Bulkley jumped out of bed and found St. Arnaud standing at the door. St. Arnaud was asking for a Nathan Mueller who no longer resided there. Bulkley asked him to leave several times but he refused, stated he was acting irrational and said he threatened to call the police to have St. Arnaud thrown into the drunk tank as he was intoxicated. Despite his level of intoxication he was surprised how well his motor skills were after he departed the residence.

h) In the early morning hours of December 19, 2004 Kevin St. Arnaud broke into the Rexall Pharmacy located in the Co-op Mall in Vanderhoof, BC and took containers of medication.

l) Constable Sheremetta and Constable Erickson from Vanderhoof Detachment were dispatched to the call and departed from the detachment office in separate police vehicles. Constable Sheremetta arrived shortly after checking the perimeter of the complex. Constable Erickson arrived at the mall and searched the perimeter. On arrival a witness, John Thiessen, advised Constable Sheremetta that he saw a male jump from the ceiling into the Pharmacy. Constable Erickson also saw a person crouching down in the mall and a witness further advised her that he saw a person running through the mall. She radioed this information to Constable Sheremetta.

j) Constable Sheremetta advised Constable Erickson that he had observed a male jump from the roof of the mall and was in pursuit of the individual who was now running toward Stewart Street.

k) Constable Sheremetta initially gave chase in his police vehicle attempting to stop the suspect but slid on the ice and into a small snowbank. This failed to stop the suspect so he continued to pursuit the suspect on foot. Constable Sheremetta stated that he was approximately twenty feet behind the suspect yelled, "Stop, Police!" on several occasions.

l) Constable Sheremetta advised that he was concerned as during the chase Mr. St. Arnaud had his hand in his pocket. He stated he had his sidearm drawn but due to the icy conditions he was having problems with his footing and decided to holster his weapon. He continued the chase onto a snow covered soccer field.

m) Once in the soccer field Constable Sheremetta states that Mr. St. Arnaud finally came to a slow stop and turned around. Constable Sheremetta stopped at this point and again had his sidearm drawn. He stated that Mr. St. Arnaud put his hands up and had a bag in one hand. Cst. Sheremetta advised he ordered him down on his knees but he just put his hands down slowly and kept coming towards him faster and faster.

n) Constable Sheremetta stated St. Arnaud had the "fucking scariest look I've ever seen" and "just fucking look of death at me". He advised Mr. St. Arnaud placed his hand back in his pocket and just kept coming toward him. Constable Sheremetta indicated he took some steps back, slipped and fell to the ground. Mr. St. Arnaud kept advancing on him while he was saying "Police, Stop" and as Mr. St. Arnaud keep advancing he fired two shots at him. Mr. St. Arnaud failed to stop and he fired a third shot after which Mr. St. Arnaud fell to the ground.

o) Constable Sheremetta stated that while St. Arnaud was advancing on him Mr. St. Arnaud said, "you're going to have to shoot me mother fucker or something like that, come and shoot me fucker or something like that."



p) Constable Sheremetta had serious concerns for his safety as indicated in his statement. A Use of Force review conducted by Sergeant Lee Chanin, a Use of Force Expert, reviewed this incident and based on the totality of the circumstances defined the behaviour of Mr. St. Arnaud as presenting a perceived threat of assault with a weapon with the intent to cause death or grievous bodily harm. The following points were noted:

*1. Constable Sheremetta was aware he was attending an alarm from the dispensary area of a pharmacy and during the course of the investigation determined the suspect dropped from the ceiling of the Pharmacy. Such a situation would commonly indicate the suspect to be a person using or addicted to drugs and Officers are made aware through training that drug addicts have been known to be goal oriented.*

*2. He was concerned by the fact St. Arnaud kept putting his hand in his pocket. He found it very strange that he was running with one hand in his pocket and even advanced toward him with a hand in his pocket. It would not be perceived to be a natural movement to run with one hand in the pocket. This is considered a serious threat cue and through previous police experience this has indicated a suspect may have secreted a weapon in the pocket.*

*3. Constable Sheremetta indicated St. Arnaud kept advancing on him swearing while at the same time saying that Sheremetta would have to shoot him. Verbal profanity directed toward the Officer reasonably suggests a significant high risk of an assault with the intent to cause death or grievous bodily harm. The Officer's whole assessment of the situation would have been escalated given the fact he was refusing the Officer's commands and was advancing toward him.*

*4. Constable Sheremetta stated that St. Arnaud had the scariest look he had ever seen and what he described as the look of death as he started advancing toward him and also stated that he was bent and determined to get the police officer that had just fallen to the ground. He also commented, "I recall thinking as I ran that from his expression this guy was seriously pissed off and would fight given a chance". The Use of Force report indicated that such expressions are unusual and as such Mr. St. Arnaud's movements and expressions suggested to Constable Sheremetta that an assault with the intent to cause death or grievous bodily harm was imminent.*

*5. Constable Sheremetta had concern for Mr. St. Arnaud's size and commented that he seemed pretty big and taller than him. On another occasion Sheremetta stated, "He seemed pretty large, he had a leather*

*jacket on, he was about six foot tall, white, white male, I'd say he is, if I had to guess at an age, between twenty five and thirty, I think he was wearing jeans."*

*6. He expressed concern and was a little shocked when he saw St. Arnaud fall the distance he did from the mall and was able to immediately regain control and start running away. Constable Sheremetta stated, "I was a little shocked at what I thought I had just seen and it reinforced my earlier belief that the suspect was likely using some form of narcotic."*

*7. Constable Sheremetta stated that he attempted to gain time and distance from Mr. St. Arnaud by backing up however he slipped in the snow and fell on his back. He indicated that he was now concerned about the position he was in with St. Arnaud advancing on him with an unknown object in his pocket. Constable Sheremetta stated, "I didn't know what he had in his pocket and you know you hear about it and you know you see in training these guys are determined they're going to do what they got to do to get away, I'm on, I'm on my back with this guy, he gets on top of me I don't know what he's got in his pocket, I don't know where my back up is, if he gets on top of me or you know I.....Fuck he could, well I don't know he could kill me, he could, I don't know."*

*8. With Constable Sheremetta now on his back, he advised that there was only five to seven feet between them at which point he made the decision to discharge his firearm twice at Mr. St. Arnaud. He continued to advance so he fired a third time striking St. Arnaud in the chest and causing him to fall.*

In July 2005 Sergeant S.L. Chanin, completed his Incident Management Review of the Kevin St. Arnaud shooting death. All necessary materials are reviewed in relation to the RCMP Incident Management/Intervention Model (IM/IM) and use of force criteria. Before a peace officer can use force the subject of their intervention must demonstrate to them that he/she has the ability to harm, has the intent to do harm, and has the means to deliver the harm. In this case Sergeant Chanin's view is that Mr. St. Arnaud satisfied all three criteria.

Sergeant Chanin advises Mr. St. Arnaud demonstrated his ability to do harm through his physical size and build as perceived by Constable Sheremetta. Further to this St. Arnaud's movements such as jumping from the building and continuing to run away, running with his hand in his pocket, repeatedly reaching into his pocket and the possibility he was dealing with a drug user clearly gave Constable Sheremetta the belief that Mr. St. Arnaud had the ability to cause grievous bodily harm or death to Constable Sheremetta.

Sergeant Chanin concluded that Mr. St. Arnaud demonstrated his intent to do harm through numerous threat cues. Mr. St. Arnaud failed to comply with verbal commands of Constable Sheremetta throughout the pursuit and subsequent apprehension and advanced on Constable Sheremetta while his firearm was pointed at him. Mr. St. Arnaud continually looked back at Constable Sheremetta while running and kept placing his hand in his pocket while running. He advanced on Constable Sheremetta with his hand in his pocket suggesting he possessed a weapon which he intended to injure or kill Sheremetta. The facial expressions and body language of St. Arnaud such as "scariest look" and "look of death" were something alarmingly menacing about Mr. St. Arnaud. Finally, his threatening tone when he said "you better fucking shoot me mother fucker" suggests a significant high risk of grievous bodily harm or death.

Through his numerous threat cues, close proximity and continuing advancement on Constable Sheremetta, Mr. St. Arnaud demonstrated the means to cause grievous bodily harm or death to this member.

In summary, Sergeant Chanin stated that in his opinion Constable Sheremetta used an appropriate level of intervention in consideration of the totality of the circumstances before him.

The key consideration in assessing whether the use of force was justified is the belief of the individual peace officer considering all the circumstances. In order to analyze the events and relevant circumstances, we must also take into account the physical evidence and witness accounts in weighing the reasonableness of Cst. Sheremetta's decision to shoot Mr. St. Arnaud. Following are summaries of witness accounts of the events.

Constable Erickson stated:

1. She was driving in her police car on Stewart Street and heard Constable Sheremetta say on the police radio that they were running across the soccer fields.
2. She was driving along the perimeter of the soccer field and stated her intention was to go to the other end of the field to cut them off.
3. She had her window rolled down trying to look into the field until she was clear of trees and a wire fence. She saw Constable Sheremetta standing in the field and at that point noted he was in a stance of what she described as holding a taser or firearm. She could not see what was in his hand.

4. She saw a man purposely charging back at Constable Sheremetta with his arms swinging and his head leaning forward and she yelled out her window, "hey." She heard Constable Sheremetta yelling something.
5. She was trying to pull in to stop and was proceeding to a point where she knew there was gate access. She then heard a shot and saw a flame but did not see the man go down. She heard a second shot and saw the suspect drop at which point she heard Constable Sheremetta saying, "Prince George shots fired," on the police radio.
6. She stated that she did not see Constable Sheremetta fall down.
7. During the inquest she testified that Constable Sheremetta and Mr. St. Arnaud were approximately ten to fifteen feet apart when she first saw them in the field and about ten feet apart at the time of the first shot. She also stated that she was driving on the wrong side of the road and looked forward while driving, therefore taking her eyes off the field and could have possibly missed something in the soccer field.

Abe Klassen, who was waiting to pick up mail from the Greyhound bus, was waiting in his vehicle at the Co-op Mall during this incident. He stated the following:

1. Shortly after Mr. Thiessen spoke to him about a burglary at the mall he parked nearby and shortly after saw a person running from the back of the Co-Op.
2. He observed a police officer pursuing the suspect on foot into the field
3. He drove his vehicle slowly down the street in an attempt to help stop the fleeing suspect.
4. He noted the police gaining on the suspect.
5. He could hear yelling but could not say for certain if it was the police officer.
6. He then saw the suspect stop, raise his hands, turn around and start walking toward the police officer.
7. He heard two gunshots and thought the suspect had given up so he slowly drove further east and made a u-turn.
8. Upon his return he saw a police car now parked on the street and another police officer in the field and the suspect lying on the ground.

9. He was unable to say whether or not Constable Sheremetta was standing or laying down during the shooting.

Sylvia Isaac and Dennis Nooski had just arrived in Vanderhoof on the Greyhound bus and were walking back to their residence. They related the following information:

1. Isaac stated that she heard what she believed to be fighting coming from an unknown location nearby, possibly in the bushes. She indicated there was a lot of swearing and someone saying, "stop, stop." She stated that the noises sounded like someone being kicked repeatedly. She further advised that the voices she heard were not consistent with people running or out of breath.
2. Nooski advised he did not hear any voices.
3. After the altercation they both heard what appeared to be three gunshots coming from the same location.
4. At this point they both indicated they heard a vehicle door slam and then a red truck came from the general area. The male driver slowed down to look at them and then drove away fast swerving over the bridge and thought he was going off the bridge. The red truck was determined to be of no relevance to this incident.

A review of the witness accounts indicates that there are discrepancies among the witnesses, both police and civilian. Although this is not uncommon with unfolding events such as this incident, and certainly not to suggest that anyone is being untruthful, it does leave some unresolved questions. Unfortunately, these questions could not be resolved through forensic examination to our satisfaction. Both Constable Erickson and Abe Klassen have both testified as to gaps in their witness observations during the critical seconds immediately before and during the shooting. Mr. Klassen could not speak to a short period of time during the altercation and could not even speak to the shooting position of Constable Sheremetta. Constable Erickson's account was of a suspect charging toward Sheremetta with his arms down while Mr. Klassen could only account for the suspect with his hands up and walking toward Sheremetta directly before hearing the shots. Further, both Sylvia Issac and Dennis Nooski confirm they heard three shots while Erickson and Klassen only heard two. In summary, the witness accounts are valuable in considering the totality of the evidence available, however, leave some key points unresolved.

The evidentiary collection in this case was conducted by a number of sources including the Pathologist, Dr. McNaughton, Forensic Identification Specialists (FIS), Sergeant Doll and Corporal Beach, Blood Stain Pattern Analyst Sergeant James Gallant, Forensic Laboratory Firearms Specialist Eric Hall, and Forensic Imaging Specialist Jane Daborn. The services of W.D. McIntosh Land Surveying Ltd and MEA Forensic

Engineering were also utilized. Although all of these resources were able to trace the probable events that lead Constable Sheremetta to ultimately discharging his firearm, none were able to completely and conclusively refute or support the version of events as set out by Constable Sheremetta.

FIS members, Sergeant Doll and Corporal Beach, examined the break and enter scene and were able to identify blood located at the scene through DNA analysis as that of Kevin St. Arnaud. They were further able to identify a location at the mall where Constable Sheremetta believed he saw St. Arnaud jump from the roof. They also examined the outdoor scene and the number of foot paths located in the snow of the soccer field that lead from the tennis court to the final location of the deceased. An examination and analysis of two sets of foot prints in the snow were recorded. These two sets of footprints were converging as they progressed across the soccer field. The analysis is consistent with Constable Sheremetta pursuing Mr. St. Arnaud into the field and Mr. St. Arnaud turning back toward Sheremetta. Also noted was a spot located southwest of St. Arnaud consistent with someone possibly having fallen in the snow although the FIS members were not able to say for certain that Constable Sheremetta did in fact fall in that location or any other area on the field. Three shell casings were also located in the snow southwest of Mr. St. Arnaud.

The services of MEA Forensic Engineers & Scientists were utilized to analyze the footprints in the V - shaped pattern left in the snow on the soccer field in the area of the incident. They analyzed the footprints on the roof of the mall to establish gait pattern characteristics and applied these to their analysis of the field. As a result of their examination of the investigation materials, MEA were able to make the following conclusions:

1. Mr. St. Arnaud was initially running away from the member in a north-east direction along the south-east side of the V-shaped pattern of footprints in the field. The V-pattern was the result of Cst. Sheremetta commencing his foot pursuit from a different location on the soccer field and converging toward Mr. St. Arnaud as he continued the pursuit.
2. Mr. St. Arnaud turned around and as he moved back toward Cst. Sheremetta in a south-west direction along the north-west side of the V-shaped pattern he was likely accelerating (increasing his stride length).
3. If Mr. St. Arnaud moved continuously for the 8.2m distance from the last footprint at the tip of the V-shaped pattern to the last footprint on the north-west side of the V-shaped pattern at a speed within the range of 1.5 to 2.2 m/s, he would travel the distance in 3.7 to 5.5 seconds (the distance from where he turned around and where he eventually fell).

4. If Mr. St. Arnaud moved continuously for the 12.6m distance from the last footprint at the tip of the V-shaped pattern to his rest position at a speed within the range of 1.5 to 2.2 m/s, he would travel that distance in 5.7 to 8.4 seconds.

During the initial scene examination our FIS members attempted to erect a tent over the scene to preserve it from the weather. The wind gusts were very strong and blew the tent over causing some disturbance of the scene. MEA were able to identify two footprints associated to Mr. St. Arnaud with similar stride lengths to the immediate preceding footprints in the V-shape. These footprint impressions had been disturbed by the tent when it blew over and as a result MEA had to make some assumptions in their analysis.

In summary, the evidence of MEA does support the accounts of both Constable Sheremetta and Constable Erickson that Mr. St. Arnaud was advancing toward the member with increasing speed.

On February 8, 2005, Blood Stain Analyst, Sergeant James Gallant, conducted the analysis of the scene through the use of photographs of the scene provided by the Forensic Identification Section. He did not attend the actual scene. In his initial report Sergeant Gallant stated that the passive stains in the snow beside Mr. St. Arnaud were consistent with the blood source bleeding passively (created by the force of gravity acting alone) at these locations producing four stains in the snow which suggested the blood came from a wound on St. Arnaud's head. It is believed that most likely the injuries to Mr. St. Arnaud's head were received while he was breaking into the pharmacy, prior to contact with Cst. Sheremetta. Sergeant Gallant stated to Staff Sergeant Krebs that the blood stains were consistent with passive drops from Mr. St. Arnaud's head wound that came from a stationary position for a time of up to a minute prior to the shooting. During the inquest Sgt. Gallant further stated that Mr. St. Arnaud would have been stationary for 5, 10, 15 seconds. As we now know this evidence is inconsistent with the radio recordings which clearly indicate there was only nineteen seconds from the time they entered the field to the time they radioed a shots fired call, and also inconsistent with other evidence which is available.

Sergeant Gallant subsequently learned of the specific timelines of this incident and as a result he prepared a second report on January 29, 2007 which states that the new information with regards to the timelines would have had an effect on the analysis of the blood stain evidence found near the deceased. The second report states, "The soak stains at D (near the Deceased) are consistent with the deceased bleeding passively at this location. These stains would have been created after the deceased received a gunshot wound to the hand, turned to his right and bled passively from the cut above his right eye and his left hand creating these stains."

As a result of the differing conclusions of Sergeant Gallant, Inspector Brian Andrews, Officer in Charge of Forensic Identification Services Pacific Region, requested a file review of the bloodstain pattern analysis. On October 14, 2007 Sergeant Geoff Ellis,

Bloodstain Pattern Analyst, completed a review of the investigation. On October 29/30, 2007 Sergeant Alain Richard, Bloodstain Pattern Analyst, and Staff Sergeant Jon Forsythe, NCO in Charge of the North West Region Forensic Identification Service, conducted a further review of both Sergeant Gallant's report and Sergeant Ellis's report. The review concluded that Sergeant Gallant had ventured beyond the limitations of what can be scientifically supported and reported by a bloodstain pattern analyst. Sergeant Gallant's findings can not be relied upon.

Staff Sergeant Forsythe's review indicates that when an analyst conducts an analysis relying on photographic evidence, he is required to make assumptions. As such Sergeant Gallant was limited by the lack of investigative material before him, such as; police reports, medical reports, and even weather and environmental information. In summary, Staff Sergeant Forsythe states, "The limitations due to the unknown variables present in this case prevent an analyst to opine the final movements of Mr. St. Arnaud or the sequencing of the bloodletting events at or near the final resting location of Mr. St. Arnaud." He suggests that the report submitted by Sergeant Ellis more accurately reflects the opinions and conclusions that could be provided in this case.

Sergeant Ellis' conclusions are generalized and do not support or refute the version of events from Constable Sheremetta other than the fact that Mr. St. Arnaud's injuries were consistent with being the source of blood found in the snow beside his location of final rest.

Sergeant Ellis concluded in his report that:

1. The injuries received by the deceased are consistent with being the source of blood for the stains observed in the Co-Op Mall, on the snow adjacent to the deceased, on the deceased and on his clothing.
2. The bloodstains observed in the Co-op Mall are consistent with movement of the deceased throughout the Mall over an undetermined period of time.
3. The flow pattern on the face of the deceased associated to the bloodletting injury above the right eye is consistent with originating while the deceased's head was in an upright or semi-position. The void in the flow pattern on the right cheek is consistent with removal of that area of bloodstain by contact with undetermined object(s).
4. The bloodstains on the snow adjacent to the right side of the deceased are consistent with originating from contact between the snow and liquid blood.

Eric Hall, a Forensic Firearms expert from the RCMP Vancouver Forensic Laboratory, was requested to examine Constable Sheremetta's firearm, and to determine the



possible shooting positions of the member, and, the muzzle to target distance of the shooting.

Mr. Hall confirmed that the firearm was functioning properly and that the expended cartridges found at the scene were fired from Constable Sheremetta's pistol. Mr. Hall conducted laboratory tests to determine the ejection pattern of the cartridges to establish the firing position of Constable Sheremetta. He could not conclusively say what position Constable Sheremetta fired the rounds from but stated that the rounds were discharged from a minimum of two and possibly three positions. It should be noted that any exact conclusions would be very difficult to make due to the gusty wind conditions at the time of the shooting. Finally, an analysis of Mr. St. Arnaud's jacket determined that the muzzle to deceased distance was greater than two feet due to the lack of gunshot residue.

Jane Daborn, an RCMP Forensic Imaging Specialist, was used to present the forensic evidence as illustrations for possible shooting positions relative to bullet trajectories. Due to the many variables these illustrations can not be considered as reliable presentations of the evidence with respect to determining the positions of Constable Sheremetta and Mr. St. Arnaud when the shooting occurred.

A forensic autopsy was performed at the Kamloops Royal Inland Hospital on December 21, 2004, by Dr. McNaughton. He confirmed Mr. St. Arnaud received three bullet wounds and in his report stated, "Death is attributed to multiple gunshot wounds to the body with the associated blood loss." Toxicology reports received from the Coroner's Office taken from autopsy samples indicate a high level of alcohol present in Mr. St. Arnaud's body. Dr. McNaughton testified at the Coroner's Inquest that:

1. The gunshot wounds were from front to back.
2. The path of the bullets were in a downward direction relative to the horizontal plane of the body. They ranged from 30 degree to 45 degree angles.
3. He agreed that two possible explanations for the downward trajectory of the bullets were first, the pistol was above the point of entry, or, second, that Mr. St. Arnaud was bending forward when struck by the bullets.
4. When he was asked about a possibility of the shooter holding the firearm waist level and victim kneeling or lowering to the ground, Dr. McNaughton stated, "another possible explanation." He also stated these explanations were among other possibilities. When the possibility of the shooter and victim standing was posed to the Doctor, he stated, "doesn't rule out other explanations."

It was apparent from the testimony of Dr. McNaughton that he could not establish a shooting position of Constable Sheremetta or Mr. St. Arnaud's position at the time of the shooting.

There are two additional pieces of investigative information that were also reviewed that should be considered relevant to this incident. These include telephone messages left on Rebecca Gingera's answering machine believed to left by Kevin St. Arnaud shortly before the break and enter to the Rexall Pharmacy, and a report from an Expert in "Victim-Precipitated Homicide".

Three messages were left on Rebecca Gingera's answering machine that she advised were from Mr. St. Arnaud. The voice recordings were indicative of an intoxicated individual. There was inference from the caller that he was intended to break off the relationship with Gingera and further there were indications he planned on acting in a crazy manner as in previous times. The following quotes were taken from the messages left on the answering machine:

1. *"If you can't stand with me then you're standing against me. If you're not with me you're against me."*
2. *"You abandoned me. I guess every man for himself. I got myself to worry about."*
3. *"Goodbye. Alright. I don't really like it but it shall be the end and I shall be as crazy as ever was and it will be like you had never met me or whatever."*

These recordings would suggest that Mr. St. Arnaud was certainly emotionally upset that evening when considering the witness descriptions of his alarming facial expressions, body language, and threatening profanity.

During the investigation Dr. Rick Parent provided an expert opinion on the shooting incident. Dr. Parent is a 25 year veteran police officer of the Delta Police Department and international expert in the area of "Victim-Precipitated Homicide". After reviewing the material, Dr. Parent provided the following opinion:

*"It is my opinion, to a reasonable degree of certainty, that the police shooting incident of Kevin Edmond St. Arnaud on the early morning of December 19th, 2004 was that of a "victim-precipitated" event."*

*"Kevin St. Arnaud was determined on self destruction, engaging in a series of calculated events that were certain to cause him potentially grievous bodily harm or death. As he charged toward Constable Sheremetta in a threatening, goal driven manner, ignoring commands for compliance, he was aware of the possible outcomes of his actions. Based upon his previous experiences with law*

*enforcement personnel and his documented history of criminal activities, Kevin St. Arnaud was fully aware of the consequences of his actions. While Kevin St. Arnaud was irrational, confrontational, and threatening, he was also suicidal."*

Before providing comments on this allegation it is necessary to address the issue of both Constable Sheremetta's statement and his testimony at the Inquest. Critical to assessing the justification to shoot Mr. St. Arnaud, is Constable Sheremetta's perceptions and thinking leading up the decision to discharge his firearm and use deadly force. As such it would be appropriate to first make mention of the testimony he provided during the Inquest. One issue relates to a series of questions put to Constable Sheremetta by Mr. Cameron Ward, a lawyer representing Mr. St. Arnaud's family. These questions related to whether or not Constable Sheremetta had encountered people with concealed weapons, specifically, whether he had taken handguns from suspects. Cst. Sheremetta testified that he had seized such weapons but could not provide specific details. As a result, an internal RCMP investigation was conducted to determine whether Cst. Sheremetta may have not been truthful with this testimony. The investigation has been unable to establish any evidence in support of Constable Sheremetta's testimony regarding the seizure of handguns. As a result of that internal investigation, Cst. Sheremetta was suspended from the RCMP pending the outcome of a Report to Crown Counsel for review of charges of perjury. At this time we are awaiting a decision from Crown Counsel as to whether they approve any charges.

In light of this recent development, a question arises as to how much weight can and shall be afforded to Constable Sheremetta's version of events. When we review the information surrounding this case including Mr. St. Arnaud's history, the earlier events of that evening, witness accounts, evidentiary collection of the scene, the "Victim-Precipitated Homicide" report, the answering machine messages, and the evidence from Forensic Experts that testify as to multiple scenarios which are quite possible, there is strong evidence that Kevin St. Arnaud precipitated a situation that ultimately resulted in Constable Sheremetta's decision to use deadly force. Without the evidence of Constable Sheremetta we can confirm that:

1. St. Arnaud had a violent, dysfunctional past, exhibited irrational and sadistic behaviour and was known to be paranoid of police.
2. St. Arnaud had a history of drug and alcohol abuse.
3. Prior to Mr. St. Arnaud's death he was ejected from a premises for fighting and there was also a dispute that night between he and his girlfriend as indicated by witnesses and answering machine messages.
4. Mr. St. Arnaud had previously made comments about having "cops" kill him.

5. That Mr. St. Arnaud had been served numerous alcohol beverages that night and had a high blood alcohol level. At autopsy his Blood/Alcohol content was 200 milligrams of alcohol in 100 millilitres of blood, and vitreous humour found it to be 240 milligrams of alcohol in 100 millilitres.
6. Prior to his death Mr St. Arnaud had committed a criminal act of breaking into a pharmacy and stealing prescription drugs.
7. Mr. St. Arnaud was fleeing the scene of the crime and evading capture from a police officer driving a marked police vehicle and wearing a police uniform.
8. Mr. St. Arnaud, while being chased on foot, suddenly reversed and even though being warned and having a peace officer pointing a firearm at him "purposely," he moved accelerating toward the member as indicated by witness accounts and the Engineering report.
9. There was an impression in the snow at the scene which could be consistent with someone having fallen in the snow in front of the deceased.

With respect to Constable Sheremetta's accounting and his evidence, it is important to note that Cst. Sheremetta provided an accounting to his NCO shortly after the shooting, prior to having an opportunity to fabricate or tailor his accounting to justify his actions. This accounting was consistent with subsequent accountings, and also with the evidence he gave at the Inquest. More weight is given Cst. Sheremetta's version due to the accounting he provided very shortly after the incident, even though some issues have been raised about the propriety of the manner in which the statement was taken. This is the same conclusion made by the reviewing officers from the Toronto Police Service. Of equal importance is that there is no conclusive or compelling evidence to disprove Constable Sheremetta's version of events. Regardless of the issue of allegations of false evidence during the Inquest, when one considers all the evidence available, with its unresolved questions and issues, there is support for Constable Sheremetta's perceptions and assessment of the situation.

Therefore, I find that Cst. Sheremetta's actions were justified given his reasonable belief that he would suffer grievous bodily harm or death. I do not support this allegation.

**Third Allegation:** *Members of the RCMP failed to conduct an adequate investigation into the death of Mr. St. Arnaud.*

With respect to this allegation the efforts of investigators must be scrutinized as to the thoroughness and timeliness of the investigative processes and determine whether the principles of the Major Case Management Model were utilized effectively. To do this

the significant investigative actions have been acknowledged and are highlighted as follows:

- a. On December 19, 2004 at 0145hrs., Corporal MacLellan, supervisor at Vanderhoof Detachment, and Staff Sergeant Kowalewich, the Detachment Commander, arrived and took control of the scene. Corporal MacLellan took conduct of Constable Sheremetta and immediately returned him to the detachment. At 0155hrs Corporal MacLellan took possession of Constable Sheremetta's duty belt with attachments and placed into the exhibit locker.
- b. At 0155hrs., Sergeant Krebs of the North District Major Crime Section was contacted by the Prince George Regional Communications Center and advised of the shooting. Immediately he contacted Vanderhoof Detachment and spoke with Corporal MacLellan and was provided an overview of the incident. It was at this time that he instructed Corporal MacLellan to obtain a statement from Constable Sheremetta being mindful of the *Criminal Code* and *RCMP Act*. Sergeant Krebs also provided additional instructions for a scene search and seizure of duty belt. At 0211hrs Corporal MacLellan obtained an audio and video statement from Constable Sheremetta.
- c. After speaking with Corporal MacLellan Sergeant Krebs assembled an investigative team by calling out Constable Foy and Constable Huisman. Following this he contacted the Operational Communications Center (OCC) and requested the radio dispatch tape.
- d. At 0445hrs Sergeant Krebs arrived at the Vanderhoof Detachment and briefed the Forensic Identification Section. Forensic Identification were on scene by 0515hrs and commenced video taping followed by an examination of the break and enter and then the shooting scene.
- e. At 0615hrs an investigative briefing commenced at Vanderhoof Detachment and the Command Triangle was established and tasks assigned. Inspector Hopkins, North District Operations Officer, was Team Commander, Sergeant Krebs was the primary investigator, and Constable Huisman was the file coordinator. Constable Foy was part of the investigative team and tasked with exhibits.
- f. The investigative file indicates regular briefings took place and daily logs were filed with regards to an extensive list of work assignments.

- g. December 20, 2004 aerial photographs were taken of the entire location and detailed an encompassing view of the footprints throughout both scenes.
- h. December 21, 2004 a Forensic Autopsy was conducted at Royal Inland Hospital in Kamloops attended by Forensic Identification Section (FIS) members.
- i. Over a period of many months, attempts were made to obtain another statement from Constable Sheremetta. December 22, 2004 Sergeant Krebs had discussions with Constable Sheremetta's Counsel who refused to provide further information to police. On March 2, 2005 his Counsel released a prepared statement from Sheremetta. As a result of comparing statements, further attempts were made to take another statement on July 7, 2005. After much correspondence with Sheremetta and his Counsel an email was received from Sheremetta on July 15, 2005 advising on advice of counsel he would not be attending for a statement.
- j. January 13, 2005 Constable Sheremetta's pistol was forwarded to the Vancouver Forensic Laboratory to examine the firearm and to test for possible ejection patterns. The Coroner's Toxicology report was received which indicated a high level of alcohol in Mr. St. Arnaud's body.
- k. January 18, 2005 a Use of Force Expert was engaged.
- l. January 23, 2005 Constable Huisman was tasked with examining the history of Constable Sheremetta and the history of Mr. St. Arnaud and the emerging information about the possibility of "Suicide by Cop".
- m. On February 8, 2005 Sergeant Gallant was contacted and asked to provide a bloodstain pattern analysis. Sergeant Gallant did not attend the scene, and relied on scene photos and FIS reports.
- n. Investigators decided to utilize the services of forensic engineers to assist with the examination of evidence.
- o. March 1, 2005 The results of the laboratory reports were received confirming the DNA samples forwarded from the crime scene were that of Mr. St. Arnaud.
- p. March 4, 2005 Sergeant Krebs spoke with the pathologist about the autopsy report and the possible shooting trajectories.

- q. March 11, 2005 Sergeant Gallant provided his first bloodstain pattern analysis report.
- r. April 2005 Sergeant Krebs contacted the Pathologist again and requested assistance in providing illustrations regarding shooting positions. Sergeant Krebs met with Jane Daborn, Forensic Imaging Specialist, and requested she prepare a crime scene drawing based on crime scene measurements and firearm test fire patterns.
- s. June 30, 2005 Dr. Rick Parent prepared his report regarding "Victim-Precipitated Homicide".
- t. July 2005 Sergeant Chanin completed his Use of Force report.
- u. September 12, 2005 the disclosure package is sent to Prince George Regional Crown Counsel for review.
- v. On February 15, 2006 Crown Counsel verbally advises the RCMP they will not be approving charges and a fax is received that same day confirming this statement.
- w. On March 26, 2006 a letter was received from Geoffrey Gaul, Director of Legal Services Criminal Branch informing that charges would not be approved against Constable Sheremetta as there was no substantial likelihood of a conviction.
- x. As a result of problematic findings of Sergeant Gallant at the Coroner's Inquest in January 2007 in relation to timelines, another Bloodstain Pattern Analyst from the North West Region was asked to prepare an independent report and both reports were reviewed independently by North West Region on October 29, 2007. Sergeant had also prepared a second bloodstain pattern report on January 29, 2007 following the inquest.
- y. January 15, 2008 members of the Toronto Police Service were requested to conduct an independent review of the St. Arnaud investigation.

Immediately following the shooting incident it is evident that supervisory personnel from Vanderhoof Detachment responded promptly to the scene. The North District Major Crimes Unit were contacted and mustered within a very short period of time and arrived in Vanderhoof in a reasonable time frame given the time of day, driving distance and driving conditions. The vast majority of the investigation, including the scene examinations, interviews, and pertinent data collection were conducted within the first

twelve days of the incident which was as expeditiously as can be expected given the volume of tasks and assignments that were identified. The laboratory and forensic reports were completed and received within the first three months, well within normal time frames for such a complex and challenging investigation.

It is once worthy to note that the weather conditions made some scene examination and analysis very difficult. For example, there was an attempt to erect a tent over the shooting scene, however the wind blew it over and caused some disturbance of the snow. Similarly, the wind was gusting at the time of the shooting and there was a crust of ice on the snow. These two factors made any analysis of the ejection pattern of the expended shells to determine the position of the pistol at that time of the shooting, of no real value.

The Major Case Management Model, recognized as a best practice, is utilized as a means to establish the flow and direction of complex and serious police investigations. It was clear that the principles of Major Case Management were applied in this investigation from first establishing the Command Triangle to the subsequent briefings and detailed assignments which followed. Such principles are critical in cases such as these to ensure our investigative practices are sound and maintain the public confidence in the police.

In this case the Command Triangle consisted of Inspector Kirk Hopkins, Team Commander, Sergeant Krebs, the Primary Investigator, and Constable Huisman, File Coordinator. Constable Foy was part of the initial investigative response and was delegated the exhibit responsibility. Inspector Hopkins was temporary Team Commander until the NCO in Charge of the North District Major Crimes Unit returned from holidays on January 6, 2005 and assumed the role as Team Commander. In addition, Inspector Leon Van De Walle, the Operations Officer for Major Crimes for the Division, was directly involved in providing oversight to this file. Inspector Van de Walle flew to the North District immediately to provide oversight and direction as required. Both Sergeant Krebs and Inspector Van de Walle have an extensive major crimes background and were also trained in Major Case Management.

During the time of this incident there was some restructuring of Major Crimes Units throughout the Division and as such the Officer in Charge of "E" Division Major Crimes and the Operations Officer became program managers for Major Crimes Units and jointly managed the units with the District Commanders. Previous to this the North District Major Crime Unit reported directly to the North District Commander. It was also at this time that the "E" Division Team Commander Accreditation process was being implemented but had not been formalized throughout the Division. Sergeant Krebs was formally accredited as a Team Commander on August 14, 2006. It should be noted that the Accreditation process has now been formalized in British Columbia and is a requirement for any Team Commander involved in major investigations such as this incident.



From the onset of this investigation the primary investigator, Sergeant Glenn Krebs, took the appropriate and necessary initiative to secure evidence which could be rapidly lost. He also asked that a statement was taken from Constable Sheremetta to comply with his "Duty to Account". In his instructions to Corporal MacLellan, Sergeant Krebs advised him that with this "Duty to Account" to be mindful of the *Criminal Code* and the *RCMP Act* while taking this statement as anything provided could jeopardize further contact by the Major Crimes Unit. The investigative team attempted to contact Constable Sheremetta at a later date to obtain a statement, however, on the advice of his legal counsel, Constable Sheremetta declined to meet with investigators and provide further clarifying statements.

The matter surrounding a "Duty to Account" is one that continues to surface as an issue with respect to an RCMP member's obligations and rights while ensuring they meet their requirement to account for their actions, and, how investigator can obtain timely information regarding a serious incident. In this case Corporal MacLellan and Sergeant Krebs showed due diligence in having Constable Sheremetta provide an account of his actions in this matter. There have been concerns expressed about the timing of the taking of this statement, and the manner in which it was taken. RCMP senior management are conscious of the "Duty to Account" issue and as a result "E" Division senior management have established a working group to develop suitable and relevant directives that will provide the necessary guidelines in cases such as this. Once the final recommendations are complete they will be forwarded to our National Headquarters, Ottawa for review and consideration of developing a national policy or changes to the *RCMP Act Regulations*.

Two Forensic Identification Section (FIS) members were dispatched to this incident and arrived in Vanderhoof within a reasonable time frame. After a short briefing they departed and arrived on scene within minutes. This case presented many challenges for the FIS members, especially the environmental conditions and the fact there were two large scenes to examine. The scenes were video taped, photographed, measured and closely examined where evidence was seized and later analyzed for DNA. The FIS members also proceeded to use the services of an aircraft to obtain aerial photographs which later became a useful tool in the examination of a gait pattern for Mr. St. Arnaud.

From questions posed by Mr. Richard Grounds, it was evident there were concerns with the attendance of the FIS members, in particular the fact that they were never advised of the contrary version of events that Constable Sheremetta may have shot from the standing position. It should be noted that it is not a standard investigative practice to lead the Forensic Investigators in specific directions as it pertains to scene examinations. In fact, our investigators make specific efforts to avoid providing their theories at an early stage to FIS members so as not to influence their scene examination. As is indicated by Sergeant Krebs and fully supported by the Officer in Charge of Pacific Region Forensic Identification Section, the FIS members are only provided with an overview of the incident sufficient to complete a scene examination without prejudicing their views. To do otherwise, would prompt a subjective

examination by investigators who by virtue of their positions approach a scene based on scientific principles. Having said that, it is incumbent upon investigators and FIS members to discuss findings and theories in order to reconcile any discrepancies. During the Major Crimes investigation there was a sharing of information between the investigators and FIS on an ongoing basis early on in the investigation. Again, the biggest limiting factor was the rapidly deteriorating scene due to weather. It is very possible that some opportunities were lost as a result.

It was obvious from the progression of the file that Sergeant Krebs was not comfortable with the information and evidence that the investigation had produced using standard investigative practices. He therefore looked to other unique investigative techniques to support or refute the various possibilities in this case. The investigative team should be commended for going beyond the norm of investigative techniques in order to seek answers. For instance, Sergeant Krebs was persistent in his attempts to acquire the services of the MEA Forensic Engineering Company which ultimately were able to speak to Mr. St. Arnaud's gait, direction of travel and his increasing speed toward Constable Sheremetta. He also persisted in engaging the pathologist, the Firearms Expert and a Forensic Imaging Specialist to recreate the possible shooting scenarios that may have transpired on the morning of December 19, 2004. Unfortunately, these efforts did not resolve many of the unanswered questions which remain about this case.

It is important to comment on one particular avenue of investigation, and that is the background enquires with respect to Mr. St. Arnaud. It is common practise in any homicide investigation to conduct extensive background checks on the subject. In police involved shooting, these enquiries are not meant to discredit the suspect, but are necessary to present all the relevant information in order to make informed findings. The efforts in this case revealed information about Mr. St. Arnaud's background and personality which are considered relevant to understanding how this confrontation developed.

As previously mentioned investigators also utilized the services of a Bloodstain Pattern Analyst in hopes of providing a determination of the actions of Mr. St. Arnaud based on the blood located at both scenes. The analyst in this case produced an initial report but following the inquest produced a revised report as a result of learning of a more accurate time frame of Constable Sheremetta's encounter with Mr. St. Arnaud in the soccer field. There is indication from the primary investigator, Sergeant Krebs, that there was much discussion about the time line issue at a meeting on April 26, 2005 at the "E" Division Forensic Laboratory in which Sergeant Gallant attended. As a result of the unreliability of Sergeant Gallant's conclusions, an independent review was ordered by the Officer in Charge of the Pacific Region Forensic Identification Services. An impartial and objective examination of the information was conducted by another analyst from the North West Region and all reports were subsequently independently reviewed by Staff Sergeant Forsythe, Non Commissioned Officer in Charge of the North West Region Identification Services and Staff Sergeant Richard, Non Commissioned Officer in Charge of the Vancouver Island Forensic Identification Services. The findings

of these subsequent reviews were that Sergeant Gallant's statements were not made on firm scientific assessments, and based on the information provided him he arrived at conclusions that have ventured beyond the limitations of what could be scientifically supported by a bloodstain pattern analyst.

Although some frailties were identified with this bloodstain pattern analysis, it speaks to the effort by investigators to ensure the thoroughness of the investigation. Further, to ensure the integrity of the Blood Stain Pattern program and to maintain public confidence in this and subsequent investigations, appropriate actions were taken by ordering an independent analysis and review. It should be noted that based on Inspector Andrew's review of this and other cases, Sergeant Gallant was transferred to other duties and no longer participates in the bloodstain pattern analysis program.

As indicated earlier in this report, investigators also sought the opinions of experts to assess the information available to provide a greater understanding of the impact upon the actions of both Constable Sheremetta and Mr. St. Arnaud. These experts included both an RCMP Use of Force Expert and an expert in "Victim-Precipitated Homicide," which can prove to be a valuable resource with such a complex case to assist investigators in determining the motivating factors behind the actions of both the shooter and the victim. Both reports support a case that Mr. St. Arnaud was irrational, confrontational, threatening, goal oriented, and a threat to cause bodily harm or death. The findings of such reports are useful tools when considered in the totality of all the evidence and speaks to the investigators critical thinking processes in this case and a willingness to explore all possibilities to assess and examine the evidence.

During the investigation of this Chair ordered investigation questions were raised regarding the process that was used to acquire a Subject Matter Expert in use of force matters. It should be noted that the process that was used in this particular case is the normal process all investigators use to secure personnel to conduct the necessary review for their file. These subject matter experts conduct their analyses as a secondary function as and when available and only when the time constraints required to complete such a report do not conflict with the member's primary job. The RCMP maintains a list of subject matter experts in use of force and in "E" Division this list is maintained by Sergeant Tim Anctil who is considered a top authority in use of force matters in "E" Division. Investigators will enquire with Sgt. Anctil to obtain the services of a Use of Force expert from the available pool. Sgt. Anctil then liaises with the member's Unit or Detachment Commander to ensure they are released to devote the required time to complete the report.

In this particular case experts were identified and committed to completing the report however, were not able to meet their commitment due to medical reasons or primary work responsibilities. In the end Sergeant Chanin was the only Use of Force expert who was both releasable and able to commit the time to complete this review. The RCMP is fully aware of the challenges this process presents and as such are working toward utilizing a more effective and efficient system to ensure these reports are

completed as required. Since this incident, there has been an increase in the number of permanent use of force experts at the Pacific Region Training Center in Chilliwack (PRTC). "E" Division is in the process of establishing a program which will develop all these experts so they will be available to conduct Use of Force reviews, and also will streamline this current process and meet the growing demand for this expertise.

On September 12, 2005 the investigators forwarded a full disclosure package to Crown Counsel for their review and opinion. On March 26, 2006 the Director of the Legal Services Criminal Branch replied informing the RCMP that charges would not be approved against Constable Sheremetta as there was no substantial likelihood of conviction. As the result of the investigation of perjury against Cst. Sheremetta, a request has been sent to Crown Counsel with this new information with a request that they reexamine this case taking into consideration the concerns with Cst. Sheremetta's evidence with respect to his experience in seizing firearms from suspects. We are awaiting the results of that further review.

Despite some of the concerns which have been identified in the scene investigation, due in large measure to the weather conditions, the investigators utilized the principles of Major Case Management and conducted an investigation that was both thorough and timely. The concerns with respect to the Blood Stain analyst have been addressed internally. Upon review of how this investigation was handled there are areas which might be improved upon. There always are with an objective review. It should be noted that this investigative team was innovative and went beyond the normal expectations to find solutions for inconsistencies in evidence by relying on a wide variety of investigative resources.

There remain unresolved questions, such as whether we can conclusively establish that Constable Sheremetta had fallen on his back. There was an impression in the snow which suggests this did occur. The witnesses have all been consistent in their respective versions of events, though in certain aspects they remain at odds with one another. This is not uncommon to find such differing accounts. Unfortunately, the forensic examination and analyses by various experts, have been unable to conclusively answer these lingering questions. These are the realities in dealing with human witnesses and imperfect conditions. Certainly in retrospect, there are things which might be improved upon, however, the investigation was not terribly flawed, nor was there any neglect on the part of the investigative team.

Therefore, with regards to this allegation, other than the concerns identified with the Blood Stand analysis, I find that members of the RCMP conducted an adequate investigation into the death of Mr. St. Arnaud and as such I do not support this allegation.

### **Concluding Comments:**

As you are aware, "E" Division Criminal Operations requested an independent police agency review both the circumstances of the shooting and also the quality of the investigation conducted by the North District Major Crimes Unit and support services. Toronto Police Services provided the services of Supt. James Ramer and Insp. Greg McLane, both very experienced homicide investigators. Your office has been provided a copy of their final report. I have refrained from relying on their findings in our investigation of this matter, however, will comment that their findings are consistent with the findings of this investigation.

When the police are called upon to respond to calls for service within their respective communities there is an expectation from the public that their police service will respond as expeditiously as the circumstances permit. In this case the two members were working that evening in the community of Vanderhoof and they responded immediately to an emerging event and made decisions on a rapidly developing matter. Members of the RCMP are taught to respond to all levels of crisis through the careful application of the RCMP Incident Management/Intervention Model (IM/IM) which provides them a tool to assess an appropriate response to an incident. The IM/IM is an effective aid for our members to assess and manage risk. Ultimately, our members must justify their actions, especially with respect to the use of the powers provided in the *Criminal Code*. RCMP cadets undergo rigorous training in such risk assessment and are fully aware that any actions they take must be a justifiable, reasonable, and must withstand the closest of public scrutiny.

During the early morning hours of December 19, 2004 Constable Sheremetta and Constable Erickson found themselves in a situation that was rapidly evolving over the course of a very short period of time. This assessment changed rapidly at 1:08:10 am when Constable Sheremetta first saw Mr. St. Arnaud depart the Co-Op Mall and many factors were being assessed in just 1 minute and 37 seconds until the confrontation took place between Constable Sheremetta and Mr. St. Arnaud.

We will never know for certain what Kevin St. Arnaud's state of mind was nor what his intentions were leading up to the confrontation with Constable Sheremetta. However, an assessment of the developing events and risks clearly indicate that Kevin St. Arnaud engaged in a series of actions that set the stage for the serious and deadly confrontation with police.

It is important that the RCMP ensure that any and all actions we take on matters such as this are fully accountable to the public and are communicated in a timely, open, and transparent manner. During incidents such as these the RCMP have deemed it necessary to ensure the family are provided with as much information surrounding the incident as can possibly be released and provide the family with status updates on the investigation. In this case investigators initially met with the St. Arnaud family but were somewhat reluctant to continue contact with the police. However, contact was

maintained with Mr. St. Arnaud's girlfriend, Rebecca Gingera, and an RCMP member was assigned to be a liaison with her throughout the investigation. When Constable Sheremetta was suspended with regards to the perjury investigation the St. Arnaud family was contacted and briefed on the matter.

Maintaining public confidence and ensuring our investigations are conducted in a thorough and transparent manner are important to the RCMP and for these reasons the following actions have transpired since this incident:

- ◆ The creation of the "Observer Program" in "E" Division which is a pilot initiative with the Commission for Public Complaints, establishes a process for investigations to be monitored to ensure they are unbiased and impartial. As part of this our Office of Investigative Standards and Practices work closely with the Commission for Public Complaints to ensure a high investigative standard is maintained.
- ◆ The implementation of the National Office of Investigative Standards and Practices to oversee a National Accreditation Program and facilitate the establishment of Observer/ Monitor roles for investigations.

Please be advised that pursuant to Section 45.4 of the RCMP Act, I am notifying you that the investigation into your complaint has now been concluded.

Yours truly,



R.C. Bent, Chief Superintendent  
Deputy Criminal Operations Officer  
Community, Contract, and Aboriginal Policing Services  
"E" Division

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