

# Manitoba Ombudsman

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July 10, 2008

The Honourable Raymond E. Wyant  
Chief Judge  
Provincial Court of Manitoba  
5<sup>th</sup> floor – 408 York Avenue  
Winnipeg MB R3C 0P9

Dear Chief Judge Wyant:

## **Re: Inquest into the death of Rachel Lori Wood**

I am writing to advise of the results of the inquiries made by my office concerning the inquest report recommendations dated May 29, 2007, issued by the Honourable Associate Chief Judge Murray P. Thompson into the death of Rachel Lori Wood.

Rachel Wood came to her death at Nisichawayasihk Cree Nation (Nelson House) on October 5, 2003 from asphyxiation due to hanging while in the custody of the Nelson House Police. Ms Wood had been detained for breach of the peace and lodged in a holding cell.

The Chief Medical Examiner called for an inquest pursuant to Section 19(3) of *The Fatality Inquiries Act*. The inquest report was released on June 4, 2007.

As you are aware, it is the practice of my office to follow up on inquest recommendations if they involve a provincial department, agency or municipality. In this case my office made inquiries with Manitoba Justice and those municipal police services that utilize holding cells and employ civilian guards. The following are the recommendations and responses we received.

### **RECOMMENDATION 1**

The Province invite the Federal government to establish a joint working group tasked with identifying Band operated holding cells in Manitoba and take immediate action to shut them down.

### **RESPONSE**

#### MB Justice

*The federal government, in October 2006, directed all Manitoba First Nations to stop the use of holding cells that do not meet current RCMP standards. First Nations who*

*continue to use unauthorized holding cells were also advised that Band Constable funding would be withheld.*

Public Safety Canada/Aboriginal Policing Directorate (PSC/APD)

*In January 2007, further to previous communication with the First Nations on the topic of Band operated detention cells, Canada advised the First Nations that they would have to suspend funding of their Band Constable Program (BCP) until such time as the First Nations advised that they no longer used Band operated holding cells. In addition, as part of our program contribution agreement funding process, First Nations in Manitoba must now agree that they will not operate Band detention facilities as part of their BCP as the program does not permit or authorize the use of these types of facilities. Under the program, where detention is required, the Band Constables are to refer the matter to the RCMP.*

*Contribution Agreements are also being drafted that have specific wording regarding detention facilities and with an additional PSC/APD representative within the region, monitoring of the BCP in Manitoba will be focused primarily on the higher risk communities in an effort to prevent the continued use of these types of facilities without the knowledge of departmental officials. When PSC/APD becomes aware of First Nations who continue to operate same, funding will be withheld and the Province and the RCMP will be advised in writing.*

**RECOMMENDATION 2**

Any replacement cells must meet RCMP standards of construction, operation and staffing.

**RESPONSE**

MB Justice

*This recommendation has been addressed as PSC/APD advised communities of this requirement in October 6, 2006 when First Nations were instructed to stop using existing detention cells that did not meet RCMP standards.*

*Note: With respect to the cells at the Band Constable office where the Wood incident took place, they have been permanently closed down and are not being used by anyone. In their place there is now a new RCMP FNCPS detachment at Nelson House. This detachment has four fully functional cells that have been built to the latest RCMP standards. These will be the only cells that will be in use at Nelson House.*

Public Safety Canada/Aboriginal Policing Directorate (PSC/APD)

*As noted above, the Band Constable Program requires Band Constables to refer matters involving detention to the RCMP. As such, the provision of cells under the Band Constable Program is not required. Any replacement cells would have to be provided by the RCMP, most likely under the PPSA unless an FNCPS program was*

*established with infrastructure being built to the standards required by the RCMP and staffed with RCMP members.*

### **RECOMMENDATION 3**

The Province initiate negotiations with the Federal government and the First Nations to achieve agreement to clearly define, properly enforce and regularly monitor standards for Band Constables and First Nations Policing Programs.

### **RESPONSE**

#### MB Justice

*In February 2006 at a meeting in Ottawa that included representatives from the Aboriginal Policing Directorate, Provinces, Territories, and the RCMP, the issue of establishing a working group to review the Band Constable Program was discussed. That meeting resulted in the forming of a working group with a mandate of reviewing the existing BCP for the purpose of:*

- *clearly defining the role of Band Constables;*
- *establishing training standards for Band Constables;*
- *establishing supervision and management of properly trained Band Constables, and*
- *determining if an enhanced BCP could be cost shared 48/52 between Canada and the Provinces*

*To date there have been three working group meetings that have developed a Band Constable job description, which has enabled the RCMP to tentatively commit to supervise and manage an enhanced BCP that would be similar to the Community Safety Officer program the RCMP is currently developing for small municipals for which they provide policing services. This is an ongoing issue that will need to include First Nation (FN) community input before it could be established.*

On December 19, 2007 the Department of Justice further advised:

*The Working Group has developed training standards in conjunction with the RCMP and they continue to be reviewed and updated. Training modules have been developed for regularized band constable training. The RCMP held a training session in July 2007 and 27 band constables completed the program.*

#### Public Safety Canada/Aboriginal Policing Directorate (PSC/APD)

*The Department's BCP Working Group is reviewing and recommending improvements on the overall management of the BCP and providing clarity on the roles and responsibilities of the Band Constable Program.*

### **RECOMMENDATION 4**

The Province negotiate with the Federal government and the First Nations an agreement to fund transportation of Band Constables from remote areas to training sessions.

**RESPONSE**

MB Justice

*Currently this is an issue for the PSC/APD to resolve as the BCP is funded 100% by Canada. PSC/APD has been advised of the recommendations and has been directed to the web site for access to Judge Thompson's final report.*

Public Safety Canada/Aboriginal Policing Directorate (PSC/APD)

*A training session was held this July 2007. Most of the First Nations were able to fund the transportation of their Band Constables to Winnipeg. The Department then took responsibility for transporting them to and from Winnipeg, Southport, and Portage la Prairie. Wasagamack First Nation advised two days before the training session that they were not able to send two of their Band Constables for training because they were short of funds. The RCMP agreed to transport them to Winnipeg using the RCMP plane. Twenty-seven (27) Band/Community Constables received training at the Southport facility.*

**RECOMMENDATION 5**

The Province initiate negotiations to establish a national protocol and database to share Inquest and Coroner's reports and their recommendations.

**RESPONSE**

MB Justice

*Manitoba inquest reports are currently shared via the internet. At the request of the Chief Coroner and Chief Medical Examiners across Canada, Statistics Canada is working on the development of a national database for all deaths. The expectation is that Inquest reports and recommendations will be available through the database. Manitoba is reviewing a Memorandum of Understanding with Statistics Canada concerning disclosure of information for the database.*

**RECOMMENDATION 6**

The Province make specialized training in suicide prevention and recognition (i.e. the ASSIST program) mandatory for all cell guards in Manitoba, with periodic refresher courses.

**RESPONSE**

MB Justice

*All Correctional Officers and Juvenile Counselors are provided specialized training (the ASSIST program) in suicide prevention and recognition. Periodic refresher courses are also provided to all front line staff.*

*The department has canvassed police agencies with respect to the use and training of civilian cell guards. The following police services have operational cells and use civilian guards: Altona Police Service, Morden Police Service, Winkler Police Service and the RCMP. We have been advised that civilian guards are not trained in suicide prevention and recognition.*

*The department has provided the police agencies with the inquest recommendations that impact them for their determination of whether or not they need to adjust their policies and procedures.*

#### RCMP

*The RCMP provides suicide prevention training to all of its members coming out of the training academy in Regina.*

#### TOWN OF ALTONA

*The Altona Police Service has initiated plans respecting the training of all civilian guards. Three of our six guards are already trained. The intent is that the remaining guards will be trained at an upcoming Applied Suicide Intervention Skills Training (ASIST) program.*

#### TOWN OF MORDEN

*Recommendation No. 6 suggests all guards take the ASSIST program. The Morden Police Service has a list of twenty names from which guards are randomly called in when services are needed. The list is ever changing, with some guards not necessarily working for months at a time. With this in mind, the guards are not allowed to interact with the prisoners or open the cell door. They are asked to observe only. Any suspicious behavior is to be immediately reported to a police officer. It is the Police Chief's intention to have our guards take the ASSIST program as it becomes available.*

#### CITY OF WINKLER

*In response to Recommendation No. 6 which asks guards to be provided with suicide prevention training, I suggest that this is entirely unnecessary to rural facilities such as the City of Winkler. Unlike facilities such as the Remand Centre in Winnipeg, guards at the Winkler Police Service (WPS) do not interact with prisoners nor speak to them. Guards are provided close circuit television monitoring equipment (video & audio) for each cell room. They have constant observation and make log entries on a regular basis noting the activity in each cell. All police officers receive suicide prevention/recognition training as part of their recruit training. It is these officers*

*that interact directly with the prisoners throughout the arrest and lodging procedure; and then communicate to the guards, the level of concern for each prisoner. When a guard observes alarming activity, they summon a police officer to attend and address the situation. Guards are not allowed close contact with prisoners and only in the case of fire, are they allowed to access or unlock a cell. Learning to recognize alarming activity does not require suicide prevention or recognition training. As a last note, we find it quite hard to find persons willing to guard, and introducing mandatory training would only further hinder the situation.*

#### **RECOMMENDATION 7**

The Province make mandatory Closed Circuit TV monitoring of all holding cells in Manitoba.

#### **RESPONSE**

##### MB Justice

*CCTV monitoring is only one method of monitoring activity or status in a holding cell. While Corrections has a number of holding cells which are CCTV monitored, others are monitored by direct supervision from staff posts which are immediately adjacent to the cells in question. The level of monitoring of a cell is contingent upon the risk and need presented by the inmate at the time. Corrections utilize risk and need assessment instruments to estimate the level of supervision and monitoring that any inmate may require. Suitable provisions are then made based upon this estimate of risk.*

##### RCMP

*Not all RCMP cells are equipped with CCTV. However, most detachments north of the Trans-Canada Highway and several in the southern part of the province are equipped. This equipment is installed at specific detachment locations based on the level of risk at the detachment holding facility.*

My office confirmed the Altona Police Service, Morden Police Service and Winkler Police Service have closed circuit TV monitoring capabilities in their holding cell areas.

#### **RECOMMENDATION 8**

The Province inspect all provincial jails with the goal of ensuring all prisoner cells are ligature proof.

#### **RESPONSE**

##### MB Justice

*As has been noted above, the level of monitoring available and the cell construction used is a product of risk and need assessment. Therefore, not all cells have the same characteristics, be it security rating, whether it is electronically monitored or whether*

*it is ligature proof. Generally speaking, any high suicide risk inmate is placed in special holding cells which offer either constant electronic surveillance or direct staff supervision. Articles of clothing are limited to specially designed suicide smocks and access to harmful objects is strictly limited. Every effort is made to design such cells or to retrofit such cells in order to provide minimal opportunities for a suicide attempt. Ligature opportunities are examined and where possible, such opportunities are physically avoided. However, ligature control is only one hazard and we examine the potential for self-harm in a number of other areas as well. In addition, we supplement any physical precautions with active counseling with the inmate, aimed at reducing the likelihood of self-harming behaviour.*

*Police in Manitoba have confirmed that in cells operated by municipal and provincial police every effort is made to design such cells or to retrofit such cells in order to provide minimal opportunities for a suicide attempt. Ligature opportunities are examined and where possible, such opportunities are physically avoided and all cells have video monitoring in place or are in the process of arranging for a video monitoring process.*

#### **RECOMMENDATION 9**

The Province direct that its Chief Medical Examiner notify the Aboriginal Policing Directorate for Manitoba when a death occurs which directly involves First Nations Police.

#### **RESPONSE**

##### MB Justice

*The Department is notified directly by the police when a death in a cell or police custody occurs and upon notification of the death advises the Aboriginal Policing Directorate.*

Based on our review of this matter, it would appear that Manitoba Justice and the relevant Police Services have given reasonable consideration to the above noted recommendations. As such, our files concerning the Rachel Lori Wood Inquest Report have been closed.

Yours truly,

Original Signed by

Irene A. Hamilton  
Manitoba Ombudsman

cc Mr. Ron Perrozo, Deputy Attorney General, Deputy Minister of Justice  
Dr. A. Thambirajah Balachandra, Chief Medical Examiner

Mr. Russ Phillips, CAO Town of Altona  
Mr. Ernie Epp, CAO Town of Morden  
Mr. Vince Anderson, CAO City of Winkler