

## Part 5 – Overview of the Evidence

1990, because if they had, they would have delivered him to a detention centre. Counsel submitted that the officers had no motive to do anything else. This Inquiry heard evidence of other situations where SPS officers decided to transport prisoners to remote locations rather than a recognized detention facility. One of these officers testified as to his motives:

“THE COMMISSIONER: Why did you do it?”

Q. MS. KNOX: Yes, why?

A. I’ve thought about that for a long time. I don’t know. It seemed like a good idea at the time.

Q. Good idea in what context, sir?

A. What I can recall of the incident, the person was dealt with several times during my shift in which he was making a nuisance of himself at a hospital, as a matter of fact, and he was requesting a ride home. The hospital, of course, would not pursue any charges for his actions and it was a case of him requesting a ride home every night.

Q. So as a result of his requesting a ride home from the hospital and your being repeatedly called to the hospital, is that what you’re saying?

A. Yes.

Q. You dealt with him in the manner that you did?

A. Yes.<sup>421</sup>

Ultimately, the evidence did not establish what was going through the minds of Cst. Hartwig and Cst. Senger on November 24/25, 1990. The evidence did, however, establish on the balance of probabilities: a) that Neil Stonechild was last seen in their custody at approximately 11:56 p.m. on November 24, 1990; b) that he died of cold exposure in a remote industrial area in the early hours of November 25, 1990; and c) that there were injuries and marks on his body that were consistent with handcuffs.

### 2 | The Discovery and Identification of the Body of Neil Stonechild

On November 29, 1990, Richard Harms and Bruce Meyers were constructing a fence on property adjoining the Hitachi plant on 58th Street. They noticed a body lying in the snow covered field to the north of their location.

The Saskatoon Police Service was called at 12:52 p.m. Cst. Rene Lagimodiere, now a Sergeant, was dispatched to the scene and arrived at 12:58. He carried out a preliminary investigation. The police noted when the body was turned over, that the sleeves of the deceased’s jacket were pulled down over his hands, obviously to keep him warm. They also observed that the deceased’s right running shoe was missing and that the wool sock on the right foot was so worn in the heel area that the skin was exposed and discolored by dirt or gravel.

Lagimodiere was able to identify footprints made by the deceased and followed them back to a gravel parking lot off 57th Street. On cross-examination, Lagimodiere indicated that he

<sup>421</sup> Evidence of Bruce Bolton, Inquiry transcript, vol. 17 (October 10, 2003): 3297-3298



formed the opinion that the deceased had been intoxicated and was stumbling around in the field. Later he acknowledged that the course of the footprints from the south were relatively straight.

Lagimodiere then took steps to secure the scene and called for an Identification Officer, the Coroner, and the Canine Unit to attend the scene. Lagimodiere did not call an Investigator to the scene as that was the responsibility of the Patrol Sergeant. However he did testify that there was no reason to call an Investigator, because there were no obvious signs of foul play. Lagimodiere did acknowledge that he wondered how Stonechild got there and that locating the body was an “unusual situation and an unusual location”.<sup>422</sup> Lagimodiere also acknowledged in cross-examination that it could have been foul play as he did not know how the deceased got there.<sup>423</sup>

Dr. Brian Fern, the Coroner, arrived at the scene shortly before 2:00 p.m. He examined the body and the scene but did not record any of his observations. Dr. Fern indicated that he believed the body had been there for several days. Morton’s report records Fern noted injuries on the deceased face that Fern thought could have been caused by falling face down onto the ground. Morton reported that the body was examined as well as possible, given its frozen state, for signs of foul play. Morton reported that none were found.

MD Ambulance Service removed the body to the morgue at St. Paul’s Hospital. Cst. Gregory Robert and his service dog conducted the search of the field. The dog did not locate anything.

In his report, Lagimodiere described Stonechild’s clothing and observed that the footprints appear to be “several days old”. He also testified he felt the body had been there for several days.

Inexplicably, no search was conducted by the police of 57th Street or the lot adjoining the Hitachi plant. The lot had a gravel surface. It was never searched. No physical search was made in the field for the shoe.

Another piece of evidence struck me as surprising. Michael Petty was the Patrol Sergeant responsible for the area in which the body was found. The evidence of other past and present police members satisfies me that it was his duty to ensure that an Investigator from the Morality or Major Crimes Units attended the scene. While Petty speculated that an Investigator was likely called, an Investigator did not attend. This fact did not trouble Petty, as he was of the view that there was no indication of foul play. Given the highly unusual, if not suspicious circumstances, I cannot understand how Petty could have treated this matter so casually.

After Lagimodiere’s incident report was submitted, the investigation of the matter was assigned to the Morality Unit. The evidence satisfies me that the file should have been immediately assigned to the Major Crimes Unit, which was responsible for investigating suspicious deaths. The Morality Unit was responsible to conduct follow-up investigation of non-suspicious deaths. The decision to send it to Morality may have been influenced by Lagimodiere’s report that there were no obvious signs of foul play. In as much as the officers who attended the scene were not able to determine why Stonechild was in this remote industrial area, the death ought to have been treated as suspicious. Indeed, as

<sup>422</sup> Evidence of Rene Lagimodiere, Inquiry transcript, vol. 11 (September 24, 2003): 1928

<sup>423</sup> Evidence of Rene Lagimodiere, Inquiry transcript, vol. 11 (September 24, 2003): 1934

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discussed, an attempt was made by the Morality Investigator to transfer the file to Major Crimes on November 30, 1990. Inexplicably, this attempt was unsuccessful.

The Staff Sergeant in charge of the Morality Unit on the evening of November 29th, 1990, was S/Sgt. Theodore Johnson. Johnson assigned Keith Jarvis, one of his senior investigators, to conduct the Stonechild investigation. He and Sgt. Morton went to the morgue at St. Paul's Hospital at 8:10 p.m. Jarvis did not examine the body nor did he examine Stonechild's clothing. Morton took a fingerprint off the body and confirmed that the deceased was Neil Stonechild.

For the most part, the officers that attended the scene of Neil Stonechild's death performed their duties adequately. The fact that an Investigator did not attend the scene, and that the investigation was handed over the Morality Unit and not Major Crimes, causes me concern, but these shortcomings are dwarfed by the inadequacies of the investigation that followed.

### **3 | The Investigation of the Death of Neil Stonechild, November 29, 1990 – December 5, 1990**

The investigation was superficial at best and was concluded prematurely. By the conclusion of the hearings, no party, with the possible exception of Keith Jarvis, was seriously contending otherwise. The Saskatoon Police Service acknowledged the serious deficiencies in the investigation.

The investigation was assigned to Sgt. Jarvis around 7:00 p.m. on November 29, 1990. The investigation on that day consisted of identifying the deceased, notifying the next-of-kin, and contacting Pat Pickard, the operator of the group home where Stonechild had been in open custody.

The following day, November 30, 1990, Jarvis interviewed six people, mostly by telephone. He took written statements from only two: Ewart and Roy. He received information from a Crime Stoppers tip and Sgt. Neil Willie pointing to the possible involvement of Gary and Danny Pratt. He checked dispatch records and learned that Cst. Hartwig and Cst. Senger had been dispatched in response to a complaint regarding Neil Stonechild late on November 24, 1990. At the end of the day, he had filed an Investigative Report recommending that the file be transferred to Major Crimes.

Jarvis's next day on duty was December 5, 1990. He resumed the investigation. On that date, he interviewed two people, one by telephone. He made some minimal unsuccessful attempts to contact Gary Pratt and Eddie Rushton. He spoke to the Pathologist, Dr. Adolph. He concluded his investigation by filing his Investigation Report at approximately 4:30 p.m. As noted elsewhere, there was no evidence that any further investigation was conducted until the RCMP task force became involved in 2000.

A consideration of what was not done is even more revealing as to the nature of the investigation. Jarvis never attended the death scene. While he was assigned the file after the body had been removed, it is reasonable to expect that he would at least drive by the location. Even more surprising, he did not look at the photos and video of the scene taken by the Identification Officer. He never examined Stonechild's body at the morgue. He never looked at the autopsy photographs taken by the Identification Officer. One must ask,