

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*"



## Part 4 – The Evidence

Chief of Police the ultimate responsibility for the management, administration, and operation of the police service, including the maintenance of law and order in the municipality.

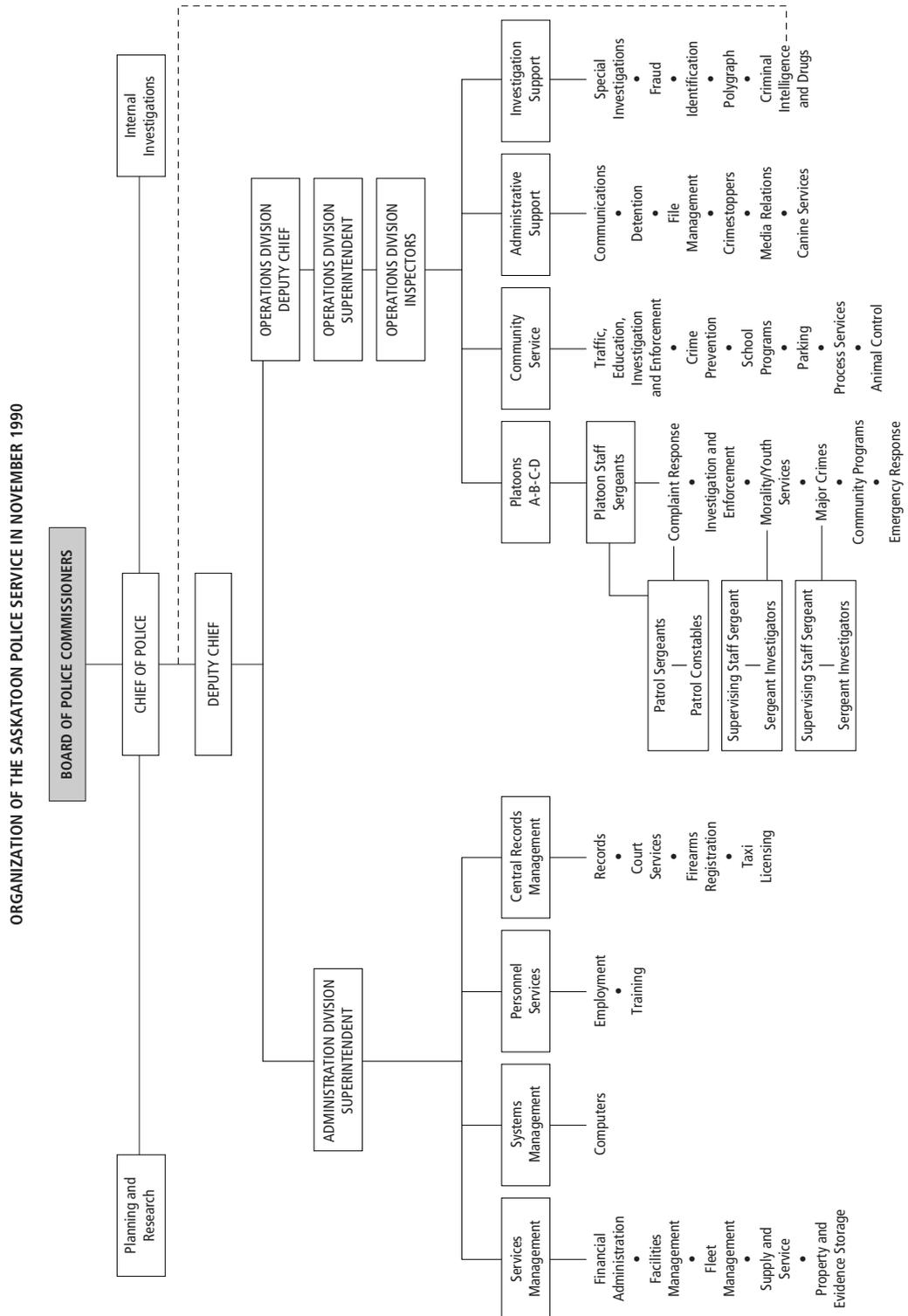
*The Police Act* also assigned to the Chief of Police the responsibility over the maintenance of discipline within the police service. The legislation and associated regulations provided a disciplinary code of conduct for members of a police service and a system for the investigation of complaints against members. In relation to complaints about members of a police service, the Act created a mandatory responsibility on the part of the Saskatchewan Police Commission, the local Board of Police Commissioners, the Chief of Police or a Municipal Council (in the absence of a Board) to make “sufficient inquiry” into the circumstances of a complaint and to inform the complainant of their findings. Part IV of the *Discipline Regulations* provided the following procedural steps must be taken as a result of a complaint. Upon receipt of a complaint, the Chief of Police was to assign a member to investigate and report back. Upon receipt of the report, the Chief of Police was required to consider: a) taking disciplinary action against the accused member, b) advise the member as to future conduct, or c) take no action against the member.

I note in passing that *The Police Act* was repealed and replaced in January of 1992 with *The Police Act, 1990*. This is the legislation that currently governs municipal police services in Saskatchewan, subject to some amendments passed over the years. *The Police Act, 1990* created a much more sophisticated system for the processing of complaints and discipline of members. With respect to complaints, *The Police Act, 1990* provides for the establishment of a Complaints Investigator appointed by the Lieutenant Governor in Council (s. 16). The powers and the responsibilities of the Investigator are set out in s. 39. Section 45(1) requires the Chief of Police, in consultation with the Investigator, to cause an investigation into public complaints against members. The Chief of Police can decide, based upon the investigation, that disciplinary charges or action is warranted (s. 48). Section 45 also provides that the Investigator can assume control and responsibility for the investigation when it is advisable. The Investigator may then report to the Chairperson of the Commission (s. 45(4)). The Chairperson has the power to order the Chief of Police to pursue discipline (s. 45(5)). The Investigator is not compellable to give testimony according to s. 39(7), except in discipline proceedings under the Act. With respect to the discipline process, the major change is the advent of the Hearing Officer. Hearing officers are appointed by the Lieutenant Governor in Council (s. 17). Hearing officers must be members of a law society in Canada for at least 5 years or must have been a member of the judiciary. The disciplinary charges brought against members are, for the most part, adjudicated by the Hearing Officer (s. 54-59). There are also various provisions addressing appeals to the Saskatchewan Police Commission.

There is no evidence that the Saskatoon Police Service received any formal written complaint against any of its members in relation to the Stonechild matter. However, I am satisfied that there were a number of disturbing complaints received by the Saskatoon Police Service, including information provided to members of the Saskatoon Police Service by Jason Roy; the complaints of the Stonechild family that were published on the front page of the StarPhoenix about the adequacy of the investigation; and, as will be discussed later, internal complaints by members of the Saskatoon Police Service. There is no evidence that the complaint process mandated under *The Police Act* was ever initiated by the Saskatoon Police Service in response to any of these complaints.

Organization of the Saskatoon Police Service in 1990

The structure of the Saskatoon Police Service in 1990 is summarized in the following Chart.



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As illustrated in the Chart, the Saskatoon Police Service in 1990 had a complex hierarchical paramilitary command structure. In order to best grasp the evidence of the police witnesses who testified at the Inquiry, a basic understanding of the relevant divisions and departments and the command structure in place within the Saskatoon Police Service in 1990 is needed.

### Departments and Divisions

In 1990, the Saskatoon Police Service was divided into two divisions; an **Operations Division** and an **Administrative Division**. The uniform and investigative services of the Saskatoon Police Service fell under the Operations Division. The members who worked within the Operations Division, including uniform and investigation officers, were divided into **Platoons**. Each uniform and plainclothes member was assigned to one of four Platoons; Platoon A, B, C, and D.<sup>110</sup> This alignment of personnel was a marked departure from the organization in place in past.

Throughout most of its history, the investigation services of the Saskatoon Police Service have been conducted through various specialized investigation sections or units, such as the Major Crimes Unit, the Criminal Intelligence Unit, and the Morality Unit. These investigative units were staffed by investigators who were experienced in those specialized areas. In 1988, however, the Saskatoon Police Service adopted a change of philosophy in regard to the conduct of investigations. This resulted in a significant change to the organization of the Saskatoon Police Service. The Saskatoon Police Service, for the most part, abandoned specialized investigation units for a generalized approach to investigations. The theory propounded at the time was that an Investigator should have or develop the skills to handle every kind of investigation. As a result, the investigators at the Saskatoon Police Service were taken out of the specialized units and disbursed amongst the platoons. It was hoped that by integrating plainclothes investigators with the uniformed officers in platoons, the lines of communication between investigators and front line members would be improved.<sup>111</sup> Once, however, this generalized approach was implemented, a concern arose that members assigned to investigate crimes did not have adequate experience especially in respect of serious crimes such as homicide.<sup>112</sup>

This generalized approach to investigations was still in place in 1990.<sup>113</sup> By November of 1990, however, the move back towards specialization was already occurring.<sup>114</sup> In November of 1990, the Saskatoon Police Service had such specialized departments as the Major Crimes Unit and a Morality Unit, though these investigation units were still administered through the platoons, and there was no clear separation between the uniform and the plainclothes divisions. It was not until 1992 that the uniform and the detective operations were separated and the return to specialized investigation units was complete. Under the current organization of the Saskatoon Police Service, the uniform and plainclothes divisions are separated and a specialized approach to investigations is followed. I will say more about this generalized approach to investigations that was in place in 1990, and the problems associated with this approach.

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<sup>110</sup> Evidence of Deputy Chief Wiks, Inquiry transcript, vol. 34 (January 9, 2004): 6568-6569

<sup>111</sup> Evidence of Deputy Chief Wiks, Inquiry transcript, vol. 33 (January 9, 2004): 6372-6376

<sup>112</sup> Evidence of Deputy Chief Wiks, Inquiry transcript, vol. 36 (March 9, 2004): 6734

<sup>113</sup> See Organizational Chart, page 67 (October 15, 2003): 3655

<sup>114</sup> See Evidence of Murray Montague, Inquiry transcript, vol. 19



The **Morality Unit**, sometimes referred to in the evidence as the Morality Section, was an investigative unit of the Saskatoon Police Service in place in 1990. The investigators in this unit, who typically held the rank of sergeant, were responsible to investigate offences against the person. Its mandate included liquor licensing laws, prostitution, harassing phone calls, family disputes, unified family court, suicides, accidental deaths, industrial deaths, and sudden deaths.<sup>115</sup> Around 1990, the Morality Unit operated closely with the Youth Section, which mainly investigated cases of sexual abuse.<sup>116</sup>

The **Major Crimes Unit**, sometimes referred to in the evidence as the Major Crimes Section, was another unit of the Saskatoon Police Service responsible for investigating the most serious crimes including, robbery, arson, and homicide. Major Crimes was responsible for investigating any death where foul play was suspected.<sup>117</sup>

The work of the Morality and Major Crimes Units was supported by the **Identification Section**. The role of an Identification Officer at a crime scene was to take photographs, and collect evidence to assist the Investigator.<sup>118</sup> The Identification Officer may also provide additional assistance to the Investigator, such as attending and photographing autopsies.

As portrayed on the above Chart, there were a number of other departments within the platoons and the Operations Division. As these departments have no direct bearing upon the matters at hand, they are not described in this Report.

### Command Structure

As indicated on the above Chart, the ultimate responsibility for policing within a municipality in 1990 was with the **Board of Police Commissioners**. Under *The Police Act*, the Board is responsible for providing general direction, policy and priorities and for developing long term plans for the Police Service. The ultimate responsibility for delivery of policing services within the City of Saskatoon rests with the Board.

The day-to-day management of the operations of a municipal police force fell to the **Chief of Police**. *The Police Act* gives the following general powers and responsibilities to the Chief of Police:

- a. the management, administration and operation of the Police Service;
- b. the maintenance of law and order in the municipality;
- c. the maintenance of discipline within the Police Service.

In carrying out these duties, the Chief of Police is only subject to the general direction of the Board and the provisions of *The Police Act*. The significant responsibilities and discretionary power of the office of Chief of Police were commented on by Lord Denning in *Regina v. Metropolitan Police Commissioners, Ex Parte Blackburn*:

<sup>115</sup> Evidence of James Albert Brooks, Inquiry transcript, vol. 16 (October 9, 2003): 3077; Evidence of Keith Jarvis, Inquiry transcript, vol. 23 (October 22, 2003): 4431

<sup>116</sup> Evidence of Theodore Johnson, Inquiry transcript, vol. 18 (October 14, 2003): 3577

<sup>117</sup> Evidence of Bruce Bolton, Inquiry transcript, vol. 17 (October 10, 2003): 3230-31; Evidence of Theodore Johnson, Inquiry transcript, vol. 18 (October 14, 2003): 3362; and Evidence of Frank Simpson, Inquiry transcript, vol. 19 (October 15, 2003): 3582

<sup>118</sup> Evidence of Robert Morton, Inquiry transcript, vol. 13 (October 6, 2003): 2340-41

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“The office of Commissioner of Police within the metropolis dates back to 1829 when Sir Robert Peel introduced his disciplined force. The commissioner was a justice of the peace specially appointed to administer the police force in the metropolis. His constitutional status has never been defined either by statute or by the courts. It was considered by the Royal Commission on the Police in their report in 1962 (Cmd. 1728). I have no hesitation, however, in holding that, like every constable in the land, he should be, and is, independent of the executive. He is not subject to the orders of the Secretary of State, save that under the *Police Act 1964* the Secretary of State can call on him to give a report, or to retire in the interests of efficiency. **I hold it to be the duty of the Commissioner of Police, as it is of every chief constable, to enforce the law of the land. He must take steps so to post his men that crimes may be detected; and that honest citizens may go about their affairs in peace.** He must decide whether or no suspected persons are to be prosecuted; and, if need be, bring the prosecution or see that it is brought; but **in all these things he is not the servant of anyone, save of the law itself.** No Minister of the Crown can tell him that he must, or must not, prosecute this man or that one. Nor can any police authority tell him so. **The responsibility for law enforcement lies on him.** He is answerable to the law and to the law alone. That appears sufficiently from *Fisher v. Oldham Corpn.*, [1930] All E.R. Rep. 96, the Privy Council case of *A.-G. for New South Wales v. Perpetual Trustee Co. (Ltd.)*, [1955] 1 All E.R. 846.

Although the chief officers of police are answerable to the law, there are many fields in which they have a discretion with which the law will not interfere. For instance, it is for the Commissioner of Police, or the chief constable, as the case may be, to decide in any particular case whether enquiries should be pursued, or whether an arrest should be made, or a prosecution brought. It must be for him to decide on the disposition of his force and the concentration of his resources on any particular crime or area. No court can or should give him direction on such a matter.”<sup>119</sup> (Emphasis added)

The office of **Deputy Chief, Operations Division** was an administrative position involving planning, budgeting, discipline, and staffing of the operational division of the Saskatoon Police Service. The investigative units of the Saskatoon Police Service were the responsibility of the Deputy Chief of Operations. He reported to the Chief of Police.<sup>120</sup>

The **Superintendent of Operations Division** was the next senior ranking administrative position in the Operations Division.<sup>121</sup> The Superintendent of Operations was in charge of both uniform and plainclothes operations.

The position of **Inspector** was a junior commissioned rank between top administration and the working force. The inspectors were assistants to the superintendents.<sup>122</sup> An

<sup>119</sup> [1968] 1 All.E.R. 763 (C.A.) at 769

<sup>120</sup> Evidence of Murray Montague, Inquiry transcript, vol. 19 (October 15, 2003): 3646

<sup>121</sup> Evidence of Murray Montague, Inquiry transcript, vol. 19 (October 15, 2003): 3647; Evidence of Frank Simpson, Inquiry transcript, vol. 19 (October 15, 2003): 3580

<sup>122</sup> Evidence of Frank Simpson, Inquiry transcript, vol. 19 (October 15, 2003): 3577; Evidence of Joe Penkala, vol. 21 (October 20, 2003): 3908



Inspector was assigned to each Platoon to oversee the operations of the Platoon.<sup>123</sup> The **Inspector in Charge of Investigative Support** had the following responsibilities:

- a. to provide immediate supervision and direction of all subordinate unit heads;
- b. to maintain up-to-date knowledge of major investigations being handled, the progress made, any problems encountered, and to advise the Superintendent of Operations Division accordingly; and
- c. to ensure all personnel under his/her supervision promptly carry out their duties and responsibilities.<sup>124</sup>

A **Duty Inspector** was assigned to oversee each shift that was on duty. It was the responsibility of the Duty Inspector to oversee major incidents, major events and to address any problems that may arise during the shift. The Duty Inspector acted as the Chief of Police when the Chief or the Deputy was not present.<sup>125</sup>

The rank of **Staff Sergeant**, a non-commissioned officer position, was the next highest rank after Inspector. Staff Sergeants were the highest ranking members within the scope of the Saskatoon City Police Association. In 1990, **Platoon Staff Sergeants** were in charge of both uniform officers and plainclothes investigators. However, plainclothes investigators also reported to **Investigative Unit Staff Sergeants** who assigned and supervised investigation files within the investigation units such as the Major Crimes Unit and the Morality Unit.<sup>126</sup> While Investigative Unit Staff Sergeants supervised the investigative files assigned to investigators within the unit, the platoon staff sergeants controlled the deployment and the performance of investigators. This confusing distribution of responsibility proved inefficient and ineffective.<sup>127</sup> Officers with the rank of Staff Sergeant also filled the position of **Reader** in 1990.<sup>128</sup> The post of Reader was occupied typically by members who were referred to as **Operational Staff Sergeants**. It was the Reader's function to review occurrence and investigation reports dictated by officers and typed by Central Records. The Reader would then direct the report to the unit or section within the Saskatoon Police Service where the file was assigned. If the report reviewed by the Reader related to a file that had not yet been assigned, then the Reader had discretion to decide which unit or section should be assigned the file. Once the Reader assigned a file to a particular investigative unit, such as Morality, the Investigative Unit Staff Sergeant would assign an Investigator and supervise the conduct and conclusion of the file. The Reader's desk was staffed 24 hours a day. There was one Reader assigned to each of the four platoons.

The rank of **Sergeant** was the next highest rank in the Saskatoon Police Service after Staff Sergeant. The **Patrol Sergeant**, sometimes referred to as the Area Sergeant, was the senior officer on patrol during a shift. Patrol sergeants were routinely called to co-ordinate the

<sup>123</sup> Evidence of Deputy Chief Wiks, Inquiry transcript, vol. 34 (January 9, 2004): 6570

<sup>124</sup> Evidence of Joe Penkala, Inquiry transcript, vol. 21 (October 20, 2003): 3906, Inquiry exhibit P-95

<sup>125</sup> Evidence of Dave Wilton, Inquiry transcript, vol. 38 (March 11, 2004): 7384-7385; Evidence of Joe Penkala, vol. 19 (October 15, 2003): 3715

<sup>126</sup> Evidence of Deputy Chief Wiks, Inquiry transcript, vol. 34 (January 9, 2004): 6595

<sup>127</sup> Evidence of Deputy Chief Wiks, Inquiry transcript, vol. 34 (January 9, 2004): 6595

<sup>128</sup> For a description of the duties and responsibilities of the Reader position in 1990, see Evidence of Raymond Pfeil, Inquiry transcript, vol. 14 (October 7, 2003): 2539-2643; and Evidence of James Drader, Inquiry transcript, vol. 16 (October 9, 2003): 3045-3048

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efforts of constables at major incidents such as crimes scenes or the discovery of a body. The Patrol Sergeant delegates various tasks to the attending constables and determines what, if any, additional assistance is needed at the scene, such as Identification personnel and investigators.<sup>129</sup> The investigative units within the Saskatoon Police Service, such as Morality and Major Crimes, were staffed mainly by **plainclothes sergeants**. These plainclothes investigators were on a four day on, four day off, 12 hour shift rotation. This led to complaints that investigation files would sit too long without any investigation.<sup>130</sup> I will have more to say about the problems associated with this shift rotation later.

The position of **Constable** was the lowest rank in the Saskatoon Police Service in 1990. It would be a mistake, however, to conclude from the status of this rank that constables in the Saskatoon Police Service in 1990 did not wield significant authority. Police constables have considerable discretionary power bestowed upon them as officers of the law.<sup>131</sup> With this power comes a corresponding duty to the public. In *Jane Doe v. Toronto (Metropolitan Commissioners of Police)*, Mr. Justice Henry wrote: “At common law, a constable has not only a general duty to prevent crimes and arrest criminals, but also a general duty to protect the life and property of the inhabitants.”<sup>132</sup>

Police constables occupy a special position in a democratic state founded on the rule of law; as patrolmen and patrolwomen, police constables are the frontline officers. They are the peace officers who have the most contact with citizens, and they are often called upon to risk their personal safety to protect the lives of those they serve. The contribution that police constables make to society cannot be overstated. In light of this important role, the office of Police Constable must only be occupied by trustworthy and honest individuals.

### 4 | The Saskatoon Police Service Officers Dispatched to Snowberry Downs

On the night that Neil Stonechild was last seen alive, Cst. Larry Hartwig and Cst. Bradley Senger of the Saskatoon Police Service were dispatched to remove Stonechild from the Snowberry Downs apartment complex. This fact was irrefutably established by police records and the officers’ own notebooks.

<sup>129</sup> Evidence of Staff Sergeant Petty, Inquiry transcript, vol. 13 (October 6, 2003): 2486-2489

<sup>130</sup> Evidence of Deputy Chief Wiks, Inquiry transcript, vol. 38 (March 11, 2004): 7392; Evidence of Frank Simpson, Inquiry transcript, vol. 19 (October 15, 2003): 3602-3605

<sup>131</sup> *The Police Act* conferred upon constables, and all members of municipal police services, the following responsibilities and powers: a.) preservation of the peace; b.) prevention of crime and offences; c.) the apprehension of criminals, offenders and others who may lawfully be taken into custody; d.) execution of all warrants; e.) performance of all duties that may be lawfully performed by constables or peace officers in relation to the escorting and conveyance of persons in lawful custody to and from courts, places of confinement, correctional facilities or camps, hospitals or other places. The Oath of Office sworn by constables joining a police service was prescribed in *The Police Act*:

**“Oath of Office and Code of Conduct**

“I, \_\_\_\_\_, do swear that I will well and truly serve Her Majesty the Queen in the office of police constable for the \_\_\_\_\_(City) of \_\_\_\_\_, with no favour or affection, malice or ill will; that I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against the person and properties of all persons, and that I will to the best of my skill and knowledge discharge all the duties of my office faithfully and according to law. So help me God.”

<sup>132</sup> (1989) 58 D.L.R. (4th) 396 (Ont.H.C.) at 421

**Police Records for November 24/25, 1990**

A record of the Ewart complaint is contained in electronically-stored Saskatoon Police Service files. The record is stored in the electronic information management system maintained by the Saskatoon Police Service since 1981; the Saskatoon Information Management System, which is commonly referred to at the Saskatoon Police Service as the **SIM System**.<sup>133</sup> The dispatch record that is contained in the SIM System is called a **Complaint Hardcopy**.

A Complaint Hardcopy is a report maintained on the SIM System that is generated out of the Communications Centre of the Saskatoon Police Service. When the Communication Centre receives a complaint, a Complaint Hardcopy is created that records such things as the time of the complaint, the location of the complaint, the complainant's name, the names of suspects, and the names of the officers dispatched to the complaint. A Complaint Hardcopy also includes the time the attending officers reported being en route, the time the attending officers reported being at the scene, and the time that the dispatched officers reported completing the dispatched call. This information is inputted into the SIM System directly by the attending officers during the dispatch through mobile data terminals. Mobile data terminals, commonly referred to as **MDTs**, were installed in patrol vehicles in the late 1980's.

MDTs have a dual function. As indicated, MDTs allow the Communication Centre of the Saskatoon Police Service and patrol officers to communicate information about dispatches. MDTs also allow patrol officers to access information such as criminal records. The MDTs in 1990 gave patrol officers full search access to the Canadian Police Information Centre database, a national records database commonly referred to as the **CPIC**. It can be searched by local police departments such as the Saskatoon Police Service. The CPIC national office has the ability to determine what queries were conducted by police officers in 1990. This is referred to as an offline search. The RCMP conducted a number of offline searches in relation to the RCMP investigation into the death of Neil Stonechild. The documentary results of some of these offline searches were made inquiry exhibits, and they established that Cst. Senger and Cst. Hartwig made a number of CPIC queries in relation to their search for Neil Stonechild.

When the information from the Ewart Complaint Hardcopy and the CPIC offline searches is collated, the following sequence of events is revealed:

**11:49 p.m., November 24, 1990**

The Communications Centre of the Saskatoon Police Service received the complaint of Trent Ewart.<sup>134</sup>

**11:51 p.m., November 24, 1990**

The Communications Centre dispatched Cst. Senger and Cst. Hartwig to Snowberry Downs. The remarks that accompanied the dispatch were "DRUNK TO BE REMOVED NEIL STONECHILD, 17 YEARS OLD". Within moments of receiving the dispatch, the officers press

<sup>133</sup> Evidence of Jack Heiser, Inquiry transcript, vol. 17 (October 10, 2003): 3137-3216

<sup>134</sup> Complaint Hardcopy, Inquiry exhibit P-67

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the “en route” button on the MDT to indicate that they are on the way to Snowberry Downs.<sup>135</sup> Both the notebooks of Cst. Senger<sup>136</sup> and Cst. Hartwig<sup>137</sup> contain reference to this dispatch.

### **11:56 p.m., November 24, 1990**

Cst. Hartwig or Cst. Senger presses the “at scene” button on the MDT which is intended to indicate that they have arrived at the scene of the disturbance.<sup>138</sup>

### **11:56 p.m., November 24, 1990**

Cst. Senger performed a CPIC query on the names “Tracy Horse” and “Tracy Lee Horse” with the date of birth of April 19, 1974.<sup>139</sup> This was the false name provided by Jason Roy. The name and date of birth is also recorded in Cst. Hartwig’s notebook.<sup>140</sup>

### **11:59 p.m., November 24, 1990**

Cst. Senger performed a CPIC query of the name “Neil Stonechild” with an age of 18.<sup>141</sup> Charles Moore, an employee of CPIC, testified that a warrant for Neil Stonechild was posted on the CPIC System by the Saskatoon Police Service on November 22, 1990 for being unlawfully at large from a community home. Cst. Senger’s CPIC query would therefore have turned up this outstanding warrant.

### **12:04 a.m., November 25, 1990**

Cst. Hartwig conducted a CPIC query of the name “Bruce Genaille” with a date of birth of April 21, 1967.<sup>142</sup> I pause to note that it should not be concluded that the time of the CPIC query was the time that Bruce Genaille was in the presence of Cst. Hartwig and Cst. Senger. I concluded earlier in the Report that this query was conducted long after Genaille was stopped by the officers. As discussed below, this is not the only example from that night of the officers performing a CPIC query of an individual long after the fact.

### **12:17 a.m., November 25, 1990**

Cst. Hartwig or Cst. Senger presses the “in service” button on their MDT indicating that they had cleared the call.<sup>143</sup> The officers also inputted the remark “GOA” into the MDT, which stands for gone on arrival. “GOA” is also recorded in the notebooks of Cst. Senger<sup>144</sup> and Cst. Hartwig.<sup>145</sup>

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<sup>135</sup> Complaint Hardcopy, Inquiry exhibit P-67

<sup>136</sup> Notebook of Cst. Senger, Inquiry exhibit P-194

<sup>137</sup> Notebook of Cst. Hartwig, Inquiry exhibit P-180

<sup>138</sup> Complaint Hardcopy, Inquiry exhibit P-67

<sup>139</sup> CPIC Offline Summary, Inquiry exhibit P-88

<sup>140</sup> Notebook of Cst. Hartwig, Inquiry exhibit P-180

<sup>141</sup> CPIC Offline Summary, Inquiry exhibit P-88

<sup>142</sup> CPIC Offline Summary, Inquiry exhibit P-88

<sup>143</sup> Complaint Hardcopy, Inquiry exhibit P-67

<sup>144</sup> Notebook of Cst. Senger, Inquiry exhibit P-194

<sup>145</sup> Notebook of Cst. Hartwig, Inquiry exhibit P-180

**12:18 a.m., November 25, 1990**

The Communications Centre of the Saskatoon Police Service dispatched Cst. Hartwig and Cst. Senger to investigate a complaint of a suspicious person no more than a couple blocks away from Snowberry Downs on O'Regan Crescent.<sup>146</sup>

**12:24 a.m., November 25, 1990**

Cst. Hartwig or Cst. Senger pressed the “at scene” button in regard to the O'Regan Crescent complaint.<sup>147</sup>

**12:27 a.m., November 25, 1990**

Cst. Senger or Cst. Hartwig presses the “in service” button in regard to the O'Regan Crescent complaint with the remark “GOA”.<sup>148</sup>

**12:30 a.m., November 25, 1990**

Cst. Senger conducted a CPIC query of the name “Trent Ewart” with the age 16.<sup>149</sup> There was no satisfactory explanation offered as to why the officers would be querying the record of the Snowberry complainant long after they cleared that call.

Thus, the SIMs and CPIC records establish that Cst. Senger and Cst. Hartwig were the officers sent to deal with Stonechild, and the records also confirm Jason Roy's evidence that he was stopped and gave a false name to the police. This documentary evidence combined with the evidence of Jason Roy lead the RCMP to investigate Cst. Hartwig and Cst. Senger as suspects.

I now turn to the testimony of the officers.

**Constable Lawrence Hartwig<sup>150</sup>**

Cst. Lawrence Hartwig joined the Saskatoon Police Service in 1987. Prior to joining the Saskatoon Police Service, he was employed as a Conservation Officer by the Province of Saskatchewan for approximately five years. Cst. Hartwig was assigned to the Patrol Division for the first ten years of his service.

In November of 1990, he was assigned to District 8 on the west side of Saskatoon. At that time he did not have a regular partner. On November 24th, 1990, Cst. Hartwig worked a night shift starting at 8:00 p.m. and concluding at 8:00 a.m. on November 25th, 1990. He next worked the day shift on November 29th, starting at 8:00 a.m. At some point during his shift of November 24th, he was joined by Cst. Bradley Senger. Because Hartwig was the senior of the two officers, and they used the car assigned to Cst. Hartwig, Hartwig was likely driving with Senger in the passenger seat. This may have changed over the course of the shift.

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<sup>146</sup> Complaint Hardcopy, Inquiry exhibit P-37

<sup>147</sup> Complaint Hardcopy, Inquiry exhibit P-37

<sup>148</sup> Complaint Hardcopy, Inquiry exhibit P-37

<sup>149</sup> CPIC Offline Summary, Inquiry exhibit P-88

<sup>150</sup> Evidence of Lawrence Hartwig, Inquiry transcript, vol. 40/41 (March 15/16, 2004): 7705-8113

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Cst. Hartwig had some independent recollections of the night shift of November 24th, 1990. He recalled attending an assault complaint which originated at Confetti's nightclub. He also recalled attending at a residence to notify a woman that her husband had killed their two young sons and himself. I understand why such event would make an impression, and be recalled by Hartwig, even 10 or more years after the fact. The first event, however, was unexceptional. Why would it stand out in Hartwig's memory? Based on his notes, dispatch records, CPIC records, and other Saskatoon Police Service Reports, Cst. Hartwig testified as to other events of that shift. However, he had no independent recollection of these events. Although Hartwig claimed to have no recollection of events of November 24th, except as noted above, he did deny that he had Neil Stonechild in his car on the night of November 24/25, 1990. He also suggested that certain things did or did not occur, based on his practices.

Cst. Hartwig identified several entries in his notebook with respect to the Stonechild dispatch on November 24th. The names Tracy Lee Horse, Bruce Genaille and Neil Stonechild are all noted. A review of his notes did not assist Hartwig in recalling the events relating to the complaint about Stonechild and responding to that call.

The names Tracy Lee Horse and Bruce Genaille both appear in Hartwig's notebook before reference to the dispatch call of 23:51 regarding Neil Stonechild. Hartwig explained this by saying that calls-in-progress are generally written down in the notebook after the call is cleared. Hartwig stated that he did not know a person named Tracy Horse or Tracy Lee Horse and that any reference to that name in his notes would have to come from somebody who gave him that name. He acknowledged that it was possible that he stopped Jason Roy that evening and was given the name of Tracy Lee Horse. At the time he did not know Jason Roy.

Dispatch records show Hartwig and Senger at the scene of the Ewart complaint at 11:56 p.m. This is the same time the CPIC query was run on Tracy Lee Horse. When asked about this, Hartwig indicated they must have pressed the 'At Scene' button when they were in the general area, not at Snowberry Downs. They were in fact on Confederation Drive, not far from 33rd Street.

Cst. Hartwig's notes make no reference to the Snowberry Downs complainant, Trent Ewart. Hartwig had no recollection of any contact with Trent Ewart. Hartwig testified that his general practice in responding to a complaint of a disturbance would be to speak to the complainant and then do a floor by floor search for the person causing the disturbance.

There was a great deal of discussion about Jason Roy's condition on November 24/25, 1990. Hartwig's testimony indirectly touched on this issue. The temperature in the late evening of November 24 and the early morning of November 25 had dipped to minus 28.1 degrees Celsius. Hartwig stated that if he stopped someone in minus 28 degree weather, who was "really drunk" he would not simply let them leave as it would be unsafe for this person to be out in the cold. Based upon his practice, he agreed that if he let Jason Roy go after stopping him on November 24th, 1990, he must have concluded Roy was not so intoxicated as to be a danger to himself.

Hartwig's attention was drawn to Bruce Genaille's testimony that the officers who stopped him on November 24th indicated that they were checking into a disturbance at the 7-Eleven store and were looking for Neil Stonechild. He acknowledged that it was possible someone may have reported a complaint of a disturbance at the 7-Eleven store notwithstanding there



was nothing in his notes or any dispatch record of such complaints. He also acknowledged that there was a possibility that there was some association between the disturbance at the 7-Eleven and Neil Stonechild. As I noted in my review of the evidence of Bruce Genaille, I am satisfied that the two constables did receive information that Neil Stonechild had caused a disturbance at the 7-Eleven store at Confederation Drive and 33rd Street, and they initiated a search for him. In the course of their search they stopped Genaille on Confederation Drive.

I found the following exchanges from his evidence revealing. The Constable was asked at page 8052 about the 7-Eleven disturbance and the conversation with Bruce Genaille:

- “Q. You’ve seen the copy of the statement taken from Bruce Genaille.
- A. I might have, yes.
- Q. You’re aware of the text or the tenor of the testimony he gave before this Commission?
- A. No, I’ve actually kept myself out of the loop in that regard.
- Q. Well, I’m going to suggest to you then that his testimony was as follows, that he was on his way from Snowberry Downs where he lived just a short distance away to a friend’s house, Sanderson, I believe, was the name of his friend, to play cards; that he got stopped as he walked along by two men in a police car, two uniformed men in a marked car.
- A. M’hm.
- Q. He was asked where he was going and he was asked who he was, and there was some doubt on the part of the police officers about his identity and they kept insisting to him or asking him, “Are you sure you’re not Neil Stonechild?”
- A. M’hm.
- Q. He testified that he showed the officers ID in the name – his own name.
- A. M’hm.
- Q. And that he’s not sure if they did an MDT – he didn’t use that term –
- A. Right.
- Q. – but they did a check on him, but after they had his ID for a while they let him go on his way.
- A. Correct.
- Q. Okay. Now, he also said in his testimony and he told the police that when he was stopped by you, presumably –
- A. M’hm.
- Q. – as it was you and Constable Senger who did the check, that he was told that you guys were checking into a disturbance at the 7-Eleven store.
- A. Correct.

## Part 4 – The Evidence

- Q. Nothing in the records about a disturbance, but, again, my question to you is, is it possible that you and Constable Senger, in fact, were aware or had received information that somebody was causing a problem at the 7-Eleven store that didn't get phoned in and that you didn't record in your notebooks?
- A. It's possible that somebody would have reported to us a third party complaint or a complaint of a disturbance at the 7-Eleven store, yes.
- Q. Or that you could have just been in the area and somebody saw you and said, you know, there's a problem with this guy, he just left here, he's going that way, any number of things.
- A. Correct, and that would be considered a non-view complaint.
- Q. Okay. But the fact that it doesn't appear in the – any of the documentation and the only thing we know about it comes from Bruce Genaille doesn't mean it's – it could have happened.
- A. It's possible, yes.
- Q. And, indeed, could have been the reason why you stopped him that night.
- A. No, I don't believe so. The timing involved would lead me to believe, as well as Mr. Genaille's alleged testimony, that we were looking for Neil Stonechild.
- Q. Okay. Is it possible that there was some association between the disturbance at the 7-Eleven and Neil Stonechild, given that 7-Eleven is right across the street and there's some suggestion he was in there at some point that evening.
- A. Yes.
- Q. Okay. So you could have gotten information about Mr. Stonechild from two sources. There could have been information from Trent Ewart – or there was information from Trent Ewart, but you could have also gotten information on the fly, and I don't mean that in a disrespectful way –
- A. M'hm.
- Q. – but from a – just being in the area of the 7-Eleven.
- A. It's possible.
- Q. And, in fact, you were in the area of the 7-Eleven because we know you checked yourself at the scene at Snowberry Downs.
- A. Correct.
- Q. Which is basically across the street from the parking lot at the 7-Eleven.
- A. It's – yeah, it's across the street and around the corner, yeah.
- Q. Yeah, depending on which parking lot of that apartment complex you go into.
- A. Correct.
- Q. You're right there.



A. Yes.”<sup>151</sup>

...

“Q. – because I know you don’t remember, but it’s quite possible that you had contact with Genaille, Bruce Genaille, before you had contact with Jason Roy or with Neil Stonechild, if you had contact with Neil that night.

A. I would have no reason to query Bruce Genaille if he produced ID. We were looking for Neil Stonechild.

Q. Yeah. Yeah. So you could have just queried him on the basis of what you got either from the 7-Eleven, if you got information from them about Neil Stonechild, and definitely we know that at 11 – I have trouble with that number – 11:51 you got information from Saskatoon Police Service that would cause you to be interested.

A. I’d think that would be very unlikely.

Q. What’s unlikely about it?

A. It’s possible that – it is possible that we would have run Genaille, Bruce later.

Q. M’hm.

A. It is extremely unlikely.

Q. But you just told me a few minutes ago that if you were satisfied with his ID and you were busy, you could easily make the decision that you didn’t need to worry about it right now.

A. But then we wouldn’t have run him at all.

Q. Well, then let’s talk about that. You ran Trent Ewart at 12:30. Why would you run him?

A. For criminal intelligence purposes only.

Q. But he was a complainant in a disturbance that had come in at 11:51.

A. Right.”<sup>152</sup>

The witness’ answers demonstrate that the timing of the Genaille CPIC query was not proof of anything other than the fact that the query was made.

I found Hartwig’s explanation that Ewart’s name was processed at that time for “criminal intelligence” purposes, curious, to say the least, in light of the fact that the Constable reported they had cleared the Neil Stonechild complaint some 13 minutes earlier. What more were they looking for?

Cst. Hartwig agreed that a warrant for the arrest of Neil Stonechild was on the system on November 24/25, 1990. As a result, he testified that if he had encountered Neil Stonechild, he would have arrested him and taken him to detention.

<sup>151</sup> Evidence of Lawrence Hartwig, Inquiry transcript, vol. 41 (March 16, 2004): 8052-8056

<sup>152</sup> Evidence of Lawrence Hartwig, Inquiry transcript, vol. 41 (March 16, 2004): 8058-8059

## Part 4 – The Evidence

The dispatch records indicate that Csts. Hartwig and Senger were dispatched to a complaint from a person at #118 O'Regan Crescent at 12:18 a.m. on November 25th, 1990. Cst. Hartwig had no recollection of this event. From 12:30 a.m., the time of the CPIC query on Trent Ewart, to 1:39 a.m., there is no record of the activity of Cst. Hartwig and Cst. Senger. There are no dispatches during this time, no entries in their notebooks, and no CPIC queries. We do not know where they were or what they were doing.

Cst. Hartwig could not say when he learned of the discovery of Stonechild's frozen body. He speculated that he became aware shortly after the body was identified as news about the discovery of a frozen youth would spread fast. Cst. Hartwig indicated that there was locker room talk going around the police station in 1990 about the death of Neil Stonechild, including the suggestion that Stonechild's shoe was found in Gary Pratt's car. However, there was no suggestion of police involvement in his death.

Cst. Hartwig had no recollection of being contacted by Sgt. Jarvis with respect to an investigation into the death of Stonechild. He did acknowledge that it was possible someone spoke to him in regard to the investigation.

Cst. Hartwig recalled speaking to Cst. Ernie Louttit in early 1991 about the Stonechild investigation. He recalled that Cst. Louttit was upset with the way the investigation had been handled. He suggested that his discussions with Louttit took place after the March 4th, 1991 article appeared in the StarPhoenix. However, he also stated that Cst. Louttit told him he had information that he was working on at that time. Cst. Louttit's evidence was that he had dropped the matter after the StarPhoenix article appeared. When questioned further about his discussion with Ernie Louttit, Cst. Hartwig was asked whether he did anything to bring these concerns to his superiors. His response was that Cst. Louttit was in the process of doing that. This would indicate that the discussion took place prior to Cst. Louttit's meetings with S/Sgt. Bolton and Sgt. Jarvis on January 7, 2001.

On March 6, 2000, Cst. Hartwig was interviewed by RCMP Investigator Sgt. Ken Lyons. In a summary of this interview, Sgt. Lyons attributed the following statements to Cst. Hartwig: "All I know is the guys arrested him in the 3300 block, 33rd Street" ... "They were going to a call of a suspicious person of a B. & E. in progress. They found Neil; he was drunk at the time." Cst. Hartwig agreed that "they" referred to Saskatoon Police Service officers. Cst. Hartwig also posed the following question in his interview with Sgt. Lyons: "Why would they have driven him around trying to find out who he was?" Cst. Hartwig testified that he told Sgt. Lyons this was information he had gleaned from the newspaper reports. There is no mention of this fact in Sgt. Lyons' summary. Later in his testimony, Cst. Hartwig stated that the newspaper article of February 22nd, 2000, together with whatever he may have heard on radio or television, formed the basis of the information he provided to Sgt. Lyons. Cst. Hartwig also testified that he read the name Tracy Lee Horse in the newspaper. When pressed in cross-examination that such information did not appear in newspaper reports, Cst. Hartwig responded that it was in media reports, maybe not newspaper reports. These details do not appear in any of the many media reports presented to the Inquiry.

Cst. Hartwig went to see Cst. Senger immediately following his taped interview with the RCMP on May 16th, 2000. At that time he believed it was possible that they had had Neil Stonechild in their custody. He claimed that was the result of Sgt. Lyons' assertion that Stonechild had used the name Bruce Genaille. On cross-examination, after reviewing the



transcript<sup>153</sup> of the RCMP interview, Cst. Hartwig acknowledged that the idea that Stonechild could have used Bruce Genaille's name to obstruct justice is something that he may have come up with on his own during that interview.

Cst. Hartwig testified that he believed that on November 24th, 1990, he would have recognized both the name Neil Stonechild and the individual. At the time of his testimony, his only independent recollection of dealing with Neil Stonechild was a street check in 1989. Police records<sup>154</sup> indicate that he also responded to a call on August 10th, 1990 in relation to an assault on Eddie Rushton. Sgt. Neil Wylie's notes indicate that Cst. Hartwig took a statement from Stonechild on that occasion. The name Neil Stonechild appears in Cst. Hartwig's notebook on August 10th, 1990. The police records also establish that Cst. Hartwig issued a traffic ticket to Neil Stonechild on October 21st, 1990. Cst. Hartwig claimed no recollection of either of these events. In his interview with Sgt. Lyons of the RCMP on May 7th, 2000, Cst. Hartwig stated that he knew the Stonechild family well, both Neil and his mother. In his subsequent interview with Sgt. Lyons on May 16th, 2000, he stated that he had previously arrested Neil and that he had dealt with his mom. He further stated Neil's mom had come to the realization that Neil needed help.

Cst. Hartwig was asked about his response to learning that Neil Stonechild had frozen to death. Of particular interest is the following testimony:

"Q. Yeah. And my question for you was very simple. Would it not have occurred to you, do you think, doesn't common sense suggest that it would have flashed in your mind that, "Gee, that's the kid that I was looking for," and even more so, since you knew his mom, that you'd even think something like, you know, "Poor Stella," you know, he's –

A. M'hm.

Q. You know, "He was in a bit of trouble but he wasn't that bad a kid, he was only a kid." Don't you – wouldn't you have had those kinds of thoughts maybe?

A. I may have, yes.

Q. Okay. More than that you might have had them, you were a young constable with three years of service at that time. Your partner, Constable. Senger was a rookie.

A. Correct.

Q. And he – the evidence before us suggest he's the one that took the call that the body had been found. Are you – can you say to me that you and he wouldn't have sort of reflected on the fact that you tried to find this kid?"

A. Not at all.

...

<sup>153</sup> Transcript of May 16, 2000 Interview of Cst. Hartwig by S/Sgt. Lyons, Inquiry exhibit P-184

<sup>154</sup> SIM System Records relating to Cst. Hartwig's contact with Stonechild, Inquiry exhibit P-184

## Part 4 – The Evidence

“Q. M’hm, and my question to you is how could you have not made the connection with that waste of such a young life in those circumstances with the call that you’d responded to on the 24th of November?”

A. I may have at the time but I do not recall.”<sup>155</sup>

Cst. Hartwig stated that he prided himself on his memory. He was the only witness to testify at the hearings that disputed the accuracy of statements attributed to him in interviews conducted some three years earlier by the RCMP. He claimed to recall what was said in those interviews with striking particularity. At one point his attention was drawn to a summary of an interview he had with Sgt. Lyons. The summary attributed to Cst. Hartwig a reference to the 3300 Block 33rd Street. He denied that he had made such reference and indicated that he had referred to the intersection of Confederation and 33rd. This intersection, as he went on to acknowledge, is at the 3300 Block 33rd Street. In other words, there was no difference in substance, but he disputed the precise words used.

Cst. Hartwig appeared to me to be a bright and articulate person. Having heard Cst. Hartwig’s testimony, having observed him on the stand, and having heard other witnesses describe him, it is inconceivable that, upon learning of Stonechild’s death, he would not have recalled the fact that he and Cst. Senger were looking for Stonechild several days earlier. His response is in stark contrast to that of Sgt. Neil Wylie, who, upon learning of Stonechild’s death recalled that Stonechild had been a potential witness to an assault several months earlier. Wylie located the records of the assault and brought the information to the investigating officer the day after the body was found. If Cst. Hartwig had nothing to hide, I would have expected no less from him.

Cst. Hartwig’s assertion that he made no connection between the search for Stonechild and the discovery of his body days later, is also irreconcilable with Sgt. Jarvis’s testimony that he contacted Cst. Hartwig and Cst. Senger about their possible involvement with Stonechild on November 24th. Cst. Hartwig acknowledged the possibility that Sgt. Jarvis had contacted him yet maintained he made no connection.

Cst. Hartwig’s silence as to his search for Stonechild on November 24th is even more incredible in light of the fact that he discussed the death with Cst. Loutitt in early January 1991. He was aware that Cst. Loutitt had concerns about the circumstances surrounding Neil Stonechild’s death, but did not disclose his search for Stonechild at a time close to his disappearance and death.

I cannot accept that Cst. Hartwig simply forgot about the search for Stonechild when he learned of the death, or that he failed to recognize the complaint might have some significance to the investigation into Stonechild’s death. In all of the circumstances, his assertion that he did not recall what happened is simply not credible. I conclude that he recalled what happened, and his assertions are a deliberate deception designed to conceal his involvement.

### **Constable Bradley Senger**<sup>156</sup>

Constable Bradley Senger joined the Saskatoon Police Service on January 2nd, 1990. Prior to that he had trained and worked as a psychiatric nurse. Cst. Senger completed his

<sup>155</sup> Evidence of Cst. Hartwig, Inquiry transcript, vol. 41 (March 16, 2004): 8073-8075

<sup>156</sup> Evidence of Cst. Bradley Senger, Inquiry transcript, vol. 43 (March 18, 2004): 8345-8501



training at the police college in April of 1990. That was followed by a two week in-service after which he was assigned to Patrol.

On November 24, 1990, Cst. Senger was still a probationary officer. He did not have a regular partner. At some point during the evening shift of November 24th, he was partnered with Cst. Larry Hartwig. On that shift, the two of them were dispatched to a complaint involving Neil Stonechild at Snowberry Downs.

Cst. Senger recorded the Ewart complaint involving Stonechild in his notebook. No other names are recorded. Cst. Senger testified that he had no recollection of the events of November 24/25, 1990, other than his involvement in notifying a woman of the death of her husband and two sons, which took place in the early hours of November 25, 1990. He denied transporting Neil Stonechild to the north industrial area. He also denied that he had any knowledge as to who did take Stonechild there.

Cst. Senger was working the day shift on November 29th, 1990, and Saskatoon Police Service Records indicate that he received the call advising that a body, which turned out to be the body of Neil Stonechild, had been found. Cst. Senger was not assigned to Communications Centre at that time, but believed that he was filling in for dispatch personnel's coffee breaks or lunch breaks at the time.

Like Cst. Hartwig, Cst. Senger attempted to draw some inferences as to what occurred from the CPIC records. He testified in examination-in-chief that a date of birth accompanying a name in a CPIC query would indicate the person was present when the CPIC query was conducted. The absence of a date of birth would indicate the person was not present. However, on cross-examination, he acknowledged that was not always the case and the presence or absence of a date of birth was not a reliable confirmation of whether or not the person was in the officer's presence when the CPIC query was conducted.

Cst. Senger had no recollection of being contacted by Sgt. Jarvis with respect to the death of Neil Stonechild. He acknowledged that as something that would likely stand out in his mind as a young police officer, but maintained that he could not recall any such contact.

I was struck by Senger's numerous responses that he had no recollection. He had no recollection of looking for Stonechild, no recollection of receiving the call reporting the finding of the body, no recollection of being contacted by Sgt. Jarvis, and no recollection of any press reports of the death in 1990 and 1991. It is not surprising that Senger, or any other officer, would not recall the details of a routine call ten or more years after the event. It is, however, difficult to accept that he would not have recalled the search for Stonechild when within a matter of days—on his next working shift—Stonechild's body was located. It is also difficult to accept that he did not recognize the potential significance of their earlier search for Stonechild to the investigation into the death of Stonechild. The discovery of Stonechild's frozen body made the call on November 24th anything but routine. I would expect it to impress the search for Stonechild in the memory of both Hartwig and Senger.

Cst. Senger was cross-examined by Mr. Halyk as to whether he made any connection between the fact that they searched for Neil Stonechild on November 24/25, 1990, and the location of Stonechild's frozen body on November 29th. The following exchange took place:

“Q. Okay, so – so it's impossible to believe that you would not remember the name Stonechild come November 29th a few days later.

## Part 4 – The Evidence

- A. Why?
- Q. Would you have forgotten that after spending that time searching for a Stonechild, and a few days later you wouldn't remember the name?
- A. I have in my notes that I didn't have contact with him so it's just a call.
- Q. But you know you're looking for a fellow by the name of Stonechild?
- A. That's correct.
- Q. Right.
- A. Right.
- Q. And I'm saying to you isn't it reasonable to assume that a few days later you would still remember that you were looking for Stonechild?
- A. That I was still looking for him five days later?
- Q. Yeah, that you had looked for him a few days earlier.
- A. Sure, it could have been possible I might have remembered it on the 29th."<sup>157</sup>  
...
- "Q. Yeah, and so when you take a call about a death in the north end and you're going to say to us that you wouldn't have the curiosity as a police officer to say, by the way, who was found in the north end and what happened there?
- A. I may have.
- Q. Yeah, you may well have.
- A. Yeah.
- Q. And I'm suggesting to you, you may well have and you would have been told that they had identified this as Neil Stonechild. Would you expect so?
- A. That may well have been, yes.
- Q. And in fact you would expect that on parade, that after they had identified this person being found there deceased that they would have said in parade for information purposes to you as members of the police force, that the person who was found there was Stonechild and we're looking into the circumstances. Anybody who knows anything, let us know.
- A. I don't know if they would have done that.
- Q. But you're a police department. Isn't that the kind of information you'd want shared amongst the police force?
- A. O, yeah, it should be information that should be shared amongst the police force, yes."
- ...

<sup>157</sup> Evidence of Cst. Bradley Senger, Inquiry transcript, vol. 43 (March 18, 2004): 8485-8486



“Q. Surely at some point in time you would have heard, as a police officer, as a police officer, that this was Neil Stonechild, and surely you would have, Officer, or should have connected that in your mind and said, by gosh, that’s the young fellow we were out looking for. Gosh, if we would have found him we might have spared his life. I wonder what happened. Wouldn’t you think that train of thought would go through your head?”

A. Sure, it could have, yeah.

Q. But you don’t remember it happening?

A. No.”<sup>158</sup>

I share the skepticism expressed by Mr. Halyk that on November 30th Senger would not connect the name of the dead youth with the person he and Hartwig were told about twice on the late evening of November 24, 1990.

Cst. Senger struck me as an intelligent and articulate person. I do not believe an intelligent young officer, even one on probation, would have ignored all the information that was swirling about the Saskatoon Police Service as a result of the discovery of Stonechild’s frozen body. He and Hartwig were searching for Stonechild when he was last observed at Snowberry Downs.

The two constables insist that they know nothing about the disappearance and death. If that is true, why would they not have contacted the investigating officer when they returned to work on November 29th, the very day the body was discovered? I would fully expect them to have gone to the investigating officer to give him a full report about what they knew, including the 7-Eleven disturbance as well as the Snowberry Downs disturbance.

Why would Senger keep quiet? I can only conclude that he chose to conceal his involvement with Stonechild on November 24/25.

There is one other matter that emerged in the testimony of Senger that bears comment. In an interview with Sgt. Lerat of the RCMP, on December 12, 2001, Senger admitted that he falsified a breathalyzer reading. He was the technician responsible for administering a breathalyzer test. Senger lowered the reading on the second test in order to avoid the necessity of administering a third test. The person was subsequently charged and Senger did not know the disposition of the charge. If he was required to testify in court, he stated he would have asked that the Certificate of Analysis be withdrawn.

Cst. Senger voluntarily confessed to this serious breach of duty. That does not lessen its significance. It casts a large shadow on his integrity and establishes that he is capable of sacrificing duty to indolence. I have no doubt officers are frequently tempted to take short cuts and to “bend” the rules in the performance of their duty. It is a temptation that must be resisted, and is resisted by the great majority of officers.

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<sup>158</sup> Evidence of Cst. Bradley Senger, Inquiry transcript, vol. 43 (March 18, 2004): 8488-8489