



need help, call the police. That's their job, that's what they're there for. When you have conflict with that, what you've been taught all your life, but you're experiencing a whole lot of other things that suggest otherwise, then I'm sorry – there was a few incidences in my personal life and our entire family's. And I'm talking – when I say my entire family I'm talking about my mother and my brothers, you know, my uncle, my cousin, whoever happened to be most in our home at the – at that time. They were never reported simply because there is no trust. And it didn't – and it's not going to say that I'm slashing up the Saskatoon Police Force because, please, there is a lot of good people out there, I know that there is. But we can't ignore the fact that they're human, everybody's a human being.”<sup>39</sup>

## 2 | Stonechild Acquaintances and Other Civilian Witnesses

The Inquiry heard from a number of friends of Neil Stonechild and other civilian witnesses who offered information regarding the circumstances leading up to his disappearance and the events subsequent to the discovery of his body. Chief among these witnesses is Jason Roy, who was with Stonechild on the night of November 24/25, 1990.

It is helpful to indicate, briefly, what this evidence encompasses. I begin with Patricia Pickard, who operated a community home for young offenders in 1990. At the time of Stonechild's disappearance, he was unlawfully at large from Ms. Pickard's community home. I have also reviewed the evidence of Gary Pratt. Shortly after Stonechild's body was discovered, there were rumours that Pratt may have had something to do with Stonechild's death. I then review the evidence of Jason Roy. This is followed by a summary of the evidence of Tracy Lee Horse, a witness who corroborated portions of Roy's evidence. An examination of the evidence of Lucille Horse, Gary Horse, and Trent Ewart is next. These three individuals testified about a disturbance caused by Neil Stonechild in the late evening hours of November 24, 1990, which led Trent Ewart to call for the police. Thereafter I review the evidence of Cheryl Antoine and Julie Binning; friends who partied with Stonechild and Roy on the night Stonechild disappeared. A summary of the evidence of Bruce Genaille is next. He testified to being stopped by two police officers looking for Stonechild on the night Stonechild disappeared. This is followed by the evidence of Diana Fraser and Brenda Valiaho who became acquainted with Jason Roy around 1990 as a result of their jobs in the youth justice system in 1990. This is followed by a summary of the evidence of Richard Harms who discovered the body of Neil Stonechild on 57th Street. Lastly, I review the evidence of Larry Flysak, an employee of Environment Canada, who provided information about the weather conditions between the day Stonechild was last seen alive and the date his body was found.

### **Patricia Pickard**<sup>40</sup>

Patricia Pickard was an important witness for the Inquiry. She has managed a community home for young offenders for sixteen years. Community homes are funded by Saskatchewan Justice as an alternative to incarceration. Residents live in a family environment and are

<sup>39</sup> Evidence of Erica Stonechild, Inquiry transcript, vol. 9 (September 22, 2003): 1624-1625

<sup>40</sup> Evidence of Patricia Pickard, Inquiry transcript, vol. 1-2 (September 8-9, 2003): 160-274

## Part 4 – The Evidence

allowed certain privileges. They are, however, still under the control of the Corrections Branch. Before operating a community home, Ms. Pickard served as a Correction Officer at Kilburn Hall, a closed custody facility for young offenders in Saskatoon.

Ms. Pickard is a strong no-nonsense sort of person. Her business-like manner is balanced, however, by a genuine concern and affection for her young charges. Her evidence dealt with two important areas:

- i. her description and assessment of Neil Stonechild;
- ii. her telephone conversation with Neil Stonechild on November 24th, 1990.

She described Neil in the following terms:

“Q. What can you tell us about your observations, your knowledge of Neil?

- A. Neil was – he was a really great kid. He was happy most of the time. He had a good sense of humour. He was a tremendously handsome boy, a great personality. Unfortunately, he had a drinking problem. But Neil was one of those kids that just could have done anything, given the fact that, you know, that he would get off the alcohol and – he was a teenager. Basically he was a teenager that was drinking and was out of control, and probably at 25 would have been Joe Citizen.”<sup>41</sup>

She emphasized to her charges, whom she referred to as “her boys” the need to phone her if ever they were absent from her home without leave and in difficulty. Neil was told of this caution. She gave this explanation for her advice:

“Q. Had you talked to “the boys”, as you use the term, about what they should do if they did not meet the terms of their staying at your home, that is –

- A. Always. Always, always, always. It was one of the things we drilled into them over and over again: if you are in trouble, phone home. You know, don’t get any more charges, don’t go do something stupid; you know, phone home, we will come and get you. Doesn’t matter where you are, we will come and get you and then we will deal with it. And the boys knew the procedure for dealing with that. If you were just having a problem, if you were drunk downtown like Neil was, we went and picked him up, brought him home, we dealt with it internally, which generally meant losing privileges; no weekend passes, whatever other privileges you could think of at the time, maybe some extra work.

If the unlawful at large charge had already been laid, then the procedure was, phone home, we will pick you up; I will take you to the City Police Station where the charges will be formally filed; you will be released back into my custody, and then they would just wait for their court date, go to court, and whatever the judge decided, whether they got a couple extra weeks added on, or maybe they didn’t get anything. But they knew that the way to do it was, you come home, and I will take you to the police station.”<sup>42</sup>

<sup>41</sup> Evidence of Patricia Pickard, Inquiry transcript, vol. 1 (September 8, 2003): 163

<sup>42</sup> Evidence of Patricia Pickard, Inquiry transcript, vol. 1 (September 8, 2003): 167-168



In November 1990, as I previously noted, Neil Stonechild was unlawfully at large. He had been granted a temporary absence in that month but had not returned to the Pickard home when it expired. Ms. Pickard called Mrs. Bignell who promised to speak to Neil.

On November 24th, Neil called Ms. Pickard in the evening. They had a long conversation. She described the conversation as follows:

“A. On the Saturday night that he disappeared, he’d been away from our place, I don’t know, maybe a week or a little better. He called me on Saturday night, it was around 7:30, and we talked for probably half an hour or more. He phoned to tell me that he would like to turn himself in to me, and we spent the biggest part of the half hour me [sic] explaining to him, “You should do it tonight; like, now is a good time.” His response to that was, “I can’t go down to the police station tonight because I’ve already been drinking.” He was not drunk like falling down. He probably had been drinking, but he was very coherent. “I can’t come in tonight because then I have to go to the police station, and I’ve been drinking and da-da-da-da.” And we talked for quite a long time about, “Yes, but, Neil, if you don’t come in and you go drinking, you know, this could happen, this could happen.” Basically that was the gist of the conversation.

He told me, “I promised my mother that I would turn myself in to you tomorrow, Sunday, and I want you to come and pick me up at mom’s. I’ll phone you when I get up around noon and you pick me up and then we’ll go to the police station tomorrow.” And we tried – I tried and tried to convince him to maybe do it that night instead, but he was already sort of in a party mode I guess, and he said, “No, but I promised my mom.” And if Neil promised his mom, there was no doubt in my mind that he absolutely meant to come home the next day.

Q. Did you receive a call from him the next day?

A. No.”<sup>43</sup>

She learned of his death on November 29th. Pickard rejected categorically the suggestion that her young charge was walking to the Saskatoon Correctional Centre when he was found at 57th Street. Her words are worth repeating:

“Q. You didn’t believe that explanation?

A. Not then, not now, not ever.

Q. And can you explain again why?

A. Well, basically for some of the reasons I’ve given you. Number one, he was a young offender. Young offenders know the law, believe it or not, better than most people who are dealing with them. He would have never turned himself in at Corrections, because Corrections wouldn’t have accepted him, he wasn’t an adult, and Correctional officers are, per se, police. He would not have turned himself in to Corrections. He would have come home. He

<sup>43</sup> Evidence of Patricia Pickard, Inquiry transcript, vol. 1 (September 8, 2003): 172-173

## Part 4 – The Evidence

knew what the procedure was. He knew that he wouldn't spend a day in jail if he actually turned himself in at home, we went down and laid the charges, he comes home, waits for court. Like, they knew that."<sup>44</sup>

She testified that when asked by an officer from the Saskatoon Police Service shortly after Stonechild's death whether there was anyone who may have wanted to harm Stonechild, she responded with the name Gary Pratt. Ms. Pickard recalled that some months before Stonechild's death, he was subpoenaed to testify against Gary Pratt, and that he was very scared to do so. Ms. Pickard and her husband were required to transport Stonechild to the courthouse, but he was not ultimately required to testify as a key witness failed to appear and the charges against Mr. Pratt were dropped. Ms. Pickard recalled that Stonechild was very relieved that he was not required to testify.

She also described her observations of Neil Stonechild's face at his funeral:

"Q. Tell me what you observed.

A. A big cut across his nose, bruising on his cheek, under the eye. And my daughter, who was actually the same age as Neil and chummed with Neil quite a bit, my daughter, my husband and myself all had thought at the time that Neil had a broken nose. He was an extremely handsome boy, and we were all quite taken aback. My daughter said, "Mom, Neil's nose is broken." And when Gary and I looked at it, we also thought that his nose had been broken. And it was one of the things that – one of the things that you sort of would notice, because he was an extremely good looking boy, and he had this cut across here and it just looked like his nose had been broken. And we commented on it quite frequently, and wondered how he got those bruises and the cut, and I asked – I don't know whether it was at the funeral, or whether it was at a later time talking to one of the officers, but I asked, and questioned how he could have got those marks on his face, and was told that that's – bodies look like that lots of times when they've been frozen; you know, the bruising and the – they look like that. And of course not knowing a whole lot about frozen bodies, we kind of just took that in stride; okay, well, maybe, you know."<sup>45</sup>

Ms. Pickard testified that when she learned of the Inquiry, she contacted Jason Roy's then counsel, Mr. Worme, and offered to testify.

### **Gary Pratt**<sup>46</sup>

Gary Pratt was a friend of Neil Stonechild. He had known Stonechild since he was 12 or 13 years of age. Mr. Pratt taught wrestling to Stonechild. He characterized Stonechild as like his "little brother". Mr. Pratt was also a good friend of Marcel Stonechild.

Shortly after the body of Neil Stonechild was discovered, the Saskatoon Police Service received tips that Gary Pratt and one or more of his brothers beat on Neil Stonechild and transported him to 57th Street. One of the tips alleged that Stonechild had made an enemy

<sup>44</sup> Evidence of Patricia Pickard, Inquiry transcript, vol. 1 (September 8, 2003): 175

<sup>45</sup> Evidence of Patricia Pickard, Inquiry transcript, vol. 1 (September 8, 2003): 176-177

<sup>46</sup> Evidence of Gary Pratt, Inquiry transcript, vol. 32/33 (January 7/8, 2004): 6235-6253 & 6266-6362



of Gary Pratt, because Stonechild was to testify as a witness against Mr. Pratt in relation to an alleged assault of another of Stonechild's friends, Eddie Rushton. Another tip alleged that Stonechild had been "fooling around" with Gary Pratt's girlfriend, Petrina Starblanket. Mr. Pratt testified that the rumours circulating about his alleged involvement with Neil Stonechild's death were false. He further testified that he was not questioned by the Saskatoon Police Service in regard to Stonechild's death, and that he was not aware that these rumours were circulating in 1990.

During the RCMP investigation into the death of Neil Stonechild, RCMP investigators interviewed Gary Pratt on more than one occasion. As a result of these interviews and the investigative tools used by the RCMP, Gary Pratt was eliminated as a suspect. Mr. Pratt fully cooperated with the RCMP investigation, and with this Inquiry.

At one point during the Inquiry, some counsel aggressively advanced the theory of Mr. Pratt's involvement in the death of Neil Stonechild. These suggestions, for the most part, ended after Mr. Pratt testified. There was no evidence that substantiated the rumours circulating in 1990 that Gary Pratt was involved with the death of Neil Stonechild. There were no witnesses called who could testify that they observed Stonechild in Mr. Pratt's company around the time of his death.

Further, evidence was presented to the Inquiry that contradicted the rumours circulating in 1990. The forensic evidence suggests that the injuries suffered by Stonechild were not consistent with the suggestion that Stonechild was the recipient of a "street justice" beating. In regard to the rumour that Stonechild was "fooling around" with Pratt's girlfriend, Petrina Starblanket, Pratt testified that Ms. Starblanket was never his girlfriend. Mr. Pratt's testimony was not contradicted on this point. While there was some evidence that Neil Stonechild was compelled to attend court for the purpose of testifying against Gary Pratt in the fall of 1990, it is not disputed that Stonechild was ultimately not required to testify. The charges against Gary Pratt were stayed, because other witnesses would not attend court to testify against him. Gary Pratt testified to the Inquiry that he did not observe Stonechild in the court room at any time, and that as far as he was aware, Stonechild had done him a favour by not showing up for court.

### **Jason Roy<sup>47</sup>**

Jason Roy was born December 22, 1973. He spent his youth in Saskatoon. For most of his elementary school education, he attended St. Mary's Elementary School. During his high school education, he attended a number of high schools: E.D. Feehan High School, Bedford Road Collegiate, Sion High School, Nutana Collegiate, and Joe Duquette High School.

In November 1990, Roy was 16 years old. He confirmed that in 1990 he had drug and alcohol abuse problems. He also had a history of petty criminal behaviour. He testified that he had met Neil Stonechild when they were residents at Kilburn Hall in Saskatoon. In November of 1990 they had been friends for three or four years.

At some point during the day of November 24, 1990, Stonechild and Roy joined up. On that date, Stonechild was absent without leave from his community home and Roy was in breach of a probation order and at large. The two boys decided that they would visit a friend on the

<sup>47</sup> Evidence of Jason Roy, Inquiry transcript, vol. 2-5 (September 9-15, 2003): 347-881



## Part 4 – The Evidence

east side of the city, which they did. Following that, they returned to the west end on a Saskatoon Transit System bus. En route they encountered Lucille Horse (Neetz) and her boyfriend Gary Horse. The Horse's told him they were going to babysit for Lucille's sister at Snowberry Downs that evening but refused to give Stonechild the address of the apartment.

On their return, Neil's brother, Marcel, purchased a 40 ounce bottle of spirits for the two young men. The two then walked to the residence of Julie Binning which was located a short distance away, at the corner of Milton Street and Confederation Drive. At the Binning residence, they drank most of the bottle of Vodka. Some accounts suggest they drank the whole bottle, but I conclude that 7 or 8 ounces remained.

Ultimately, Neil announced that he wanted to visit Lucille Horse at Snowberry Downs and invited Jason Roy to accompany him. The two intoxicated boys walked several blocks to the Snowberry Downs apartment complex on 33rd Street. Roy recounted that it was quite cold that evening and they stopped to warm up at the 7-Eleven store on the corner of 33rd Street and Confederation Drive, which was across the street from Snowberry Downs. After warming up, the two crossed the street to the apartment complex, as the boys did not know the apartment where Lucille Horse (Neetz) was staying. Stonechild began randomly ringing apartment buzzers.

Roy described their search at Snowberry Downs and his decision to leave. After searching several buildings in the complex, Roy suggested to his friend that they return to 7-Eleven to get warm. Stonechild insisted on continuing his search. I refer to their final conversation:

"A. And we didn't find anything in that first building and so we continued around, around the complex to continue looking for a familiar name or something to that effect so that we could find Lucille. In the process of that I remember buzzing a few buzzers and asking for Lucille and not getting any answers. So we continued on around all three buildings and – in the same manner. And we got around to the last building that we were trying to locate Lucille in and we got to a parking lot. By this time it was pretty cold out and I had asked Neil, "Well, let's just go back to 7-11 and warm up for a little while. I'm pretty cold." And he said he didn't want to go, he wanted to continue looking for Lucille. And I kind of asked him a few times, "Come on, like let's just go warm up for a few minutes and then we'll come back and look for her." And he didn't want to, he wanted to continue looking for her. And I said, "Okay, well, I'm going to go to 7-11 and warm up, warm up there, and I'll catch up to you", or something to that effect.

And I proceeded to walk through the parking lot, back towards 7-11, and Neil proceeded to walk between the apartment buildings towards the tennis court. When he got around – as he was walking towards – as he was walking that way, I figured, okay, well, you know, it's pretty cold out here, I think I better just stick with him, you know, I'll just – you know, just keep trying for a little bit longer, maybe I can get him to come warm up in a little bit. So I turned around and I said, "Okay, well, wait up then, I'll just come with you." He said, "Ah, no, that's okay." And I said, "Well, just wait." And he was a distance ahead of me. He was quite a distance ahead of me, maybe about 30 steps. And so I started going behind him and he turned the corner. I was going after him and I tripped and fell, and as I was



standing up, looking up, he was turning the corner and I was yelling at him to wait for me, just wait for me, I'm going to catch up. And he went ahead, he said that's okay, go back, go back to 7-11, go back to Flora's and do whatever. He was just – you know, he was saying that.

And so I got to the corner where you could see the tennis court and by that time he was already out of my sight, he had already – he was already out of my sight. And so I kept going in the direction where I thought he had went, and I was yelling his name, telling him to wait up for me. I didn't hear any response from him, I didn't hear anything. So I circled that apartment again and I walked back to – back to 7-11 because I couldn't find him. I waited at 7-11 for a while to warm up. I was by myself so I waited long enough so that I was thoroughly warm enough to get back to Doris's house."<sup>48</sup>

Ultimately Roy proceeded to Confederation Drive and arrived at the entrance to an alley that intersects Confederation Drive. That location is identified on the map included in this Report as Appendix "K".

His account of what happened next is as follows:

"A. ...I started walking back down Confederation Drive and I got maybe about two blocks from 7-11 on Confederation Drive and there's an alley approach going on to Confederation Drive right there. And as I approached that alley, a police car pulled in front of me and Neil was in the back. Neil went to – he saw me, he was – he was very irate. He was freaking out. He was saying, "Jay, help me. Help me. These guys are going to kill me."

Q. Did you observe his condition?

A. He had fresh blood on his face across his nose. I couldn't see all that well, but he had his face to the window and he was yelling at me, asking me to help him. Not for one minute did I think that he was in any danger.

Q. Was he handcuffed?

A. Behind his back.

Q. Okay. On this map that's in front of you, are you able to identify where you were stopped by the City Police?

A. Yeah.

Q. I'm sorry, I should have asked that, was it a City Police car –

A. That's right.

Q. – that stopped? All right. Now you've indicated that there was an alley, can you identify which alley that was?

A. These are Twin Gables apartments.

Q. Right.

<sup>48</sup> Evidence of Jason Roy, Inquiry transcript, vol. 2 (September 9, 2003): 357-360



## Part 4 – The Evidence

- A. And it is the alley directly behind it.
- Q. Now when you were stopped by the police, which direction was the police car coming from?
- A. Down the alley. It cut me off walking down – I was walking down Confed. Drive and it pulled in front of me.
- Q. So it was proceeding east down this alley?
- A. That's right.
- Q. And you were coming south down Confederation Drive?
- A. That's right.
- Q. I'm just going to mark a "D" there where you've identified that spot...."<sup>49</sup>
- "Q. MR. HESJE: Now this car, patrol – it was a marked Saskatoon police car?
- A. That's right.
- Q. It pulls across from the alley and stops you. Did any – were there officers in the car?
- A. There were two.
- Q. Or how many officers were in the car?
- A. There were two.
- Q. Did anybody get out of the car?
- A. No.
- Q. And you've indicated that Neil was making – was yelling at you or whatever. What – do you recall what the officers said to you? Did you have any conversation with the officers?
- A. The officer stopped me and asked me who I was. At the time I was unlawfully at large from a community home and I gave a fake name. I have a false name.
- Q. Do you recall what name you gave them?
- A. Tracy Lee Horse.
- Q. And why did you give them that name?
- A. He was somebody that I grew up with and I knew his birthday.
- Q. And what was your concern in giving them your real name.
- A. For one I didn't want to be in that car, and for two, I didn't want to go back to jail.
- Q. Okay. Now what happened, you've given the name, do you recall anything else?

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<sup>49</sup> Evidence of Jason Roy, Inquiry transcript, vol. 2 (September 9, 2003): 360-361



- A. Asked me who I was and he punched it into his computer, the name that I had given him, he punched it into the computer and it took a little while for it to happen. So I kind of took maybe half a step back to just wait for this process to go through. And Neil was freaking out in the back car, back seat of the car. And the officer driving asked me, “Do you know this guy in the back?” I said, no, I didn’t know him because I didn’t want to – I didn’t want to be there in that car with him. The name that I gave came back as not having any warrants or anything like that in order for them to pick me up. I asked, “Can I go now?” And they let me go.
- Q. And what happened? Where did you go from there?
- A. The car pulled out in front of me and started heading down Confederation Drive.
- Q. Which direction did the car go?
- A. It was heading south.
- Q. On Confederation Drive?
- A. And Neil was looking out the back of the window, just staring at me. He looked – he just looked scared. He – he just looked really really scared, and my thoughts at the time were, “Well, he’s just going to go back to Kilburn Hall, that will be it. I’ll see him when he gets out.”
- Q. And, Jason, where did you go from there?
- A. I went back to the Binning residence.
- Q. Did you ever see Neil alive again?
- A. No.”<sup>50</sup>

Roy confirmed that there were no injuries on his friend’s face when he last saw him at Snowberry Downs. He confirmed, also, his report to Cheryl Antoine and Julie Binning, on his return to the Binnings, that Neil had been picked up by the police. He explained that he did not tell the Stonechild family what he had seen that evening until much, much later and well after the discovery of Neil Stonechild’s body. He explained that his decision to do so was out of respect for the grieving family. Following the discovery of Neil Stonechild’s body on November 30th, Roy phoned the Saskatoon Police Service at 6:52 p.m. and spoke to Sgt. Jarvis in the Morality section. He told Jarvis that he and Stonechild were together on November 24, 1990. Roy was reluctant to give a statement to the police as he was still subject to breach of probation and was concerned that he would be arrested. Ultimately, he arranged with Jarvis to provide a statement on condition that he not be arrested.

Roy described the person who interviewed him as a Plainclothes Officer. He believed there were two officers present, but the evidence did not support the presence of a second person. It appears that only Morality Investigator Sgt. Keith Jarvis attended for the interview at the residence of a Roy family friend. Roy’s account of the Jarvis interview is set out hereafter:

<sup>50</sup> Evidence of Jason Roy, Inquiry transcript, vol. 2 (September 9, 2003): 363-366

## Part 4 – The Evidence

"A. ...So what happened was he took out the forms for to write a statement and he said, "Okay, well, I'm going to – I'm going to write them down. I'm going to write down a question and then I'll get you to answer it and I'll write down your – I'll write down your answer." And we did this for about an hour and a half, maybe two hours, and I basically related to him the last time I had seen Neil alive.

Q. Did you tell him specifically that you had seen Neil, the last time you saw him he was in the back of a police cruiser?

A. Yes, I did, and I also would like to mention that as he was leaving I asked him, "What are you going to do with the information I give you?" and he said, "We'll look into it and I'll get back to you."

Q. Did you hear back from him?

A. No.

Q. Now, did you advise him that when you saw Neil in the back of the police cruiser he was handcuffed?

A. Yes.

Q. Did you advise him that he was bleeding and apparently had a cut across the nose?

A. Yes.<sup>51</sup>

Roy identified his handwriting on a statement dated November 30, 1990.<sup>52</sup> The statement is contained in the surviving copy of the Saskatoon Police Service Stonechild investigation file discovered in 2001. Saskatoon Police Service Cst. Ernie Louttit had made a copy of the file in December of 1990 and filed it away in his barrack box at home. He came across the file in 2001 and turned it over to the RCMP.

The text of Roy's handwritten statement dated November 30, 1990 is reproduced below:

"Me & Neil were at juli Binnngs of 3269 Milton street we were sitting around having coffee & neil said lets go see Trevor and I said ok we left at about 2:00 p.m. and caught the Bus at the confed terminal, and we were talking to this one white guy about old time fights then wee kept on going to Trevor we got there at about 2:45 sat around with Trevor and just talked about custody time & girls. We busing around & I saw an old friend & he lent me \$20.00 didn't have nothing to do. We went and hung around circle park mall till around 6:30 & niel said lets go to my moms and get some money from his mom so went over there and niels mom wasnt home so I sold my goves to Marcelle and he went & bought us a 40 ounce oef Silent Sam. We over to juli's and drank the hole bottle straight just me & neil. We were just sitting around talking about whatever and he said lets go find Lucille. So we started on our way to Snowberry Downs I don't rember how we got to seven-11. we stopped there and tried buying something but a cant remember If they sold me anything we started walking

<sup>51</sup> Evidence of Jason Roy, Inquiry transcript, vol. 3 (September 10, 2003): 377-378

<sup>52</sup> Handwritten Statement of Jason Roy, dated November 30, 1990, Inquiry exhibit P-6



over there and stopped on the boulevard and we were arguing but I dont what about and we got to one apartment looked for Lucille's sister but it wasn't there so we checked other apartments for the name Neetz. But we couldn't find any where so we got to the last apartment and we were about to check it then I must have stopped him and we stood there and argued for what I don't and he turned around and said fuckin Jay and I looked around and blacked out and woke up at Juli Binnings.

Q. What time approx did you last see Neil Stonechild alive on NOVEMBER 24 1990

A. Could be about 1130 pm.

Q. When you say the name Trevor is that Trevor Nowaselski

A. Yes.

Q. What condition was Neil in when you last saw him

A. Pretty Drunk. Well totally out of it

Q. Is there anything else you wish to tell me

A. No that's all I can think of.

Q. Is this a true statement

A. Yes.<sup>53</sup>

In this handwritten statement, there is no reference to Roy observing Stonechild in the back of a police car. Roy testified that the handwritten statement was "incomplete". I refer to the following:

"Q. There's a date on the top of this statement. It says – it appears to say November 30th, 1990. Is that statement in your handwriting?

A. Yes, it is. Not all of it though. Not – not the – not everything.

Q. Okay. Now, Mr. Roy, is – to the best of your recollection, is this the statement that you provided at the meeting you've described at the house on Avenue P?

A. No, it isn't.

Q. Why do you say it isn't?

A. Because when the officer came to the house to take a statement I didn't write it.

Q. Do you have any recollection of the length of the statement that was taken on Avenue P?

A. I'm going to have to guess between three and six pages because it took a long time to – to write.

<sup>53</sup> Handwritten Statement of Jason Roy, dated November 30, 1990, Inquiry exhibit P-6. The handwritten statement is reproduced in this Report as Appendix "L"

## Part 4 – The Evidence

- Q. Now, at the bottom of this – both pages of this statement I've put to you, there's a signature. Can you identify that signature?
- A. No.
- Q. On the bottom right-hand corner?
- A. Mine. That's mine.
- Q. That is your signature?
- A. That's mine.
- Q. On both pages on the bottom right-hand corner?
- A. Yeah.
- Q. Okay. Do you have any recollection of the circumstances in which the statement I've put to you was provided?
- A. Yes, I do.
- Q. Will you please explain that?
- A. This statement was made the first time I got arrested after Neil's death. I – I was arrested, for, one, being on the run, and I'd also been arrested for something else as well. I was – I was brought in to Saskatoon Police Station and I was put into one of the holding cells. The first one – the first – the interview rooms I believe they're – I believe they're – I think they would be. I was asked, "Do you want to reconsider your previous statement?" At that minute I wasn't aware of what he was actually talking about. And I was told, "Write down what you – write down what you remember of that night," and he left the room. As I got to – as I got to the bottom – as I got near the end to the second – as I got to the second page, he came back in, and that's when I finished writing it.
- Q. And is this statement truthful?
- A. Pardon me?
- Q. Is this statement truthful?
- A. No, it isn't.
- Q. Can you explain why?
- A. My birthday was two days later. I wanted to see it. I felt I was in a position – I was in a place where I did not feel safe. I lied for my life.
- Q. And in this statement you make no reference to the fact that Neil was in a police car on November 24th; that's correct?
- A. That's – that's correct.
- Q. And indeed in this statement I believe you made reference to the fact that you blacked out and woke up later at Trudy (sic) Binnings.
- A. Yeah.



- Q. And again, that is false?
- A. Pardon me? Could you –
- Q. And that is false?
- A. Could you repeat that?
- Q. The statement that you blacked out and woke up later at Trudy (sic) Binnings, that was a false statement?
- A. That's right.  
...
- Q. Mr. Roy, did you – what – what happened to you after you provided that statement?
- A. I believe I was released."<sup>54</sup>

He described going to the police station at a later date after he had resolved his substance abuse problems:

- "Q. Did you have any subsequent contact with the Saskatoon Police Service with respect to Neil Stonechild?
- A. After that?
- Q. Yes.
- A. The only other time that I had any contact, I believe, with them after that was – was after I went and talked to Stella in the bingo. It didn't happen right away within the first day, but I went down to the police station and I approached the desk and asked to speak to two homicide detectives. I wanted to speak to them in regards to – in regards to my friend.
- Q. Okay. Do you recall in more detail of what happened then, when you met –
- A. I waited –
- Q. Did you have your chance to meet with somebody?
- A. I waited for a couple minutes until they could find somebody to talk to me. Two men approached me in suits, not – in suits, and I went – I went to talk to them and once again relayed what I thought was wrong with the way my friend died. And they took a couple notes and they said, "We'll get back to you on it."
- Q. When you say you relayed what happened to your friend, can you be more specific as to what you told them? Did you tell them that you had seen him in the back of the police car?
- A. Yes, I did.
- Q. Did you tell them that he was handcuffed?

<sup>54</sup> Evidence of Jason Roy, Inquiry transcript, vol. 3 (September 10, 2003): 378-381

## Part 4 – The Evidence

A. I believe so.

Q. Did you tell them about the cuts on his face?

A. I believe I – I believe I would have.

Q. Did you hear anything further from the Saskatoon Police Service?

A. No.”<sup>55</sup>

I pause here to comment on Roy’s account that his handwritten statement, dated November 30, 1990, was given at a later date and while he was in custody. Commission Counsel, in his thorough investigation and interviews with many members of the Saskatoon Police Service, established that Roy was never in custody in December 1990. I refer to the evidence of Cst. Kevin Lewis<sup>56</sup> who confirmed that Roy was arrested on December 20, 1990, but established that he was released to the custody of his mother. Roy never did go to the police station. What, then, prompted Roy to make such a claim? It is obvious that he had forgotten about the November 30, 1990 statement until it was unearthed as a result of Cst. Louttit’s discovery.

In the course of vigorous cross-examination, Roy made a number of statements that did not accord with the facts or were unsubstantiated by others. They were given a great deal of attention by counsel representing parties who took issue with Roy’s credibility. The following examples will illustrate:

- (a) He did not tell the RCMP about the so-called “second statement”.<sup>57</sup> He explained that he was skeptical that they would take any action. He also stated that he was “drinking a lot”.<sup>58</sup>
- (b) The description he gave of his uneventful discussion with Stonechild when Roy decided to return to the Binnings stands in stark contrast to the account he gave the RCMP, and I refer in particular to the language that the boys were using in the midst of a very angry separation. He told the RCMP Investigator:

“Ahm...we got to the...the last ah apartment where I told them... “okay, it’s getting too damn cold...we should turn around and go back”...and he said, “no, we’re not...we’re not fucken going anywhere...we’re...we’re gonna stick around and we’re gonna go to ah...we’re gonna find er”. And I said, “fuck that man! Fuck, it’s starting to really get cold here...my ar...I’m starting to get really cold”. And ah...he says, “Okay, well, fuck you then. Go ahead, go back. Go back to Joe’s if you want”. And ah...so ah...we...I said, “okay then...I’ll see you later” [unintelligible] I...I...started heading back towards there. And he...and I remember him sw...swearing and yelling at me...and ss “okay, fuck you then. See you later then...you’re a fucken asshole”. I said, “well?” And so...as I was walking away...ah...I...I...I figured okay I’m gonna...I may as well go with him...stick with him...it was pretty cold out. And so [sigh]...I said,

<sup>55</sup> Evidence of Jason Roy, Inquiry transcript, vol. 3 (September 10, 2003): 382-383

<sup>56</sup> Evidence of Cst. Kevin Lewis, Inquiry transcript, vol. 9 (September 22, 2003)

<sup>57</sup> Evidence of Jason Roy, Inquiry transcript, vol. 3 (September 10, 2003): 383-384

<sup>58</sup> Evidence of Jason Roy, Inquiry transcript, vol. 4 (September 11, 2003): 714



“okay...never mind Neil...just wait for me...I’ll come with you”...and ah...and then he said, “Na, fuck you...I don’t need you...leave me alone”.”<sup>59</sup>

Counsel suggested to him that he was trying to portray Stonechild and himself in a more favourable light before the Inquiry and thus he gave a very different account of the conversation during his testimony:

“Q. Sure. Do you agree, sir, that the reason why you didn’t mention anything about Neil swearing at you, calling you a fucking asshole, telling you to fuck off, he would go on his own, didn’t care whether you came or not, leave him alone, the reason why you never mentioned anything about that yesterday when you were asked by Mr. Hesje about the conversation was because you thought that wouldn’t look very good, that wouldn’t sound very good coming from you mouth at this Commission. Isn’t that why you didn’t tell us about it?

A. There’s a lot of – there’s a lot of evidence when it comes to this, these circumstances of my friend dying, and I’m sorry I’m not concerned with tone as much as you are when it comes to this. I’m –

Q. Well, Mr. Roy, you know what we’re talking about here? We’re talking about the last conversation –

A. Okay.

Q. – you had with Neil Stonechild, the last conversation. Understand?

A. Yeah.

Q. I’m not talking about tone. I’m talking about a number of words that weren’t referenced anywhere and I’m suggesting to you the reason why you didn’t refer to any of that, whether it’s tone or words, when you answered yesterday, was because you did not want those words to come out. You did not want to adversely affect, and you thought it would adversely affect, what you had to say about yourself or Neil that night. Isn’t that true, sir?

A. I have nothing to hide.”<sup>60</sup>

(c) Mr. Fox took serious issue with Roy’s statement that he was “on the run from a community home”. Roy was unable to provide any information about the home. He gave a very brief description of where the home was located:

“Q. And I’m asking now what group home that was and you tell us you don’t know?

A. You’re asking me which group home I was in?

Q. Yeah, what group home. Was it Kilburn Hall, was it – where were you missing from?

A. It was a community home.

<sup>59</sup> Witness Statement of Roy given to the RCMP, Inquiry exhibit P-7

<sup>60</sup> Evidence of Jason Roy, Inquiry transcript, vol. 3 (September 10, 2003): 457-458

## Part 4 – The Evidence

- Q. Community home. So what home was it?
- A. You want, like, address or whatever?
- Q. Name, who ran it, what was –
- A. It was in Dundonald area, I believe.
- Q. Where is it?
- A. In the Dundonald area.
- Q. In the Dundonald area?
- A. Is the area I believe the house was in that I had taken off from.
- Q. And who was running that house?
- A. I don't remember a name.
- Q. You don't remember the name of the people?
- A. No, I didn't stay too long."<sup>61</sup>

Counsel pointed out that his record did not disclose that he was in a community home in the fall of 1990. The evidence did establish, however, that he was subject to the terms of a six month probation order dated October 24, 1990, and that he was in breach of the order within two days after it was granted. There was also evidence of Saskatoon Police Service Cst. Brett Maki that established that Roy may very well have been aware that he was wanted on suspicion of committing a robbery at a restaurant earlier in November of 1990.<sup>62</sup>

- (d) Roy described one of the officers he saw on November 24/25, 1990, as tall with a mustache and thick rimmed glasses. He reported seeing this person on a transit bus sometime later. I conclude that was in 1991. The officers that stopped Jason Roy on November 24/25, 1990, did not resemble this description, even remotely.
- (e) Roy testified he told Marcel Stonechild about seeing Neil in a police vehicle. Mr. Stonechild did not recall any such conversation; he would have remembered it if he had been so advised. Again, there is uncertainty about who Roy told certain things. If I was bound to rely solely on his account of what happened, it would be difficult to reach any firm conclusions. As I have pointed out, however, much of what he said was verified independently.

There were other elements to his evidence that were challenged as well. The obvious question that follows is whether his inconsistencies and contradictions demonstrate that Roy is a liar and require that his evidence be rejected in its entirety. I will have more to say about that in due course.

- (f) Roy was questioned closely about the incident which took place two days before his birthday on December 20, 1990:

"Q. On that, I understand on December 20th you weren't arrested because you were unlawfully at large. I understand on December 20th your only arrest

<sup>61</sup> Evidence of Jason Roy, Inquiry transcript, vol. 3 (September 10, 2003): 494

<sup>62</sup> Evidence of Cst. Brett Maki, Inquiry transcript, vol. 11 (September 24, 2003): 2054-2098



then was for a shoplifting charge and you were never taken to cells. You were just turned over to your mom.

- A. Is there a question?
- Q. Yeah. Do you – is that possible that that’s what happened on December 20th? Is it possible that you weren’t arrested because you were unlawfully at large?
- A. Is it possible that I wasn’t arrested?
- Q. For being unlawfully at large. I guess what I’m getting at, Mr. Roy, you’ve described a situation where you’re taken down to the police station – I mean this was put to you as your explanation for why this statement exists, which makes no reference to seeing Neil in the back of a police car, and your explanation was, “Well, I was drunk. I was arrested. I got taken down to the Police Station two days before my birthday. I was arrested for being unlawfully at large and for another charge and so they said, ‘Give me a statement,’ so I wrote out this statement because I wanted to get out of there. I wanted to see my next birthday, which was two days later.” That’s what you described for us. Now, all I’m saying is that the records don’t seem to support that. The records, the court records in terms of when you were dealt with, the police records in terms of when you were in custody don’t seem to support that. Do you have any explanation for that?”
- A. No.<sup>63</sup>

I note his answers:

- “Q. Yeah, I’m taking your mind back now to what you say was the 20th of December, 1990, right?
- A. Okay.
- Q. Now, you remember that day?
- A. It’s fairly hazy.
- Q. Well, you seem to remember some things and not other things. Tell me what you can recall from that day.
- A. I was under the influence of something when I was picked up that time.
- Q. How do you know that?
- A. Because the majority of the time I’ve ever been picked up by the police was under the influence of something.<sup>64</sup>
- ...
- Q. Well, you are telling us on the 20th of December certain matters occurred at the police station, right?
- A. Yes.

<sup>63</sup> Evidence of Jason Roy, Inquiry transcript, vol. 3 (September 30, 2003): 525-526

<sup>64</sup> Evidence of Jason Roy, Inquiry transcript, vol. 5 (September 15, 2003): 751-752

## Part 4 – The Evidence

Q. Okay. Now, why don't we just refer to your –

THE COMMISSIONER: Excuse me, Mr. Plaxton. Mr. Roy, I think part of the problem is when you use the words "I believe," it creates in the mind of Mr. Plaxton, I suspect, a concern that you're not absolutely sure, and what he's hoping is that you'll be able to tell him, for example, that you recall being arrested –

A. Okay.

THE COMMISSIONER: – and being at the police station in the interview room on the 20th of December.

A. Okay.

THE COMMISSIONER: And I suspect he would like to know with certainty if that is your recollection.

A. Yes.

THE COMMISSIONER: Do you recall that?

A. I – not specifically. Like, not – not right down to the very little last detail."<sup>65</sup>

I am satisfied Roy was mistaken about being in custody and giving a statement. Roy made an interesting comment about his mental state following his friend's death:

"Q. All right. What day did you first learn that Neil had passed away?

A. I don't know exactly the day.

Q. Do you think it was the day that his body was found?

A. Pardon me?

Q. Do you think it was the day his body was found?

A. No.

Q. How much after that do you think it was?

A. At least a few days, couple days, three, four days maybe.

Q. All right, and you say from that moment, from the moment you learned that Neil was dead you were afraid of the police?

A. That's right.

Q. And you were afraid for your life from the police?

A. Yes.

Q. And you say that you were unlawfully at large from a group home at the time, true?

A. Yes.

Q. And yet you agreed to meet with the police officer to give a statement. Is that true?

<sup>65</sup> Evidence of Jason Roy, Inquiry transcript, vol. 5 (September 15, 2003): 754-755



- A. Yes.
- Q. So, at a time you say you were afraid for your life from the police and at a time when you knew, or you believed, that the police would have every right to take you into custody because of your unlawfully-at-large status, you agreed to meet with police. Yes?
- A. Could you ask me that again?
- Q. At a time when you were afraid for your life from the police and at time when you were unlawfully at large, you agreed to meet with police to give them a statement about Neil's death, correct?
- A. Yes.
- Q. And in that statement you knew that you were going to say that, in your view, the police officers were involved.
- A. Pardon?
- Q. The statement you were about to give when you met the police officers, you knew that you were going to say that in all likelihood the police had something to do with his death?
- A. I was only going to say what I knew and what I seen.
- Q. And what you saw was – what you believed was the police officers had beaten him up?
- A. I was only going to say what I knew and what I had seen.
- Q. Well, but what you saw made you afraid for you life?
- A. Yes.
- Q. Why? Did you think the police had something to do with his death?
- A. I wasn't sure.
- Q. Oh, okay.  
...
- Q. So you weren't necessarily afraid from the police; you were – you weren't sure what you were afraid of?
- A. No, I was pretty sure what I was afraid of.
- Q. What were you afraid of?
- A. That whoever had done this would be coming for me.
- Q. And you weren't sure who that was?
- A. I didn't want to speculate. I didn't want to believe that –"<sup>66</sup>

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<sup>66</sup> Evidence of Jason Roy, Inquiry transcript, vol. 4 (September 11, 2003): 628-631

## Part 4 – The Evidence

He also gave this answer:

“MR. PLAXTON: Were you actively abusing alcohol at the time of Neil’s death?

A. Was I – could you repeat that?

Q. Were you actively abusing alcohol at the time of Neil’s death? I’m not talking about –

A. Yes, I was.

Q. – that night, I’m talking that period of time.

A. Yes, I was.

Q. Okay. So that’s the period during which you were wired, right?

A. Okay.

Q. Is that what you meant?

A. Yeah.

Q. Okay. So you were abusing drugs – or alcohol, I’m sorry, just alcohol? Or were you doing drugs as well during this period?

A. Marijuana maybe.

Q. Okay. So some marijuana and a lot of booze?

A. Yes.

Q. Okay. And that, I’m sure, mixed up your memory a lot?

A. Is that a question?

Q. Yes. Would you agree with me?

A. Yes.”<sup>67</sup>

Why then would Roy say he gave a statement on December 20, 1990? In the final analysis, I believe it has to do with Roy’s entire involvement with the justice system; his out-of-control life in 1990; and his status as an Aboriginal youth with a criminal record and criminal associates. I have talked elsewhere in this report about the place of Aboriginal people in society and their interaction with the police and the justice system. My earlier impression of these events was that Roy, when faced suddenly with the November 30, 1990 statement, one he obviously did not recall, panicked and cast about for some explanation as to why he would give such an account in light of his description of seeing Neil Stonechild in police custody on November 24/25. After considering the matter at some length, I concluded that there was a germ of truth to his repeated avowals that he had given different information to the police about Neil Stonechild and the two constables. Put in its simplest terms, it comes to this: Roy knew that he had given the person who interviewed him (Jarvis) a full account of what happened on November 24/25. When called upon to provide a written statement of the events, he stopped short of implicating the Saskatoon Police Service. His statement that he “blacked out” was a convenient excuse not to reduce to writing the most important

<sup>67</sup> Evidence of Jason Roy, Inquiry transcript, vol. 4 (September 11, 2003): 724-725

events of that night. Whether his decision was prompted by fear or an unwillingness to be involved any further with the police, matters not. What is central to this whole question, and his repeated insistence that the statement he gave did not reflect what he told Jarvis, is the plain proposition that he told the investigating Officer the whole story; a proposition which is supported by other evidence which I will address in the Report. The fact that ultimately this was not reduced to writing, and that there was no other statement provided, does not, in my respectful view, diminish his account of what happened. The contents of the November 30 statement are in direct contradiction to what he told the women at the Binning house, what he told Stella Bignell, and what he ultimately told the RCMP. And as I have noted elsewhere, his account of what happened was verified by other persons, including Keith Jarvis.

In the final analysis, I do not need to rely solely on Roy's account of what happened to reach the conclusions I do. However, I want to make some comments about Roy's presentation as a witness. I had ample opportunity to observe him during his testimony. He struck me as sincere and thoughtful and as still deeply affected by the death of his friend and what followed.

While Roy's testimony contained errors and contradictions, this does not prevent me from finding credible his testimony relating to what he observed on the evening of November 24th and the morning of November 25th, 1990. I am reminded of the words of the Ontario Court of Appeal, affirmed by the Supreme Court of Canada, in *R. v. Abdallah*:

"There is evidence on which a jury or judge properly instructed and acting reasonably could have convicted. Even with the prior inconsistent statements and the inadequate explanations for them, in these circumstances it was open to the trial judge to accept all, some, or none of the complainants' evidence. Having accepted some of it, it was open for him to convict, as he did, on all three counts."<sup>68</sup>

It is necessary for me to make these observations about his credibility because I might otherwise give the impression that I am depending on other persons' evidence to support him as being credible. That is not the case. The existence of corroborating evidence does, of course, make my task a good deal easier.

I conclude by commending Jason Roy for his tenacity in pursuing this matter over many years.

### **Tracy Lee Horse<sup>69</sup>**

Tracy Lee Horse is a friend of Jason Roy. His date of birth is April 19, 1973. This was the name and date of birth that Roy testified that he gave to the officers who stopped him on the night that Neil Stonechild disappeared. The name and date of birth also appear in the notebook of Cst. Hartwig.<sup>70</sup>

In 1990, Tracy Lee Horse had no criminal record. He further testified that he was never stopped by the police at the time of Neil Stonechild's disappearance. He confirmed that Jason Roy had told him that Roy had used Horse's name and date of birth to mislead Constables Senger and Hartwig when they stopped Roy on Confederation Drive on the evening of November 25th. His evidence was credible and consistent with the other events that took place on that evening.

<sup>68</sup> (1997) 125 C.C.C. (3d) 482 at 484; aff'd [1998] 1 S.C.R. 980

<sup>69</sup> Evidence of Tracy Lee Horse, Inquiry transcript, vol. 8 (September 18, 2003): 1476-1492

<sup>70</sup> Notebook of Cst. Hartwig, Inquiry exhibit P-180

## Part 4 – The Evidence

### Cheryl Antoine<sup>71</sup>

Cheryl Antoine, who is a student, was a friend of Neil Stonechild and a former girlfriend of Jason Roy. In November of 1990, she was pregnant with the child of Jason Roy, and the two shared a basement suite on Avenue P and 11th Street. She was present at the Binning home on November 24, 1990, and saw both young men there. She thought they had been drinking prior to their arrival at the Binnings, but it appears she was mistaken in respect to this. She saw the two boys leave the Binnings about 9:00 p.m. She understood that they intended to walk to the 7-Eleven on the corner of 33rd Street West and Confederation Drive. She observed Neil stumble as he left the house, an event that no one else noticed.

She described Jason Roy's return to the Binnings an hour and a half later:

“Q. When did you next see Jason?”

A. A while – after a while. After a while, after – he took a while coming back from the store.

Q. Can you give any estimate of how long he was gone?

A. Oh, about maybe an hour and a half, more.

Q. Was it longer than you expected just to go to the store and come back?

A. Yes.

Q. And when he came back he was by himself?

A. Yeah. Yes.

Q. Do you recall what he told you when he came back?

A. He said that they went over to the apartments. They wanted to go – they wanted to go to the apartments and they were ringing all the buzzers and that they said they would call the cops so Jason said, “I’m going to leave,” and he was trying to get Neil to go with him, but Neil didn’t want to go so then he left him there. He said he came back from the store and he said that Neil got picked up and we asked him, “Well, how come you didn’t get picked up?” And he’s like, “I gave them a different name.”

Q. Did he say who he got picked up by?

A. Neil got picked up.

Q. But who did he get picked up – who picked him up? Did he say who picked him up?

A. He said – I vaguely remember him telling me that Neil was in the back, he was walking from the store. They pulled him over and they asked him, “Do you know this guy in the back?” And he said no, and then he said that they asked him his name and he said he gave them a different name, and at this time Neil was yelling at him and they drove off.

<sup>71</sup> Evidence of Cheryl Antoine, Inquiry transcript, vol. 12 (September 25, 2003): 2195-2276



Q. Okay. My question, Cheryl, is did he say – when he said “they drove off”, did he say who he was talking about?

A. The police.

Q. And is it your recollection that Jason told you that when he returned to the Binning house that evening?

A. Yes.<sup>72</sup>

Ms. Antoine repeated part of this account to Julie Binning.

Ms. Antoine recalled the police attending their Avenue P home to take a statement from Jason Roy on November 30, 1990. Ms. Antoine also testified that she did not recall Jason Roy telling the police on that evening that the last time he had seen Stonechild was in the back of a police cruiser. Her evidence on this point conflicts with that of Jason Roy and, as discussed below, with statements made by Sgt. Keith Jarvis prior to the Inquiry.

I have concluded that her recollection of the November 30, 1990 police interview of Roy is not dependable, as she is in error with respect to a number of important facts. First, there was one person who attended at the Sunshine residence; she recalls two. Secondly, she does not recall Roy completing a written statement. Thirdly, she says that the Jarvis’ visit took place after the funeral. While the evidence was not entirely clear as to when the funeral took place, it certainly did not take place on the date that Roy was interviewed by Sgt. Jarvis (November 30, 1990), because this was the date that the autopsy was performed on Stonechild.<sup>73</sup> These inconsistencies indicate that Ms. Antoine does not have a clear and complete memory of the event. She indeed acknowledged that, while she does not recall it, Roy may have told the police Investigator about seeing Stonechild in the police cruiser:

“Q. And so when you say that you don’t remember if Jason told these two people that he had seen Neil in the back of a police car, he – I think you told us that you don’t recall him saying that? Was that your evidence, Cheryl?

A. That I didn’t recall him saying to these people that – yes, yeah.

Q. So is it possible, therefore, that he may have said it and you simply don’t remember it today?

A. Possible, yes.<sup>74</sup>

While Ms. Antoine conceded to Counsel that it was possible that she had forgotten aspects of the November 30, 1990 police interview of Roy, she expressed no such doubt about what Roy had told her on returning from Snowberry Downs on November 25, 1990. In cross-examination, she repeated her statement that Roy had told her that he had seen Neil in the back of a police car. I refer to the following passage:

“Q. But I’m going to ask you, Cheryl, I mean you did seem to be certain about one thing, and that was that when Jason came back without Neil on the night when they went out and they went to Snowberry Downs and they went to 7-Eleven, that Jason said the cops picked him up?

<sup>72</sup> Evidence of Cheryl Antoine, Inquiry transcript, vol. 12 (September 25, 2003): 2202-2203

<sup>73</sup> Autopsy Report, Inquiry exhibit P-49, reproduced in this Report as Appendix “N”

<sup>74</sup> Evidence of Cheryl Antoine, Inquiry transcript, vol. 12 (September 25, 2003): 2220

## Part 4 – The Evidence

A. Yes.

Q. And you were certain about that?

A. Yes.<sup>75</sup>

She repeated this statement:

“Q. And did Jason, when he spoke to you that night – and, Cheryl, this is important that we try and focus on what he said to you that night, not what he said the next day or after the funeral or since that time, but when he spoke to you that night, did he say he thought he saw Neil in the back of a police car?

A. He said yeah – yes, he – Neil was in the back of the police car, because they asked him his name.

Q. Did he say he thought he saw Neil –

A. No, he actually said, yes, he saw Neil in the back of the police car.”<sup>76</sup>

Ms. Antoine was asked a question about an answer that she gave to RCMP officer, Constable Mays, during her interview. I refer to the following passage:

“Q. Did he say – when asked where Neil was did he say that “I think I saw Neil in the back of a police car”?

A. No.

Q. Can you tell me why you answered the questions the way you did when you answered to Constable Mays if that isn't what Neil – what Jason said that night?

A. You know how – for me it's hard – for me personally it's hard to sit here and understand and admit, you know, that this happened, you know, because – it's just it's hard. I'm sitting up here and all these people, these cameras, it's not easy to come up here and, you know –

Q. No –

A. – testify and say, “Hey, he's” –

Q. I know –

A. – “he said this.” Okay? It's not – it's not, you know.

Q. And, again, I know it's not easy, but it's –

A. No, it's not.

Q. – but it's –

A. It's not.

<sup>75</sup> Evidence of Cheryl Antoine, Inquiry transcript, vol. 12 (September 25, 2003): 2216

<sup>76</sup> Evidence of Cheryl Antoine, Inquiry transcript, vol. 12 (September 25, 2003): 2240



Q. – but it is important. And all I’m asking, and I won’t ask you this again, but I will ask you this, that based on the answers you gave to the statements to the police, at least the night that Jason returned to the Binning residence with the munchies, when asked where Neil was, if he said, “I thought Neil was in the back of a police car”?

A. No, I didn’t mean to say it like that.

Q. You didn’t mean to say it like that?

A. No, I didn’t.”<sup>77</sup>

She was asked a further question in cross-examination:

“Q. Okay. How – I’m sorry, you’re Cheryl, yes. How long had he been back from the store before someone asked him where Neil was?

A. Right away.”<sup>78</sup>

In the final analysis I conclude that her recollection of Jason Roy’s return and her conversation with him is accurately reflected in her earlier statements and that she reported that Roy was quite certain as to what he had seen.

### **Julie Binning**<sup>79</sup>

Julie Binning was a friend of Neil Stonechild and Jason Roy. She was present at her mother’s home on Milton Street on November 24, 1990, and detailed the other persons present including Roy and Stonechild. She described them as “somewhat drunk”. She and Cheryl Antoine were friends. They stayed up waiting the return of the two young men and confirmed that Roy ultimately returned home approximately one and a half to two hours after he had left. She was then asked:

“Q. What do you recall when Jason returned whether – did he say anything to you, did you ask him anything?

A. We just asked him where Neil was and he said that he had lost Neil. He had – he just lost Neil on the way back. And then we – we asked him like how did he lose – “How did you lose Neil?” and then he said he might have been picked up by the police.

Q. Did that information surprise you if he suggested he might have been picked up by the police? In other words, did you have any reason to believe that Neil might – that the police might pick him up?

A. Oh, yeah, I – we knew that Neil was wanted. I didn’t know what for, but I knew that he was wanted by the police.”

...

“Okay. Julie, it’s my understanding at that time that you – Neil was a good friend of yours?

<sup>77</sup> Evidence of Cheryl Antoine, Inquiry transcript, vol. 12 (September 25, 2003): 2244-2245

<sup>78</sup> Evidence of Cheryl Antoine, Inquiry transcript, vol. 12 (September 25, 2003): 2267

<sup>79</sup> Evidence of Julie Binning, Inquiry transcript, vol. 12 (September 18, 2003): 2116-2195

## Part 4 – The Evidence

A. Yes.

Q. And that indeed you had been casually dating him?

A. Yes.

Q. Is that fair? Now, did you – you've already testified that that's the last time you saw Neil was at the house. Did you recall any effort to locate him or making any inquiries about where he was the next day or the following days?

A. No, I didn't. I just – I thought that if he was picked up by the police he'd be – he'd probably go back to Kilburn – Kilburn Hall or something.

Q. Do you recall how you first learned that, in fact, he had died?

A. I think I actually watched it on the news.

Q. Now, did you at some point receive any other information or further information as to what might have happened to Neil that – that night after he left your house?

A. Any other information from?

Q. Well, from – from anyone.

A. Oh. Well, what I – I don't know if I heard it right after he died but, you know, there was rumours circulating that he – he was walking back to turn himself in or something like that to the correctional or something. There was some kind of rumours about that, but we didn't believe that because he was only 17 and you obviously have to be 18 to get into correctional. So we didn't believe that. Something else I heard was he was picked up by, I don't know who it was. Actually, I remember a name but I don't know if I should say the name."<sup>80</sup>

Ms. Binning confirmed also that she had heard reports suggesting Neil Stonechild had been walking to the Saskatoon Correctional Centre. She rejected these reports out of hand as did others. She had also heard rumours about the Pratts having some involvement in Neil Stonechild's death.

### **Lucille Horse (Neetz)**<sup>81</sup>

Ms. Horse was a good friend of Neil Stonechild in November of 1990 and knew him quite well. The two had dated for a period of time. Ms. Horse testified that Neil Stonechild's troubles with the law tended to occur when he was under the influence of alcohol. She also testified that Neil Stonechild would also get into a lot of fights when he was drinking.

In 1990, she was in a relationship with Gary Horse, her future husband. On November 24th, Lucille and Gary encountered Neil Stonechild on a Saskatoon transit bus. Stonechild learned that they were babysitting for Ms. Horse's sister that evening in an apartment at Snowberry Downs. Ms. Horse wisely declined to tell her former boyfriend which apartment, expecting there might be a problem later. She was more prescient than she realized.

<sup>80</sup> Evidence of Julie Binning, Inquiry transcript, vol. 12 (September 18, 2003): 2116-2195

<sup>81</sup> Evidence of Lucille Horse, Inquiry transcript, vol. 5-6 (September 15-16, 2003): 884-955

She confirmed what happened when Stonechild and Roy arrived at Snowberry Downs late Saturday evening and began checking the entry areas of the various apartment buildings to see if they could find the Horses. Each entrance was secured by a locked door and a buzzer system. Ultimately, Stonechild gained entry into the building in which the Horses were babysitting. Trent Ewart, who lived in the apartment, arrived home at approximately the same time and was in the apartment when Stonechild arrived at the door. The occupants could hear him making a good deal of noise as he moved along the corridor banging on doors. Roy was not present during these events. Stonechild proceeded, ultimately, to force his way into the Ewart apartment before he was pushed out by Trent Ewart.<sup>82</sup> He was ordered to leave by Ewart. Stonechild apologized and disappeared. Ewart phoned the Saskatoon Police Service at 11:49 p.m. complaining about Stonechild as drunk and disorderly.<sup>83</sup> Police car 38 was dispatched to Snowberry Downs as a result. As we know, the occupants of that cruiser were Constables Bradley Senger and Lawrence Hartwig.

The Horses and Ewart were the last people to confirm that Neil Stonechild was alive at the Snowberry Downs apartment building late on the evening of November 24th or early on the morning of November 25th, 1990.

Ms. Horse testified she saw Neil Stonechild at 12:30 a.m., which does not accord with other events of which we have an independent record. This witness, who holds two university degrees, was a careful and credible witness. I believe she was only in error as to the time of 12:30. She confirmed that Stonechild showed no sign of injury to his face when she observed him through the peep hole at the apartment. She also noted that he was swaying slightly when he was at the entrance of the apartment.

Curiously, Ms. Horse was never asked for a written statement by the Saskatoon Police Service, notwithstanding, that Mr. Ewart was.

Ms. Horse described her subsequent conversations with Jason Roy and his account of what happened to Neil Stonechild. She recalls initially receiving only sketchy information from Jason Roy about that evening. She could tell that Jason Roy was having a difficult time talking about the evening, and she didn't press him. Her initial understanding from the sketchy comments of Jason Roy was that Roy was hiding behind an apartment building garbage bin, and from that vantage point, observed Neil Stonechild in the back of a police car. Sometime around 1994, Jason Roy disclosed to her that the police had actually approached him with Neil Stonechild in the back of the police cruiser. Jason Roy told her that the police asked him if he could identify the person in the back of the police car. Jason Roy told her that he did not identify Neil Stonechild to the police. He also disclosed to Ms. Horse that he gave the police officers a false name.

#### **Gary Horse<sup>84</sup>**

Gary Horse confirmed Lucille Horse's account of what happened at Snowberry Downs. He testified that Roy's 1992 account of what happened to Neil Stonechild was "very vague". In 1994, Roy gave a much more detailed account. In 1994, Jason Roy told Gary Horse that he had left Neil Stonechild at Snowberry Downs and on his way back towards the Binning

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<sup>82</sup> Evidence of Trent Ewart, Inquiry transcript, vol. 7 (September 17, 2003): 1292

<sup>83</sup> Complaint Hardcopy, Inquiry exhibit P-67: 6

<sup>84</sup> Evidence of Gary Horse, Inquiry transcript, vol. 6 (September 16, 2003): 955

## Part 4 – The Evidence

residence he encountered a police car with a bloodied Neil Stonechild in the back seat. Jason Roy reported being asked by the police officers if he was Jason Roy and if he knew Neil Stonechild. Jason Roy told Gary Horse that he gave the name “Tracey Lee Horse” to the police officers.

Jason Roy told Gary Horse that he had spoken to the police about his account of what happened to Neil Stonechild. Gary Horse recalled that in 1992 he was on a bus with Jason Roy, and Jason Roy indicated to him that he was going to the police station to discuss what he knew about Stonechild’s disappearance.

### **Trent Ewart**<sup>85</sup>

In November 1990, Trent Ewart shared an apartment at Snowberry Downs with his girlfriend, Claudine Neetz. Ewart and Neetz went out separately that evening leaving Neetz’s sister, Lucille, and her boyfriend, Gary Horse, to babysit their child. The latter had arrived earlier in the day.

While in the apartment, Ewart heard a disturbance in the hallway. He described what followed:

“Q. Do you recall getting home that night before Claudine?”

A. Yeah.

Q. Okay. Do you have any recollection of a disturbance that evening at the apartment building?

A. I can remember the buzzer was ringing a lot and all I remember was I was taking my shoes off and he walked in and I basically just pushed him out the door and locked the door and that was about it. I was also drinking that night too, so –

Q. Okay. Now, when you say “he walked in,” did you know who walked in?

A. I didn’t know who he was, but Lucille told me after who it was.

Q. And what did she tell you?

A. She said that was her ex-boyfriend, Neil.

Q. Now did – and when you describe you were coming in, are you talking about the doors into the suite, or are you talking about the doors into the building, the apartment building?

A. The doors into the – the actual suite.

Q. Okay.

A. I was just taking my shoes off and he had just kind of walked in right behind me.

Q. All right. And what just as best and in as much detail as you can remember, what happened?

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<sup>85</sup> Evidence of Trent Ewart, Inquiry transcript, vol. 7 (September 17, 2003): 1289-1311



- A. Basically I just took my shoes off, I was taking my shoes off and he just kind of walked in and I just kind of pushed him out and locked the door, and that's all that happened."<sup>86</sup>

He did not recall phoning the Saskatoon Police Service to make a complaint about Stonechild but acknowledged that there was a record of his call at 11:51 p.m. He explained that he had been out drinking. He did not recall later comments attributed to him in his written statement to the police, including the following:

"Q. Now, the statement states that, and I'm looking about halfway down the handwritten portion, he left – sorry, and left – "He said, 'Sorry, dude,' and left. He came back and Lucille Neetz said that I should call the police because he was wanted. Then the police came and me and Gary lied to the police because Lucille Neetz didn't want them to give Neil her name. We told them we thought it was Neil Stonechild." You don't have any recollection of those statements?

- A. No, I have no recollection of those statements."<sup>87</sup>

### **Bruce Genaille<sup>88</sup>**

Bruce Genaille is a construction worker. He is Neil Stonechild's cousin. He was an important witness at the Inquiry.

On the evening of November 24th, 1990, he was making his way from his home in Snowberry Downs to the residence of a friend. As he walked along Confederation Drive, he was stopped by a Saskatoon Police Service cruiser. The time he estimates was 9:30 p.m. As will be discussed later, the evidence establishes that he was stopped by Cst. Lawrence Hartwig and Cst. Bradley Senger of the Saskatoon Police Service. He gave this account of what happened:

"A. And I – they pulled me over, you know, but they didn't get out of the car, they just asked me what my name was and then basically they asked me your ID, or do you know Neil Stonechild and they – well, they asked me if I was Neil Stonechild first and I said, "No, I'm not Neil, that's my cousin, but I call him Harry," I told them, and I – they kept asking, "Well, do you have your IDs?" and I showed them my IDs but I didn't have a picture ID and they just – they kept asking me, "Are you sure you're not Neil Stonechild?" "Yeah, I told them. That's my cousin, Harry. I call him Harry," I told them, and probably – I kept looking around just to see if any other vehicles are around, you know, and just to – I was wondering why they were kind of keeping me so long. It was five to ten minutes. And they told me that there was some kind of disturbance at the 7-Eleven. And then after a while they, you know, they let me go and I went on to my buddy's place.

Q. Now, did you have identification with you?

<sup>86</sup> Evidence of Trent Ewart, Inquiry transcript, vol. 7 (September 17, 2003): 1292-1293

<sup>87</sup> Evidence of Trent Ewart, Inquiry transcript, vol. 7 (September 17, 2003): 1296

<sup>88</sup> Evidence of Bruce Genaille, Inquiry transcript, vol. 12 (September 25, 2003): 2276-2302

## Part 4 – The Evidence

A. Yeah, I had my license, showed them that. Even after I showed them my license they still didn't believe me.

Q. So after this they let you go and you continued on?

A. Yeah, I went to my buddy's place at Borden Place."<sup>89</sup>

He also stated:

"A. Well, maybe but they were – they kept asking me, you know, if I was Neil Stonechild and I kept telling them, like, that's my cousin, Harry, you know, I call him Harry, not Neil, that's how I know him by.

Q. I see. You knew that – that Harry was on the run or something.

A. I – at that time, no.

Q. Did you ask these – these officers why they were looking for Harry?

A. Yeah, that's what I asked them. That's when they told me about the 7-Eleven there was a disturbance there.

Q. Okay. And did they say that Harry was involved in that disturbance at 7-Eleven?

A. Yeah, that's what they said. Basically they asked me – we're looking for him and there was –

Q. In relation to this disturbance?

A. Yeah, there was a disturbance at the 7-Eleven.

Q. Okay. They didn't say anything about there's buzzers being rung over at – over at –

A. No.

Q. – Snowberry Downs?

A. No, just about the 7-Eleven, that's about it.

Q. Were you – you would have been at home at Snowberry downs just before being approached then and detained by these police.

A. I was there all evening.

Q. And was your door buzzed?

A. No."<sup>90</sup>

Bruce Genaille testified that when he was stopped there was no one in the car other than the two officers.

Mr. Genaille's evidence regarding the officers' reference to a disturbance at the 7-Eleven was not challenged or contraverted. This evidence suggests that Stonechild had caused a

<sup>89</sup> Evidence of Bruce Genaille, Inquiry transcript, vol. 12 (September 25, 2003): 2279-2280

<sup>90</sup> Evidence of Bruce Genaille, Inquiry transcript, vol. 12 (September 25, 2003): 2288-2289

disturbance at the 7-Eleven that Stonechild and Roy had visited prior to reaching the Snowberry Downs apartments. Further, as the officers that stopped Mr. Genaille made no mention of a disturbance at Snowberry Downs, this evidence also suggests that Constables Hartwig and Senger were informed of this disturbance and were looking for Neil Stonechild prior to the complaint at Snowberry Downs. Since Mr. Genaille lived at Snowberry Downs apartments at the time, he would have undoubtedly recalled any reference by the officers to a disturbance at Snowberry Downs. While there is no reference in the dispatch records of the Saskatoon Police Service of a complaint involving 7-Eleven on that night, Cst. Hartwig agreed, under cross-examination, that they could have received word of a disturbance at 7-Eleven from the street, rather than from dispatch.<sup>91</sup>

Mr. Genaille estimated that he was stopped at around 9:30 p.m. In light of the independent evidence of the witnesses discussed above, this estimate is incorrect. I believe it was somewhat later, probably between 10:00 – 11:00 p.m.

Mr. Genaille did not recall the officers conducting a computer check of his name in his presence. The records of the Canadian Police Information Centre indicate that Cst. Hartwig conducted a search of Bruce Genaille's name at 12:04 a.m. on November 25th; well after the time period when they had intercepted Mr. Genaille.

### **Diana Fraser**<sup>92</sup>

Diana Fraser has been an employee of the Saskatchewan Department of Social Services and Justice since 1982. From 1985 to 1990, she was assigned to the Yarrow Youth Farm, an open custody facility for young offenders. She performed various functions over that period including caseworker, youth worker, and parental care supervisor. From 1991 to 1994, she was assigned to Kilburn Hall where she acted as a caseworker and supervisor.

Diana Fraser became acquainted with Neil Stonechild when he was sentenced to custody at the Yarrow Youth Farm. Ms. Fraser testified that Neil Stonechild was a very mature youth, and that he had strong community supports, including his mother. Diana Fraser also became acquainted with Jason Roy while he was in custody at the Yarrow Youth Farm. Diana Fraser recalled that Jason Roy was quite a bright and mature young man, who also had strong support from his mother.

Upon learning of the death of Neil Stonechild, Diana Fraser testified that she heard rumours from within the youth facility where she worked that a month earlier Stonechild had been involved in a fight with Gary Pratt and the McDonald boys. She recalled that many youth in the community and within custody were upset at Stonechild's death, and she was concerned that there may be trouble at Stonechild's wake. In the hopes of preventing a potentially violent confrontation, Diana Fraser contacted the Saskatoon Police Service to inform them of the rumoured fight with the McDonalds and Gary Pratt and to advise the Saskatoon Police Service of the upcoming wake.

At some point in early 1991, Jason Roy and Diana Fraser met. Jason Roy was not in custody at the time. Diana Fraser testified that Jason Roy was visibly upset. Diana Fraser recalls that Roy told her that he had been with Stonechild at Snowberry Downs, and that when he was

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<sup>91</sup> Evidence of Cst. Hartwig, Inquiry transcript, vol. 41 (March 16, 2004): 8054-8056

<sup>92</sup> Evidence of Diana Fraser, Inquiry transcript, vol. 9 (September 22, 2003): 1531-1599

## Part 4 – The Evidence

walking from Snowberry Downs, he saw Stonechild in the back of a police cruiser. Fraser recalls Roy telling her that Stonechild was screaming or shouting “they’re going to kill me, man, they’re going to kill me”. Diana Fraser testified that she did not contact the Saskatoon Police Service with this information because it was disclosed to her within the community, and he did not ask for her help in going to the police. She testified that when she was a youth in another community, she had experiences with the authorities in that community which led her to question the value of making complaints against the police. She also testified that, in her view, the youth that she worked with were seldom believed when they provided unfavourable information about a person in authority.

Within a few months of this meeting with Jason Roy in the community, Jason Roy was in custody at Kilburn Hall. Diana Fraser was his caseworker. She recalled that he was having trouble sleeping. It was her observation that he was having emotional trouble dealing with the impact of what he had seen on November 24/25, 1990. She referred him to Brenda Valiaho, who was counselling at Kilburn Hall at the time. The purpose of this referral was to assist Jason Roy in dealing with his emotional difficulties. Diana Fraser did not observe that Jason Roy could not remember the events of November 24/25, 1990. Rather, she testified that she observed he was having emotional difficulties dealing with his recollection of the events of November 24/25, 1990.

### **Brenda Valiaho<sup>93</sup>**

Brenda Valiaho’s evidence attracted a surprising amount of attention and not a little criticism. As discussed below, Ms. Valiaho’s evidence relates entirely to what Jason Roy told her he saw on the night Stonechild disappeared. Her evidence in this regard does not, of course, establish the truth of what Jason Roy told her, and under the strict rules of evidence such testimony in most cases would be excluded under the rules against oath-helping and previous consistent statements. However, as noted by McIntyre J. in *R. v. Beland*, evidence regarding previous consistent statements of a witness will be permitted when it is tendered for a legitimate purpose other than witness bolstering, such as “to rebut the allegation of a recent fabrication or to show physical, mental, or emotional condition”.<sup>94</sup> In the case of Ms. Valiaho’s evidence, I have no choice but to consider her evidence if only for the purpose of addressing the argument advanced by Counsel for the police interests that Ms. Valiaho planted the story in Jason Roy’s mind.

Ms. Valiaho outlined her background and experience in the corrections area as follows:

- “A. Okay. I have a Bachelor of Arts degree. I also have a – sorry, I wasn’t expecting that question. I have four university degrees, the last being a Master’s in Educational Psychology.
- Q. Okay. I don’t think you were expecting this one either, but just briefly your work history, whatever it is you’ve worked in, maybe starting with where you are now.
- A. Okay, I’m at the Government Correspondence School. I’m a distance education teacher. It’s – the employer is Saskatchewan Learning. This is my ninth year there. Previous to that I worked with – sorry, Social Services, and I

<sup>93</sup> Evidence of Brenda Valiaho, Inquiry transcript, vol. 6 (September 16, 2003): 1048-1149

<sup>94</sup> [1987] 2 S.C.R. 398 at 410-411



was a teacher at Kilburn Hall for nine years, the Youth Detention Centre. Previous to that I was a high school teacher in Esterhazy for three years. Before that I worked under the Department of Indian Affairs for three years on a reserve in northern Saskatchewan, Dillon, and that's my teaching experience.

- Q. Now you mentioned you were a teacher at Kilburn Hall for approximately nine years?
- A. That's right.
- Q. Can you recall what years that was?
- A. Sure. I was hired in June of '86 and I left in June of '95 to move to Regina.
- Q. Okay. Can you just explain what that involved, were there actual regular classes held at Kilburn Hall or –
- A. Yes, I was hired as a teacher/therapist under Social Services. We had regular classroom times. There were four teachers at that time, three and myself. We had rotating classes, and we had a class for each of the four units, and so the students would rotate through the classrooms on a regular periodic schedule, just like at a school, at a high school, and they moved with their units, so there could be up to 13 students in a classroom at a time, or as many as who were on the units at the time.
- Q. I believe you indicated you were hired as a teacher therapist?
- A. Yes. That was our title.
- Q. And what is the therapist component of that? What does that require of you?
- A. At that time it didn't require a Special Ed. degree. I believe it does now, but at that time it did not. But that was the implication, that there be some specialized skills beyond regular classroom teaching, or perhaps some experience that would be beneficial to that role.
- Q. Does that – would you be involved in actually counseling as opposed to teaching?
- A. No, not, not – not in a recognized capacity, but it certainly was part of the day-to-day, as you can appreciate the turmoil that many students would have experienced on a day-to-day basis.
- Q. And prior to 1991 had you had experience in counseling young offenders or youth?
- A. I think it was part of my nature, yes, and I also was the cultural program coordinator, working very closely with John Cuthand in – he's a pipe carrier and a sweat lodge holder, so I think my role went beyond the classroom, also. So I would say that I was in a much larger capacity to counsel than perhaps a regular, regular teacher-therapist. Perhaps."<sup>95</sup>

<sup>95</sup> Evidence of Brenda Valiaho, Inquiry transcript, vol. 6 (September 16, 2003): 1050-1052

## Part 4 – The Evidence

She also described her practicum which she undertook in 1991:

“A. Sure. In ‘89 I was accepted into the Master’s Program at the University of Saskatchewan, and in ‘91 I was doing my practicum in counseling. I took a half time leave from my teaching position in September, ‘91 to December, ‘91 so that in the morning I was employed by Social Services working as a teacher-therapist in the morning, and then in the afternoon I was not employed, I was doing my practicum. I was not paid by Social Services for that. So in the afternoon and in the evening I was this practicum student doing a counseling practicum. So caseworkers within Kilburn Hall, like students would have a caseworker in Kilburn Hall, they would also have sometimes a caseworker in their community, or outside of Kilburn. So inside Kilburn Hall workers would refer youth to me to see on a counseling basis...”<sup>96</sup>

Around this time, Jason Roy was serving a sentence in Kilburn Hall, and was referred to Brenda Valiaho prior to his release. As the English and Art teacher at Kilburn Hall, she was already well acquainted with Jason Roy. She described him as a sincere and well spoken young man with good reading ability.

She also described her two meetings with Roy. The purpose of the meetings was to address Roy’s difficulty sleeping. The first meeting was designed to build a rapport with Roy. Ms. Valiaho used the first meeting to gain an understanding of his background and family situation. By the end of the first session it was apparent that Roy’s trouble sleeping was centred around the event of Neil Stonechild’s death. The second session which occurred shortly thereafter was designed to address the concerns underlying his sleeping difficulties. At this second session, Ms. Valiaho asked Jason Roy if he wished to participate in a visualization exercise to recall the senses, sights, sounds, and experiences of the night in question. The following is Ms. Valiaho’s recollection of this second session with Roy:

“Q. Okay. Now what – can you describe then what happened when you go through this process specifically with Jason?”

A. Okay. He closed his eyes and basically I would say, you know, “Where are you now? What are you doing,” and then we went through step-by-step. Do you want me to, –

Q. Yes.

A. – okay, tell you details?

Q. As much detail as you can recall.

A. Okay. Sure. Basically he explained that he had been partying with Neil, involved in some activities and some visiting. I really don’t recall the exact specifics of that, other than they had been partying, he’d been – they’d been drinking together. Then they were at an apartment building or a complex of some kind. Neil was wanting to get in touch with somebody there. There was noise and banging. Jason became concerned because they both were on the run and so he was concerned about that, the noise level, and so he didn’t want any part of that and he left the situation. Some time

<sup>96</sup> Evidence of Brenda Valiaho, Inquiry transcript, vol. 6 (September 16, 2003): 1053-1054



later he was in the alleyway and a police car drove up and the car stopped and asked him – they asked him who he was and he gave a false name, he explained to me. And he said that he realized that there was somebody in the back seat and he kind of leaned down and realized that it was Neil in the back seat. At this point he became very, very upset in our session. He was between crying and holding his breath. It was like shock. He was nervous, he – it was almost as if he was realizing that what maybe he'd been dreaming about or thinking about was actually playing out for him right there in the session. He said that Neil had said he wanted some help, he wanted help. I also think that there was a point where the police asked if he knew who was in the back seat and Jason said no and Neil said, "Help me! Help me! They're going to kill me!" And the police basically said to Jason, you know, go about your business, and they drove off."<sup>97</sup>

Ms. Valiaho testified that Roy told her he was too afraid to go to the police. Roy refused to allow her to talk to his case worker or her professors about the matter. Ms. Valiaho and Roy developed a plan that would have him talk to Neil Stonechild's family about his account of what happened to Neil. Ms. Valiaho felt that Roy would get some support from Neil's family.

I found Valiaho's evidence helpful and consistent with the accounts of others as to the guilt and emotional distress Jason Roy experienced in the years following his friend's death. The accounts that she received, of course, do not constitute proof of what Roy said, although some counsel seemed to think otherwise.

Her description of her use of visualization was an interesting one and is set down here so that the reader can understand the basis for a later request that Dr. Arnold be called. She testified as follows:

"Q. What is a visualization exercise, can you explain that?

A. Yes. You've probably heard of athletes who do visualization exercises to prepare themselves for sporting events, where they imagine themselves going over and over the event so that they are successful or they can see themselves being successful. Well, the visualization exercise that I was doing was a recall kind of exercise. And you may have heard of people who have done that, where you close your eyes and you picture yourself in the setting and you, you know, think of the sights, the sounds, what did you do next, where did – you know, what was happening, who was around, that sort of thing. And that's what it was, it was a recall visualization exercise."<sup>98</sup>

I refer, also, to the following evidence:

"Q. MR. HESJE: Ms. Valiaho, again, I'm simply trying to understand and assist this Commission in understanding, when you say visualization and you gave a general overview of that, but can you tell me, walk me through what you recall doing, what you asked Jason to do, what he did when he started giving you this recitation that you've just went through? Was he asked to lie down, for example?

<sup>97</sup> Evidence of Brenda Valiaho, Inquiry transcript, vol. 6 (September 16, 2003): 1070-1072

<sup>98</sup> Evidence of Brenda Valiaho, Inquiry transcript, vol. 6 (September 16, 2003): 1069-1070

## Part 4 – The Evidence

- A. No. He was sitting comfortably across from me on a couch, I was sitting on a chair. His eyes were closed, he's relaxed, basically blocking out, you know, sort of outer stimulus. We were in the visitors' at Kilburn Hall. It wasn't that stimulating, but he was relaxed. And then I would be using the voice that I'm using now and – you know, "Where are you? What are you doing? What sounds do you hear". And basically that was the process. When he became very upset and realized even more so – I mean in sort of an acute way, not in even more so, but in an acute way that it was – he was seeing Neil in the back seat and that he was bloody, he was – he got upset. And, of course, then his eyes are open and he's crying and then it's – we're here."<sup>99</sup>

Valiaho, in answer to vigorous cross-examination, used the words "to try and remember and recall".<sup>100</sup> I must say that, notwithstanding, that language, the whole thrust and description of the process she used was to assist Roy to deal with his painful memories. I accept her evidence and the propriety of using "visualization" to assist Roy in coming to terms with his harrowing experience.

The theory advanced by Counsel, that Roy's recollections from November 24/25, 1990, were planted by Valiaho, is also refuted by the evidence that Roy shared these recollections with several witnesses prior to meeting with Valiaho, including Julie Binning, Cheryl Antoine, and Diane Fraser. While the level of detail he provided to each of these witnesses differed, the core of his memory was the same; that he saw Stonechild in a police car on the night Stonechild disappeared.

Having said all of this, I say again that I do not need to rely on Ms. Valiaho's account of her sessions with Roy to determine the accuracy of Roy's account of what transpired.

### **Richard Harms**<sup>101</sup>

Richard Harms is a construction worker. He was working at a site at 57th Street the morning of November 29th, 1990. This was the first day that Mr. Harms and his construction crew were working at the site. He first noticed what appeared to be a body in the field north of his location, towards 58th Street, when he looked out the rear window of his tractor. He and his co-worker, Bruce Meyers, approached the object to confirm that it was a body. Mr. Harms came within 30 feet of the body. They then retreated, and Bruce Meyers telephoned the police.

### **Larry Flysak**<sup>102</sup>

Larry Flysak is an account representative employed with the Commercial Weather Services Branch of Environment Canada. He presented climatological information from the Canadian Climate Archive maintained by Environment Canada. In particular, he presented weather records for November 1990. The records disclosed that 0.4 cm of snow fell on the morning of November 24, 1990. There was no snow reported on the evening of November 24/25, 1990, and only trace amounts of snow from November 25 to November 29.

<sup>99</sup> Evidence of Brenda Valiaho, Inquiry transcript, vol. 6 (September 16, 2003): 1075-1076

<sup>100</sup> Evidence of Brenda Valiaho, Inquiry transcript, vol. 6 (September 16, 2003): 1098

<sup>101</sup> Evidence of Richard Harms, Inquiry transcript, vol. 12 (September 25, 2003): 2101

<sup>102</sup> Evidence of Larry Flysak, Inquiry transcript, vol. 30 (January 5, 2004): 5713-5731

Mr. Flysak also presented records setting out the daily temperature extremes for this time period.<sup>103</sup> This information can be summarized as follows:

Date	Maximum Temp. (Celsius)	Minimum Temp. (Celsius)
November 24, 1990	-15.3	-25.4
November 25, 1990	-14.9	-28.1
November 26, 1990	-13.1	-20.2
November 27, 1990	-14.4	-21.9
November 28, 1990	-7.3	-21.3
November 29, 1990	+4.7	-9.6

### 3 | The Saskatoon Police Service in 1990

In the next two sections I summarize the evidence of past and present members of the Saskatoon Police Service regarding the events of November 24/25, 1990 and the investigation that followed the discovery of Stonechild's body. Before proceeding with this review of the police witnesses, it will assist the reader to have some understanding of the history of the Saskatoon Police Service and its organization in 1990.

#### A Brief History of the Saskatoon Police Service<sup>104</sup>

The Saskatoon Police Service was formed in 1903. As the population of Saskatoon grew, so did the Service. In November of 1990, the Saskatoon Police Service was comprised of approximately 351 members providing service to a population of around 183,579.<sup>105</sup> The budget of the Saskatoon Police Service was around \$27 million. The Service received 77,821 complaints in 1990.<sup>106</sup> In 2003, the Saskatoon Police Service was comprised of 401 police officers<sup>107</sup>, providing service to a community with a population of approximately 213,000 citizens. There are three unions representing the police and non-police employees of the Saskatoon Police Service. C.U.P.E., Local 59, represents most non-police personnel. The Saskatoon City Police Association represents constables, special constables, sergeants, and staff sergeants, totalling 392 members. The Saskatoon Police Executive Officers Association represents directors, inspectors, and superintendents, totalling 8 members. The budget of the Saskatoon Police Service in 2003 was \$40,000,000. The total number of complaints for 2003 was not available at the time of the Inquiry hearings. In 2002, there were 90,412 complaints received by the Service.<sup>108</sup>

With the growth of urban populations and municipal police services, the Saskatchewan Legislature, in 1974, enacted modern policing legislation to regulate and provide consistency for municipal police agencies within the province in the areas of discipline, clothing and equipment, forms, recruiting, and training. *The Police Act*<sup>109</sup> provided each municipality with a Board of Police Commissioners that is responsible for the delivery of policing services within the municipality and for developing long term plans for the police service. The legislation gave the

<sup>103</sup> Surface Weather Record, Inquiry exhibit P-127 and P-128

<sup>104</sup> This history is based upon the evidence given by Deputy Chief Dan Wiks, Inquiry transcript, vol. 33 (January 9, 2004): beginning at 6371

<sup>105</sup> 1990 Annual Report of the Saskatoon Police Service, Inquiry exhibit P-81

<sup>106</sup> Report of Deputy Chief Wiks, Inquiry exhibit P-166

<sup>107</sup> Evidence of Deputy Chief Wiks, Inquiry transcript, vol. 33 (January 9, 2004): 6382

<sup>108</sup> Report of Deputy Chief Wiks, Inquiry exhibit P-166

<sup>109</sup> R.R.S. 1978, c.P-15, hereinafter referred to as "*The Police Act*"