

RELEASE DATE: October 2, 2020



Manitoba

THE PROVINCIAL COURT OF MANITOBA

IN THE MATTER OF: *The Fatality Inquiries Act C.C.S.M. c. F52*

AND IN THE MATTER OF: An Inquest into the Death of Lewis Sitar

Report on Inquest
Associate Chief Judge Tracey Lord
Issued this 29th day of September, 2020

APPEARANCES:

Mark Lafreniere and David Burland, Inquest Counsel

Mark Mason and Erica Haughey, Counsel for Correctional Services of Canada



Manitoba

THE FATALITY INQUIRIES ACT, C.C.S.M. c.F52

**REPORT BY PROVINCIAL JUDGE ON AN INQUEST
INTO THE DEATH OF: LEWIS SITAR**

An Inquest into the death of Lewis Sitar (DOB: March 20, 1966) was held December 16-18, 2019 in Winnipeg, Manitoba.

This report contains my findings and observations. Attached is a list of witnesses who testified at the Inquest and a list of exhibits filed. Pursuant to the provisions of *The Fatality Inquiries Act*, I am ordering that all exhibits be returned to the Exhibit Officer, Provincial Court of Manitoba, to be released only upon application with notice to any party with a privacy interest.

Dated at the City of Winnipeg, in Manitoba, this 29th day of September, 2020.

“ORIGINAL SIGNED BY:”

Associate Chief Judge Tracey Lord
Provincial Court of Manitoba

Copies to:

1. Dr. John Younes, Chief Medical Examiner (2 copies)
2. Chief Judge Margaret Wiebe, Provincial Court of Manitoba
3. Honourable Cliff Cullen, Minister Responsible for *The Fatality Inquiries Act*.
4. Mr. David Wright, Deputy Minister of Justice & Deputy Attorney General
5. Michele Jules, Executive Director of Manitoba Prosecution Service
6. Mark Lafreniere and David Burland, Counsel to the Inquest
7. Mark Mason and Erica Haughey, Counsel for Correctional Service of Canada
8. Exhibit Coordinator, Provincial Court
9. Aimee Fortier, Executive Assistant and Media Relations, Provincial Court



Manitoba

THE FATALITY INQUIRIES ACT
REPORT BY PROVINCIAL JUDGE ON INQUEST

RESPECTING THE DEATH OF: LEWIS SITAR

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EXHIBIT LIST

1. Media Bulletin - Notice of Standing Hearing
2. Book of Materials – Volume 1
3. Book of Materials – Volume 2
4. DVD – Video Footage
5. Board of Investigation Report
6. Observation Report – February 23, 2017
7. Agreed Statement of Facts - Sentencing Hearing Tristan Fisher and Carl Klyne
8. Transcript of Sentencing Hearing of Tristan Fisher and Carl Klyne

WITNESS LIST

1. Laura Kirby - Manager of Assessment and Intervention
2. Randy Kenning - Institutional Parole Officer
3. Michelle Feschuk - Acting Parole Officer
4. Tristan Gray - Correctional Officer II – Unit 6
5. Steven Kiernicki - Correctional Officer II – Unit 6
6. Steven Reuvers - Correctional Officer II – Unit 6
7. Tara Adamik - Parole Officer
8. Tyler Sommerfeld - Correctional Officer II – Unit 6
9. Paul Thompson - Correctional Manager – Unit 6

I. Introduction

[1] On February 20, 2017 Lewis Sitar was a sentenced prisoner in Stony Mountain Institution (SMI) housed on J Range in Unit 6, the Maximum Security Unit (MSU). At 10:25 p.m. he was found in his cell by correctional officers badly injured, suffering from a serious injury to his head. First aid was administered and he was subsequently taken by ambulance to hospital where he was treated for traumatic brain injury. He remained in hospital, making no meaningful recovery until his death on March 3, 2017.

[2] An autopsy was performed on March 6, 2017 by Dr. John K. Younes, then Acting Chief Medical Examiner. The cause of death was found to be blunt head trauma.

[3] A criminal investigation was conducted by the Royal Canadian Mounted Police resulting in Carl Jesse Klyne and Tristan Storm Fisher being charged with second degree murder. On May 10, 2018 both entered guilty pleas to manslaughter and were sentenced to ten years imprisonment.

[4] The Correctional Service of Canada (CSC), Board of Investigation (BOI) also conducted a review of the incident and prepared a report. (Exhibit 5.)

II. Inquest Mandatory

[5] By way of letter dated November 16, 2017 then Acting Chief Medical Examiner Dr. John Younes directed that an Inquest be held into the death of Lewis Sitar.

[6] Section 19(3) of *The Fatality Inquiries Act* (now s. 19(5)(b)(ii)) requires that an Inquest be held because Mr. Sitar was a resident in a custodial facility at the time of his death. The Inquest was called to determine the circumstances relating to

Mr. Sitar's death and to determine what, if anything can be done to prevent similar deaths from occurring in the future.

[7] At a Standing Hearing held on March 14, 2019 the Correctional Service of Canada was granted standing at the Inquest. No other requests for standing were received.

[8] The Inquest was held December 16-18, 2019. Nine witnesses, all employees at Stony Mountain Institution, were called to give evidence. At the conclusion of the evidence the court requested further information regarding the criminal proceedings of those charged in relation to Mr. Sitar's death.

[9] The Agreed Statement of Facts filed at the sentencing hearing of Tristan Fisher and Carl Klyne, along with a transcript of the proceedings were marked as exhibits when the Inquest reconvened on February 12, 2020 and was formally concluded.

III. Jurisdiction of the Provincial Court

[10] Section 33(1.1) of *The Fatalities Inquiries Act* allows for the report prepared by a judge presiding over an Inquest to contain recommendations on changes to provincial laws or the programs, policies and practices of the provincial government or of public agencies or institutions to prevent deaths in similar circumstances.

[11] Stony Mountain Institution is a federally run correctional facility. A Provincial Court Judge is without jurisdiction to make recommendations to the federal government directed to policies, procedures and management of federal departments and agencies.

[12] In the 2005 Inquest Report into the death of Glenn Fiddler, Judge Sidney Lerner noted however at paragraph 302 that while there is limited jurisdiction with respect to the nature of the recommendations that may be made in these

circumstances, it does not restrict the fact finding aspect of the Inquest from identifying without recommendation, problems or deficiencies within federal departments and agencies that may have formed a part of the material circumstances of death.

IV. Stony Mountain Institution Maximum Security Unit

[13] Stony Mountain Institution is a clustered facility, meaning it has minimum, medium and maximum security units. The penitentiary houses up to 780 inmates and employs approximately 500 full and part-time staff.

[14] When an inmate first arrives at the facility, an assessment is done to determine their security level and where they will be placed within the institution.

[15] The maximum security unit was built in 2014 and is isolated from the rest of the penitentiary. It has four separate ranges (G, H, I and J) housing a total of 96 inmates. Each range is connected to a central control post kiosk and is separated from the control post by a barrier of bars that seal off entry and exit to the range.

[16] Ranges G and H house general population inmates who are considered to be members of “security threat groups” or gangs, but who are compatible with one another.

[17] I Range houses predominantly sex offenders as well as other inmates requiring protective custody, who have difficulty integrating into the regular prison population.

[18] J Range is also a protective custody range for inmates who are considered incompatible with general population inmates.

[19] Inmates on both I and J Ranges cannot be transferred to G and H Ranges. However, in 2017 inmates were transferred between I and J Ranges.

[20] Each range has an inmate who is elected as the range representative. The role of the range representative is to mediate disputes between inmates and to facilitate communication between inmates and staff.

[21] The Maximum Security Unit is staffed by two levels of correctional officer (CO) and supervised by a correctional manager (CM).

[22] Level one correctional officers are armed and provide security primarily at the central control post. Level two correctional officers provide an additional level of dynamic security by directly interacting with inmates on the range and are also assigned between 9-12 inmates each for case management purposes.

[23] The structure of the daily schedule in the MSU offers various opportunities for inmates to interact with one another within each individual range.

[24] At the start of the day shift (approximately 7:15 a.m.) correctional officers conduct an inmate count following which inmates are then allowed out of cells to have breakfast. After breakfast, inmates are again locked in their cells unless they have an appointment, school or programming to attend off the range.

[25] Inmates are allowed out of cells again for lunch and are then locked in again similar to the morning routine. Inmates are allowed out of cells for supper between 5:00 – 5:30 p.m. and then have free time within the range until lock-up at approximately 10:20 p.m.

[26] During this free time, cell doors are opened every 30 minutes for 10 to 15 minute intervals. This 10 minute period is referred to as “change over” and allows inmates to move to a different area on the range or to return to their cell. During free time they are allowed to interact with one another if they choose.

[27] “Change over” occurs simultaneously on the four ranges in the MSU.

[28] This routine allows for inmates to have maximum access to the unit common and recreation areas and is in accordance with institutional policy.

[29] Inmates are not allowed to enter another's cell. While there are disciplinary sanctions for violating this rule, Correctional Manager Paul Thompson testified it is a very difficult rule to enforce. Inmates routinely go in and out of each other's cells to socialize largely without incident. Discretion is given to staff on the range as to how violations are dealt with.

[30] After final lock up at 10:20 p.m. an inmate count is repeated.

[31] Lewis Sitar was assaulted in his cell during a change over period between 9:48 and 9:50 p.m. and was discovered at 10:25 p.m. during the final evening inmate count.

V. Correctional History of Lewis Sitar and Transfer to J Range

[32] Lewis Sitar had a lengthy criminal record and at the time of his death was serving his third federal sentence. His parole was suspended on January 6, 2017 for breach of conditions and Mr. Sitar was returned to SMI and placed directly into the Administrative Segregation Unit.

[33] While in that unit, Mr. Sitar was assigned to Acting Parole Officer Michelle Feschuk. Her goal was to move him out of segregation and onto a range as soon as appropriate. Because of his history with federal corrections Mr. Sitar was pre-assessed as a maximum security offender, requiring protective custody.

[34] Mr. Sitar was described by his Institutional Parole Officer Randy Kenning as difficult to handle. He was routinely aggressive with staff and other inmates and generally did not get along well with others. This was historically the case for all of his federal sentences.

[35] Paul Thompson, Correctional Manager of the Maximum Security Unit, was also familiar with Lewis Sitar, and although he had no difficulties with him personally, agreed that Mr. Sitar seemed to have problems everywhere he was placed.

[36] Lewis Sitar was also described as often inappropriate with female staff and was known to expose himself. One of these incidents resulted in an indecent act conviction on his criminal record.

[37] In assessing Mr. Sitar for placement, Ms. Feschuk indicated she was unaware of the facts behind his indecent act conviction, but because of it she felt the only suitable placement for him on the MSU was I Range with the sex offenders.

[38] Ms. Feschuk testified that had she known the indecent act conviction involved Mr. Sitar exposing himself within the institution she would not have classified him as a sex offender. This would not however, have changed her assessment that he be placed on I Range, as it was still an appropriate location for him.

[39] Randy Kenning and Paul Thompson both testified despite his placement on I Range, they did not view Mr. Sitar as a sex offender and confirmed none of his behaviour within the institution resulted in him being labeled as such. However, because of his behaviour in general Mr. Sitar was at times targeted by other inmates.

[40] One such incident occurred when he was previously placed in the Saskatchewan Penitentiary. Mr. Sitar and two staff members were the targets of an assault in which fecal matter was thrown at them by another inmate. Mr. Sitar agreed to pursue charges against the inmate.

[41] That individual was later placed at Stony Mountain Institution on I Range while Mr. Sitar was there. Mr. Sitar reported to staff that the individual was causing problems for him and asked to be moved off of the range and placed in segregation for his own safety.

[42] Randy Kenning testified Mr. Sitar historically did not do well in segregation and was not eligible to move to either G or H Range as his behaviour would not be tolerated by the other inmates there.

[43] After consultation with Paul Thompson and others familiar with Mr. Sitar, and with Mr. Sitar's agreement, the decision was made to transfer him to J Range rather than place him in segregation.

[44] The same day Mr. Sitar made his request to move he also spoke to Thompson about an on-line news article of which he had been made aware. Mr. Sitar did not have a copy of the article, but based on the information he had, he felt the article erroneously portrayed him as a sex offender.

[45] He asked Paul Thompson to look into this article and attempt to clear his name with the range representative on J Range. This article is reproduced in Exhibit 2 at tab 3.

[46] Prior to moving Mr. Sitar to J Range, Paul Thompson located the article on the internet, printed it, and provided it to the J Range representative. They discussed its content.

[47] The CJOB online article is titled "Wpg Man Charged in Child Porn" but also reports on several other crimes and offenders. The first crime reported in the article is the arrest of a 43 year old man for possession and distribution of child pornography. He was not identified by name.

[48] The next crime reported in the piece involved the arrest of two 15 year olds for a string of break-ins. They were also not named.

[49] Lastly, a commercial robbery was reported and Lewis Sitar was named as the suspect in the robbery. His was the only name mentioned in the entire article.

[50] Paul Thompson testified that after their discussion the range representative agreed the reference to Mr. Sitar in the news article was as a robber, not a sexual offender. Thompson said he was satisfied the range representative accepted this interpretation and he had no further concerns about moving Mr. Sitar to J Range. The move happened on February 15, 2017.

[51] Initially Mr. Sitar did not encounter difficulties on J Range. Information received after his death from another inmate suggested this was because he was giving or selling his prescribed medication to other inmates. When this situation ended things became more difficult.

[52] On February 17, 2017 Mr. Sitar was assaulted by an inmate on the range during a dispute that arose in the course of a card game. The issue was resolved informally between them and it was determined there was no ongoing safety or security concern for Mr. Sitar as a result of the incident.

VI. Information Received by Correctional Staff Regarding Lewis Sitar's Safety

[53] On February 19, 2017 Correctional Officer Steven Kiernicki was on duty in the Maximum Security Unit. During the evening he was approached at the barrier to J Range by an inmate referred to in the Inquest as inmate X.

[54] X told him the inmates on the range knew what Sitar was "in for" and that "he was going to get it". Inmate X also said there were "shanks" on the range. He

suggested to CO Kiernicki that Mr. Sitar be removed from the range the next morning.

[55] CO Kiernicki testified that while he takes all information like this seriously, he did not view inmate X as a particularly reliable source of information for a variety of reasons.

[56] Tara Adamik, was inmate X's Institutional Parole Officer and testified that he had significant mental health issues and often came forward to staff with issues and information that were inaccurate and unsubstantiated.

[57] Notwithstanding his view, at 10:20 p.m. CO Kiernicki sent an email to the Unit Manager Paul Thompson, Parole Officer Tara Adamik and Correctional Officers Sommerfeld and Reuvers who were coming on shift the next morning, advising them about his conversation with inmate X.

[58] CO Kiernicki did not view this as an urgent situation requiring immediate action as all inmates would be locked in their own cells overnight and would remain so until the email could be read by staff coming on duty the following morning.

[59] In the email Kiernicki advised his colleagues the range seemed "on edge" for a period of time but "cooled down" towards the end of the evening.

[60] The email is found at tab 1 of Exhibit 2. The communication also says at the end of the night inmate X told him "it was all good on the range" and that inmate X would also talk to Paul Thompson about his information in the morning.

[61] CO Kiernicki did not speak to Mr. Sitar about the information provided by inmate X and a search of J Range for weapons was not conducted.

[62] Correctional Officers Reuvers and Sommerfeld testified they received the email from Kiernicki when they came on shift on February 20, 2017. They

indicated this type of information is received from inmates on J Range on a regular basis.

[63] After receiving the email from CO Kiernicki, CO Reuvers did not take any specific action himself and recalled the day as being uneventful. He did say that he and CO Sommerfeld would have discussed the situation with Paul Thompson the Unit Manager.

[64] Correctional Officer Sommerfeld also received the email sent by CO Kiernicki first thing in the morning on February 20, 2017. He confirmed that receiving this kind of information from an inmate is common and that distributing an email about it to staff was the usual method of communication. He agreed inmate X was historically not a particularly reliable source of information.

[65] COs Sommerfeld, Reuvers and CM Thompson met and discussed the situation. They decided to monitor the mood of the range throughout the day and look for any signs that something was amiss. Thompson testified that Mr. Sitar was known to report any difficulties he was having to staff and request assistance if required. In this case he had not done so.

[66] The kinds of things they looked for included noting if inmates wore shoes as opposed to the usual flip flops, if inmates congregated in groups or any other unusual behaviour or body language.

[67] CO Sommerfeld testified that nothing unusual happened during the day and the mood of the range was normal. He said Lewis Sitar was acting as usual and nothing further was brought to their attention.

[68] The decision was made to monitor the situation that day to see if anything of concern presented itself. Paul Thompson went to the command centre and made

himself visible during breakfast in order to make his own observations and to provide an opportunity for Lewis Sitar to approach him. He did not.

[69] The same thing was repeated at lunch. In the afternoon Thompson went onto the range. He testified that everything appeared normal and he did not observe anything of concern.

[70] Thompson decided Lewis Sitar would not be removed from the range. He felt that to do so would only create further problems for Mr. Sitar, as others would speculate as to why.

[71] The area outside of the individual cells on J Range is monitored and recorded on video. Video from the evening hours of February 20, 2017 was played in court and filed as Exhibit 4.

[72] The video shows cell doors opening for change over at 21:45:46. Inmates Fisher and Klyne follow Mr. Sitar into his cell and remain inside between 21:48:46 and 21:49:24.

[73] A third inmate is seen entering Mr. Sitar's cell and removing his television before the cell doors were closed at 22:02:02 to end change over.

[74] The final change over of the evening occurred between 22:09:28 and 22:21:33 after which all inmates returned to their cells for final count.

[75] Paul Thompson reviewed the video of February 20, 2017. He testified even in hindsight knowing the outcome of the day he could not identify anything on the video that should have raised concern about Lewis Sitar's safety.

[76] The same individual who provided him with information about Lewis Sitar selling medication when he first came on the range also suggested the assault was the result of a hit being ordered by another inmate. No reason for the hit was

provided and the individuals who killed Lewis Sitar have never provided an explanation for the attack on him.

[77] It is clear from those who knew him that Lewis Sitar was a difficult individual to deal with and historically did not get along well with others. It would appear that his time on J Range was consistent with this pattern.

[78] All those who were involved with Mr. Sitar and his placement on J Range were asked in hindsight if there was anything that could have been done differently to affect the outcome. Without exception all felt there was nothing further or different that could have been done to prevent Mr. Sitar's death, other than placing him in segregation.

[79] Witnesses were questioned extensively about whether Lewis Sitar had been labelled as a sex offender within the institution and if so whether this affected his safety.

[80] With the exception of Acting Parole Officer Michelle Feschuk all testified that despite his placement on I Range staff did not consider Mr. Sitar to be a sexual offender.

VII. Communication Protocol regarding Inmate Safety within Stony Mountain Institution

[81] Staff receive information about inmate safety in a number of ways. They may observe behaviour first hand, receive information from other inmates or be advised of concerns by the inmate himself.

[82] If a concern is identified procedures are in place for staff to document the concern and notify others.

[83] Incidents requiring notification to others include assaults, threats or any other circumstance raising the potential for physical harm to occur.

[84] If a concern arises during day time operation, the correctional manager of the unit is to be advised. If the concern arises overnight, the institutional manager is to be notified.

[85] A security concern can be documented in three ways. It is to be recorded in the unit logbook, located at the central control post, and a Statement Observation Report (SOR) is to be generated by the correctional office. An email can be sent to notify others on the unit of the details of the security concern.

[86] Institutional policy requires that an SOR be generated and that the incident be recorded in the unit logbook.

[87] All SORs from the previous day are reviewed at a daily management meeting each morning at 8:45 a.m. This meeting is attended by the Warden, Deputy Wardens, Correctional Managers, Security Intelligence Officer as well as other institutional managers.

[88] The various witnesses who testified had differing views of the effectiveness of the three methods of documenting and communicating a safety concern.

[89] The security of the logbook was questioned as the entries may be accessible to inmates on the unit as they pass by the control post. CM Paul Thompson noted that of the three methods of communication the logbook would be the last resorted to and was often overlooked.

[90] The effectiveness of filing an SOR was also questioned by some as the report is not reviewed until after 8:45 a.m. the following day and has limited distribution.

[91] All witnesses agreed that email is an efficient and effective way to communicate security concerns among staff within the Maximum Security Unit and elsewhere within the institution.

[92] CO Kiernicki testified that he used email to notify others of the information received from inmate X because email was the most direct and commonly used method to communicate information of this sort on the MSU. He testified he did not prepare an SOR documenting the information received, because in his view it would not go to the people needing the information in a timely fashion.

[93] He further indicated his usual practice was to prepare an SOR only when an actual incident had occurred.

[94] CM Paul Thompson confirmed that logbook entry and generating an SOR are institutional requirements for every security occurrence but that staff are given discretion as to when an SOR is necessary as security occurrences are frequent and are of varying levels of seriousness.

[95] In this case Thompson confirmed the information received from inmate X was not recorded in the unit logbook or documented in an SOR by anyone.

[96] From his point of view, the most effective way to share information is to use email as the information goes quickly and directly to those who most need it.

VIII. Board of Investigation (BOI) Report and Findings

[97] The Correctional Service of Canada investigated this incident and prepared a report about the investigation to ensure responsibility, accountability and transparency, and to enhance its ability to contribute to the safety of the public, staff and inmates. (Exhibit 5 page 1.)

[98] There are areas of the investigation that are relevant to this Inquest.

[99] The BOI examined the circumstances surrounding the assault on Lewis Sitar to identify any pre-incident indicators, precipitating events or contributing risk factors.

[100] In identifying such the Board also examined whether they were known to staff on the unit and if so what action was taken to address them.

[101] The Board determined that the relocation of Mr. Sitar from I Range to J Range was a pivotal precipitating event in relation to the assault on him.

[102] Risk factors associated with this move included the composition of the inmates on J Range and the potential presumption by them that Sitar was a sex offender.

[103] The inmates on J Range were described to the BOI as inmates who were disenfranchised from other institutions, highly criminally ingrained, disenfranchised from security threat groups, members of groups not welcome at the institution and those intolerant of inmates with sexual offence histories.

[104] The staff on the MSU did not view Lewis Sitar as a sex offender and CM Paul Thompson felt adequate steps had been taken to address any rumours raised by the CJOB news article. It is not clear whether the inmates on J Range knew that Mr. Sitar was transferred from a range that primarily houses sex offenders.

[105] Thompson advised the BOI that at the time of the transfer he did not recall any reference to a past sexual offence on Mr. Sitar's record. This despite being included in the evaluation that initially placed him on I Range.

[106] Further, Thompson advised the BOI that he was unaware of two prior incidents in 2016 wherein Mr. Sitar was referred to by inmates in another unit as a "skinner", a derogatory word for sex offender.

[107] On this issue the Board ultimately concluded at page 18 of exhibit 5 that knowledge of all of this information would have lead to a greater level of scrutiny, consultation and review of the proposed transfer.

[108] The Board found the information received from inmate X on February 19, 2017 was a significant pre-incident indicator. They note that although an email was sent by the CO receiving the information, it was not recorded in the Unit logbook and an SOR was not completed as required by institutional policy.

[109] As a result, those in charge of the institution, including the Warden and the management team were not provided with the information

[110] They concluded that had the information been recorded and shared as required, additional avenues of scrutiny and review would have occurred which may have resulted in additional steps being taken.

[111] A second pre-incident indicator was identified by the Board regarding the activities of Tristan Fisher and Carl Klyne on the evening of the assault.

[112] The Board noted that a review of the videotape of the range that evening showed a number of events that were not noted by staff due to the level of activity occurring on the various ranges.

[113] The BOI concluded that the COs on duty had diminished capacity to monitor the activities of all inmates simultaneously during “change over” periods and recommended a review of this procedure on the MSU, suggesting staggered “change over” periods be considered.

IX. Procedural Changes Since the Death of Lewis Sitar

[114] Two procedural changes have occurred since the death of Lewis Sitar.

[115] The length of “change over” periods has been shortened to five minutes to reduce the opportunity for inmate interaction inside a cell.

[116] Transfers between I and J Ranges have all but been eliminated and greater scrutiny of an offender's correctional profile prior to transfer between I and J Ranges now occurs.

X. Findings and Observations

Opportunity for Inmate Interaction

[117] The Inquest heard testimony that most assaults within SMI occur inside an inmate's cell outside the view of correctional officers and institutional video cameras.

[118] While I note that the assault on Lewis Sitar occurred in less than a minute, since Mr. Sitar's death the amount of time cell doors remain open during "change over" has been reduced to five minutes every half hour, limiting the opportunity for inmate interaction.

[119] The BOI found that because all four ranges "change over" at the same time, staff did not have opportunity to properly observe inmate activity. They recommended the institution consider staggering the "change over" times in the MSU to address this.

[120] I echo this recommendation. Increased observation of inmates during "change over" may allow staff to recognise and intervene in suspicious activity to prevent assaults from occurring. Knowledge of this may also serve to deter such attempts.

[121] The rule prohibiting an inmate from entering another's cell is not strictly enforced at SMI. While it is acknowledged this would be a difficult task, doing so would prevent unobserved contact between inmates.

Methods of Communication

[122] The Inquest heard testimony indicating the use of the written logbooks is at best inconsistent and often overlooked completely. Concerns about keeping the information in the logbook secure from inmates were also voiced. In light of the use of technology and the reliance on email, there is no apparent rationale for the continued use of a written logbook. At best the information contained in the logbook is incomplete and any reliance on it in decision making would be risky.

[123] The use of email to disseminate information among staff on the MSU and to others within the institution is the most effective method of communication and should continue, as should the preparation of SORs.

[124] The evidence heard suggests that discretion is given to individual correctional officers as to when an SOR is required, which may result in inconsistent approaches to reporting similar types of incidents.

[125] Clarifying the parameters as to when an SOR submission is required may result in greater and more consistent compliance with the institutional policy. A simplified procedure for submission of an SOR would also increase compliance and should be no more onerous than the sending of an email.

[126] In addition to noting the requirement for an SOR regarding the information from inmate X, the BOI also concluded that had the information been shared with those managing SMI an additional level of scrutiny of the situation would have occurred.

[127] While there was no evidence given at the Inquest that a different course of action would have been taken had others known of the threat to Lewis Sitar, a further level of scrutiny would have added value to the decision making process and would have been the preferred course of action.

Placement and Transfer of Inmates

[128] A report summarizing the reasons and rationale for the placement of an inmate should be prepared at the time of placement and made accessible to staff on the range.

[129] The summary should be updated regularly to reflect any concerns about the inmate's incompatibility with others or other factors that should be considered in any future transfer.

[130] If found together in such a summary the prior information that other inmates considered Lewis Sitar to be a sex offender by reference to him as a "skinner" or that he was rumoured to be one, by virtue of the CJOB article may have had more impact when viewed together and may have resulted in a different course of action given the intolerance for such offenders on J Range.

[131] Correctional officers on the range should also be given access to the inmate placement summary as part of their case management duties. An awareness of issues affecting placement may allow for staff to better evaluate the significance of any observations made or information received that could impact inmate safety.

[132] Given the known composition of the inmates on J Range for intolerance of sex offenders, having ready access to a placement summary may have put the information from inmate X in a different light when it was initially received.

[133] From a broader institutional standpoint there is no doubt that the prison population in SMI has become increasingly more complex. There are a growing number of security threat groups or gangs requiring isolation from one another to prevent violence.

[134] There is a growing number of inmates requiring psychiatric, addiction and other care that at times may make them incompatible with others.

[135] The Inquest heard testimony from CM Paul Thompson about the challenges faced with respect to inmate placement and the lack of available options.

[136] He suggested that having a greater number of units within SMI or smaller “pods” within a unit like the Maximum Security Unit would increase flexibility and create more options for inmate placement.

[137] Smaller numbers on each range or in each “pod” would increase the number of placement options by decreasing the number of inmates required to be compatible with one another in a given area.

[138] To do so however, will require renovation of existing structures at SMI or the construction of a new institution. If a new facility is contemplated in the future this design principle should be explored.

I respectfully conclude and submit this Report on this 29th day of September, 2020, at the City of Winnipeg, in the Province of Manitoba.

“ORIGINAL SIGNED BY:”

Associate Chief Judge Tracey Lord
Provincial Court of Manitoba