

Manitoba Ombudsman

750 – 500 Portage Avenue
Winnipeg, Manitoba R3C 3X1
Telephone: (204) 982-9130
Toll Free in Manitoba:
1-800-665-0531
Fax: (204) 942-7803
500 av. Portage, Pièce 750
Winnipeg (MB) R3C 3X1
Téléphone : (204) 982-9130
Sans frais au Manitoba :
1 800 665-0531
Télécopieur : (204) 942-7803

February 22, 2010

The Honourable Ken Champagne
Chief Judge
Provincial Court of Manitoba
5th Floor - 408 York Avenue
Winnipeg, MB R3C 0P9

INQUEST INTO THE DEATH OF DARLENE ROSE OWENS
OUR FILE: 2009-0313

Dear Chief Judge Champagne:

I am writing to advise of the results of the inquiries made by my office concerning the inquest report recommendations dated May 6, 2009 issued by the Honourable Judge Janice L. leMaistre into the death of Ms Darlene Rose Owens.

Darlene Owens came to her death in Pauingassi First Nation on October 19, 2005, as a result of suicide by hanging while detained in RCMP holding cells.

The Chief Medical Examiner called for an inquest pursuant to *The Fatality Inquiries Act*. The inquest report was released on May 11, 2009.

As you are aware, it is the practice of my office to follow up on inquest recommendations when they relate to a provincial department, agency or municipality. In this case, Judge leMaistre made seven recommendations. Most of the recommendations are or appear to be directed to Manitoba Justice. However, many involve the Royal Canadian Mounted Police. It should be noted that my office does not have jurisdiction to investigate matters within the purview of Federal Government bodies.

The following are the recommendations and responses we received:

RECOMMENDATION

All Band Constables who are not peace officers (Special Constables) be provided with the training and authority to detain prisoners in Pauingassi First Nation.

RCMP RESPONSE TO MANITOBA JUSTICE

I am advised that at present there are two Band Constables serving the Pauingassi First Nation. Both have completed Band Constable training and have peace officer appointments through the Province.

I will be tasking the Manitoba East District Commander with finalizing a Memorandum of Understanding (MOU) with the Pauingassi First Nation regarding RCMP cell facility usage by Band Constables. The MOU will contain conditions that the Band Constables have training from Public Safety Canada and peace officer appointments from the province. The MOU will also stipulate that Band Constables detain and handle all prisoners in accordance with RCMP policies.

RECOMMENDATION

The Province initiate negotiations with the Federal government and Pauingassi First Nation to establish a program with appropriate funding for the recruitment of guards to ensure an adequate pool of qualified individuals is available when required.

RCMP RESPONSE TO MANITOBA JUSTICE

Though this recommendation is not directed to our organization, the hiring of guards to work in RCMP facilities is our responsibility. At present there are ten guards available to be called upon in the Pauingassi First Nation. This is a reasonable size pool of guards for most occasions in a community of this size.

RECOMMENDATION

All cell guards in Pauingassi be required to attend appropriate training to ensure prisoner safety including suicide prevention and recognition.

RCMP RESPONSE TO MANITOBA JUSTICE

It would be difficult to provide all guards with formal training in suicide prevention. I will however be tasking the Manitoba East District Commander with ensuring that all guards at Pauingassi are provided with the 'Guard Training Course' as is required in current RCMP policy. This course contains sections regarding 'Care and Handling of Prisoners' and 'Awareness of Potential Dangers'. These sections provide training regarding: verifying prisoner responsiveness, emergency procedures for illness and attempted suicide, and extra precautions to be taken when dealing with mental patients and intoxicated persons.

RECOMMENDATION

The Province continue to work with the Federal government and First Nations to address deficiencies regarding recruitment, retention, standards and training of community policing services.

RCMP RESPONSE TO MANITOBA JUSTICE

Though this recommendation is directed to the Province, I can affirm that the RCMP is committed to the community policing philosophy. Although the RCMP is no longer directly involved in the delivery of Band Constable training, we will consider all requests for assistance from Public Safety Canada and Manitoba Justice regarding this training.

MANITOBA JUSTICE RESPONSE

The Department, in consultation with the RCMP, remains committed to the philosophy of community policing and, in particular, the delivery of policing services to remote Aboriginal communities. Over the past three years, Public Safety Canada, in consultation with the Department, the RCMP and the University of the North in The Pas, have developed an extensive Band Constable training program that is delivered once a year to any Band Constable candidates identified by their respective First Nation.

This three-week course is mandatory for any Band Constable seeking to receive a Special Constable Appointment from the Province.

We made further inquiries with Manitoba Justice and confirmed that the issues regarding recruitment, retention and standards are within the purview of the First Nations Band Councils and Public Safety Canada.

RECOMMENDATION

Regular First Aid and CPR training continue to be required for all individuals holding the positions of Band Constable, Night Patrol and Guard in First Nations communities in Manitoba.

RCMP RESPONSE TO MANITOBA JUSTICE

RCMP policy already requires that all guards be certified in first aid and CPR. I will be requesting that all detachment commanders monitor first aid and CPR certifications for guards to ensure they remain current.

Ensuring that this training is provided to Band Constables and Night Patrol would be the responsibility of their employer.

The RCMP later provided further clarification and advised my office of the following:

The below noted policy clearly articulates where responsibility lies relative to the training of Band and Community Constables.

38.8. Community Constable Program

1.3. The Band Constable program is administered and delivered by Public Safety Canada. Training is coordinated by the Regional manager of the Aboriginal Policing Directorate, for Public Safety Canada. Requests for training should be referred to the Public Safety Canada Aboriginal Policing Directorate.

Manitoba Justice made inquiries with the Aboriginal Policing Directorate and confirmed that First Nations communities have financial responsibility for recertification training for Band Constables in their employ.

As previously noted, there is now a 3 week mandatory training course for all Band Constables who receive the Special Constable appointments from the Province. Additionally, the civilian guards working with the RCMP are required to have current First Aid/CPR certification to work in RCMP holding cells.

We are advised that Night Patrols in the First Nations communities are the sole responsibility of the Band and their authority to detain individuals is limited.

RECOMMENDATION

Maintain the camera monitoring systems in cells in the Province to ensure they are in proper working order.

RCMP RESPONSE TO MANITOBA JUSTICE

Higher risk RCMP cell facilities in Manitoba are equipped with video recording equipment. The majority of these facilities are located in northern Manitoba where prisoner volumes are higher and involve large numbers of intoxicated persons.

Ensuring that cell recording is functioning is the responsibility of each individual detachment commander. I will be reminding all commanders of their duty to monitor and ensure the functionality of this equipment.

RECOMMENDATION

The Province initiate negotiations with the Federal government and First Nations to establish regular inspections of RCMP cells to verify they meet current standards and to establish regular reviews of existing standards to ensure they are up-to-date with developments in the industry.

RCMP RESPONSE TO MANITOBA JUSTICE

Though this recommendation is directed to the Province, I can advise that the RCMP cell block fit-up standard is a national standard. The standard is continuously evolving as new hardware and equipment become available, and as previously unknown risks are identified. Cell block retrofits are federally funded. Manitoba RCMP facilities are retrofitted on a priority basis as funding permits.

In addition, fourteen high risk RCMP cell facilities have been closed. All of these facilities are in the process of being decommissioned to ensure that they cannot be used for the purpose of lodging prisoners.

Our office made further inquiries with the RCMP to clarify the situation and we were advised that:

Subsequent to the death of Darlene Owens [D Division Protective Technical Services Section] attended at all detachments using cells with swinging door lock mechanisms similar to the type in Pauingassi (ie: ones with interior hang resistant door knobs), and retrofitted/repared any defective or obsolete knob spindle assemblies with the most current version of the hang resistant knob.

D Division Protective Technical Services is a two person section, with responsibility for electronic and mechanical security for the Division, making it impractical to undertake a formal preventive maintenance inspection program without additional staff. Due in part to the Darlene Owens death, Ottawa has been able to secure funding for additional field mechanical security positions which will enable us to periodically inspect all cells. I anticipate that we will be able to staff a mechanical security technologist position in the upcoming fiscal year. In the interim, we make a point of checking cells at any locations that we attend to for any other work. In so doing we have not found any further occurrences of the cell lock problem that occurred in Pauingassi (loose door knob/spindle assembly).

The Pauingassi building locks were last serviced and checked in July 2009. At that time we noted that one of the two cells has had a replacement door installed which is fitted with a lock that does not incorporate an inside knob (eliminating the knob as a hanging point).

Although the national RCMP fit up standard still approves the use of a swinging door with an inside hang resistant knob, we have discussed the issue with Asset Management and agreed to exclusive use of approved cell locks which do not incorporate an inside knob on any current or upcoming renovations or construction projects.

Pauingassi has been ranked as a high risk location, however, it is approximately 6th in the Division's priority ranking. Unfortunately, it may be several years until funding is available to complete the retrofit work.

The complete retrofit will include the construction of angled walls to eliminate blind spots, and the replacement of cell equipment such as doors, frames, toilet/lavatory combinations, lights, and security caulking.

RESPONSE OF MANITOBA JUSTICE

The Department has been advised that RCMP controlled cell facilities fall under the national cell fit-up standard as set down by the RCMP and the federal government and are the sole responsibility of the RCMP as the provincial police service in Manitoba.

Based on our review of this matter, it would appear that Manitoba Justice has given reasonable consideration to the recommendations within its jurisdiction. As such, our file concerning the Darlene Owens inquest has been closed.

Yours truly,

Original Signed by

Irene A. Hamilton
Manitoba Ombudsman

cc: Mr. Jeffrey Schnoor, QC, Deputy Minister of Justice and Deputy Attorney General
Mr. Paul Kennedy, Commissioner RCMP Public Complaints Commission
Dr. Thambirajah Balachandra, Chief Medical Examiner
Inspector Tyler Bates, Royal Canadian Mounted Police, D Division
Mr. William V. Baker, Deputy Minister of Public Safety Canada