

Release Date: July 19, 2006



IN THE PROVINCIAL COURT OF MANITOBA

IN THE MATTER OF: “The Fatality Inquiries Act”

AND IN THE MATTER OF: DENNIS ST. PAUL, Deceased

APPEARANCES:

Counsel to the Inquest: Mr. Martin Minuk

**For the Norway House First Nation
and Ms. Crystal Gunn: Ms. Kate Kempton**

For the R.C.M.P. : Mr. Scott Farlinger & Ms. Kirsty Elgert

Report by Provincial Judge on Inquest

An inquest respecting the said death having been held by me on April 18, 19, 20, 24, 25, 26, 2006 in Norway House, Manitoba and on the 19th of May 2006 in Winnipeg, Manitoba.

The name of the deceased is Dennis Junior St. Paul. The deceased came to his death on January 3, 2005 at 3:24 p.m.

The deceased came to his death by the following means: death from gunshot wound to the chest with massive hemothorax.

I hereby make the following recommendations as set out in the attached schedule 1.

Attached also are all the exhibits required to be filed by me.

Dated at the Town of The Pas, Manitoba this 14th day of July, 2006

“Originally Signed By”
B. Stewart, Provincial Judge

copies to:
Chief Medical Examiner
Chief Judge, Provincial Court of Manitoba
Director, Public Prosecutions
Deputy Attorney General

Schedule 1

An inquest was called by the Chief Medical Examiner into the death of Dennis St. Paul who died while technically in R.C.M.P. custody on January 3rd, 2005 in Norway House, Manitoba. There is a statutory obligation to conduct an inquest under such circumstances and this was heard in Norway House on April 18, 19, 20, 24, 25, and 26, 2006 and May 19th, 2006 in Winnipeg. This inquest is mandated to ascertain the cause of death and to determine if anything can be done to prevent similar deaths from occurring in the future.

The facts heard regarding this inquest are not significantly in contention and the witnesses described for the most part a consistent story.

Dennis St. Paul Jr. was a thirty year old Aboriginal man who received statutory parole on July 9, 2004, after serving a sentence of four years and six months for multiple break and enters and other such property offences. Mr. St. Paul had been in offender status since the early 1990's and had been incarcerated consistently since the year 2000. From reports received in preparation of his statutory release plan Corrections Canada indicated that he had not completed any programs to address needs necessary to function within the community at large. As such, a plan was devised for supervision which included close monitoring to ensure he would complete the programs recommended and agreed to by Mr. St. Paul. A further special condition was added to his release to have him abstain from intoxicants.

We heard evidence from the regional parole officer, Mr. James Fetterley, that upon Mr. St. Paul's statutory release he was to live with his Winnipeg common-law wife Lana Fontaine and child and arrangements were made for his reporting through the Winnipeg parole office. Soon after his release in Winnipeg the plans changed and the parole office was notified that Mr. St. Paul was going to relocate to Norway House to reside with his other common-law wife, Ms. Crystal Gunn. Despite this notice Mr. St. Paul never did make contact with the Parole Officer in either locale and a warrant of apprehension issued for his arrest for being in violation of his release conditions for failing to report.

Mr. St. Paul, throughout the fall of 2004, was believed to be in Winnipeg and Norway House at various times and on four occasions

Constable Darcy Muth, who was responsible for serving the warrant and thereafter arresting Mr. St. Paul, checked the Gunn residence without result. On one other occasion the constable did have a call from Mr. St. Paul who indicated that he would turn himself in the next day but such was, as it turned out, an empty promise. Miss Gunn and Mr. St. Paul by their actions did all that was possible to impede Mr. St. Paul's arrest during the fall of 2004 despite both attending Winnipeg to have Miss Gunn appear to answer outstanding charges against her there.

On January 3, 2005 while attending the community restaurant, the York Boat Inn, on a non-related matter the constable, having heard that Mr. St. Paul might be working part time, asked for and learned that in fact he was at work in the kitchen. The day shift that the constable was on was manned by himself, with one other constable who was in transit to Thompson, Manitoba transporting a prisoner and Corporal Knight the acting officer in charge who was at the office doing administrative work. It was at this time that he approached the parole violator and without assistance arrested him on the outstanding warrant. Mr. St. Paul was on appearance resigned to the fact that he had to resolve this outstanding warrant and left quietly his place of work after attempting to call his common-law wife to inform her of his arrest. In his discussion with Mr. St. Paul it appeared that no opposition to the arrest was going to be put up and Cst. Muth asked whether it was necessary for him to handcuff St. Paul prior to exiting the restaurant. Mr. St. Paul indicated that he would not cause any problems and after asking to phone home he left the restaurant without handcuffs being applied. Once outside, however, while being placed into the vehicle, Mr. St. Paul bolted and after a brief scuffle, he escaped across a field and into the shopping mall with the constable in pursuit in his patrol car. At the first instant the constable called for assistance and Cpl. Knight left to attend to the scene some 10 minutes away. At the rear of the mall, while on foot, the pursuit continued and a second skirmish occurred where the police pepper spray was attempted to be applied to Mr. St. Paul but without success and a foot chase continued towards the MTS Trailers. Some short distance later Mr. St. Paul turned to challenge Cst. Muth and in the short altercation after the constable attempted to get control of the situation by using his police baton Mr. St. Paul got the upper hand. While on top of the police constable St. Paul was able to take the baton from him and hit the policeman twice on the head after which Cst. Muth, fearing for his life, shot Mr. St. Paul twice. Almost immediately thereafter Cpl. Knight arrived and transported Mr. St. Paul to the hospital where he died from the gunshot wounds. The autopsy

found that the cause of death was gunshot wound to the chest with massive hemothorax.

Can this inquest recommend changes that implemented could avoid a similar death from occurring?

It goes without saying that when there is a death in police custody (member involved shooting) such as this, that all of the necessary resources of the RCMP are used to uncover the exact occurrence and details of the death. This was clearly evident here. Included in this case were various internal reviews which cover administrative analysis and force protocol as well as effective following of operational policies. Finally, an external review was completed by the Regina City Police Services.

As a result of this death, and as so often happens, changes have occurred in policy (RCMP in this case) which will allow a more open dialogue between the community and the police force should there be another such occurrence resulting in death. A provincial protocol is now in existence which will establish an immediate liaison between the First Nation involved and the police investigation. This is to ensure a transparency of process. Such a process is to be encouraged.

In addition, the RCMP policy of recruiting more aboriginal people to police the northern communities reflects sensitivity to First Nation concerns. In this case both police officers involved were aboriginal persons and the Norway House detachment has currently one-half of its members from the aboriginal community. Several communities where this Court sits have detachments which are fully staffed by aboriginal persons. This should instill more confidence in the police service in these communities. Thus it is indeed unfortunate that some leaders in the provincial aboriginal community took it upon themselves to make this shooting a political issue by prejudging this case immediately after it became public and thus indirectly affecting the community's perception of the police investigation and ultimately this inquest.

Throughout the hearing the Court heard the testimony of several experienced RCMP officers, who as training specialists, made comment on the training model incorporated and to be used daily in the work of a member on patrol within Canada. This model is known as IMIM (specifically, Incident Management Intervention Model). This process is

designed for the member to continually assess risk and applies the necessary intervention to ensure public and police safety. Although this is a theoretical approach, the theory is to be incorporated into routine daily policing protocol of each member. On review of the training and survival techniques employed by Cst. Muth, several procedural flaws became apparent from the evidence of the events leading up to Mr. St. Paul's death.

In a similar circumstance it is clear that on the serving of a warrant for apprehension and suspension of statutory release, such should not be done by a single member without backup. This should also apply when the individual who is to be arrested under whatever statute is known to the police as potentially violent. With two members attending to an arrest it is unlikely that Mr. St. Paul would have got the upper hand in the fight with Cst. Muth or that the violence would have escalated to where Cst. Muth's life was in danger and he was forced to use his firearm as a last resort. Two members not only means that there is a second intervening body to help control the situation in any ultimate scuffle but this also allows the officers to use tazer equipment which could not be done by a single officer due to the nature of the use of that weapon. Finally a member who is to effect an arrest should have reviewed the police records and information available to him through PIRS, CPIC, etc. prior to the arrest to be aware of the degree of anticipated risk involved in this arrest.

In this regard such should be mandatory RCMP policy.

Secondly, as to the issue of handcuffing, handcuffs should be used on a mandatory basis when police are arresting a violent offender or one for whom a warrant of apprehension has been issued. Evidence was filed that detailed the training program which Cst. Muth took as it related to proper arrest procedures of apprehended suspects. His training included High Risk Arrest, Handcuffing, and Practical Applications for Defensive Tactics. As to the specifics of this case Cst. Muth asked whether Mr. St. Paul "was going to give him any problems, do I have to use the cuffs?" Because Mr. St. Paul appeared compliant no cuffs were applied. The administrative review calls this a discretionary decision of the constable and upon review of Mr. St. Paul's past record for escapes and violence Sgt. Walker, the reviewing officer, concluded: "that it may have been prudent to have handcuffed this individual immediately upon arrest". Upon questioning several senior police witnesses as to why such a procedure should be "discretionary" there was an explanation why all subjects being arrested should not be automatically

cuffed. Several circumstances were relayed where a member may find him or herself in a situation where the process of cuffing may antagonize members of the public located nearby which could inflame the already tense situation. Despite these examples, though, in the end the setting of a mandatory protocol to be followed when effecting an arrest for a parole violator or a known violent offender would eliminate any such risk this incident created. This should be mandatory RCMP policy.

The 2005 Report of the Auditor General of Canada to the House of Commons Chapter 1 dealt with Royal Canadian Mounted Police Contract Policing. In the national media summary Auditor General Sheila Fraser was quoted as saying that chronic staffing shortages have put the RCMP at risk of overloading officers in many detachments. This report found inadequacies in the force identifying resources required for contract policing and a glaring weakness in filling staff absences, both short and long term (over 30 days). Such policy shortfalls left the remaining members to “carry the load” on an overtime basis.

“The situation is aggravated by the lack of established mechanisms to provide short and long term replacements for absences. While commanders may use ad-hoc solutions such as temporary redeployment or covering calls for service from neighbouring detachments, these absences can remain open for extended periods of time. This places the RCMP at risk of overloading the remaining peace officers in these detachments.”
(Para. 1.42, Page 15)

It was the recommendation of the Auditor General of Canada that the RCMP should, in consultation with the concerned province, take action to ensure that it has the capacity to respond to staff absences and human resource shortage. (Para. 1.46, Page 16)

This report is referred to in this Inquest report due to its immediate relevance to the policing situation for Northern Manitoba in general and Norway House specifically. As of January 3, 2005 the Norway House detachment of the RCMP had eight members and a corporal posted to that community of some 7,000 inhabitants. (I would note that the RCMP division headquarters used the 2001 census figure of a population of 4,416 in its resource calculations.) The Human Resource Model which Division “D” used to calculate resource needs was and is based on population and *Criminal Code* annual charges for the community as well as secondary

proactive policing activities. Based on this model even with the reduced population calculation, the needs assessment for Norway House for the year ending 2004 was 19.65 members. Thus on the 2004 “D” Division Resource Priority Listing, Norway House had the highest needs of all communities served by the RCMP in Manitoba. As an aside, the six most needy communities requiring the most resource assistance were from Northern Manitoba and required some 25 new members to bring their detachments up to statistical full resources.

One of the most obvious conclusions this inquest can come to after listening to the evidence of both the community and the various RCMP witnesses is that Norway House has been and is grossly understaffed for both the size of the community and the number of files processed yearly. This Judge has seen in the circuits served by the northern judiciary an alarming trend to such understaffing/funding in many of our northern First Nations communities.

The one conclusion which is apparent is that these communities, and especially Norway House citizens, are at greater risk of having less effective law enforcement and personal safety due to the understaffing of the RCMP detachments. In addition RCMP members are not only subject to burnout due to the number of files to which they have responsibility at any one time, but more importantly they risk personal safety and ultimately life due to such circumstances. This inquest recommends that the RCMP through its Division “D” executive committee meet with the Province of Manitoba, and thereafter the Government of Canada, to immediately fund an increase in resources to provide the community of Norway House and those other northern communities which have been identified under Band A Resource Division Priority with full police resources to augment the safety of those communities and the RCMP members serving there.

Finally, from a procedural view I want to compliment inquest counsel, Mr. Minuk, in the organization and filing of computer friendly exhibits, statements and documents under an Adobe Reader/PDF format which allowed all participants ease of access. It is finally recommended that all future inquests be funded sufficiently by the Province of Manitoba to provide resources sufficient for future inquests with such ability to format their exhibit documentation in this format.