

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

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**SUBMISSIONS ON BEHALF OF STELLA BIGNELL AND THE FAMILY  
OF NEIL STONECHILD**

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## **SUBMISSIONS ON BEHALF OF STELLA BIGNELL AND THE FAMILY OF NEIL STONECHILD**

### **I. INTRODUCTION**

We provide these submissions to assist this Honorable Commission of Inquiry to fulfill the Terms of Reference, which are as follows:

- a) inquire into any and all aspects of the circumstances that resulted in the death of Neil Stonechild and the conduct of the investigation into the death of Neil Stonechild for the purpose of making findings and recommendations with respect to the administration of criminal justice in the Province of Saskatchewan.

References to transcripts of testimony will cite the name of the witness, the volume number of the transcript followed by the page number of the transcript.

We submit it is beyond argument that it is certainly more difficult to discern what a dead body might be saying as opposed to that of a live body. Certainly this Commission may have had an easier time in assessing the crucial circumstances in the case of Darrell Night where the evidence of the victim was quite straight forward. Notwithstanding, over the course of 43 days this Commission heard from 63 witnesses in furtherance of the above noted terms of reference and a picture of the circumstances that resulted in the death of Neil Stonechild and the conduct of the investigation, such as it was, into his death has emerged. It is our respectful submission that what follows is that picture.

Neil Stonechild was a 17 year old boy at the time of his death on or about November 25, 1990. From all accounts he was bright young man, amicable, a skilled artist, a skilled wrestler, and well liked and respected by his peers and professional persons with whom

he had contact. At the time of his death he had no more than a .15 blood alcohol content and had no other drugs in his body. There was no explicable/credible reason for him to be in the remote field where he came to meet his end.

We respectfully submit that, as part of it's mandate, this Commission should have no fear in identifying what happens in the "back yard" of Saskatoon. We respectfully invite the Commissioner to take judicial notice of the fact that police forces across this country, and including Saskatoon, always contain within them certain personnel who abuse their authority, and such authority is quite substantial. We would submit that a police force is nothing more or less than a para-military force and as such it has certain inherent characteristics, not the least of which is a code of loyalty amongst and between the fellow police officers, which in the case of a civilian police force is often referred to as the "blue veil" and which has the practical effect of a code of silence in so far as officers giving evidence against a colleague. We would further submit that the Commissioner ought to take judicial notice of the fact that the justice system in Canada, specifically the administration of criminal justice in the Province of Saskatchewan, including, obviously, the police force, has been found by various judicial inquiries conducted over the last several years indeed, recently confirmed by various courts including the Supreme Court of Canada, to be rife with a discrimination against dis-empowered people in a manner which is systemic and prevalent within the system. It has been identified that First Nations peoples are the primary group, dis-empowered and marginalized by historical circumstances, which bear the brunt of this systemic prejudice, discrimination and hatred.

We respectfully submit that there is abundant evidence upon which the Commissioner can conclude the following:

- that the Saskatchewan Police Service 1990 investigation of the death of Neil

Stonechild was woefully inadequate, substandard and unprofessional;

- that the Saskatoon Police Service has taken active measures, including deliberate deception and misinformation, since 1991 to 2004 to conceal the nature of the investigation into the death of Neil Stonechild;
- that hatred, prejudice and discrimination were foundational to both the substandard investigation and the subsequent concealment.

With respect, we further submit that there is sufficient evidence upon which the Commissioner can conclude the following:

- that members of the Saskatoon Police Service were involved in the death of Neil Stonechild; and
- that members of the Saskatoon Police Service conspired to conceal such police involvement in Neil Stonechild's death.

Prior to engaging a more detailed analysis of the evidence presented, we would submit it is worth bearing in mind the testimony given at the Inquiry by Saskatoon Police Service personnel regarding “drop offs”, a practice of police authorities taking people into custody, transporting and dropping them off at a location other than an approved custodial centre, as follows:

- all Saskatoon Police Service members are aware of the Darrell Night situation;
- in the past and around 1989 specifically, Saskatoon Police Service officers would have occasion to arrest and transport some persons to locations against their will whether it was to their home, a mall or a few blocks away;

- such transport practice was not in policy;  
Mackie 11/2071
- such transport incidences are today a “continuing practice”;  
Mackie 11/2072
- a Saskatoon Police Officer was disciplined in 1976 for dropping 3 people, including a pregnant woman, outside the city limits and leaving them to walk back to the city;  
Exhibit P-126
- 35 years ago Officer Bolton took a person out 11<sup>th</sup> Street and dropped him off and was disciplined for such action;  
Bolton 17/3294
- the discipline for the particular drop off carried out by Officer Bolton was well known in the police department at that time and the reason for such discipline was well known;  
Bolton 17/3299
- Officer Morton has never ever heard of drop offs;  
Morton 13/2452
- former officer and Chief of Police Dave Scott was aware of two previous incidences of drop offs, but was only made aware of such after February 7, 2000 subsequent to his order to have Saskatoon Police Service records searched for such information;  
Scott 28/5470
- former Officer Jim Maddin testified that, regarding the Officer King discipline for the 1976 drop off outside the city, he was certain that King was not fired.

Mr. Maddin does not recall that there is or was any standing, routine or other order or directive to the general police force that in this type of practice was forbidden and would be sanctioned;

Maddin 30/5654-55

- Deputy Chief Wiks is aware of the 1976 drop off only and the fact that some discipline was meted out.

Wiks 36/6807

Thus we would submit that, aside from the Darrell Night case, the Commission heard evidence suggesting that Saskatoon Police Service engages in drop offs, some of which are benign, including removing individuals from a domestic conflict situation to another location, and some of which as noted above have merited discipline. The more benign ones are admitted to continue to this day, though we submit all such evidence represents merely the tip of one of the many icebergs that appeared during the course of this Public Inquiry and is indicative, in our submission, of a propensity of the Saskatoon Police Service to engage in the practice identified as “drop offs”. We would submit as well that the Commissioner should be troubled that so many Saskatoon police officers who gave evidence at the inquiry testified to be unaware of any drop offs or such like activity when some of the incidences that have been identified during testimony appear to have been well publicized and common knowledge within the police community.

Our examination of the evidence is presented here in six further parts, namely:

- II. Events of November 24, 1990 to November 29, 1990;
- III. The Saskatoon Police Service investigation of the scene of death, November 29, 1990;

- IV. The Saskatoon Police Service investigation of the death November 29, 1990 to December 5, 1990;
- V. Events surrounding the investigation into the death of Neil Stonechild;
- VI. Events from 1998 through August, 2004;
- VII. Argument.

## **II. EVENTS OF NOVEMBER 24, 1990 TO NOVEMBER 29, 1990**

It is respectfully submitted that there is little controversy regarding the following evidence given at the inquiry:

- Neil Stonechild and Jason Roy were out on the town on the evening of November 24, 1990, had been consuming alcohol, made their way to the area of the 3300 block of 33<sup>rd</sup> Street in the immediate vicinity of the Snowberry Downs apartment complex, made a nuisance of themselves by looking for persons at Snowberry Downs, and at some later point in the evening, became separated;
- Saskatoon Police Service Officers Hartwig and Senger were dispatched to Snowberry Downs in response to a complaint regarding Neil Stonechild, spent approximately 20 minutes, which can be confirmed, at Snowberry Downs, left the scene with the official dispatch to Communications of GOA, and CPIC'd in the following order the names of "Tracy Horse" at 2356 hours, "Tracy Lee Horse" at 2356 hours, "Neil Stonechild" at 2359 hours, "Bruce Genaille" at 0004 hours and "Trent Ewert" at 0030 hours.

Tracy Horse is the alias Jason Roy testified he provided when questioned by two uniformed Saskatoon Police Service officers, subsequently identified as Hartwig and

Senger, some time close to midnight on November 24, 1990.

Constables Hartwig and Senger were in the area of Snowberry Downs much of the time between 2356 hours on November 24, 1990 and 0500 hours November 25, 1990. As well, the evidence given at the inquiry would indicate that there were several other Saskatoon Police Service officers in that general area on that same evening. A Saskatoon Police Service officer gave evidence that such officers could communicate with each other using a simplex radio, essentially a walkie-talkie, and therefore avoid going through dispatch if they were in a five block radius of each other. We respectfully submit that members of Saskatoon Police Service had ample opportunity to apprehend Neil Stonechild and “relocate” him.

Exhibit P-181

Mackle 11/2077

Jason Roy testified that he saw Neil in the back of a Saskatoon Police Service cruiser at some point around midnight of November 24, 1990 and that he passed this information on to various people, as follows:

- Sergeant Jarvis in 1990;
- a plainclothes Saskatoon Police Service officer in 1990/91;
- Lucille Neetz, some years after Stonechild's death;
- Gary Horse, sometime between 1992 and 1994;
- Cheryl Antoine, sometime during the evening of November 24, 1990 and November 25, 1990;
- Julie Binning on the evening of November 24, 1990 and November 25, 1990;
- Flora Binning, sometime after Neil Stonechild's death;

- Marcel Stonechild, within a few days of Neil Stonechild's disappearance;
- Brenda Valiaho, sometime in 1991;
- Father Andre Poilievre, sometime in 1996;
- Stella Bignell, sometime within a year of the death of Neil Stonechild.

While it is conceded that Jason Roys' testimony developed some peripheral problems during the prolonged and excruciating cross-examination at this Inquiry, it is submitted that a close examination of his testimony and that of both Dr. Yuille and Dr. Richardson reveal that the core of Jason Roys' evidence, that he saw Neil Stonechild in the back of a Saskatoon Police Service cruiser on the evening in question, remains intact. As well, it is submitted that a rhetorical question arises as to why Jason Roy would tell all the people that he did tell, immediately after the incident and over the course of the succeeding years, if he did not in fact witness such a situation. This perhaps also raises the question as to why Jason Roy did not persist in telling his story to Saskatoon Police Services they took some action. We would submit that many plausible answers exist as to this question, none of which cast any doubt on the credibility of Mr. Roy, as others may suggest, the most obvious of which are fear and a sense of futility.

### **III. The Saskatoon Police Service investigation of the scene of death, November 29, 1990**

Neil Stonechild's body was discovered by employees of Nordic Industries in the north end of Saskatoon and Constable Lagimodiere was dispatched at 1254 hours and arrived at the scene at 1258 hours. Constable Lagimodiere, an officer with 16 years experience at the time, noted that the scene had been somewhat contaminated with tracks

from the Nordic Industries employees but believed he found the footsteps of Neil Stonechild and that such were in a straight line.

Lagimodiere 9/1859

Constable Lagimodiere did not look for blood north of the body where he had cause to believe Neil Stonechild had likely fallen at one point in time and then returned south to where he eventually succumbed.

Lagimodiere 9/1856

The Constable called the Canine Unit who conducted a 15 minute search for the missing shoe, but did not himself engage in further search nor assign any other officers to search for the shoe even though he could have requested such.

Lagimodiere 11/1932 and 1941 respectively

The body was positively identified at 1930 hours. Interestingly, Constable Woodly CPIC'd Neil Stonechild's name at 1934 hours.

Woodley 19/3551

Noted at the scene were scrapes on the nose and a cut on the lower lip of Neil Stonechild.

Exhibit P-61, p.2 of the Investigation Report

At this point, we would invite the Commissioner to scrutinize photographs 9 and 10 of Exhibit P-188, being enhanced photographs of the scene of death, and photographs 39 and 41 of Exhibit P-28 being the autopsy photographs. We would submit that the photographs in Exhibit P-188 show two "injuries" across the nose of Neil Stonechild and yet there exists no other similar markings on the face. Such injuries will undoubtedly be characterized by some so as to minimize their significance.

We would submit that the autopsy photographs show very distinct marks across the nose which are remarkable for several reasons. Firstly, even based on the evidence of Dr. Lew, such markings would indicate that those two lines across the nose, which have reputedly darkened post-mortem, are on skin that is much more sensitive than the skin on the remainder of the face and on most other areas of the body with the notable exceptions of the lips, scrotum and eyeballs. Such would suggest that the nose was subjected to a trauma unlike any other part of the face. Of further note, and in our respectful submission, is the fact that such scrapes extend around both sides of the curvature of the nose which we would submit would make it virtually impossible that such was caused by grass or snow, particularly in light of the seemingly exact parallel nature of such marks. Further, it is our submission that if snow or grass were the most likely causes of the scrapes across the nose, one would expect to find similar markings on the forehead, chin and cheekbones, all of which are planes of the face that would have the same perpendicular impact on snow or grass as the nose. We would submit, from a common sense point of view, that the markings on the nose were more likely caused by a human manufactured object than anything mother nature would have to offer at the place where Neil Stonechild died.

The file was subsequently assigned to then Sergeant Jarvis of the Morality Division of Saskatoon Police Services.

#### **IV. The Saskatoon Police Service investigation of the death November 29, 1990 to December 5, 1990**

Without belaboring un-controverted evidence, we submit the following can be determined from Exhibit P-61:

- Jarvis worked on the Neil Stonechild file November 29<sup>th</sup> and 30<sup>th</sup>, took 4 days

- off, resumed work on the file December 5<sup>th</sup> and concluded it that same day;
- Sergeant Jarvis had numerous witnesses to interview but failed to contact several of them;
  - Sergeant Jarvis closed the file prior to receipt of the autopsy report or the toxicology report;
  - Sergeant Jarvis concluded the file after determining that foul play could not be ruled out, more investigation was required and Major Crimes should further investigate the file;
  - Sergeant Jarvis took at least one written statement from Jason Roy;
  - Sergeant Jarvis closed the file apparently after determining that Neil Stonechild likely was just too drunk to find his way home and fell down and froze to death.

All indications are, from the testimony of Jarvis, that he was an excellent, well trained professional, knowledgeable in common policing procedure who exhibited exemplary traits and had much acknowledgment from his superiors throughout his career. Sergeant Jarvis had been involved in many investigations of assaults where typically one would find abrasions on the hand; he did not examine the body for such abrasions despite the information provided to him that Neil Stonechild may have been involved in a physical altercation with various persons.

Jarvis 25/4760-61

Sergeant Jarvis had been involved in several “intense” investigations.

Jarvis 26/4870

Jarvis acknowledged that in the investigation of a sudden death, investigators should look at the evidence to see if there's any indication of foul play, ie. to determine if the death was a homicide, and that investigators should look at **all** of the evidence, including information supplied by witnesses regarding determining if the death was suspicious or not.

Jarvis 26/5003-04

Jarvis admitted that leaving somebody in a field to die would amount to foul play.

Jarvis 26/4880

Sergeant Jarvis did not at all look at the pictures of the death scene.

Jarvis 26/5007-08

Sergeant Jarvis did not talk to the Canine Unit, did not attend at the scene or send anyone out to examine the scene, spoke only with Sergeant Morton as far as canvassing other officers who were at the scene of the death, did not look at the video footage of the scene of the death, had and has no idea how much Neil Stonechild drank the evening of November 24, 1990, never looked at the toxicology report either before or after concluding the file and did not look at the body in the morgue even though he was standing right beside it.

Jarvis 26/5010

Jarvis 26/5016

Jarvis 26/5029

Jarvis 26/5058

Jarvis 26/5069

Jarvis 27/5173

Jarvis testified that if anything pertinent existed at the scene that Sergeant Morton would likely tell him, but he had no idea what training or experience Sergeant Morton had

in investigating sudden deaths.

Jarvis 26/5030

Sergeant Jarvis has been involved in past investigations of suspicious deaths where no obvious signs of trauma existed.

Jarvis 26/5038

Jarvis admitted that Neil Stonechild did a number of things that evening which would indicate that he was not that intoxicated, including going from address to address looking for certain people.

Jarvis 26/5060

Jarvis admitted that, given the information as to how Neil was conducting himself at Snowberry Downs, that he didn't sound like someone who couldn't handle himself with a blood alcohol level of .15.

Jarvis 26/5080

Jarvis admitted it is very unlikely that a person with a blood alcohol level of .15 would just wander off in the cold and die.

Jarvis 26/5082-83

Jarvis admits that if he had known, in November/December of 1990, Neil Stonechild's blood alcohol level was only .15, he probably would have done more work on the file.

Jarvis 26/5083

Jarvis admitted that if he had looked at the body and in particular at the wrists and nose, he might well have moved off the conclusion that Neil Stonechild just got drunk and wandered off and froze to death.

Jarvis 27/5174

Jarvis admits that he did not check at the 7-11 store close to Snowberry Downs because he didn't think of it at the time.

Jarvis 25/4780

Jarvis cannot now say with any absolute certainty that Jason Roy did not tell him that Neil Stonechild was in the back of a Saskatoon Police Service cruiser on the night of November 24, 1990.

Jarvis 27/5189-90

Jarvis admits that prior to taking the statement from Jason Roy he engaged Roy in general conversation.

Jarvis 25/4771

Jarvis wrote in his report that Dr. Adolf advised him there was no signs of trauma to the deceased, when actually Dr. Adolf testified he had said there was no trauma consistent with causing death.

Jarvis 25/4838

Jarvis claims to have an independent recall whether in making a request of Constables Hartwig and Senger to provide a report regarding their contact with Neil Stonechild on November 24, 1990 such was verbal or in writing, ie. jet set, but was adamant such request was made. Indeed, it is verified in his notes that the trail ended with Harwig and Senger.

Jarvis 26/4945-46

Despite the testimony and written evidence of Jarvis, Constable Hartwig has no recall of any conversation or other contact with Jarvis about the dispatch to Snowberry Downs on November 24, 1990.

Hartwig 40/7782

Likewise, Constable Senger has no recall of any contact with Jarvis regarding Neil Stonechild.

Senger 43/8372

It was the responsibility of the Identification Officer to collect clothing and send to the Regina Crime Lab if there was a need to check for blood.

Morton 13/2363

More than one officer testified that finding dead persons, especially youths, in the middle of a field without any reason for their being in such a remote location of the city was a rare occurrence.

Morton 13/2405

Penkala 20/3874-74

Winslow 17/3318

Several officers and former officers testified that the investigation in Neil Stonechild's death was not complete.

Scott 28/5490

Penkala 20/3887

Madden 30/5667

Tarasoff 18/3477

Wiks 36/6792

Former Chief Penkala was firm in his belief that the shifting system in place in 1990 at Saskatoon Police Service was neither the problem nor an explanation for the poor investigation into the Neil Stonechild death.

Penkala 19/3777-78

Former Chief Penkala testified the Neil Stonechild file should have been read by the next up in the chain of command from Jarvis and assigned to Major Crimes, and further that if the handling of the Stonechild file was a result of negligence, it was negligence on the part of a "lot of people".

Penkala 20/3869 and 3882 respectively

Former Chief Penkala found the closing of such an incomplete file to be inexplicable given the checks and balances that were in place at the time.

Penkala 20/3888

Former Chief Penkala felt it should have been Jarvis' obligation, after returning from 4 days off, ask someone why nothing thorough or at all was done on the file and why it was not reassigned.

Penkala 20/3895-96

Sergeant Bolton testified that the Staff Sergeant in Morality should have looked at the file to determine if it should go to Major Crimes as per Jarvis' recommendation, and such Staff Sergeant should have gotten together with the Inspector in Plain Clothes Division and the Staff Sergeant in Major Crimes to see if the file should be reassigned to Major Crimes. There is no evidence such was done.

Bolton 17/3230 and 3248

The Staff Sergeant in Morality in 1990 who had some contact with the file, Bud Johnson, stated that it would be his practice, if the investigator said "possible foul play,

Major Crimes should take this file”, to discuss the matter with Major Crimes and the investigator but he cannot recall what happened in November of 1990.

Johnson 17/3372

Johnson does not recall approving the closure of the file and states it would be his practice, if a file was to be concluded, to review it to see if the file was handled to his satisfaction.

Johnson 17/3372 and 3374

Johnson further testified, given that the Coroner had stated Neil Stonechild could have been dead since November 25, 1990, coupled with the information that Saskatoon Police Service had contact with Neil Stonechild late in the evening of November 24<sup>th</sup> and there is no response from Constable Hartwig to Jarvis’ alleged request for further information, the practice would be to follow up on this in order to retrieve satisfactory information.

Johnson 17/3379-80

In Sergeant Johnsons’ opinion, Jarvis was a very conscientious and experienced investigator.

Johnson 17/3385

Former Officer Maddin testified that he knows and respects Jarvis and worked a lot with him in the “old days” and cannot explain his action or inaction on the Neil Stonechild file.

Maddin 30/5667

After obtaining information on the street about the death of Neil Stonechild, including concerns registered with him by the Stonechild family, particularly Stella Bignell, Constable Loutit photocopied the entire file as it existed on or about December 5<sup>th</sup> or 6<sup>th</sup> of 1990 and

expressed his concerns to Saskatoon Police Service Major Crimes. Officer Loutit testified he felt the concerns he registered were dismissed and was given the impression by Major Crimes that he was meddling.

Loutit 15/2827 and 2837 respectively

Constable Loutit felt the information on the file “screamed” for further attention.

Loutit 15/2838

Constable Loutit met with Major Crimes’ Staff Sergeant Bolton on January 7, 1991 and was directed to Jarvis.

Loutit 15/2844

In his meeting with Jarvis on January 7, 1991, Constable Loutit found Jarvis to be argumentative, dismissive, and advised Loutit that “the matter was in hand, leave it alone”.

Loutit 15/2844-45

After his meeting with Jarvis, Constable Loutit did nothing further because he anticipated that repercussions, likely negative in our submission, would occur, and he would not be doing people on the street any good if he were reassigned to become a desk jockey. He noted that Jarvis did tell him that “if you keep giving me information you’ll have to deal with your Staff Sergeant”, which he took to be discouragement from any further involvement.

Loutit 15/2850-51

Constable Loutit testified it was not uncommon in 1990 for a homicide to be a result of ongoing family/factional turf conflict though he was not aware of any homicides related to such conflict where a victim was dropped out of town in order to let them freeze to death.

As a general rule the weapons of choice in such matters were sharp edge or blunt force weapons and any resulting trauma would be quite obvious.

Loutit 15/2900 and 2939 respectively

Both Constables Loutit and Tarasoff found Jarvis to be arrogant, and possessing a superior colonial attitude.

Loutit 16/2961

Tarasoff 18/3481

Former Officer Wilton did not recall being told by anyone of the discovery of Neil Stonechild's body, despite him being the Duty Officer on that shift, November 29, 1990.

Wilton 40/7679

Constable Senger inexplicably suggests he made no connection to the name Neil Stonechild when he took the call in Communications regarding the discovery of the body only days after November 24, 1990.

Senger 43/8489-90

## **V. Events surrounding the investigation into the death of Neil Stonechild**

Despite his scant investigation into Neil Stonechild's death, and his apparent complete lack of recollection of the name of Neil Stonechild upon first contact with the RCMP in 2000, Jarvis remembered to direct Sergeant Morton in 1993 to dispose of Neil Stonechild's clothing. This occurred just prior to Jarvis' retirement from Saskatoon Police Service. We would submit there is no evidence that such an act was urgently required.

Exhibit P-59

Morton 13/2429, 2434 and 2435 respectively

Despite what former Chief Penkala stated was a standing order that he should be

informed of any death that occurred in the City of Saskatoon, he remained firm he was not told about Neil Stonechild's death and this was not just a "can't recall" situation.

Penkala 19/3758

Former Chief Penkala stated someone at the morning Executive Meetings in November/December of 1990 **must have** known of Neil Stonechild's death.

Penkala 20/3773-74

If the Chief was not available at the morning Executive Meetings, the Deputy Chief would preside or, if the Deputy Chief wasn't available someone next in line down the chain of command would preside over the meeting.

Penkala 20/3775-76

Former Chief Penkala has difficulty believing the reason Neil Stonechild's death did not come to his attention or arise at all in the morning Executive Meetings was due to a mistake or "just an honest mistake", though it very well could have been negligence.

Penkala 20/3776-77

After now reading the Star-Phoenix article of March 1991, though he claims not to have read it at the time, the issue of the quality of the Neil Stonechild investigation should have been raised by the Media Relations Officer with someone up the chain of command.

Penkala 20/3781

Former Chief Penkala was on duty and around November 29, 1990 to December 10, 1990, as was confirmed by his day planner, and was around in March of 1991 when the Star-Phoenix article was published and which he claims not to have read at the time.

Penkala 21/3943-44

Former Chief Penkala stated it would have been quite proper in 1990 for the Media Relations Officer to direct the media directly to an investigator in some circumstances,

especially in a major crime.

Penkala 19/3719

Former Deputy Chief Montague stated that matters of public concern would be raised at the morning Executive Meetings and this would include sudden deaths if units thought it was warranted to bring such matters to the attention of the administration.

Montague 19/3649

In 1990, all allegations of a poor investigation into a matter, as well as any allegations of police involvement in a death, would have been referred to the Saskatchewan Police Commission for investigation.

Montague 19/3652-53

A superintendent or an inspector would brief the media relations officer on any matters which he was to convey to the media.

Montague 19/3702

Though he can't recall, former Deputy Chief Montague would "think" that Neil Stonechilids' situation would have come up at the morning meetings in 1990.

Montague 19/3705

Word of a significant incident, like Neil Stonechilids' death, given the peculiar circumstances, would get around the department fairly quickly.

Woodley 19/3553

Former Officer Maddin heard rumors in 1990-91 of the circumstances surrounding Neil Stonechilids' death although he cannot recall specifics. He heard rumors regarding a connect between Neil Stonechilids' death and two Saskatoon Police Service officers, specifically Constables Hartwig and Senger.

Maddin 29/5508-09

Former Officer Maddin formed the opinion at the time of hearing such rumors that such information was well known to a number of people at Saskatoon Police Service.

Maddin 29/5510

Former Officer Maddin stated there were groups in Saskatoon Police Service that were successful in keeping information contained, that is to say suppressed or withheld from people who should have known such information.

Maddin 29/5513 and 5517 respectively

The situations where information might be closely held by a group of officers would include those where mistrust, animosity and competitiveness would be the prevailing forces. Maddin did not feel that this was unique to Saskatoon Police Service but was likely common in all police forces and it certainly would be the case that if police officers were involved in a crime, information **could and would** be closely held and contained.

Maddin 29/5624-25

Former Officer Maddin stated it's almost incredible to suggest or accept that no one in Saskatoon Police Service higher up than Jarvis knew about the circumstances of Neil Stonechilids' death.

Maddin 30/5664

Maddin eventually narrowed down the time that he would have heard the rumors to between the end of 1990 and 1993 or 1994, as he was quite sure that he didn't hear them in the latter years of his career which ended in 1997.

Maddin 30/5613

Maddins' view is, the reality of the situation is some people are intimidated by the prospect of complaining to the police, being mindful of possible repercussions and also the limited utility of prompting the police to investigate the police.

Maddin 30/5686

Constable Hartwig does recall the early 1991 media reports on Neil Stonechild's death.

Hartwig 40/7783-84

In 1990-91 Constable Hartwig heard the theory that Gary Pratt was perhaps involved in the death of Neil Stonechild, and thinks such information would have come through the media or discussions with other Saskatoon Police Service officers.

Hartwig 40/7786-87

Former Media Relations Officer Scott says he obviously had to have spoken with someone in Saskatoon Police Service about the Stonechild investigation and got the information that he used for media distribution; he does not recall reviewing the file himself.

Scott 28/5480

Scott says that he got a copy of all previous days occurrence reports before his morning meetings with the media.

Scott 28/5498

Jarvis does not recall Media Relations Officer Scott coming to him with any questions regarding the Neil Stonechild file.

Jarvis 27/5288

## **VI. Events from 1998 through August, 2004**

Jarvis agrees neither he nor the RCMP had his notes or Exhibit P-61 for the interviews between March and June of 2000, and he went from no recollection of Neil Stonechild to recalling various matters the RCMP could not have prompted him on, therefore he had much independent recall before the taped interview of October 12, 2000.

Jarvis 27/5139-47

It did not occur to Jarvis he was “wrong” about saying Jason Roy told him he had seen Neil Stonechild in the back of a Saskatoon Police Service cruiser, until after he had retained a lawyer.

Jarvis 27/5194

Up to the time he determined he was “wrong” he was quite comfortable with the information that he had recalled.

Jarvis 27/5195

Jarvis agreed, throughout the time period between March and October 2000, after the initial RCMP contact, he recalled events after having the opportunity to think about them and the pieces would come back to him during this process, therefor developing independent recall.

Jarvis 27/5197-98

Jarvis agreed the RCMP was not being unfair in the interviews but only giving pieces of information to help the recall process and he was fully able to agree or disagree with any of the information put to him and was not compelled by the RCMP to agree to anything at any time during any interview.

Jarvis 27/5217-18

Jarvis agreed he was not prompted when he told RCMP Officer Lyons the marks on the wrists of Neil Stonechild were probably consistent with handcuffs.

Jarvis 27/5242

Jarvis agreed it was a maximum of 3 hours of contact with the RCMP over the course of 8 months, leading up to the October 12, 2000 meeting, that lead up to his “confusion” over the information that he was giving the RCMP.

Jarvis 27/5251

Jarvis agreed he did not make any "correction" to the information he'd given to the RCMP when he spoke with Officer Lyons on May 23, 2001, despite having had Exhibit P-61 and his notes for some time prior.

Jarvis 27/5256

Jarvis essentially self reported he didn't have the necessary experience in 1990 to head up and carry on a homicide investigation (despite the fact that he did not complete what a police officer with 27 years experience would find to be the most elementary preliminary steps in an investigation).

Jarvis 27/5277

Jarvis maintained it was actually his supervisor who had concluded the file and not himself, but in answer to a question from the Commissioner, agreed that the supervisor would be entitled to assume Jarvis had changed his mind that the file was now no longer a matter for Major Crimes and was to be concluded.

Jarvis 27/5285-86

At this juncture, we would once again invite the Commissioner to review the report of Dr. Yuille being P-178 and the evidence of Dr. Yuille which we submit will lead to the inexorable conclusion that neither the RCMP nor Robert Martell did anything that would prompt or otherwise risk creating false memories in Mr. Jarvis.

Deputy Chief Wiks admitted the Jarvis investigation into the death of Neil Stonechild was very poor and what Jarvis missed or neglected to do during the course of the investigation required no specialization or special training to investigate.

Wiks 36/6792

Deputy Chief Wiks admitted he dismissed the notion that Constables Hartwig and Senger might have been involved in the death of Neil Stonechild by merely concluding they attended another call within 10 minutes of signing out at Snowberry Downs and therefor

had no time to deposit Neil Stonechild to the location of his demise and return to the subsequent call.

Wiks 36/6858 and 6860 respectively

Constable Senger found such drive only took 6 minutes.

Senger 43/8413

Deputy Chief Wiks admitted he dismissed the evidence of Gary Robertson, which suggested the marks on Neil Stonechild's nose might have been made by handcuffs, by trying to place handcuffs across his nose in a fashion that would have resulted in the end of the handcuffs piercing his cheeks before they came in contact with his nose.

Wiks 38/7258-9

Deputy Chief Wiks admitted nowhere in the Team Meeting Minutes is there a mention or a concern that Saskatoon Police Service might have been involved in the death of Neil Stonechild and that such had better get confirmed one way or the other, but the only concerns noted in such Minutes were how the allegations of police involvement in Neil Stonechild's death might affect Saskatoon Police Service adversely.

Wiks 36/6866

Deputy Chief Wiks admitted Saskatoon Police Service was willing to put Constables Hartwig and Senger on paid leave and tell the media that they were still employed and working in Community Services.

Wiks 36/6867

Deputy Chief Wiks admitted the most important evidence of police involvement in the death of Neil Stonechild was Jason Roy's testimony, and the second most important were the marks on the wrists and nose of Neil Stonechild which admittedly could possibly be made by handcuffs.

Wiks 36/6895-96

Deputy Chief Wiks admitted, while the RCMP investigation was being conducted, he made extensive enquiries of experts to comment on Gary Robertson's photogrammetric evidence, purportedly just to educate himself on what the science is all about, but admitted further he never enquired of the RCMP why they picked Gary Robertson, but only asked the RCMP if there was anybody else in the country who conducted this type of work.

Wiks 37/7143-44

Despite his purported desire to educate himself on photogrammetry, Deputy Chief Wiks acknowledged that in the Team Meeting Minutes for Tuesday, October 14, 2004 is the entry, "Penny contacted Bullock, says one dimensional photogrammetry is cutting edge. Atkinson says Bullock left report". Deputy Chief Wiks admitted he has never seen the report nor did he make any effort, to our knowledge, for this Commission's benefit to obtain such. We submit such inaction is very much contra his stated desire to educate himself on the science.

Wiks 38/7268

Deputy Chief Wiks admitted that during the Saskatoon Police Service investigation of Saskatoon Police Service handcuffs, the attempt to determine who had what and especially regarding Constable Senger's handcuffs, the discovery was made that quite a number of people didn't have the equipment issued to them and in fact had someone else's equipment. Further, he admitted there is often an opportunity for handcuffs to get mixed up, especially after several arrests have been made at one time.

Wiks 37/7182 and 7184 respectively

Deputy Chief Wiks admitted he "mis-spoke" to a Star-Phoenix reporter in May, 2003 by saying that there was "no indication whatever" of Hartwig and Sengers' involvement with Neil Stonechild's death.

Wiks 37/7211

Deputy Chief Wiks acknowledged it is possible for persons to “step through” handcuffs when they were originally handcuffed behind their back.

Wiks 38/7263

Deputy Chief Wiks acknowledged the meaning of the entry in the Team Meeting Minutes, “let’s hope they don’t find out about it” is unknown to him as to who “they” are or what “it” is “they” should not find out about.

Wiks 37/7164

## **VII. ARGUMENT**

We submit it is incumbent upon the Commissioner to find that the investigation conducted by Mr. Jarvis into the death of Neil Stonechild was not merely poor, not merely negligent, not conducted by an incompetent or inexperienced officer but was concluded prematurely for reasons which indicate a malice borne out of prejudice and bias. We submit it would be entirely open for the Commissioner to reject the testimony of Mr. Jarvis, most especially that which suggests he became confused over the course of the time he had contact with the RCMP and Mr. Martell to the point he inadvertently supported the implication of two Saskatoon Police Officers in the death of Neil Stonechild. Mr. Jarvis cannot, nor can anyone else who gave evidence at the Inquiry, explain how this purported confusion might have arisen. We would suggest that a more likely explanation for Mr. Jarvis’ recanting of his statements given to the RCMP would be that he felt compelled to do so by persons connected with Saskatoon Police Service once such persons obtained legal analysis of the nature of the evidence Mr. Jarvis was about to give. Such explanation certainly concurs with the timing of Mr. Jarvis’ convenient about face.

There is no comfort taken in Mr. Jarvis’ self reporting he was not competent to conduct the investigation. He failed to perform even the most elementary procedures a

rookie officer with nothing of his then experience would know to do. In short, he simply was not as incompetent as he suggests. We submit it would be left open to the Commissioner to find that a goodly portion of Mr. Jarvis' testimony is self serving.

We submit it is entirely open for the Commissioner to find that the Saskatoon Police Service was trying to cover up something from 1991 to the present day, and we would refer the Commissioner to the evidence of former Media Relations Officer Scott and Deputy Chief Wiks as cited above. We suggest it is completely and totally inexplicable that no one in the chain of command above Sergeant Jarvis, as he then was, had any awareness of the death of Neil Stonechild or the shoddy investigation conducted into his death. We would submit an intentional conspiracy to conceal information is the more likely explanation than a series of terrific coincidences that combined to suppress that same information. It is not without some sense of the gravity of the allegation we suggest that a para-military organization, in this case the Saskatoon Police Services, had people within its' ranks in 1990 who were quite willing and able to deposit people into freezing circumstances without any regard for that person's life or welfare. Further, we would suggest it is entirely open to the Commissioner to find, or at a minimum not preclude a finding, that the marks on Neil Stonechild's face and wrists were inflicted through human contact, specifically handcuffs not unlike the make and kind employed by Saskatoon Police Service circa 1990, and not through contact with snow or vegetation.

Mindful of the fact that it is the Commissioner and not the experts who will ultimately determine the facts in this situation, we draw the attention of the Commissioner to the report and the evidence of Dr. Yuille with respect to Mr. Jarvis.

As to the evidence of Jason Roy, as previously mentioned, we submit it is entirely open for the Commissioner to find that the core of such evidence, that Jason Roy witnessed Neil Stonechild in the back of a Saskatoon Police Service cruiser on the night

that Neil Stonechild was last seen alive, remains intact after prolonged cross-examination and scrutiny from the experts. Once again we would draw the Commissioner's attention to the evidence of Gary Robertson, Dr. Yuille and Dr. Richardson.

We ask that the Commissioner give careful attention in comparing the evidence of Gary Robertson and Dr. Lew. The former applied a science that has a great deal of validity and support within various professions. Whereas the evidence from Dr. Lew we submit is largely suspect and certainly set out of environment. We would urge that the Commissioner carefully scrutinize the photographs, including the enhanced photographs, of Neil Stonechild's wrist to determine the striations on the skin which Dr. Lew testified were conclusive evidence the marks could not have been made by handcuffs. We would respectfully suggest no such marks exist. With respect, we would suggest that the failure of Dr. Lew to take any measurements of the face of Neil Stonechild prior to giving testimony, and her willingness to perform such measurements during her testimony, indicate her evidence has no substance and was prompted only by her reputation. We would respectfully ask the Commissioner to scrutinize how it was that she came to testify at the inquiry and specifically how much information she was provided by Saskatoon Police Services before she formed her opinion.

In conclusion, we respectfully submit that it is entirely open for the Commissioner to find that the Saskatoon Police Services were directly involved with and contributed to the death of Neil Stonechild.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

DATED at the City of Saskatoon, in the Province of Saskatchewan, this 6<sup>th</sup> day of May, A.D. 2004.

**SEMAGANIS WORME & MISSENS**

Per: Donald E. Worme, Q.C.

Donald E. Worme, Q.C.

Counsel for Stella Bignell &  
the family of Neil Stonechild