

**NOVA SCOTIA POLICE COMMISSION**

Date: September 2005

**REPORT OF THE  
COMMISSION OF INQUIRY**

**INTO MATTERS RELATING  
TO THE DEATH OF  
JAMES GUY BAILEY, JR.**

**Commissioners:**

- M. Jean Beeler - Chair
- M. Frances Hinton
- Betty Thomas





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## **I Background Leading to the Inquiry**

James Guy Bailey, Jr., was born on September 24, 1971. He lived most of his life on Atlantic Street in North Sydney, Nova Scotia. His parents, Lillian and Butch Bailey, had four children. James Bailey had two older siblings, Paula and Wayne, and one younger brother, Kevin. Butch Bailey died when James Bailey was 17 years old. Members of James Bailey's family all reported that his father's death had a serious negative effect on him and that it continued to upset him throughout the remainder of his life.

After Butch Bailey's death, Lillian Bailey lived in a common-law relationship with Clayton LaFrance. James Bailey got along well with Clayton LaFrance and considered him to be his step-father. Clayton LaFrance died on April 18, 2000, a month prior to James Bailey's own death. Members of the family confirm that Clayton LaFrance's death triggered further feelings of sadness and depression in James Bailey.

Lillian Bailey reported that James Bailey had been a good child growing up and that she had received positive reports from his teachers during his childhood years. He completed grade 10 at Memorial High School in North Sydney and then worked for his uncle, Lawrence Bailey, at his upholstery shop for a few years. His uncle eventually let him go because he had started "taking pills". For a while James Bailey lived in Calgary with his girlfriend and when they broke up he moved back to live with his mother. He also lived in Ottawa with his sister Paula Bailey on several occasions over a span of two to three years. James Bailey had a history of drug and alcohol abuse. He had been admitted to the Detoxification Centre (Detox Centre) run by Addiction Services located at the Cape Breton Health Care Complex in Sydney (CBHCC) nine times.

Lillian Bailey stated that James Bailey's problems with alcohol and then drugs started in 1994 after his father died. She herself is a recovering alcoholic and had been in the Alcoholics Anonymous program for approximately six months when she became aware that James Bailey was abusing drugs and alcohol. He attended some Alcoholics Anonymous meetings, but his behaviour became progressively worse. Lillian Bailey would not allow alcohol in the house but she was aware that James was high on prescription drugs at times. She agreed that it was very difficult to live with a person with addictions. Although James Bailey was not violent, she remarked that money would disappear and that he would sometimes take drugs prescribed to her or his step-father. On those occasions she would put James Bailey out of her house and he would live with friends or

relatives. Lillian Bailey stated that James often checked himself into the Detox Centre and that he would try to stay sober and off drugs. She estimated that he took drugs on average two weeks a month.

On May 3, 2000, Lillian Bailey had told James Bailey to leave her house permanently because his drug use had become intolerable. Because of a cheque fraud incident involving James Bailey, Lillian Bailey called the police and had a "peace bond" issued against James Bailey so that he would not be able to return to her home. Prior to being served with the peace bond, James Bailey checked himself into the Detox Centre and remained there until May 10, 2000, at which time he signed himself out against the advice of his doctors.

From May 11 to May 15, 2000 James Bailey sought out prescription drugs from a number of sources. On May 11 he attended the local office of the Provincial Department of Community Services to apply for financial assistance. On May 14 he spoke to his mother and wished her a Happy Mother's Day. Lillian was aware that James Bailey was feeling depressed. May 16 was his father's birthday, and he was just getting over the loss of his step-father.

On Monday, May 15, Lillian Bailey brought James Bailey to her brother's house (Richard MacIntyre) where he was allowed to stay on the couch. Mr. Bailey told his uncle that he had been kicked out of his mother's house and was planning to go to Ottawa to stay with his sister.

Later that same day, the police went to Richard MacIntyre's house asking for James Bailey. Richard MacIntyre told the police that James Bailey would be back later. When James Bailey returned, Mr. MacIntyre told him that the police had been to his home looking for him, but that he didn't know what they wanted. Unknown to James Bailey or Richard MacIntyre, the police were there to serve James Bailey with the summons regarding the peace bond requested by Lillian Bailey.

On the morning of Tuesday, May 16, James Bailey left Richard MacIntyre's home and went to the local Community Services Office to collect his assistance cheque. He received a cheque for \$335.00 and cashed it the same day.

When James Bailey returned to his uncle's house that evening, Richard MacIntyre described him as being "high on drugs"; that Mr. Bailey was walking slowly, his eyes were puffy and red, and his speech was slow. There wasn't much conversation and Richard MacIntyre asked James Bailey to leave. James Bailey

left Richard MacIntyre's house and walked down the street to another uncle's home (Norman MacIntyre) who lived a couple of blocks away. Norman and his wife Thelma were home when James Bailey arrived with Richard MacIntyre. Richard MacIntyre didn't stay but told Thelma MacIntyre that the police had been looking for James Bailey and that James wanted to use the phone (Richard MacIntyre did not have one). Thelma MacIntyre observed that James Bailey was obviously incapacitated and she didn't want him around because she was expecting company. She allowed him to make a phone call to the Detox Centre and then asked him to leave.

When he called the Detox Centre, James Bailey spoke to Wayne Aucoin. Wayne Aucoin told him there were no empty beds and that he would call him when one became available. Wayne Aucoin advised James Bailey to go to the emergency department.

James Bailey left Thelma MacIntyre's house at her insistence but returned a few minutes later. He wanted to use the phone again, this time to call the police. He dialed 911 and spoke with Judy MacNeil, the dispatcher. He asked her why the police were looking for him. She contacted members of the Cape Breton Regional Police Service (CBRPS) and RCMP, but erred in asking about a James Barry, rather than James Bailey. A transcript of that call is reproduced in **Appendix A152-154.**

Following James Bailey's call to the 911 operator, Thelma MacIntyre's son, Bernard MacIntyre, helped James Bailey put on his shoes and took him outside. He last saw him heading back up to Richard MacIntyre's house. Bernard MacIntyre called the police department and spoke with the dispatcher, Pattie Lynn Ropek. He advised her of James Bailey's location and his level of intoxication. He expressed concern for James Bailey's safety and stated that Mr. Bailey wanted to be picked up. A transcript of that call is reproduced in **Appendix A154.**

James Bailey walked approximately 200 metres from Thelma MacIntyre's home to where he was arrested by Constable Max Sehl. Constable Sehl was not aware of James Bailey's request to go to the Detox Centre. He had responded to the dispatch call that resulted from Bernard MacIntyre's phone call. Constable Sehl placed James Bailey under arrest pursuant to *Section 87* of the *Liquor Control Act* which provides as follows:

*(1) No person shall be in an intoxicated condition in a public place.*

Constable Sehl removed a prescription bottle with a variety of pills from James Bailey prior to placing him in his police vehicle. He took Mr. Bailey directly to the lock-up at the Grand Lake Road police station in Sydney. Carmel Butler was the jailer on duty that evening. The video tapes from the lock-up show that Mr. Bailey was compliant with Constable Sehl and Ms. Butler. The tapes show Constable Sehl and Ms. Butler carefully placing Mr. Bailey in the recovery position on the cell bunk after removing his jacket and shoes. The video tapes further show that James Bailey moved only slightly a few times up to 23:18:00h once he was placed on the bunk. After that time there was no further spontaneous movement by him.

At 01:58:12h on May 17, 2000, Ms. Butler entered through the outer door of cell #4 where she remained for approximately 25 seconds. She reached into the cell, moved to the left to look at Mr. Bailey and left. She then made a radio call to Sergeant O'Rourke, who was the Duty Sergeant for that shift, and asked him to return to the lock-up. She then went to her desk, retrieved an unidentified item, and returned to the cell where she remained for another 18 seconds. She returned to her desk, then returned again to Mr. Bailey's cell where she stood outside of the cell for another 30 seconds. At this point she reached through the cell bars to tug on Mr. Bailey's legs. She again returned to her desk and called dispatch by radio to advise that there was an unresponsive prisoner. She returned to cell #4 where she stood for another 12 seconds.

The dispatcher called 911 for an ambulance. In May 2000, there was no means for the 911 dispatcher to have direct contact with custodians while they were in the cells. Contact and instructions from the 911 operator were handled by radio to the CBRPS radio dispatcher who contacted Ms. Butler by telephone. Consequently, some of the 911 operator's questions could not be answered immediately due to the time lag. At the end of the call, Ms. Butler returned to cell #4 where she stood for another 21 seconds before returning to her desk.

Sergeant O'Rourke arrived in the lock-up at 02:03:05h (within 5 minutes of receiving the call from Ms. Butler). Constable Paul MacDonald was with Sergeant O'Rourke. At 02:03:16h, Sergeant O'Rourke and Constable MacDonald entered and left cell #4 within seconds without touching Mr. Bailey. The next sequence of events is documented later in this report.

Mr. Bailey was worked on in cell #4 by the paramedics (EHS) until 02:29:28h when they removed him from the lock-up to the Cape Breton Health Care Complex. He was pronounced dead at 02:45h, May 17, 2000.

Sergeant Neil MacKenzie was the lead officer in charge of the investigation and was responsible for notifying James Bailey's family. He was advised of the death at 02:20h and arrived at the Grand Lake Road lock-up at 02:55h. He attended the hospital, arriving at 03:30h and proceeded to North Division where Mr. Bailey had lived, and where he had been arrested.

Constable Mike Rolfe, a patrol officer, was working the night Mr. Bailey died. Sergeant MacKenzie spoke with Constable Rolfe at North Division and told him that the man who had died was James Bailey. Constable Rolfe believed he knew the deceased from his work in North Division. He believed his nickname was "Rambo" and thought that he would be able to identify him. He went to the morgue and met with Sergeant Morrison who was the identification officer responsible for the body. Constable Rolfe identified the body as James "Rambo" Bailey. In fact, "Rambo" Bailey was Wayne Bailey's nickname, James Bailey's older brother.

Sergeant MacKenzie contacted Father Tony MacDonald at St. Pius X Church who accompanied him to Lillian Bailey's home at 06:00h. When there was no response at the house, he returned to the North Division station. Sergeant Paul Doyle, Constable Wayne MacDonald and Father Dunphy of Immaculate Conception Church attended Lillian Bailey's home at 07:30h. They informed the Bailey family of James Bailey's death. Sergeant Doyle also spoke on the phone with James Bailey's sister, Paula Bailey, who lived in Ottawa. She and her spouse left Ottawa by car the same day and drove to Nova Scotia. En route to Sydney she contacted local media, indicating that she intended to find out what happened to her brother.

Dr. Paul Murphy was the Medical Examiner at the time of James Bailey's death and he authorized the autopsy. A full autopsy was done at the Cape Breton Health Care Centre at 15:30h on May 18, 2000, by Dr. Dan Glasgow, pathologist (36 hours after James Bailey was pronounced dead). A toxicology panel was ordered and the report was submitted on June 14, 2000 by M.D. Holzbecher, M.Sc. The report showed there were several narcotic and controlled pharmaceuticals, along with their metabolites, in Mr. Bailey's system. Bromazepam and Paroxetine were in the toxic range. There was no alcohol detected in his system at the time of the autopsy (**See Appendix A131-141**).

An examination of James Bailey's body indicated that there had been no violence or trauma prior to his death. There was no evidence of foul play, and there was no make-up on the body. The cause of death was determined to be

respiratory failure due to drug toxicity (drug overdose). The pathologist further determined that James Bailey's chronic substance abuse was a contributing factor in his overdose.

Following the autopsy, arrangements were made for family members to view James Bailey's body at the morgue prior to being transferred to the funeral home. Constable Ken O'Neil and Sergeant David Morrison attended with the family to assist with the viewing. Also present was the Nursing Supervisor, Dolena Chopek, RN.

Members of James Bailey's family were understandably upset. Some felt that they were being rushed during the visit. There was bruising on Mr. Bailey's hands, inside elbows and neck that were consistent with resuscitation efforts by EHS members. However, the Bailey family thought that the condition of the body was due to an altercation with the police. They thought his face was "too tanned"; they questioned why there was blood on his lower lip and believed that the police were covering up their own wrongdoing. Paula Bailey stated that she had to argue for permission to kiss James Bailey which further increased her suspicions. She wanted to lick Mr. Bailey's face to taste for foundation as she believed she smelled it on Mr. Bailey. She surmised that the police would have used make-up to cover up evidence of trauma or violence.

Following the viewing, members of Mr. Bailey's family attended at police headquarters to go over their questions and concerns. Associate Chief Dave Wilson, Sergeant Dave Morrison and Constable Ken O'Neil represented the CBRPS at the meeting. Paula Bailey and her brother Kevin Bailey, their uncle Kevin Bailey, their aunts Yvonne Bailey and Elizabeth Bailey, and Eric Freeman, a family friend, participated in the meeting on behalf of the Bailey family. That meeting ended abruptly with Paula Bailey's accusation that James Bailey had been murdered.

James Bailey's family filed a complaint with the Nova Scotia Police Commission on May 24, 2000. The complaint was investigated by Inspector Jack Banfield who reported to Chief Edgar MacLeod. The Chief found no fault by the police officers involved. He released his findings but did not provide reasons.

Standard Operating Procedure, Part II, Ch 3-E(D), issued by the Department of Justice for the province of Nova Scotia, dictates the procedure to be followed in the event a person dies while in police custody. This is reflected in the *Cape Breton Regional Police Service Policy on Human Deaths*. Such incidents

are to be investigated by an officer with the Major Crime Unit of the police department involved.

Sergeant Neil MacKenzie was the lead investigator. He was assisted by Constable Walter Rutherford and Constable Ken O'Neil. The Major Crime Unit investigation resulted in a seven volume report. It was forwarded to the Crown Prosecutor's office. The report did not include an executive summary or recommendations. However Sergeant MacKenzie did determine that there was no foul play involved and that charges should not be laid.

On July 10, 2000, the Minister of Justice for the province of Nova Scotia ordered an external investigation into the death of James Bailey. Officers from the Ontario Provincial Police (OPP) were appointed to investigate pursuant to Section 3(2) of the *Nova Scotia Police Act* on August 15, 2000. The OPP were directed to conduct:

*a thorough investigation into all matters related, either directly or indirectly, to the death of James Guy Bailey, and any involvement of the Cape Breton Regional Police Service or any of its employees with James Bailey or his family.*

The OPP conducted 67 interviews including some with independent experts. Their report consisted of more than seven volumes containing witness statements, transcripts of various recorded communications, audio tapes, a photographic brief, officer's notes, and expert opinions. They also concluded there was no foul play involved in the death. The OPP made several recommendations and concluded as follows:

*As our investigation into the death of James Guy Bailey concludes, we believe that James Bailey, his immediate family, the Cape Breton Regional Police Service, and the citizens of the Regional Municipality of Cape Breton, deserve to have the circumstances around this very unfortunate death explored in a full and frank manner in a public venue to ensure that no further in-custody deaths occur. Otherwise, there will remain a cloud over not just the Cape Breton Regional Police, but over the Nova Scotia Justice system.*

This recommendation was due, in large measure, to the fact that several CBRPS police officers refused to be interviewed by the OPP.



As a result, the Minister of Justice ordered this Commission of Inquiry, and this is the report resulting from the Inquiry.

The Commission conducted its own investigation in preparation for the Inquiry. Statements were gathered and examined and dozens of witnesses were interviewed. The investigation took approximately nine months to complete.

The scope of the Inquiry was left intentionally broad and many issues were identified. The Commission has examined, in detail, James Bailey's last 24 hours. It looked at the reasons for his arrest under the *Liquor Control Act* and the immediate circumstances surrounding his death, including why resuscitation was not immediately initiated, why he was not taken to a hospital, and why the drugs that ultimately killed him were so readily available. In addition, the actions of the Detox Centre and Mental Health Unit were reviewed.

In order to find answers it was necessary to look further into why the CBRPS investigated its own members, why certain officers did not provide statements, how the CBRPS dealt with the Form 5 public complaint and to examine the findings of the OPP. In all, the Inquiry spanned 11 weeks over 1 1/2 years and heard from 72 witnesses, including both expert and specialist witnesses.

The Commission of Inquiry panel (M. Jean Beeler, M. Frances Hinton and Betty Thomas) made several written and oral rulings which are reproduced at **Appendix A8-A16**. Lawyers representing the Commission and the various parties examined and cross-examined the witnesses, made submissions and recommendations.

Following the Inquiry the panel reviewed the evidence, including the several hundred documents submitted as exhibits and the submissions made by counsel were thoroughly considered. It also re-examined the relevant video and audio tapes and substantial portions of oral evidence given at the Inquiry.

The findings and recommendations of the Commission of Inquiry are included in this Report.

## **II Evidence, Findings, Conclusions and Recommendations**

### **A. The Arrest of James Guy Bailey, Jr. Under the Liquor Control Act**

James Guy Bailey, Jr. died in the Grand Lake Road Lock-up after having been arrested under the *Liquor Control Act*. Blood work drawn during autopsy was negative for alcohol but positive in the toxic range for certain narcotic and schedule drugs and/or their metabolites. During the Inquiry, the arrest of Mr. Bailey under the *Liquor Control Act* came under scrutiny. The conduct of Constable Max Sehl while dealing with Mr. Bailey that night was also examined.

Several members of the James Bailey's nuclear and extended families gave statements during the investigations and gave evidence at the Inquiry. Richard MacIntyre is Lillian Bailey's brother, and James Bailey's uncle. He stated at the Inquiry that James Bailey sometimes stayed with him when he had nowhere else to go but he had a rule for his place: "*no pills, no problem.*" Richard MacIntyre had seen Mr. Bailey staggering drunk, knew he had been in the Detox Centre a few times, and knew he had been involved with Alcoholics Anonymous. However, he did not think Mr. Bailey had a problem with alcohol, only with pills.

Richard MacIntyre stated that on the night in question he did not smell any alcohol on Mr. Bailey. He stated that he knew James Bailey was on pills because of his puffy eyes and his slow walk. Mr. Bailey told him that he wanted to go to the Detox Centre. Richard MacIntyre sent Mr. Bailey up the street to Norman and Thelma MacIntyre's house to use the telephone because he did not have one. He told James Bailey to call the police for a ride to the Detox Centre.

Richard MacIntyre watched James Bailey walk up the street because he was concerned for his safety, although he did not want him back in his house. When Mr. Bailey was being arrested, Richard MacIntyre stated that he heard Mr. Bailey tell Constable Sehl that he wanted to go to the Detox Centre, and that he needed a place to stay.

Thelma MacIntyre is married to Norman MacIntyre, who is also Lillian Bailey's brother and James Bailey's uncle. Although Thelma MacIntyre was not close to Mr. Bailey she was aware that he took medication and had been in and out of the Detox Centre. She was also aware that he had been involved with Alcoholics Anonymous. She also stated she would have no direct contact with him

when he was intoxicated. Thelma MacIntyre stated that she was not aware that Mr. Bailey had had a recent admission to the Mental Health Unit. She stated that she was aware that Mr. Bailey's mother (Lillian Bailey) had recently applied for a peace bond against him.

On the night in question, Mr. Bailey arrived at the MacIntyre home at approximately 20:30h. Thelma MacIntyre stated that she *"couldn't make head nor tails of him"* because his speech was so slurred. She stated that she was anxious for him to leave because she was expecting company and did not want him there when they arrived.

Elaine Chisholm is a friend of Lillian Bailey and knows Thelma MacIntyre through her friendship with Lillian. Mr. Bailey had already been to the house once that night and returned approximately 5-10 minutes after she arrived. After hiding from Mr. Bailey for awhile and ignoring his knocking, Richard and Thelma MacIntyre let him in the back door.

Elaine Chisholm stated that Mr. Bailey was slurring and swaying. He was unable to put the lighter flame to his cigarette *"like he didn't know where the cigarette was."* She stated that although she didn't smell any alcohol, to look at him you would think at first that he was drunk, especially if you didn't know him. However, after sitting with him on the couch she knew he was not drunk. Elaine Chisholm said that Bernard MacIntyre arrived shortly after she did.

Bernard MacIntyre is Thelma and Norman MacIntyre's son, and James Bailey's cousin. He said he did not know Mr. Bailey well because of their age difference. However, he did see him regularly and had seen him on occasion in a local bar. He was aware that Mr. Bailey had been in and out of the Detox Centre.

At 20:40h on May 16, 2000, Bernard MacIntyre called the CBRPS for James Bailey. According to Bernard MacIntyre he told the dispatcher Mr. Bailey was "pretty full" and wanted to be picked up by the police and taken to the Detox Centre. The 911 tapes show that when Mr. MacIntyre was asked by the dispatcher why Mr. Bailey wanted to be picked up he stated "I don't know". He answered "yes" to dispatcher Ropek's question about Mr. Bailey regarding intoxication. When asked at the Inquiry to explain "pretty full", Bernard MacIntyre agreed that it was a colloquialism used at times to describe someone who was very drunk; "full of liquor and pills." He stated that when he first encountered Mr. Bailey that night he thought he was very drunk. He further

stated that he did not believe Mr. Bailey was "close to death" or he would have taken him to the hospital.

In his evidence at the Inquiry, Bernard MacIntyre insisted that he had made a second call to the police and it was then that he advised that Mr. Bailey had gone "up the road". When confronted with evidence of the absence of a second call, he became defensive and stated he was not a liar. He went so far as to say that the 911 tapes must have been altered.

Constable Max Sehl graduated from the Atlantic Police Academy in 1975 and worked with the Amherst Police Department until 1978. In April 1978, Constable Sehl moved to the North Sydney Police Department. He was absorbed into the CBRPS in the 1995 amalgamation where he remains. Since 1994, he has taken or initiated numerous courses (**Appendix A123-124**) and is regarded for his professionalism. He is actively involved in his community as a volunteer where he has a good profile.

Constable Sehl describes the next sequence of events as follows:

He heard dispatch send Constable Findlay Morrison to Sydney Mines for "*a complaint of an `823' male in his twenties*" (823 is the CBRPS radio code for an intoxicated person). He advised Constable Morrison that he was in the area in the "float" vehicle, and would take the call. He proceeded to Yorke Street where he noticed a male staggering down the street. He pulled over and went around the vehicle. He did not know the male; he had had no previous contact with him.

Constable Sehl stood by the male and asked him his name. The man gave him part of a name. He later found the man's driver's license, which identified him as James Guy Bailey. Constable Sehl placed his left hand on Mr. Bailey's arm to steady him. Mr. Bailey had to look up at Constable Sehl because of height discrepancies. There was a strong smell of alcohol. Constable Sehl asked Mr. Bailey if he had had anything to drink, to which he replied "*lots*".

Constable Sehl advised Mr. Bailey that he was under arrest for intoxication. Mr. Bailey leaned against the car while

Constable Sehl searched him. He found a bottle of several different pills and asked Mr. Bailey if he had taken any. Mr. Bailey said no. He asked him twice where he lived, but Mr. Bailey did not answer. A male on the steps of a nearby house (later identified as Richard MacIntyre) told Constable Sehl that James Bailey had nowhere to stay; that he was not allowed around Atlantic Street when he was drinking.

Constable Sehl described the circumstances under which he could arrest someone: breach of peace, *Liquor Control Act* offence, to stop an offence in progress, to prevent a recurrence of an offence, or under the *Hospital Act* if considered a danger to themselves or others. Therefore, if Mr. Bailey had not been under the influence of alcohol, he would have been arrested under the *Hospital Act* for his own safety. At this point Constable Sehl made the decision to arrest him under the *Liquor Control Act* and to take him to the lock-up rather than to the hospital.

**Conclusions:**

The evidence submitted during the Inquiry (*vive voce*, documentary, video and tape recordings) showed that in all likelihood Mr. Bailey had not ingested alcohol that evening. However, when taken in the fullness of the situation, Constable Sehl's conclusion that Mr. Bailey was under the influence of alcohol, and therefore detainable under the *Liquor Control Act*, was reasonable.

Witnesses involved with Mr. Bailey before his arrest, and prior to this Inquiry, were consistent: he was "*intoxicated*". No one at the time stated or suggested that he was intoxicated on anything other than alcohol. In fact, Richard MacIntyre advised Constable Sehl that James Bailey "*was not allowed around Atlantic Street when he had been drinking.*" Bernard MacIntyre stated that, when he first encountered Mr. Bailey that night, he thought he was very drunk. Elaine Chisholm stated that if you didn't know Mr. Bailey you would have thought he was drunk. Therefore, Constable Sehl's conclusion that Mr. Bailey had been drinking, and his belief that he smelled alcohol, was based on those circumstances, not on complacency.

Bernard MacIntyre gave detailed evidence on Mr. Bailey's activities immediately before he was arrested. Some of the evidence is supported by independent evidence and is helpful to this Inquiry. The remainder of Bernard MacIntyre's evidence was inconsistent with his previous statements to the CBRPS, to the OPP, and with common sense and reality. His allegation that the dispatch tapes were edited to remove his statement that Mr. Bailey wanted to go to the Detox Centre, and to insert his response "*I don't know*" (when asked what Mr. Bailey had ingested), and to delete entirely a second call, are not supportable and demonstrate a lack of credibility.

The difficulty with the evidence given by the remainder of Mr. Bailey's family and friends is that it was clearly tainted by high emotion, confusion regarding Mr. Bailey's call to the Detox Centre, and by a genuine desire to find a reason for Mr. Bailey's demise other than by his own actions. Remembering circumstances in this light has had the effect of changing their reality and thus their ability to accurately recall important details. It is apparent, as well, that Mr. Bailey's family was blind to the fact that he clearly had a dual substance problem with prescription medication and alcohol.

Preventable errors in officer and custodial judgment were caused in part by the lack of clear direction on the handling of intoxicated prisoners, and inadequate basic training and continuing education on the dangers of extreme intoxication. A prescription pill bottle containing a mix of pills was found on Mr. Bailey at the time of his arrest. When asked at the Inquiry about his inability to recognize common street drugs, Constable Sehl stated that, notwithstanding his experience on the drug squad, he is unable to do so in part because of the frequency in which the most commonly used drugs change, and due to a lack of specific training in the area of drug recognition.

In addition to Constable Sehl, the custodian (Carmel Butler), and the duty sergeant (Sergeant O'Rourke), were all aware of the bottle of pills found on James Bailey, yet no action was taken. What is significant is that the three people involved represent three different levels or positions in the chain of command. This suggests that the inadequate knowledge regarding the potentially fatal effects of mixing drugs and alcohol was widely prevalent in the CBRPS.

Chief Edgar MacLeod stated that the CBRPS deals with the usual city issues on a budget that is based on an ever decreasing tax base. Cape Breton is more than challenged in keeping pace with its growing policing needs. Funds for additional continuing education are not available, a greater level of enforcement of policies and procedures is desirable, but both require human and financial resources. However, Cape Breton is not the only force in this predicament and "more money" cannot always be the answer; the problems are far more complex than that.

Modern policing is no longer the cop on the beat who knows everyone. The CBRPS serves a large area and therefore reporting and recording are critical to continuity in the level of service. In centres such as Sydney, it is no longer possible – nor acceptable – to approach a situation with the confidence of familiarity (e.g., I'll just take buddy home to sleep it off.). Senior management must be creative in finding the ways and means of ensuring their officers and employees are adequately trained and educated. Continuing education is crucial and officers should be motivated to strive for - and be assisted in achieving - more than just the minimum standards of practice.

In determining whether or not it was reasonable for Constable Sehl to elect to arrest Mr. Bailey under the *Liquor Control Act*, and to place him in lock-up to "sleep it off", the following factors must be taken into consideration:

1. the lack of specific policy and procedure on the arrest and detention of the extremely intoxicated;
2. the level of enforcement of policies and procedures in existence at the time;
3. the training and continuing education made available to officers;
4. the lack of alternate facilities for intoxicated persons within the healthcare or social service networks (examined later in this Report);
5. Constable Sehl's past professional experience;
6. the family's apparent unwillingness to have Mr. Bailey around their community when "intoxicated"; and
7. the family members' descriptions of Mr. Bailey's behaviour leading up to his arrest.

The issue to be determined is not whether Mr. Bailey was drunk the night he was arrested by Constable Sehl. It is instead, whether or not – when faced with the facts before him – it was reasonable for Constable Sehl to make a determination to arrest Mr. Bailey under the *Liquor Control Act* rather than take him to the hospital. Work environment, family situation, and Mr. Bailey's conduct, all influenced Constable Sehl's professional judgment. The CBRPS is responsible for the work environment. Specifically: policy, procedure (development and enforcement), and training and education (basic, refresher courses and continuing education).

The family and friends of James Bailey account for Constable Sehl's perception of Mr. Bailey's substance of choice that night and the limited options presented to him for dealing with Mr. Bailey. Constable Sehl's decision to arrest Mr. Bailey that night was in keeping with standard procedure and is likely the same decision most officers would have made in the same circumstances. Those standards have since been changed due, in some measure, to this Inquiry. Police officers are now more aware of the dangers of intoxication by drugs and alcohol, and particularly of drugs and alcohol taken together.



**Findings:**

The Board of Inquiry makes the following findings:

1. Given the entirety of the circumstances, it was reasonable for Constable Max Sehl to have formed the opinion that Mr. Bailey was under the influence of alcohol, and therefore arrestable under the *Liquor Control Act*.
2. Notwithstanding Mr. Bailey's apparent level of intoxication and the discovery of the vial of pills, given the lack of clarity in and enforcement of the CBRPS policies and procedures of the day, and the lack of adequate training and continuing education in drug and alcohol identification, it was not unreasonable for Constable Sehl to take Mr. Bailey to the lock-up rather than to the hospital.
3. Finding 2 is reinforced by:
  - a) the Bailey family's attempt to deal with Mr. Bailey's substance abuse problem by choosing not to be around him when he was intoxicated, thereby limiting Constable Sehl's choices;
  - b) the Bailey family's choice to call the police rather than EHS, reinforcing Constable Sehl's perception that the matter was one of public intoxication, rather than Mr. Bailey being a danger to himself or others; and
  - c) the Bailey family's decision not to take him to a hospital themselves.

**Recommendations:**

1. The CBRPS must find the ways and means of providing adequate continuing education to its officers and employees. Subjects of particular importance include, but are not limited to:
  - appropriate basic training on the management of intoxicated prisoners;
  - up-to-date information on evaluating levels of intoxication of detainees;
  - alternative approaches to arrest and detention under the *Liquor Control Act*;
  - training on the recognition of common street drugs.
  
2. Police forces should develop a means of "flagging" their computer databases in regard to known substance abusers, and persons with a history of suicide attempts or mental illness. This information would only be gathered from police records and recorded officer experiences in order to comply with privacy requirements.

**B. *The Events in the Lock-up***

**(i) *Custodians***

On the night that James Bailey died he was in the custody of the Cape Breton Regional Police Service and under the direct care of Custodian Carmel Butler. Whether or not she carried out her duties according to CBRPS policy, and whether or not she was adequately trained and prepared to carry out those duties, is a matter for the Commission to determine. A comparison of how each of the CBRPS custodians understood their duties and the applicable policies, and their description of the training they received, is helpful in making this determination.

Carmel Butler was first employed as a matron in 1981 by the Sydney Police Department. She was hired to guard two cells and at that time only females and young offenders occupied those cells. Ms. Butler's evidence was that the cells were not monitored by video camera, there was no training, and that she did not receive any written policies. She said that she was told to check the prisoners every 15 minutes, and to report to the Duty Sergeant on each shift. At that time she maintained her own prisoner log sheets and passed them in at the end of her shift.

Carmel Butler and Margaret Buchanan were the two matrons hired to guard females and youth at the Sydney lock-up. There was no set schedule; they were on call 24 hours a day, seven days a week. However, from 1995 until the new facility opened in 1997, Ms. Butler and Ms. Buchanan also guarded male prisoners in the Sydney lock-up on regularly scheduled shifts. This was in addition to their on-call shifts looking after the female and young offenders. The male lock-up had six cells that were monitored by closed circuit television (CCTV).

Ms. Butler remained at the Sydney lock-up until 1995 when several municipalities were amalgamated. A new police station was built in Sydney on Grand Lake Road and a new lock-up facility was constructed in the basement of the station.

At the Inquiry, Ms. Butler stated she was required to apply for the job of custodian at the new facility. She was hired and began work as one of the senior custodians at the new facility when it opened in 1997. All of the custodians were given an orientation of the new facility by Inspector Ray Armstrong. Along with a

tour he gave them directions regarding the nature of the job and what was expected. Ms. Butler estimated that the orientation lasted approximately 30 minutes. She recalled Inspector Armstrong stating that the facility was "state of the art"; "Prisoners are to be checked every 15 minutes and logged on your log sheet..."; "Your monitors are there to fall back on at any time"; and "If you jailers don't make this work, we're going to contract it out." She inferred from the final statement that she was expected to go to work, shut her mouth, do her job, and say nothing, otherwise the jobs would be contracted out.

Ms. Butler stated that she was never given written policies or procedures, and that none were in place while she was employed by the Cape Breton Regional Police Service or the Sydney Police Department. The only thing she saw in writing was a directive hanging on the wall in the lock-up lobby. That directive did not include anything about checking prisoners.

Ms. Butler stated that in addition to CPR training, she attended a week-long course around 1994. She stated that a large binder of materials was distributed at the course but that she had never reviewed those materials.

Issues raised by Carmel Butler are summarized as follows:

- (i) There was a belief among custodians that the hospitals would not accept intoxicated prisoners, and that doctors and hospitals did, in fact, send intoxicated people to the lock-up. Ms. Butler stated that she expressed concern about this many times to many officers, implying that there would be little purpose in sending Mr. Bailey to the hospital because the hospital would not have accepted him. However, subsequent evidence contradicts this and is addressed later in this Report.
- (ii) She told both Constable Sehl and Sergeant O'Rourke that Mr. Bailey was in "terrible shape", even though she didn't refuse to accept him, or suggest he be taken to hospital. She again implied that it would have been pointless to refuse to accept him or suggest he be taken to hospital because the hospital wouldn't accept him, and because she believed that she could not refuse to accept a prisoner from a police officer.

- (iii) There was a lack of cooperation with management:
- She requested plexiglass be installed on the counter behind the cell door control panel as a barrier to traffic in the corridor. She requested the barrier to reduce the risk of accidental opening of the lock-up doors, but her request was ignored.
  - She was not allowed to call out additional staff when the lock-up was busy.
  - She did not have the authority to refuse prisoners she did not believe to be in good enough health to be in the lock-up.
  - The shifts were difficult and she was unfairly assigned to most weekend nights.
- (iv) There was no clear indication of who was supervising the custodians. She was unsure about to whom she was to report to in various circumstances. She felt that all police officers were her superiors and that she could not question their decisions even with regard to prisoners. She submitted her Prisoner Contact Log Sheets at the end of each shift but wasn't sure whether these were ever examined from a job performance point of view. There were no performance reviews.
- (v) It was acceptable to substitute CCTV monitor checks for physical checks when the lock-up was busy.
- (vi) There was no formal training; she learned the job by doing the job.
- (vii) It was unclear what the policies were and where they were kept. Ms. Butler's evidence was that she believed that there was only one policy, and that was to do 15 minute prisoner checks.

On May 16, 2000, Ms. Butler was the custodian on duty at the Cape Breton Regional Lock-up Facility. Her shift was from 19:00h to 07:00h on the 17th of May. There are 11 cells in the facility and when Ms. Butler began her shift at 19:00h there were five cells occupied by prisoners. The number of prisoners varied over the course of the evening, but they never exceeded seven.

Constable Sehl arrived with Mr. Bailey at 21:30h. Ms. Butler's evidence at the Inquiry was that she believed he was "in terrible shape." She didn't know whether he was intoxicated by drugs or alcohol, or both drugs and alcohol.

Although she thought he should have been taken to the hospital, she didn't think his condition was life-threatening. She did not refuse to accept Mr. Bailey into the lock-up and she did not request that he be taken to the hospital. She believed the hospital had a policy against accepting intoxicated prisoners.

Constable Sehl took Mr. Bailey directly to cell #4 where he and Ms. Butler removed his jacket and shoes. They took his personal items and put them in an envelope. They placed him on the bunk in the recovery position (on his right side with his back against the wall and his head away from the cell bars). Ms. Butler found him unresponsive at approximately 02:00h the next morning.

Three days later Ms. Butler gave a statement to the CBRPS to assist in their investigation into Mr. Bailey's death. In that statement she noted that, when Mr. Bailey was brought into the lock-up the night of his arrest, he could not walk on his own; Constable Sehl had to push his feet; Mr. Bailey couldn't stand on his own and he never said a word; he was extremely intoxicated. She said that Mr. Bailey immediately fell into a deep sleep and snored very loudly. Her main concern at the time was that he might fall off the bunk and hit his head on the toilet. She stated that Mr. Bailey was too intoxicated to be in the lock-up and again, that she believed it was hospital policy not to accept intoxicated prisoners.

In her statement, Ms. Butler said that the policy at the lock-up was to check the prisoners every 15 minutes. She described a "check" as physically going to the cell and checking to see if the prisoner is all right. She said she checked Mr. Bailey every chance she got that evening.

Ms. Butler gave a second statement to the Ontario Provincial Police (OPP) five months later on October 3, 2000. She confirmed that Mr. Bailey was highly intoxicated and that he couldn't stand on his own or walk without help. She noted that she checked on Mr. Bailey every chance she got and she thought he was in terrible shape; he did not speak.

When asked, Ms. Butler also confirmed that her log sheet showed she had checked on Mr. Bailey every 15 minutes. At the Inquiry she testified she actually checked him much more frequently but didn't note those times on the log sheet. She stated that the times marked on her log sheet were physical checks in the sense that she went to the cell and looked in on Mr. Bailey.

Ms. Butler was adamant that she did not enter the times or make her notations on the log sheet after the fact. When asked by the Commission during the Inquiry, Ms. Butler also denied noting the times on the log sheet in advance in order to save time. However, that is certainly what it looks like: the log sheet shows that Ms. Butler checked Mr. Bailey exactly every 15 minutes - every hour on the quarter hour. This does not seem possible, let alone likely, and is contradicted by other concrete evidence. Tapes from the lobby video cameras show her at one point returning to her desk at 00:30. She doesn't leave the desk area again until 01:53h. She did, however, do multiple monitor checks. When confronted with this information, Ms. Butler confirmed that the checks she was doing could have been monitor checks rather than physical checks. She acknowledged that she must have substituted a number of physical checks with monitor checks. However, her main concern at the time was the possibility of Mr. Bailey falling, and the monitors could and did show him on the bunk.

What is most relevant about both of Ms. Butler's written statements is that she confirmed that she understood the then policy regarding "15 minute checks" to mean she was to make physical checks by going to the cell door of each prisoner and confirming each prisoner's well-being.

When Mr. Bailey was brought into the lock-up there were six other prisoners confined in cells. Five of those prisoners were there for non-liquor related offences and according to Ms. Butler were not "acting up". The sixth was intoxicated but was released at 23:30h. Four of the five non-liquor-related prisoners were transferred to the Provincial Correctional Centre at 23:40h.

Just before those four individuals were transferred, an intoxicated juvenile male was brought in. When the four left, three prisoners remained; the only one "acting up" was the juvenile male. At 00:38h another prisoner was brought into the lock-up. Although intoxicated, he was not causing problems.

At 22:55h the intoxicated juvenile broke the sprinkler head off in his cell thereby activating the fire alarm and causing water to be sprayed into that cell. Sergeant O'Rourke and Ms. Butler moved him to cell #11 which is directly behind the custodian's desk, allowing her to keep a closer watch on his behaviour.

Firefighters responded to the alarm and were present in the lock-up from 00:01h to 00:26h. In addition to the janitor who came to clean up the area, a

repair person came to fix the sprinkler. According to the booking area videotape, all additional personnel had left the area by 01:20h.

There are two extended periods when Ms. Butler did not leave her desk: 23:11h to 23:57h (approximately 45 minutes) and 00:25h to 01:57h (approximately 90 minutes). She did not physically check Mr. Bailey (nor any other prisoner) during those times.

The video tapes from cell #4 show Mr. Bailey lying in the recovery position from the time he was placed on the bunk until he was discovered unresponsive at 01:57h. Other than the period between 22:50h and 23:20h when Mr. Bailey raised his head several times, he was motionless.

Although Ms. Butler constantly observed the monitors while at her station, she at no time mentioned having seen Mr. Bailey move from the time he last raised his head at 23:20h until he was discovered at 01:57h. Evidence at the Inquiry by other custodians and personnel, who are familiar with CCTV monitoring, were clear that no signs of breathing can be detected on the monitors. The only information one would be able to detect from observing Mr. Bailey on the monitor from 23:20h until 01:57 was that Mr. Bailey's body was in the cell.

Anthony Campbell has been a custodian since 1991. He started his employment with the town of Louisburg and was there until 1995. Mr. Campbell confirmed that when he was first hired as a jailer at Louisburg he was given a copy of the *Provincial Standing Orders for Lock-up Facilities*, which he read and signed off. From 1995 until 1997, he was at the Sydney Police Department lock-up. He went to the Cape Breton Regional Police Service lock-up on Grand Lake Road when it opened in April 1997.

Mr. Campbell testified that the *Cape Breton Regional Police Service Operational Policy on the Care and Handling of Prisoners (Policy)*, was in the third drawer of the desk in the lock-up. It had been there when he first started at Grand Lake Road in 1997 and he had reviewed it. He further stated that there was a four hour long in-service at the new facility when it opened in 1997 and that all custodians were present at that meeting. Inspector Armstrong said they were to do 15 minute checks but did not state physical checks or monitor checks. Mr. Campbell stated clearly that physical checks were required at least every 15 minutes. He said he paid closer attention to intoxicated prisoners and that he has



had to send such prisoners to hospital on occasion when they became unresponsive.

In terms of practice, Mr. Campbell said that if it's obvious that prisoners are fine (i.e., sitting up, singing or talking) he doesn't open the door because that can invite conflict. If they are not in distress, then neither does he open the sally port <sup>(1)</sup> window for the same reasons; certain things can be determined from the monitor, but certain things cannot. For example, if the monitor is set on the split screen mode it is highly unlikely that you can see a person breathing. Neither would the full screen necessarily enable you to see a prisoner breathing.

At the Inquiry Mr. Campbell stated that he had never seen anyone carried into the lock-up. He had, on occasion and in consultation with the duty sergeant, refused prisoners and had them sent to hospital to be medically assessed for fitness for cells. He had never met any resistance from police officers with regard to sending prisoners to hospitals. It is also his practice to ask the prisoners about any medication found on them when they come in.

Mr. Campbell's experience when dealing with the Detox Centre was that they requested intoxicated people be held in cells until the morning, "*until they were sober*", and then be sent to the Detox Centre.

In conclusion, Mr. Campbell stated that with all the changes made to the *Policy* and to the lock-up by the CBRPS in the interim following Mr. Bailey's death and the Inquiry, things are working fine.

Margaret Buchanan gave evidence at the Inquiry on February 13, 2003. She had been employed as a custodian for 21 years and had been with CBRPS since amalgamation. On February 9, 2002, Ms. Buchanan also provided a statement to Ms. Butler's counsel which was transcribed to writing and submitted to the Inquiry as part of Exhibit 49.

Ms. Buchanan stated that she assumed that custodians could rely on the monitors and that they were not required to physically check the prisoners. She was not aware of any written policy. Her main concern was that a prisoner might have a seizure and that's what she watched for.

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(1) A "sally-port" is an enclosed ante-room between the lobby and a cell. A steel door with a window that can be opened is between the lobby and the sally-port. A bar door is between the sally-port and the cell.

Ms. Buchanan admitted under cross examination that she had a problem with her memory. She advised that she had been on stress leave since June 2002, and that she had been suffering from a sleep disorder and migraines. It was clear that she could not recall a number of crucial details and because of this her evidence was unreliable.

**(ii) Police Officers**

Soon after Mr. Bailey's death, different accounts were given of his level of intoxication, method of intoxication, and how he was managed prior to being settled into cell #4. These discrepancies raised concerns regarding the consistency of police practice when handling intoxicated detainees.

Constable Max Sehl gave evidence at the Inquiry on February 27, 2002. He arrested Mr. Bailey and escorted him from his police car into the station. He assisted Mr. Bailey by putting a hand on his shoulder and took him directly to cell #4. Constable Sehl searched him and asked him whether he had any medical condition to which Mr. Bailey said "No". Constable Sehl had seen other prisoners in worse shape and he assumed that Mr. Bailey would just "sleep it off."

Constable Sehl stated that he did not hear Ms. Butler say that Mr. Bailey was in "terrible shape". With Ms. Butler's help, he placed Mr. Bailey in the recovery position, completed the necessary paperwork and returned to active duty at approximately 21:50h. He did not hear anything further until approximately 02:00h when he was advised by Sergeant O'Rourke that Mr. Bailey had died.

When asked, Constable Sehl said he did not give statements to the CBRPS, the OPP or the NSPC during their investigations on the advice of his lawyer. As required by Section 4(4) of the *Police Act Regulations*, Constable Sehl did submit what relevant notebook entries he could find, although the most relevant notebook was misplaced sometime between the initiation of the investigation and the formal request for his notebooks.

Sergeant John O'Rourke began his policing career on December 15, 1975. He was on foot patrol in the downtown area until 1977 at which time foot patrol officers were moved to patrol cars. His experience includes: Traffic (1980-1985; 1993-1995); Criminal Investigations - Narcotics (1985-1988); Accident Reconstruciton, including courses in PEI, Ottawa and Jacksonville, Florida (1988-

1993); patrol shift sergeant (1995-1999); and shift supervisor C-Division (1999-2001)

Sergeant O'Rourke was the duty sergeant the night Mr. Bailey died. He gave evidence at the Inquiry and confirmed that the responsibilities of the duty sergeant include dealing with complaints concerning the lock-up, and ensuring public satisfaction. If there was a problem at the lock-up it was his responsibility to deal with it. He did not believe that it was his responsibility to deal with the "person" of the custodian; he did not have supervisory responsibility for the custodians. However, if a custodian had a concern, they didn't hesitate to approach him for assistance and he took care of it.

Sergeant O'Rourke maintained that it was not his function to tell a custodian to make more frequent physical checks, although he did say that he asked Ms. Butler to check cell #4 after the fire alarm went off. He believed the level of activity in the cells the night Mr. Bailey died was not unusual and if Ms. Butler had said that she needed assistance he would have called someone in to help. He pointed out that police officers assist in moving prisoners to and from the cells. He told the Inquiry that there had always been a policy to physically check prisoners every 15 minutes and that he believed the guards were doing 15 minute physical checks. He did not see any written policy in this regard prior to Mr. Bailey's death.

Sergeant O'Rourke stated that prisoners would not be brought to the lock-up if they were unconscious or had to be carried. He would send such a person to hospital as he had done whenever he wasn't satisfied that a person was fit for cells. He stated that he had never had a problem with hospitals taking prisoners nor in providing a medical assessment. Although he had never had a custodian refuse a prisoner, he did not believe that custodians were intimidated by police officers and that they could and would refuse prisoners who they felt were not medically fit for the jail. On the evening in question, Ms. Butler did not express concern to him about Mr. Bailey's physical condition.

When asked, Sergeant O'Rourke stated that he did not give a statement to the CBRPS, the OPP or the NSPC investigator during their investigations on the advice of his lawyer. He felt "at odds" with some people because he had not given any previous statement and was anxious to give evidence at the Inquiry. He did submit the relevant entries from his notebook as required by the *Police Act*.

Inspector Raymond Armstrong began his career in January 1964 with the Sydney Police Department where he became a corporal and then the sergeant in charge of the Sydney lock-up and citizens complaints. Initially, police officers guarded the prisoners, and the sergeants booked and released them. In addition to their own arrests Sydney was the lock-up for the Unama'ki Tribal Police, RCMP, Sydney Mines, and North Sydney Police Department and, at times, the Provincial Corrections Services. Inspector Armstrong was transferred to the Grand Lake Road lock-up in December 1997 and he retired in December of 1998.

After the amalgamation in 1995, Sergeant Armstrong was promoted to Inspector and was in charge of the lock-up at the new Grand Lake Road facility. As part of his managerial training he took a five week "Senior Police Administration Training" course in Ottawa in 1997, a two week case management course in Ottawa in 1996, and attended various seminars on supervision and police development between 1997 and 1998. His position at the Grand Lake Road lock-up was a new position and included oversight of the construction of the facility. Inspector Armstrong stated that he received no guidelines or directives on the running of the new lock-up.

Inspector Armstrong detailed his responsibilities while in charge of the lock-up. These included regular meetings with staff sergeants to discuss the day, staffing, absenteeism, and to ensure their monthly reports were up to date. In addition, he was responsible for dealing with citizen complaints and for reviewing the lock-up on a daily basis. He was also responsible for C-Division sergeants. He also met with the sergeants from time to time to ensure there was compliance with protocols and to deal with ongoing problems or "glitches". As staff sergeants were considered part of the management team, sergeants occasionally met with the staff sergeants instead of with him. He agreed that there was nothing in evidence to suggest that he had ever directed the sergeants to oversee the 15 minute checks of the custodians.

When the new lock-up was first opened in 1997, the Sydney *Guidelines and Procedure for Jailers/Guards* was used until a new policy was drafted. Inspector Armstrong drafted the new policy using policies from New Waterford, Glace Bay, Halifax and Sydney, as well as guidelines from the Corrections Services Division of the Nova Scotia Department of Justice. The new *Policy, The Policy on the Care and Handling of Prisoners*, was put into effect just after the lock-up was opened (**Appendix A83-A88**). When Inspector Banfield took over

responsibility for the lock-up in December 1997, he received the draft *Policy* from Inspector Armstrong for "tweaking".

Four days before the Grand Lake Road lock-up opened, Inspector Armstrong held a four hour orientation for the custodians. They discussed the use of monitor checks in addition to physical checks, although he concluded that there were times when physical checks may be impossible because of activity in the lock-up. Inspector Armstrong recalled that each custodian received a copy of the CBRPS *Policy on the Care and Handling of Prisoners*, and unless there were extenuating circumstances physical checks were to be done every 15 minutes.

Inspector Armstrong stated that physical checks are important because of what cannot be discerned from a monitor check. For example, people who are quiet sleepers are difficult to assess on a monitor. Although "physical check" is not defined in the *Policy*, Inspector Armstrong stated that opening the sally-port window and looking in, or entering the sally-port and approaching the bars, are considered physical checks. Inspector Armstrong replied that, notwithstanding a slight wording change in the *Policy* between 1995 and 1997, physical checks were still required.

Counsel for Carmel Butler suggested that the wording change in the *Policy* document suggested that it was permissible to substitute monitor checks for physical checks. Inspector Armstrong replied that the physical checks were still required. However, on occasion the activity in the jail may make it impossible to do 15 minute physical checks.

Inspector Armstrong met with the custodians many times and observed both Ms. Butler and Ms. Buchanan doing physical checks. He agreed that the custodians constantly observed the CCTV monitors, but was firm that the monitors were never meant to take the place of physical checks. He did not recall ever seeing a custodian making a note on the log sheet after viewing the monitor. If he has seen this, he would have commented that it was not appropriate.

Inspector Armstrong denied telling the custodians to "*make it work*" or their jobs would be contracted out. He stated there was no doubt in his mind that the custodians received a copy of the *Policy* although he could not say whether or not it was "signed off" by them. He personally photocopied the *Policy* and remembers when they were handed out. He gave a copy to the custodians in his

office and, if he didn't personally deliver them to the lock-up sergeants, he delegated the staff sergeants to do so.

Inspector Armstrong stated that he circulated memos to avoid duplication of problems that arose. Since no problem with the 15 minutes physical checks came to light, no memo was created or circulated. As of December 1997 he was satisfied that the policy directive on 15 minute physical checks was being followed.

Between 1995 and 1997, Inspector Armstrong did not develop any directives for the care and handling of intoxicated prisoners because he felt that the custodians and duty sergeants were qualified to deal with them. When asked about the lack of such a directive, he responded that he thought that a protocol had been developed that dealt with waking intoxicated prisoners. It requires the duty sergeant to open the cell for custodians as they are not permitted to enter the cells alone.

Inspector Armstrong was also asked about what happens to written directives. He replied "That's a good question...it doesn't take long for them to disappear...it's happened many times." He stated that, in order to rectify this problem, he purchased a lock and key cabinet to store the documents. Duty and staff sergeants have a key to this cabinet, however, the custodians do not and are unable to access the documents themselves.

With regard to the final draft of the *Policy on the Care and Handling of Prisoners*, Inspector Armstrong acknowledged that, in hindsight, he had missed an opportunity to incorporate all directives (e.g., intoxicated prisoners) and should have done so. He did not know why Inspector Banfield had not done so because he had discussed this directive with him over coffee.

In 1964, Inspector Jack Banfield was sworn in as a constable with the Glace Bay Police Department. He was the deputy chief in Glace Bay at the time of amalgamation in 1995. He assisted Inspector Ray Armstrong with the drafting of the *Policy*.

In January 1998, Inspector Banfield was appointed as the inspector in charge of Central Division which included the lock-up. He stated that he saw the *Policy* (Ex.73) "many, many times" in the lock-up. It was on the lobby counter when he copied it for Roy Kennedy (Police and Public Safety Service Division of

the Nova Scotia Department of Justice) in December 1998 for his audit. No one ever questioned the *Policy*. Although Inspector Banfield had never had discussions with custodians regarding physical checks, he often observed them doing physical checks. He stated that the monitors were just an "added tool".

As the inspector in charge of the lock-up, Inspector Banfield periodically checked the Prisoner Contact Log Sheets. He did not review the video tapes because, at the time, the video cameras were thought of as being there to assist custodians, not to check up on them. Since Mr. Bailey's death, however, the video tapes are reviewed to assess custodian performance.

Inspector Banfield dealt with Ms. Butler on numerous occasions and described her as "*one who never had a problem expressing her opinion*". She often came to him regarding scheduling problems. For example, the shift for custodians had been 12 to 12, but this was changed to 7 to 7 at the request of custodians and with the consent of their union. He confirmed that custodians have the right to refuse prisoners, but he has never seen it happen. He believes that Ms. Butler is a competent custodian. He had not reviewed the *Policy on the Care and Handling of Prisoners* with her. He stated that all staff sergeants would have received a copy of the *Policy* when it was drafted. It was circulated, explained and inserted into each Division binder. Inspector Banfield expected the staff sergeants to ensure that the *Policy* was explained to the custodians.

Inspector Banfield investigated the Form 5 public complaint filed by Lillian and Paula Bailey. His report was submitted to the Inquiry and he was called to give evidence. He stated that, when reviewing the matter from a public complaints point of view, the relevant police officer's conduct is examined.

In the Bailey matter the complaint was phrased more in the way of a series of questions from the family and Inspector Banfield was able to find some answers for them. It did not occur to him to review the answers with the Bailey family, nor to supply copies of the video tapes of Mr. Bailey's cell. He acknowledged that this approach would have likely answered many of their questions. He stated that, at the time, he was unsure of what authority he had to release the video tapes or to provide information to the Bailey family. Nor did he want to interfere with the ongoing OPP investigation into Mr. Bailey's death.

Inspector Robert MacLean had been trained as a military police officer with the Canadian military. He joined the Glace Bay force in 1974 and was appointed

as an inspector with the Cape Breton Regional Service in 1995. He was assigned to Central Division in January 2000, replacing Inspector Banfield. He took over responsibility for the lock-up and remained in that position until January 2003.

Inspector MacLean gave evidence at the Inquiry on February 10, 2003. He stated that the Cape Breton Regional Police Service's written *Policy on the Care and Handling of Prisoners* existed at the time of Mr. Bailey's death and that it was in the top right hand drawer of the front desk at the lock-up. Following Mr. Bailey's death, Inspector MacLean became aware of the issue regarding physical versus monitor checks. He had the Prisoner Contact Log Sheet changed so that there were columns for noting both kinds of checks.

Inspector MacLean advised that custodians can speak up at any time regarding a prisoner's condition. They should speak with the duty sergeant, who ultimately makes the decision as to whether or not a prisoner should be taken to a hospital for further observation. He was not aware of any reluctance of custodians to speak up in these kinds of situations; if they were afraid to speak to an officer, he was never made aware of the problem.

### **(iii) The Nova Scotia Department of Justice Regarding Lock-ups**

Dennis P. Kelly was seconded to the Department of Justice, Police and Public Safety Services (PPSS) from the Halifax Regional Police in 1993. He was responsible for audits of municipal police agencies, development of standard operational procedures, and for general consultation with police boards, services and municipal councils. In 1997, he became Director of Operations of PPSS and was still in that position when he gave evidence at the Inquiry.

Mr. Kelly explained that his office has an oversight responsibility under the *Police Act*. It provides consultative services to police forces and others involved in policing. It coordinates some training and conducts audits, inspections and reviews of police departments throughout the province. It also deals with other matters involving policing as directed from time to time by the Minister of Justice.

Mr. Kelly testified at the Inquiry regarding the development and implementation of *Standard Operating Procedures (SOP's)*. His office established a Training and Standard Advisory Committee to explore training and standards generally. The Committee involved chiefs of police who gave their insight and



advice regarding those issues. His department has a training coordinator who organizes and conducts in-house training of police officers. There are some monies in his budget for this service. When questioned as to whether his department knew of or prepared any training courses on recognizing the signs of drug and alcohol intoxication, he answered that he was unaware of any such training courses. He stated that the problem of cell deaths hasn't been addressed and really hadn't been discussed before he gave his evidence.

Following Mr. Bailey's death, Dennis Kelly's office sent a memo to all police departments notifying these agencies of the dangers inherent in mistaking intoxication by drugs for alcohol abuse. Information coming to him from other jurisdictions would generally be shared with police departments and other agencies. However, as of the date of his testimony, there did not appear to be any formal approach to receiving relevant information from other jurisdictions and disseminating the information to police departments and other agencies.

Dennis Kelly confirmed that the Cape Breton Regional Police Service has started their own internal auditing. His division was working on standards for internal audits that he hoped would be available to police departments in the near future. With departments conducting their own audits, the provincial department would be able to focus on specific issues as they arose. They would continue their oversight role to ensure that the internal audits were complying with provincial standards. With reference to this Inquiry, Mr. Kelly did not have any suggestions to offer the Commission. His division would review and respond to the recommendations arising out of this Inquiry.

The Nova Scotia Department of Justice assigned H. Roy Kennedy to monitor the Inquiry and to report back on its findings. Roy Kennedy was a veteran officer with the Halifax Police Department for 22 years. He had been employed as a Police and Public Safety consultant by the Nova Scotia Department of Justice, Police and Public Safety Division, since 1997. He was assigned the duty of inspecting lock-up facilities of police departments within the province, and gave evidence at the Inquiry on February 6, 2003. It was his practice to advise the relevant lock-up of the date that he would be coming in to do an inspection. Once the inspection was complete, he would give a verbal report to the Department of Justice which was followed up with a written report. Roy Kennedy inspected the Cape Breton Regional Police Service lock-up on Grand Lake Road on December 2, 1998 and submitted the requisite written report on March 2, 1999.

In his evidence, Roy Kennedy referred to a document entitled "*Standing Orders of Lock-up Facilities*" issued by the Province in 1997. He confirmed that some lock-ups have these *Provincial Standing Orders (PSOs)* in their facility while others have developed their own. The written policies that a facility develops are acceptable as long as they meet certain minimum criteria and comply with the *PSOs*.

A facility's policy document should have a cover page with space for each employee to sign indicating they have read and understood the document. In fact, the *PSOs* are very broad and there are numerous sections that are relevant to institutions rather than to police lock-ups. Mr. Kennedy stated that it is important that the facility's written policy be in the lock-up area and available to all staff. It is not necessary for each staff member to have their own copy, but it is a requirement that they each sign the cover page, indicating they have read and understood the document, including subsequent amendments.

When he inspected the CBRPS lock-up on Grand Lake Road, the relevant *PSO's* were encompassed in *The Cape Breton Regional Police Service Policy: Care and Handling of Prisoners*. Roy Kennedy saw a copy of the *Policy* in the lock-up by the monitors. He requested and was given a copy. He noted in his written report that, although the *Policy* existed and was available in the lock-up, it had not been signed off by the custodians. Further, there was no record that each custodian had been given a copy to review.

The CBRPS *Policy* that existed at the time Mr. Kennedy did his inspection contained a number of provisions that are germane to this Inquiry. Of particular relevance are the following sections:

C. *General*

- 1.5 Personnel employed in the lock-up facility shall report any incident involving injury, property damage, illness, or failure of equipment under their control to the supervising NCO. The supervising NCO shall report any major incident to the on-call manager.
- 1.6 The Major Crime Unit is responsible for investigating any significant incident or criminal complaints in the lock-up facility.

*D. Booking*

- 2.4 The arresting officer(s) is responsible for the search of all prisoners, and the removal of all effects that may be used to cause harm to themselves or others.
- 2.7 Officers shall take note of the health of the prisoner including any injury, or medical alert warnings prior to the prisoner being turned over to the jailer on duty.
- 2.8 The arresting officer(s) is responsible for placing the detained person in the cell prior to departure.

*E. Telephone*

- 3.5 Custodians are required to inform persons arrested for intoxication that, if requested, they will notify a family member that they are in custody. The request will be noted on the prisoner log sheet.

*G. Detention*

- 5.1 The Custodian of the lock-up facility shall sign the prisoner record form as the person responsible and place the copy, along with the prisoner's personal effects, in a secured locker.
- 5.2 The Custodian on duty shall physically check each prisoner at least every fifteen minutes. Time checks will be staggered and noted on the prisoner's log sheet.
- 5.4 Should the prisoner complain of any illness, injury or a suicide attempt be made, the Duty NCO shall be notified immediately and medical aid provided as soon as possible.

Roy Kennedy concluded in his report that the *Policy* was "*thorough and well thought-out*". The facility itself was well-maintained. Logs, property reports and other documents revealed that the staff was knowledgeable and professional, and that most policies were adhered to. He cited certain concerns for the CBRPS to address, and noted that there should be a written record or copy of orders and directives given to the custodians for review. He stated that in discussions with Inspector Banfield, he understood that a sign-off sheet for custodians would be done. However, he did not receive anything from him in writing regarding the

matter and he did not follow-up on the issue. Roy Kennedy noted that he received excellent cooperation from CBRPS.

When giving evidence, Roy Kennedy stated that he believed a physical check of prisoners was a fairly simple concept. He stated that anyone who has been around policing would know that a physical check is required, and that the monitor is an added safety measure. Mr. Kennedy advised that relying solely on the CCTV monitors was not acceptable; if the custodians can't make a check, it should be noted on the Prisoner Contact Log Sheet.

At the time of James Bailey's death, there was no policy in place requiring an intoxicated inmate be roused, although it may have been the practice. Since James Bailey's death, all lock-up facilities in Nova Scotia have a copy of the *4R's Observation Check List (Appendix A119)*.

## **Conclusions**

The primary responsibility of custodians is to protect the welfare of prisoners. They are also responsible for their own safety. Therefore, when accepting a prisoner into their custody these principles must be kept in mind. They can and should refuse any prisoner they believe would compromise their safety or the prisoner's safety.

The CCTV provides custodians with a means to constantly monitor prisoners but this tool was never intended to replace physical checks. Ms. Butler testified that it was acceptable to substitute CCTV monitor checks for physical checks. Although she remained adamant, even under cross examination, this was a complete reversal from her original statements given to the CBRPS and the OPP during their investigations.

Ms. Butler raised a number of issues that are summarized previously on page 19 and 20 of this report. Although these were claims made by Ms. Butler it should be noted that she was aware that the inspector was in charge, and was the one she would approach regarding shift issues. She was also aware that Sergeant O'Rourke was in charge on the night of Mr. Bailey's death. Therefore, her claim that there was no clear indication of who was in charge of the lock-up is contradicted by her own evidence. The balance of her claims have been refuted by more reliable evidence.

It is quite clear that Ms. Butler was surprised by what she learned from the video tapes. Notwithstanding her adamancy that it was acceptable to substitute monitor checks for physical checks, she genuinely believed she was doing frequent physical checks until confronted with the reality of the tapes. She admitted surprise that she had become so dependent on the monitors. It is likely that she was not the only custodian who had relaxed this aspect of their job.

It was unfortunate that several officers, including Constables Max Sehl, Paul MacDonald and Sergeant O'Rourke, refused to provide statements to any investigator including to this Commission's investigator. In Nova Scotia there is no legal obligation for police officers to answer questions put to them by investigators because the *Police Act* is silent in this regard. Section 4(4) of the *Police Act Regulations* imposes a positive duty to cooperate with the Police Commission and the Police Review Board. This section can be used to compel "witness" officers who need to be compelled but has not been used to compel

officers who may be the subject of a complaint. It has been the view that because the *Police Act* is silent in this regard, compelling such an officer would not withstand the "self incrimination" test before the superior courts.

The issue of whether police officers should be compelled to give statements in these circumstances is a matter of debate in various Canadian and international jurisdictions. Officers can routinely claim the possibility of becoming "subject" officers and be excused from providing a statement if they believe that their statement could be used against them in any subsequent disciplinary matter. This is unfortunate, particularly in this case where input from several officers (and most importantly from Constables Max Sehl, Paul MacDonald and Sergeant O'Rourke) would have answered many questions. This Commission accepts that these officers were not compellable but it does question the wisdom in choosing not to give a statement until compelled by a Commission of Inquiry.

**Findings:**

The Board of Inquiry makes the following findings:

***Custodians:***

1. The *Policy on the Care and Handling of Prisoners* was present in the lock-up and accessible to custodians from as early as January 1998. A pre-existing version was present in the Sydney jail when it was in use, and at the Grand Lake Road lock-up until it was replaced by the new *Policy*.
2. The Cape Breton Regional Police Service did have a written policy requiring a physical check of all prisoners every 15 minutes.
3. All custodians were aware of the *Policy*.
4. The custodians did receive adequate training when the Grand Lake Road lock-up opened.
5. Mr. Bailey walked to cell #4 with minimal assistance from Constable Sehl and Ms. Butler.
6. Ms. Butler had come to rely heavily on the CCTV monitors for checking on prisoners. As such, she failed to do her 15 minute checks as required by the *Policy on the Care and Handling of Prisoners*.
7. Management for the Cape Breton Regional Police Service failed to adequately supervise the custodians or to do performance reviews. Had they done so, certain custodian's predeliction for substituting monitor checks for physical checks would have likely been discovered and corrected.
8. The activity at the Grand Lake Road lock-up was not unusual on the night of May 16, 2000.
9. Had it been necessary, Ms. Butler could have asked, and likely would have received assistance.

10. Without a signature sheet on the front of the *Policy on the Care and Handling of Prisoners* or any of its amendments, it is impossible to know who distributed the documents, and which personnel read and understood them.
11. The custodians employed by CBRPS are now following the directives noted in the *Policy*, and management has developed methods to make sure that these are being adhered to.

#### ***Police Officers***

12. Constable Max Sehl was remiss in misplacing his notebook containing his notes for the night he arrested Mr. Bailey.
13. Sergeant O'Rourke did not fully understand his responsibilities as duty sergeant as they related to the lock-up and its personnel.
14. Inspector Armstrong's initial handling of memos was disorganized.
15. When drafting the *Policy on the Care and Handling of Prisoners* Inspectors Armstrong and Banfield neglected to provide policy for the handling of intoxicated prisoners.

#### ***Nova Scotia Department of Justice Regarding Lock-ups***

16. Notwithstanding H. Roy Kennedy's finding that the *Policy* is "thorough and well thought out", further amendments to the *Policy* are still needed.



**Recommendations:**

1. Custodians must have training to adequately perform all of their duties. Experienced custodians may or may not require the same training as inexperienced custodians. Training and orientation for newly hired custodians (experienced or inexperienced) must include a review of the policies of the relevant lock-up, and those policies must be signed off within a reasonable period of time from when the custodian commences work in that lock-up.
2. The employer must satisfy itself that all its employees are qualified to perform their duties. All police forces in Nova Scotia must provide the necessary training for their custodians.
3. Training of custodians should include, at a minimum, note-taking, document management, suicide intervention, conflict management, intoxicated prisoner management, proper use of force, standard first aid, basic CPR, and fire prevention and control.
4. Research and development must be undertaken to ensure that training for police officers and lock-up custodians is current and relevant. An example of a current issue includes the specific ability to recognize intoxication by drugs and alcohol (together and individually) as potentially lethal, as well as the general ability to effectively manage the intoxicated person.
5. Lock-up supervisors (duty sergeants) should have, at a minimum, basic supervisory training and should be encouraged through financial and other incentives to pursue advanced supervisory training.
6. *The Policy for the Care and Handling of Prisoners* shall:
  - a. expressly state that custodians have the authority to refuse a prisoner for medical or health reasons;
  - b. incorporate the *Provincial Standard Operating Procedure* language for dealing with a prisoner's medication;
  - c. expressly state that a medical evaluation is required for all prisoners deemed to be high risk by either a custodian, an

arresting officer or any other person in authority over that prisoner; and

- d. provide for increased monitoring of prisoners described in (c).

7. *The Operational Policy on the Care and Handling of Prisoners* should be amended to direct the arresting officer to check for CPIC and in-house records to assist in determining if the prisoner has an arrest history, a history of mental illness, suicidal tendencies, a history of drug use, or other information relevant to the prisoner's well-being while in the lock-up.
8. The Prisoner Contact Log Sheet should be amended to include an area for the arresting officer to confirm that such a check was made, and to provide any relevant information obtained from that search.
9. References to specific personnel, e.g., duty NCO or duty sergeant, supervising manager or duty supervisor, should not be used interchangeably. One preferred reference should be decided upon and used consistently throughout all police service documents.
10. Supervision of lock-up documentation is the responsibility of the duty sergeant. The duty sergeant must review and sign all Prisoner Contact Log Sheets at the beginning and end of every shift. The Log Sheets shall contain:
  - long hand notes or comments made by the custodian(s). Ditto marks or other duplication marks (e.g., check marks) are not acceptable. Custodians are not to use such marks under any circumstances except where specifically indicated (i.e., boxes for checking).
  - a column for physical checks and a column for observations made using the video monitor. Custodians shall indicate the manner of each prisoner check made at the relevant time.
  - the real time of the prisoner check. Custodians are to make staggered checks (i.e., not regular quarter-hour checks) according to current CBRPS policy.

11. The CBRPS and other police departments should, on a regular basis, review and redraft policies as necessary to eliminate conflicts within various *Provincial Standard Operating Procedures* pertaining to police lock-ups and their own policy documents.
12. The lock-up facility must be respected by police officers and others who attend in the area. It should not be used for other purposes such as a through way or meeting place.
13. If the design or location of a facility creates a problem like the one in the Grand Lake Road Facility in Sydney (where personnel used the lock-up facility as a through fare) then it should be redesigned and appropriate renovations carried out.
14. There should be a segregated cell for high risk prisoners (intoxicated, known history of suicide or mental illness). If a segregated cell is not available, then there should be a detailed protocol to ensure the safety of high risk prisoners.
15. CCTV recording systems and audio recording systems should be made mandatory for all cells, cell blocks and surrounding areas.
16. Custodians should be provided with unlimited access to the memos and written directives.
17. A performance evaluation process for custodians must be developed and implemented. Subsequent performance evaluations must be carried out for every employee of the CBRPS on an annual or biannual basis as time and finances permit.
18. Annual inspections of all police lock-ups by the Department of Justice must continue.
19. The possibility and means of receiving and disseminating information received from other jurisdictions should be explored. The possibility of this information transfer in conjunction with the Nova Scotia Police Commission should be explored.

### **C. The Lack of Resuscitation Efforts by Police Service Personnel**

Shortly after Carmel Butler discovered Mr. Bailey unresponsive in his cell, she called Sergeant O'Rourke and asked him to return to the lock-up. He arrived with Constable Paul McDonald within 5 minutes of her call. However, none of the three Police Service employees assessed Mr. Bailey for breathing or circulation, nor did they initiate cardiopulmonary resuscitation. Video footage from the lobby area and cell #4 show the steps these employees took prior to the arrival of the paramedics. Consequently almost 10 minutes elapsed before the paramedics arrived and began resuscitation efforts.

During the Inquiry the issue of first aid and CPR training of CBRPS officers and its employees was thoroughly canvassed. The training and ability of each employee present in the lock-up that night was examined, as well as the equipment available in the jail. Questions were raised regarding the availability of certain equipment, where it is kept, and who is responsible for its maintenance.

Ms. Butler stated that she was certified in first aid and CPR shortly after the amalgamation of the Cape Breton police forces in 1995. The course was four days in length. She could not recall when she had last recertified although she mentioned that she had taken further prisoner safety courses (use of restraints, transporting, detecting potentially harmful objects on prisoners). She stated that notwithstanding that her certification had expired, she still knew CPR but never had to use it. Under cross-examination, she agreed that she used her first aid training and "years of experience" to determine that Mr. Bailey looked like he had expired.

Cape Breton Regional Municipality statistics (OPP Volume 6, p. 0003) show that Ms. Butler completed a four day St. John Ambulance Standard First Aid and Level C CPR course in April of 1999. Her certification was therefore valid until April 2001. Ms. Butler stated that she did not initiate CPR because custodians are not permitted to enter cells without an officer. This is for custodian safety as prisoners may be pretending to be dead or unconscious in order to lure them into the cell.

Carmel Butler said she knew where the first aid kit was kept. She said there was a barrier mask in the desk, but she could not recall if she had been trained to use it. She also believed there was a piece missing from the mask. At the Inquiry Ms. Butler initially stated that she did not bring this to anyone's attention as she did not work day shifts and was told by another custodian that

building maintenance was responsible for keeping the first aid kit and equipment stocked. Later on the same day, she stated that she had told Anthony Campbell that the mask was missing a piece and that he had agreed with her.

The day after Mr. Bailey's demise, Ms. Butler submitted a written informal "incident report" to Sergeant John O'Rourke at his request. She also gave statements to the CBRPS, OPP, and the NS Police Commission investigator during their investigations. She stated that Inspector Banfield did not interview her at any time during his investigation into the Form 5 complaint by the Bailey family.

Sergeant John O'Rourke was the duty sergeant that night. He stated that in 2000 he was not certified in CPR. This was corroborated by independent evidence. He acknowledged that he had seen the barrier mask in the desk drawer but he had never had an occasion to use it. He stated he was not responsible for the first aid and CPR equipment. A need for supplies was never brought to his attention and he was not familiar with the procedure for procuring supplies. However, he was confident there would have been no problem getting anything that was needed.

Sergeant O'Rourke gave evidence regarding his experience with "hundreds" of deceased people, both the elderly at home (75%) and accident victims. He said he had never seen anyone successfully resuscitated. He described the difference between discovering someone shortly after they had died, and someone who had been dead for a while. He described Mr. Bailey's condition when he entered the cell and stated there was a stale smell. Sergeant O'Rourke's description of Mr. Bailey was contradicted by documentary and oral evidence given by the emergency personnel who worked on him in the cell and in the Emergency Department of the CBHCC.

After entering cell # 4 and taking a very brief look at James Bailey, Sergeant O'Rourke returned to the desk and picked up the phone. He remained on the phone with the ambulance attendant and conveyed instructions to Constable MacDonald who was in the cell to:

1. roll Mr. Bailey onto his back and do a "look and listen". Constable MacDonald did so and left the cell.
2. tip Mr. Bailey's head back to check his airway. Constable MacDonald did so and left the cell again.

3. give Mr. Bailey two breaths. Constable MacDonald did not do this but left the cell. A more detailed sequence of events can be found in **Appendix A155.**

Sergeant O'Rourke stated that when he asked Ms. Butler for the barrier mask she told him it was broken and consequently did not look for it. At this time the paramedics arrived. Sergeant O'Rourke did not follow up to ensure that a replacement mask was requested following the incident.

Constable Paul MacDonald was certified in CPR and first aid at the Atlantic Police Academy in 1986, and again at the Glace Bay Police Department. He was recertified in CPR and first aid on February 24, 2000, less than three months before Mr. Bailey died. His St. John's Ambulance certificate shows that, in addition to standard first aid, he took 14 elective lessons. This training included Level C CPR training which is required for all employees. Therefore, the person in the cell most qualified to deliver assistance to Mr. Bailey was Constable Paul MacDonald. He did not require directions to carry out the procedures conveyed to him through Sergeant O'Rourke from emergency personnel.

On the video tape, Constable MacDonald is seen entering the lock-up without gloves. He is then seen entering the cell wearing black, heavy looking gloves with which he attempts to take a carotid pulse. Independent expert evidence was clear that this would not be possible. He attempted to do the "look and listen" – the most basic step in CPR and a step that is possible to do without physical contact – from a height of approximately two feet. Properly done, the rescuer places his or her cheek close to the victim's mouth, listens for breathing and looks at the chest for the rise and fall motion of breathing. He did tip Mr. Bailey's head back and looked inside his mouth. Between each of these steps Constable McDonald left the cell. He also described Mr. Bailey's physical condition and his evidence was also contradicted by the documentary and oral evidence of emergency personnel who worked on Mr. Bailey in the cell and at the Emergency Department.

Constable MacDonald explained his lack of intervention as being based on extensive experience dealing with dead people. His specific experiences with decedents were listed for the Inquiry. He argued that, based on his experience, he is able to determine when a person is dead and was therefore justified in not initiating any form of first aid or CPR. It was Constable MacDonald's position that officers should have the discretion to initiate CPR or not.

### **Conclusions:**

From the time Mr. Bailey was discovered to the arrival of the EHS personnel, there was significant confusion regarding the presence or absence of a first aid kit in the lock-up area, where it was located, what was in it, and whether or not there was a mask in it and the mask's condition. No one person was responsible for maintaining the first aid and CPR equipment. There were inconsistencies in first aid and CPR recertification dates of employees. While the CBRPS documents show a list of employees purported to have certified or recertified in first aid and CPR, documents subsequently submitted by the Service appear to contradict the information on the list.

It is also clear from the evidence that the three employees present, those in a position to render assistance, were extremely reluctant to do so. Ms. Butler explained her reluctance to enter a cell without a police officer as based in *Policy*.

The police officers, unfortunately, refused to give statements to any investigator. There is nothing in their notes corroborating their reasons for withholding assistance. Not until the Inquiry did they attempt to explain their reluctance. Constable MacDonald's explanation at the Inquiry was that he knew Mr. Bailey was dead and did not feel resuscitative efforts would be beneficial. However, such a simple and benign explanation begs the question of why he was so reluctant to give a statement to the initial investigators.

The lack of intervention by Sergeant O'Rourke, Constable MacDonald and Ms. Butler cannot be ignored when considering the demise of James Bailey. Whether or not these failures contributed to his demise, or whether a well-organized first aid policy and procedure would have prevented his demise, is not the issue. What is at issue is whether the CBRPS employees are ready and able to render assistance as needed.

Police officers are first responders to many scenes involving mortally wounded victims. They are trained in CPR and first aid because they are first responders. They are neither lay people who happen upon an accident, nor the morbidly curious who stop to watch. They are there because that is their job. It is not their job to determine whether it will be possible to revive a victim. That is for properly qualified medical personnel. There is a public expectation that police officers will intervene and provide assistance. The public should further have the

confidence in their police forces that when someone is in their custody they will be given the full benefit of their training.

This does not mean that police officers or its employees should be required to endanger themselves in delivering first aid or CPR. To attempt to resuscitate an unknown victim without proper protection would be foolhardy in today's climate of communicable diseases. The practice of prohibiting custodians from entering cells when alone in the lock-up is a sound one. However, access to back up personnel in order to be able to render assistance is therefore a must. In addition, the officers and employees must be properly equipped, aware of where the equipment is kept, and trained in the use of such equipment. As this involves allocation of money and human resources, management must assume responsibility for ensuring that officers and employees are properly trained and regularly recertified in, aware of their obligation to, and capable of performing first aid and CPR.

The reluctance of the employees present in the lock-up to initiate any CPR or first aid raises the question of whether or not they were properly trained to provide such assistance. When questioned about their training, most of the officers were vague as to recalling dates of training and re-certification. Although the policy calls for recertification every two years, many of the employees giving evidence had not recertified within the required period. The time for recertifications must be treated as minimal, and not as a general guideline.

Equipment cannot be considered adequate unless it conforms to standards, is accessible to potential users and the potential users know where it is when they need it. Therefore, someone must be designated as being responsible for maintaining the first aid and CPR equipment. During the Inquiry, it became apparent that no one person considered themselves responsible for ensuring the first aid and CPR equipment was in working condition and properly supplied.

A related matter was the accessibility of the CPR mask in the lock-up. The presence or absence of a one-way valve was not resolved as there was no record of the mask's existence nor its condition or usability.

Perhaps most important is Constable MacDonald's argument that police officers should have the discretion to initiate resuscitation. This is only valid to a point and would come with significant accountability. No one would expect resuscitation to be started on someone obviously dead (e.g., extreme physical



injury, death occurring several hours to days previous). However, if police officers are given the discretion to withhold such efforts, they must be accountable. Their reasons must be clearly outlined in their notebooks and a process must be developed for management to review such incidents. Police officers must be prepared to provide specific and detailed reasons when called upon to explain their inaction.

**Findings:**

The Board of Inquiry makes the following findings:

1. Some of the Cape Breton Regional Police Service employees were not properly certified in first aid and CPR.
2. Having recertified in first aid and CPR within three months of Mr. Bailey's death, Constable MacDonald did not require direction on how to assess Mr. Bailey and should have independently done so as soon as he entered the cell.
3. It is highly unlikely that Constable MacDonald would have been able to detect a pulse through his heavy gloves.
4. Constable MacDonald failed to adequately explain his reluctance to properly follow basic first aid assessment ("look and listen"; feeling for a pulse).
5. There was a positive duty to administer first aid and CPR to James Bailey. If police officers are to be afforded any discretion in this regard, then they must be prepared to explain their decision to withhold administering first aid and CPR.
6. In light of the confusion surrounding the existence or accessibility of a barrier mask, the reluctance of Sergeant O'Rourke, Constable MacDonald and Carmel Butler to administer the breathing portion of CPR was not unreasonable. However, their failure to start chest compressions was not reasonable.
7. Lack of knowledge and training in the use of the barrier mask contributed to this confusion.
8. The absence of a designated person to maintain and to record the maintenance of the first aid kit and equipment also contributed to this confusion.

**Recommendations:**

1. Recertification of employees must take place within the recommended periods. Skills that are not used on a regular basis are often lost. More importantly, new developments in first aid and CPR delivery are not disseminated. Consequently, the most effective rescue techniques are not available for immediate use. During recertification the location of the first aid and CPR equipment in the lock-up, verification that each officer has a certified mask and the situations when officers would be obligated to provide CPR assistance, should be reviewed. To that end, it would be wise for the CBRPS to invest in training an officer as a first aid – CPR instructor to provide tailored training for their needs, or to engage an instructor to become familiar with the specific needs of the Service.
2. Following a review of the *Police Act* and other relevant legislation, and in conjunction with the Police Association, a policy regarding the obligation of police officers to provide first aid and CPR, as well as their discretion to withhold resuscitation in prescribed instances, should be developed. The policy should include a clear explanation of prescribed instances and a description of consequently required note-taking. As well, it should incorporate mechanisms for review of each incident and directives regarding the obligation of police officers to participate in any subsequent investigation.
3. Necessary first aid and CPR equipment should be determined in consultation with relevant service providers (e.g. St. John's Ambulance, Workers' Compensation Board). A first aid station should be set up in a central location within the lock-up, and high-visibility signs should be posted accordingly. These signs should include one that would be visible in the event of a power-outage.
4. Physically checking and maintaining first aid and CPR equipment should be designated in the job description of one person each day. Methods used by nursing units and paramedics can be easily tailored and incorporated into the regular routine of the lock-up.

#### **D. The Role of the Communications Centre**

Issues regarding the Communication Centre were examined by the OPP and by this Inquiry. The Inquiry heard evidence from Mr. Robert MacVey who was in charge of the CBRPS Communications Centre located in the Grand Lake Road Facility in Sydney. It also heard from dispatchers Judy McNeil and Patti Lynn Ropak, and listened to the 911 recording of the conversation. The panel was given a tour of the Communication Centre by Mr. MacVey.

Three issues arose from knowledge about the operations of the Communications Centre:

1. There was a concern that the Communications Centre could not transfer calls to departments within the police force and therefore could not transfer the emergency call from the lock-up directly to the ambulance dispatcher.
2. When the police dispatcher, Judy McNeil, received a call from James Bailey, she confused his last name. She did not have him spell his last name and consequently sought information from several sources for a James Barry.
3. Following Mr. Bailey's death, Judy McNeil contacted Constable Sehl through the dispatch telephone. Consequently the conversation was recorded. During that conversation, comments were made and some laughter exchanged that may have been inappropriate.

The Commission of Inquiry examined these issues and heard from interested parties.

##### **(1) Call Transfers**

Judy McNeil gave statements to the OPP and to the Police Commission, and gave evidence at the Inquiry.

Upon discovering James Bailey unresponsive in his cell, Ms. Butler dialed 911 and spoke to Judy McNeil. Ms. McNeil called the ambulance dispatcher Shelly Sullivan (who was located in Bedford, NS). Ms. McNeil could not transfer the call so that Ms. Sullivan could speak directly to Ms. Butler. At one time the dispatcher

had had the capability to transfer such calls but it was disabled because it was being misused. CBRPS personnel would call the Communications Centre asking to be transferred to any department, as this was faster than re-dialing the number and making the call directly.

Although the feature allowing for transfers between the Communications Centre and the ambulance dispatcher was re-established in November 1999, Ms. McNeil was unsure how reliable the system was and therefore asked the ambulance dispatcher to call the lock-up directly. However, there was no means for the ambulance dispatcher to speak directly with the person attempting to render assistance in the cell. Consequently information and instructions were exchanged by relay thereby causing unnecessary delays and contributing to further confusion.

(2) *Information-Taking*

CBRPS dispatcher Judy McNeil received a call from Mr. Bailey on the evening of May 16, 2000. He called to inquire why the police were looking for him, and to say that when the police picked him up he would rather go to "detox".

Ms. McNeil did not ask him to spell his name and believed she heard him say the name "Barry". He was obviously intoxicated. She checked with several police departments to see if they were looking for a James "Barry"; none were. Ms. McNeil tried to call Mr. Bailey but the number he had given her was busy. She then overheard another dispatcher, Patti Lynn Ropek, take a call from the same address and assumed the matter would be dealt with properly.

Mr. Bailey's call was not an emergency call and he should not have dialed 911. In such instances the dispatcher has the capability to end the call by pressing a button activating a pre-recorded statement instructing the caller on the proper use of 911, and providing the appropriate non-emergency phone numbers. Proper procedure would have been for Ms. McNeil to use this option. She did not, believing she could be of assistance to him.

(3) *Recorded Conversation*

As part of their investigation, the OPP examined the audio tapes from the Communications Centre, including Mr. Bailey's call, Bernard MacIntyre's call and Ms. McNeil's calls to the police. During their investigation, a recorded conversation

that took place between Constable Max Sehl and Dispatcher Judy McNeil shortly after Mr. Bailey's death came to light. It was taped as part of the routine of the Communications Centre and was therefore not a private conversation. If heard by anyone else, the conversation would have been inappropriate. It contained what has been described as "laughter" and inappropriate comments. During the Inquiry, much ado was made of this conversation. Counsel for the Bailey family insisted that it demonstrated a cavalier attitude toward James Bailey; that it explained why Mr. Bailey was "dumped" in the lock-up instead of being taken to hospital. They described what they heard as laughter and joking.

Ms. McNeil stated that she had called Constable Sehl because he is a friend and she knew he would be upset about Mr. Bailey's death. She wanted to be sure he was "okay". She placed the call through dispatch and neglected to consider that the call was being taped. She stated that the death was not a subject of humour; that people respond differently to stressful situations. She further stated that neither she nor Constable Sehl found the situation funny and that both have been referred for sensitivity training.

Counsel for Constable Sehl described the incident as "gallows humour": humour that is used to defuse stress in a distressing situation. He further stated that it was in no way intended to be disrespectful, but instead demonstrated Constable Sehl's distress over Mr. Bailey's death. During his evidence at the Inquiry, Constable Sehl stated that he was unaware that the conversation was being taped. He explained his use of language in the conversation. He also offered a very emotional apology to the Bailey family for his part in the conversation.

## **Conclusions**

### 1) *Call Transfers*

At the time of Mr. Bailey's death there was significant confusion regarding the ability to transfer calls between dispatch, the lock-up and emergency services. The problem has since been remedied: all employees have been briefed on the proper procedure to transfer calls. It is also now possible for custodians to have direct communication with the ambulance dispatcher in Bedford.

### 2) *Information Taking*

In her attempt to assist Mr. Bailey, Ms. McNeil neglected to follow both the non-emergency call procedure (transfer to pre-recorded message), and the procedure for verifying information (name spelling). By accepting Mr. Bailey's non-emergency call, she caused him to believe she would be assisting him. She should therefore have followed proper procedure and asked him to spell his name or asked to speak to someone else who could speak more clearly. In retrospect it may very well have been more effective to have the call re-routed through the non-emergency system.

In the end, Mr. Bailey was picked up by the police after his cousin Bernard MacIntyre called the non-emergency line. The only significant difference between Mr. Bailey's call and Bernard MacIntyre's call was that Mr. Bailey said he would rather go to "detox". Whether or not Ms. McNeil would have reported this to a police officer had one responded to her correct inquiry about "Bailey" is purely speculative. Had she ended the call and directed Mr. Bailey to the non-emergency line, Mr. Bailey might have made the request to go to "detox" to a dispatcher who might have passed the request on to the police.

### 3) *Recorded Conversation*

The Concise Oxford Dictionary defines *gallows humour* as "grim and ironical" (9th ed.). Although it may be unfamiliar to members of the public, evidence was given by other emergency personnel and police officers that it is sometimes used to relieve the stress of a difficult or traumatic situation.

The description of what was regarded on the dispatch tape as "laughter and joking" is inaccurate. Rather it was more of a "grim and ironical" conversation with a little nervous chuckling. That is not to say that the conversation is excusable, or that both Judy McNeil and Constable Sehl should have been using dispatch lines for their conversation. Regardless of their intent, the fact that the call was recorded and came to light has caused the Bailey family further unnecessary grief. Both Judy McNeil and Constable Sehl were sincere in their apologies to the Bailey family. They both confirmed that they would be receiving sensitivity training.



**Findings:**

The Board of Inquiry makes the following findings:

1. The problems with the call system within the CBRPS and between the CBRPS dispatch and ambulance dispatch in Bedford, NS, have been addressed.
2. The CBRPS dispatcher, Judy MacNeil, did not follow proper procedure in accepting Mr. Bailey's non-emergency call.
3. Having accepted Mr. Bailey's call, Ms. MacNeil failed to follow proper procedure by obtaining the proper spelling of his name.
4. Ms. MacNeil's actions likely had very little impact on the eventual outcome.
5. The conversation between Ms. MacNeil and Constable Sehl was an inappropriate conversation to have taken place over the dispatch system.
6. The conversation between Ms. MacNeil and Constable Sehl was not a reflection of their feelings regarding Mr. Bailey's demise, but was in fact, "gallows humour".
7. Ms. MacNeil and Constable Sehl were genuine in their regret over causing the Bailey family further unnecessary grief by their conversation.

***Recommendation:***

The Board of Inquiry finds that at the time of the conclusion of the Inquiry, all necessary steps had been taken to address these issues.

**E. *The Investigation of the Cell Death by the Cape Breton Regional Police Service***

A concern raised prior to this Inquiry was whether or not it was appropriate for the Cape Breton Regional Police Service to investigate itself on the matter, or if an outside agency should have been asked to do the investigation from the beginning. During the Inquiry, *Standard Operating Procedures (SOPs)* from the Justice Department of Nova Scotia and the CBRPS, and the procedure followed during the investigation itself, were reviewed. The impact of the Bailey family's conduct immediately following James Bailey's death, and during the investigations and the Inquiry, could not be ignored and so was also examined.

Sergeant Neil MacKenzie, Constable Walter Rutherford and Constable Ken O'Neil of the Major Crime Unit were in charge of the investigation that was commenced in accordance with *SOP*, Part II, Chapter 3, Standard 23.2.E which states:

An immediate investigation will be conducted when it appears that:

1. There are reasonable grounds to suspect that the subject died by violence, undue means or culpable negligence; or
2. The subject died in a place or under circumstances warranting an inquiry; or
3. The cause of death is undetermined; or
4. The subject died in prison or in police custody.

Accordingly, an investigation by the police department where the death occurred is mandatory.

The CBRPS maintains that the senior management of the relevant police department should determine whether or not the initial investigation should be carried out by its own department. In this case, the CBRPS maintains that it correctly determined that the death was not a homicide, and that no other investigator could have found otherwise.

The role of the CBRPS senior management throughout the investigation was unclear. Chief Edgar MacLeod maintained that he did not involve himself because he would have to remain neutral in case issues of discipline arose.

Associate Chief Wilson stated that he was satisfied with the investigation. He gave evidence that there was a great deal of pressure on members of the Police Service because they were being accused of murder. He knew as soon as he viewed the tapes that there was no criminal behaviour in the jail cell and yet he maintained that the family could not view the tapes. He remarked that people should accept what the police say and that the Bailey family should have been content with his verbal report as to what the tapes showed. Associate Chief Wilson stated further that because a public complaint to the Nova Scotia Police Commission ("NSPC" or "Commission") was made, the CBRPS only investigated the criminal aspects of the file and made no comment on any other issues.

Sergeant MacKenzie, Constable Rudderham and Constable O'Neil of the Major Crime Unit carried out the investigation. The evidence reviewed described them as very competent investigators with years of experience. Once they completed their investigation they reported to the Crown Prosecutor's Office. The videotapes were included as evidence in the report. Shortly thereafter, the Minister of Justice directed that the investigation be handed over to the Ontario Provincial Police (OPP). The forwarded file did not contain the investigative synopsis normally done when a file is closed.

Chief MacLeod confirmed that there normally would have been an internal briefing with a view to examining why the cell death occurred, and what could have been done to prevent it. He said that this did not happen in the Bailey case because the materials were sent to the Crown, the OPP began their investigation, and then the Inquiry was called. He confirmed that, notwithstanding these subsequent investigations, an investigative synopsis should have been done and given to the crown prosecutor with the file.

Paula and Kevin Bailey left Ottawa immediately upon learning of James Bailey's death. They drove from Ottawa to Sydney and during the trip Paula learned from the MacIntyre's that James Bailey had been arrested under the *Liquor Control Act*. Paula Bailey's immediate reaction was to suspect a police cover-up because she believed her brother was addicted to pills, not alcohol. Without further inquiry, she called the media from her vehicle to report her suspicion.

Paula Bailey alleged that she was not allowed to see the body until after the autopsy because the police were covering up the evidence of brutality. Members of the Bailey family took every bit of information and spun it to fit a conclusion of police wrongdoing. The accusations continued on almost a daily basis and the Bailey family ensured that every detail was played out in the media.

The family relied heavily on information provided by Earnest MacGillivray who became involved because he was a prisoner in the lock-up on the night Mr. Bailey died. He gave three sworn statements: one to legal counsel for Paula Bailey on May 26, 2000, one for the Cape Breton Regional Police Service on May 31, 2000 and one for the Ontario Provincial Police on September 7, 2000. Earnest MacGillivray was also interviewed by the investigator for the Inquiry and gave evidence at the Inquiry.

Earnest MacGillivray was taken to the lock-up at approximately 00:30h. On May 17, 2000, he had consumed approximately one pint of rum over the previous 4-5 hours. He believed that there were only three cells at the lock-up, and that he and one other person were the only prisoners. The other prisoner was making a commotion, asking to "see someone" and was banging on the bars. Earnest MacGillivray recognized Sergeant O'Rourke's voice when he spoke to the other prisoner. At one point Sergeant O'Rourke stated, "What would your father think?" Based on that question he concluded that the prisoner was known to Sergeant O'Rourke and was probably a young offender.

Following James Bailey's death, Earnest MacGillivray was in contact with Paula Bailey and agreed to give a statement to her lawyer, Blaise MacDonald. Throughout that statement he refers to the other prisoner as "the young fellow." Blaise MacDonald, in his questions to Earnest MacGillivray during the giving of his statement, refers to that person as James Bailey. Nevertheless MacGillivray made it quite clear that he did not see the other prisoner or that he recognized that person's voice. Blaise MacDonald pressed Earnest MacGillivray asking whether Sergeant O'Rourke used the word "Butch" when referring to the young fellow's father (Butch was James Bailey's father's name). Earnest MacGillivray repeatedly denied this.

In his statement to the OPP Earnest MacGillivray stated, "I surmised it was the young fellow because I didn't think there was anybody else there other than me and one other person." He also heard the jailer and others when James Bailey was discovered lifeless in this cell. When Earnest MacGillivray heard the news

reports about the death the next day, he became concerned that James Bailey and the young fellow may have been the same person. Earnest MacGillivery was mistaken in making that connection. There are eleven cells in the lock-up, not three, and there were several prisoners incarcerated that night. The commotion was coming from Cell #11 where the young offender was acting up.

## **Conclusion**

This investigation concerns a death in cells. It could not be completed without the public having at least an apprehension of bias precisely because members of the CBRPS were directly involved. The death of a person while in the care of a police force necessarily involves members of that force and its employees as witnesses.

The finding or not finding of wrongdoing may be the goal of an investigation, however, it is immaterial to the process itself and how the process is viewed. It is the process as viewed by the public that determines whether or not the public will have faith in the findings. This Inquiry is concerned with the public's ability to have that faith.

Associate Chief Wilson's position on the non-release of the video tapes shows the difficulty any police force will have when it investigates and deals with the public on a matter that involves itself directly. Even when the police make the right decision in cases that involve alleged wrong-doing by members, and notwithstanding that they are perfectly capable of properly investigating themselves, they are not always trusted. People will not trust findings of this kind of investigation unless the process is transparent – and appears to be transparent. Holding onto video tapes that exonerated the CBRPS of any violence toward Mr. Bailey well after it was determined that criminal charges would not be laid worked against the appearance of a transparent process and the building of public trust in that process.

The CBRPS quickly determined that James Bailey's death was not the result of foul play and that there was no criminal behaviour. It was after that determination that the investigation seemed to become unfocused. Issues regarding employees and their duties were not considered and the whole issue of whether or not the policies and procedures were followed did not form part of the self-examination that should have taken place as part of the investigation.

The CBRPS should not rely on a public complaint to trigger its own internal investigation. Nor should the oversight system be used as a shield to prevent a proactive approach to resolving issues arising from the service's interaction with members of the public.

**Findings:**

The Board of Inquiry makes the following findings:

1. The Cape Breton Regional Police Service was under a positive duty to investigate itself on the matter of the death of James Guy Bailey, Jr., while he was in police custody.
2. The impact of the Bailey family's accusations of murder cannot be ignored when examining the conduct of the Cape Breton Regional Police Service investigation. The accusations clearly contributed to the Cape Breton Regional Police Service's defensive stance and caused them to "close ranks".
3. The Cape Breton Regional Police Service correctly forwarded the file and the evidence (including the video tapes) to the Public Prosecutor's Office.
4. Earnest MacGillivery was truthful throughout his statements and at the Inquiry. As he was not advised otherwise, he continued in his belief that James Bailey and the young offender were the same person.
5. The media and the Bailey family unfairly characterized Earnest MacGillivery as being untruthful.



***Recommendation:***

1. The province should examine the feasibility of instituting a "critical incident team", made up of officers from various departments and detachments, to provide assistance with investigating difficult or sensitive cases.
  
2. In the event that the province declines to proceed with recommendation number 1, it should consider directing police departments to involve an outside force with the investigation when a prisoner dies while in that police department's custody.

#### **F. The Public Complaint Filed with the Nova Scotia Police Commission**

The *Police Act* requires that when a public complaint is filed (by way of a Form 5), the initial investigation is conducted by the police department involved. When the investigation is completed, the chief of that department makes a decision regarding discipline and forwards his or her determination to the Nova Scotia Police Commission. If a complainant is not satisfied, he or she can request that the matter be investigated by the Commission. The Commission's investigator then determines whether or not the matter goes to a hearing before the Nova Scotia Police Review Board. If the Commission's investigator refuses to forward a complaint to the Police Review Board, the complainant may appeal the investigator's decision to the Nova Scotia Police Commission for an order referring the complaint to the Nova Scotia Police Review Board.

Following James Bailey's death, his family filed a public complaint with the Nova Scotia Police Commission. The complaint was filed on May 24, 2000 and was signed by his mother, Lillian Bailey and sister, Paula Bailey. It specifically named officers Max Sehl and John O'Rourke, and "other unknown officers involved".

Although the Form 5 did not contain a specific complaint, *per se*, it contained concerns that covered a number of different areas that can be summarized as follows:

1. The Bailey family believed that James Bailey had called 911 and did not get a response. They believed that James Bailey's cousin, Bernard MacIntyre, called the police dispatch stating that James was not drunk but was "on something" and that he was afraid for James' safety. They believed Bernard MacIntyre left his phone number so that if the police could not get James Bailey to a hospital, the police would call Bernard MacIntyre back and he would.
2. The family thought that a family member should have identified James Bailey's body. They also could not understand why they could not view his body until after the autopsy.

3. They were concerned that a witness had come forward and said that James Bailey had been crying out for help when he was in the cell and that he was ignored.
4. They believed that James Bailey would be alive if he had been taken for medical attention.
5. The family had a series of questions they wanted answered:
  - a. What were the pills James Bailey had, and what was in the toxicology report?
  - b. Why didn't the 911 operator call back, and why didn't the police return Bernard MacIntyre's call?
  - c. Why was James Bailey arrested when he had called for help?
  - d. Why were members of the CBRPS investigating their own officers?
  - e. Finally, why was the family not allowed to view the video tapes from cell #4 where James Bailey had died?

The Form 5 complaint to the Police Commission contained a paragraph which the family believed to be the facts leading up to Mr. Bailey's arrest. The following is a summary of that paragraph:

James Guy Bailey Jr. was arrested on May 16, 2000. He is the one who phoned 911 with no response from 911. Shortly after the call to 911 Bernie MacIntyre (cousin of James Bailey) called dispatch of Regional Police at 794-5151. He explained in full detail that James needs help, told dispatch that James was on something but didn't know what. He told dispatch that James "was not" drunk but was afraid for James Bailey's safety and that he might be hit by a car. Bernie left his name, phone number, and address in case police couldn't get James Bailey to the hospital; to call him back so Bernie would take care of him, and that "no" phone call was returned.

The family and others believed that James Bailey would have survived if he had been taken to the hospital. They wanted to believe that they themselves had made the request for the police to take him there. They believed that the police

should have taken him to the hospital because family members had warned that Bailey was high on something and that he had not been drinking. They went so far as to suggest that if the police couldn't take him to the hospital, the dispatcher should call back so that Bernie MacIntyre could take care of him.

The complaint indicated that the body should have been identified by a family member and not by a police officer. The complaint also suggested that the family might have been refused access to the body even after the autopsy except that the family threatened to take the issue to the media.

Viewing the body following an autopsy was distressing for the Bailey family, as it would have been for any family. At the Inquiry, Paula Bailey and Kevin Bailey complained that they had been expelled from the hospital room by Sergeant Dave Morrison. However, evidence by another police officer and a nurse, Darlena Copek, contradicted this. Kevin Bailey believed the bruising that he saw on James Bailey's hands indicated that someone had beaten him up and Paula Bailey believed that she tasted makeup that was used to hide evidence of assault.

The initial investigation of the complaint was conducted by Inspector Jack Banfield. He followed the procedures as set out in the *Police Act* and filed his conclusions with Chief Edgar MacLeod on October 5, 2000 (**Appendix A147-151**). Chief MacLeod filed his disposition on November 16, 2000. He concluded that there was "insufficient evidence to support disciplinary default," but did not supply any reasons. The Bailey family initiated a review of Chief MacLeod's findings by the Commission.

The *Police Act* provides for the informal resolution of complaints. However, given the high level of mistrust in this situation it is not surprising that an informal resolution was not attempted.

It should be noted that, other than the failed meeting following the Bailey family's viewing of James Bailey's body, the CBRPS did not attempt to address the issues raised by the Bailey family in the complaint in an informal setting. This was due in large measure to the matter having been referred to the OPP in mid-July 2000 and to the Inquiry having been called following the completion of the OPP's report.

Inspector Banfield gave evidence at the Inquiry and his investigation notes and report were submitted as evidence. He addressed the questions posed by the Bailey family in their original complaint and noted that, after he viewed the video tapes, it was obvious that the Bailey family had been "*provided with a lot of misinformation*".

When questioned at the Inquiry, Inspector Banfield stated that it never occurred to him to sit down with the family to answer their questions. Furthermore, he did not know under what authority he could give copies of the videos or any other information to them.

## **Conclusions**

In order to have effective informal resolution there has to be a mechanism to provide all parties with the same information. The *Police Act* requires that along with the findings of the Chief of Police, reasons for the findings be given. Chief Edgar MacLeod's mere statement that there was "*insufficient evidence*" does not constitute sufficient "*reasons*" within the spirit of the legislation.

Mr. Bailey was identified at the time of his arrest and he was properly identified at the hospital after he was pronounced dead. This was confirmed by Constable Mike Rolfe. If there had been any question or doubt, then a family member would have been called. But identification was not the real issue troubling the family. Rather it was the desire to see the body to satisfy themselves that it was, in fact, James Guy Bailey, Jr.

The Bailey family was not allowed to view the body until after the autopsy was completed. While this makes sense in order to preserve the evidence, particularly before an autopsy documents the cause of death, this autopsy took some time to arrange (more than 36 hours). There should have been some mechanism for the family to see the body without causing evidentiary problems. Such alternatives can include viewing behind glass or via CCTV.

Inspector Banfield's report was detailed. It would have provided the public with sufficient "reasons" for the Chief's finding and answer many of the Bailey family's questions. Unfortunately, that report was not made public until the Inquiry was called and the documents gathered by the Inquiry's investigator were released. The video tapes of the lock-up area and cell # 4 were released at the same time (Fall, 2001).

Some members of the Bailey family, including Paula Bailey, were prone to exaggeration and hysterics. One only needs to review the media clippings to conclude they immediately jumped to their inflammatory conclusions with little or no investigation. Their distrust of the police led them to believe that what they saw indicated that James Bailey had been physically abused by the police, though there was absolutely no truth and no basis to these allegations. In this case, although the family was unhappy, Sergeant Dave Morrison and Constable Ken O'Neil conducted themselves appropriately.

The police must be prepared to deal effectively with all members of the public regardless of their personalities and with a degree of sensitivity to emotional and physical difficulties. Members of the public should not have to wait until the complaint reaches the Commission's investigative stage before they are made aware of the circumstances and evidence uncovered by a police department's initial investigation.

It is important for police departments to investigate complaints against them if for no other reason than that they must be aware of any possible disciplinary defaults. However, if police departments maintain that they should continue to be responsible for the initial investigation of public complaints, they must be completely transparent in their process, and the complainant must be kept informed and involved throughout the investigation. Furthermore, the *Police Act* in its current form, requires reasons to be given when there is a finding that there is no disciplinary default and also provides for alternate dispute resolution. Police departments must live up to the spirit of that legislation. There must be an honest attempt at resolving the complaint, and the reasons provided must be detailed. In the Bailey case, there would have been no harm in releasing Inspector Banfield's report, and certainly no harm in allowing a representative of the family to view the tapes at the same time.

## ***Findings***

The Board of Inquiry makes the following findings:

1. The police acted appropriately and were quick to cooperate with viewing the body when the autopsy was completed. They acted appropriately throughout the viewing and afterwards at the meeting with the Bailey family.
2. The Form 5 asked a number of questions which were thoroughly canvassed during the investigations into the complaint and at the Inquiry. The Commission finds that those questions have been answered.
3. As a result of the Inquiry the public complaint has been fully reviewed. The Board of Inquiry has the same authority as the Police Review Board. Therefore, the Report of this Inquiry shall be substituted for any possible findings that could have come from a Police Review Board hearing.



***Recommendations:***

1. Where there is a finding of no disciplinary default, there must be detailed reasons given and those reasons are to be communicated to the complainant.
2. Each police department in the province of Nova Scotia shall examine their procedures for alternate dispute resolution with a view to ensuring that, whenever possible, public complaints are informally resolved.
3. When the investigation into a public complaint discloses evidence that would assist in resolving the complaint, that evidence is to be disclosed to the complainant at the earliest possible opportunity.
4. A means for viewing a body prior to a forensic autopsy (e.g. glass partition, closed circuit television) should be established in any hospital where such autopsies are conducted.
5. The disposition of the public complaint in the Bailey matter shall be in accordance with the Inquiry's Report without further investigation or hearing.
6. Personal effects belonging to James Bailey and original family photographs shall be returned to the Bailey family. The bottle of various pills should be delivered to a pharmacy for safe disposal.

**G. The Emergency Department Policy Re: Accepting Intoxicated Persons**

Police officers regularly encounter intoxicated persons. How best to deal with or manage these people is an issue placed squarely before this Commission.

Shortly after the investigation into the death of James Bailey, an allegation was made by Inspector Jack Banfield of the CBRPS that:

*"As we are all aware, hospitals will not treat people in [an intoxicated] condition and, therefore, he was incarcerated."*

In his statement to Dennis Squires, Investigator for the Nova Scotia Police Commission, Inspector Banfield expanded his statement as follows:

*"It has been my experience that hospitals will not accept persons who are intoxicated, or require psychiatric help, until they are sober. Therefore, the prisoner is kept in our cells until that time. This is as it relates only to those persons who may have a mental condition."*

Because of this allegation, several health care workers (hospital and Emergency Health Service personnel) and police officers were interviewed. In addition to reviewing various statements given to the CBRPS and the OPP, as well as evidence given during the Inquiry, the relevant hospital policy and procedure manuals were canvassed.

Under cross-examination by counsel for the Commission, Inspector Banfield clarified his remarks made to Investigator Squires. He stated that he had met with a hospital psychiatrist who had explained that a psychiatric evaluation could not be carried out on patients under the influence of alcohol or drugs.

Other witnesses expressed some hesitation about a hospital's willingness to accept intoxicated patients. Sergeant John Stewart declined to get into specifics. He stated that, because he could not back up his recollections with facts, it would be unfair to the medical professionals to make general comments.

Carmel Butler was asked by her counsel if she noticed any problems at the Grand Lake Road lock-up that she thought were sufficiently serious to bring to the attention of management. Ms. Butler stated:

*"I was very concerned with people being brought to the lock-up, sent by doctors, sent by hospitals to lock-up when I – in my mind I thought they should be in a comfortable surrounding with medical treatment available to them. I expressed that [concern] to many officers I worked with, to every sergeant I worked with, even to the Associate Chief [Dave Wilson] when he came through the lock-up. He informed me that hospitals wouldn't keep them."*

It is relevant to note that one witness was called to describe an incident that took place at the Glace Bay Hospital in 2002. Shelley Boutilier, RN, stated that on the evening of March 4, 2002, she was working in the emergency department. According to hospital records, during the afternoon an adult male presented to the emergency department for treatment of pain secondary to a several week old fractured arm. The doctor noted that he smelled of alcohol "and other smells." Within 20 minutes he was assessed for triage as level IV: non-urgent and stable. The doctor saw him four hours later; 30 minutes after that he was given a narcotic analgesic by injection and discharged. Less than two hours later he returned to the Glace Bay Emergency Department in a wheelchair, accompanied by Constable Mark Myler and Constable Shaun MacLean. He had been found in a park unresponsive to verbal cues. A mouthwash bottle that was one quarter full was found nearby.

Shelley Boutilier testified that initially the doctor told the police to take the person to lock-up and that he would not see him. Ms. Boutilier reminded the doctor that he had seen him "one hour" earlier, and that he should examine him again. The doctor placed the man under observation and he was treated accordingly without further incident. He was admitted to the Detox Centre the next day. It is not clear from the evidence how much time passed between his discharge from the emergency department and his admission to the Detox Centre.

The Cape Breton Health Care Complex (CBHCC) policy, *"Patient Assessment in Emergency Room"* and other relevant documents of the day specifically state that all persons presenting to the Emergency Department are to be triaged and examined by a physician before being discharged. The CBHCC also has a specific nursing policy on the handling of intoxicated patients. The policies appear to be adequately precise in their direction on these matters.

Three EHS employees, from P-1 to P-3 <sup>(2)</sup> gave evidence that they frequently respond to calls to transport intoxicated patients. They included trips to the Grand Lake Road facility and to other lock-up facilities prior to the opening of the Grand Lake Road facility. In their 22 plus years of combined experience, they had never witnessed the emergency department refuse to accept any patient, regardless of condition.

All other relevant witnesses were consistent in their evidence: patients are never turned away from the emergency department. If a patient becomes untreatable because of that patient's conduct (e.g., violence), a Commissionaire and/or the police are called for assistance. If appropriate (i.e., the condition of the patient permits), the offending patient may be removed to the lock-up until they are in such a state as to be able to cooperate with the hospital staff.

In fact, Mr. Bailey himself had been removed from the North Sydney General Hospital (NSGH) for such behaviour. Constable Mel Birmingham described an incident on May 29, 1998, when Lillian Bailey called for assistance in removing Mr. Bailey from her home. Mr. Bailey was agitated, uncooperative and would not enter an ambulance waiting to take him to the NSGH. Constable Birmingham placed him in his police vehicle and was able to calm him down by agreeing to take him to the hospital himself. He left Mr. Bailey in the NSGH emergency department but was called back almost immediately by the NSGH because Mr. Bailey had become unruly and untreatable by the health staff. He arrested Mr. Bailey and took him to the central lock-up. It was his experience that this was the only situation when hospitals would not accept an intoxicated prisoner; the police service has a very good rapport with the hospitals.

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<sup>(2)</sup> These are paramedic designations. A P-3 is the most senior and medically independent paramedics.

**Conclusions:**

A few employees of the municipality held the idea that hospitals in the Cape Breton area would not accept intoxicated patients. However, as a general truism, it was not supported by the evidence. Moreover, the arresting officer (Constable Max Sehl) held no such belief at the time he detained James Bailey, nor did any of the other officers directly involved with James Bailey on May 16-17, 2000.

The existence of such urban myths surrounding the acceptance of intoxicated detainees at the Emergency Department to any degree must be addressed directly to avoid any future possibility of harm to members of the public. Whether or not Ms. Butler's evidence regarding this misinformation is credible, and notwithstanding that the incident at Glace Bay Hospital was a minor event that led to no harm, the fact that it occurred almost two years after James Bailey's death together with the fact that Ms. Butler made the statement at the time of the Inquiry demonstrates that this is very much a live issue that warrants attention.

Chief Edgar MacLeod testified that when a prisoner or detainee requires medical assistance, police officers are required to remain with that person until that person is medically cleared. This requires that police officers remain out of service in hospitals for hours at a time, leaving their colleagues short-staffed. He stated that the CBRPS could ill afford the human and financial resources this requires. A suggested alternative was for the hospital to provide security personnel to remain with the prisoner. At the CBHCC, this would involve Commissionaires who are not qualified for such duty. Moreover, the Commissionaire would also be unavailable for other responsibilities. Counsel for the Cape Breton District Health Authority suggested that the hospital could also not afford the human or financial resources required for such an arrangement.

The issue of who should be responsible for intoxicated detainees is complex, and requires allocation of human and financial resources. It also requires consideration of other recommendations coming out of this Inquiry (e.g., recommendations regarding alternatives to arrest and detention).

***Findings:***

The Board of Inquiry makes the following findings:

1. The evidence does not support the allegation that CBRPS officers could not bring intoxicated detainees to the emergency department because the emergency department would not treat them.
2. The question of who should be responsible for supervising intoxicated prisoners awaiting treatment in the emergency department requires the allocation of financial resources and personnel and is beyond the scope of this Inquiry. More information is necessary in order to resolve the problem.

**Recommendations:**

1. The role of hospitals and the relationship between hospitals and police departments should be clearly explained to cadets during basic training and reinforced during orientation and refresher programs.
2. Municipal police departments must develop standard operating procedures regarding the arrest and/or detention of intoxicated persons. Such SOPs should:
  - a. be developed following literature searches that include current research on the matter;
  - b. be parallel in intent and language to existing federal and provincial SOPs and legislation;
  - c. incorporate the recommendations of Dr. Barry McLellan (**Appendix A113-115**); and
  - d. at a minimum, include the following:
    - i. when assessing a detainee arrested for public intoxication for placement in cells, the presence of medication or prescription bottles - with or without pills - is an indication that a medical professional must first assess the detainee before the detainee is placed in the lock-up.
    - ii. police officers and custodians are under a positive duty to report to the officer in charge of the lock-up any concerns they have regarding the health and welfare of any detainee and the presence of any prescription bottles whether empty or not.
  - e. during police department orientation sessions, non-officer employees (e.g., custodians, dispatch) and new police members (including experienced officers transferring from other police departments) should be introduced to the emergency departments of the local hospital(s).

3. Responsibility for intoxicated detainees at the emergency department, the province and Department of Health should form an *ad hoc* committee to study the problem in its entirety with a view to resolving the matter in a fiscally responsible manner for both police and health departments. The committee should:
  - a. as soon as practicable implement a formal policy regarding the triage of patients brought in from the lock-up, and/or by police officers. The policy should give formal priority to these patients over other patients of *equal triage designation* in order to hasten the return to active duty of officers accompanying such patients.
  - b. investigate the use of "Medical Officers" or "Police Surgeons" employed in the U.K. and elsewhere to determine if that is an appropriate model for municipal lock-ups; and
  - c. investigate the possible use of registered nurses, VON and nurse practitioners in municipal lock-ups along the same lines as they are employed at provincial lock-ups.



## **H. The Role of the Detoxification Centre and the Involvement of the Mental Health Unit**

During the Inquiry, the issue of whether or not policy and procedure were followed in handling James Bailey's calls to the Detox Centre was raised. Examination of the resources available to the facility is a logical next step. As a corollary of this, the Mental Health Unit as an adjunct resource was briefly examined, as was the financial support provided to Mr. Bailey by Community Services.

The Detox Centre is housed in the basement of the CBHCC, but is operated independently from the hospital by Addiction Services of Nova Scotia (ASNS). It provides clients with programs for getting off drugs and alcohol permanently. ASNS is not a "wet" shelter in that clients must be sober in order to be admitted and participate. Long-term detoxification is the goal; short-term substance withdrawal ("sobering up" or "getting straight") is not managed through this facility.

The Detox Centre is classed as a sub-acute facility, i.e., there are no facilities for taking blood, doing x-rays or other diagnostic testing, and there are no medical doctors in the unit. A three-day initial inpatient program is run from this facility. At the time of the Inquiry, a 21-day residential program was being run elsewhere, and an outpatient program was being run in downtown Sydney.

James Bailey called the Detox Centre and asked for a bed. In a brief conversation he was told there were no beds available and was advised to go to the emergency department for assessment. A follow-up call to Mr. Bailey was not made.

Wayne Aucoin is 57 years old and works full-time at the Detox Centre. His responsibilities include admitting clients to the Centre (information gathering and addiction history), managing clients' care (e.g., hygiene and meals), and communication. Although he is a licensed practical nurse (LPN), that expertise is not a prerequisite for the job. He has completed a pharmacology course but does not dispense medications.

Wayne Aucoin was assigned to telephone duty on the evening of May 16, 2000. At approximately 20:00h he received a call from Mr. Bailey who asked to be admitted to the unit. He initially stated the call was 2-3 minutes, then 2 minutes, and then 1 ½ minutes. During the call, Wayne Aucoin solicited from Mr. Bailey his name and what substance he was abusing. Wayne Aucoin knew Mr. Bailey; his

reference was the Rolodex on the phone desk and his previous experiences with him at the centre. The Rolodex listed a brief history of Mr. Bailey including substances abused in the past. It was not the practice of the unit to note any previous suicide attempts or associated ideation, nor any history of depression.

Mr. Bailey hung up the phone after Wayne Aucoin said he would call him when a bed was available. He had directed him to go to the emergency department for a medical assessment. At first, Wayne Aucoin stated that *"he just hung up...click and he was gone"* which implies that Mr. Bailey terminated the call peremptorily. At the Inquiry Wayne Aucoin insisted that the call ended in a normal manner.

Wayne Aucoin formed the opinion that Mr. Bailey was not medically fit for the Detox Centre based on the following:

- slurred speech;
- "fading", that is it sounded as if the phone was moving away from Mr. Bailey's mouth, although he concluded that his voice was just getting lower;
- he had advised Wayne Aucoin that he had taken lectopams, Fiorinal and alcohol.

Wayne Aucoin further concluded that Mr. Bailey was "incapacitated", a term commonly used in the Detox Centre to mean "inebriated" and that he needed emergency care. At the same time he concluded that the call was not a crisis call because Mr. Bailey did not expressly threaten to harm himself or others. He later amended this to *"cause life-threatening harm"* to himself or others. Consequently, he did not do any follow-up. He did not call Mr. Bailey back, nor did he call 911 or the CBRPS to request assistance. Because he could hear voices in the background, he concluded that Mr. Bailey was not alone and could make his way to the emergency department. Based on his past experience with him (Mr. Bailey had been in the centre on nine other occasions), he was confident Mr. Bailey could and would follow directions to go to the emergency department. He did not notify his supervisor, Leona Hickey, RN, of Mr. Bailey's call until later that evening.

According to his performance reviews (1999 – 2002), Wayne Aucoin is a competent employee. In 1999, his supervisor wrote that he had *"excellent assessment skills, completes paperwork efficiently and makes appropriate referrals...reacts well in crisis situations and applies policy and procedure"*

*guidelines.*" In 2000, he *"continues to meet or exceed all criteria set forth in the Counselor III Job Description."* The same was said in Mr. Aucoin's 2002 performance reviews.

Everett Harris has been the Director of Addiction Services for the Cape Breton District Health Authority since 1999. He has a Masters degree in Social Work, a diploma in Public Management, and has attended continuing education in the form of conferences. Previous to assuming responsibility for Addiction Services, he was the Detox Centre Manager for nine or 10 years. He worked for 30 years in the Sydney Addiction program. In 1970 he was a Board Member of Addiction Services where he oversaw the addiction program in its formative years and worked as a social worker elsewhere at the same time. He was also a Board Member for Addiction Services Canada. He retired as a Board Member 13 or 14 years ago in order to assume his current position.

Everett Harris described the Detox Centre in more detail. He explained that it is a primary care unit because it handles more than withdrawal management. Its inpatient capacity is 20. There is one other similar facility which is part of the Strait Richmond Site; it has 12 beds.

The staff at the Detox Centre is comprised of registered nurses (RNs) and counselor attendants (CAs). Fulltime and casual staff (from other areas) may be used at times. An RN is in charge of each 12 hour day and night shift. There is an RN and a CA on each shift and they both share the phone responsibilities. Although the current RN does not have specific training in addiction nursing, she does have "a lot of experience". The RNs are qualified for "shared competencies" which are similar to that of ICU nurses wherein standard routine matters (e.g., medication for withdrawal management) are handled by the RN without physician supervision. Shared competencies are determined by an agreement between the Nova Scotia College of Physicians & Surgeons and the College of Registered Nurses of Nova Scotia.

Everett Harris has known Wayne Aucoin since he was employed with Addiction Services. As a counselor attendant, Mr. Aucoin has direct contact with patients and potential patients. Employees are trained to handle crisis calls through in-services, ongoing supervision and experience. They are now receiving specific suicide intervention training.

Everett Harris reviewed the incident involving Mr. Bailey and concluded that Wayne Aucoin had acted appropriately and in accordance with Addiction Services' policies and procedures. However, during the Inquiry he acknowledged that Wayne Aucoin's lack of a follow-up telephone call was not consistent with past practice.

### **Conclusions:**

During the investigation into James Bailey's death inferences were raised that his call was mishandled, that the Detox Centre did not have adequate resources for the demand, or both. It further became apparent that, notwithstanding the fact that the emergency department, Detox Centre and Mental Health Unit (MHU) see a significant overlap in clients, there is little or no coordination of services. This circumstance leaves clients to fall through the cracks or to experience delayed, disjointed, or inconsistent delivery of service.

Wayne Aucoin stated more than once that he was familiar with James Bailey and he felt Mr. Bailey would follow instructions and present himself to the emergency department. Everett Harris acknowledged that the procedure followed that evening was not consistent with past practices. Not only was it not consistent with past practice but after nine admissions the staff members at the Detox Centre were all familiar with James Bailey. They knew of his history of suicidal ideation and they knew of his past admissions to the MHU. In light of the foregoing, a follow up call should have been made. However, it is speculation to say a follow-up call would have changed the course of Mr. Bailey's night.

There are conflicts within Wayne Aucoin's evidence. While he insists that James Bailey was not medically fit to be in the Detox Centre, that he was, in fact, incapacitated and fading in and out of the conversation, he also insists that it was not a crisis call because Mr. Bailey did not expressly threaten to harm anyone or himself. This is a question of training/re-training in the identification of crisis situations.

Given that the Detox Centre supervisors have given him consistent and glowing performance reviews, the problem may be in the teaching of the policies or within the policies themselves. There are gaps in the policies that need filling. For example, *Policy 4-240 (clause 3)* states that the charge nurse will document the client's suicidal ideation. However, it does not indicate where it should be documented. In any case, this had not been done with respect to Mr. Bailey. Wayne Aucoin indicated in his evidence that it would be helpful to have that information noted in the Rolodex for the benefit of all operators. In addition, in *Policy 2-60 (clause 3)*, what is meant by "clinical judgment" is unclear.

Notwithstanding Everett Harris' statements to the contrary, the current unit needs more resources. At the date of the Inquiry, it had only 20 beds, and could not handle anything more than simple withdrawal management. Moreover, the clients must be relatively sober or "straight" in order to be admitted.

While canvassing the issue of whether or not the Detox Centre is adequately resourced, the question of "wet" shelters as a possible solution was raised. A wet shelter, unlike a dry shelter such as the Detoxification Unit, would provide the intoxicated with basic needs and security. With no "wet" shelters the hospitals and police are left to manage, expending resources that would be better used elsewhere.

Finally, given the overlap in services and client-base, the discharge planning that is done when clients leave the Detox Centre, emergency department and Mental Health Unit is inadequate. The community would be better served by these health services if they worked more closely together. Any argument that this may contravene client confidentiality is not supportable. The staff members in each of the departments are equally bound by confidentiality requirements of their employers and the law. Regardless, any such concern is far outweighed by the existing gaps in care and services.

Each facility on its own is a rich resource for client information on life style, risk factors, baseline health issues, and crisis assessment. The inability, or unwillingness, to share this information is a significant loss in the effectiveness of health care delivered to those in need. Some method of interdisciplinary communication needs to be developed. The simplest way would be for the units to have access to electronic files using user name and password protection. Were the emergency department, MHU and Detox Centre employees able to pull up such information on clients they are dealing with in the moment, an appropriate client-based course of action could be quickly formulated and implemented more smoothly. In the matter before the Commission, Mr. Bailey's risk level may very well have been evident to those situated to provide assistance had such an integrated system been in place.

Janet O'Connell who is employed by the Department of Community Services gave evidence at the Inquiry. The Inquiry was told how Mr. Bailey was given a cheque in his name for \$325.00. James Bailey had completed a "Confirmation of Housing" form and told his income assistance worker that he was moving to Ontario to be with his sister. Clearly, someone with his history should not have

been given the money. Had an integrated system been in place that included Community Services, the income assistance worker would have had more comprehensive information to make a decision on whether to give Mr. Bailey ready access to cash. Alternative means of providing financial support could have been considered, and the means to buy the drugs that ultimately killed James Bailey would not have come from a system that was trying to help him.

## ***Findings***

The Board of Inquiry makes the following findings:

1. The response of the Detox Centre to Mr. Bailey's call for assistance was not consistent with past practice.
2. The Detox Centre requires better funding and more resources to handle the drug and alcohol problem in its service area.
3. Everett Harris stated that rather than see more beds opened, money could be spent elsewhere. Wet shelters and integrated computer systems are only two examples of where money might be spent more effectively.
4. The emergency department, Detox Centre and the Mental Health Unit should be providing integrated care and discharge planning.



### **Recommendations:**

1. Response to Mr. Bailey's telephone call.

The policies and procedures of the Detox Centre need to be revised to clarify language and intent including, but not limited to:

- a. Noting clients' histories of suicide attempts or ideation in such a place that it would immediately come to the attention of the person handling the phones (e.g., the Rolodex).
- b. Avoiding the use of vague terms such as "clinical judgment" and, instead, stipulating the use of criterion-based discretion. For example, in assessing whether or not a situation is a crisis, reference to specific behaviours should be made (expressed threats, implied threats, substances abused, clarity of language and thought process, etc.).

2. Resources for the Detox Centre.

Additional resources must be directed to the Detox Centre for the specific purpose of computerizing the database, adding additional beds and providing refresher and continuing education courses for its employees.

3. Wet Shelters

A committee including, but not limited to, members from the Detoxification Centre, Mental Health Unit, Health Authorities and police departments should be struck forthwith to study the viability of "wet shelters" as an alternative to incarceration of intoxicated persons.

4. Discharge Planning

A committee of members drawn from the Mental Health Unit, Detoxification Centre and the emergency department should be struck forthwith to determine the extent of, and the best approach to, information sharing, integrating care, and discharge planning. The committee should also involve other related governmental and non-governmental organizations (e.g., Social Services).

5. The provincial government should ensure that adequate resources are provided to the above committees to enable them to properly carry out their mandates.

## **I. The Cape Breton Regional Police Service Response to Investigations and to the Inquiry**

The Ontario Provincial Police (OPP) became involved in this matter on August 15, 2000, when the Attorney General for the Province of Nova Scotia issued a Ministerial Order to the OPP to investigate. They were directed to carry out:

*a thorough investigation into all matters related, either directly or indirectly, to the death of James Guy Bailey, and any involvement of the Cape Breton Regional Police Service or any of its employees with James Bailey or his family.*

As a result of that investigation, the OPP made several recommendations that relate specifically to the operation of the Cape Breton Regional Police Service. The recommendations are found in the Conclusions and Recommendations volume of the OPP Report. The recommendations relevant to this report are documented in **Appendix A156-158.**

Chief Edgar MacLeod and Associate Chief Wilson gave evidence at the Inquiry.

At the time of James Bailey's death, Associate Chief David Wilson was in charge of the operational aspects of the police service, including the lock-up. As a result of Mr. Bailey's death, the cell block has undergone a number of upgrades for which Associate Chief Wilson credits Inspector MacLean. Associate Chief Wilson provided the Inquiry with a "cell block time line" that outlined the improvements made following James Bailey's death. The improvements generally satisfied the OPP recommendations regarding the cell block and, in many areas, exceeded the recommendations. The list of changes is reproduced at **Appendix A120-121.**

Associate Chief Wilson also outlined additional changes, including the implementation of new Prisoner Contact Log Sheets that enables custodians to indicate whether a monitor check or a physical check was made on a prisoner. There has also been an in-service for all custodians regarding the monitors. In addition, all CBRPS police officers now carry barrier protection on their belts. Whether or not this change also includes the custodians is not known.

The *Operational Policy for the Care and Handling of Prisoners* was revised and now contains the following provisions:

- 2.8 Prisoners who are brought into custody in a state of apparent sleep or unconsciousness must be rousable before being placed in a cell. If the prisoner cannot be awoken, they shall be immediately assessed by a physician. Note: See **Appendix A116-118**, Glasgow Coma Score to determine arousability.
- 2.9 The following is recommended for prisoners who are in a state of apparent intoxication, who are able to be aroused (immediately prior to the time of incarceration):
  - (a) If the prisoner is known to have a history of drug abuse or overdose, a medical history that may be associated with an altered level of consciousness (i.e. diabetes), or a history of significant head trauma, the prisoner shall be assessed by a physician prior to being placed in a cell.
- 2.10 All prisoners who are presumed to be intoxicated shall be reassessed to ensure they are awake or arousable at least every thirty (30) minutes. If the prisoner is awake or becomes progressively easier to arouse after three - thirty minute assessments, the assessments may be decreased to every sixty (60) minutes until the prisoner appears to be fully conscious. Either the Prisoner Contact Log Sheet should be modified, or a new form created, to record the monitoring of these prisoners. If during any assessment the prisoner is not arousable, they shall be assessed by a physician as soon as practical and this shall be noted on the form. **Note:** This does not change the necessity for the fifteen (15) minute physical checks.
- 2.11 Prisoners who do not show signs of becoming increasingly more awake or more easily arousable within three (3) hours of initial assessment shall be assessed by a physician as soon as practical.
- 2.12 Prisoners who fall asleep after being aroused shall be placed in a prone position.

The Glasgow Coma Score and the revised Prisoner Contact Log Sheet are now appended to the *Policy on the Care and Handling of Prisoners*.

Associate Chief Wilson confirmed that the Inquiry has had an effect on the operation of the Police Service. He gave as an example the unwritten policy on arresting intoxicated persons. Police officers are now encouraged to have intoxicated persons returned home rather than taken to the lock-up. The individual police officer uses his or her discretion based on all of the circumstances at the time.

Chief Edgar MacLeod described both external and internal conditions of the the CBRPS at the time of Mr. Bailey's death. From 1995 until the decision was made in 2000, there was a public push to move from multiple smaller forces in the area (Glace Bay, North Sydney, Sydney Mines, Sydney, Louisburg, New Waterford and Dominion) to one large force. Chief Edgar MacLeod described the amalgamation of the police forces as "a challenge." The issue was very time consuming and taxing on resources. Quite apart from those difficulties, in 2001 the further issue of whether the area would be policed by the CBRPS or the RCMP was debated and resolved.

Chief MacLeod confirmed that people with mental health and addiction problems are a concern for the Service. He believes that police cells are not the most effective place to house addicted people and at times are completely inappropriate. However, there is often no other place for these persons to go, and there is no choice but to place them in the lock-up. He confirmed that cell deaths are a national concern, but he is unaware of any national policy that could help improve how the Service handles or investigates cell deaths.

Chief MacLeod stated that his approach to the OPP investigation and the Inquiry was not to react defensively but to instead implement recommendations and move forward. *"Our system is to be number one; to be modeled by others"*. He made several recommendations of his own.

Chief MacLeod suggested that since prisoners are released when they are sober, there should be some "out-counseling" available to help people access appropriate programs. The funding for outreach cannot come out of existing police budgets but he would like to see Cape Breton become a leader in this field and believes it is possible with adequate financial support. He further suggested that there should be an outreach program for persons with severe addictions. He is also concerned that the Detoxification Centre is not equipped to deal with intoxicated persons (persons under the influence of a substance at the time of arrest versus a

person who is sober undergoing detoxification through a program). He notes further that Cape Breton does not have a "wet shelter" (overnight shelters that accept intoxicated persons). Chief MacLeod believes that there should be a proactive focus on small children to break the cycle of drug addiction which is prevalent in many Cape Breton communities. He would also like to be able to provide the CBRPS with training on drug recognition and related symptoms.

Chief MacLeod recommends that an officer from CBRPS be seconded to Police and Public Safety Services to ensure Cape Breton's interests are addressed, and to serve as a resource of information regarding its unique perspective. He stated that Cape Breton is always consulted by the province but this often requires an officer to travel to Halifax and the CBRPS does not have the funds for travel or for replacing the officer for the time that he or she is attending meetings.

Finally, Chief MacLeod advocates the provincial government take over all lock-ups.

## **Conclusions**

The OPP made several recommendations and the Cape Breton Regional Police Service reacted positively and implemented most of the recommendations. In certain areas, the CBRPS exceeded the recommendations and implemented many additional changes. However, some changes are still inadequate and need to be addressed further.

The CBRPS adopted the OPP recommended changes to the *Policy on the Care and Handling of Prisoners* without tailoring them to their own needs.

As the CBRPS now knows, time is of the essence when dealing with a prisoner who may be succumbing to intoxicating substances. Therefore, the times recommended by the OPP for assessing such prisoners needs to be reconsidered. Thirty minutes may be too long. It may very well be that such assessments should be done on the first four 15 minute physical checks.

When the CBRPS adopted the OPP recommendations the lack of scheduled policy reviews was not addressed. Nor was the policy regarding custodians having direct access to prisoners. While this is an obvious safety issue, times when custodians are doing the 4R checks, or when they need to intervene quickly for a prisoner in need, were not addressed. There may be other areas in the *Policy* that require changes, however they are beyond the ability of the Commission to identify. These areas would be identified and addressed during regularly scheduled policy development meetings.

**Findings:**

The Commission of Inquiry makes the following findings:

1. The CBRPS responded positively and proactively to the recommendations made by the OPP at the conclusion of their investigation.
2. The CBRPS met, and in some cases, exceeded the OPP recommendations.
3. There are still gaps in the *Policy on the Care and Handling of Prisoners* that need to be addressed.
4. The Cape Breton Regional Police Service cooperated with the Inquiry both during the investigation and at the Inquiry.



**Recommendations:**

1. The Province should explore alternatives to incarceration of potentially self-destructive or highly intoxicated persons, including expanded uses of detoxification facilities and the implementation of wet shelters. While police officers may be encouraged to use their discretion in this matter, this presumes the officers have been properly trained, and that appropriate continuing education has been made available to them.
2. To assist the province in this regard, Policing and Victim Services should chair an interdisciplinary board of police, health and community services to study and advise on alternatives to incarceration. Police departments from all regions should be encouraged to participate. The province should ensure adequate funding to allow police departments to participate.
3. The Province should explore possible legislative amendments so that police forces can deal effectively with intoxicated persons outside the *Liquor Control Act*, driving offences covered by the *Motor Vehicle Act*, and offences under the *Criminal Code of Canada*. An example of relevant legislation that should be examined is the *Newfoundland and Labrador Detention of Intoxicated Persons Act*, RSNL 1990, Ch. D-21. This kind of legislation presumes the existence of a detoxification centre capable of admitting intoxicated persons.
4. The Province should examine whether or not it would be more beneficial or cost-effective for it to assume responsibility for all municipal police lock-ups.

*Written CBRPS Policies*

5. The CBRPS must insure that all officers are briefed on current and new policies and procedures. Duty sergeants, or other appropriate supervising officer, must be made responsible for ensuring that all policies and procedures are reviewed by each officer. This must be more than just handing the policy and procedure manuals to officers and requesting a signature. Performance reviews may be the most opportune time for ensuring familiarity with the policy and procedures among the officers.

6. Specific amendments to the *Policy on the Care and Handling of Prisoners* should include:

(C) *General*

- 1.4 The duty sergeant or designate in the division shall be responsible for the lock-up facility *and its employees*. The name of the duty sergeant or designate and a contact number shall be posted in a conspicuous place in the lock-up facility.
- 1.5 Personnel employed in the lock-up facility shall report any significant incident involving injury, property damage, illness, or failure of equipment under their control to the *duty sergeant*. The *duty sergeant* shall report any major incident to the on-call manager.

(D) *Booking*

- 2.10 All prisoners who are presumed to be intoxicated *by either drugs or alcohol or both* shall be reassessed to ensure that they are awake or arousable at least every 15 minutes. If the prisoner is awake or becomes progressively easier to arouse after four 15 minute assessments, the assessments may be decreased to three 30 minute assessments. The assessments may then decreased to 60 minute intervals until the prisoner appears to be fully conscious. **Note:** This does not change the necessity for the 15 minute physical checks.
- 2.11 If during any assessment the prisoner is not *arousable, they shall be immediately taken to a hospital by ambulance for assessment by a physician.*
- 2.12 Prisoners who do not show signs of becoming increasingly more awake or more easily arousable within one hour of their initial assessment *shall be immediately taken to hospital by ambulance for assessment by a physician.*
- 2.13 Prisoners who fall asleep after being aroused shall be placed *in the recovery position.*

(H) *Video*

*Tapes shall be randomly reviewed by the inspector or staff sergeant in charge of the lock-up facility for the purposes of employee policy compliance and performance evaluation.*

7. The *Policy on the Care and Handling of Prisoners* needs to undergo a thorough edit for spelling, grammar, legislative citation errors, and amendments.

## **J. The Impact of the Prescription Monitoring Program of Nova Scotia**

The Prescription Monitoring Association of Nova Scotia (PMANS) is a non-governmental organization that oversees the prescription practices of prescribing physicians through its Prescription Monitoring Program. It attempts to track the use and abuse of certain controlled drugs in an effort to reduce and eliminate over prescribing by practitioners, double-doctoring by consumers, and trafficking of these drugs.

James Bailey died from an overdose of several different drugs, many of which were prescription drugs unlawfully in his possession. How he came to possess those drugs is unclear. Witnesses at the Inquiry described the use and abuse of certain controlled substances (Oxycontin, Fiorinal, etc.) in Cape Breton as critical. Police constables and high-ranking officers, including the chief and associate chief of the CBRPS, described the difficulty they are having with addressing the escalating problem. The drug of choice changes frequently. It is extremely difficult for officers to remain up-to-date so that they are able to readily identify pills found in the possession of people they arrest. (e.g., legal vs. illegal; pills being trafficked, etc.)

Colleen Conway from the Prescription Monitoring Association of Nova Scotia gave evidence at the Inquiry on May 21, 2003. She described the system as overburdened and underfunded. The annual budget for the PMANS is \$300,000.00 for the entire province. The system is a manual system, and it takes days for information to travel from service providers (physicians and pharmacies) to the PMANS. In addition, law enforcement education and participation is limited to the RCMP; local police departments do not have any input into program needs and information exchange.

***Conclusions:***

It is clear from the evidence that prescription drugs are available at an alarming rate on the streets. When data are compared, it becomes evident that Cape Breton has a particular problem with prescriptions for, and abuse of, codeine-combination schedule drugs, in particular Oxycontin and Oxycodone (a sustained release Oxycontin formulation). It is also relevant to note that this issue is frequently in the news. More deaths and an increase in personal crime has been linked to this type of substance abuse. The CBRPS has asked for assistance in dealing with this problem.

Inadequate funding and the lack of computerization cause delays in information-sharing among interested parties. It also creates gaping holes through which fraudulent prescription use carries on. Ms. Conway was very clear and consistent in her evidence, and her evidence was supported by reports issued by the PMANS. Because of lack of funding the PMANS cannot provide full coverage monitoring in terms of those drugs that should be monitored, public education and physician support.

***Findings:***

The Commission of Inquiry finds that the Prescription Monitoring Association of Nova Scotia does not have sufficient resources and authority to adequately service Nova Scotia.

***Recommendations:***

1. Computerization.

The PMANS needs to be brought into the 21st century and computerized. A network should be created that would allow physicians, pharmacists and emergency departments to access the database. Because this requires an allocation of human resources and financing, the how and the when should be left to the provincial government and other interested parties. However, this matter is reaching crisis proportions and must be considered a priority.

2. Funding.

The annual budget for the PMANS must be increased to a level that is realistic in light of the scale of the current problem. Budgeting for the maintenance of the computer network system mentioned above should be included in this increase.

### **III Presentation to the Minister**

This Report, together with its findings and recommendations, was presented to the Honourable Michael Baker, Q.C., Minister of Justice for the province of Nova Scotia on this 1st day of September, 2005.



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**M. Jean Beeler**  
Chair  
Commission of Inquiry



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**M. Frances Hinton**  
Commissioner



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**Betty Thomas**  
Commissioner



## **IV Compilation of Recommendations**

The Commission of Inquiry makes the following recommendations:

### **A. *The Arrest of James Guy Bailey, Jr. under the Liquor Control Act***

1. The CBRPS must find the ways and means of providing adequate continuing education to its officers and employees. Subjects of particular importance include, but are not limited to:
  - appropriate basic training on the management of intoxicated prisoners;
  - up-to-date information on evaluating levels of intoxication of detainees;
  - alternative approaches to arrest and detention under the *Liquor Control Act*;
  - training on the recognition of common street drugs.
2. Police forces should develop a means of "flagging" their computer databases in regard to known substance abusers, and persons with a history of suicide attempts or mental illness. This information would only be gathered from police records and recorded officer experiences in order to comply with privacy requirements.

**B. The Events in the Lock-up**

1. Custodians must have training to adequately perform all of their duties. Experienced custodians may or may not require the same training as inexperienced custodians. Training and orientation for newly hired custodians (experienced or inexperienced) must include a review of the policies of the relevant lock-up, and those policies must be signed off within a reasonable period of time from when the custodian commences work in that lock-up.
2. The employer must satisfy itself that all its employees are qualified to perform their duties. All police forces in Nova Scotia must provide the necessary training for their custodians.
3. Training of custodians should include, at a minimum, note-taking, document management, suicide intervention, conflict management, intoxicated prisoner management, proper use of force, standard first aid, basic CPR, and fire prevention and control.
4. Research and development must be undertaken to ensure that training for police officers and lock-up custodians is current and relevant. An example of a current issue includes the specific ability to recognize intoxication by drugs and alcohol (together and individually) as potentially lethal, as well as the general ability to effectively manage the intoxicated person.
5. Lock-up supervisors (duty sergeants) should have, at a minimum, basic supervisory training and should be encouraged through financial and other incentives to pursue advanced supervisory training.
6. *The Policy for the Care and Handling of Prisoners* shall:
  - a. expressly state that custodians have the authority to refuse a prisoner for medical or health reasons;
  - b. incorporate the *Provincial Standard Operating Procedure* language for dealing with a prisoner's medication; expressly state that a medical evaluation is required for all prisoners deemed to be high risk by either a custodian, an arresting officer or any other person in authority over that prisoner; and

- c. provide for increased monitoring of prisoners described in (b).
7. *The Operational Policy on the Care and Handling of Prisoners* should be amended to direct the arresting officer to check for CPIC and in-house records to assist in determining if the prisoner has an arrest history, a history of mental illness, suicidal tendencies, a history of drug use, or other information relevant to the prisoner's well-being while in the lock-up.
8. The Prisoner Contact Log Sheet should be amended to include an area for the arresting officer to confirm that such a check was made, and to provide any relevant information obtained from that search.
9. References to specific personnel, e.g., duty NCO or duty sergeant, supervising manager or duty supervisor, should not be used interchangeably. One preferred reference should be decided upon and used consistently throughout all police service documents.
10. Supervision of lock-up documentation is the responsibility of the duty sergeant. The duty sergeant must review and sign all Prisoner Contact Log Sheets at the beginning and end of every shift. The Log Sheets shall contain:
  - long hand notes or comments made by the custodian(s). Ditto marks or other duplication marks (e.g., check marks) are not acceptable. Custodians are not to use such marks under any circumstances except where specifically indicated (i.e., boxes for checking).
  - a column for physical checks and a column for observations made using the video monitor. Custodians shall indicate the manner of each prisoner check made at the relevant time.
  - the real time of the prisoner check. Custodians are to make staggered checks (i.e., not regular quarter-hour checks) according to current CBRPS policy.

11. The CBRPS and other police departments should, on a regular basis, review and redraft policies as necessary to eliminate conflicts within various *Provincial Standard Operating Procedures* pertaining to police lock-ups and their own policy documents.
12. The lock-up facility must be respected by police officers and others who attend in the area. It should not be used for other purposes such as a through way or meeting place.
13. If the design or location of a facility creates a problem like the one in the Grand Lake Road Facility in Sydney (where personnel used the lock-up facility as a through fare) then it should be redesigned and appropriate renovations carried out.
14. There should be a segregated cell for high risk prisoners (intoxicated, known history of suicide or mental illness). If a segregated cell is not available, then there should be a detailed protocol to ensure the safety of high risk prisoners.
15. CCTV recording systems and audio recording systems should be made mandatory for all cells, cell blocks and surrounding areas.
16. Custodians should be provided with unlimited access to the memos and written directives.
17. A performance evaluation process for custodians must be developed and implemented. Subsequent performance evaluations must be carried out for every employee of the CBRPS on an annual or biannual basis as time and finances permit.
18. Annual inspections of all police lock-ups by the Department of Justice must continue.
19. The possibility and means of receiving and disseminating information received from other jurisdictions should be explored. The possibility of this information transfer in conjunction with the Nova Scotia Police Commission should be explored.

**C. The Lack of Resuscitation Efforts by Police Service Personnel**

1. Recertification of employees must take place within the recommended periods. Skills that are not used on a regular basis are often lost. More importantly, new developments in first aid and CPR delivery are not disseminated. Consequently, the most effective rescue techniques are not available for immediate use. During recertification the location of the first aid and CPR equipment in the lock-up, verification that each officer has a certified mask and the situations when officers would be obligated to provide CPR assistance, should be reviewed. To that end, it would be wise for the CBRPS to invest in training an officer as a first aid – CPR instructor to provide tailored training for their needs, or to engage an instructor to become familiar with the specific needs of the Service.
2. Following a review of the *Police Act* and other relevant legislation, and in conjunction with the Police Association, a policy regarding the obligation of police officers to provide first aid and CPR, as well as their discretion to withhold resuscitation in prescribed instances, should be developed. The policy should include a clear explanation of prescribed instances and a description of consequently required note-taking. As well, it should incorporate mechanisms for review of each incident and directives regarding the obligation of police officers to participate in any subsequent investigation.
3. Necessary first aid and CPR equipment should be determined in consultation with relevant service providers (e.g. St. John's Ambulance, Workers' Compensation Board). A first aid station should be set up in a central location within the lock-up, and high-visibility signs should be posted accordingly. These signs should include one that would be visible in the event of a power-outage.
4. Physically checking and maintaining first aid and CPR equipment should be designated in the job description of one person each day. Methods used by nursing units and paramedics can be easily tailored and incorporated into the regular routine of the lock-up

***D. The Role of the Communications Centre***

The Board of Inquiry finds that at the time of the conclusion of the Inquiry, all necessary steps had been taken to address these issues.

**E. *The Investigation of the Cell Death by the Cape Breton Regional Police Service***

1. The province should examine the feasibility of instituting a "critical incident team", made up of officers from various departments and detachments, to provide assistance with investigating difficult or sensitive cases.
2. In the event that the province declines to proceed with recommendation number 1, it should consider directing police departments to involve an outside force with the investigation when a prisoner dies while in that police department's custody.

**F. *The Public Complaint Filed with the Nova Scotia Police Commission***

1. Where there is a finding of no disciplinary default, there must be detailed reasons given and those reasons are to be communicated to the complainant.
2. Each police department in the province of Nova Scotia shall examine their procedures for alternate dispute resolution with a view to ensuring that, whenever possible, public complaints are informally resolved.
3. When the investigation into a public complaint discloses evidence that would assist in resolving the complaint, that evidence is to be disclosed to the complainant at the earliest possible opportunity.
4. A means for viewing a body prior to a forensic autopsy (e.g. glass partition, closed circuit television) should be established in any hospital where such autopsies are conducted.
5. The disposition of the public complaint in the Bailey matter shall be in accordance with the Inquiry's Report without further investigation or hearing.
6. Personal effects belonging to James Bailey and original family photographs shall be returned to the Bailey family. The bottle of various pills should be delivered to a pharmacy for safe disposal.



**G. The Emergency Department Policy re: Accepting Intoxicated Persons**

1. The role of hospitals and the relationship between hospitals and police departments should be clearly explained to cadets during basic training and reinforced during orientation and refresher programs.
2. Municipal police departments must develop standard operating procedures regarding the arrest and/or detention of intoxicated persons. Such SOPs should:
  - a. be developed following literature searches that include current research on the matter;
  - b. be parallel in intent and language to existing federal and provincial SOPs and legislation;
  - c. incorporate the recommendations of Dr. Barry McLellan (**Appendix A113-115**); and
  - d. at a minimum, include the following:
    - i. when assessing a detainee arrested for public intoxication for placement in cells, the presence of medication or prescription bottles - with or without pills - is an indication that a medical professional must first assess the detainee before the detainee is placed in the lock-up.
    - ii. police officers and custodians are under a positive duty to report to the officer in charge of the lock-up any concerns they have regarding the health and welfare of any detainee and the presence of any prescription bottles whether empty or not.
  - e. during police department orientation sessions, non-officer employees (e.g., custodians, dispatch) and new police members (including experienced officers transferring from other police departments) should be introduced to the emergency departments of the local hospital(s).

3. Responsibility for intoxicated detainees at the emergency department, the province and Department of Health should form an *ad hoc* committee to study the problem in its entirety with a view to resolving the matter in a fiscally responsible manner for both police and health departments. The committee should:
  - a. as soon as practicable implement a formal policy regarding the triage of patients brought in from the lock-up, and/or by police officers. The policy should give formal priority to these patients over other patients of *equal triage designation* in order to hasten the return to active duty of officers accompanying such patients.
  - b. investigate the use of "Medical Officers" or "Police Surgeons" employed in the U.K. and elsewhere to determine if that is an appropriate model for municipal lock-ups; and
  - c. investigate the possible use of registered nurses, VON and nurse practitioners in municipal lock-ups along the same lines as they are employed at provincial lock-ups.

**H. The Role of the Detoxification Centre and the Involvement of the Mental Health Unit**

1. Response to Mr. Bailey's telephone call.

The policies and procedures of the Detox Centre need to be revised to clarify language and intent including, but not limited to:

- a. Noting clients' histories of suicide attempts or ideation in such a place that it would immediately come to the attention of the person handling the phones (e.g., the Rolodex).
- b. Avoiding the use of vague terms such as "clinical judgment" and, instead, stipulating the use of criterion-based discretion. For example, in assessing whether or not a situation is a crisis, reference to specific behaviours should be made (expressed threats, implied threats, substances abused, clarity of language and thought process, etc.).

2. Resources for the Detox Centre.

Additional resources must be directed to the Detox Centre for the specific purpose of computerizing the database, adding additional beds and providing refresher and continuing education courses for its employees.

3. Wet Shelters

A committee including, but not limited to, members from the Detoxification Centre, Mental Health Unit, Health Authorities and police departments should be struck forthwith to study the viability of "wet shelters" as an alternative to incarceration of intoxicated persons.

4. Discharge Planning

A committee of members drawn from the Mental Health Unit, Detoxification Centre and the emergency department should be struck forthwith to determine the extent of, and the best approach to, information sharing, integrating care, and discharge planning. The

committee should also involve other related governmental and non-governmental organizations (e.g., Social Services).

5. The provincial government should ensure that adequate resources are provided to the above committees to enable them to properly carry out their mandates.

**I      *The Cape Breton Regional Police Service Response to Investigations and to the Inquiry***

1. The Province should explore alternatives to incarceration of potentially self-destructive or highly intoxicated persons, including expanded uses of detoxification facilities and the implementation of wet shelters. While police officers may be encouraged to use their discretion in this matter, this presumes the officers have been properly trained, and that appropriate continuing education has been made available to them.
2. To assist the province in this regard, Policing and Victim Services should chair an interdisciplinary board of police, health and community services to study and advise on alternatives to incarceration. Police departments from all regions should be encouraged to participate. The province should ensure adequate funding to allow police departments to participate.
3. The Province should explore possible legislative amendments so that police forces can deal effectively with intoxicated persons outside the *Liquor Control Act*, driving offences covered by the *Motor Vehicle Act*, and offences under the *Criminal Code of Canada*. An example of relevant legislation that should be examined is the *Newfoundland and Labrador Detention of Intoxicated Persons Act*, RSNL 1990, Ch. D-21. This kind of legislation presumes the existence of a detoxification centre capable of admitting intoxicated persons.
4. The Province should examine whether or not it would be more beneficial or cost-effective for it to assume responsibility for all municipal police lock-ups.

*Written CBRPS Policies*

5. The CBRPS must insure that all officers are briefed on current and new policies and procedures. Duty sergeants, or other appropriate supervising officer, must be made responsible for ensuring that all policies and procedures are reviewed by each officer. This must be more than just handing the policy and procedure manuals to officers and requesting a signature. Performance reviews may be the most

opportune time for ensuring familiarity with the policy and procedures among the officers.

6. Specific amendments to the *Policy on the Care and Handling of Prisoners* should include:

(C) *General*

- 1.4 The duty sergeant or designate in the division shall be responsible for the lock-up facility *and its employees*. The name of the duty sergeant or designate and a contact number shall be posted in a conspicuous place in the lock-up facility.
- 1.5 Personnel employed in the lock-up facility shall report any significant incident involving injury, property damage, illness, or failure of equipment under their control to the *duty sergeant*. The *duty sergeant* shall report any major incident to the on-call manager.

(D) *Booking*

- 2.10 All prisoners who are presumed to be intoxicated *by either drugs or alcohol or both* shall be reassessed to ensure that they are awake or arousable at least every 15 minutes. If the prisoner is awake or becomes progressively easier to arouse after four 15 minute assessments, the assessments may be decreased to three 30 minute assessments. The assessments may then decreased to 60 minute intervals until the prisoner appears to be fully conscious. **Note:** This does not change the necessity for the 15 minute physical checks.
- 2.11 If during any assessment the prisoner is not *arousable*, they shall be immediately taken to a hospital by ambulance for assessment by a physician.
- 2.12 Prisoners who do not show signs of becoming increasingly more awake or more easily arousable within one hour of their initial assessment shall be immediately taken to hospital by ambulance for assessment by a physician.
- 2.13 Prisoners who fall asleep after being aroused shall be placed in *the recovery position*.

(H) *Video*

*Tapes shall be randomly reviewed by the inspector or staff sergeant in charge of the lock-up facility for the purposes of employee policy compliance and performance evaluation.*

7. The *Policy on the Care and Handling of Prisoners* needs to undergo a thorough edit for spelling, grammar, legislative citation errors, and amendments.

**J. *The Impact of the Prescription Monitoring Program of Nova Scotia***

1. Computerization.

The PMANS needs to be brought into the 21st century and computerized. A network should be created that would allow physicians, pharmacists and emergency departments to access the database. Because this requires an allocation of human resources and financing, the how and the when should be left to the provincial government and other interested parties. However, this matter is reaching crisis proportions and must be considered a priority.

2. Funding.

The annual budget for the PMANS must be increased to a level that is realistic in light of the scale of the current problem. Budgeting for the maintenance of the computer network system mentioned above should be included in this increase.



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## **Direction of the Minister**

The Commission of Inquiry was created on January 25th, 2001 and reads as follows:



**Minister of Justice  
And Attorney General**

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### **MINISTERIAL DIRECTION PURSUANT TO SECTION 8 OF THE *POLICE ACT. R.S.N.S., c. 348, s.1.***

#### **DIRECTION TO INQUIRE**

I, MICHAEL G. BAKER, Minister of Justice and Attorney General, in and for the province of Nova Scotia, do hereby direct the Nova Scotia Police Commission (hereinafter: the Commission) to investigate, inquire into and report to me on matters related, either directly or indirectly, to the death of James Guy Bailey. Mr. Bailey died in Cape Breton Regional Municipality, Nova Scotia on or about May 17, 2000.

#### **SCOPE OF INQUIRY**


I further direct that the scope of this inquiry shall be as follows:

- the Commission shall inquire into, investigate and report on any of the matters described in clauses 8(2)(a) & (b) of the *Police Act* and which the Commission determines are, directly or indirectly, related to the death of James Guy Bailey;
- the Commission shall inquire into, investigate, and report upon the involvement of any member of the Cape Breton Regional Police Service or an of its employees, or of any other person who, as determined by the Commission, may have information related, directly or indirectly, to the death of James Guy Bailey;

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- the Commission shall inquire into, investigate, and report upon all investigations, documents, reports, files reviews analyses, assessments, evaluations, and related material (including material retained in electronic format, and/or video recordings, and/or voice recordings), which the Commission determines may be relevant to this inquiry;
- the Commission shall inquire into, investigate and report whether there was compliance with applicable statutes, regulations, orders, rules or directions;
- the Commission shall inquire into, investigate and report upon any matter which the Commission determines may be relevant to this inquiry;
- The Commission will have available to it, for the purposes of this inquiry, all of the applicable provisions of the *Police Act. R.S.N.S., c. 348, s. 1*; the *Regulations (made under Section 46 of the Police Act. R.S.N.S. 1989, c. 348 O.I.C. 88-464, Reg. 101/88 as amended up to and including O.I.C. 96-27, N.S. Reg. 8/96, January 16, 1996*; and, the *Public Inquiries Act. 1992, c.28, s.5*, which provisions are determined by the Commission to be necessary to conduct this inquiry; and
- The Commission shall provide the Minister of Justice with a report of its findings and recommendations at the conclusion of this inquiry.

Dated this 25th day of January, 2001, in Halifax Regional Municipality, in the Province of Nova Scotia.



Honourable Michael G. Baker, Q.C.  
Minister of Justice and Attorney General

## **Commissioners**

### ***M. Jean Beeler - Chair***

M. JEAN BEELER is a lawyer practicing in Halifax, Nova Scotia. She has been a member of the Canadian Barristers' Association and the Nova Scotia Barristers' Society since 1981. Ms. Beeler is a founding member of the Canadian Association for Civilian Oversight of Law Enforcement of Police and served as the President for two terms. Ms. Beeler also was Vice President of the International Association for Civilian Oversight of Law Enforcement. Ms. Beeler was appointed as Chair of the Nova Scotia Police Commission in 1995 and served six years in that capacity.

### ***Frances Hinton***

FRANCE HINTON was called to the BC bar in 1991, and to the NS bar in 2002. She is also a registered nurse and works part-time on the Palliative Care Unit at the Victoria General Site of the QEII Health Science Centre. In 1987 she received her Chartered Arbitrator designation from the ADR Institute of Canada, and has been an arbitrator for more than 10 years. Her law practice is solely dispute resolution and administrative tribunal work. Ms. Hinton was appointed to the Nova Scotia Police Commission in 2001.

### ***Betty Thomas***

Betty Thomas: Mediator, small business owner and trainer. Ms Thomas brings her education in business administration, facilitation training, restorative justice training, and extensive work in the communications industry. Ms. Thomas has solid communication and interpersonal skills developed through years as a Facilitator, Trainer and ADR Consultant. Ms. Thomas was appointed to the Nova Scotia Police Commission in 2001.

## **Council and Parties to the Proceedings**

Jean McKenna	Nova Scotia Police Commission
Blaise MacDonald	Bailey Family
Joel Pink, Q.C. / Mike Taylor	Constable Paul MacDonald
David Fisher	Constable Rolfe & members of Major Crime Unit
David Bright, Q.C.	Chief MacLeod & senior management
John Khattar / Ellen MacKinnon	Wayne Aucoin /Detox & C.B.R.H. Emergency
Robin Campbell , Q.C.	Cape Breton Regional Municipality
Charles Broderick	Constable Max Sehl
William Burchill	Judy McNeil / dispatcher
Duncan MacEacheran	Carmel Butler
Sheldon Natheson	Sergeant John O'Rourke

### **Release of 911 Tapes**

Edward Gores/Jonathan Davies, Q.C.	Department of Justice
David Coles	CBC

## **Commission Council & Staff**

### **Jean McKenna**

*Council to the Commission*

JEAN MCKENNA practices law in Halifax, Nova Scotia, specializing in the areas of Criminal and Civil Litigation. Ms. McKenna sat as Alternate Chairperson of the Nova Scotia Police Review Board. She also conducted file adjudications for the Nova Scotia Compensation for Victims of Institutional Abuse. Ms. McKenna is active with a variety of groups and organizations in the community, and has been involved with the Nova Scotia Medical Legal Society, Eastern Shore Safe House Association, Elizabeth Fry Society, and Community Planning Association of Canada..

### **E. Garry Mumford**

*Director, Nova Scotia Police Commission*

GARRY MUMFORD is the Director of the Nova Scotia Police Commission. Prior to his position of Director he was the Head Investigator for the Commission. Mr. Mumford has a long and distinguished career in policing. In 1968 he joined the Royal Canadian Mounted Police and was posted in various locations within the Maritimes. He has worked in numerous positions as an RCMP officer including general investigations, drug section, and, at his retirement, he was in charge of the Division's Criminal Intelligence Unit as well as the Metro Joint Task Force on Prostitution.

### **Dennis Squires**

*Investigator, Nova Scotia Police Commission*

DENNIS SQUIRES had been contracted by the Nova Scotia Police Commission as an investigator from 1998 until 2003. Prior to this time he had been employed by the Royal Canadian Mounted Police for approximately thirty three years. During his tenure he had served in a number of various positions including that of an investigator and investigator supervisor. Also, he had been assigned to an Internal Investigation Unit which specialized in investigating Public Complaints and Code of Conduct Investigations, against employees. This particular background provided a degree of experience which was considered an asset while conducting Public Complaint Investigations under the purview of the Nova Scotia Police Commission.

### **Pamela J. Little (Whittaker)**

*Coordinator, Nova Scotia Police Commission*

### **Norma MacDonald**

*Secretary, Nova Scotia Police Commission*

## Opening Remarks (M. Jean Beeler)

Shortly before 9:00 p.m. on May 16, 2000, James Guy Bailey, Jr of Sydney Mines, Nova Scotia. was arrested by a member of the Cape Breton Regional Police Service for being intoxicated in a public place. He was subsequently incarcerated in the police cells at the Central Lock-up of the Cape Breton Regional Police H.Q.'s in Sydney. Shortly before 2:00 a.m. on May 17, 2000, the on duty gaol guard found Mr. Bailey to be unresponsive. He did not respond to emergency resuscitation efforts at the gaol and was transported to the emergency department of the Cape Breton Regional Hospital where he was pronounced dead at about 2:45 a.m.

On the 25<sup>th</sup> of January, 2001 pursuant to Section 8 of the Police Act, the Honourable Michael G. Baker, the Minister of Justice and Attorney General, in and for the Province of Nova Scotia directed the Nova Scotia Police Commission to inquire into and report to him on matters related, either directly or indirectly, to the death of James Guy Bailey.

Minister Baker further directed the scope of the inquiry would be as follows:

- inquire into, investigate and report on any of the matters described in clauses 8(2)(a) & (b) of the Police Act and which the Commission determines are, directly or indirectly, related to the death of James Guy Bailey;
- inquire into, investigate, and report upon the involvement of any member of the Cape Breton Regional Police Service or an of its employees, or of any other person who, as determined by the Commission, may have information related, directly or indirectly, to the death of James Guy Bailey;
- inquire into, investigate, and report upon all investigations, documents, reports, files reviews analyses, assessments, evaluations, and related material (including material retained in electronic format, and/or video recordings, and/or voice recordings), which the Commission determines may be relevant to this inquiry;
- inquire into, investigate and report whether there was compliance with applicable statutes, regulations, orders, rules or directions;
- inquire into, investigate and report upon any matter which the Commission determines may be relevant to this inquiry;

I would like to point out that Section 8(2)(a) of the *Police Act* allows the Police Commission to investigate, inquire into and report upon the conduct of or the performance of duties by any chief of police, other police officer, constable, special constable or municipal by-law enforcement officer.

8(2)(b) of the *Police Act* allows the Police Commission to investigate, inquire into and report upon the administration of any police force. I would also like to note that Section 4(3)(c) of the regulations made pursuant to the Police Act states that



4(3) No member of a police force is subject to any penalty for the commission of a disciplinary default including reduction in rank or dismissal, until after proceedings have been taken pursuant to the Act and these regulations, except that

- (c) where the Commission or any member thereof holds an investigation or inquiry pursuant to clause 8(2)(a) of the Act and reports that any member of a police force referred to in that clause does not perform or is incapable of performing the member's duties in a manner in keeping with the member's position, or the member's conduct is such as not to satisfy the requirements of the member's position, the board or the chief officer in accordance with a by-law made pursuant to subsection 14(3) of the Act, or in the case of the chief officer, the council, may
  - (i) reduce the member in rank and in pay in accordance with the rank to which the member is reduced,
  - (ii) where the report is concurred in by a majority of the members of the Commission and it is so recommended therein, dismiss the member or place the member on retirement if the member is entitled thereto.

During the course of the investigation, the other two commissioners and I have purposely stayed at arms length from the evidence collected. While we have no personal knowledge of this, my staff informs me that in excess of 100 people have been interviewed either through the course of the Cape Breton Regional Police Service investigation, the Ontario Provincial Police investigation or through our own Commission investigation. Hundreds of pages of documents related to this matter have been obtained, reviewed and catalogued by Commission staff, all of which has been disclosed to the various legal counsel present here today.

Counsel are being asked to remain cognizant of the necessity for their attendance as it pertains to the interests of their client. I would like to caution counsel that it may not be necessary for all of you to attend the entirety of the Inquiry and remind you of the terms of the Commission's policy regarding legal funding. You will recall that we informed you that the number of hours spent will be subject to review by the Commission, and will be reduced if the Commission views the hours spent are excessive or unjustifiable.

At the end of these proceedings, as noted earlier, we will be completing a detailed report which will consist of the evidence, analysis, conclusions and any recommendations to the Minister of Justice.

In the Matter of: **Nova Scotia Police Commission Inquiry  
into the death of James Guy Bailey, Jr.**

- and -

In the Matter of: **Application by the Canadian Broadcasting  
Corporation (C.B.C.) for copies of 911 audio tapes  
and police dispatch audio tapes**

### **Decision**

The Canadian Broadcasting Corporation (C.B.C.) has made application for the release of certain 911 and police dispatch audio tapes recorded on the evening of May 16, 2000. The tapes were received as exhibits by the Commission in open proceedings and were heard by the public when they were entered into evidence. In addition, transcripts of the tapes were prepared, entered into evidence, and copies were given to the media.

The application is supported by the Bailey family. It is opposed by the police officer and the operator who were involved in the dispatch call. The application is also opposed by the Emergency Measures Organization for the Province of Nova Scotia.

The importance of the open and public nature of inquiry hearings is well canvassed by the case law, including the decision of the Supreme Court of Canada in Phillips v. N.S. (Westray Mine Inquiry) [1995] 2 S.C.R. 97. In addition the mandate of this inquiry is clearly spelled out in the direction given by the Minister of Justice with emphasis on the very public nature of the inquiry itself.

This inquiry is a quasi-judicial proceeding and therefore the principle of public openness applies. The process adopted emphasizes the very public nature of this inquiry: the hearings are open and the report will be made public. In fact, the principles of public openness found in Criminal Law apply to a public inquiry and the public,

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including the media, are entitled to access exhibits such as audio tapes unless there is a greater interest to be served by denying such access. Access could be limited where it is shown that the private interests are superior to the public interest. The burden of proving that a private interest outweighs the public interest is on the person arguing against disclosure. In this instance that burden has not been met.

Finding that there is no private interest superior to the public interest, the tapes requested should be released.

The Emergency Measures Organization for the Province of Nova Scotia opposes the application for release of the 911 audio tapes. It cites the Emergency "911" Act, S.N.S., 1992, c.4 as authority for the proposition that the tapes are confidential and cannot be released. It refers to s.7 of the Act which states as follows:

7 (1) All information supplied by Maritime to the Province or to its employees, agents or contractors or to which the Province of its employees, agents or contractors have access in connection with the design, development, implementation, operation or maintenance of the system shall be supplied or made accessible by Maritime only to the extent necessary to permit the design, development, implementation, operation or maintenance of the system.

(2) The Province shall take all steps reasonably necessary to maintain the information referred to in subsection (1) in confidence and to ensure that any

- (a) employees, assigns, agents or contractors of the Province; and
- (b) emergency service agencies, who have access to the information, maintain the information on confidence.

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(3) The Minister shall designate the persons who may have access to the information referred to in subsection (1) and no other persons shall be permitted to have such access.

(4) Emergency service agencies, the Province and its assigns, employees, agents and contractors shall not utilize the information for any purposes other than the purposes referred to in subsection (1).

The Emergency Measures Organization maintains that the purpose of this section of the Act is to restrict and maintain the confidentiality of the information received by the operator of the system and that access is limited to those who require the information to operate and maintain the system. The Act defines "information" as including information respecting the operator's customers.

With respect, we find that the purpose of section 7 of the Emergency "911" Act is to maintain the confidential nature of the system's design and to protect the privacy of its users. This system obviously provides for the location, phone number, and name of each and every residence and business in the Province. There is likely no opting out and the users would expect that the information would be maintained in confidence. This is not the situation in the matter before us where the information that is relevant is contained in the recording of a conversation.

The tapes have been received by this Commission of Inquiry and have been played in public. They have been transcribed and released to the public, including the media. The release of the actual audio tapes does not infringe on confidences as contemplated by the Act any more than did the release of the printed transcript.

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We therefore find in favor of the Canadian Broadcasting Corporation (C.B.C.) in its application to have access to the 911 and dispatch audio tapes dated May 16, 2000 and as entered in evidence as exhibit 3 number D-20.

**DATED** at Halifax, Nova Scotia, this 28<sup>th</sup> day of June, 2002.



M. JEAN BEELER



M. FRANCES HINTON



BETTY THOMAS

**Date of Oral Ruling: February 12, 2002**

**1. Application for Exclusion of Witnesses**

Commission counsel requested at the start of the proceedings an order for the exclusion of witnesses who were not directly or indirectly affected by the Inquiry. Counsel for the Bailey family request exclusion of all witnesses.

**Ruling**

There are certain situations where a court will exclude parties from hearing the evidence of certain witnesses. That is not the case here. This is a public inquiry and by its very nature is open to all. We intend to follow the rules of natural justice to ensure that anyone affected by these proceedings will have full opportunity to be heard and to respond to the evidence of others. It is necessary for those affected to be able to instruct counsel and it is in the interest of the inquiry that they be able to do so.

The Commission further finds that it is not in the interest of the Inquiry to exclude other witnesses prior to giving their own evidence. We are concerned with the sheer number of witnesses and the fact that the proceedings will take place over a period of several months. Evidence will be available to witnesses from a number of sources, not just from hearing the evidence of others at the Inquiry. If witnesses are excluded there may be a misapprehension that when they do give evidence they will be unaware of the evidence of others. Finally, we are concerned that we should exclude some witnesses and not others. Those affected and represented by counsel make up a substantial proportion of the witnesses.

For these reasons witnesses will not be excluded from the proceedings.

**Date of Oral Ruling: October 22, 2002**

2. Application by the CBC to obtain copies of video tapes showing Mr. Bailey being led into the cells by officers, the firefighters arriving in the cell block area, the EMS medical personnel arriving following the death of Mr. Bailey, and any other tape the CBC reporter feels would assist with its television coverage.

**Ruling**

The public are entitled to access exhibits such as video tapes unless there is a greater interest to be served by denying such access. There is no such greater interest in this case. The request by the CBC was unopposed by the Bailey family and there are no other person who could be harmed by the release of the video tapes. Clips of the video tapes is granted as requested by the CBC in its letter dated October 21, 2002, for the same reasons the release of audio tapes was granted in July 2002.

This ruling applies to the specific requests noted in the letter and does not apply generally to all of the audio or video tapes, or to other exhibits. If there are further requests they will be considered at that time.

The release of the tapes is to be supervised by Commission staff who will ensure that the tapes are made available to copy those portions as outlined in the request.

**Date of Oral Ruling: October 24, 2002**

3. Application to remove the ban on publication of the names of witnesses who were in the jail cells on the night in question by members of the media.

**Ruling**

Some witnesses who were at the lock-up on the night in question have requested that their names not be published. Their request has been opposed by members of the media and some of the lawyers involved in the hearings.

This Commission has ruled on other occasions in favour of releasing information so that the public can stay informed.

We find, with one exception, that the private interest in not disclosing names is not superior to the public interest. The names of the witnesses is relevant. The public has the right to be informed and make their own assessment. Therefore, there will be no ban on the publication of names.

The one exception is the young person who gave evidence this morning. In addition to the public interest he may have, there is a public interest in maintaining confidentiality of young persons generally. This out weights any right of the public generally to be informed. The ban will continue for this person.



**Date of Oral Ruling: November 18, 2002**

4. Ban on, publication of, names of deceased persons.

**Ruling**

During Constable Paul MacDonald's evidence he submitted as an exhibit a list of names of deceased persons with whom he had had contact when acting as a police officer. The media requested a release of the names for publication.

The question is whether the private interest in not publishing the names of the deceased is superior to the public interest. In this case the names of the deceased persons is wholly irrelevant. If there was any question about releasing the names it could have been entered without identifying the people involved. Who these people were is of no interest to the Inquiry.

The public has the right to be informed and to make their own assessment but in this case the information is not relevant and therefore there is nothing informative being withheld. There is an obvious private interest and therefore the ban will continue.

**Date of Oral Ruling: May 26, 2003**

5. Request by Mr. Broderick, on behalf of Constable Sehl and other counsel, that any document filed but not referred to in *viva voce* evidence be excluded or that a witness be called to prove the document.

**Ruling**

The Commission does not anticipate calling further witnesses. There has been opportunity for all involved to refer to any discrepancy in the documentary evidence and there has been an opportunity for all involved to call witnesses and to enter exhibits and other evidence. We have Mr. Broderick's submissions regarding concerns he has and how certain documents may impact his client. All parties affected by this Inquiry have had the volumes of documents since October 2001. All of the documents and tapes have been available to the public since that time and there has been very little restriction. We are not prepared to remove any documents at this late stage.

The Commission will not be actively seeking out issues that have never been raised during the hearings. Where there is a discrepancy in the evidence, the contested document will have less or little weight. These documents will be given the appropriate weight when the Commission prepares its final report.

We are confident that should any critical issue arise we will be able to question or seek input from all those involved in the Inquiry.

All exhibits are in evidence and will be considered and given the appropriate weight by the Commission.

<b>Bailey Inquiry - Sorted by Date Heard</b>			
<b>Last Name</b>	<b>First Name</b>	<b>Date Heard</b>	<b>Apx. Amount of Time Under Examination</b>
Birmingham	Mel, Constable	12-Feb-02	10:20 am - 12:12 PM
Knot	M. Dr.	12-Feb-02	12:14 PM - 12:34 PM
MacDonald	Howard, Constable	12-Feb-02	2:26 PM - 4:16 PM
Pickup	Maureen	12-Feb-02	1:53 PM - 2:27 PM
O'Connell	Janet	13-Feb-02	10:41 AM - 11:14 AM
Stewart	John, Sergeant	13-Feb-02	11:23 AM - 2:53 PM
Whitty	Edna	13-Feb-02	3:28 PM - 4:25 PM
Campbell	Allan	14-Feb-02	2:27 PM - 3:00 PM
Jessome	Catherine Louise	14-Feb-02	3:18 PM - 4:19 PM
Marinelli	J. Louis, Sergeant	14-Feb-02	10:20 AM - 2:20 PM
Whitty	Edna	14-Feb-02	9:37 AM - 10:13 AM
Whitty	George	15-Feb-02	9:46 AM - 12:25 PM
Bailey	Lillian	18-Feb-02	8:46 AM - 4:10 PM
Bona	Floyd	19-Feb-02	9:27 AM - 10:16 AM
MacIntyre	Richard	19-Feb-02	11:20 AM - 2:56 PM
MacIntyre	Bernard	20-Feb-02	2:02 PM - 4:11 PM
MacIntyre	Thelma	20-Feb-02	9:25 AM - 12:40 PM
Burchell	Joanne	21-Feb-02	1:33 PM - 1:57 PM
Chisholm	Elaine	21-Feb-02	9:50 AM - 12:15 PM
McVey	Robert	21-Feb-02	1:57 PM - 4:17 PM
Ropek	Lynn	22-Feb-02	9:33 AM - 11:54 AM
McNeil	Judy	25-Feb-02	9:29 AM - 3:23 PM
Aucoin	Wayne	26-Feb-02	9:42 AM - 4:09 PM

Last Name	First Name	Date Heard	Apx. Amount of Time Under Examination
Farrell	Joe, Constable	26-Feb-02	4:12 PM - 4:23 PM
Morrison	Dave, Sergeant	26-Feb-02	9:24 AM - 9:32 AM
Sehl	Max, Constable	27-Feb-02	9:33 AM - 4:14 PM
Sehl	Max, Constable	28-Feb-02	9:43 AM - 2:44 PM
Hilliard	Michael	01-Mar-02	9:28 AM - 9:48 AM
Butler	Carmel	04-Jun-02	9:35 AM - 4:18 PM
Butler	Carmel	05-Jun-02	9:36 AM - 2:17 PM
Butler	Carmel	06-Jun-02	9:39 AM - 4:00 PM
Butler	Carmel	21-Oct-02	9:35 AM - 3:45 PM
Butler	Carmel	22-Oct-02	9:44 AM - 12:16 PM
Boone	Anthony Gerard	24-Oct-02	10:36 AM - 10:53 AM
Dermody	Stephen	24-Oct-02	12:01 PM - 12:02 PM
MacDonald	Margaret	24-Oct-02	9:34 AM - 10:02 AM
MacGillivray	Earnest	24-Oct-02	12:06 PM - 3:57 PM
Marchand	Gerald Lewis	24-Oct-02	11:27 AM - 11:59 AM
Sorrey	Stephen, Andrew	24-Oct-02	10:11 AM - 10:29 AM
Aylward	Darryl	25-Oct-02	9:46 AM - 10:20 AM
Koleszar	George	25-Oct-02	12:08 PM - 12:43 PM
Senior	Wayne	25-Oct-02	9:33 AM - 9:42 AM
Boutilier	Beverlee	28-Oct-02	3:51 PM - 4:10 PM
Glasgow	D. Dr.	28-Oct-02	10:33 AM - 12:27 PM
Larusic	Darlene	28-Oct-02	2:43 PM - 3:22 PM
MacNeil	James	28-Oct-02	4:13 PM - 4:13 PM
MacPherson	Alan	28-Oct-02	2:28 PM - 2:40 PM
Matthews	Victor	28-Oct-02	1:31 PM - 2:25 PM



Last Name	First Name	Date Heard	Apx. Amount of Time Under Examination
Campbell	James Anthony	29-Oct-02	9:19 AM - 3:14 PM
Morrison	Dave, Sergeant	29-Oct-02	3:36 PM - 4:14 PM
Chopek	Dolena	30-Oct-02	1:42 PM - 2:00 PM
MacDonald	Wayne, Constable	30-Oct-02	1:26 PM - 1:35 PM
MacKenzie	Neil, Sergeant	30-Oct-02	2:02 PM - 2:56 PM
Morrison	Dave, Sergeant	30-Oct-02	8:53 AM - 10:16 AM
O'Neil	Ken, Constable	30-Oct-02	11:40 AM - 12:02 PM
Rolfe	Mike, Constable	30-Oct-02	3:25 PM - 3:40 PM
Rutherford	Walter, Constable	30-Oct-02	3:41 PM - 4:01 PM
Stokes	Robert, Dr.	30-Oct-02	10:48 AM - 11:38 AM
Doyle	Paul, Sergeant	18-Nov-02	9:51 AM - 10:55 AM
MacDonald	Paul, Constable	18-Nov-02	10:56 AM - 2:43 PM
O'Rourke	John, Sergeant	19-Nov-02	10:11 AM - 4:06 PM
Bailey	Paula	20-Nov-02	9:34 AM - 3:25 PM
Bailey	Paula	21-Nov-02	9:31 AM - 2:15 PM
Harris	Everett	03-Feb-03	10:23 AM - 4:57 PM
Harris	Everett	04-Feb-03	9:39 AM - 10:25 AM
MacKenzie	Neil, Sergeant	04-Feb-03	10:51 AM - 4:47 PM
Kelly	Dennis Patrick	05-Feb-03	9:46 AM - 11:32 AM
Kelly	Dennis Patrick	06-Feb-03	9:34 AM - 12:14 PM
Kennedy	Roy	06-Feb-03	1:36 PM - 4:28 PM
Armstrong	Ray, Inspector	07-Feb-03	9:43 AM - 2:45 PM
Armstrong	Ray, Inspector	10-Feb-03	10:39 AM - 11:15 AM
McLean	Robert, Inspector	10-Feb-03	11:30 AM - 4:31 PM

<b>Last Name</b>	<b>First Name</b>	<b>Date Heard</b>	<b>Apx. Amount of Time Under Examination</b>
Banfield	Jack, Inspector	12-Feb-03	9:43 AM - 4:20 PM
Bailey	Kevin	13-Feb-03	3:14 PM - 3:49 PM
Buchanan	Margaret (Peggy)	13-Feb-03	9:38 AM - 2:56 PM
Boutilier	Shelley	20-May-03	10:13 AM - 12:01 PM
MacDonald	Margaret	20-May-03	10:10 AM - 10:50 AM
McLean	Robert, Shaun Cst.	20-May-03	9:55 AM - 10:09 AM
Sinclair	Dr.	20-May-03	12:30 PM - 1:35 PM
Wilson	Dave, A/Chief	20-May-03	2:58 PM - 4:39 PM
Wilson	Dave, A/Chief	21-May-03	9:34 AM - 10:37
Conway	Colleen	21-May-03	11:19 AM - 12:14
MacLeod	Edgar, Chief	21-May-03	9:35 - 4:05 PM
MacLeod	Edgar, Chief	26-May-03	11:10 AM - 3:25 PM

**Exhibit List  
Nova Scotia Police Commission  
James Guy Bailey Inquiry - 01-0017**

Date	Exhibit No	Submitted by:	Description
Feb 11/02	1	J. McKenna	Cape Breton Regional Police (CBRP) Investigation Report (Books 1- 7)
Feb 11/02	2	J. McKenna	Ontario Provincial Police (OPP) Investigation (Volumes 1-6) Report (Set Marked "E") Includes 5 Video Tapes Video Tape of Lobby Area (Tape 1) (Labeled 1 of 5) Video Tape of Lobby Area (Tape 2) (Labeled 2 of 5) Video Tape of Cell #4 (Tape 1) (Labeled 3 of 5) Video Tape of Cell #4 (Tape 2)(Labeled 4 of 5) Video Tape - Labeled "video footage" (Labeled 5 of 5) Photographic Brief and Conclusions.
Feb 11/02	3	J. McKenna	Nova Scotia Police Commission Investigation Report (Set of Four White Binders A& B, B'Cont, C, and D)
Feb 12/02	4	J. McKenna	CBRP Occurrence Report No: 98-10516 and attached Incident Report Dated May 29/98 (2 pgs)
Feb 12/02	5	J. McKenna	CBRP Follow-up Report 1998010516 Dated May 29/98 (2 pgs)
Feb 12/02	6	J. McKenna	Incident Reports Stolen Vehicle Dated: May 11/00 (2 pgs)
Feb 12/02	7	J. McKenna	CBRP CAD Emergency Response Report Dated: May 15/99 (2 pgs)
Feb 12/02	8	J. McKenna	Assault With Weapon File: 2000-007949 Dated May 23/00 (3pgs)
Feb 12/02	9	J. McKenna	Incident Report # 1998054924 - Fraud Dated Oct 21/98 (4pgs)
Feb 12/02	10	J. McKenna	Duplicate of Exhibit 9 except has hand written Name of Howard MacDonald Incident Report # 1998054924 - Fraud Dated Oct 21/98 (4pgs)
Feb 12/02	11	J. McKenna	Theft of Auto File # 2000-007950 Dated: May 3/00 (7pgs)
Feb 12/02	12	J. McKenna	CBRP CPR Kit (Type attached to Officer's Belt)

## Exhibit List - James Guy Bailey Inquiry

Page 2

Date	Exhibit No	Submitted by:	Description
Feb 12/02	13	J. McKenna	Cst. Howard MacDonald's Notes
Feb 13/02	14	J. McKenna	Pages 00065 to 00073 of the OPP Investigation - Volume 2. Missing from Exhibit 2
Feb 14/02	15	D. MacEachern	CBRP Operational Policy on the Care and Handling of Prisoners Dated May 19, 2000
Feb 14/02	16	J. McKenna	Medical Records of JB from Northside Harbor View Hospital Corporation
Feb 15/02	17	J. McKenna	Unsigned CBRP Operational Policy on the Care and Handling of Prisoners
Feb 15/02	18	J. McKenna	PINS & CPIC Files on James Bailey
Feb 18/02	19	B. MacDonald	Photo - JB as a Baby (Blue Sweater)
Feb 18/02	20	B. MacDonald	Photo - JB at the Start of Grade One School Year. Striped Sweater
Feb 18/02	21	B. MacDonald	Photo - JB wearing a Red and White Baseball Uniform
Feb 18/02	22	B. MacDonald	Photo - JB fishing on a wharf. Cabot ship in the background
Feb 18/02	23	B. MacDonald	Photo - Two photos - JB and his mother Lillian and second photo of JB with friend.
Feb 18/02	24	B. MacDonald	Photo - Two photos - JB in his new apartment. JB in Kitchen and JB in the Livingroom
Feb 18/02	25	B. MacDonald	Photo - JB with his mother Lillian at Paula's Wedding
Feb 18/02	26	B. MacDonald	Photo - Two photos - Left JB and his friend, Archie MacKinnon. Right JB and family members at family wedding.
Feb 18/02	27	B. MacDonald	Photo - Wedding including JB, Lillian and other family members standing by a house.



## Exhibit List - James Guy Bailey Inquiry

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Date	Exhibit No	Submitted by:	Description
Feb 19/02	28	J. McKenna	Photo Copy of Map of Sydney Mines and North Sydney
Feb 20/02	29	J. McKenna	Original Cheque to JB from the Department of Community Services
Feb 25/02	30	J. McKenna	George Whitty PINS - Background Check
Feb 25/02	31	J. Khatter	Health Drug Dependency Services Division Client Profile of JB - Dated Jan 30/2001 (2 pgs)
Feb 25/02	32	W. Burchell	Question Protocol For Central Dispatch Domestic Dispute or Family Violence Intake
Feb 25/02	32	W. Burchell	Question Protocol For Central Dispatch Domestic Dispute or Family Violence Intake
Feb 25/02	33	W. Burchell	Set of Three Certificates - Judy MacNeil 1. Call Taker Training for 911 2. Canadian Police Information Centre 3. Regional Communications Centre Certificate of Merit
Feb 26/02	34	J. McKenna	Volume 2 - OPP Investigation - pages 00074 through to 00087 - Missing in Original Book Tendered
Feb 26/02	35	J. McKenna	Evidence Bag containing miscellaneous items: Letter, Cigarettes, Wallet & Contents (no money), 4 Mints, Watch, Keys, Bottle of Pills (all sorts)
Feb 26/02	36	J. McKenna	Evidence Bag containing Prisoner Contact Sheet
Feb 26/02	37	J. McKenna	Evidence Bag containing Black Ball Hat
Feb 26/02	38	J. McKenna	Evidence Bag containing Black Leather Jacket
Feb 26/02	39	J. McKenna	Evidence Bag containing Sneakers
Feb 26/02	40	J. McKenna	Evidence Bag containing Grey Sweat Shirt & Blue T-Shirt Cut from JB

## Exhibit List - James Guy Bailey Inquiry

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Date	Exhibit No	Submitted by:	Description
Feb 26/02	41	J. McKenna	Evidence Bag containing Black Nylon Pants
Feb 26/02	42	J. McKenna	Evidence Bag containing Grey Undershorts & White Socks
Feb 26/02	43	J. McKenna	Evidence Bag containing Broken Sprinkler Head from Cell # 3 in CBRP Central Lockup
Feb 26/02	44	J. Khatter	Mr. Wayne Aucoin's Statement with Hand Written Notes made on the pages.
Feb 27/02	45	C. Broderick	Copy of Lillian and Paula Bailey's Form 5 Complaint to the NS Police Commission dated May 24, 2000
Feb 27/02	46	J. McKenna	JB's Wallet (removed from Exhibit 35) and Miscellaneous items which were contained within.
Feb 27/02	47	J. McKenna	Canadian Police Information Centre (CPIC) on JB Dated Feb 27, 2002
Feb 27/02	48	C. Broderick	Audio Tape of Cst. Max Sehl's conversation with CPIC requesting info on JB
Feb 28/02	49	D. MacEachern	Exhibit Book Submitted by Duncan H. MacEachern
Mar 01/02	50	J. McKenna	Medical Summary of George Whitty
Jun 04/02	51	D. MacEachern	Carmel Butler's notebook of hand written notes
Jun 06/02	52	D. MacEachern	<b>Nine (9) Prisoner Contact Logs</b> Darrell Ashley Aylward (1 of 9) Mathiew lloyd Senior (2 of 9) Perry Thomas Telum (3 of 9) Cory Vincent MacLellan (4 of 9) Stephen Michael Bishop (5 of 9) Wayne Adam Senior (6 of 9) Stephen Andrew Sorrey (7 of 9) Ernest A. MacGilvary (8 of 9) Yvonne D. Marsmen (9 of 9)
Jun 06/02	53	D. MacEachern	<b>Prisoner Contact Log</b> Peter Fredrick Townsend

## Exhibit List - James Guy Bailey Inquiry

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Date	Exhibit No	Submitted by:	Description
Jun 06/02	54	J. McKenna	Prisoner in Lockup Sheet
Oct 21/02	55	D. Bright	CAD Emergency Response Report - Fire Dated May 16, 2000
Oct 21/02	56	D. Bright	Handwritten Letter by Carmel Butler Dated May 5, 1995
Oct 22/02	57	J. McKenna	Video Tape Marked: Cell # 1 Camera # 1 Tape # 247 - D-25
Oct 22/02	58	J. McKenna	Video Tape Marked: Cell # 1 Camera # 1 Tape # 246 - D-25
Oct 24/02	59	J. Khatter	Medical Records of Ernest MacGilvrey for May 17, 2000
Oct 28/02	60	D. Bright	Face Mask Used in Resuscitation (Type found in Cells)
Oct 28/02	61	J. Khatter	Health Information Transfer Form (Blank)
Oct 29/02	62	D. MacEacheran	Video Tape of Lobby Area in the Lockup May 16, 2000 James Anthony Campbell Jailer on Duty
Nov 18/02	63	J. Pink	Paul MacDonald's CBRPS Courses List
Nov 18/02	64	J. Pink	Paul MacDonald's Certification in First Aid Training Dated Feb 24, 2000
Nov 18/02	65	J. Pink	Lesson Plan 8 - Cardiovascular Emergencies and One-Rescuer CPR - Adult Completed by Cst. Paul MacDonald
Nov 18/02	66	J. Pink	List of Deceased Persons - Cst. Paul MacDonald was involved with 1988 - 2000 and Prior
Nov 18/02	67	J. Pink	Gloves Worn by Cst. Paul MacDonald at the Time he checked JB in the Cell
Nov 19/02	68	C. Broderick	Video Tape of the Location of the Floor Drain in the Police Cells

**Exhibit List - James Guy Bailey Inquiry**

Date	Exhibit No	Submitted by:	Description
Nov 20/02	69	B. MacDonald	Hand Written Notes Taken by Paula Bailey While at the CBRP Headquarters Building at a Meeting with Police on May 18, 2000
Feb 03/03	70	J. Khatter	Addiction Services Materials
Feb 04/03	71	J. McKenna	Dept of Justice Office of the Chief Medical Examiner In-Custody Deaths for the period of Jan 1/90-Oct 29/01
Feb 04/03	72	J. Khatter	Copy of Sgt. Neil MacKenzie's Notes
Feb 05/03	73	J. McKenna	CBRPS - Policy Care and Handling of Prisoners Hand Written on the back (South Bar)
Feb 07/03	74	D. Bright	CBRP Guidelines & Procedures Jailers/Guards Signed by Inspector Ray Armstrong
Feb 10/03	75	D. Bright	Cell Block Time January 2000 to December 2002
Feb 10/03	76	D. Bright	CBRPS Lockup Facility Lockup Training Timeline Directed to Insp. MacLean
Feb 10/03	77	D. Bright	CBRPS Inter-Office Memorandum To: S/Sgt. Robert MacVay From Inspector - Central Division RE: Jailers/Custodians Date: July 10, 1996
Feb 10/03	78	D. Bright	CBRPS Inter-Office Memorandum To: S/Sgt. Robert MacVay Jailers/Custodians N.C.O.'s i/c Platoon "A", "B", "C", "D", "E" From Inspector - Central Division RE: Jailers/Guards/Custodians Date: September 13, 1996
Feb 10/03	79	D. Bright	CBRPS Memo To: Inspector Jack Banfield Inspector Ray Armstrong From: Chief Edgar MacLeod Date: April 8, 1997 Topic: Lock-up Facility

**Exhibit List - James Guy Bailey Inquiry**

**Page 7**

Date	Exhibit No	Submitted by:	Description
Feb 10/03	80	D. Bright	CBRPS Memo To: Chief Edgar MacLeod From: Inspector Jack Banfield Date: July 26, 1999 Re: Lock-up Facility
Feb 10/03	81	D. Bright	CBRPS Memo To: Associate Chief David Wilson Police Managers NCO's Jail Guards From: Chief Edgar MacLeod Date: July 21, 1999 Topic: Policy on Prisoners
Feb 10/03	82	D. Bright	CBRPS Lock-Up Facility Directive
Feb 10/03	83	D. Bright	CBRPS Memo To: Associate Chief Dave Wilson From: Inspector Robert McLean Date: April 7, 2000 Re: Dry Cleaning for Cell Block
Feb 10/03	84	D. Bright	CBRPS Memo To: All members CBRPS From: Inspector R. McLean Date: June 21, 2000 Re: Prisoner Lock-Up
Feb 10/03	85	D. Bright	CBRPS Inter-Office Memorandum To: All Members/Jail Guard From: Inspector Robert McLean Re: Prisoner Footwear Date: December 15, 2000
Feb 10/03	86	D. Bright	Notice Cell Block Signed by Inspector R. McLean RE: Entry by Door into the Cell Block
Feb 10/03	87	D. Bright	CBRPS Memo To: All Officers CBRPS and Jail Guards From: Inspector R. McLean Date: June 6, 2001 Re: Prisoner Log Sheets
Feb 10/03	88	D. Bright	CBRPS Memo To: All Members - CBRPS & Jail Guards From: Inspector R. McLean Subject: Name & Address Blocked Out Date: 26 October 2001
Feb 10/03	89	D. Bright	CBRPS Daily Lock-Up Inventory Checklist Date: Jan 21, 2002

**Exhibit List - James Guy Bailey Inquiry**

Date	Exhibit No	Submitted by:	Description
Feb 10/03	90	D. Bright	CBRPS Inter-Office Memorandum To: Inspector Robert McLean From: Inspector Robert McLean Re: Jailers - Change of Hours Date: February 18, 2002
Feb 10/03	91	D. Bright	CBRPS Letter to Mr. H. Roy Kennedy Policing and Victim Services Consultant From: Chief Edgar MacLead Re: Central Lock-Up Dated July 12, 2002 Also a second letter from Chief Edgar MacLeod Dated July 12, 2002 to Mr. Kennedy Re: Louisburg Lock-Up
Feb 10/03	92	D. Bright	CBRPS Inter-Office Memorandum To: Jail Guards From: Inspector Robert McLean Re: Call Outs Cleaning Staff Date: July 31, 2002
Feb 10/03	93	D. Bright	CBRPS Memo To: All Jail Guards From: Inspector R. McLean Re: Prisoner Personal Affects Date: October 3, 2002
Feb 10/03	94	D. Bright	Memo To: All Members and Jail Guards CBRPS Fr: Insp R. McLean Re: Security Wand (metal detector) Date: 01 Nov 07
Feb 10/03	95	D. Bright	Acknowledgement Form Re: Provincial SOP (Care and Handling of Prisoners)
Feb 10/03	96	D. Bright	Letter to Insp MacLean Re: Lockup Inspection Date: July 26 <sup>th</sup> 0930 Hrs From: Jamie Young
Feb 10/03	97	D. Bright	Facsimile Transmittal from Children's Section Office of the Ombudsman Date: February 3, 2003 Attention: Dave Wilson, David Bright Attached CBRPS Policy - Care and Handling of Prisoners
Feb 10/03	98	D. Bright	CBRPS - Policy on the Care & Handling Prisoners Revision Dates on Front Cover
Feb 10/03	99	B. MacDonald	Cell Block Workshop April 10, 2002

## Exhibit List - James Guy Bailey Inquiry

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Date	Exhibit No	Submitted by:	Description
Feb 12/03	100	D. Bright	CBRPS Memorandum To: Associate Chief David Wilson From: Inspector Jack Banfield Date: July 9, 1996 Topic: Meeting with Civilian Jailers
Feb 12/03	101	D. Bright	CBRPS Memo To: Carmel Butler, Jail Guard From: Inspector Jack Banfield Date: September 12, 1998 Re: Hours of Work
Feb 12/03	102	J. McKenna	The Office of The Ombudsman Index of a Report Listing Documentation Reviewed by the Ombudsman
Feb 13/03	103	D. MacEachern	Hand Written Note by Margaret Buchanan dated June 22, 1996.
May 20/03	104	John Khattar	Emergency/Ambulatory Care Record - Somers, Arnold Edward dated: March 4, 2002 2:43
May 20/03	105	John Khattar	Emergency/Ambulatory Care Record - Somers, Arnold Edward dated: March 4, 2002 15:07
May 20/03	106	John Khattar	Triage Reports Data
May 20/03	107	David Bright	Incident Report on an intoxicated person. March 4, 2002
May 20/03	108	Jean McKenna	Fax Cover Sheet with attached correspondence re: Public Prosecution Service
May 20/03	109	Jean McKenna	Letter dated January 27, 2002 to Dennis Squires from Dr. Douglas Sinclair
May 21/03	110	Jean McKenna	Description of Operations - prescription monitoring Association of NS
May 21/03	111	Jean McKenna	Alert Letter
May 21/03	112	Jean McKenna	JB Patient History
May 21/03	113	Jean McKenna	Oxycodone Utilization Review of Cape Breton

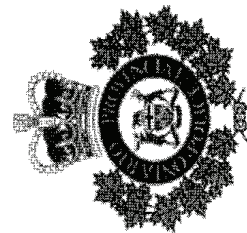
**Exhibit List - James Guy Bailey Inquiry**

**Page 10**

<b>Date</b>	<b>Exhibit No</b>	<b>Submitted by:</b>	<b>Description</b>
May 21/03	114	Jean McKenna	Panel of Drugs
May 21/03	115	Jean McKenna	June 2002 Bulletin put out by the Prescription Monitoring Program
May 26/03	116	Jean McKenna	Nightingale Nursing Services - Record of Employment for Paula Bailey



## James Guy Bailey In-Custody Death Investigation Time Line



Date	Time	Title	Event	Source
21/10/98	9:41:24 PM	Lillian BAILEY reports Fraud	Lillian BAILEY attended the North Division to report two of her cheques that had been fraudulently issued and cashed. The suspect in this incident was James Guy BAILEY. The report ends stating 'Ms. BAILEY advised her son has a drug problem and has been a problem to her for some time. According to the complainant, Jamie checked himself into the Addiction Centre today'.	Incident 1998 021734
15/05/99	10:47:04 AM	BAILEY admitted to Hospital	Lillian BAILEY requested police attend her residence due to problems with James. Sergeant John STEWART and Constable Michael O'ROURKE attended. BAILEY presented in a highly intoxicated state and admitted to being under the influence of Fiorinal, Tyleneol, Valium and Lectopam. The officers transported BAILEY to the hospital where he was admitted.	Incident report 1999 008346
03/05/00	9:22:38 AM	BAILEY reports assault	Jamie BAILEY gets into a dispute with Gerard COUSINS relating to money and the consumption of drugs. BAILEY reports that COUSINS assaulted him both by punching him in the head and face, and hitting him in the leg and arm with a baseball bat. Sergeant Louis MARINELLI has a conversation with Paula BAILEY about James allegedly stealing Paula's vehicle. MARINELLI files a detailed report about his dealing with this incident.	Incident reports 2000 007949 and 2000 007950
03/05/00	12:36:00 PM	BAILEY admitted to MHU	At 12:36 PM, James attended the Cape Breton Regional Hospital for crisis intervention as he was expressing suicidal ideation. BAILEY was examined by a Psychiatrist and was admitted to the Mental Health Unit.	Medical Files of BAILEY
05/05/00	10:00:00 AM	Edna WHITTY admitted to CBRH	On the 5th of May 2000, Edna WHITTY was admitted to the Mental Health Unit at the Regional Hospital. Edna was introduced to James BAILEY through her daughter Karen BONA.	statement of Edna WHITTY
08/05/00	10:00:00 AM	Lillian swears s. 810 Information	Lillian BAILEY attends the Sydney Court house and meets with Justice Jane TIMMONS. Lillian swears to a s. 810 Information and a court date is set for the 23rd day of May 2000 at 10:00 a.m. The summons is provided to the Regional Police for service.	Section 810 Information
08/05/00	12:00:00 PM	Contact with Social Services	At some point on the 8th day of May, Social Worker Patti GUY calls from the Mental Health Unit of the Regional Hospital advising that Mr. BAILEY will be released soon and he was inquiring about the steps for re-applying to Social Services. Janet O'CONNELL faxes forms to the hospital.	Smt. Of Janet O'CONNELL

Date	Time	Title	Event	Source
10/05/00	10:00:00 AM	Edna WHITTY discharged from CBRH	on the 10th day of May 2000, Edna WHITTY is discharged from the Regional Hospital. Edna agrees that James can stay at her residence for a week.	Statement of Edna WHITTY
10/05/00	11:00:00 AM	BAILEY discharged from MHU	At approximately 11:00 am, BAILEY signed himself out of the Mental Health Unit and left with his belongings.	Medical Files of BAILEY
10/05/00	12:00:00 PM	BAILEY submits forms - Social Services	At some point on the 10th day of May, BAILEY attends the Department of Community Services office in North Sydney and submits the Confirmation of Occupancy form.	Stmnt. Of Janet O'CONNELL
11/05/00	9:41:57 AM	Paula reports vehicle stolen	Paula (BAILEY) LURETTE contacted the Cape Breton Regional Police and reported that James BAILEY stole her vehicle from the residence of Lillian BAILEY. Sergeant Louis MARINELLI was assigned and recovered the vehicle and an unattached licence plate. MARINELLI reported that the matter was civil and encourage Paula and James to work it out. No charges were laid.	Incident 2000 008508
11/05/00	12:00:00 PM	BAILEY meets with O'CONNELL	At some point on the 11th day of May, BAILEY attends the Department of Community Services office in North Sydney and meets with O'CONNELL. BAILEY agrees to the conditions of the program and his benefits are re-instated.	Stmnt. Of Janet O'CONNELL
12/05/00	12:00:00 PM	Cheque issued to BAILEY	At some point on the 12th day of May, a cheque numbered 1A01420485 is issued by the Department of Community Services, payable to James BAILEY in the amount of \$335.00. The cheque is mailed to BAILEY from Halifax.	Files from Community Services
13/05/00	6:30:00 AM	George WHITTY and James depart residence	At approximately 6:30 a.m. James and George WHITTY departed the WHITTY residence. Either George or James would tell Edna WHITTY where they were going.	Statement of Edna WHITTY
14/05/00	10:00:00 AM	Spoke with James on the phone	During the morning hours of the 14th day of May 2000, James placed a telephone call to his mother, Lillian BAILEY, and wished her a happy mothers day and told her that he loved her.	Statement of Lillian BAILEY
15/05/00	12:30:00 AM	BAILEY moves in with Richard MacINTYRE	At approximately 12:30 a.m., James BAILEY arrived at the residence of Richard MacINTYRE. BAILEY asked Richard if he could move in until he went to Ottawa to live with Paula BAILEY, his sister.	statement of Richard MacINTYRE
15/05/00	10:00:00 AM	Lillian drove James to his grandmothers	Jamie placed a telephone call to his mother and asked her to drive James to his grandmother's. Lillian picked up James and dropped him off for the visit.	Statement of Lillian BAILEY
16/05/00	9:00:00 AM	Lillian drove James to MacINTYRE's	James placed a telephone call to his mothers and requested she drive James to his Uncle Richard MacINTYRE's. Lillian picked up James, and dropped him off as per his request. James asked Lillian to retrieve a bag of his tools from his car and drop them off.	Statement of Lillian BAILEY
16/05/00	2:00:00 PM	Lillian dropped of James' tools	Lillian obtained a bag of tools from a car that belonged to James. Lillian and her son Wayne drove to Richard MacINTYRE's residence and dropped off the tools. James was not at the residence at this time.	Statement of Lillian BAILEY
16/05/00	2:00:00 PM	BAILEY cashes cheque	At some point prior to 2:00 pm, BAILEY attends the Royal Bank in North Sydney and tenders the cheque from Social Services. BAILEY receives \$335.00 in cash.	Files from Community Services

<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
16/05/00	8:46:51 PM	McNEIL places outgoing call	At 20:46:51, radio operator Judy McNEIL places an outgoing telephone call to an unknown number. The result of the call is a busy signal. McNEIL indicates she was trying to call back James BARRY (BAILEY).	Communication radio logs and Judy McNEIL
16/05/00	8:47:39 PM	ROPEK dispatches BAILEY incident	At 20:47:39, radio operator dispatches a call to Constable Findlay MORRISON (patrol car 310) of an intoxicated male by the name of BAILEY walking up York Street. Constable Max SEHL (patrol car 313) calls MORRISON to advise he is close to the call and will proceed.	Communication radio logs
16/05/00	8:53:42 PM	SEHL has BAILEY under arrest	At 20:53:42, the radio transmissions ends with Constable Max SEHL advising radio operator Patti Lynn ROPEK that he has one male aboard and is heading to Central Lock-up. Constable Findlay MORRISON asked SEHL if he wants him to take the prisoner, to which SEHL responds, "Ah, no problem bud, I got him in the back here now. I'll head over".	Communication radio logs
16/05/00	9:25:20 PM	C.B.R.P. booking area	The Cape Breton Regional Police provided copies of two Video tapes (No Audio) depicting the activity within the prisoner processing area, or "booking area". The time of 21:25:20 is the start time shown at the beginning of the first copy tape.	C.B.R.P. booking video tape
16/05/00	9:26:25 PM	BAILEY/SEHL approach lock-up	At 21:26:25 Constable SEHL can be seen escorting James BAILEY through the parking lot towards the rear door of the lock-up. BAILEY's head is somewhat slumped forward.	C.B.R.P. booking video tape
16/05/00	9:26:27 PM	Cell Number Four	The Cape Breton Regional Police provided copies of video tapes (No Audio) depicting the activity within and in front of cell number four. This is the time that tape number once commenced showing at the beginning of the tape.	C.B.R.P. cell four video tape.
16/05/00	9:26:36 PM	BAILEY/SEHL enter booking	At 21:26:36, Constable SEHL and BAILEY enter the booking area of the lock-up. BAILEY is walking and slumped forward and Constable SEHL is walking beside him, assisting BAILEY with walking. SEHL places what appears to be a notebook on the booking counter and he and BAILEY continue to walk down the hall towards cell four. Carmel BUTLER walks out from behind the booking counter and follows SEHL/BAILEY down the hall. At 21:26:58, BAILEY, SEHL, and BUTLER leave camera view.	C.B.R.P. booking video tape
16/05/00	9:27:01 PM	James Bailey	From 21:27:01 to 21:28:53, James Guy BAILEY is brought into cell number four by Constable Max SEHL. SEHL is assisted by civilian employee Carmel BUTLER. BAILEY is brought into the cell and SEHL assists him in sitting upright on the cell bed. SEHL, with assistance from BUTLER, removes BAILEY's jacket, hat and footwear. While BAILEY is sitting, his head is positioned with his chin near his chest. SEHL lays BAILEY on the cell bed, so that BAILEY is lying on his right side in the recovery position.	C.B.R.P. cell four video tape.
16/05/00	9:27:22 PM	Dave HILLIARD enters lock-up	At 21:27:22, Dave HILLIARD, enters the booking area from outside and stands at the booking counter, speaking on the telephone.	C.B.R.P. booking video tape
16/05/00	9:28:42 PM	BUTLER briefly returns	At 21:28:42, Carmel BUTLER returns to the booking area counter from the cell four hallway, she appears to retrieve something off the desk, and she disappears back down the hall towards cell four.	C.B.R.P. booking video tape
16/05/00	9:28:52 PM	BUTLER/SEHL return	At 21:28:52, both BUTLER and SEHL return to the booking area from the cell four hallway. They appear to log in some clothing property. SEHL appears to be making notebook entries and BUTLER returns to behind the counter where she appears to make some documentation. There appears to be three way conversation between SEHL, BUTLER and the unknown male.	C.B.R.P. booking video tape

<b>Date Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
16/05/00 9:30:00 PM	Entry on BAILEY log sheet	BUTLER has entered on BAILEY's prisoner contact log sheet "Prisoner arrived, taken directly to cell #4 by above officer - searched by same officer".	BAILEY Prisoner Contact Log Sheet
16/05/00 9:32:22 PM	HILLIARD departs booking	At 21:32:22, Dave HILLIARD departs the booking area, walking down the hallway towards cell four. BUTLER and SEHL remain in the booking area. SEHL utilizes the telephone. BUTLER logs in some additional property, appears to be a jacket and some type of envelope.	C.B.R.P. booking video tape
16/05/00 9:36:07 PM	BUTLER leaves booking area	At 21:36:07, BUTLER leaves camera view walking down the hallway towards cell four, and she returns to camera view in the booking area five seconds later. BUTLER then sits down in a chair behind the booking counter and appears to engage SEHL in conversation. BUTLER and SEHL both appear to look several times at a panel of cell monitors.	C.B.R.P. booking video tape
16/05/00 9:39:32 PM	BUTLER checks cell two	At 21:39:32, BUTLER leaves her chair and opens the outer door to cell two. BUTLER stands at the threshold of the door for a period of approximately 30 seconds, following which, she returns to her chair. SEHL is still present at the booking counter. BUTLER appears to continue to periodically look at the cell monitors.	C.B.R.P. booking video tape
16/05/00 9:45:00 PM	Entry on Bailey log sheet	BUTLER has entered on BAILEY's prisoner contact log sheet "lying on bunk, quiet".	BAILEY Prisoner Contact Log Sheet
16/05/00 9:45:17 PM	Two officers enter booking	At 21:45:17, two Constables enter the booking area from outside. The two officers have brief conversation with SEHL and BUTLER. Approximately 23 seconds later, the two officers leave camera view walking down the hallway towards cell four. SEHL and BUTLER remain in the booking area.	C.B.R.P. booking video tape
16/05/00 9:46:15 PM	Unknown male enters booking	At 21:47:15, an unknown male wearing a dark jacket enter the booking area from outside. The male appears to engage SEHL and BUTLER in conversation.	C.B.R.P. booking video tape
16/05/00 9:47:15 PM	SEHL departs booking area	At 21:47:15, SEHL and the unknown male in civies depart the booking area to outside. At this same time, an unknown officer enters the booking area from the cell four hallway. This officer appears to engage BUTLER in conversation. Both this officer and BUTLER appear to periodically view the cell monitors.	C.B.R.P. booking video tape
16/05/00 9:51:09 PM	O'ROURKE returns	At 21:51:09, Sergeant O'ROURKE enters the booking area from outside and walks past the booking counter and out of camera view down the hallway towards cell four. At this same time, an unknown officer enters the booking area from the cell four hallway. Both of the unknown officers immediately leave the booking area from the garage entrance. This leaves only BUTLER in the booking area sitting at her desk.	C.B.R.P. booking video tape
16/05/00 9:51:20 PM	Unknown officer enters booking	At 21:51:20, an unknown officer enters the booking area from outside and walks directly past the booking counter and out of camera view down the hallway towards cell four. This again leaves only BUTLER in the booking area sitting at her desk. BUTLER continues to appear to periodically look at the cell monitors.	C.B.R.P. booking video tape
16/05/00 9:52:27 PM	Unknown officer enters booking	At 21:52:27, an unknown officer enters the booking area from the garage. The officer hands BUTLER an object and then the officer immediately departs the booking area out of the garage exit. BUTLER puts the unknown object under the booking counter and she remains at her desk, alone in the booking area. BUTLER appears to continue to look at the cell monitors.	C.B.R.P. booking video tape

<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
16/05/00	9:54:37 PM	BUTLER leaves booking area	At 21:54:37, BUTLER gets up from her desk and leaves camera view down the hallway towards cell four. BUTLER returns to the booking area approximately 20 seconds later, at 21:54:57, where she stands in front of the cell monitors. BUTLER commences speaking on the telephone at 21:55:51.	C.B.R.P. booking video tape
16/05/00	10:00:00 PM	Entry on BAILEY log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log Sheet hash marks to indicate "Lying on bunk, quiet".	BAILEY Prisoner Contact Log Sheet
16/05/00	10:01:10 PM	O'ROURKE enters booking area	At 22:01:10, O'ROURKE enters the booking area from the cell four hallway, and he stands at the booking counter. BUTLER remains speaking on the telephone until 22:02:09, where she concludes the seven minute telephone call. BUTLER and O'ROURKE appear to engage in conversation. BUTLER appears to periodically look at the cell monitors.	C.B.R.P. booking video tape
16/05/00	10:03:47 PM	O'ROURKE departs booking	At 22:03:47, an unknown officer enters the booking area from the cell four hallway. O'ROURKE and the unknown officer immediately depart the booking area through the garage exit. BUTLER remains in the booking area alone. BUTLER appears to periodically look at the cell monitors. BUTLER commences speaking on the telephone at 22:04:50 and concludes at 22:08:51. BUTLER remains in her chair and appears to continue looking periodically at the cell monitors.	C.B.R.P. booking video tape
16/05/00	10:15:00 PM	Entry on BAILEY log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log Sheet "Sleeping".	BAILEY Prisoner Contact Log Sheet
16/05/00	10:20:18 PM	BUTLER leaves booking area	At 22:20:18, BUTLER departs from behind the booking counter and leaves the camera view walking down the hallway towards cell four. BUTLER re-enters the camera view for a few seconds, then again leaves camera view down the hall towards cell four. BUTLER re-enters the booking area at 22:21:12 from the cell four hallway and she appears to look towards the cell monitors.	C.B.R.P. booking video tape
16/05/00	10:21:37 PM	BUTLER checks cell one	At 22:21:37, BUTLER opens the outer door of cell one and she looks into the cell area through the threshold. BUTLER looks into cell one for approximately 6 seconds, following which she closes the outer door and appears to touch some type of switch on the wall to the left of the cell door.	C.B.R.P. booking video tape
16/05/00	10:22:00 PM	BUTLER leaves booking area	At 22:22:00, BUTLER leaves camera view, walking down the hallway towards cell eight. BUTLER re-enters the booking area from the cell eight hallway fifty seconds later at 22:22:50.	C.B.R.P. booking video tape
16/05/00	10:23:28 PM	BUTLER checks cell two	At 22:23:28, BUTLER opens the outer door of cell two and looks into the cell area from the threshold for a period of 27 seconds (22:23:55). BUTLER then returns to behind the booking counter and appear to look at the cell monitors.	C.B.R.P. booking video tape
16/05/00	10:30:00 PM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
16/05/00	10:30:21 PM	Prisoner removed from cell	At 22:30:21, Const. Lloyd MacCORMACK, enters the booking area from the cell four hallway. The officer has very brief conversation with BUTLER then he enters the cell directly behind the booking area. At 22:31:02, the officer and an unknown male depart the cell and leave the camera view down the hallway towards cell four. BUTLER remains behind the booking counter at her desk.	C.B.R.P. booking video tape

<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
16/05/00	10:32:29 PM	Prisoner secured in cell five	At 22:32:29, Const. Ken O'NEILL and the unknown male re-enter the booking area from the cell four hallway. The two men walk through the booking area, and it appears that the unknown male is secured into cell five at 22:32:40. The officer then appears to engage BUTLER in conversation at the booking counter.	C.B.R.P. booking video tape
16/05/00	10:33:40 PM	Officer enters booking area	At 22:33:40, an unknown officer enters the booking area from the garage. At this same time the plain clothes officer leaves the booking area, down the hallway towards cell four. The uniform officer appears to engage BUTLER in conversation. The officer leaves the booking area down the hallway towards cell four. BUTLER returns to behind the booking area counter and appears to look at the cell monitors. BUTLER then returns to her desk chair.	C.B.R.P. booking video tape
16/05/00	10:42:25 PM	Officer enters booking area	At 22:42:25, an unknown officer enter the booking area from the cell four hallway. The officer appears to engage BUTLER in conversation and he points down the hallway towards cell four. Fourteen seconds later, BUTLER gets out of her chair and she and the officer depart the booking area down the hallway towards cell four. Twenty eight seconds later, the officer and BUTLER re-enter the booking area from the cell four hallway. BUTLER returns to her chair and the officer exits the booking area by the garage exit. Five seconds later the officer re-enters the booking area from the garage, and appears to engage BUTLER in conversation. The officer departs the cell area through the garage exit approximately two minutes later, at 22:45:22. BUTLER remains in the booking area alone and appear to look towards the cell monitors.	C.B.R.P. booking video tape
16/05/00	10:45:00 PM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
16/05/00	10:46:09 PM	James BAILEY moves head	At 22:46:09 and again at 22:46:36, BAILEY can be seen on the video briefly raising his head.	C.B.R.P. cell four video tape.
16/05/00	10:54:48 PM	BUTLER departs booking area	At 22:54:48, BUTLER departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
16/05/00	10:55:06 PM	O'ROURKE enters booking area	At 22:55:06, O'ROURKE enters the booking area from the garage and walks directly past the booking counter and out of the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
16/05/00	10:55:24 PM	O'ROURKE/BUTLER re-enter	At 22:55:24, both BUTLER and O'ROURKE enter the booking area from the cell four hallway. BUTLER and O'ROURKE appear to engage in conversation at the booking counter.	C.B.R.P. booking video tape
16/05/00	10:56:35 PM	O'ROURKE departs booking area	At 22:56:35, O'ROURKE departs the booking area down the hallway towards cell four. BUTLER remains alone in the booking area and appears to look at the cell monitors.	C.B.R.P. booking video tape
16/05/00	10:56:50 PM	Det enters booking area.	At 22:56:50, Const. MacCORMACK enters the booking area with an unknown male from the cell four hallway. The officer and the male enter the cell directly beside the booking counter. At 22:57:09, the officer departs the cell and leaves the booking area towards cell four. BUTLER remains in the booking area at her desk. BUTLER appears to look towards the cell monitors.	C.B.R.P. booking video tape
16/05/00	10:58:49 PM	Brent BOYLE enters	At 22:58:49, Brent BOYLE, wearing a jacket and a ball cap enters the booking area from the garage. The male appears to engage BUTLER in conversation.	C.B.R.P. booking video tape
16/05/00	10:59:47 PM	BUTLER departs booking	At 22:59:47, both BUTLER and BOYLE depart the booking area through the garage exit.	C.B.R.P. booking video tape



<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
16/05/00	11:00:00 PM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
16/05/00	11:00:07 PM	BUTLER returns to booking	At 23:00:07, BUTLER and the unknown male return to the booking area from the garage. Approximately 28 seconds later (at 23:00:35) the unknown male leaves the booking area down the hallway towards cell four. BUTLER remains in the booking area and appears to look at the cell monitors.	C.B.R.P. booking video tape
16/05/00	11:02:24 PM	Neil MacKENZIE enters booking	At 23:02:24, Sgt. Neil MacKENZIE enters the booking area from the cell four hallway. The officer walks right past the booking counter and exits the booking area into the garage. The officer returns from the garage seconds later and walks past the booking desk again and leaves the booking area at 23:02:35, down the hallway towards cell four. BUTLER remains in the booking area. BUTLER appears to look at the cell monitors.	C.B.R.P. booking video tape
16/05/00	11:05:25 PM	James BAILEY moves head	At 23:05:25, BAILEY can be seen on the video briefly raising his head.	C.B.R.P. cell four video tape
16/05/00	11:09:24 PM	James BAILEY moves head	At 23:09:24, BAILEY can be seen on the video raising his head for approximately seven seconds.	C.B.R.P. cell four video tape
16/05/00	11:10:05 PM	Justice of Peace Enters	At 23:10:05, JP Cotter OLIVER enters the booking area from the garage. He approaches the booking counter and appears to engage BUTLER in conversation. BUTLER picks up the telephone receiver for a few seconds and then puts the telephone back down. At 23:10:44, another unknown male just enters the booking area from the cell four hallway, and the two males then depart the booking area down the hallway towards cell four. BUTLER remains in the booking area alone and appears to look at the cell monitors.	C.B.R.P. booking video tape
16/05/00	11:10:40 PM	James BAILEY moves head	James BAILEY can be seen on the video raising his head for approximately fourteen seconds.	C.B.R.P. cell four video tape
16/05/00	11:11:07 PM	BUTLER leaves booking area	At 23:11:07, BUTLER departs the booking area down the hallway towards cell four. BUTLER returns to the booking area from the cell four hallway 10 seconds later at 23:11:17. BUTLER then appears to look at the cell monitors.	C.B.R.P. booking video tape
16/05/00	11:12:01 PM	James BAILEY moves head	James BAILEY can be seen on the video raising his head for approximately eleven seconds.	C.B.R.P. cell four video tape
16/05/00	11:12:25 PM	BUTLER checks cell two	At 23:12:25, BUTLER makes a physical check of cell two. The check consists of BUTLER opening the door and couple of inches then closing the door. BUTLER opens the door a second time a couple of inches, then she closes the door. At 23:12:48 BUTLER completes the check.	C.B.R.P. booking video tape
16/05/00	11:12:52 PM	Unknown person in booking	At 23:12:52, when BUTLER is walking back to the booking counter from cell two, the arm of an unknown male can be seen near the wall in the hallway from cell four. It appears that this person and BUTLER are waving at each other and the individual leaves the booking area down the hallway towards cell four. BUTLER then picks up the telephone receiver for a few seconds and she returns to her chair. BUTLER appears to periodically look at the cell monitors.	C.B.R.P. booking video tape
16/05/00	11:15:00 PM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
16/05/00	11:16:29 PM	Prisoner from cell five removed	At 23:16:29, an unknown detective enters the booking area from the cell four hallway. The officer walks directly to cell five and removes the person from that cell. The officer and the male walk from cell five and leave the booking area down the hallway towards cell four. BUTLER remains in the booking area alone.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
16/05/00	11:18:30 PM	James BAILEY moves head	James BAILEY can be seen on the video raising his head for approximately five seconds.	C.B.R.P. cell four video tape
16/05/00	11:19:15 PM	Prisoner movement in booking	At 23:19:15, an unknown detective and male enter the booking area from the cell four hallway. The male is put back in cell five, and the detective returns to the booking counter where he has brief conversation with BUTLER. At 11:20:14, the detective removes an unknown male from the cell immediately beside the booking area, and the two leave the booking area down the hallway towards cell four. BUTLER remains in the booking area.	C.B.R.P. booking video tape
16/05/00	11:22:00 PM	Detective enters booking area	At 23:22:00, a detective enters the booking area from the cell four hallway. The officer has brief conversation with BUTLER and BUTLER appears to point in the area of the cell monitors. At 23:22:12, the officer departs the booking area down the hallway towards cell 8. BUTLER remains in the booking area, and appears to be looking at the cell monitors.	C.B.R.P. booking video tape
16/05/00	11:23:05 PM	BOYLE departs booking area	At 23:23:05, Brent BOYLE and Sergeant O'ROURKE enter the booking area from the cell four hallway. The male immediately departs the booking area through the garage exit. O'ROURKE and BUTLER appear to engage in brief conversation and at 23:23:25, O'ROURKE departs the booking area down the hallway to cell four. BUTLER remains at her desk.	C.B.R.P. booking video tape
16/05/00	11:25:03 PM	BUTLER departs booking area	At 23:25:03, BUTLER departs the booking area down the hallway towards cell eight. BUTLER re-enters the booking area at 23:25:12 and returns to her desk.	C.B.R.P. booking video tape
16/05/00	11:25:17 PM	Male departs booking area	At 23:25:17, a detective and an unknown male with a jacket, enter the booking area from the cell four hallway. The male immediately departs the booking area through the garage exit and the detective immediately departs (at 23:25:32) the booking area down the hallway towards cell four. BUTLER remains at her desk. BUTLER appears to periodically check the cell monitors.	C.B.R.P. booking video tape
16/05/00	11:28:00 PM	O'ROURKE enters booking area	At 23:28:00, O'ROURKE enter the booking area from the cell four hallway. O'ROURKE and BUTLER appear to engage in conversation at the booking counter.	C.B.R.P. booking video tape
16/05/00	11:28:38 PM	O'ROURKE attends cell two	At 23:28:38, O'ROURKE opens the outer door to cell two. O'ROURKE standing in the door threshold facing into the cell area.	C.B.R.P. booking video tape
16/05/00	11:29:54 PM	Cell Two prisoner out	At 23:29:54, the male in cell two comes out of the cell and O'ROURKE appears to direct him over to where his property is located. The male appears to gather his belongings and he sits in a seat, putting on his belt, shoes, ball cap, and jacket.	C.B.R.P. booking video tape
16/05/00	11:30:00 PM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
16/05/00	11:30:03 PM	Officer enters booking area	At 23:30:03, an unknown officer enters the booking area from the garage. At 23:30:45, the same officer departs the booking area down the hallway to cell four.	C.B.R.P. booking video tape
16/05/00	11:31:21 PM	Officer departs booking area	At 23:31:21, an unknown officer enters the booking area from the cell four hallway and immediately departs the booking area out the garage exit. O'ROURKE, BUTLER and the cell two prisoner remain in the booking area.	C.B.R.P. booking video tape



<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
17/05/00	1:47:57 AM	O'ROURKE enters booking	At 01:47:57, O'ROURKE enters the booking area from the cell four hallway. O'ROURKE stands at the booking counter and appears to engage BUTLER in conversation and look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:51:32 AM	Officer enters booking	At 01:51:32, an officer enters the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00	1:51:37 AM	Officers depart booking	At 01:51:37, both O'ROURKE and the officer depart the booking area through the garage exit. BUTLER remains at her desk and periodically appears to looks at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:53:07 AM	BUTLER leaves he desk	At 01:53:07, BUTLER leaves her desk and walks over the garage door exit. BUTLER does not exit from the door.	C.B.R.P. booking video tape
17/05/00	1:53:17 AM	BUTLER leaves booking	At 01:53:17, BUTLER leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	1:55:03 AM	BUTLER returns to booking	At 01:55:03, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to look at the cell monitors and handle some type of paperwork at her desk.	C.B.R.P. booking video tape
17/05/00	1:57:22 AM	BUTLER opens cell three	At 01:57:22, BUTLER opens the outer door to cell three and appears to look into the cell standing at the threshold.	C.B.R.P. booking video tape
17/05/00	1:57:47 AM	BUTLER closes cell three	At 01:57:47, BUTLER closes the outer door to cell three and then appears to look a the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:57:50 AM	BUTLER leaves Booking area	At 01:57:50, BUTLER leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	1:58:12 AM	BUTLER attends cell four	At 01:58:12, Carmel BUTLER can be seen entering the area in front of the cell bars where she remains for approximately 25 seconds. BUTLER appears to reach through the bars and lean into cell four in the area of BAILEY's feet. BUTLER then moves towards the opposite (left) side of the cell area and appears to look at BAILEY. BUTLER then leaves the cell area at 01:58:37.	C.B.R.P. cell four video tape
17/05/00	1:58:17 AM	BUTLER calls O'ROURKE	At 01:58:17, a radio transmission commences with Jailor Carmel BUTLER calling Sergeant John O'ROURKE. BUTLER requests that the Sergeant return to the lock up as soon as possible. O'ROURKE responds that he is on Charlotte Street and that it will take a minute.	Communication radio logs
17/05/00	1:58:33 AM	BUTLER returns to booking	At 01:58:33, BUTLER returns to the booking area from the cell three hallway. BUTLER appears to retrieve something from the area near the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:58:42 AM	BUTLER leaves booking	At 01:58:42, BUTLER leaves the booking area down the hallway towards cell four	C.B.R.P. booking video tape
17/05/00	1:58:49 AM	BUTLER attends cell four	At 01:58:49, Carmel BUTLER again can be seen re-entering the area in front of the cell bars of cell four, where she remains for approximately 18 seconds. During this period of time, BUTLER again appear to reach into the cell through the bars in the area of BAILEY's feet. BUTLER makes a motion consistent with pulling on BAILEY's leg(s). BUTLER then leaves the cell area at 01:59:07.	C.B.R.P. cell four video tape
17/05/00	1:59:03 AM	BUTLER returns to booking	At 01:59:03, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to retrieve a portable radio and hold the unit near he mouth.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
17/05/00	1:59:13 AM	BUTLER requests ambulance	At 01:59:13, BUTLER places a telephone call to radio operator Judy McNEIL. BUTLER requests that an ambulance be dispatched, indicating "there's a fellow down here that's, doesn't seem to be responding at all".	Communication radio logs
17/05/00	1:59:27 AM	BUTLER leaves booking	At 01:59:27, BUTLER leaves the booking area down the hallway towards cell four	C.B.R.P. booking video tape
17/05/00	1:59:32 AM	BUTLER attends cell four	At 01:59:32, Carmel BUTLER can be seen entering the area in front of the bars of cell four where she remains for approximately thirty one seconds. BUTLER reached through the bars and appears to be pulling on BAILEY's leg(s). BUTLER then moves to the left and appears to look directly at BAILEY. BAILEY then leaves the cell four area.	C.B.R.P. cell four video tape
17/05/00	1:59:35 AM	McNEIL dispatches an ambulance	At 01:59:35, radio operator Judy McNEIL places a call to ambulance dispatch and speaks with radio operator Shelley SULLIVAN. McNEIL requests an ambulance be dispatched to the Central Lock-up. In attempt to answer some of SULLIVAN's questions, radio operator patric Lynn ROPEK places a telephone call to the lock-up and speaks with Carmel BUTLER. ROPEK then relays the information to McNEIL who in turn relays it to SULLIVAN. The call concludes with McNEIL not able to answer some of SULLIVAN's questions, and SULLIVAN is requested to call the lock-up at 563-5208.	Communication radio logs
17/05/00	1:59:59 AM	BUTLER returns to booking	At 01:59:59, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to speak on the telephone, look at the cell monitors, and then retrieve an item from the desk.	C.B.R.P. booking video tape
17/05/00	2:00:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "checked him - opened door - prisoner not breathing - shook his feet - no response - Sarg called - Ambulance called - 2:05 am Sarg. Arrived".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:00:23 AM	BUTLER leaves booking	At 02:00:23, BUTLER departs the booking area down the hallway towards cell four	C.B.R.P. booking video tape
17/05/00	2:00:29 AM	BUTLER enters cell four	At 2:00:29, Carmel BUTLER attends the area of cell four and actually opens the cell door and enters. BUTLER remains for approximately 12 seconds. BUTLER appears to put her right hand on BAILEY's back, following which. She leaves the cell and pulls the door (bars) closed behind her, leaving the area of cell four.	C.B.R.P. cell four video tape
17/05/00	2:00:39 AM	BUTLER returns to booking	At 02:00:39, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to speak on the telephone and look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	2:00:52 AM	BUTLER leaves booking	At 02:00:52, BUTLER leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:01:00 AM	BUTLER attends cell four	At 2:01:00, Carmel BUTLER attends the area of cell four and again opens the cell doors (bars). BUTLER stands in the door threshold for approximately 21 seconds and appears to look at BAILEY. BUTLER then departs the cell four area.	C.B.R.P. cell four video tape
17/05/00	2:01:17 AM	BUTLER returns to booking	At 02:01:17, BUTLER returns to the booking area from the cell four hallway.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
17/05/00	2:01:18 AM	O'ROURKE calls ROPEK	At 02:01:18, O'ROURKE places a cellular telephone call to radio operator Patti Lynn ROPEK and he asks if she has been speaking with the girl downstairs (BUTLER). ROPEK advised that she has and 'she's got the young guy down there not responsive, not breathing, ambulance is on the way'. O'ROURKE indicates that is what he wanted to know and the call concludes.	Communication radio logs
17/05/00	2:01:28 AM	BUTLER leaves booking	At 02:01:28, BUTLER departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:01:32 AM	BUTLER returns to booking	At 02:01:32, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to speak on the telephone, and look at the cell monitors. When BUTLER puts down the telephone receiver, she picks up a document from the desk and sets it on the counter beside the passage way from behind the desk.	C.B.R.P. booking video tape
17/05/00	2:01:44 AM	O'ROURKE arrives at lock-up	At 02:01:44, Sergeant John O'ROURKE (Patrol unit 223) makes a radio transmission that he is 10-7 (has arrived) at the lock-up.	Communication radio logs
17/05/00	2:02:05 AM	Video stops recording	At 2:02:05, the recording on the tape stops and the screen goes gray. Not sure if this is only a problem with the copy, or in fact, if the original recording stops as well.	C.B.R.P. cell four video tape
17/05/00	2:02:12 AM	BUTLER attends garage door	At 02:02:12, BUTLER attends the garage door exit, but does not leave the booking area.	C.B.R.P. booking video tape
17/05/00	2:02:15 AM	BUTLER leaves booking area	At 02:02:15, BUTLER leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:02:34 AM	BUTLER returns to booking	At 02:02:34, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to look at the monitors and then retrieve something from the desk.	C.B.R.P. booking video tape
17/05/00	2:02:35 AM	Video starts recording	At 2:02:35, the recording on the tape resumes. When the recording resumes, Carmel BUTLER is standing just inside the open door (bars) of cell four and she appear to be looking at BAILEY. BUTLER remains for approximately four seconds and then she leaves the cell area.	C.B.R.P. cell four video tape
17/05/00	2:02:47 AM	BUTLER leaves booking	At 02:02:47, BUTLER leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:03:02 AM	BUTLER returns to booking	At 02:03:02, BUTLER returns to the booking area from the cell four hallway	C.B.R.P. booking video tape
17/05/00	2:03:05 AM	O'ROURKE arrives at booking	At 02:03:05, O'ROURKE and another officer arrive at the booking area from the garage. Both officers proceed directly down the hallway towards cell four, BUTLER follows.	C.B.R.P. booking video tape
17/05/00	2:03:16 AM	Police attend cell four	At 2:03:16, Sergeant O'ROURKE and Constable unknown (SEHL7) attend the area of cell number four. O'ROURKE walks into the cell, looks at BAILEY, and then immediately walks back out of the cell and leaves the area of cell four. The Constable then enters cell four, looks at BAILEY, and then immediately turns and leaves the area of cell four.	C.B.R.P. cell four video tape
17/05/00	2:03:20 AM	O'ROURKE/BUTLER return	At 02:03:20, BUTLER and O'ROURKE arrive back in the booking area from the cell four hallway. O'ROURKE picks up the telephone receiver and he appears to engage in conversation. BUTLER stands at her desk.	C.B.R.P. booking video tape

<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
17/05/00	2:03:25 AM	Officer back to booking	At 02:03:25, the officer returns to booking from the cell four hallway. The officer stands at the counter near BUTLER.	C.B.R.P. booking video tape
17/05/00	2:03:37 AM	BUTLER departs booking	At 02:03:37, BUTLER departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:03:47 AM	BUTLER returns to booking	At 02:03:47, BUTLER returns to the booking area from the cell four hallway. O'ROURKE is still on the telephone and the officer is still at the counter.	C.B.R.P. booking video tape
17/05/00	2:03:58 AM	BUTLER/officer depart booking	At 02:03:58, BUTLER and the officer depart the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:04:04 AM	Police roll BAILEY over	At 2:04:04, Constable unknown (SEHL?) enters cell number four wearing a pair of dark coloured gloves. Carnel BUTLER attends the area of cell four, and she stands in the threshold of the doorway (bars) to the cell. (SEHL) rolls BAILEY over onto his back, he looks at BAILEY, and then SHEL and BUTLER depart the area of cell four at 2:04:26. Up to this point, no attempt has been made by anyone to check BAILEY for a pulse.	C.B.R.P. cell four video tape
17/05/00	2:04:22 AM	BUTLER/officer return to booking	At 02:04:22, BUTLER and the officer return to the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00	2:04:35 AM	Officer leaves booking area	At 02:04:35, the officer leaves the booking area down the hallway towards cell four. BUTLER retrieves a document from the counter (appears to be the same document described in the 2:01:32 entry) and appears to commence writing with left hand.	C.B.R.P. booking video tape
17/05/00	2:04:43 AM	First indication of assessment	At 2:04:43, Constable unknown (SEHL?) enters cell number four wearing a pair of dark coloured gloves. The Constable appears to put his right hand in the area of BAILEY's neck for a few seconds. The Constable then turns his head in a fashion consistent with the looking/listening taught in CPR (The Constables head at this point appears to be a couple of feet above BAILEY's chest area). The officer then leaves the area of cell four at 2:04:56.	C.B.R.P. cell four video tape
17/05/00	2:04:50 AM	Officer returns to booking	At 02:04:50, the officer returns from the cell four hallway and stands at the counter.	C.B.R.P. booking video tape
17/05/00	2:04:56 AM	Officer leaves booking area	At 02:04:56, the officer departs the booking area down the hallway towards cell four. O'ROURKE remains speaking on the telephone and BUTLER appears to be writing.	C.B.R.P. booking video tape
17/05/00	2:05:03 AM	Further assessment done	At 2:05:03, Constable unknown enters cell number four wearing a pair of dark coloured gloves. The Constable places his right hand in the area of BAILEY's neck and holds it there. The Constable briefly lowers his head close to BAILEY's head. The Constable then departs the area of cell four at 2:05:40.	C.B.R.P. cell four video tape
17/05/00	2:05:16 AM	BUTLER looks at monitors	At 02:05:16, BUTLER stops writing and briefly looks at the monitors. BUTLER then resumes writing.	C.B.R.P. booking video tape
17/05/00	2:05:34 AM	O'ROURKE gets duty officer telephone number	At 02:05:34, Sergeant John O'ROURKE places a telephone call to radio operator Patti Lynn ROPEK asking who the duty officer is. ROPEK advises O'ROURKE that the duty officer is Inspector Jack BANFIELD and she provides O'ROURKE with BANFIELD's telephone number.	Communication radio logs
17/05/00	2:05:34 AM	Officer returns to booking	At 02:05:34, the officer returns to the booking area counter and BUTLER appears to hand him latex glove(s).	C.B.R.P. booking video tape

<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
17/05/00	2:05:58 AM	Officer leaves booking	At 02:05:58, the officer appears to be putting on the latex gloves and he leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:06:02 AM	O'ROURKE off the telephone	At 02:06:02, O'ROURKE puts down the telephone receiver and he departs the booking area through the garage exit.	C.B.R.P. booking video tape
17/05/00	2:06:06 AM	Police enter cell four	At 2:06:06, Constable unknown enters cell number four and appears to be putting on a pair of latex gloves. The Constable appears to briefly look at BAILEY, then the Constable leaves the area of cell four at 2:06:16.	C.B.R.P. cell four video tape
17/05/00	2:06:12 AM	Office returns from the cell	At 02:06:12, the officer returns to the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00	2:06:22 AM	O'ROURKE returns to booking	At 02:06:22, O'ROURKE returns to the booking area from the garage and he proceeds to pick-up the telephone receiver. BUTLER appears to be writing at her desk and the other officer is standing at the counter.	C.B.R.P. booking video tape
17/05/00	2:06:30 AM	First EHS crew arrived	At 02:06:30, the first EHS crew arrives through the garage and proceeds directly down the hallway towards cell four. The response time for this crew is Three minutes and forty two seconds after receiving the call.	C.B.R.P. booking video tape and EHS incident rep
17/05/00	2:06:37 AM	Officer departs booking area	At 02:06:37, the officer departs the booking area down the hallway towards cell four, following the EHS crew.	C.B.R.P. booking video tape
17/05/00	2:06:41 AM	EHS commence assistance	At 2:06:41, the first two ambulance attendants arrive. They are joined shortly by two more EHS members and a student "ride along". The EHS members work within cell four on James BAILEY for approximately twenty three minutes.	C.B.R.P. cell four video tape
17/05/00	2:06:52 AM	Officer returns to booking	At 02:06:52, the officer returns to the booking area from the cell four hallway. BUTLER appears to be writing and O'ROURKE is still on the telephone.	C.B.R.P. booking video tape
17/05/00	2:06:57 AM	Officer leaves booking	At 02:06:57, the officer leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:07:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Ambulance arrived".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:07:03 AM	Second EHS attendant arrives	At 02:07:03, the second EHS attendant arrived and proceeded directly down the hallway towards cell four. O'ROURKE appears to have concluded his telephone call and BUTLER appears to be still writing.	C.B.R.P. booking video tape
17/05/00	2:07:12 AM	O'ROURKE leaves booking	At 02:07:12, O'ROURKE leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:07:19 AM	O'ROURKE returns	At 02:07:19, O'ROURKE returns to the booking area from the cell four hallway and immediately departs the booking area out the garage exit. BUTLER remains at her desk and appears to be writing.	C.B.R.P. booking video tape
17/05/00	2:07:28 AM	BUTLER asks to speak with SEHL	At 02:07:28, Carmel BUTLER places a telephone call to radio operator Judy McNEIL and asks for Constable Max SEHL to give her a call.	Communication radio logs

<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
17/05/00	2:07:34 AM	O'ROURKE returns	At 02:07:34, O'ROURKE returns to the booking area from the garage and he proceeds directly down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:08:03 AM	O'ROURKE asks for SEHL	At 02:08:03, Sergeant John O'ROURKE places a telephone call to radio operator Patti Lynn ROPEK and confirms that they have Constable Max SEHL going to give O'ROURKE a call.	Communication radio logs
17/05/00	2:08:18 AM	Second EHS crew arrived	At 02:08:18, the second EHS crew (with two attendants and a student) arrived and proceeded directly down the hallway towards cell four. BUTLER picks up the telephone receiver with a document in her hand.	C.B.R.P. booking video tape
17/05/00	2:08:32 AM	BUTLER off telephone	At 02:08:32, BUTLER appears to conclude her telephone call. She carries a document back to her desk and appears to resume writing.	C.B.R.P. booking video tape
17/05/00	2:08:52 AM	O'ROURKE returns to booking	At 02:08:52, O'ROURKE returns to the booking area from the cell four hallway and picks up the telephone receiver. BUTLER appears to look at her watch.	C.B.R.P. booking video tape
17/05/00	2:09:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Back up Ambulance response workers arrived".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:09:15 AM	O'ROURKE concludes call	At 02:09:15, O'ROURKE put down the telephone receiver and appears to have a brief conversation with BUTLER. O'ROURKE then departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:09:40 AM	BUTLER commences smoking	At 02:09:40, BUTLER lights what appears to be a cigarette and continues writing.	C.B.R.P. booking video tape
17/05/00	2:10:01 AM	O'ROURKE enters booking	At 2:10:01, O'ROURKE enters the booking area from the cell four hallway. O'ROURKE appears to put a jacket on a chair, then he departs the booking area down the cell four hallway	C.B.R.P. booking video tape
17/05/00	2:10:30 AM	McNEIL calls SEHL	At 02:10:30, radio operator Judy McNEIL places a call to Constable Max SEHL. McNEIL asks SEHL to call the lock-up at 523-5208.	Communication radio logs
17/05/00	2:11:07 AM	BUTLER seen smoking	At 2:11:07, BUTLER is in the booking area, smoking a cigarette.	C.B.R.P. booking video tape
17/05/00	2:11:41 AM	O'ROURKE returns	At 02:11:41, O'ROURKE returns to the booking area and picks up the telephone receiver. The officer returns to the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00	2:12:12 AM	O'ROURKE leaves booking	At 02:12:12, O'ROURKE departs the booking area down the hallway towards cell four. The officer and BUTLER appear to engage in conversation in the booking area.	C.B.R.P. booking video tape
17/05/00	2:12:32 AM	O'ROURKE returns to booking	At 02:12:32, O'ROURKE returns to booking area from the cell four hallway. Engages BUTLER in conversation.	C.B.R.P. booking video tape
17/05/00	2:12:57 AM	O'ROURKE/officer leave booking	At 02:12:57, both O'ROURKE and the officer depart the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:13:03 AM	Officer returns to booking	At 02:13:03, the officer returns to the booking area from the cell four hallway. The officer approaches the counter and appears to be making notebook entries. BUTLER hands O'ROURKE a document that appear to be at least two sheets. O'ROURKE looks at his watch and views the documents while he was speaking on the telephone.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
17/05/00	2:13:21 AM	O'ROURKE returns to booking.	At 02:13:21, O'ROURKE returns to the booking area from the cell four hallway. O'ROURKE commences speaking on the telephone.	C.B.R.P. booking video tape
17/05/00	2:15:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Sgt. J. O'ROURKE informed Ins. Jack BANFIELD that prisoner has ambulance workers working on him".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:15:05 AM	O'ROURKE concludes call	At 02:15:05, O'ROURKE concludes his telephone call.	C.B.R.P. booking video tape
17/05/00	2:15:12 AM	O'ROURKE/officer leave booking	At 02:15:12, O'ROURKE and the officer leave the booking area down the hallway towards cell four. BUTLER retrieves from the counter the sheets that O'ROURKE had been looking at.	C.B.R.P. booking video tape
17/05/00	2:15:25 AM	Officer returns to booking	At 02:15:25, the officer returns to the booking area from the cell four hallway. The officer appears to resume writing in his notebook. BUTLER resumes writing at the counter.	C.B.R.P. booking video tape
17/05/00	2:15:57 AM	O'ROURKE briefly returns	At 02:15:57, O'ROURKE returns to the booking area from the cell four hallway, then immediately returns to the cell area.	C.B.R.P. booking video tape
17/05/00	2:16:25 AM	O'ROURKE returns to booking	At 02:16:25, O'ROURKE returns to the booking area from the cell four hallway. O'ROURKE stands at the counter and appears to look at the cell monitors and engage the officer and BUTLER in conversation.	C.B.R.P. booking video tape
17/05/00	2:16:40 AM	O'ROURKE calls ROPEK	At 02:16:40, O'ROURKE places a telephone call to radio operator Patti Lynn ROPEK. O'ROURKE indicates he is looking for the on-call member from Major Crime. ROPEK provides O'ROURKE with the telephone numbers for Sergeant Neil MacKENZIE and Identification officer Dave MORRISON. During this conversation, there appears to be conversation between O'ROURKE and Carmel BUTLER about BAILEY positioning in the cell.	Communication radio logs
17/05/00	2:16:45 AM	O'ROURKE leaves booking	At 02:16:45, O'ROURKE leaves the booking area down the hallway towards cell four. BUTLER and the officer continue writing.	C.B.R.P. booking video tape
17/05/00	2:17:07 AM	O'ROURKE returns to booking	At 02:17:07, O'ROURKE returns to the booking area from the cell four hallway. O'ROURKE picks up the telephone receiver, appears to engage the officers in conversation, then appears to write something down.	C.B.R.P. booking video tape
17/05/00	2:18:36 AM	McNEIL calls SEHL	At 02:18:36, radio operator Judy McNEIL places a telephone call to North Division and speaks with Constable Max SEHL. SEHL and McNEIL discuss what occurred with BAILEY. Some inappropriate comments are made by both SEHL and McNEIL during this exchange.	Communication radio logs
17/05/00	2:18:59 AM	O'ROURKE concludes call	At 02:18:59, O'ROURKE appears to conclude his telephone call. O'ROURKE then picks up the telephone receiver again.	C.B.R.P. booking video tape
17/05/00	2:19:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Neil MacKENZIE was called by Sgt. J. O'ROURKE".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:19:21 AM	HILLIARD enters booking	At 02:19:21, HILLIARD enters the booking area from the cell eight hallway and stands at the booking counter.	C.B.R.P. booking video tape
17/05/00	2:20:32 AM	MacDONALD/EHS depart	At 02:20:32, Constable Paul MacDONALD and on the EHS members enter the booking area from the cell four hallway and they immediately depart the booking area to outside.	C.B.R.P. booking video tape



<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
17/05/00	2:20:37 AM	HILLIARD departs booking	At 02:20:37, HILLIARD departs the booking area down the cell eight hallway.	C.B.R.P. booking video tape
17/05/00	2:20:57 AM	MacDONALD/EHS return	At 02:20:57, Constable MacDONALD and the EHS member enter the booking area from outside. MacDONALD approaches the booking counter.	C.B.R.P. booking video tape
17/05/00	2:21:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Ident. Was called by J. O'ROURKE".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:21:10 AM	O'ROURKE concludes call	At 02:21:10, O'ROURKE concludes his telephone call. MacDONALD departs the booking area down the cell four hallway. BUTLER remains at the counter.	C.B.R.P. booking video tape
17/05/00	2:21:20 AM	O'ROURKE departs booking	At 02:21:20, O'ROURKE departs the booking area down the cell four hallway. BUTLER remains at the booking desk and appears to be writing.	C.B.R.P. booking video tape
17/05/00	2:21:38 AM	Stretcher brogint into lock-up	At 02:21:38, the stretcher is brought into the booking area.	C.B.R.P. booking video tape
17/05/00	2:22:44 AM	BUTLER, O'ROURKE, MacDONALD	At 02:22:44, BUTLER, O'ROURKE, and Constable Paul MacDONALD are in the booking area and appear to be engaging in conversation. O'ROURKE appears to be making notebook entries and BUTLER moves over and stands beside O'ROURKE, and she continues to make notes.	C.B.R.P. booking video tape
17/05/00	2:24:03 AM	MacDONALD leaves briefly	At 02:24:03, MacDONALD briefly departs the booking area down the cell four hallway. He then returns to the booking area and resumes making notes.	C.B.R.P. booking video tape
17/05/00	2:24:14 AM	BUTLER checks MacGILLIVARY in cell five	At 02:24:14, BUTLER approaches cell number five and appears to do a check. BUTLER then returns to the booking counter and takes a two page document from O'ROURKE. BUTLER then gives the document back to O'ROURKE and he appears to look at two pages. BUTLER then gets the document back and appears to engage one of the EHS members in conversation.	C.B.R.P. booking video tape
17/05/00	2:26:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Ambulance attendant called Reg. Hosp. Emergency - told them they are transporting a 29 year old male in full cardiac arrest".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:26:15 AM	O'ROURKE makes call	At 02:26:15, O'ROURKE picks up the telephone receiver and appears to talk. BUTLER takes a document to her desk and appears to be writing. Constable Paul MacDONALD is still at the booking counter and appears to be writing.	C.B.R.P. booking video tape
17/05/00	2:29:25 AM	O'ROURKE/MacDONALD assist EHS	At 02:29:25, O'ROURKE and Constable Paul MacDONALD assist the EHS members with the stretcher.	C.B.R.P. booking video tape
17/05/00	2:29:28 AM	EHS remove BAILEY	At 2:29:29, the EHS members remove James BAILEY on a stretcher from cell number four and they depart the Cape Breton Regional Police lock-up.	C.B.R.P. cell four video tape
17/05/00	2:30:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Ambulance left lock up with prisoner".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:30:22 AM	EHS depart booking with BAILEY	At 02:30:22, the EHS members depart the booking area with BAILEY on the stretcher. O'ROURKE follows the stretcher out and BUTLER assists EHS with the removal of their equipment.	C.B.R.P. booking video tape
17/05/00	2:31:47 AM	BUTLER checks MacGILLIVARY in cell five	At 02:31:47, BUTLER and O'ROURKE are in the booking area and BUTLER approaches cell five and appears to check on MacGILLIVARY.	C.B.R.P. booking video tape



<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
17/05/00	2:32:23 AM	MacDONALD departs booking	At 02:32:23, Constable Paul MacDONALD departs the booking area to the outside. BUTLER and O'ROURKE and Paramedic MacMULLIN attended to MacGILLIVARY in cell five.	C.B.R.P. booking video tape
17/05/00	2:33:08 AM	O'ROURKE makes notes	At 02:33:08, O'ROURKE stands at the booking area counter and appears to make notes.	C.B.R.P. booking video tape
17/05/00	2:33:13 AM	Copy tape ends	At 2:33:13, the copy video tape of cell four, that was provided by the Cape Breton Regional Police Service, stops recording. There is no additional footage on this tape from cell four.	C.B.R.P. cell four video tape
17/05/00	2:33:37 AM	BUTLER returns to desk	At 02:33:37, BUTLER returns to her desk behind the booking counter.	C.B.R.P. booking video tape
17/05/00	2:33:44 AM	MacMULLIN departs cell five	At 02:33:44, MacMULLIN departs cell five	C.B.R.P. booking video tape
17/05/00	2:33:53 AM	BUTLER checks MacGILLIVARY in cell five	At 02:33:53, BUTLER approaches cell five with some documents in her hand.	C.B.R.P. booking video tape
17/05/00	2:34:20 AM	BUTLER/O'ROURKE at counter	At 02:34:20, BUTLER and O'ROURKE are standing at the booking counter. They appear to be engaged in conversation and BUTLER appears to be making notations on page two of a document.	C.B.R.P. booking video tape
17/05/00	2:35:20 AM	BUTLER checks MacGILLIVARY in cell five	At 02:35:20, BUTLER attends cell five.	C.B.R.P. booking video tape
17/05/00	2:35:33 AM	BUTLER/O'ROURKE at counter	At 02:35:33, BUTLER and O'ROURKE are standing at the booking counter and appear to be making notes.	C.B.R.P. booking video tape
17/05/00	2:35:48 AM	MacMULLIN/BUTLER check MacGILLIVARY	At 02:34:48, BUTLER and Paramedic MacMULLIN approach cell five.	C.B.R.P. booking video tape
17/05/00	2:37:01 AM	BUTLER/O'ROURKE at counter	At 02:37:01, BUTLER and O'ROURKE are standing at the booking area. They appear to be engaged in conversation and making notes.	C.B.R.P. booking video tape
17/05/00	2:37:50 AM	MORRISON arrives at booking	At 02:37:50, Sergeant Dave MORRISON arrives at the booking area from the outside. MORRISON appears to engage BUTLER in conversation. O'ROURKE appears to be making notes.	C.B.R.P. booking video tape
17/05/00	2:43:35 AM	MORRISON departs booking	At 02:43:35, Sergeant Dave MORRISON departs the booking area to the outside and he is followed by O'ROURKE. MacMULLIN is at the booking counter and appears to be engaged in conversation with BUTLER.	C.B.R.P. booking video tape
17/05/00	2:44:47 AM	O'ROURKE enters booking	At 02:44:47, O'ROURKE enters the booking area from the outside and appears to resume making notes.	C.B.R.P. booking video tape
17/05/00	2:48:16 AM	EHS enter with stretcher	At 02:48:16, EHS members enter the booking area with a stretcher from the outside and attend to MacGILLIVARY.	C.B.R.P. booking video tape
17/05/00	2:51:50 AM	RUTHERFORD enters booking	At 02:51:50, Constable Walter RUTHERFORD enters the booking area from the cell four hallway. RUTHERFORD appears to engage O'ROURKE in conversation and then make notes.	C.B.R.P. booking video tape
17/05/00	2:59:59 AM	Copy tape ends	At 02:59:59, the booking area video copy tape concludes.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
16/05/00	11:34:55 PM	Officer enters booking area	At 23:34:55, an unknown officer enters the booking area from the garage and appear to engage O'ROURKE and BUTLER in conversation.	C.B.R.P. booking video tape
16/05/00	11:36:12 PM	Cell two inmate departs	At 23:36:12, the prisoner from cell two departs the booking area through the garage exit. O'ROURKE, BUTLER, and the unknown officer remain in the booking area.	C.B.R.P. booking video tape
16/05/00	11:36:34 PM	Prisoner brought in	At 23:36:34, an unknown officer and unknown plain clothes officer (with Jacket) enter the booking area with a prisoner and approach the booking counter.	C.B.R.P. booking video tape
16/05/00	11:36:45 PM	Officer leaves booking area	At 23:36:45, unknown police officer departs booking area down hallway towards cell four.	C.B.R.P. booking video tape
16/05/00	11:37:05 PM	Officer returns to booking area	At 23:37:05, unknown officer returns to the booking area from the cell four hallway. Two unknown officers, plains clothes, and O'ROURKE involved in the search of the prisoner. BUTLER still at her desk where she has been.	C.B.R.P. booking video tape
16/05/00	11:38:02 PM	Prisoner to cell three	At 23:38:02, the prisoner is secured into cell three by the officers. BUTLER remains at her desk.	C.B.R.P. booking video tape
16/05/00	11:38:59 PM	Officer leaves booking area	At 23:38:59, plain clothes officer departs the booking area down the hallway towards cell four. BUTLER and the other officers remain in the booking area.	C.B.R.P. booking video tape
16/05/00	11:39:06 PM	Prisoner from cell five removed	At 23:39:06, unknown officer removed the prisoner from cell five and has him sit on a chair in the booking area. The officer secures leg restraint to prisoner.	C.B.R.P. booking video tape
16/05/00	11:40:38 PM	O'ROURKE departs booking area	At 23:40:38, O'ROURKE departs the booking area down the hallway towards cell eight.	C.B.R.P. booking video tape
16/05/00	11:40:54 PM	O'ROURKE returns to booking area	At 23:40:54, O'ROURKE returns to the booking area from the cell eight hallway with a prisoner. The two prisoners are secured to each other with leg restraints. O'ROURKE obtains the property for the prisoners.	C.B.R.P. booking video tape
16/05/00	11:41:56 PM	O'ROURKE departs booking area	At 23:41:56, O'ROURKE, an officer, and the two prisoners depart the booking area through the garage exit. An officer remains at the booking counter and BUTLER remains at her desk.	C.B.R.P. booking video tape
16/05/00	11:41:56 PM	BUTLER checks cell three	At 23:41:56, BUTLER opens the outer door to cell three. BUTLER stands at the door threshold looking into the cell. BUTLER closes the outer cell door at 23:42:14 and returns to her desk.	C.B.R.P. booking video tape
16/05/00	11:42:29 PM	O'ROURKE returns to booking area	At 23:42:29, O'ROURKE and an unknown officer return to the booking area from the garage. O'ROURKE picks up the telephone receiver and appears to have a short conversation. BUTLER is still at her desk.	C.B.R.P. booking video tape
16/05/00	11:42:49 PM	Officer returns to booking area	At 23:42:49, the plain clothes officer returns to the booking area from the cell four hallway.	C.B.R.P. booking video tape
16/05/00	11:43:30 PM	O'ROURKE departs booking area	At 23:43:30, O'ROURKE departs the booking area down the hallway towards cell eight.	C.B.R.P. booking video tape
16/05/00	11:43:37 PM	Officer leaves booking area	At 23:43:37, the plain clothes officer departs the booking area down the hallway towards cell eight.	C.B.R.P. booking video tape

<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
16/05/00	11:43:57 PM	Officers back to booking area	At 23:43:57, O'ROURKE, the plain clothes officer, and a prisoner return to the booking area from the cell eight hallway. The prisoner sits in a chair and O'ROURKE assists in getting the prisoners property. BUTLER is still at her desk.	C.B.R.P. booking video tape
16/05/00	11:44:28 PM	Officer checks cell three	At 23:44:28, the plain clothes officer opens the outer door to cell three. The officer stands in the door threshold and is facing towards the cell area. The officer then closes the outer cell door at 23:45:00.	C.B.R.P. booking video tape
16/05/00	11:45:00 PM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
16/05/00	11:45:12 PM	Officers leave booking area	At 23:45:12, one uniform officer and the plain clothes officer depart the booking area through the garage exit. O'ROURKE appears to be speaking on the phone and BUTLER remains behind her desk.	C.B.R.P. booking video tape
16/05/00	11:47:11 PM	O'ROURKE removes prisoner	At 23:47:11, O'ROURKE removes a prisoner from the cell immediately beside the booking area and the prisoner is brought into the booking area.	C.B.R.P. booking video tape
16/05/00	11:47:27 PM	Officer enters booking area	At 23:47:27, an officer enters the booking area from the garage.	C.B.R.P. booking video tape
16/05/00	11:48:02 PM	Officers leave booking area	At 23:48:02, O'ROURKE, the two officers, and two prisoners depart the booking area through the garage. BUTLER is left alone in the booking area where she is still at her desk.	C.B.R.P. booking video tape
16/05/00	11:49:01 PM	O'ROURKE back in booking area	At 23:49:01, O'ROURKE returns to the booking area from the garage and walks directly to cell three. O'ROURKE opens the outer door of cell three and stand in the threshold facing the inside of the cell area. O'ROURKE closes the outer cell door at 23:49:30 and returns to the booking area counter. During this period, BUTLER makes a couple of trips from her desk to the property storage area and returns to her desk.	C.B.R.P. booking video tape
16/05/00	11:50:37 PM	O'ROURKE briefly leaves booking	At 23:50:37, O'ROURKE leaves the booking area for five seconds down the hallway towards cell four. O'ROURKE returns to the booking area after that five seconds.	C.B.R.P. booking video tape
16/05/00	11:51:06 PM	O'ROUKE leaves booking area	At 23:51:06, O'ROURKE leaves the booking area down the hallway towards cell four. BUTLER remains in the booking area.	C.B.R.P. booking video tape
16/05/00	11:51:08 PM	Officer enters booking area	At 23:51:08, an unknown officer enters the booking area from the garage and proceeds directly past the booking counter and then out of the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
16/05/00	11:51:30 PM	O'ROURKE/Officer in booking	At 23:51:30, and unknown officer enters the booking area from the garage. At this same time, O'ROURKE enters the booking area from the cell four hallway. Both O'ROURKE and the officer then immediately depart the booking area down the hallway towards cell four. BUTLER remains in the booking area.	C.B.R.P. booking video tape
16/05/00	11:52:04 PM	O'ROURKE briefly returns	At 23:52:04, O'ROURKE briefly returns to the booking area from the cell four hallway. O'ROURKE remains for a few seconds then again leaves the booking area down the hallway towards cell four. BUTLER remains at her desk and appears to periodically look at the cell monitors.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
16/05/00	11:55:52 PM	Activity in cell three	At 23:55:52, BUTLER can be seen picking up the telephone receiver where she appears to have brief conversation. BUTLER then walks over the garage exit door, then retrieves something from the booking. BUTLER then opens the outer door to cell three and stands at the threshold.	C.B.R.P. booking video tape
16/05/00	11:56:32 PM	O'ROURKE returns to booking	At 23:56:32, O'ROURKE and two other officers enter the booking area from the cell four hallway.	C.B.R.P. booking video tape
16/05/00	11:57:04 PM	Prisoner removed from cell three	At 23:57:04, O'ROURKE removes the prisoner from cell three. O'ROURKE, one officer, BUTLER and the prisoner then depart the booking area down the hallway towards cell four. One officer remains in the booking area and starts to roll up the carpet. BUTLER returns to the booking area and assists the officer with rolling up the carpet.	C.B.R.P. booking video tape
16/05/00	11:57:57 PM	Officer leaves booking area	At 23:57:57, an unknown officer departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
16/05/00	11:58:00 PM	O'ROUKE returns to booking	At 23:58:00, O'ROURKE and an unknown officer return to the booking area from the cell four hallway.	C.B.R.P. booking video tape
16/05/00	11:59:20 PM	BUTLER/officer leave booking	At 23:59:20, BUTLER departs the booking area down the hallway towards cell four. At this same time, an unknown officer departs the booking area down the hallway towards cell eight.	C.B.R.P. booking video tape
16/05/00	11:59:34 PM	BUTLER returns to booking	At 23:59:32, BUTLER returns to the booking area from the cell four hallway.	C.B.R.P. booking video tape
16/05/00	11:59:42 PM	O'ROURKE/BUTLER depart	At 23:59:42, O'ROURKE departs the booking area down the hallway towards cell four. At the same time, BUTLER walks to cell three and then departs the booking area down the hall towards cell four.	C.B.R.P. booking video tape
16/05/00	11:59:57 PM	Male attends booking area	At 23:59:57, an unknown male wearing a dark T-shirt enters the booking area from the cell four hallway. The male enters cell three then the booking area. At this same time, O'ROURKE enters the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00	12:00:01 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
17/05/00	12:00:07 AM	BUTLER returns to booking area	At 00:00:07, BUTLER enters the booking area from the cell four hallway and returns to her desk area	C.B.R.P. booking video tape
17/05/00	12:00:25 AM	O'ROURKE leaves booking	At 00:00:25, O'ROURKE leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	12:00:27 AM	Video stops recording	At 00:00:27, BUTLER appears to bend over in an area under the cell monitors and then the recording stopped. Only BUTLER is in the booking area at this time.	C.B.R.P. booking video tape
17/05/00	12:00:34 AM	Video stops recording	At 00:00:34, the recording on the tape stops, following which there is a blank space in the recording. This appears to be the time when the master recording tape was being changed over to a new tape.	C.B.R.P. cell four video tape
17/05/00	12:01:43 AM	Video starts recording	At 00:01:43, the recording commences on the video. BUTLER can be seen at her desk and the male with the dark T-shirt appears to be talking on the telephone.	C.B.R.P. booking video tape
17/05/00	12:01:58 AM	Firefighter seven enters booking	At 00:01:58, number seven firefighter enters the booking area from the cell four hallway.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
17/05/00	12:02:02 AM	Video starts recording	At 00:02:02, the recording on the tape resumes. BAILEY is still in the recovery position in cell number four. BAILEY's body position appears to be the same at this point as it is at 00:00:34 when the recording had stopped.	C.B.R.P. cell four video tape
17/05/00	12:03:03 AM	Firefighter one enters booking	At 00:03:03, number one firefighter enters the booking area from the garage. Both firefighters stand at the booking counter and appear to be engaging BUTLER in conversation. Both firefighters and BUTLER appear to be periodically looking at the cell monitors.	C.B.R.P. booking video tape
17/05/00	12:05:45 AM	Officer enters booking area	At 00:05:45, an unknown officer enters the booking area and walks directly past the booking counter and leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	12:08:17 AM	Two officers enter booking	At 00:08:17, two unknown officers enter the booking area from the garage and both have a look in cell number three. Both then stay in the booking area and appear to engage BUTLER in conversation.	C.B.R.P. booking video tape
17/05/00	12:09:01 AM	Two officer leaves booking	At 00:09:01, one of the officers leave the booking area down the hallway towards cell four. The second officer leaves the booking area down the hallway to cell eight. BUTLER appears then to have a conversation on the telephone.	C.B.R.P. booking video tape
17/05/00	12:09:50 AM	One officer returns to booking	At 00:09:50, one of the officers returns to the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00	12:10:37 AM	One officer returns to booking	At 00:10:37, the second officer returns to the booking area from the cell four hallway. The officers appear to engage BUTLER in conversation.	C.B.R.P. booking video tape
17/05/00	12:12:37 AM	One officer leaves booking	At 00:12:37, one officer departs the booking area out the garage door.	C.B.R.P. booking video tape
17/05/00	12:14:40 AM	Inspection of cell three	At 00:14:40, one officer, the two firefighters and BUTLER enter cell three then come back out into the booking area.	C.B.R.P. booking video tape
17/05/00	12:15:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
17/05/00	12:15:01 AM	BUTLER leaves booking	At 00:15:01, BUTLER leaves the booking area down the hallway towards cell four. The officer and two firefighters remain in the booking area and appear to be looking at the cell monitors.	C.B.R.P. booking video tape
17/05/00	12:17:31 AM	BUTLER returns to booking	At 00:17:31, BUTLER returns to the booking area from the cell four hallway, and then appears to look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	12:18:00 AM	BUTLER/officer leave booking	At 00:18:00, the officer and BUTLER depart the booking area down the hallway towards cell four. The firefighters remain in the booking area.	C.B.R.P. booking video tape
17/05/00	12:18:29 AM	BUTLER returns to booking	At 00:18:29, BUTLER returns to the booking area and appears to be looking at the cell monitors.	C.B.R.P. booking video tape
17/05/00	12:18:45 AM	Two officers return to booking	At 00:18:45, two officers return to the booking area from the cell four hallway. They appear to engage BUTLER in conversation.	C.B.R.P. booking video tape
17/05/00	12:19:30 AM	Two officers leave booking	At 00:19:30, both officers depart the booking area down the hallway towards cell four. One of the officer appears to be carrying items of clothing.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
17/05/00	12:20:17 AM	Firefighters depart	At 00:20:17, the firefighters depart the booking area. BUTLER remains and appears to be looking at the cell monitors.	C.B.R.P. booking video tape
17/05/00	12:20:54 AM	BUTLER departs booking	At 00:20:54, BUTLER departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	12:21:17 AM	BUTLER returns to booking	At 00:21:17, BUTLER returns to the booking area from the cell four hallway. She appears to look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	12:21:35 AM	Officer enters booking area	At 00:21:35, an unknown officer enters the booking area from the cell four hallway and walks past the booking counter directly out of the booking area out the garage door.	C.B.R.P. booking video tape
17/05/00	12:22:10 AM	BUTLER departs booking area	At 00:22:10, BUTLER departs the booking area down the hallway towards cell four	C.B.R.P. booking video tape
17/05/00	12:22:17 AM	Officer enters booking area	At 00:22:17, an unknown officer enters the booking area from the garage and walkd directly past the booking counter and out of the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	12:22:27 AM	BUTLER enters booking area	At 00:22:27, BUTLER enters the booking area from the cell four hallway. BUTLER starts to vacuum out cell three, returns to her desk and appears to look at the cell monitors, then continues to vacuum cell three.	C.B.R.P. booking video tape
17/05/00	12:25:36 AM	Firefighter enters booking area	At 00:25:36, a firefighter and an unknown male in a plaid jacket enter the booking area from the garage. The two men walk directly past the booking counter and out the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	12:25:50 AM	BUTLER leaves booking area	At 00:25:50, BUTLER leaves the booking area, following the firefighter down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	12:26:00 AM	BUTLER returns to booking	At 00:26:00, BUTLER returns to the booking area to her desk. At the same time a firefighter enters the booking area from the garage. BUTLER and the firefighter appear to have conversation and then BUTLER appears to have a conversation on the telephone.	C.B.R.P. booking video tape
17/05/00	12:26:36 AM	Firefighter returns	At 00:26:36, the firefighter and the male in plaid, return to the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00	12:26:43 AM	Firefighters depart booking	At 00:26:43, both of the firefighters depart the booking area out the garage exit. Both BUTLER and the man in plaid remain.	C.B.R.P. booking video tape
17/05/00	12:27:12 AM	Man in plaid leaves booking	At 00:27:12, the man in plaid departs the booking area down the hallway towards cell four. The male returns 10 seconds later and appears to engage BUTLER in conversation. At 00:27:55, the male again leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	12:28:01 AM	BUTLER enters cell five	At 00:28:01, BUTLER enters cell five and leaves camera view. Six seconds later, BUTLER comes beck out of cell five with what appears to be a blanket and she returns to her desk folding the blanket.	C.B.R.P. booking video tape
17/05/00	12:28:07 AM	Two officers enter booking	At 00:28:07, two officers enter the booking area from the cell four hallway. One of the officers immediately leaves the booking area out of the garage exit, the second officer remains.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
17/05/00	12:29:06 AM	Officer leaves booking	At 00:29:06, the officer leaves the booking area down the hall towards cell four. At this same time, BUTLER enters the cell immediately beside the booking counter and retrieves what appears to be a blanket. BUTLER returns to her desk area and appears to fold the blanket.	C.B.R.P. booking video tape
17/05/00	12:30:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
17/05/00	12:30:07 AM	BUTLER leaves booking area	At 00:30:07, BUTLER leaves the booking area down the hallway towards cell eight.	C.B.R.P. booking video tape
17/05/00	12:30:47 AM	BUTLER returns to booking	At 00:30:47, BUTLER returns to the booking area from the cell eight hallway. BUTLER appears to be carrying something and she returns to her desk area.	C.B.R.P. booking video tape
17/05/00	12:31:04 AM	Officer enters booking area	At 00:31:04, an officer enters the booking area from the cell four hallway. BUTLER leaves the booking area down the hallway towards cell four, and she returns the same way to the booking area 3 seconds later.	C.B.R.P. booking video tape
17/05/00	12:31:07 AM	BUTLER opens cell two	At 00:31:07, BUTLER opens the outer door of cell two.	C.B.R.P. booking video tape
17/05/00	12:31:20 AM	O'ROURKE enters booking	At 00:31:20, O'ROURKE enters the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00	12:31:32 AM	Man in plaid enters booking	At 00:31:32, the man in the plaid jacket enters the booking area from the cell four hallway. The man appears to put on a pair of gloves and enters cell three. Over the next several minutes, this man is back and forth down the cell four hallway. He appears to be vacuuming cell three, two and the cell four hallway.	C.B.R.P. booking video tape
17/05/00	12:32:23 AM	Officer enters the booking area	At 00:32:23, an officer enters the booking area from the cell four hallway. The officer appears to engage BUTLER and O'ROURKE in conversation.	C.B.R.P. booking video tape
17/05/00	12:33:21 AM	Officer enters booking area	At 00:33:21, an officer enters the booking area from the cell eight hallway, appears to have very brief conversation, then again leaves the booking area down the hallway towards cell eight.	C.B.R.P. booking video tape
17/05/00	12:34:10 AM	Officer enters booking area	At 00:34:10, an officer enters the booking area from the cell eight hallway and appears to engage the others in conversation.	C.B.R.P. booking video tape
17/05/00	12:36:33 AM	Officer enters booking area	At 00:36:33, another officer enters the booking area from the cell four hallway. At this point there are four officers and O'ROURKE that appear to be engaged in conversation. BUTLER is at her desk and appears to be doing some type of paper work.	C.B.R.P. booking video tape
17/05/00	12:38:30 AM	booking area clears	At 00:38:30, three officer and O'ROURKE depart the booking area out the garage exit. One officer departs the booking area down the hallway towards cell four. BUTLER remains at her desk.	C.B.R.P. booking video tape
17/05/00	12:38:57 AM	Prisoner into booking	At 00:38:57, four officers and O'ROURKE enter the booking area with a male prisoner. The prisoner appears to be taken into cell five.	C.B.R.P. booking video tape
17/05/00	12:40:10 AM	Officer leaves booking	At 00:40:10, one officer leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	12:40:20 AM	O'ROURKE departs booking	At 00:40:20, O'ROURKE departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape



<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
17/05/00	12:41:08 AM	Officer leaves booking area	At 00:41:08, an officer departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	12:42:30 AM	Male enters booking	At 00:42:30, a male wearing a ball cap enters the booking area from the garage. The male appears to look in cell three. The male then departs the booking area along with two officers down the hallway towards cell four. BUTLER and one officer remain in the booking area. BUTLER appears to be logging in property, and the officer appears to be talking on the telephone.	C.B.R.P. booking video tape
17/05/00	12:43:56 AM	Ball cap male/plaid man	At 00:43:56, the man with the ball cap and the man in plaid enter the booking area from the cell four hallway. The man in plaid resumes vacuuuming cell two. The ball cap man leaves the booking area to the garage and returns and enters cell three.	C.B.R.P. booking video tape
17/05/00	12:44:07 AM	Officer leaves booking	At 00:44:07, the officer leaves the booking area through the garage exit and return to the booking area from the garage twenty seconds later. The officer appears to have retrieved a pair of shoes. The officer appears to resume conversation with BUTLER and the two appear to look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	12:45:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
17/05/00	12:45:21 AM	Officer leaves booking	At 00:45:21, the officer again leaves the booking area through the garage exit. The officer returns to the booking area from the garage 20 seconds later. BUTLER appears to briefly look in the cell that is directly beside booking counter and then she sits in her chair.	C.B.R.P. booking video tape
17/05/00	12:46:21 AM	Plain man still cleaning floor	At 00:46:21, the man in plaid is still cleaning the cell four hallway. BUTLER and the officer remain in the booking area.	C.B.R.P. booking video tape
17/05/00	12:46:52 AM	Officer enters booking area	At 00:46:52, an officer enters the booking area from the garage. The officer appears to have brief conversation with BUTLER, then he departs the booking area at 00:47:13 down the hallway towards cell four. BUTLER and the officer remain in the booking area. BUTLER and the officer each appear to utilize the telephone for a short period of time. BUTLER appears to periodically look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	12:53:12 AM	Officer enters booking area	At 00:53:12, an officer enters the booking area from the cell four hall way. The officer appears to look at the monitors and have brief conversation with BUTLER.	C.B.R.P. booking video tape
17/05/00	12:53:53 AM	Officer leaves the booking area	At 00:53:53, the same officer departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	12:56:29 AM	Officer leaves the booking area	At 00:56:29, an officer leaves the booking area through the garage exit.	C.B.R.P. booking video tape
17/05/00	12:56:47 AM	Officer enters booking area	At 00:56:47, an officer enters the booking area from the cell four hallway. The officer appear to engage BUTLER in conversation. The officer then exits the booking area at 00:57:10 through the garage exit. BUTLER is still at her desk and appear to periodically look at the cell monitors. The man in plaid and the man with the ball cap are still in the general booking area working.	C.B.R.P. booking video tape
17/05/00	1:00:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Sleeping".	BAILEY Prisoner Contact Log Sheet
17/05/00	1:01:40 AM	Officer enters booking area	At 01:01:40, an officer enters the booking area from the garage. The officer then leaves the booking area at 01:01:58, down the hallway towards cell four. BUTLER continues to appear to look at the cell monitors.	C.B.R.P. booking video tape



Date	Time	Title	Event	Source
17/05/00	1:05:10 AM	Plaid/ball cap in booking area	At 01:05:10, both the man in plaid and the man in the ball cap are in the booking area and appear to be engaging BUTLER in conversation and looking at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:05:33 AM	Officer enters booking area	At 01:05:33, an officer enters the booking area and walks directly past the booking counter and out of the booking area down the hallway towards cell four. Both the ball cap and man in plaid remain in the booking area with BUTLER and they continue to appear to look at the cell monitors and engage in conversation.	C.B.R.P. booking video tape
17/05/00	1:12:47 AM	BUTLER checks cell five	At 01:12:47, BUTLER appears to check on cell five then she returns to the booking area at 01:13:28. BUTLER appears to continue speaking with the men and looking at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:15:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
17/05/00	1:16:35 AM	Ball cap enters panel box	At 01:16:35, the ball cap enters a panel box in the booking area and then returns to the booking counter. He appears to continue talking with BUTLER and looking at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:20:18 AM	Ball cap/plaid leave booking	At 01:20:18, both the ball cap and plaid depart the booking area out the garage exit. BUTLER stands at the counter and appears to be making notes and looking at the monitors. BUTLER speaks briefly on the telephone then returns to standing at the counter. BUTLER continues to appear to be completing paperwork and looking at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:30:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
17/05/00	1:31:33 AM	BUTLER sits at desk	At 01:31:33, BUTLER sits at her desk and appear to continue with some type of paperwork and continue to periodically look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:37:53 AM	5 Officers enter booking	At 01:37:53, five officers enter the booking area from the cell four hallway. The officers appear to briefly have conversation with BUTLER	C.B.R.P. booking video tape
17/05/00	1:38:40 AM	Five Officers leave booking	At 01:38:40, the five officers leave the booking area through the garage exit. BUTLER continues to sit at her desk and periodically look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:43:52 AM	O'ROURKE enters booking	At 01:43:52, O'ROURKE enters the booking area from the cell four hallway. O'ROURKE stands at the booking counter and appears to engage BUTLER in conversation and look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:44:40 AM	Officer enters booking	At 01:44:40, an officer enters the booking area from the cell four hallway and joins O'ROURKE at the counter.	C.B.R.P. booking video tape
17/05/00	1:45:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet hash marks to indicate "Sleeping".	BAILEY Prisoner Contact Log Sheet
17/05/00	1:45:04 AM	Officer leaves booking	At 01:45:04, the officer then departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	1:45:18 AM	O'ROURKE departs booking	At 01:45:18, O'ROURKE departs the booking area down the hall towards cell four. BUTLER remains at her desk, periodically looking at the cell monitors.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
17/05/00	1:47:57 AM	O'ROURKE enters booking	At 01:47:57, O'ROURKE enters the booking area from the cell four hallway. O'ROURKE stands at the booking counter and appears to engage BUTLER in conversation and look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:51:32 AM	Officer enters booking	At 01:51:32, an officer enters the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00	1:51:37 AM	Officers depart booking	At 01:51:37, both O'ROURKE and the officer depart the booking area through the garage exit. BUTLER remains at her desk and periodically appears to look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:53:07 AM	BUTLER leaves the desk	At 01:53:07, BUTLER leaves her desk and walks over the garage door exit. BUTLER does not exit from the door.	C.B.R.P. booking video tape
17/05/00	1:53:17 AM	BUTLER leaves booking	At 01:53:17, BUTLER leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	1:55:03 AM	BUTLER returns to booking	At 01:55:03, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to look at the cell monitors and handle some type of paperwork at her desk.	C.B.R.P. booking video tape
17/05/00	1:57:22 AM	BUTLER opens cell three	At 01:57:22, BUTLER opens the outer door to cell three and appears to look into the cell standing at the threshold.	C.B.R.P. booking video tape
17/05/00	1:57:47 AM	BUTLER closes cell three	At 01:57:47, BUTLER closes the outer door to cell three and then appears to look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:57:50 AM	BUTLER leaves Booking area	At 01:57:50, BUTLER leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	1:58:12 AM	BUTLER attends cell four	At 01:58:12, Carmel BUTLER can be seen entering the area in front of the cell bars where she remains for approximately 25 seconds. BUTLER appears to reach through the bars and lean into cell four in the area of BAILEY's feet. BUTLER then moves towards the opposite (left) side of the cell area and appears to look at BAILEY. BUTLER then leaves the cell area at 01:58:37.	C.B.R.P. cell four video tape
17/05/00	1:58:17 AM	BUTLER calls O'ROURKE	At 01:58:17, a radio transmission commences with Jailor Carmel BUTLER calling Sergeant John O'ROURKE. BUTLER requests that the Sergeant return to the lock up as soon as possible. O'ROURKE responds that he is on Charlotte Street and that it will take a minute.	Communication radio logs
17/05/00	1:58:33 AM	BUTLER returns to booking	At 01:58:33, BUTLER returns to the booking area from the cell three hallway. BUTLER appears to retrieve something from the area near the cell monitors.	C.B.R.P. booking video tape
17/05/00	1:58:42 AM	BUTLER leaves booking	At 01:58:42, BUTLER leaves the booking area down the hallway towards cell four	C.B.R.P. booking video tape
17/05/00	1:58:49 AM	BUTLER attends cell four	At 01:58:49, Carmel BUTLER again can be seen re-entering the area in front of the cell bars of cell four, where she remains for approximately 18 seconds. During this period of time, BUTLER again appear to reach into the cell through the bars in the area of BAILEY's feet. BUTLER makes a motion consistent with pulling on BAILEY's leg(s). BUTLER then leaves the cell area at 01:59:07.	C.B.R.P. cell four video tape
17/05/00	1:59:03 AM	BUTLER returns to booking	At 01:59:03, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to retrieve a portable radio and hold the unit near his mouth.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
17/05/00	1:59:13 AM	BUTLER requests ambulance	At 01:59:13, BUTLER places a telephone call to radio operator Judy MacNEIL. BUTLER requests that an ambulance be dispatched, indicating "there's a fellow down here that's, doesn't seem to be responding at all".	Communication radio logs
17/05/00	1:59:27 AM	BUTLER leaves booking	At 01:59:27, BUTLER leaves the booking area down the hallway towards cell four	C.B.R.P. booking video tape
17/05/00	1:59:32 AM	BUTLER attends cell four	At 01:59:32, Carmel BUTLER can be seen entering the area in front of the bars of cell four where she remains for approximately thirty one seconds. BUTLER reached through the bars and appears to be pulling on BAILEY's leg(s). BUTLER then moves to the left and appears to look directly at BAILEY. BAILEY then leaves the cell four area.	C.B.R.P. cell four video tape
17/05/00	1:59:35 AM	McNEIL dispatches an ambulance	At 01:59:35, radio operator Judy McNEIL places a call to ambulance dispatch and speaks with radio operator Shelley SULLIVAN. McNEIL requests an ambulance be dispatched to the Central Lock-up. In attempt to answer some of SULLIVAN's questions, radio operator radio Lynn ROPEK places a telephone call to the lock-up and speaks with Carmel BUTLER. ROPEK then relays the information to McNEIL, who in turn relays it to SULLIVAN. The call concludes with McNEIL not able to answer some of SULLIVAN's questions, and SULLIVAN is requested to call the lock-up at 563-5208.	Communication radio logs
17/05/00	1:59:59 AM	BUTLER returns to booking	At 01:59:59, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to speak on the telephone, look at the cell monitors, and then retrieve an item from the desk.	C.B.R.P. booking video tape
17/05/00	2:00:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "checked him - opened door - prisoner not breathing - shook his feet - shook his legs - no response - Sarg called - Ambulance called - 2:05 am Sarg. Arrived".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:00:23 AM	BUTLER leaves booking	At 02:00:23, BUTLER departs the booking area down the hallway towards cell four	C.B.R.P. booking video tape
17/05/00	2:00:29 AM	BUTLER enters cell four	At 2:00:29, Carmel BUTLER attends the area of cell four and actually opens the cell door and enters. BUTLER remains for approximately 12 seconds. BUTLER appears to put her right hand on BAILEY's back, following which. She leaves the cell and pulls the door (bars) closed behind her, leaving the area of cell four.	C.B.R.P. cell four video tape
17/05/00	2:00:39 AM	BUTLER returns to booking	At 02:00:39, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to speak on the telephone and look at the cell monitors.	C.B.R.P. booking video tape
17/05/00	2:00:52 AM	BUTLER leaves booking	At 02:00:52, BUTLER leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:01:00 AM	BUTLER attends cell four	At 2:01:00, Carmel BUTLER attends the area of cell four and again opens the cell doors (bars). BUTLER then stands in the door threshold for approximately 2.1 seconds and appears to look at BAILEY. BUTLER then departs the cell four area.	C.B.R.P. cell four video tape
17/05/00	2:01:17 AM	BUTLER returns to booking	At 02:01:17, BUTLER returns to the booking area from the cell four hallway.	C.B.R.P. booking video tape

Date Time	Title	Event	Source
17/05/00 2:01:18 AM	O'ROURKE calls ROPEK	At 02:01:18, O'ROURKE places a cellular telephone call to radio operator Patti Lynn ROPEK and he asks if she has been speaking with the girl downstairs (BUTLER). ROPEK advised that she has and "she's got the young guy down there not responsive, not breathing, ambulance is on the way". O'ROURKE indicates that is what he wanted to know and the call concludes.	Communication radio logs
17/05/00 2:01:28 AM	BUTLER leaves booking	At 02:01:28, BUTLER departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00 2:01:32 AM	BUTLER returns to booking	At 02:01:32, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to speak on the telephone and look at the cell monitors. When BUTLER puts down the telephone receiver, she picks up a document from the desk and sets it on the counter beside the passage way from behind the desk.	C.B.R.P. booking video tape
17/05/00 2:01:44 AM	O'ROURKE arrives at lock-up	At 02:01:44, Sergeant John O'ROURKE (Patrol unit 223) makes a radio transmission that he is 10-7 (has arrived) at the lock-up.	Communication radio logs
17/05/00 2:02:05 AM	Video stops recording	At 2:02:05, the recording on the tape stops and the screen goes gray. Not sure if this is only a problem with the copy, or in fact, if the original recording stops as well.	C.B.R.P. cell four video tape
17/05/00 2:02:12 AM	BUTLER attends garage door	At 02:02:12, BUTLER attends the garage door exit, but does not leave the booking area.	C.B.R.P. booking video tape
17/05/00 2:02:15 AM	BUTLER leaves booking area	At 02:02:15, BUTLER leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00 2:02:34 AM	BUTLER returns to booking	At 02:02:34, BUTLER returns to the booking area from the cell four hallway. BUTLER appears to look at the monitors and then retrieve something from the desk.	C.B.R.P. booking video tape
17/05/00 2:02:35 AM	Video starts recording	At 2:02:35, the recording on the tape resumes. When the recording resumes, Carmel BUTLER is standing just inside the open door (bars) of cell four and she appear to be looking at BAILEY. BUTLER remains for approximately four seconds and then she leaves the cell area.	C.B.R.P. cell four video tape
17/05/00 2:02:47 AM	BUTLER leaves booking	At 02:02:47, BUTLER leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00 2:03:02 AM	BUTLER returns to booking	At 02:03:02, BUTLER returns to the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00 2:03:05 AM	O'ROURKE arrives at booking	At 02:03:05, O'ROURKE and another officer arrive at the booking area from the garage. Both officers proceed directly down the hallway towards cell four, BUTLER follows.	C.B.R.P. booking video tape
17/05/00 2:03:16 AM	Police attend cell four	At 2:03:16, Sergeant O'ROURKE and Constable unknown (SEHL) attend the area of cell number four. O'ROURKE walks into the cell, looks at BAILEY, and then immediately walks back out of the cell and leaves the area of cell four. The Constable then enters cell four, looks at BAILEY, and then immediately turns and leaves the area of cell four.	C.B.R.P. cell four video tape
17/05/00 2:03:20 AM	O'ROURKE/BUTLER return	At 02:03:20, BUTLER and O'ROURKE arrive back in the booking area from the cell four hallway. O'ROURKE picks up the telephone receiver and he appears to engage in conversation. BUTLER stands at her desk.	C.B.R.P. booking video tape

<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
17/05/00	2:03:25 AM	Officer back to booking	At 02:03:25, the officer returns to booking from the cell four hallway. The officer stands at the counter near BUTLER.	C.B.R.P. booking video tape
17/05/00	2:03:37 AM	BUTLER departs booking	At 02:03:37, BUTLER departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:03:47 AM	BUTLER returns to booking	At 02:03:47, BUTLER returns to the booking area from the cell four hallway. O'ROURKE is still on the telephone and the officer is still at the counter.	C.B.R.P. booking video tape
17/05/00	2:03:58 AM	BUTLER/officer depart booking	At 02:03:58, BUTLER and the officer depart the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:04:04 AM	Police roll BAILEY over	At 2:04:04, Constable unknown (SEHL7) enters cell number four wearing a pair of dark coloured gloves. Carmel BUTLER attends the area of cell four, and she stands in the threshold of the doorway (bars) to the cell. (SEHL) rolls BAILEY over onto his back, he looks at BAILEY, and then SHEL and BUTLER depart the area of cell four at 2:04:26. Up to this point, no attempt has been made by anyone to check BAILEY for a pulse.	C.B.R.P. cell four video tape
17/05/00	2:04:22 AM	BUTLER/officer return to booking	At 02:04:22, BUTLER and the officer return to the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00	2:04:35 AM	Officer leaves booking area	At 02:04:35, the officer leaves the booking area down the hallway towards cell four. BUTLER retrieves a document from the counter (appears to be the same document described in the 2:01:32 entry) and appears to commence writing with left hand.	C.B.R.P. booking video tape
17/05/00	2:04:43 AM	First indication of assessment	At 2:04:43, Constable unknown (SEHL7) enters cell number four wearing a pair of dark coloured gloves. The Constable appears to put his right hand in the area of BAILEY's neck for a few seconds. The Constable then turns his head in a fashion consistent with the looking/listening taught in CPR (The Constables head at this point appears to be a couple of feet above BAILEY's chest area). The officer then leaves the area of cell four at 2:04:56.	C.B.R.P. cell four video tape
17/05/00	2:04:50 AM	Officer returns to booking	At 02:04:50, the officer returns from the cell four hallway and stands at the counter.	C.B.R.P. booking video tape
17/05/00	2:04:56 AM	Officer leaves booking area	At 02:04:56, the officer departs the booking area down the hallway towards cell four. O'ROURKE remains speaking on the telephone and BUTLER appears to be writing.	C.B.R.P. booking video tape
17/05/00	2:05:03 AM	Further assessment done	At 2:05:03, Constable unknown enters cell number four wearing a pair of dark coloured gloves. The Constable places his right hand in the area of BAILEY's neck and holds it there. The Constable briefly lowers his head close to BAILEY's head. The Constable then departs the area of cell four at 2:05:40.	C.B.R.P. cell four video tape
17/05/00	2:05:16 AM	BUTLER looks at monitors	At 02:05:16, BUTLER stops writing and briefly looks at the monitors. BUTLER then resumes writing.	C.B.R.P. booking video tape
17/05/00	2:05:34 AM	O'ROURKE gets duty officer telephone number	At 02:05:34, Sergeant John O'ROURKE places a telephone call to radio operator Patti Lynn ROPEK asking who the duty officer is. ROPEK advises O'ROURKE that the duty officer is Inspector Jack BANFIELD and she provides O'ROURKE with BANFIELD's telephone number.	Communication radio logs
17/05/00	2:05:34 AM	Officer returns to booking	At 02:05:34, the officer returns to the booking area counter and BUTLER appears to hand him latex glove(s).	C.B.R.P. booking video tape

<b>Date Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
17/05/00 2:05:58 AM	Officer leaves booking	At 02:05:58, the officer appears to be putting on the latex gloves and he leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00 2:06:02 AM	O'ROURKE off the telephone	At 02:06:02, O'ROURKE puts down the telephone receiver and he departs the booking area through the garage exit.	C.B.R.P. booking video tape
17/05/00 2:06:06 AM	Police enter cell four	At 2:06:06, Constable unknown enters cell number four and appears to be putting on a pair of latex gloves. The Constable appears to briefly look at BAILEY, then the Constable leaves the area of cell four at 2:06:16.	C.B.R.P. cell four video tape
17/05/00 2:06:12 AM	Office returns from the cell	At 02:06:12, the officer returns to the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00 2:06:22 AM	O'ROURKE returns to booking	At 02:06:22, O'ROURKE returns to the booking area from the garage and he proceeds to pick-up the telephone receiver. BUTLER appears to be writing at her desk and the other officer is standing at the counter.	C.B.R.P. booking video tape
17/05/00 2:06:30 AM	First EHS crew arrived	At 02:06:30, the first EHS crew arrives through the garage and proceeds directly down the hallway towards cell four. The response time for this crew is three minutes and forty two seconds after receiving the call.	C.B.R.P. booking video tape and EHS incident rep
17/05/00 2:06:37 AM	Officer departs booking area	At 02:06:37, the officer departs the booking area down the hallway towards cell four, following the EHS crew.	C.B.R.P. booking video tape
17/05/00 2:06:41 AM	EHS commence assistance	At 2:06:41, the first two ambulance attendants arrive. They are joined shortly by two more EHS members and a student "ride along". The EHS members work within cell four on James BAILEY for approximately twenty three minutes.	C.B.R.P. cell four video tape
17/05/00 2:06:52 AM	Officer returns to booking	At 02:06:52, the officer returns to the booking area from the cell four hallway. BUTLER appears to be writing and O'ROURKE is still on the telephone.	C.B.R.P. booking video tape
17/05/00 2:06:57 AM	Officer leaves booking	At 02:06:57, the officer leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00 2:07:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Ambulance arrived".	BAILEY Prisoner Contact Log Sheet
17/05/00 2:07:03 AM	Second EHS attendant arrives	At 02:07:03, the second EHS attendant arrived and proceeded directly down the hallway towards cell four. O'ROURKE appears to have concluded his telephone call and BUTLER appears to be still writing.	C.B.R.P. booking video tape
17/05/00 2:07:12 AM	O'ROURKE leaves booking	At 02:07:12, O'ROURKE leaves the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00 2:07:19 AM	O'ROURKE returns	At 02:07:19, O'ROURKE returns to the booking area from the cell four hallway and immediately departs the booking area out the garage exit. BUTLER remains at her desk and appears to be writing.	C.B.R.P. booking video tape
17/05/00 2:07:28 AM	BUTLER asks to speak with SEHL	At 02:07:28, Camed BUTLER places a telephone call to radio operator Judy McNEIL and asks for Constable Max SEHL to give her a call.	Communication radio logs

<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
17/05/00	2:07:34 AM	O'ROURKE returns	At 02:07:34, O'ROURKE returns to the booking area from the garage and he proceeds directly down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:08:03 AM	O'ROURKE asks for SEHL	At 02:08:03, Sergeant John O'ROURKE places a telephone call to radio operator Patti Lynn ROPEK and confirms that they have Constable Max SEHL going to give O'ROURKE a call.	Communication radio logs
17/05/00	2:08:18 AM	Second EHS crew arrived	At 02:08:18, the second EHS crew (with two attendants and a student) arrived and proceeded directly down the hallway towards cell four. BUTLER picks up the telephone receiver with a document in her hand.	C.B.R.P. booking video tape
17/05/00	2:08:32 AM	BUTLER off telephone	At 02:08:32, BUTLER appears to conclude her telephone call. She carries a document back to her desk and appears to resume writing.	C.B.R.P. booking video tape
17/05/00	2:08:52 AM	O'ROURKE returns to booking	At 02:08:52, O'ROURKE returns to the booking area from the cell four hallway and picks up the telephone receiver. BUTLER appears to look at her watch.	C.B.R.P. booking video tape
17/05/00	2:09:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Back up Ambulance response workers arrived".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:09:15 AM	O'ROURKE concludes call	At 02:09:15, O'ROURKE put down the telephone receiver and appears to have a brief conversation with BUTLER. O'ROURKE then departs the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:09:40 AM	BUTLER commences smoking	At 02:09:40, BUTLER lights what appears to be a cigarette and continues writing.	C.B.R.P. booking video tape
17/05/00	2:10:01 AM	O'ROURKE enters booking	At 2:10:01, O'ROURKE enters the booking area from the cell four hallway. O'ROURKE appears to put a jacket on a chair, then he departs the booking area down the cell four hallway	C.B.R.P. booking video tape
17/05/00	2:10:30 AM	McNEIL calls SEHL	At 02:10:30, radio operator Judy McNEIL places a call to Constable Max SEHL. McNEIL asks SEHL to call the lock-up at 523-5208.	Communication radio logs
17/05/00	2:11:07 AM	BUTLER seen smoking	At 2:11:07, BUTLER is in the booking area, smoking a cigarette.	C.B.R.P. booking video tape
17/05/00	2:11:41 AM	O'ROURKE returns	At 02:11:41, O'ROURKE returns to the booking area and picks up the telephone receiver. The officer returns to the booking area from the cell four hallway.	C.B.R.P. booking video tape
17/05/00	2:12:12 AM	O'ROURKE leaves booking	At 02:12:12, O'ROURKE departs the booking area down the hallway towards cell four. The officer and BUTLER appear to engage in conversation in the booking area.	C.B.R.P. booking video tape
17/05/00	2:12:32 AM	O'ROURKE returns to booking	At 02:12:32, O'ROURKE returns to booking area from the cell four hallway. Engages BUTLER in conversation.	C.B.R.P. booking video tape
17/05/00	2:12:57 AM	O'ROURKE/officer leave booking	At 02:12:57, both O'ROURKE and the officer depart the booking area down the hallway towards cell four.	C.B.R.P. booking video tape
17/05/00	2:13:03 AM	Officer returns to booking	At 02:13:03, the officer returns to the booking area from the cell four hallway. The officer approaches the counter and appears to be making notebook entries. BUTLER hands O'ROURKE a document that appear to be at least two sheets. O'ROURKE looks at his watch and views the documents while he was speaking on the telephone.	C.B.R.P. booking video tape



Date	Time	Title	Event	Source
17/05/00	2:13:21 AM	O'ROURKE returns to booking.	At 02:13:21, O'ROURKE returns to the booking area from the cell four hallway. O'ROURKE commences speaking on the telephone.	C.B.R.P. booking video tape
17/05/00	2:15:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Sgt. J. O'ROURKE informed Ins. Jack BANFIELD that prisoner has ambulance workers working on him".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:15:05 AM	O'ROURKE concludes call	At 02:15:05, O'ROURKE concludes his telephone call.	C.B.R.P. booking video tape
17/05/00	2:15:12 AM	O'ROURKE/officer leave booking	At 02:15:12, O'ROURKE and the officer leave the booking area down the hallway towards cell four. BUTLER retrieves from the counter the sheets that O'ROURKE had been looking at.	C.B.R.P. booking video tape
17/05/00	2:15:25 AM	Officer returns to booking	At 02:15:25, the officer returns to the booking area from the cell four hallway. The officer appears to resume writing in his notebook. BUTLER resumes writing at the counter.	C.B.R.P. booking video tape
17/05/00	2:15:57 AM	O'ROURKE briefly returns	At 02:15:57, O'ROURKE returns to the booking area from the cell four hallway, then immediately returns to the cell area.	C.B.R.P. booking video tape
17/05/00	2:16:25 AM	O'ROURKE returns to booking	At 02:16:25, O'ROURKE returns to the booking area from the cell four hallway. O'ROURKE stands at the counter and appears to look at the cell monitors and engage the officer and BUTLER in conversation.	C.B.R.P. booking video tape
17/05/00	2:16:40 AM	O'ROURKE calls ROPEK	At 02:16:40, O'ROURKE places a telephone call to radio operator Patti Lynn ROPEK. O'ROURKE indicates he is looking for the on-call member from Major Crime. ROPEK provides O'ROURKE with the telephone numbers for Sergeant Neil MacKENZIE and Identification officer Dan MORRISON. During this conversation, there appears to be conversation between O'ROURKE and Carmel BUTLER about BAILEY positioning in the cell.	Communication radio logs
17/05/00	2:16:45 AM	O'ROURKE leaves booking	At 02:16:45, O'ROURKE leaves the booking area down the hallway towards cell four. BUTLER and the officer continue writing.	C.B.R.P. booking video tape
17/05/00	2:17:07 AM	O'ROURKE returns to booking	At 02:17:07, O'ROURKE returns to the booking area from the cell four hallway. O'ROURKE picks up the telephone receiver, appears to engage the others in conversation, then appears to write something down.	C.B.R.P. booking video tape
17/05/00	2:18:36 AM	McNEIL calls SEHL	At 02:18:36, radio operator Judy McNEIL places a telephone call to North Division and speaks with Constable Max SEHL. SEHL and McNEIL discuss what occurred with BAILEY. Some inappropriate comments are made by both SEHL and McNEIL during this exchange.	Communication radio logs
17/05/00	2:18:59 AM	O'ROURKE concludes call	At 02:18:59, O'ROURKE appears to conclude his telephone call. O'ROURKE then picks up the telephone receiver again.	C.B.R.P. booking video tape
17/05/00	2:19:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Neil MacKENZIE was called by Sgt. J. O'ROURKE".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:19:21 AM	HILLIARD enters booking	At 02:19:21, HILLIARD enters the booking area from the cell eight hallway and stands at the booking counter.	C.B.R.P. booking video tape
17/05/00	2:20:32 AM	MacDONALD/EHS depart	At 02:20:32, Constable Paul MacDONALD and on the EHS members enter the booking area from the cell four hallway and they immediately depart the booking area to outside.	C.B.R.P. booking video tape



<b>Date</b>	<b>Time</b>	<b>Title</b>	<b>Event</b>	<b>Source</b>
17/05/00	2:20:37 AM	HILLIARD departs booking	At 02:20:37, HILLIARD departs the booking area down the cell eight hallway.	C.B.R.P. booking video tape
17/05/00	2:20:57 AM	MacDONALD/EHS return	At 02:20:57, Constable MacDONALD and the EHS member enter the booking area from outside. MacDONALD approaches the booking counter.	C.B.R.P. booking video tape
17/05/00	2:21:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Ident. Was called by J. O'ROURKE".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:21:10 AM	O'ROURKE concludes call	At 02:21:10, O'ROURKE concludes his telephone call. MacDONALD departs the booking area down the cell four hallway. BUTLER remains at the counter.	C.B.R.P. booking video tape
17/05/00	2:21:20 AM	O'ROURKE departs booking	At 02:21:20, O'ROURKE departs the booking area down the cell four hallway. BUTLER remains at the booking desk and appears to be writing.	C.B.R.P. booking video tape
17/05/00	2:21:38 AM	Stretcher brought into lock-up	At 02:21:38, the stretcher is brought into the booking area.	C.B.R.P. booking video tape
17/05/00	2:22:44 AM	BUTLER, O'ROURKE, MacDONALD	At 02:22:44, BUTLER, O'ROURKE, and Constable Paul MacDONALD are in the booking area and appear to be engaging in conversation. O'ROURKE appears to be making notebook entries and BUTLER moves over and stands beside O'ROURKE, and she continues to make notes.	C.B.R.P. booking video tape
17/05/00	2:24:03 AM	MacDONALD leaves briefly	At 02:24:03, MacDONALD briefly departs the booking area down the cell four hallway. He then returns to the booking area and resumes making notes.	C.B.R.P. booking video tape
17/05/00	2:24:14 AM	BUTLER checks MacGILLIVARY in cell five	At 02:24:14, BUTLER approaches cell number five and appears to do a check. BUTLER then returns to the booking counter and takes a two page document from O'ROURKE. BUTLER then gives the document back to O'ROURKE and he appears to look at two pages. BUTLER then gets the document back and appears to engage one of the EHS members in conversation.	C.B.R.P. booking video tape
17/05/00	2:26:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Ambulance attendant called Reg. Hosp. Emergency - told them they are transporting a 29 year old male in full cardiac arrest".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:26:15 AM	O'ROURKE makes call	At 02:26:15, O'ROURKE picks up the telephone receiver and appears to talk. BUTLER takes a document to her desk and appears to be writing. Constable Paul MacDONALD is still at the booking counter and appears to be writing.	C.B.R.P. booking video tape
17/05/00	2:29:25 AM	O'ROURKE/MacDONALD assist EHS	At 02:29:25, O'ROURKE and Constable Paul MacDONALD assist the EHS members with the stretcher.	C.B.R.P. booking video tape
17/05/00	2:29:28 AM	EHS remove BAILEY	At 2:29:29, the EHS members remove James BAILEY on a stretcher from cell number four and they depart the Cape Breton Regional Police lock-up.	C.B.R.P. cell four video tape
17/05/00	2:30:00 AM	Entry on BAILEY Log sheet	BUTLER has entered on BAILEY's Prisoner Contact Log sheet "Ambulance left lock-up with prisoner".	BAILEY Prisoner Contact Log Sheet
17/05/00	2:30:22 AM	EHS depart booking with BAILEY	At 02:30:22, the EHS members depart the booking area with BAILEY on the stretcher. O'ROURKE follows the stretcher out and BUTLER assists EHS with the removal of their equipment.	C.B.R.P. booking video tape
17/05/00	2:31:47 AM	BUTLER checks MacGILLIVARY in cell five	At 02:31:47, BUTLER and O'ROURKE are in the booking area and BUTLER approaches cell five and appears to check on MacGILLIVARY.	C.B.R.P. booking video tape

Date	Time	Title	Event	Source
17/05/00	2:32:23 AM	MacDONALD departs booking	At 02:32:23, Constable Paul MacDONALD departs the booking area to the outside, BUTLER and O'ROURKE and Paramedic MacMULLIN attended to MacGILLIVARY in cell five.	C.B.R.P. booking video tape
17/05/00	2:33:08 AM	O'ROURKE makes notes	At 02:33:08, O'ROURKE stands at the booking area counter and appears to make notes.	C.B.R.P. booking video tape
17/05/00	2:33:13 AM	Copy tape ends	At 2:33:13, the copy video tape of cell four, that was provided by the Cape Breton Regional Police Service, steps recording. There is no additional footage on this tape from cell four.	C.B.R.P. cell four video tape
17/05/00	2:33:37 AM	BUTLER returns to desk	At 02:33:37, BUTLER returns to her desk behind the booking counter.	C.B.R.P. booking video tape
17/05/00	2:33:44 AM	MacMULLIN departs cell five	At 02:33:44, MacMULLIN departs cell five	C.B.R.P. booking video tape
17/05/00	2:33:53 AM	BUTLER checks MacGILLIVARY in cell five	At 02:33:53, BUTLER approaches cell five with some documents in her hand.	C.B.R.P. booking video tape
17/05/00	2:34:20 AM	BUTLER/O'ROURKE at counter	At 02:34:20, BUTLER and O'ROURKE are standing at the booking counter. They appear to be engaged in conversation and BUTLER appears to be making notations on page two of a document.	C.B.R.P. booking video tape
17/05/00	2:35:20 AM	BUTLER checks MacGILLIVARY in cell five	At 02:35:20, BUTLER attends cell five.	C.B.R.P. booking video tape
17/05/00	2:35:33 AM	BUTLER/O'ROURKE at counter	At 02:35:33, BUTLER and O'ROURKE are standing at the booking counter and appear to be making notes.	C.B.R.P. booking video tape
17/05/00	2:35:48 AM	MacMULLIN/BUTLER check MacGILLIVARY	At 02:34:48, BUTLER and Paramedic MacMULLIN approach cell five.	C.B.R.P. booking video tape
17/05/00	2:37:01 AM	BUTLER/O'ROURKE at counter	At 02:37:01, BUTLER and O'ROURKE are standing at the booking area. They appear to be engaged in conversation and making notes.	C.B.R.P. booking video tape
17/05/00	2:37:50 AM	MORRISON arrives at booking	At 02:37:50, Sergeant Dave MORRISON arrives at the booking area from the outside. MORRISON appears to engage BUTLER in conversation. O'ROURKE appears to be making notes.	C.B.R.P. booking video tape
17/05/00	2:43:35 AM	MORRISON departs booking	At 02:43:35, Sergeant Dave MORRISON departs the booking area to the outside and he is followed by O'ROURKE. MacMULLIN is at the booking counter and appears to be engaged in conversation with BUTLER.	C.B.R.P. booking video tape
17/05/00	2:44:47 AM	O'ROURKE enters booking	At 02:44:47, O'ROURKE enters the booking area from the outside and appears to resume making notes.	C.B.R.P. booking video tape
17/05/00	2:48:16 AM	EHS enter with stretcher	At 02:48:16, EHS members enter the booking area with a stretcher from the outside and attend to MacGILLIVARY.	C.B.R.P. booking video tape
17/05/00	2:51:50 AM	RUTHERFORD enters booking	At 02:51:50, Constable Walter RUTHERFORD enters the booking area from the cell four hallway. RUTHERFORD appears to engage O'ROURKE in conversation and then make notes.	C.B.R.P. booking video tape
17/05/00	2:59:59 AM	Copy tape ends	At 02:59:59, the booking area video copy tape concludes.	C.B.R.P. booking video tape



**Cape Breton Regional Police Service**

**Major Crime Unit**

**SUDDEN DEATH - CENTRAL LOCK-UP**

05-May-00	-	Ref # 100 Edna Whitty Met James Bailey at Mental Health on Friday May 5/2000, at Regional Hospital where both were patients. James Bailey then came and stayed at her house for a few days and he hitch hiked to Port Hawkesbury with her son George Whitty.
05-May-00	-	Ref#101 Carline Keefe Informs she first met James Bailey at C.B. Regional Hospital Mental Health Unit on above date and he told her he was having trouble at home. Informs Edna Whitty also a patient there agreed to take Bailey home for a few days.
10-May-00	-	
10-May-00	-	Ref# 115 George Whitty Informs Jaime Bailey stays at his house for 3 nights after meeting his mother Edna Whitty at Regional Hospital.
13-May-00	-	Ref# 115 George Whitty Informs he and Jaime Bailey hitch hike to Port Hawkesbury on Saturday to stay with Carlin Keefe a woman he met at the Hospital.



**Cape Breton Regional Police Service**

**Major Crime Unit**

**SUDDEN DEATH - CENTRAL LOCK-UP**

- 13-May-00 - Ref#101 Carline Keefe  
Informs James Bailey arrived at her place in Port Hawkesbury with George Whitty. James complained of being cold while there and wanting to sleep all the time. While there James called his sister in Ottawa. After having asleep they left on May13/2000, Sunday and hitchhiked back home.
- 
- 13-May-00 2030 - Ref# 115 George Whitty  
Informs they arrived at Carline Keefe's and stay for the night. During this time Bailey had been popping pills.
- 
- 14-May-00 1430 - ref# 115 George Whitty  
Left Carline Keefe's in Port Hawkesbury and began to hitch hike back home. Informs he will be going to his uncle's Ricky MacIntyre with his luggage.
- 
- 15-May-00 - ref # 107 Richard MacIntyre  
Informs Jaime Bailey stayed at his place all day Monday at 25 Yorke St. Sydney Mines. He arrived early Monday morning at 12:30 am and he was sober.
- 
- 16-May-00 700 - 830 ref# 107 Richard MacIntyre  
Informs Jaime woke up around 7 am. on Tuesday, he got dressed and said " I'm going for a coffee." he left around 7:30 am. He arrived back at 8:00 am - 8:30 am took a shower and said he was going down to his brother Norman's and then going to North Sydney.



**Cape Breton Regional Police Service**

**Major Crime Unit**

**SUDDEN DEATH - CENTRAL LOCK-UP**

16-May-00 1000 -

ref#117 Thelma MacIntyre

Jaime Bailey came first to her house at 2 Yorke St. around 10 am. Where he called a taxi and then left house and went to North Sydney.

16-May-00 1600 - 1700

Ref# 115 George Whitty

Bailey is going to Karen Bona's at 50 Clifford St., North Sydney with tools on Tuesday.

16-May-00 1600 - 1700

Ref# 116 Karen Bona

Inform around suppertime on Tuesday May 16/2000, Jaime Bailey arrived at her house at 50 Clifford St., North Sydney. States he seemed like he was impaired on medication. While in Bathroom she could hear a pill bottle rattling. While at her house Jaime called his sister collect on the telephone.

16-May-00 1830 - 1900

Ref# 116 Karen Bona

Informs Jaime Bailey had a tote bag with tools in them which he sold to her husband. Then he left her house around 6:30 pm and 7:00 pm. And he was last seen heading down Clifford St. heading toward Peppett St.

16-May-00 1900 - 1930

Ref#117 Thelma MacIntyre

Informs sometime after 7 pm. Jaime arrived back to her house on Yorke St. and Jaime Bailey looked like he was on something and found him very depressed. Inform Jaime called 911 and he was mumbling and she didn't want him calling 911. Inform she found 5151 number for Jaime to call the Police. Inform she overheard Jaime speaking to De-tox and he was telling them what pills he was on. Inform he left her house after 7 pm. and she advised him to go to Ricky's.



**Cape Breton Regional Police Service**

Major Crime Unit

**SUDDEN DEATH - CENTRAL LOCK-UP**

16-May-00 1935 - 2030 ref#104 Bernard MacIntyre

Informs he entered his home at 2 Yorke St. around 8:00 pm or 8:05 pm and found Jaime Bailey there with his mother Thelma present and he had his head down trying to have a smoke. Informs he had no alcohol in his system and seemed pretty gone to him. Informs Jaime told him he wanted to go to De-tox. Informs he made a call possibly around something to 8 pm and 8:30 pm and said Jaime was pretty out of it and needed an officer to pick him up.

16-May-00 2000 - Ref # 118 Wayne Aucoin

Informs he works at Addiction Centre and he had 2-3 minute phone call with a voice he recognized before as James Bailey. Informs Jim has had a history of using both alcohol and prescription drugs Lectopan and Furinal. Jim sounded distant and instructed him if he wanted help he should contact the Emergency Dept.

16-May-00 2030 - 2100 Ref#107 Richard MacIntyre

Informs Jaime came to his door Tuesday he was right stoned and told him to go down the road and call the cops to take you to De-Tox. He then left and went down the road and about half hour later he returned and I was watching the hockey game. Informs he observes a cop search Jaime and took pills out of his pocket cause I heard them. This was around 8:30pm something to 9pm. Jaime was then taken into Police custody.

16-May-00 2050 - Ref # 204 Cst. Max Sehl

Received a call from Dispatch above time advising of intoxicated male in the area of Yorke St. and George St. Sydney Mines. Arrested James Bailey for intoxication in a public place. A unknown male on a step at the corner of Yorke and George St's. said something about him not being allowed around Atlantic St. area when he is drinking.

16-May-00 2130 - 2145 Ref#201 Carmel Butler

Cst. Max Sehl arrives at Lock-up with Bailey and he is extremely intoxicated. He was taken directly to cell# 4 by Cst. Max Sehl.



**Cape Breton Regional Police Service**

**Major Crime Unit**

**SUDDEN DEATH - CENTRAL LOCK-UP**

16-May-00 2130 - Ref# 204 Cst. Max Sehl  
Went to Central Lock-up at 9:30 pm and went 10-7. Bailey showed usual signs of impairment and is placed into cell #4 without incident with Matron Carmel Butler on duty.

16-May-00 2145 - Ref#201 Carmel Butler  
First check on Bailey at 9:45 pm and he is laying quiet.

16-May-00 2200 - Ref#201 Carmel Butler  
Bailey laying on bunk quiet

16-May-00 2215 - Ref#201 Carmel Butler  
Bailey laying on bunk asleep.

16-May-00 2230 - Ref# 201 Carmel Butler  
Bailey laying on bunk asleep.



**Cape Breton Regional Police Service**

**Major Crime Unit**

**SUDDEN DEATH - CENTRAL LOCK-UP**

16-May-00 2230 - Ref#201 Carmel Butler  
Bailey laying on bunk asleep.

16-May-00 2245 - Ref# Carmel Butler  
Bailey laying on bunk asleep.

16-May-00 2300 - Ref#201 Carmel Butler  
Bailey laying on bunk asleep.

16-May-00 2315 - REF# 201 Carmel Butler  
Bailey laying on bunk asleep.

16-May-00 2345 - Ref# 201 Carmel Butler  
Bailey laying on bunk asleep.





**Cape Breton Regional Police Service**

**Major Crime Unit**

**SUDDEN DEATH - CENTRAL LOCK-UP**

---

17-May-00 000 - Ref# 201 Carmel Butler  
Bailey laying on bunk asleep.

---

17-May-00 015 - Ref# 201 Carmel Butler  
Bailey laying on bunk asleep.

---

17-May-00 030 - Ref# 201 Carmel Butler  
Bailey laying on bunk asleep.

---

17-May-00 045 - Ref# 201 Carmel Butler  
Bailey laying on bunk asleep.

---

17-May-00 100 - Ref# 201 Carmel Butler  
Bailey on bunk asleep.

---



**Cape Breton Regional Police Service**

**Major Crime Unit**

**SUDDEN DEATH - CENTRAL LOCK-UP**

---

17-May-00 115 - Ref# 201 Carmel Butler  
Bailey laying on bunk asleep.

---

17-May-00 130 - Ref# 201 Carmel Butler  
Bailey laying on bunk asleep.

---

17-May-00 145 - Ref# 201 Carmel Butler  
Bailey laying on bunk asleep.

---

17-May-00 200 - Ref# 201 Carmel Butler  
Butler checks Bailey not breathing shook his feet, and legs no response. Sgt. O'Rourke arrives at 2:05 am.

---

17-May-00 207 - Ref# 201 Carmel Butler  
Ambulance arrives at central lock-up.

---



**Cape Breton Regional Police Service**

**Major Crime Unit**

**SUDDEN DEATH - CENTRAL LOCK-UP**

---

17-May-00 209 - Ref#201 Carmel Butler  
Back-up ambulance arrives at Central Lock-up.

---

17-May-00 230 - Ref# 201 Carmel Butler  
Ambulance departs Central Lock-up with Bialek to Regional Hospital.

---

**CAPE BRETON REGIONAL POLICE  
SERVICE**

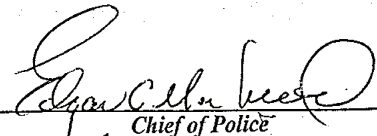
**OPERATIONAL  
POLICY**

**CARE AND HANDLING OF  
PRISONERS**

NSPC: 01-0017 BAILEY INQUIRY

EXHIBIT #: 15

Approved by:

  
Chief of Police

May 19/2000  
Date

**A. SUBJECT:**

This Chapter deals with procedures to be followed in the booking, supervising and the releasing of all prisoners held in the Lock-up Facilities of the Cape Breton Regional Police Service.

**B. REFERENCES:**

1. Criminal Code of Canada
2. Young Offenders Act
3. Identification of Criminals Act
4. Canadian Human Rights Act
5. No Smoking Policy, Cape Breton Regional Police Service
6. UN Convention on The Rights of The Child (**Appendix A**)

**C. GENERAL**

- 1.1 The responsibility for the Lock-Up Facility is within the mandate of the Inspector and S/Sergeant i/c of the Division.
- 1.2 The Lock-Up Facilities shall solely staffed by personnel appointed by the Chief of Police or designate.
- 1.3 The Duty Sergeant shall be designated as the **officer in charge** in order to fulfill procedures defined by Section 493.ccc.
- 1.4 The Duty Sergeant or designate in the Division shall be responsible for the Lock-Up Facilities.
- 1.5 Personnel employed in the lock-up facility shall report any incident involving injury, property damage, illness or failure of equipment under their control to the Duty Sergeant. The supervising NCO shall report any major incident to the on-call manager.
- 1.6 The Major Crime Unit is responsible for the investigation of any significant incident or criminal complaints in the Lock-Up Facility.

**D. BOOKING**

- 2.1 A person detained in the custody of the police service shall be treated with decency and provided with all the rights accorded to him/her by law.
- 2.2 No smoking will be permitted in the cell block area.
- 2.3 The arresting officer(s) is responsible for completing the prisoner charge book. (See **Appendix B**).
- 2.4 The arresting officer(s) is responsible for the search of all prisoners and the removal of all effects, which may be used to cause harm to themselves or others.

If the prisoner is female, the search shall be conducted by a female custodian or female police officer.

- 2.5 All items shall be listed, stored and secured until such time as the prisoner is released.
- 2.6 Any item seized from the prisoner, which could be used as evidence will be listed on a Police Service exhibit report and processed as per operations policy.
- 2.7 Officers shall take note of the health of the prisoner including any injury, medical alert warnings prior to the prisoner being turned over to the custodian on duty.
- 2.8 The arresting officer(s) is responsible for placing the detained person in the cell prior to departure.
- 2.9 The duty NCO, or designate, is responsible for effecting the release of any prisoner at the required time.
- 2.10 Upon taking into his/her charge a prisoner from a member of another police agency, the custodian shall advise the NCO, or designate, of the arrest.
- 2.11 The custodian shall advise the arresting officer of the responsibility of attending the Lock-up to effect the release of the prisoner at the designated time.

**E. TELEPHONE**

- 3.1 It is incumbent that any person being arrested or detained be provided with the means of making a telephone call(s) in private to retain and instruct counsel as provided under Section 10(B) of the Canadian Charter of Rights and Freedom.
- 3.2 The telephone room will be used for the placing of telephone calls to permit privacy and non-recordings of such conversation.
- 3.3 The courts have held that the police must provide arrested or detained persons means of instructing legal counsel without delay. This means they have a right to privacy, which includes the liberty to call whomever they like without informing the police, in an effort to consult with counsel.

Wherever possible the following shall apply in long distance calls by the prisoner:

- (a) The arresting officer will make the call on a collect basis to the person named by the individual in custody.

- (b) Once the connection is made and the recipient, acknowledges acceptance of the telephone call, the telephone will be turned over to the individual in custody. (The right to privacy must prevail).

**OR**

If the person requesting the long distance call wishes to charge the call to their residential or telephone credit card, the matter will be handled similar as a collect call.

The principle to remember is that the police must provide the individual with the means to make a reasonable effort to consult counsel. The arresting officer can authorize one long distance call in order to meet this demand.

- 3.4 Persons in an intoxicated condition shall be provided with the opportunity to telephone legal counsel upon demand provided that the state of sobriety of the incarcerated person is such that the request can be facilitated without potential difficulty.
- 3.5 In the case of young offenders, members are required to notify the parents their child is in custody as per the Young Offenders Act.
- 3.6 Any young person detained in the custody of the Police Service shall be informed of their right to contact the Children's Ombudsman and provided with the phone number 1-888-839-6884. This notification shall be noted on the **Child and Youth Log Recording Form**. (See Appendix C)
- 3.7 All Young Offenders held in custody shall be notified that a blanket is available should one be required. This notification shall be recorded on the **Child and Youth Log Recording Form** (See Appendix C).
- 3.8 All female young offenders shall be notified that female protection (sanitary napkins) is available should one be required during their stay. This notification shall be recorded on the **Child and Youth Recording Form** (See Appendix C).

**F. MEALS**

- 4.1 Central Division Duty NCO/or designate will ensure prisoners held in custody are provided with meals when required.
- 4.2 Soft drink bottles or cans are not permitted in the cells as they could be used as a weapon.

**G. DETENTION**

- 5.1 The custodian of the Lock-up Facility shall sign the prisoner record form as the person responsible and place the copy, along with the prisoner's personal effects, in a secured locker.
- 5.2 The custodian on duty shall physically check each prisoner at least every fifteen minutes. Time checks will be staggered and noted on the prisoners log sheet. (See Appendix D)
- 5.3 Should the prisoner be removed from the cell for any reason, the time and purpose of removal are to be noted on the prisoner log sheet. The prisoner log sheet shall be forwarded to the investigating officer in cases of indictable or dual offences and this will become part the file.
- 5.4 The Prisoner Log Sheet shall be forwarded to the arresting officer(s) in cases where individuals are charged with indictable or dual offences and this form becomes a portion of the file as it relates to Case Management.
- 5.5 Should any prisoner complain of any illness, injury or a suicide attempt be made, the Duty NCO shall be notified immediately and medical aid provided as soon as possible.
- 5.6 The Duty NCO shall file a report in cases where medical attention is refused;
  - (a) By a member of the Police Service.
  - (b) By the prisoner.
- 5.7 In the event of a fire, the fire alarm shall be sounded and all prisoners released from their cells and exited through the nearest safe exit.
- 5.8 No visiting will be permitted in the cell area except provisions made in the Canadian Charter of Rights and Freedom, Human Rights Act and Young Offender Act.

#### **H. VIDEO**

- (a) Prisoners housed in the Lock-up Facility shall be monitored by video at all times.
- (b) Video tapes shall be changed at midnight daily or as soon thereafter as possible.
- (c) Tapes shall be secured for thirty (30) days before being placed back in service.
- (d) Should any tape be seized by an officer for evidence or investigation purposes, the name of the officer date and time shall be recorded in the Lock-up Facility Log Book.
- (e) All seized tapes shall be replaced and an identical number and the letter (R) placed immediately in front of that number.



**I. PROPERTY**

- 6.1 Upon releasing the prisoner, the NCO, or designate, shall return all seized property directly to the prisoner. Any monies taken will be counted in the presence of the prisoner.
- 6.2 All released property shall be signed for by the prisoner and initialed by the NCO, or designate, on the prisoner property form.
- 6.3 Any discrepancies related to property shall be noted and brought to the attention of the Inspector or S/Sergeant in charge of the Division.
- 6.4 Prisoners being transported to court, shall not receive any knives, pills or forms of weapons. Such items will be turned over to the Sheriff's Department upon delivery of the prisoner to court.

**J. RELEASE OF INFORMATION**

- 7.1 The Duty NCO, or designate, may release the identity of any adult in custody in order to:
  - a) Establish to identity of the individual with any other person.
  - b) Confirm the presence of an individual in custody with a right to know, i.e., family member with the consent of the accused.
  - c) Release the particulars of the charge to defence counsel retained by the accused.

**NOTE:** The Nova Scotia Police Act regulations provide: 5(1) "A member of a municipal police commits a disciplinary default where the member....

- (e) Improperly discloses information by
  - (i) **without proper authority**, communicates to any person any information which the member possesses as a member of a police force."

- 7.2 The Duty NCO, or designate shall notify the parent, or any other person who is known to and likely to assist a young offender, of their detention, the nature of the charge and particulars of the offense.

**K. RELEASE**

- 8.1 A person may be released from custody with the provisions as outlined in the Criminal Code of Canada.
- 8.2 Prisoners released shall be encouraged to make transportation arrangements and provided with a phone or have a call made to do so. (taxi, family members, friend, etc.)

8.3 No person under the influence **shall** be released from custody without transportation.

**NOTE:** These precautions **shall** be strictly obeyed due to the location of the roadway in relation to the Police Building.

**L. NON-RELEASE OF PRISONERS**

9.1 No person is to be released from custody where it is believed on reasonable and probable grounds that it is necessary in the public interest to hold the person(s) to:

- 1) Establish the identity of the person.
- 2) Secure or preserve evidence of or relating to the offence.
- 3) Prevent the continuation or repetition of the offence or another offence.
- 4) Or, there are reasonable and probable grounds to believe that the person will fail to attend court.

**M. Search**

10.1 Jail Guards are responsible for a thorough search of the cell immediately following the release of a prisoner.

10.2 Jail Guards shall document this search on the **Prisoner Log Sheet** or the **Child and Youth Log Recording Form**. (See Appendix C and D)

Appendix C

CHILD AND YOUTH LOG RECORDING FORM

OCCURRENCE NO. \_\_\_\_\_ CASE NO. \_\_\_\_\_ DATE: \_\_\_\_\_

YOUNG PERSON \_\_\_\_\_ AGE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ARRESTING OFFICER: \_\_\_\_\_ DIVISION \_\_\_\_\_

BROUGHT IN BY: \_\_\_\_\_ TIME: \_\_\_\_\_

OFFENCE/REASON FOR DETAINING: \_\_\_\_\_

PARENT/GUARDIAN CONTACTED

OFFICER: \_\_\_\_\_ TIME: \_\_\_\_\_

VIDEO TAPE #	TIME ON	TIME OFF	
JAILER			
<i>NOTE: TO BE COMPLETED BY OFFICER IN CHARGE AT THE TIME OF YOUTH'S ARRIVAL.</i>			
CONDITION ON ARRIVAL: _____			
NOTIFIED OF RIGHT TO CONTACT CHILDREN'S OMBUDSMAN			
PHONE NO. 1-888-839-6884? YES <input type="checkbox"/> NO <input type="checkbox"/> IF NO, PLEASE STATE REASON. _____			
NOTIFIED - SHOULD YOU REQUIRE A BLANKET DURING YOUR STAY, NOTIFY JAILER			
YES <input type="checkbox"/> NO <input type="checkbox"/> IF NO, PLEASE STATE REASON. _____			
FEMALE OFFENDERS - SHOULD YOU REQUIRE FEMALE PROTECTION DURING YOUR STAY,			
NOTIFY JAILER YES <input type="checkbox"/> NO, <input type="checkbox"/> IF NO, PLEASE STATE REASON. _____			
SIGNATURE OF OFFICER IN CHARGE _____			

SHOULD THE YOUNG PERSON MAKE A REQUEST, PLEASE NOTE THE TIME, THE NATURE OF THE REQUEST, AND WHAT ACTION WAS TAKEN IN THE REMARKS COLUMN.

REMARKS: \_\_\_\_\_

REMARKS: \_\_\_\_\_

MATRON: \_\_\_\_\_ RELEASED TO: \_\_\_\_\_

TIME: \_\_\_\_\_

**APPENDIX D**

**Health care of prisoners  
4Rs Observation check list**

If any prisoner fails to meet any of the following criteria, a F.M.E. or Ambulance **MUST** be called when assessing the level of rousability, consider:

Rousability – can they be woken?

- Go into the cell
- Call their name
- Shake gently

Response to questions can they give appropriate answers to questions such as:

- What's your name?
- Where do you live?
- Where do you think you are?

Response to commands – can they respond appropriately to commands such as:

- Open your eyes!
- Lift one arm, now the other arm!

Remember – take into account the possibility or presence of other illnesses, injury, or mental condition.

A person who is drowsy and smells of alcohol may also have the following:

- Diabetes
- Epilepsy
- Head injury
- Drug intoxication or overdose
- Stroke

**IF IN DOUBT CALL AN AMBULANCE**

28 NOVEMBER 1997

**CAPE BRETON REGIONAL POLICE  
SERVICE**

**POLICY**

**CARE AND HANDLING OF  
PRISONERS**

NSPC: 01-0017 BAILEY INQUIRY

EXHIBIT #: 73

**A. SUBJECT:**

This Chapter deals with procedures to be followed in the booking, supervising and the releasing of all prisoners held in the Lock-up Facility of the Cape Breton Regional Police Service.

**B. REFERENCES:**

1. Criminal Code of Canada
2. Young Offenders Act
3. Identification of Criminals Act
4. Canadian Human Rights Act

**C. GENERAL**

- 1.1 The responsibility for the Lock-Up Facility is within the mandate of the Inspector I/C of Central Division.
- 1.2 The lock-up Facility will be solely staffed by personnel appointed by the Chief of Police or designate.
- 1.3 The NCO of the Duty Platoon will be designated as the **officer in charge** in order to fulfill procedures defined by Section 493.ccc as the person responsible for the time being of the Lock-Up.
- 1.4 The Duty Sergeant or designate in Central Division shall be responsible for the Lock-up Facility.
- 1.5 Personnel employed in the lock-up facility shall report any significant incident involving injury, property damage, illness or failure of equipment under their control to the supervising NCO. Th supervising NCO shall report any major incident to the on-call manager.
- 1.6 The Major Crime Unit is responsible for the investigation of any significant incident or criminal complaints in the Lock-up Facility.

**D. BOOKING**

- 2.1 A person detained in the custody of the police service shall be treated with decency and provided with all the rights accorded to him/her by law.
- 2.2 No smoking will be permitted in the cell block area.
- 2.3 The arresting officer(s) is responsible for completing the prisoner record form. (See Appendix A).
- 2.4 The arresting officer(s) is responsible for the search of all prisoners and the removal of all effects which may be used to cause harm to themselves or others.

If the prisoner is female, the search shall be conducted by a female custodian or female police officer.

- 2.5 All items shall be listed, stored and secured until such time as the prisoner is released. (See Appendix A)
- 2.6 Any item seized from the prisoner, which could be used as evidence will be listed on a Police Service exhibit report and processed as per operations policy.
- 2.7 Officers shall take note of the health of the prisoner including any injury, medical alert warnings prior to the prisoner being turned over to the custodian on duty.
- 2.8 The arresting officer(s) is responsible for placing the detained person in the cell prior to departure.
- 2.9 The duty CNO, or designate, is responsible for effecting the release of any prisoner at the required time.
- 2.10 Upon taking into his/her charge a prisoner from a member of another police agency, the custodian shall advise the NCO, or designate, of the arrest.
- 2.11 The custodian shall advise the arresting officer of the responsibility of attending the Lock-up to effect the release of the prisoner at the designated time.

**E. TELEPHONE**

- 3.1 It is incumbent that any person being arrested or detained be provided with the means of making a telephone call(s) in private to retain and instruct counsel as per our legal system by section 10(B) of the Canadian Charter of Rights and Freedom.
- 3.2 The telephone room will be used for the placing of telephone calls to permit privacy and non-recordings of such conversation.
- 3.3 The courts have held that the police must provide arrested or detained persons means of instructing legal counsel without delay. This means they have a right of privacy which includes the liberty to call whomever they like without informing the police, in an effort to obtain counsel.

Wherever possible the following shall apply in long distance calls by the prisoner:

- (a) The arresting officer will make the call on a collect basis to the person named by the individual in custody.

- (b) Once the connection is made and the recipient, acknowledges acceptance of the telephone call, the telephone will be turned over to the individual in custody. (The right to privacy must prevail).

OR

If the person requesting the long distance call wishes to charge the call to their residential or telephone credit card, the matter will be handled similar as a collect call.

The principle to remember is that the police must provide the individual with the means to make a reasonable effort to obtain legal counsel. The arresting officer can authorize one long distance call in order to meet this demand.

- 3.4 Person in an intoxicated condition shall be provided with the opportunity to telephone legal counsel upon demand provided that the state of sobriety of the incarcerated person is such that the request can be facilitated without potential difficulty.
- 3.5 Custodians are required to inform persons arrested for intoxication that, if requested they will notify a family member that they are in custody. The request will be noted on the prisoner log sheet.
- 3.6 In the case of young offenders, members are required to notify the parents their child is in custody as per the Young Offenders Act.

**F. MEALS**

- 4.1 Central Division Duty NCO/or designate will ensure prisoners held in custody are provided with meals when required.
- 4.2 Soft drink bottles or cans are not permitted in the cells as they could be used as a weapon.

**G. DETENTION**

- 5.1 The custodian of the Lock-up Facility shall sign the prisoner record form as the person responsible and place the copy, along with the prisoner's personal effects, in a secured locker.
- 5.2 The custodian on duty shall physically check each prisoner at least every fifteen minutes. Time checks will be staggered and noted on the prisoners log sheet.
- 5.3 Should the prisoner be removed from the cell for any reason, the time and purpose of removal are to be noted on the prisoner log sheet.



- 5.4 Should any prisoner complain of any illness, injury or a suicide attempt be made, the Duty NCO shall be notified immediately and medical aid provided as soon as possible.
- 5.5 In the event of a fire, the fire alarm shall be sounded and all prisoners released from their cells and exited through the nearest safe exit.
- 5.6 No visiting will be permitted in the cell area except provisions made in the Canadian Charter of Rights and Freedom, Human Rights Act and Young Offender Act.
- 5.7 Only female custodians are permitted to guard female prisoners.

#### **H. PROPERTY**

- 6.1 Upon releasing the prisoner, the NCO, or designate, shall return all seized property directly to the prisoner. Any monies taken will be counted in the presence of the prisoner.
- 6.2 All released property shall be signed for by the prisoner and initialed by the NCO, or designate, on the prisoner property form.
- 6.3 Any discrepancies related to property shall be noted and brought to the attention of the Inspector or S/Sergeant in charge of Central Division.
- 6.4 Prisoners being transported to court, shall not receive any knives, pills or forms of weapons. Such items will be turned over to the Sheriff's Department upon delivery of the prisoner to court.

#### **I. RELEASE OF INFORMATION**

- 7.1 The Duty NCO, or designate, may release the identity of any adult in custody in order to:
  - a) Establish to identity of the individual with any other person.
  - b) Confirm the presence of an individual in custody with a right to know, i.e., family member with the consent of the accused.
  - c) Release the nature of the charge only with the consent of the accused.
  - d) Release the particulars of the charge to defence counsel retained by the accused.

**NOTE:** The Nova Scotia Act regulations provide: 5(1) "A member of a municipal police commits a disciplinary default where the member....  
(e) improperly discloses information by  
(i) **without proper authority**, communicates to any person any information which the member possesses as a member of a police force."

7.2 The Duty NCO, or designate shall notify the parent, or any other person who is known to and likely to assist a young offender, either orally or verbally shall be notified, of their detention, the nature of the charge and particulars of the offense by the arresting officer(s).

**J. RELEASE**

8.1 A person may be released from custody with the provisions as outlined in the Criminal Code of Canada.

8.2 Prisoners released shall be encouraged to make transportation arrangements and provided with a phone or have a call made to do so. (taxi, family members, friend, etc.)

8.3 No person under the influence shall be released from custody without transportation.

**NOTE:** These precautions shall be strictly obeyed due to the location of the roadway in relation to the Police Building.

**K. NON-RELEASE OF PRISONERS**

9.1 No person is to be released from custody where it is believed on reasonable and probable grounds that it is necessary in the public interest to hold the person(s) to:

- 1) Establish the identity of the person.
- 2) Secure or preserve evidence of or relating to the offence.
- 3) Prevent the continuation or repetition of the offence or another offence.
- 4) Or, there are reasonable and probable grounds to believe that the person will fail to attend court.

NSPC: 01-0017 BAILEY INQUIRY

EXHIBIT #: 98

**CAPE BRETON REGIONAL POLICE  
SERVICE**

**OPERATIONAL  
POLICY**

**CARE AND HANDLING OF  
PRISONERS**

*R.M. Khan*  
Revised Jan 13/03  
Revised - Feb. 11/02  
Revised - Feb. 7/02  
Revised Nov. 16/01

Approved by: *[Signature]*  
Chief of Police

*May 19/2000*  
Date

**A. SUBJECT:**

This Chapter deals with procedures to be followed in the booking, supervising and the releasing of all prisoners held in the Lock-up Facilities of the Cape Breton Regional Police Service.

**B. REFERENCES:**

1. Criminal Code of Canada
2. Young Offenders Act
3. Identification of Criminals Act
4. Canadian Human Rights Act
5. No Smoking Policy, Cape Breton Regional Police Service
6. UN Convention on The Rights of The Child (**Appendix A**)

**C. GENERAL**

- 1.1 The responsibility for the Lock-Up Facility is within the mandate of the Inspector and S/Sergeant i/c of the Division.
- 1.2 The Lock-Up Facilities shall solely staffed by personnel appointed by the Chief of Police or designate.
- 1.3 The Duty Sergeant shall be designated as the **officer in charge** in order to fulfill procedures defined by Section 493.ccc.
- 1.4 The Duty Sergeant or designate in the Division shall be responsible for the Lock-Up Facilities.
- 1.5 Personnel employed in the lock-up facility shall report any incident involving injury, property damage, illness or failure of equipment under their control to the Duty Sergeant. The supervising NCO shall report any major incident to the on-call manager.
- 1.6 The Major Crime Unit is responsible for the investigation of any **significant** incident or criminal complaints in the Lock-Up Facility.

**D. BOOKING**

- 2.1 A person detained in the custody of the police service shall be treated with decency and provided with all the rights accorded to him/her by law.
- 2.2 No smoking will be permitted in the cell block area.
- 2.3 The arresting officer(s) is responsible for completing the prisoner charge book. (**See Appendix B**).
- 2.4 The arresting officer(s) is responsible for the search of all prisoners and the removal of all effects, which may be used to cause harm to themselves or others. If the prisoner is female, the search shall be conducted by a female custodian or female police officer.
- 2.5 All items shall be listed, stored and secured until such time as the prisoner is released.

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*Cape Breton Regional Police Service  
Care and Handling of Prisoners*

- 2.6 Any item seized from the prisoner, which could be used as evidence will be listed on a Police Service exhibit report and processed as per operations policy.
- 2.7 Officers shall take note of the health of the prisoner including any injury, medical alert warnings prior to the prisoner being turned over to the custodian on duty.
- 2.8 Prisoners who are brought into custody in a state of apparent sleep or unconsciousness must be rousable before being placed in a cell. If the prisoner cannot be awoken, they shall be immediately assessed by a physician.  
**Note:** See Appendix "C" Glasgow Coma Score to determine a rousability.
- 2.9 The following is recommended for prisoners who are in a state of apparent intoxication who are able to be aroused, (immediately prior to the time of incarceration);  
(a) The prisoner shall be assessed by a physician prior to being placed in a cell if there is a known history of drug overdose, a medical history that may be associated with an altered level of consciousness, (i.e. diabetes), or a history of significant head trauma.
- 2.10 All prisoners who are presumed to be intoxicated shall be reassessed to ensure they are awake or arousable at least every thirty (30) minutes. If the prisoner is awake or becomes progressively easier to arouse after three thirty minute assessments, the assessments may be decreased to every sixty (60) minutes until the prisoner appears to be fully conscious. If during any assessment the prisoner is not arousable, they shall be assessed by a physician as soon as practicable.  
**Note:** This does not change the necessity for the fifteen (15) minute physical checks.
- 2.11 Prisoners who do not show signs of becoming increasingly more awake or more easily arousable within three (3) hours of initial assessment shall be assessed by a physician as soon as practicable.
- 2.12 Prisoners who fall asleep after being aroused shall be placed in a prone position.
- 2.13 The arresting officer(s) is responsible for placing the detained person in the cell prior to departure.
- 2.14 The duty NCO, or designate, is responsible for effecting the release of any prisoner at the required time.
- 2.15 Upon taking into his/her charge a prisoner from a member of another police agency, the custodian shall advise the NCO, or designate, of the arrest.
- 2.16 The custodian shall advise the arresting officer of the responsibility of attending the Lock-up to effect the release of the prisoner at the designated time.

**E. TELEPHONE**

- 3.1 It is incumbent that any person being arrested or detained be provided with the means of making a telephone call(s) in private to retain and instruct counsel as provided under Section 10(B) of the Canadian Charter of Rights and Freedom.

- 3.2 The telephone room will be used for the placing of telephone calls to permit privacy and non-recordings of such conversation.
- 3.3 The courts have held that the police must provide arrested or detained persons means of instructing legal counsel without delay. This means they have a right to privacy, which includes the liberty to call whomever they like without informing the police, in an effort to consult with counsel.

Wherever possible the following shall apply in long distance calls by the prisoner:

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- (b) Once the connection is made and the recipient, acknowledges acceptance of the telephone call, the telephone will be turned over to the individual in custody. (The right to privacy must prevail).

OR

If the person requesting the long distance call wishes to charge the call to their residential or telephone credit card, the matter will be handled similar as a collect call.

The principle to remember is that the police must provide the individual with the means to make a reasonable effort to consult counsel. The arresting officer can authorize one long distance call in order to meet this demand.

- 3.4 Persons in an intoxicated condition shall be provided with the opportunity to telephone legal counsel upon demand provided that the state of sobriety of the incarcerated person is such that the request can be facilitated without potential difficulty.
- 3.5 In the case of young offenders, members are required to notify the parents their child is in custody as per the Young Offenders Act.
- 3.6 Any young person detained in the custody of the Police Service shall be informed of their right to contact the Children's Ombudsman and provided with the phone number 1-888-839-6884. This notification shall be noted on the **Child and Youth Log Recording Form**. (See Appendix D)
- 3.7 All Young Offenders held in custody shall be notified that a blanket is available should one be required. This notification shall be recorded on the **Child and Youth Log Recording Form** (See Appendix D).
- 3.8 All female young offenders shall be notified that female protection (sanitary napkins) is available should one be required during their stay. This notification shall be recorded on the **Child and Youth Recording Form** (See Appendix D).

**F. MEALS**

- 4.1 Central Division Duty NCO/or designate will ensure prisoners held in custody are provided with meals when required.
- 4.2 Soft drink bottles or cans are not permitted in the cells as they could be used as a weapon.

**G. DETENTION**

- 5.1 The custodian of the Lock-up Facility shall sign the prisoner record form as the person responsible and place the copy, along with the prisoner's personal effects, in a secured locker.
- 5.2 The custodian on duty shall physically check each prisoner at least every fifteen minutes. Time checks will be staggered and noted on the **Prisoners Log Sheet**. (See Appendix E)
- 5.3 Should the prisoner be removed from the cell for any reason, the time and purpose of removal are to be noted on the prisoner log sheet. The Prisoner Log Sheet shall be forwarded to the investigating officer in cases of indictable or dual offences and this will become part the file.
- 5.4 The Prisoner Log Sheet shall be forwarded to the arresting officer(s) in cases where individuals are charged with indictable or dual offences and this form becomes a portion of the file as it relates to Case Management.
- 5.5 Should any prisoner complain of any illness, injury or a suicide attempt be made, the Duty NCO shall be notified immediately and medical aid provided as soon as possible.
- 5.6 The Duty NCO shall file a report in cases where medical attention is refused;
  - (a) By a member of the Police Service.
  - (b) By the prisoner.
- 5.7 In the event of a fire, the fire alarm shall be sounded and all prisoners released from their cells and exited through the nearest safe exit.
- 5.8 No visiting will be permitted in the cell area except provisions made in the Canadian Charter of Rights and Freedom, Human Rights Act and Young Offender Act.

**H. VIDEO**

- (a) Prisoners housed in the Lock-up Facility shall be monitored by video at all times.
- (b) Video tapes shall be changed at midnight daily or as soon thereafter as possible.
- (c) Tapes shall be secured for sixty-one (61) days before being placed back in service.
- (d) Should any tape be seized by an officer for evidence or investigation purposes, the name of the officer date and time shall be recorded in the Lock-up Facility Log Book.
- (e) All seized tapes shall be replaced and an identical number and the letter (R) placed immediately in front of that number.

**I. PROPERTY**

- 6.1 Upon releasing the prisoner, the NCO, or designate, shall return all seized property directly to the prisoner. Any monies taken will be counted in the presence of the prisoner.



- 6.2 All released property shall be signed for by the prisoner and initialed by the NCO, or designate, on the prisoner property form.
- 6.3 Any discrepancies related to property shall be noted and brought to the attention of the Inspector or S/Sergeant in charge of the Division.
- 6.4 Prisoners being transported to court, shall not receive any knives, pills or forms of weapons. Such items will be turned over to the Sheriff's Department upon delivery of the prisoner to court.

**J. RELEASE OF INFORMATION**

- 7.1 The Duty NCO, or designate, may release the identity of any adult in custody in order to:
  - a) Establish to identity of the individual with any other person.
  - b) Confirm the presence of an individual in custody with a right to know, i.e., family member with the consent of the accused.
  - c) Release the particulars of the charge to defence counsel retained by the accused.

**NOTE:** The Nova Scotia Police Act regulations provide: 5(1) "A member of a municipal police commits a disciplinary default where the member....

- (e) Improperly discloses information by
  - (i) without proper authority, communicates to any person any information which the member possesses as a member of a police force."
- 7.2 The Duty NCO, or designate shall notify the parent, or any other person who is known to and likely to assist a young offender, of their detention, the nature of the charge and particulars of the offense.

**K. RELEASE**

- 8.1 A person may be released from custody with the provisions as outlined in the Criminal Code of Canada.
- 8.2 Prisoners released shall be encouraged to make transportation arrangements and provided with a phone or have a call made to do so. (taxi, family members, friend, etc.)
- 8.3 No person under the influence shall be released from custody without transportation.

**NOTE:** These precautions shall be strictly obeyed due to the location of the roadway in relation to the Police Building.

**L. NON-RELEASE OF PRISONERS**

- 9.1 No person is to be released from custody where it is believed on reasonable and probable grounds that it is necessary in the public interest to hold the person(s) to:
  - 1) Establish the identity of the person.
  - 2) Secure or preserve evidence of or relating to the offence.
  - 3) Prevent the continuation or repetition of the offence or another offence.
  - 4) Or, there are reasonable and probable grounds to believe that the person will fail to attend court.

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*Cape Breton Regional Police Service  
Care and Handling of Prisoners*



**M. Search**

10.1 Jail Guards are responsible for a thorough search of the cell immediately following the release of a prisoner.

10.2 Jail Guards shall document this search on the Child and Youth Log Recording Form or the Prisoner Log Sheet. (See **Appendix D and E**)

**N. Accountability / Audit**

(a) The Inspector or Staff Sergeant responsible for Central Division shall audit randomly video tapes from the lock-up facility to ensure jailers are performing fifteen minute physical checks on prisoners. This task shall be completed monthly and noted on the **Video Check Sheet**. (See **Appendix F**)

# CONVENTION ON THE RIGHTS OF THE CHILD

## PREAMBLE

THE STATES PARTIES TO THE PRESENT CONVENTION,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

## Part I

### ARTICLE 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

### ARTICLE 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

### ARTICLE 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

---

ARTICLE 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

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ARTICLE 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

---

ARTICLE 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

---

ARTICLE 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

---

ARTICLE 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 2, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

---

ARTICLE 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

---

ARTICLE 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

---

ARTICLE 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

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ARTICLE 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, *inter alia*, foster placement, *kafalah* of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

#### ARTICLE 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

#### ARTICLE 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- (d) To ensure appropriate pre-natal and post-natal health care for mothers;



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ARTICLE 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

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ARTICLE 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
  - (a) Make primary education compulsory and available free to all;
  - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
  - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;

---

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

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A R T I C L E 3 0

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

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A R T I C L E 3 1

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

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A R T I C L E 3 2

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present

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ARTICLE 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

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ARTICLE 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

- (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
- (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
  - (i) To be presumed innocent until proven guilty according to law;
  - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
  - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
  - (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
  - (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
  - (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
  - (vii) To have his or her privacy fully respected at all stages of the proceedings.

Appendix B

Cape Breton Regional Police Service N° 4525

DATE: _____	TIME: _____ CPIC CHECK: Yes ( ) No ( )
NAME: _____	DATE OF BIRTH: _____
ADDRESS: _____	PLACE OF BIRTH: _____
POSTAL CODE: _____	PHONE: _____ OCCUPATION: _____
SEX: _____ RACE: _____ HT: _____	WT: _____ HAIR: _____ EYES: _____
CHARGE: _____	WHERE ARRESTED: _____
DATE OF OFFENCE: _____	PLACE OF OFFENCE: _____
PROPERTY: _____	BIN NO: _____
MASTER NO: _____	REGISTRATION NO: _____
MAKE OF VEHICLE: _____	YEAR: _____ COLOUR: _____
COURT DATE: _____	DATE & TIME RELEASED: _____
DISPOSITION: _____	RELEASED BY: _____
PRISONERS SIGNATURE: _____	ARRESTING OFFICERS: _____

Appendix C

### Glasgow Coma Score

Have prisoner assessed by a physician when score is thirteen (13) or less:

**Eye Opening**

- Spontaneous 4
- To Voice 3
- To Pain 2
- None 1

**Motor Response**

- Obey Commands 6
- Localizes to pain 5
- Withdrawal to pain 5
- Decorticate Response (Bending Body) 3
- Decorticate Response (Extending Limb) 2
- No Response 1

**Verbal Response**

- Normal 5
- Confused but coherent 4
- Simple in appropriate words 3
- Incomprehensive speech 2
- No speech 1

**Total**

Highest Possible Score 15  
Lowest Possible Score 3

Appendix D

CHILD AND YOUTH LOG RECORDING FORM

CASE NO: \_\_\_\_\_ JAIL FILE NO: \_\_\_\_\_ DATE: \_\_\_\_\_

YOUNG PERSON: \_\_\_\_\_ AGE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ARRESTING OFFICER: \_\_\_\_\_ DIVISION: \_\_\_\_\_

BROUGHT IN BY: \_\_\_\_\_ TIME: \_\_\_\_\_

OFFENCE / REASON FOR DETAINING: \_\_\_\_\_

Conditions of Release: \_\_\_\_\_

PARENT / GUARDIAN CONTACTED: (Name, Response, Contact Phone Number) \_\_\_\_\_

Officer: \_\_\_\_\_ Time: \_\_\_\_\_

Video Tape #	Time On:	Time Off:	Cell #:
<b>Jailer</b>			
<i>NOTE: TO BE COMPLETED BY OFFICER IN CHARGE AT THE TIME OF YOUTH'S ARRIVAL.</i>			
CONDITION ON ARRIVAL: _____			
NOTIFIED OF RIGHT TO CONTACT CHILDREN'S OMBUDSMAN			
PHONE NO. 1-888-839-6884 YES <input type="checkbox"/> NO <input type="checkbox"/> IF NO, PLEASE STATE REASON: _____			
NOTIFIED - SHOULD YOU REQUIRE A BLANKET DURING YOUR STAY, NOTIFY JAILER			
YES <input type="checkbox"/> NO <input type="checkbox"/> IF NO, PLEASE STATE REASON: _____			
FEMALE OFFENDERS - SHOULD YOU REQUIRE FEMALE PROTECTION DURING YOUR STAY,			
NOTIFY JAILOR YES <input type="checkbox"/> NO, <input type="checkbox"/> IF NO, PLEASE STATE REASON: _____			
SIGNATURE OF OFFICER IN CHARGE: _____			
Concerns:	Medical <input type="checkbox"/> Emotional <input type="checkbox"/> Suicidal <input type="checkbox"/>		
Dr. Recommendation	_____		
Time Out Lockup:	_____		
Time Returned:	_____		
Transported by:	_____		

GUARD \_\_\_\_\_ RELEASED TO: \_\_\_\_\_

TIME: \_\_\_\_\_

Form-th05-2001









00085

Dr. Barry A. McLellan  
249 Main Street Unionville  
Unionville, ON  
L3R 2H3

December 18, 2000

Detective Inspector Donald J. MacNeil  
Ontario Provincial Police  
Criminal Investigation Branch  
General Headquarters  
777 Memorial Avenue  
Orillia, Ontario  
L3V 7V3

Dear Detective Inspector MacNeil:

**Re: James Guy BAILEY  
Cape Breton In-Custody Death**

As per your request I have reviewed the following materials in relation to the in-custody death of James Guy Bailey at the Cape Breton Regional Police lock-up on May 17, 2000.

- (1) Medical Examiner's Report
- (2) Final Autopsy Report
- (3) Patient Care Report (Nova Scotia EHS)
- (4) Forensic Laboratory Report (RCMP)
- (5) Brief Summary of Facts
- (6) Relevant Video Clips from Cell Cameras (Original Video Edited by the Ontario Provincial Police).

I should note that I have previously had the opportunity to review an in-custody death that occurred in Toronto and I was then an expert witness at the inquest into this death of Anthony Howard. I made a number of recommendations at that time that were incorporated into the jury's verdict recommendations and I have included these recommendations below. Mr. Howard was unresponsive at the time he was originally detained whereas Mr. Bailey was initially drowsy; aside from this difference in the original level of consciousness there are a number of similarities in the two cases.

Recommendations:

- (1) Individuals who are brought into custody in a state of apparent sleep or unconsciousness must be rousable before being placed in a cell. If police are unable to arouse the individual, he/she should be assessed by a physician

00086

immediately. A screening tool should be developed, in consultation with appropriate medical personnel in the community, to assist police personnel in determining what constitutes arousability and what appropriate stimuli could be used to determine if an individual is arousable.

- (2) For individuals in a state of apparent intoxication who are able to be aroused (immediately prior to the time of incarceration) it is recommended that:
- (a) The individual be assessed by a physician prior to admission to a holding area or jail if there is: a known history of drug overdose, a medical history that may be associated with an altered level of consciousness (i.e. diabetes) or a history of significant head trauma.
  - (b) An individual admitted and presumed to be intoxicated should be reassessed to ensure that he/she is awake or arousable at least every 30 minutes. If he/she is awake or becomes progressively easier to arouse after three 30 minute assessments, the frequency of assessment could be decreased to every 60 minutes until the individual appears to be fully conscious. If at any time the individual is not arousable, he/she should be assessed by a physician as soon as possible.
  - (c) If an individual is not showing signs of becoming increasingly more awake or more easily arousable within 3 hours of initial assessment, he/she should be assessed by a physician as soon as possible.
  - (d) Individuals who become unresponsive (i.e. fall asleep) after have been aroused should be placed in a prone (recovery) position.

The recommendations listed under (2) would, in my opinion, be applicable to someone who was in a state of apparent intoxication and who was drowsy at the time of the time of admission to a holding area or jail (as Mr. Bailey was).


There is considerable judgment necessary on the part of booking officers and lock-up staff when dealing with a sometimes very difficult group of persons. Notwithstanding this statement it is my opinion that each of these recommendations would be worthy of consideration in the overall interest of public safety.

The only other recommendation I would make after reviewing the materials is that staff at the Cape Breton Regional Police lock-up review their approach to the pulseless and apneic prisoner with a goal of instituting Basic Cardiac Life Support (BCLS) as soon as possible. There is little benefit in providing Advanced Cardiac Life Support if BCLS is not instituted within 4 minutes of cardiac arrest.

00087

I would be pleased to answer any specific questions you might have after reviewing my recommendations.

Yours truly,



Barry A. McLellan MD FRCPC

APPENDIX C

**THIS IS THE GLASGOW COMA SCORE**

REPORT THE SCORE WHEN CALLING FOR MEDICAL ASSISTANCE. CALL MEDICAL ASSISTANCE IF THE SCORE IS 13 OR LESS

TABLE III-c

**GLASGOW COMA SCORE**

**EYE OPENING**

Spontaneous	4
To Voice	3
To Pain	2
None	1

**MOTOR RESPONSE**

Obeys Commands	6
Localizes to Pain	5
Withdrawal to Pain	5
Decorticate Response (Flexion)	3
Decorticate Response (Extensor)	2
No Response	1

**VERBAL RESPONSE**

Normal	5
Confused but Coherent	4
Simple Inappropriate Words	3
Incomprehensible Speech	2
No Speech	1

**TOTAL**

Highest Possible Score is 15  
Lowest Possible Score is 3

THIS IS DECEREBRATE POSITIONING  
NOTE HOW HANDS AND FEET ARE EXTENDED

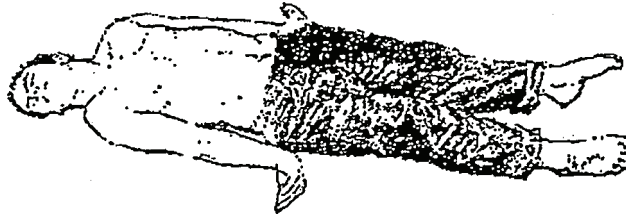
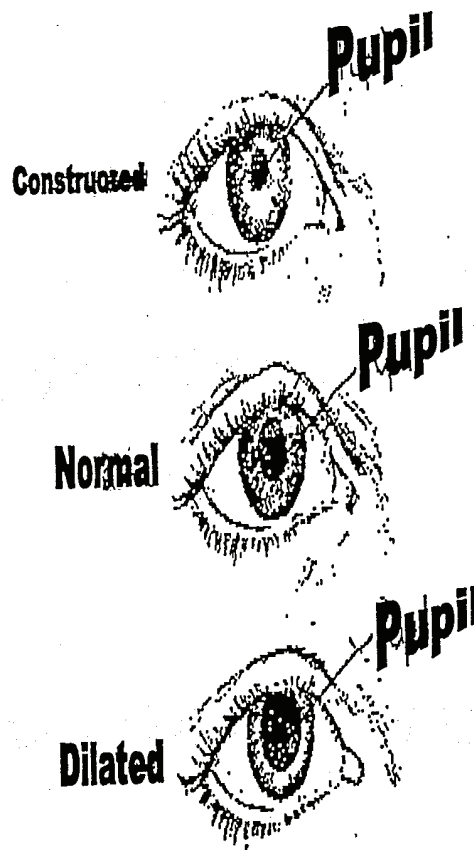


Figure III-5 Decorticate posturing

WITH DECORTICATE RESPONSE, THE HANDS AND FEET ARE FLEXED.

CHECK PUPIL REACTION AND REPORT YOUR FINDINGS  
WHEN CALLING MEDICAL ASSISTANCE



**PUPIL REACTION**



**APPENDIX D**

**Health care of prisoners  
4Rs Observation check list**

If any prisoner fails to meet any of the following criteria, a F.M.E. or Ambulance **MUST** be called when assessing the level of rousability, consider:

Rousability – can they be woken?

- Go into the cell
- Call their name
- Shake gently

Response to questions can they give appropriate answers to questions such as:

- What's your name?
- Where do you live?
- Where do you think you are?

Response to commands – can they respond appropriately to commands such as:

- Open your eyes!
- Lift one arm, now the other arm!

Remember – take into account the possibility or presence of other illnesses, injury, or mental condition.

A person who is drowsy and smells of alcohol may also have the following:

- Diabetes
- Epilepsy
- Head injury
- Drug intoxication or overdose
- Stroke

**IF IN DOUBT CALL AN AMBULANCE**

28 NOVEMBER 1997

CELLBLOCK TIMELINE - JANUARY 2000 TO DECEMBER 2002

1. January 2000 Memo: New rules regarding patrols not using cellblock entrance.
2. May 2000 Installed air conditioner in cellblock booking area
3. May 2000 Purchased new automatic washer/dryer for cellblock; i.e. fresh supply of blankets for prisoners.
4. June 2000 New video camera in corridor in front of cells #'s 1 to 4.
5. June 2000 Memo: Arresting officer to notify Central N.C.O.'s regarding new prisoner being taken to lockup.
6. June 2000 Memo: Indictable/dual offence prisoner PCLS's to be forwarded to file.
7. July 2000 Purchased new uniforms for Jail Guards - more professional appearance.
8. August 2000 Installed new video camera in corridor in front of cell #'s 5 to 8.
9. August 2000 Installed new video camera at fingerprinting station.
10. Dec. 2000 Began purchasing sandals for prisoners who may not have footwear upon release.
11. January 2001 Installed remote police radio in cellblock for better access to Dispatch/Patrol cars.
12. January 2001 Replaced all video tapes in cellblock, old tapes taken to archives.
13. March 2001 Camera moved in cell #4 to improve visibility.
14. May 2001 New VCR in cellblock that improves monitor image.
15. May 2001 New multiplexer in cellblock which enables jailer to view all cells on one monitor.
16. May 2001 Cell inspection for repairs and maintenance done by Island Lock Co.
17. August 2001 New video camera/audio unit for booking area.

NSPC: 01-0017 BAILEY INQUIRY

EXHIBIT #: \_\_\_\_\_

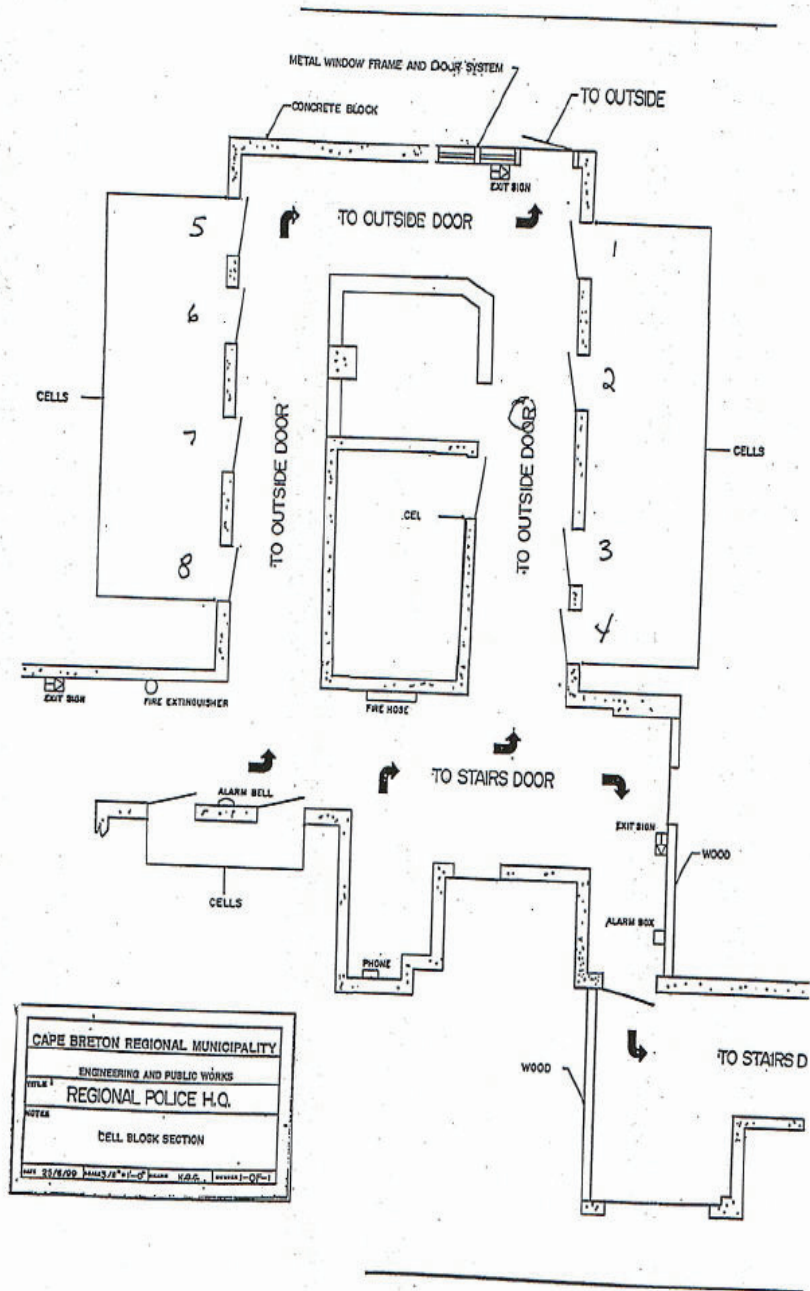
75

Page 2  
Cellblock Timeline

---

- 18. August 2001 New video cameras for parking lot and I-Dent room.
- 19. Nov. 2001 Installed new intercom system from Jail Guard station to outside (parking lot).
- 20. Nov. 2001 Purchased electronic security wand for searching prisoners.
- 21. Feb. 2002 Hired 2 additional full-time Jail Guards bring complement up to 4.
- 22. Feb. 2002 Implemented 12 hour shifts.
- 23. March 2002 Purchased new first air kits, new CPR masks and new ambu bag for cellblock.
- 24. March 2002 Purchased new portable cordless telephone for Jail Guards which has headset and clips to belt. This allows the guards to talk to paramedics from the cell if a prisoner is in distress.
- 25. March 2002 All Jail Guards issued body armor.
- 26. March 2002 Monitor placed in jailer's lunch room which allows the jailer to watch prisoners if out of work station for a moment.
- 27. April 2002 Two female jail guards hired.
- 28. April 2002' New prisoner effects lockers built.
- 29. April 2002 Plexiglas shield built over cell door control panel.
- 30. May 2002 Jail Guards "Special Constable" jurisdiction expanded to include all hospital sites in CBRM.
- 31. July 2002 Perforations in cell bunks ~~were~~ welded.
- 32. August 2002 New computer installed in cellblock.
- 33. August 2002 Purchased new safe for prisoners' valuables.
- 34. Nov. 2002 Third female jail guard hired bring complement of guards to 4 full-time and 4 part-time.
- 35. Nov. 2002 Extraction shield purchased for cellblock

- 36. Inventory check on items.
- 37. Maintenance of video equipment.



00280

TRAINING CONTINUUM REPORT  
FOR  
MAX SEHL  
NORTH SYDNEY POLICE DEPARTMENT

Hiring Date: 1978      DOB May 28, 1956      Retirement Date: 2021

COURSES:

Appointment of Speedmeter Tester, Sec. 5(1) M.V.A.	1978
Breathalyzer	1976
Photography	1978
Self-Defence	1979
Advanced Police Science	1980
Law Course Level 1	1980 U.C.C.B.
Mental Health Seminar	1980/1991
Law for the People by the People (Civil Law)	1981
Introduction to Criminology	1982
Mace	1983
Young Offender Seminar	1984
Firearms Training	1984 (shotguns and sidearms)
Traffic Course	1984
Arson Level 1	1985
Street Survival Seminar	1985 Halifax
C.P.I.C.	1984
Alert	1984
Interviewing & Interrogation	1986
Bomb Disposal	1986
Law Course Level 11	1986
Arson Level 11	1986
Suicide Seminar	1987
Fraud Seminar	1988, Academy Library
C.P.R.	1988
First Aid	1988
Arson Level 111	1988
Radar	1975/1983
Law Course Level 111	1989 U.C.C.B.
Force Continuum (F.A.T.S.)	1989/1991
Crime Prevention Seminar	1990 (Multiculturalism)

00281

Introduction to Drugs	1990
Drug Investigation	1990
N.S. Drug Dependency Seminar	1990
Satanic Cult Seminar	1990
P.A.C.E.	1990 U.C.C.B.
Force Continuum Requalification	1991/1993
Crime Scene Investigator	1992
Sexual Abuse Course	1994

All officers are qualified in accordance to the requirements of the Nova Scotia Police Commission in regards to sidearms and shotgun. Also all officers are qualified to use Pepper Spray.

#4

### PRISONER CONTACT LOG SHEET

Division	East	Central	North	Disposition
Date	Year 2000	Day 16	Month 05	
Time	9:30 P.m.			
Name	James Guy Bailey			
Address	1463 Athletic St, Sydney Mines.			
Date of Birth	Year 71	Day 24	Month 09	
Property	Jacket, Pruders, Ball Hat, (envelope no money)			
Charge	870 I.P.A. (Secured.)			
Arresting Officers	Mick Dehl			
Video Tape #	146 246	Time On	Time Off	
Jailor	CB	147 247		

Seized by Sgt J. O'Hara  
2:59 Am.  
3:04 Am  
1200-0517

Very Intoxicated on Arrival - Could hardly walk.

Time of Check	Cell	Remarks and Observations
9:30 P.m.		Prisoner Arrived, Taken directly to Cell #4 by Charge officer - searched by same officer.
9:45 P.m.	(4)	Spending on books, Quiet
10:00 P.m.	(4)	" " " "
10:15 P.m.	4	sleeping
10:30 P.m.	4	"
10:45 P.m.	4	"
11:00 P.m.	4	"
11:15 P.m.	4	"
11:30 P.m.	4	"
11:45 P.m.	4	"
12:00 A.m.	4	"
12:15 A.m.	4	"
12:30 A.m.	4	"
12:45 A.m.	4	"

(CB)

(JOL)

CAPE BRETON REGIONAL POLICE SERVICE

CENTRAL LOCKUP

Chg: 870 LCA

NAME: Jean, May, Bailey

Page 2 of \_\_\_\_\_

Served

TIME OF CHECK	CELL	REMARKS/OBSERVATIONS
1:00 Am	4	Sleeping
1:15 Am	4	"
1:30 Am	4	"
1:45 Am	4	"
2:00 Am	4	Checked him - opened door - prisoner not breathing - shook his feet - shook his legs - NO response - Sarg called - Ambulance called - 2:05 Am. Sarg arrived
2:07 Am	---	Ambulance arrived
2:09 Am	---	Back up Ambulance response Workers Arrived
2:15 Am	---	Sgt. J. O'Rourke Informed Insp. Jack Banfield that prisoner has Ambulance workers working on him
2:19 Am	---	Neil Mac Kenzie was called by Sgt. J. O'Rourke
2:21 Am	---	I. Dent was called by J. O'Rourke
2:26 Am	---	Ambulance attendant called Roy Whap Emergency - told them they are transporting a 29 year old male in Cardiac Arrest.

(L.B.)

(Jof)





Provincial Justice  
 Province of Nova Scotia  
 Information  
 Case # 3074867  
 THE INFORMANT SAYS THAT ON OR ABOUT: 2000 19 TIME 8:55 PM A/C or P/C  
 The Day of: 11th of May 2000 Buy Middle Telephone No. 313  
 NAME (Print) James Guy Bailey  
 ADDRESS (Print) 463 Atlantic St. N.S.  
 Municipality Sydney Mines P.O. George St. Sydney Mines, C.B.  
 At or Near Hwy. No. 103  
 Did unlawfully commit the offence: Expropriation in a public place

Contrary to Section (1) Liquor Control Act  
 Sub-Section Name of Statute  
 By signing below, I certify that I have reasonable and probable grounds to believe and do believe that the person named above committed the offence indicated.  
 Signed: This Day of 19  
 This is therefore to command you in Her Majesty's name to appear before the presiding Judge at  
 136 Charlotte St. Sydney (Hudson Place)  
 on the 20th Day of June 2000 at 9:30 AM  
 to answer the above charge and be further dealt with according to the law.

The Following Does Not Form Part of the Charge  
 NOTICE RESPECTING VOLUNTARY PAYMENT WITHOUT COURT APPEARANCE. The total penalty payable for out of court settlement as set by the regulations is: \$61.50  
 FINE PAYABLE Municipal Provincial  
 DRIVER OTHER BIRTH DATE 7/09/24 Year Month Day SEX M OCCUPATION  
 Driver's Lic. No. NSC No. PROV. CLASS VEH. CLASS  
 MAKE TYPE COLOUR YEAR VEHICLE LIC. NO. PROVINCE YEAR  
 MAKE TYPE COLOUR YEAR VEHICLE LIC. NO. PROVINCE YEAR  
 Gross Vehicle Weight  
 Owner's Name (Print)  
 Address (Print)  
 Class Officer Issuing Summons (Print) Max SEHL  
 I certify that I did personally deliver the Summons portion of this ticket to the Defendant  
 I certify that I did serve the Summons portion of this ticket to the Defendant by way of registered mail  
 on the 16th day of 11th Month 2000 attached is the receipt issued showing delivery.

#4

Cape Breton Regional Police Service

No 8544

DATE: 00-05-16  
 NAME: James Guy Bailey  
 ADDRESS: 463 Atlantic St, Syd Mines  
 POSTAL CODE:  
 SEX: M RACE: HT:  
 CHARGE: 87(1) LCA  
 DATE OF OFFENCE: 00-05-16  
 PROPERTY:  
 MASTER NO:  
 MAKE OF VEHICLE:  
 COURT DATE:  
 DISPOSITION:  
 PRISONERS SIGNATURE:

TIME: 20:55 hrs CPIC CHECK: Yes (X) No ( )  
 DATE OF BIRTH: 71-09-24  
 PLACE OF BIRTH:  
 PHONE: OCCUPATION:  
 WT: HAIR: EYES:  
 WHERE ARRESTED: George St. Sydney Mines  
 PLACE OF OFFENCE: George St. Syd. Mines  
 BIN NO:  
 REGISTRATION NO:  
 YEAR: COLOUR:  
 DATE & TIME RELEASED:  
 RELEASED BY:  
 ARRESTING OFFICERS: G. M. LeBlond

**Cape Breton Regional Police Service  
PRISONER CONTACT LOG SHEET**

**00001**

Division	East		Central		North		Disposition
Date	Year	00	Day		Month		
Time							
Name							
Address							
D.O.B.	Year		Day		Month		
Property							
Charge							
Arresting Officers							
Video Tape #		Time On		Time Off			
Jailor							

Time of Check	Physical	Monitor	Cell	Remarks and Observations



NOVA SCOTIA  
Department of Justice  
Office of the Chief Medical Examiner  
Form 1

000002

RECEIVED FEB 20 2001

Case No. 98-ME-  
For Office use only

*00 TR/48*

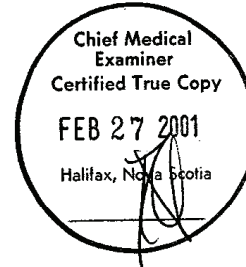
REPORT OF MEDICAL EXAMINER

Full Name of Deceased James Bailey Sex M Age 28

Date of Birth September 24, 1971 Date Found May 17, 2000

Residence at Death 463 Atlantic Street, Sydney Mines  
Place of Death- CAPE BRETON MUNICIPALITY JAIL

Next Of Kin-MOTHER-LILLIAN BAILEY-544-0413



MEDICAL CAUSE OF DEATH

Part I

Immediate Cause of Death: a) RESPIRATORY FAILURE  
due to  
b) DRUG TOXICITY  
due to  
State Underlying Cause Last. c) CHRONIC SUBSTANCE ABUSE

Part II

Other Significant Conditions:  
(Contributing to Death)

Autopsy Held? YES Name of Pathologist DAN GLASGOW Police Force Cape Breton Municipal

Manner of Death: UNDETERMINED Motor Vehicle Accident? NO

If death due to trauma, place trauma occurred

Toxicology Relevant to This Case? YES

CIRCUMSTANCES

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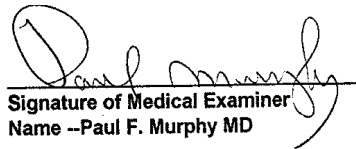
I was informed of the death of this man by Dr. Rob Stokes, who called me from the emergency room of the Cape Breton Regional Hospital. The Cape Breton Municipal Police arrested this man yesterday, May 16, 2000, in North Sydney. The Police told me that he had been reported to be drunk and staggering along the street. He had a history of suicidal behavior and the Police were told later that he had been talking of suicide earlier that week. He was picked up in Sydney Mines by a patrol car and taken to the Municipal Jail in Sydney and placed in the lockup. On his possession was a bottle of pills that included : 34 Paxil tablets, Trazadone tablets, 6 Novo-ranitidine tablets, and 5 or 6 Resperidone tablets. The bottle was dated January/00. The name of the doctor on the bottle was Dr. Mary Henry. He appeared to be very inebriated and his legs had to be lifted forward to get him to walk. He was placed prone on a cot and every fifteen minutes he was observed by the watch officer. The officer reported that he had snored very loudly over the course of the evening. The time of admission to jail was around 20:55 hours.

Around two am on May 17/2000 he was found to be pulseless in the cell and the paramedics were called in and he was taken to the regional hospital where he was pronounced dead after defibrillation failed. The Police were able to establish a positive ID and they did notify the next of kin who was the deceased's mother. Mrs. Bailey told me that her son did not have a drinking problem to her knowledge and that he had had a drug problem for which he had been seen frequently at the Sydney Regional Detox Center and psychiatry department. She told me that her nephew was the one who called the Police and asked that the deceased be picked up and taken to Detox. She also told me that the deceased had been to see Dr. Marek Knott earlier in the week.

I examined the body today in the mortuary in the presence of David Morrison of the municipal police. A Johnny-shirt, black pants, white socks and gray underwear were removed. The deceased was a young male Caucasian, 170 centimeters tall and weighing around 85 kilograms. There was an endotracheal tube in the airway with blood in it. There was an IV in the right antecubital fossa and in the left external jugular vein. The hair was dark and close cropped and the eyes brown. Rigor mortis was well established and the lividum was on the back of the torso with sparing of the scapular areas and buttocks. There was a scar in the right lower quadrant consistent with a former appendectomy. There was a ring on the right hand fourth finger.

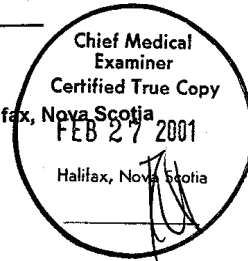
An autopsy was performed by Dr. Dan Glasgow and toxicology specimens were taken. The result of the toxicology indicate toxic levels of Bromazepam and Paroxetine and the presence of several other drugs. Cause of death is felt to be due to respiratory failure due to drug toxicity. The manner of death remains undetermined. The autopsy did not reveal any findings that would alter the above conclusions.

I, Paul Murphy, a Medical Examiner for the province of Nova Scotia, appointed under the Fatality Inquiries Act, do certify that I did on May 17, 2000 view the body of James Guy Bailey and make all reasonable investigations to ascertain the cause and manner of death and that the facts contained herein regarding the death are true and correct to the best of my knowledge and belief.\* If body not viewed, reason to be stated here:

  
Signature of Medical Examiner  
Name --Paul F. Murphy MD

Date July 25, 2000

Please submit completed report to the Office of the Chief Medical Examiner in Halifax, Nova Scotia



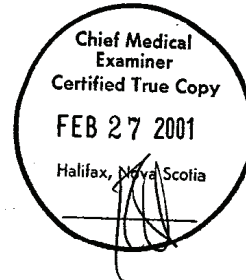
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000003

000004

RECEIVED JUL 28 2000

FINAL AUTOPSY REPORT



NAME: James Guy Bailey  
AGE: 29 Years  
DATE OF BIRTH: 1971/09/24  
ADDRESS: 463 Atlantic Street, Sydney Mines

AUTHORIZATION FOR AUTOPSY: Dr. P. Murphy (Medical Examiner), the evening of May 17, 2000

AUTOPSY NUMBER: ME-46-00  
TIME: 1530 hours  
DATE: May 18, 2000  
PLACE: Cape Breton Regional Hospital Mortuary

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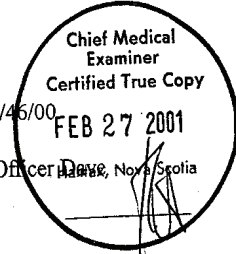
HISTORY:

This 29 year-old gentleman was reported to me by Dr. P. Murphy (Medical Examiner) as having been found pulseless in the detention unit where he was located the evening of May 16<sup>th</sup> within the Regional Police facility, after being apprehended for "intoxication". He was found at or about 2 am, at which time Emergency Medical Services were notified. Resuscitation procedures were effected during transport to hospital however on arrival, he was pronounced "DOA".

The history provided by the Medical Examiner is of known "substance and/or medication abuse". Additional information provided by Officer Morrison of the Identification Section indicated he had been taking known medications of Paxil, Trazadone, Novo 150 and Resperdel. Also reported is that a few days prior to his death he had threatened suicide, and has a history of suicide attempt in the past. There is no other known recent change in medical status.

...cont'd

000005



BAILEY, James Guy

- 2 -

PM/ME/45/00

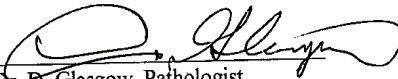
The remains are identified to me as those of Mr. James Guy Bailey by Officer Dawn Morrison, who is attendance at the time of autopsy.

COMMENT:

There is no anatomic finding at autopsy to which death can be directly attributed. There are no autopsy findings to indicate trauma or violence of any degree.

Toxicology results indicate the presence of various medications, two of which are present in toxic concentrations, and to which death can be attributed. (Please see attached copy of the toxicology report).

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Dr. D. Glasgow, Pathologist

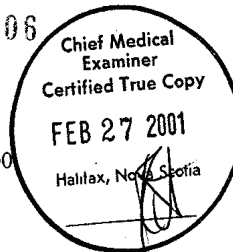
Department of Pathology  
Cape Breton Regional Hospital  
1482 George Street  
Sydney, Nova Scotia  
B1P 1P3

...cont'd



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000006



BAILEY, James Guy

PM/ME/46/00

EXTERNAL EXAMINATION:

The body is that of a Caucasian male weighing approximately 170 pounds, 5' 7 1/2" inches in length, with strong rigor mortis, and prominent posterior lividity. There is a mild congested appearance about the head and upper torso. There is a tattoo of a ship with superimposed skull and cross-bones on the lateral aspect of the right upper arm. There is an old healed 2 cm. long transverse linear scar immediately underlying the anterior aspect of the chin, appearances of an older wound sustained at some time in the remote past. There is an old healed oblique approximately 6 to 7 cm. long scar in the right lower abdominal quadrant overlying the area of McBurney's point, consistent with an old appendectomy scar. There is no other evidence of previous surgery. Overall examination of the body shows no evidence of recent trauma or violence. There is visible subcutaneous hemorrhage immediately surrounding two areas of intravenous puncture sites of the right antecubital fossa elbow region (IV apparatus still taped in place) and of the left anterior lower neck region overlying the jugular vein (IV apparatus still taped in place). The face is symmetrical showing no abnormality. Irides are brown, pupils each 4 to 5 mm. diameter and midline. Teeth are native and in good state of repair. Trachea midline. Chest is symmetrical, with cardiac chest leads in place. Abdomen symmetrical and unremarkable. Genitalia are those of an adult male, circumcised, otherwise unremarkable. Limbs are symmetrical showing no deformities. Back and anus are unremarkable.

INTERNAL EXAMINATION:

Preliminary - On first opening the chest there is no evidence of any anterior rib fractures and no accumulation of fluid within pleural, pericardial or peritoneal spaces.

RESPIRATORY:

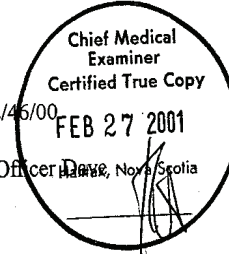
The right and left lungs weigh 750 and 670 grams respectively both showing normal lobation pattern, a sectioned appearance of marked congestion, with a small amount of blood in the upper airways, consistent with aspiration of a small amount of stomach contents. Otherwise focal pathology is not evident. Pleural surfaces are unremarkable. Upper airways are patent. There is focal mild submucosal hemorrhage in an area of the trachea, related to intubation procedures. There is no evidence of pulmonary emboli. Otherwise, mediastinal structures show usual contours with occasional foci of interstitial hemorrhage related to resuscitation procedures.

CARDIOVASCULAR SYSTEM:

The heart weighs 380 grams, shows usual contours, right coronary dominance, coronary arteries widely patent. Cardiac valves are unremarkable. Thoracic aorta unremarkable. Sectioned myocardial tissue of left and right ventricles unremarkable.

...cont'd

000005



BAILEY, James Guy

- 2 -

PM/ME/46/00

The remains are identified to me as those of Mr. James Guy Bailey by Officer Dawn Morrison, who is attendance at the time of autopsy.

COMMENT:

There is no anatomic finding at autopsy to which death can be directly attributed. There are no autopsy findings to indicate trauma or violence of any degree.

Toxicology results indicate the presence of various medications, two of which are present in toxic concentrations, and to which death can be attributed. (Please see attached copy of the toxicology report).

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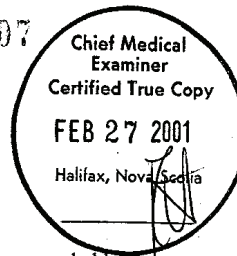
  
Dr. D. Glasgow, Pathologist

Department of Pathology  
Cape Breton Regional Hospital  
1482 George Street  
Sydney, Nova Scotia  
B1P 1P3

...cont'd

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000007



BAILEY, James Guy

PM/ME/46/00

ABDOMINAL CONTENTS

Contours of liver, gallbladder, kidneys, spleen, small and large bowel are unremarkable. Appendix is absent - consistent with appendectomy in the remote past. The sectioned stomach shows autolytic appearances of mucosal surfaces and a few small punctate areas of small focal very superficial erosions and a few scattered small foci a millimetre or less in diameter of submucosal hemorrhage, the gastric lining otherwise unremarkable. The esophagus shows a small amount of contained stomach contents. Stomach contents consisting of partially bloody, fluid material with no significant clot accumulation, appearances consistent with some hemorrhage into stomach contents, total volume of stomach contents approximates 500 ml. and consistent with bleeding having occurred into the stomach lumen within the immediate time prior to death resulting in a small amount of blood in the proximal small bowel to a maximum distance of approximately 1.5 to 2 ft, the total amount of hemorrhage present insufficient to account for cause of death, and representing agonal change immediately prior to death. On internal examination there is no other evidence of hemorrhage or trauma.

NERVOUS SYSTEM:

Brain weight in the unfixed state is 1590 grams. On first opening the scalp and calvarium of the skull there is no evidence of hemorrhage either within the scalp or evidence of abnormality of the calvarium. The brain is symmetrical showing moderate congestion of the meninges, otherwise no evidence of focal pathology either externally or on sectioning. Arteries along the base of the brain are intact showing no focal pathology.

NOTE: Taken at autopsy are tissues from lungs, heart and both kidneys. Also obtained at the time of autopsy and before opening of the chest and abdomen are blood samples from the left femoral region, as well as vitreous humour (from the eyes), and urine, the tubes labelled and secondarily initialled by myself and retained by Officer Morrison for toxicological analysis.

MICROSCOPIC:

LUNGS: Representative sections of right and left lungs show vascular congestion and areas of intrapulmonary hemorrhage (related to resuscitation efforts), otherwise unremarkable.

HEART: Representative sections are unremarkable.

...cont'd

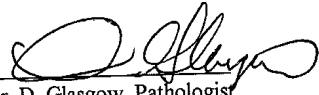
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000008  
Chief Medical Examiner  
Certified True Copy  
FEB 27 2001  
PM/ME/4600 Halifax, Nova Scotia

BAILEY, James Guy

STOMACH: Representative sections of stomach show autolytic change, otherwise unremarkable.

KIDNEYS: Sections show vascular congestion, some autolytic change, otherwise unremarkable.

  
Dr. D. Glasgow, Pathologist

Department of Pathology  
Cape Breton Regional Hospital  
1482 George Street  
Sydney, Nova Scotia  
B1P 1P3  
Typed: July 25, 2000/pa

Referenced on Page 5 of Report

**FORENSIC  
LABORATORY REPORT**

THIS REPORT OR ANY RELATED PHOTOGRAPHIC OR OTHER MATERIAL MAY NOT BE PUBLISHED, IN WHOLE OR IN PART, WITHOUT THE WRITTEN CONSENT OF THE COMMISSIONER OF THE ROYAL CANADIAN MOUNTED POLICE

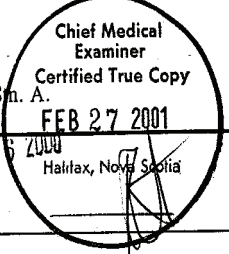
**RAPPORT DES LABORATOIRES  
JUDICIAIRES 000009**

IL EST INTERDIT DE PUBLIER EN TOUT OU EN PARTIE CE RAPPORT OU TOUTE DOCUMENTATION PHOTOGRAPHIQUE OU AUTRE S'Y RAPPORANT SANS LE CONSENTEMENT PAR ÉCRIT DU COMMISSAIRE DE LA GENDARMERIE ROYALE DU CANADA

SECURITY CLASSIFICATION CLASSIFICATION SÉCURITAIRE.	148
PROTECTED A	
DATE	June 14, 2000
LAB FILE N° - DOSSIER DU LAB N°	2000H681
YOUR FILE N° - VOTRE DOSSIER N°	2000-089

TO - À  
The Chief of Police Cape Breton Police Service - East Div  
P.O. Box 340 8 MacFadgen St.  
GLACE BAY NS B1A 5V4  
ATTN: Sgt.Dave Morrison

FROM - DU  
Forensic Laboratory Halifax  
R.C.M.Police  
3151 Oxford St., Box 8208, Spt. A.  
Halifax, NS B3K 5L9



RECEIVED JUN 16 2000

REFERENCE - RÉFÉRENCE  
James Guy Bailey, Suspicious Death  
Cape Breton Regional Police Lock-up

COPIES TO - COPIES À  
Chief Medical Examiner for NS

**GENERAL:**

The following exhibits were received at the Toxicology Section from D.Smith of the Alcohol Section on 2000-05-26:  
Exhibit #1: One (1) container of urine  
Exhibit #2: One (1) vial of vitreous humor  
Exhibit #3: One (1) vial of blood  
Exhibit #4: Three (3) vials of blood

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**PROPOSE:**

To examine Exhibits #1 (urine) and #4 (blood) for drugs.

**METHOD:**

Exhibit #4 (blood) was analyzed by Enzyme Linked ImmunoSorbent Assays (ELISA), Gas Chromatography (GC), Liquid Chromatography (LC) and Mass Spectrometry (MS). Exhibit #1 (urine) was analyzed by GC, LC and MS.

**RESULTS:**

1. The following drugs at indicated concentrations were detected in Exhibit #4 (blood):

- bromazepam - 2.79 mg/L
- butalbital - 6.6 mg/L
- codeine - 0.34 mg/L
- diazepam - 0.25 mg/L
- nordiazepam - 0.27 mg/L
- paroxetine - 0.30 mg/L
- salicylic acid - 131 mg/L
- trazodone - 0.96 mg/L
- venlafaxine - 0.086 mg/L

2. Bromazepam, butalbital, codeine, norcodeine (metabolite of codeine), diazepam, nordiazepam, paroxetine, salicylic acid, trazodone, venlafaxine and norvenlafaxine (metabolite of venlafaxine) were detected in Exhibit #1 (urine).

M

FORENSIC  
LABORATORY REPORT

RAPPORT DES LABORATOIRES  
JUDICIAIRES

JURISDICTION CLASSIFICATION  
CLASSIFICATION - SÉCURITAIRE

PROTECTED A

PAGE 2 OF/DE 2

Chief Medical  
Examiner  
Certified True Copy

LAB FILE N° - DOSSIER D

2000H681  
FEB 27 2001

Halifax, Nova Scotia

REFERENCE - RÉFÉRENCE

James Guy Bailey, Suspicious Death

000010

RECEIVED JUN 16 2000

REMARKS:

1. An examination for drugs does not include hormones, vitamins, metals, antibiotics, cardiac glycosides and lysergides.
2. Bromazepam is an anxiolytic and sedative type of medication. The level of bromazepam detected in Exhibit #4 (blood) is in the toxic range.
3. Butalbital is a sedative type of medication present in the preparation Fiorinal. The level of butalbital detected in Exhibit #4 (blood) is in the therapeutic range.
4. Codeine is a narcotic analgesic. The level of codeine detected in Exhibit #4 (blood) is in the therapeutic range.
5. Diazepam is an anxiolytic and sedative type of drug. The level of diazepam detected in Exhibit #4 (blood) is in the therapeutic range.
6. Nordiazepam is the major metabolite of diazepam. The level of nordiazepam detected in Exhibit #4 (blood) is in the therapeutic range.
7. Paroxetine is an antidepressant, antiobsessional and antipanic agent. The level of paroxetine detected in Exhibit #4 (blood) is in the toxic range.
8. Salicylic acid is the major metabolite of acetylsalicylic acid (ASA). The level of salicylic acid detected in Exhibit #4 (blood) is in the therapeutic range.
9. Trazodone is an antidepressant type of drug. The level of trazodone detected in Exhibit #4 (blood) is in the therapeutic range.
10. Venlafaxine is an antidepressant type of medication. The level of venlafaxine detected in Exhibit #4 (blood) is in the therapeutic range.

DISPOSITION OF EXHIBITS:

Exhibits #1, #2, #3 and #4 are being returned via Xpresspost.

Information in this report is the  
property of the Office of the  
Chief Medical Examiner  
 and may not be duplicated at any time.

Submitted by:

*M. Holzbecher*  
 M.D. Holzbecher, M.Sc.  
 Toxicology Section

MDH

ROYAL CANADIAN MOUNTED POLICE - GENDARMERIE ROYALE DU CANADA

**FORENSIC  
LABORATORY REPORT**

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**RAPPORT DES  
LABORATOIRES  
JUDICIAIRES**

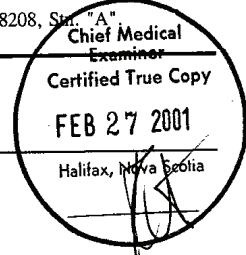
IL EST INTERDIT DE PUBLIER EN TOUT OU EN PARTIE CE RAPPORT OU TOUTE DOCUMENTATION PHOTOGRAPHIQUE OU AUTRE S'Y RAPPORTANT SANS LE CONSENTEMENT PAR ÉCRIT DU COMMISSAIRE DE LA GENDARMERIE ROYALE DU CANADA

000011

SECURITY CLASSIFICATION CLASSIFICATION SÉCURITAIRE	PROTECTED "A"/PROTÉGÉ "A"
DATE	June 13, 2000
LAB FILE N° - DOSSIER DU LAB N°	2000H681
YOUR FILE N° - VOTRE DOSSIER N°	2000-089

TO - A  
The Chief of Police Cape Breton Police Service - East Div  
P.O. Box 340 8 MacFadgen St.  
GLACE BAY NS B1A 5V4  
ATTN: Sgt. D. Morrison

FROM - DU  
Forensic Laboratory Halifax/Laboratoire judiciaire d'Halifax  
R.C.M.Police/G.R.C.  
3151 rue Oxford St., C.P.P.O. Box 8208, Str. "A"  
Halifax, NS/NE B3K 5L9



REFERENCE - RÉFÉRENCE

BAILEY, James Guy  
Suspicious Death

RECEIVED JUN 16 2000

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Office of the Chief Medical Examiner

GENERAL:

The following exhibits were received via Purolator Courier "3022 725 7414" at the RCMP Forensic Laboratory, Halifax, NS on 00/05/24:

- Exhibit 1: a jar of urine
- Exhibit 2: a vial of vitreous humour
- Exhibit 3: a vial of blood
- Exhibit 4A: a vial of blood
- Exhibit 4B: a vial of blood
- Exhibit 4C: a vial of blood

All exhibits reported to be from James BAILEY.

Information in this report is the  
property of the Office of the  
Chief Medical Examiner  
and may not be duplicated at any time.

PURPOSE:

To analyze Exhibits 1, 2 and 4A for ethyl alcohol content and similar volatiles.

METHODS:

Exhibits 1, 2 and 4A were analyzed by a headspace gas chromatographic procedure.

RESULTS:

Exhibits 1, 2 and 4A were found to contain no ethyl alcohol or similar volatile.

DISPOSITION OF EXHIBITS:

Exhibits 1, 2, 3, 4A, 4B and 4C were transferred to C/M M. Holzbecher of the Toxicology Section on 00/05/26.

Submitted by: *D.R. Smith*  
D.R. Smith, B.Sc., M.Sc. (Pharm)  
Alcohol Section

DRS'sli

NSPC: 01-0017 BAILEY INQUIRY  
 EXHIBIT #: 45

FORM 5

**RECEIVED**  
 MAY 24 2000  
 Nova Scotia Police  
 Commission

Complaint - (Sections 6(2)(a), 10(1)(a))

		Date and Time Reported				Police Department	
		Day	Month	Year	Time		
		24	05	2000	2:15 pm		
Complainant's Surname		First		Second		F Sex	Date of Birth
Bailey		Lillian		Denise		F	Dec 03 1947
No. Street		City/Town		Province	Postal Code	Telephone	
463 Atlantic St.		Sydney Mines		N.S	B1V-1X2	(902)	
3225 Uplands Dr.		Ottawa Ont.			K1V-9V3	Home: 544-0413	
Date of Incident:		Time	Location				
May 16, 17		8:55 PM	Sydney Mines, Nova Scotia				
Details of Complaint: (Including any injuries, medical attention, etc.)							
Some attached letter							
1, Pages.							
ATT:							
Gary Mumford							
Fax: 902 424-3919							
Pending Court Date(s), if any, as a result of this complaint: <u>Not known at this time</u>							
Member(s) Involved:						Form 4 given to complainant	
Cape Breton Regional Police						<input checked="" type="checkbox"/> Yes	
- Max Seal						<input type="checkbox"/> No	
- John O'Rourke						If no, state reason(s)	
- Other unknown officers involved							
Complaint received by:				<input type="checkbox"/> Police Department <input checked="" type="checkbox"/> N.S. Police Commission <input type="checkbox"/> Secretary to Board of Police Commissioners			
Family of the late James Bailey							
I certify that the information given here is true.							
				Lillian Bailey		May 24 2000	
				Signature of Complainant		Date	
				Paula Bailey		May 24, 2000	
				Signature of Person Affected		Date	

Distribution: Complainant, Member, Chief Officer of Board, N.S. Police Commission



RECEIVED

MAY 24 2000

Nova Scotia Police  
Commission

① May 24, 2000

James Guy Bailey JR. was arrested on May 16, 2000. He is the one whom phoned 911 with "No" response from 911. Shortly after the call to 911, Bernie MacIntyre (Cousin of James Bailey) called dispatch of Regional Police at 794-5151 he explained in full detail that James needs help, told dispatch that James was on something but didn't know what? He told dispatch that James "was not" drunk but was afraid for Jamie's safety and that he might get hit by a car. Bernie left name, phone number, and address in case police couldn't get Jamie to hospital to call him back so Bernie would take care of him. With that "No" phone call was returned. The night of May 16, 2000 8:55 pm James was arrested. The arresting officer was Max Seal. The time of the arresting Max Seal found on James pills. The pills were 34 packit, 7 Trizoan (with is a night time antidepressant to induce sleep), 6 Tagment, 5 Pertizone pain management (Narkoticis pill) in total there was 52 pills in one unmarked bottle. James was then put in the front seat of the police car and then taken directly to Sydney lock up, holding cell #14 James was then later found dead in this cell. He was then transported to Cape Breton Regional Hospital and pronounced dead. The attending doctors were

05/24/00 WED 14:52 [TX/RX NO 7893]

FROM : BAILEY'S UPHOLSERY PH: 794-8148 FAX NO. : 902-794-1781

May. 24 2000 01:58PM P2

②

May 24, 2000

Dr. Paul Murphy and Dr. Stokes; pager number 564-5151  
James Bailey's body was identify by an North Sydney  
Police officer whom is not known by the Bailey family.

They feel James body should have been identify by a  
family member. May 18, 2000 family member travelled home  
from Ont. to Sydney mines they wanted to identify James  
body and was refused until after the autopsy. The

Autopsy was performed at the CBRH on May 18, 2000

3:00 pm - 6:00 pm time of autopsy. Family then viewed

the body at 8:30 pm after threats of going to the

media. After the family viewed the body, the family

proceeded to police department to answer question and  
try to get so kind of answers.

Question being:

1. Whats pill were found? (Stated at first on letter)

2. Why wasn't James taken for help? (With the amount  
of pills on him).

3. What was in the deceased system and how much?

4. Why didn't 911 phone back after James first phone  
call to them?

5. Why was Bernie mac Intrye never phone back?

6. Why was James arrested when he himself phoned  
for help and Bernie mac Intrye also. There was  
never a complaint made only calls for help.

05/24/00 WED 14:52 [TX/RX NO 7893]

FROM : BAILEY'S UPHOLSERY PH: 794-8148 FAX NO. : 902-794-1781

May. 24 2000 01:59PM P3

③

May 24, 2000

7. The police stated the Jamie never moved after the time of arrest.

8. Why did the Sprinkler system go off and there being no comment on this?

9. A witness has come forward to the Bailey family and has told us that Jamie was crying out for help the night in question?

An Officer by the name of John Draucke went into James cell #4 ask James to come down. Then stated, "What would your father "Butch" think of you now", he were here now you should just go to sleep because we are not doing anything until morning.

Jamie then begaine to cry. Thing then became quite. Then the witness heard chucking-like noises from Jamie cell. Within minutes he heard a women saying "O my god I like he is dead."

10. Why are the Regional police investing there own officer?

④

We as the family of James Bailey feel that

05/24/00 WED 14:52 [TX/RX NO 7893]

this is wrong and want the [unclear]  
to another detachment as we feel James would be  
alive if taken for proper medical attention.  
Why is it that we cannot view the tapes as of  
now May 24, 2000.

Paula Bailey  
463 Atlantic Street  
Sydney Mines  
902 544 0413

OR  
3225 Uplands Dr Unit 134  
Ottawa Ont K1V-9V3  
613 523-7831  
OR 613 797-1848

**Cape Breton Regional Police Service**



This investigation was initiated following a number of allegations made by Paula and Lillian Bailey in a public complaint Form 5. It occurred as the result of the death of the late James Guy Bailey in our lock-up facility on May 17, 2000, and the police action leading up to and following the unfortunate incident.

James Guy Bailey was arrested on George Street, Sydney Mines at 8:55 p.m. on May 16<sup>th</sup>. by Cst. Max Sehl and charged with 87(1) of the Nova Scotia Liquor Control Act. His arrest was the result of a complaint by Bernard MacIntyre of an intoxicated person he was scared the person may be struck by a motor vehicle. Following his arrest Mr. Bailey was transported to the Central Lock-up where he expired five hours later. An autopsy was performed at the Cape Breton Regional Hospital on May 18 to determine the cause of death. Our Major Crime Unit was contacted immediately and commenced an investigation into the matter.

The Bailey family has asked numerous questions over this occurrence from the onset. This intensified when it was discovered that no alcohol was discovered in the blood, urine and vitreous humor samples provided to the RCMP Forensic Laboratory for analysis. These questions were reduced to writing and make up the Public Complaint Form 5 which I had been requested to investigate.

The Minister of Justice, Michael Baker, has also ordered a probe into the incident by an outside police agency. This made me very uncomfortable, as I did not wish to be perceived by some as interference into the other investigation. I attempted to delay mine into such time as the other was complete but the Nova Scotia Police Act does not permit this.

Much of the controversy surrounding this incident was the result of misinformation provided the Bailey family. I will address the questions first posed in the Form 5.

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1. The pills seized by Cst. Sehl were placed in an exhibit bag and left by him at the lock-up facility. It appears from reading the Form 5 that the writer is aware of this exhibit.
2. When Mr. Bailey was arrested, the arresting member detected a strong smell of alcohol from his breath (Book 7, Section 19). This coupled with the initial complaint from Bernard MacIntyre that Mr. Bailey was intoxicated and may get hurt (Book 5, Section 11) led to his apprehension. As we are all aware, hospitals will not treat people in this condition and therefore, he was incarcerated.
3. The Toxicology Report, (Book 1, Section 7) answers this question.
4. Mr. Bailey made one phone call to 911 on the night in question. This call was taped and transcribed (Book 5, Section 11). During it he requested to speak to the officer allegedly looking for him. Dispatcher called North Division and the RCMP in an attempt to locate the member without success. Problem here was that she was looking for James Barry, not Bailey. This may have been caused by Mr. Bailey's slurred speech or Dispatch error. In any event, the Police Act does not permit us to handle this matter.
5. Mr. MacIntyre's phone call did not require a return call from Dispatch. In fact, Mr. MacIntyre stated in the transcribed tape that he did not even know why Mr. Bailey wished to be "picked up". (Book # 5, Section 11).
6. The transcribed copy of Mr. Bailey's 911 call clearly demonstrates that Mr. Bailey was seeking assistance in getting to the Addiction Center. Again, as in question 4, the operator was looking for a member to speak to a James Barry. We are unable to deal with the matter and it should be given to the Dispatcher's Manager. The transcribed tape clearly shows that James MacIntyre when asked, stated he did not know why Mr. Bailey wished to be "picked up". (Book # 5, Section 11).
7. I have viewed the video tape of Mr. Bailey during the time spent in our lock up facility. I could only detect one, maybe two movements from him. Cst. Sehl, before leaving the cell is depicted crossing his legs to prevent him from rolling off the bunk. They remained in this position until moved by Jail Guard Carmel Butler at 1:58 a.m. (Tape 3 and Tape 4).
8. Paula Bailey questioned the sprinkler system going off. Yes, in cell # 3, at 11:36 p.m.. A young offender was placed in cell # 3 and it is obvious from viewing the tape

000055

that it was he who set off the sprinkler (Tape 1). That prisoner was removed to another cell. Firemen arrived at the scene and checked this out as well as Headquarters maintenance person Tony Boone to clean up the water and carpet. Mrs. Butler's statement states that she checked Mr. Bailey's cell but that it was dry. (Book 7, Section 16)

9. It is obvious from viewing the tapes that Mr. Bailey never cried out during his time in the lock-up. Paula Bailey's witness was obviously referring to another prisoner. At no time during the viewing could I determine that Sgt. O'Rourke had conversation with Mr. Bailey. The only time Sgt. O'Rourke is seen in Mr. Bailey's cell is at 2:03 a.m. (Tapes 3 and 4).
10. The Standard Operational Procedures issued by the Department of Justice for the Province of Nova Scotia dictates procedures to be followed in the event of a death of a person in police custody. (SOP Part II – Chapter 3 E(d). Our own policy reflects this mandate. (Policy – Human Deaths 11 Investigation (D)
11. The video tapes of Mr. Bailey's time in our lock-up facility had become evidence in the incident being investigated by our Major Crime Unit. Following their probe this evidence was turned over to the Ontario Provincial Police for their investigation and to myself for my involvement in the process. Maybe, when all the investigation and any subsequent actions are complete, the family will be able to view the tapes.

I have researched our policy as well as the Standard Operational Procedures as it pertains to the identification of a human remains both are silent on this matter. I should note that proper procedures were followed as to the notification of next of kin. (SOP – Part # 11, Chapter 3, 1(a).

After viewing the video tapes it is obvious to me that the Bailey family was provided with a great deal of misinformation.

I have researched the Standard Operational Procedures as well as our own policy as to the viewing of the body by the family prior to an autopsy. It is quite clear that this is not permitted. (SOP – Part II, Chapter 3, 2(5) CBRPS Policy – Human Deaths – 19 (5).

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**Conclusion**

Cst. Max Sehl had charged James Guy Bailey with Section 87(1) of the Liquor Control Act, intoxication in a public place. He along with two independent witnesses stated they smelled alcohol Allan Mark MacPherson and Victor Matthew's. (Book 5 – Section 26 and Section 28). The complainant, Bernie MacIntyre in a transcribed statement, stated that Mr. Bailey was “pretty full” and when asked directly stated he was intoxicated. However, in a statement taken on May 20<sup>th</sup> a different version of events were given.

It should be noted here that there were a large number of people interviewed who did not detect any smell of alcohol or could not recall. The Toxicology Report also states there was no alcohol in Mr. Bailey's blood, urine or vitreous humor.

I have found that Cst. Max Sehl did not commit a disciplinary default.

I have also researched policies and procedures as to the time Mr. Bailey was incarcerated. I have concerns that neither the attending police officers or jail guard administered CPR. The Standard Operational Procedure states medical assistance is to be requested although in my opinion there is a moral obligation to provide CPR the SOP is silent on this matter. Medical assistance was requested immediately by Sgt. O'Rourke once it was discovered that something was not right with Mr. Bailey. Ambulance attendants were on the scene in five minutes after being summoned and attempted to resuscitate him for more than twenty minutes prior to his removal to hospital. The Duty Officer was notified as well as the Major Crime Unit and Identification Unit and an investigation initiated immediately as per Standard Operational Procedures and CBRPS Policy dealing with Human Deaths and Care and Handling of Prisoners.

(SOP) Part II, Chapter 3, Section E(1)(d) and Section 3(a)(b)

(SOP) Part II, Chapter 3, Section D(2)

(CBRPS) – Human Deaths 11(1)(d)

(CBRPS) – Care and Handling of Prisoners – C-1.5 and 1.6



000057

I therefore determined that Sgt. O'Rourke and the unknown member (Cst. Paul MacDonald) committed no violations of the Police Act of Nova Scotia.

Our policy on the Care and Handling of Prisoners state:

5.2 "The custodian on duty shall physically check each prisoner at least every fifteen minutes. Time checks will be staggered and noted on the prisoner's log sheet."

This policy was not followed as one reads the Prisoner Log Sheet of James Guy Bailey. (Book 5 – Section 10). The video of Mr. Bailey's cell only depicts her being there twice, 9:30 p.m. on May 16 and 1:58 a.m. on May 17. (Tapes 3 and 4).

I am also concerned over her statement in which she states that Mr. Bailey was snoring so loud she brought it to the attention of the Sergeant. (Book 7 – Section 16). Her Prisoner Log Form states sleeping – quiet. (Book 5, Section 10).

I bring this to your attention as we have no jurisdiction to discipline under the Police Act of Nova Scotia and I leave it for your judgement on how to proceed with this.

I trust this meets with your approval.

---

Inspector Jack Banfield

McNEIL: Nine one one. What is your emergency?  
BAILEY: Hi, yes, this is James Bailey calling.  
McNEIL: What's your name?  
BAILEY: James Bailey.  
McNEIL: James?  
BAILEY: Bailey.  
McNEIL: Bailey? Yes, James.  
BAILEY: Bailey.  
McNEIL: Yes.  
BAILEY: Yes. There were cops up my uncle's. They were looking for me.  
McNEIL: Okay. And you're at two Yorke Street in Sydney Mines now?  
BAILEY: Yes.  
McNEIL: Okay. You wanna know why they want you, is it, James?  
BAILEY: Yes.  
McNEIL: Okay. I'll get someone to give you a call.  
BAILEY: He don't have a phone.  
McNEIL: Yeah, well, you stay where you are.  
BAILEY: Yeah.  
McNEIL: Okay?  
BAILEY: Um... umh.  
McNeil: And I'll have someone give you a call.  
BAILEY: Okay.  
McNeil: Okay, then. Bye-bye.  
BAILEY: If they come, I'd rather go De-Tox.  
McNeil: Pardon.  
BAILEY: I'd rather go De-tox. I made appointment a little while ago if they  
can get me in.  
McNEIL: Okay. I'll have someone give you a call, James.  
BAILEY: Okay.

---

Judy MacNeil made the following calls:

BLAGDON: Sergeant Blagdon, North Division.  
McNEIL: Hi, Sgt. Blagdon. Was someone in North trying to find a James  
Barry?  
BLAGDON: A James Barry?  
McNEIL: Um... umh.  
BLAGDON: I'm not sure. Just one second. Was anyone looking for a James

Barry? (Inaudible voices in the background) No, no, not any of the members that are here in the office right now unless there was one of the members that's on the road.

McNEIL: Okay.  
BLAGDON: But nobody here  
McNEIL: Okey-dokey.  
BLAGDON: Okay.  
McNEIL: I'll ask on the air.  
BLAGDON: Okay.  
McNEIL: Thank you.

---

NcNeil: three four, was anyone in north looking for a James Barry?  
Const. H. MacDonald: Ah, three twenty one negative.  
Const. W. rogeron: three twenty three Negative.  
Const. M. Rolfe: three ten negative. Sorry, three eleven.

---

Dispatcher: RCMP.  
McNeil: Good evening. How are you?  
Dispatcher: Good.  
NcNeil: Um, we're any of your members looking for a James Barry?  
Dispatcher: From where?  
McNeil: Well, he called me from Number two Yorke Street. He said police were at his uncle's earlier today and, ah...  
Dispatcher: In Glace Bay?  
McNeil: No, North side.  
Dispatcher: North side.  
McNeil: Yeah. James Barry.  
Dispatcher: I don't know. Just hold on.  
McNeil: Okay.  
McNeil: I, I've spoken to him before, though. Yeah.  
Dispatcher: No, no.  
McNeil: No?  
Dispatcher: Nobody that's working right now anyway.  
McNeil: Okay. Thank you.  
Officer: All right.

McNeil: Bye.

ROPEK: Regional police dispatch.

MacIntyre: Hi, how are ya this evening?

ROPEK: Fine thanks.

MacIntyre: I'm calling about a Jamie Bailey, from Sydney Mines. He, he's gone up Yorke Street, he's pretty full, and he's, can bearely walk and he wants to be picked up.

ROPEK: What's his name?

MacIntyre: Jamie Bailey. He's on Yorke Street now, walking up Yorke Street.

ROPEK: How old is he?

MacIntyre: twe..., Twenty some years old, and he's pretty full, intoxicated or something. I'm just scared he might get run over by a car or something.

ROPEK: Okay. What's your name, sir?

MacIntyre: Bernard MacIntyre.

ROPEK: Okay.

MacIntyre: And he wants the cops to pick him up.

ROPEK: Why does he want the cops to pick him up?

MacIntyre: I don't know.

ROPEK: Okay. What's your phone number, Bernard?

MacIntyre: Seven three six, two four six four.

ROPEK: And what's he wearing, can you tell me?

MacIntyre: Ah, a pair of jeans, leather jacket, black leather jacket.

ROPEK: Okay. We'll send a car up.

MacIntyre: Okay.

ROPEK: Okay.

MacIntyre: Thank you.

ROPEK: Bye-bye.

MacIntyre: Bye.

The following sequence of events occurred from 02:03:20 to 02:06:30:

- O'Rourke picked up the phone, Butler stood near her desk, and MacDonald stood near Butler.
- Butler headed toward cell #4 on her own and returned to the desk.
- Butler and MacDonald went to cell #4; MacDonald wore a pair of dark coloured, heavy leather gloves.
- While Butler stood outside the cell, MacDonald rolled Bailey onto his back and looked at him. He and Butler left cell #4 for the desk area.
- MacDonald returned to cell #4 while still wearing the gloves. He put his hand on Bailey's neck for a few seconds, and then turned his head in a manner consistent with the 'looking and listening' component taught in CPR. MacDonald's head was a couple of feet above Bailey's chest; his ear was not close to Bailey's mouth as per CPR protocol. He returned to the desk area.
- O'Rourke was still on the phone; Butler was writing. MacDonald returned to cell #4, placed his gloved hand back on Bailey's neck and put his head closer to Bailey's head. He left cell #4.
- Butler checked the monitors and resumed writing.
- O'Rourke contacted dispatch to determine who the duty officer was. He was advised it is Inspector Banfield who he then called.
- MacDonald returned to the desk area where Butler handed him latex gloves. He left the desk area toward cell #4.
- O'Rourke finished his call and left the booking area through the garage exit. MacDonald entered cell #4 while donning the latex gloves, looked briefly at Bailey and left to return to the desk area.
- O'Rourke returned to the booking area, Butler continued to write, and MacDonald continued to stand by.
- At 02:06:30 the first EHS crew arrived. CPR on Mr. Bailey was initiated for the first time since his discovery more than eight minutes earlier.

**Communications Centre (p.17)**

1. *The Cape Breton Regional Police Service, and the Cape Breton Regional Communications Centre should both issue a memorandum to all employees reminding them that inappropriate comments made in the workplace are not acceptable.*
2. *All employees of the Cape Breton Regional Police Service should be given a review of how to effectively use the call transfer feature for those emergency situations when required.*

**Audio and Video Recording (p.14)**

1. *That effective immediately, the current lock-up video recording system be modified to include a camera that monitors the complete hallway that runs in front of cells one through four.*
2. *That a thorough evaluation of the lock-up recording equipment be completed to ensure that no other areas of the lock-up are subject to video recording "blind spots".*
3. *That all lock-up video cameras, both in-cell and hallway is equipped with audio recording capabilities and that all future lock-up recordings are done in both audio and video.*
4. *That the Cape Breton Regional Police Service implement a monitoring program, consisting of random "spot checks" to ensure that the modified audio/video equipment is being utilized as per policy.*

**Prisoner Care Policy (p. 23)**

1. *All police personnel must receive and maintain certification in Level 1 CPR and Standard and Emergency First-Aid, and personnel in charge of persons detained in custody (including duty Sergeants) must receive additional training and maintain certification in Level II CPR and Standard and Emergency First Aid. In addition, all training should highlight the distinctions between consciousness, unconsciousness, and sleeping and clear definitions of these terms must be provided to all police personnel. The significance of snoring should be highlighted in this training.*
2. *All members of the Cape Breton Regional Police Service should be immediately issued with barrier protection that can be carried on the members' duty belt. The lock-up should be immediately equipped with barrier protection and some form of audit control needs to be put in place in ensure these types of supplies are always available.*

3. *The Cape Breton Regional Police Service Operational Policy on Care and Handling of Prisoners needs to be thoroughly reviewed and the following changes need to be incorporated into the updated policy:*
  - (a) *Individuals who are brought into custody in a state of apparent sleep or unconsciousness must be rousable before being placed in a cell. If police are unable to arouse the individual, he/she should be assessed by a physician immediately. A screening tool should be developed, in consultation with appropriate medical personnel in the community, to assist police personnel in determining what constitutes arousability and what appropriate stimuli could be used to determine if an individual is arousable.*
  - (b) For individuals in a state of apparent intoxication who are able to be aroused (immediately prior to the time of incarceration) it is recommended that:
    - (1) The individual be assessed by a physician prior to admission to a holding area or jail if there is: a known history of drug overdose, a medical history that may be associated with an altered level of consciousness (i.e. diabetes) or a history of significant head trauma.
    - (2) An individual admitted and presumed to be intoxicated should be reassessed to ensure he/she is awake or arousable at least every 30 minutes. If he/she is awake or becomes progressively easier to arouse after three 30 minute assessments, the frequency of assessment could be decreased to every 60 minutes until the individual appears to be fully conscious. If at anytime the individual is not arousable, he/she should be assessed by a physician as soon as practicable. **This does not change the necessity for the 15 minute physical checks.**
    - (3) If an individual is not showing signs of becoming increasingly more awake or more easily arousable within 3 hours of initial assessment, he/she should be assessed by a physician as soon as possible.

(4) Individuals who become unresponsive (ie. fall asleep) after having been aroused should be placed in a prone (recovery) position.

4. The current Prisoner Contact Log Sheet needs to be modified to include a confirmation box for C.P.I.C. and Cape Breton Regional Police Service records checks for any history with the prisoner. The policy needs to be changed to direct the arresting officer to complete these two record checks upon returning to the lock-up with the prisoner. The officer will then staple the results of the check to the Prisoner Contact Log Sheet and check off the appropriate boxes.
5. The guard shall ensure that the arresting officer has checked off that the above checks have been completed and that the documentation is attached to the Prisoner Contact Log Sheet. If these checks have not been done, the guard shall immediately bring it to the attention of the arresting officer or the Duty Sergeant in charge of the lock-up.
6. *Physical checks of the prisoner will be completed at least once every fifteen minutes. This may change from five, ten, or fifteen minutes (sic) intervals to constant observation.*
7. *A process needs to be put in place where on busy nights within the lock-up, the guards can request additional assistance in the lock-up if they feel they need it. If a member of the platoon or the Duty Sergeant is not available to assist, a second guard must be called to assist.*
8. *Given the number of arrests and detentions for public intoxication, the Duty Sergeants need to thoroughly scrutinize the circumstances of each person in custody, and explore other options for the arrested party other than detention. It is clearly recognized that with many intoxicated people there is no other option but temporary detention, however, in those cases where there are other viable options available (a sober person to take responsibility), these options should be utilized.*
9. *Regular in-service training needs to be established for the guards and the Duty Sergeants to deal with, and be educated on, the issues in the above recommendations.*



