

COMMISSION OF INQUIRY
INTO MATTERS RELATING TO THE DEATH OF NEIL STONECHILD

RULING ON APPLICATIONS ON BEHALF OF
THE SASKATOON POLICE ASSOCIATION

The Saskatoon Police Association have served two notices of application. The applications were heard on October 6, 2003. The first application sought three orders.

Firstly, an order is sought directing Commission Counsel to answer inquiries concerning an interview made by Mr. Robert Martell of Mr. Keith Jarvis. It is my understanding that this information has been provided, and an order is no longer necessary.

Secondly, an order is sought that the original of a tape recording of the Martell/Jarvis interview be made available for a review by an independent laboratory. This request was not pursued.

Thirdly, an order is sought authorizing release to Mr. Bernie Eiswirth of certain Documents. In light of the fact that Mr. Stevenson, Counsel for Keith Jarvis, joined in the application, and Commission Counsel is not objecting to the order sought, I authorize disclosure of the following information to Mr. Bernie Eiswirth by Counsel for the Saskatoon Police Association, subject to Mr. Eiswirth providing the required Undertaking:

- a) Investigative Summary prepared by RCMP;
- b) Saskatoon Police service reports relating to the death of Neil Stonechild;
- c) All interviews of Keith Jarvis;

- d) All reports prepared by Keith Jarvis with respect to the death of Neil Stonechild, the tape recording of the Martell/Jarvis interview; and the transcript of that tape recording.

In a second notice of application the Saskatoon Police Association seeks two further orders. Firstly, an order is sought allowing Counsel on behalf of the Saskatoon Police Association to make full disclosure of documents and information in the within matter to all members, past and present, of the Association presently listed as witness as who may appear to be possible witnesses in the within matter to such extent that Counsel feels appropriate.

The Rules of Practice and Procedure (Access to evidence) sets out clearly to whom documents and information can be disclosed and on what basis. Paragraph three provides as follows:

3. Counsel to parties and witnesses will be provided with documents and information, including statements of anticipated evidence, only upon giving an undertaking that all such documents or information will be used solely for the purpose of the Inquiry and, where the Commission considers it appropriate, that its disclosure will be further restricted. The Commission may require that documents provided, and all copies made, be returned to the Commission if not tendered in evidence. Counsel are entitled to provide such documents or information to their respective clients only on terms consistent with the undertakings given, and upon the clients entering into written undertakings to the same effect. These undertakings will be of no force regarding any document or information once it has become part of the public record. The Commissioner may, upon application, release any party in whole or in part from the provisions of the undertaking in respect of any particular document or other information, or authorize the disclosure of documents or information to any other person.

These rules were circulated to all Counsel who were invited to comment or suggest revisions. None did with respect to the requirements for disclosure. No one questioned the requirements with respect to disclosure to non-clients.

Mr. Plaxton acknowledges that he does not represent individuals members past or present. He represents the Police Association. Accordingly, he is subject to the

requirement that he obtain authorization from me to make disclosure to any past or present member of the Association.

I instructed Commission Counsel as to how such applications for authorization would be dealt with. Commission Counsel sent a letter to Counsel dated July 25th, 2003 indicating that applications for authorizations to disclose to non-clients could be made through a letter setting out the name of the person, the documents sought to be disclosed, and the purpose for such disclosure. My ruling as to such applications was also done informally by letter from Commission Counsel. Several applications were dealt with in this manner.

Mr. Plaxton indicates that a small number of persons may be affected by the requirements for authorization, which includes some persons on the witness list.

I can see no prejudice or significant hardship on the Association in complying with the requirements. I am not prepared to grant the blanket authorization sought in this application.

Secondly an order is sought authorizing disclosure to Counsel for Mr. Jarvis. An order in this regard is unnecessary in light of the fact that Mr. Jarvis has been granted Standing and full disclosure has been made to his Counsel in accordance with the Rules of Practice and Procedure.

Dated at the City of Saskatoon, in the Province of Saskatchewan, this ____ day of October, 2003.

Commissioner David H. Wright