

Recommendations Concerning the Coroner's Inquest into the Death of:

Ricardo Wesley & Jamie Goodwin

The following recommendations are not necessarily in order of priority.

PREAMBLE

The jury has made the following recommendations largely as they relate to the Nishnawbe-Aski Police Service and its policing delivery. We would note, however, that many of the recommendations could be relevant to other First Nations policing services in Ontario and Canada.

Due to the seriousness and circumstances of these two deaths, we hope that the recommendations outlined here be widely disseminated within First Nations and relevant government agencies throughout Canada.

We the Jury recommend that:

1. In order to have transparency to this process we recommend that this document be translated into Cree, Ojibway and Oji-cree and be easily accessible to Nishnawbe-Aski Nation members.

FIRE SAFETY

2. First Nations, Canada and Ontario should work together to develop a fire safety model that closely resembles that which applies to municipalities and includes an enforcement mechanism.
3. Nishnawbe-Aski Nation (NAN), in consultation with the Ontario Fire Marshall's office, should develop and implement models for the delivery of services and programs for fire protection, prevention and safety, consistent with s.2(1)(a) of the *Fire Protection and Prevention Act*.
4. Consideration should be given to exceeding minimum building standards in new police detachments in communities where fire suppression services are not readily available.
5. Nishnawbe-Aski Police Service (NAPS) should immediately develop and implement plans for Fire Safety for each police detachment utilizing the best practices contained in the Model National Building and Fire Codes and the Ontario Fire Code.
6. Fire safety plan should require an interconnected smoke alarm system that is regularly maintained and tested.

7. Fire safety plan should require continuous video monitoring in occupied holding cells.
8. Fire safety plan should require regularly maintained fire extinguishers throughout all holding facilities.
9. Fire safety plan should require training for police officers in the use of fire prevention and suppression equipment in the police detachment. It is recommended that the test burn video from this inquest be provided as a training tool.
10. Fire safety plan should require sprinkler systems in detachments with detention facilities.
11. Fire safety plan should require posted emergency evacuation plans.
12. Practical training (i.e. fire drills and emergency evacuation) for police officers, guards and matrons should be provided. These drills should be conducted regularly and documented (minimum annually).
13. Standard correctional locking mechanisms should be used on cell doors and a single key to access all cells should be located in a secure but readily available location for staff access.
14. The use of foam mattresses in holding cells should be strictly prohibited. Any materials used in the cellblock areas should be of the appropriate fire resistance or flame spread rating.
15. To eliminate the risk of prisoners having access to ignition sources while in custody, proper search procedures should be strictly followed by officers upon arrest and prior to the incarceration of prisoners. If there is any doubt as to whether or not a prisoner was searched, the search should be repeated.
16. Police officers should search cells between occupancies.
17. Any cell that is deemed unsafe should not be used.
18. Any maintenance or repair issue at a police detachment, affecting the health or safety of building occupants, should be managed as a high priority.
19. Smoking should be strictly prohibited in holding cells.
20. There should be adequate heating in the cells.

21. Fire Safety Plans should be prominently be displayed in each NAPS detachment and that they be reviewed annually and modified according to current best practices.
22. Leasing or rental arrangements between NAPS and NAN First Nations should include clear and specific provisions regarding responsibility for timely and effective cleaning, maintenance and repairs of detachments. Remedies and/or enforcement mechanisms need to be provided for circumstances in which delays may risk or compromise the health and safety of building occupants.

FIRE INSPECTION

23. Canada, Ministry of Community Safety and Correctional Services (MCSCS), NAPS Board and Police Service, the NAN Tribal Councils and the Chiefs and Councils of the NAN First Nations should work together to ensure that the appropriate fire safety inspections of police detachments are carried out in all of the NAN communities and that identified deficiencies are remedied.
24. Canada and Ontario should provide funding to NAPS to secure independent fire safety inspection services for the NAPS detachments.
25. Effective immediately and pending further action pursuant to (24) above, police detachments should be added to the list of major public band buildings that are provided with fire inspection and fire engineering services by the Fire Prevention Services Division of the Labour Program of Human Resources and Skills Development Canada (HRSDC).
26. NAPS should develop a protocol so that each individual detachment is responsible for ensuring the proper functioning of fire safety equipment on a regular basis.
27. NAPS should assess the feasibility of a fire safety officer position who would conduct inspections, training and drills, record management, etc.

ADEQUACY OF RESOURCES

28. First Nations, Canada and Ontario should work together to ensure that policing standards and services levels in First Nations communities are equivalent to those in non-First Nations communities in Ontario.
29. Canada and Ontario should develop a method for establishing equivalence in policing standards and services between First Nations and non-First Nations communities. The unique characteristics of remote NAN communities should be addressed.

30. Canada and Ontario should provide NAPS with the funding required to ensure that the communities it serves receive the same level and quality of policing services and infrastructure that non-First Nations communities receive. Funding levels should be sufficient to allow NAPS to comply with adequacy standards set out in the *Ontario Police Services Act* and the *Policing Standards Manual* of the MCSCS and Royal Canadian Mounted Police (RCMP) guidelines.
31. An operational review of NAPS, in consultation with NAN, should be immediately undertaken.
32. The operational review should define common goals and objectives based on the observations and findings of an independent party that is mutually agreed upon by Canada, Ontario and NAN.
33. It is recommended that Canada and Ontario pay the cost of this operational review.
34. The operational review should consider the uniqueness of the NAN communities, and the requirements of the NAPS police service for adequate staffing, organizational structure, and infrastructure. Particular consideration should be given to the remoteness of the communities, the lack of social services, the lack of officer housing, officer retention issues, high transportation costs and the growing population.
35. The funding provided by Canada and Ontario should be sufficient to ensure that the needs identified by the operational review are implemented.
36. Canada, Ontario and NAN should retain a mutually agreeable independent consultant to conduct a comprehensive evaluation of the costs of appropriate policing in remote First Nations communities in Ontario. This evaluation requires the development of a method to cost unique, remote/fly-in police services.
37. Canada and Ontario should provide funding for this evaluation under clause 12 of the Tripartite Agreement.
38. NAPS should develop a business plan outlining its vision, goals and objectives for policing the NAN communities.
39. Permanent purpose-built detachments speaks to equality of service, pride of policing and professionalism. The standard for NAPS detachments should be brick and mortar buildings.
40. NAPS should establish a Property Management Department that has access to appropriate resources and staff. This department is encouraged to investigate funding options for apprentice training to develop in-house skilled workers.

41. NAN should conduct a research and policy review on the funding and availability of suitable housing for NAPS officers. Ontario and Canada should provide funding for this review.
42. Where housing is available, NAPS officers should be encouraged to police in communities other than their own to minimize policing family and friends, and to foster professionalism and respect.
43. It is recognized that as many as nineteen (19) of the NAPS detachments do not meet National Building Code standards and do not have sprinkler systems installed. It is recommended that Canada, Ontario and NAN convene a meeting no later than June 30, 2009 to determine the most expeditious way to resolve this serious problem. Further, it is recommended that remedial plans and strategies arrived at through the negotiations be forwarded to the Director General of the Aboriginal Policing Directorate (Canada) and the Minister of Community Safety and Correctional Services (Ontario) no later than October 30, 2009 for immediate action.
44. In the absence of resolution, pursuant to (43), holding cells in all detachments with unsafe conditions should be closed.

LEGISLATIVE ACTION

45. NAN, Canada and Ontario should work together to establish a legislative framework for NAPS, pursuant to section 9 of the *Nishnawbe-Aski Police Service Agreement*. As well, other First Nations in Ontario serviced by First Nations police services should be invited to participate in this process. The federal government should take the lead in promoting this negotiation process.
46. Ontario should amend existing legislation to provide the NAPS Police Board with the same opportunities and rights as a municipal police board (under section 39 of the *Ontario Police Services Act*) to appeal to an independent commission for a hearing and a binding decision regarding the adequacy of its budget.
47. NAN should be adequately funded by Canada and Ontario to be able to meaningfully and actively participate in consultations and negotiations about a legislative framework for NAPS.
48. NAN, Canada and Ontario should work together to establish flexible and innovative mechanisms for addressing health and safety issues at NAPS detachments in a timely manner.

NAPS TRAINING, POLICIES AND PROCEDURES

49. As a professional police service, NAPS should define clear roles and responsibilities within their organizational structure. There should be clear reporting, accountability, and disciplinary mechanisms in place, including those related specifically to health and safety.
50. All officers within the NAPS organization should have the ability to address health and safety issues in a timely fashion.
51. NAPS should develop and implement policies for the search and management of prisoners based on "best practices" models that draw on OPP and RCMP policies and procedures.
52. NAPS officers should be properly trained in policies and procedures relating to the search and management of prisoners. These procedures should be reviewed at block training.
53. In the physical absence of a NAPS Sergeant, all NAPS detachments should have a designated officer-in-charge in the community at all times.
54. NAPS should take appropriate measures to ensure that policies and procedures such as searching of prisoners and prohibition of smoking in cells are strictly followed and enforced.
55. NAPS should work with the NAN First Nations to develop protocols for enforcing band by-laws for public intoxication which includes alternatives for detention in a police lock-up. Consideration should be given to the safety of the intoxicated person, the safety of other persons, and the resources available within the community.
56. Form E-120 ("Prison Arrest Record") should be amended to add a requirement that the officer notes the justification for detention pursuant to a band by-law. Officers should indicate what alternatives to detention that were taken, as well as into whose custody the person was released.
57. NAPS should develop a protocol to determine suitable durations of incarceration due to intoxication.
58. Form E-120 should be amended to include the signing off of a search performed at the time of arrest, time of lodging, and time of transfer.
59. Prisoners detained in holding cells should be physically checked every 15 minutes with more frequent checks when prisoners are heavily intoxicated, or when at risk for medical emergency, self harm, or violence.

60. NAPS should develop and implement policies and procedures pertaining to the responsibilities of guards and matrons based on a "best practices" model that draws on OPP and RCMP policies and procedures.
61. NAPS should identify which policies and procedures are appropriate to be translated into Ojibway, Cree and/or Oji-Cree.
62. Considering NAPS officers, guards and matrons do not necessarily speak a common language, NAPS should develop a protocol for officer / guard rotations that ensures clear communication between all NAPS personnel within their detachments, at all times.
63. NAPS should implement a notification of next of kin policy.
64. NAPS should develop a protocol for officer, guard and prisoner ratios. Consideration should be given for additional staffing for the continuous monitoring of individuals where a safety concern exists. Specialized officers visiting communities for investigations should not be considered as part of the detachment complement for that day.

COMMUNITY HEALTH/ WELL BEING/ RECONCILIATION & INITIATIVES

65. First Nations, Canada and Ontario governments should ensure that counseling is made available to family members on First Nation Reserves after sudden deaths.
66. Counseling should be made available for the families of Ricardo Wesley and Jamie Goodwin, provided they wish to participate.
67. Counseling should be made available for the NAPS employees involved in the Kashechewan detachment fire, provided they wish to participate.
68. NAN, Canada and Ontario governments should work together to develop flexible, innovative and effective responses to the problems posed by alcohol and drug abuse in NAN First Nations. In particular, Canada should conduct a study on the feasibility of establishing detoxification centres on NAN First Nation reserves.
69. Reconciliation measures, such as a community feast, should be undertaken between the families of the deceased, the people of Kashechewan, and the NAPS employees.
70. NAPS should continue its initiatives to improve relations between its police service and the NAN First Nation communities it serves. In addition, NAPS should continue its development of proactive policing policies and programs for these communities.

71. Canada, Ontario and NAPS should create specific community policing officers with special emphasis on alcohol and drug abuse education and prevention.
72. The Kashechewan First Nation should consider holding a community meeting to determine whether the membership supports amending or repealing the current intoxication band by-law.

INFORMATION SHARING

73. The Director General of Aboriginal Policing Directorate (DG-APD) should develop a protocol to provide information with respect to deaths arising from similar circumstances in First Nations Policing.
74. This protocol should require that a police service that receives recommendations from a provincial inquest or inquiry relating to an in-custody death forwards the recommendations to the DG-APD and its provincial equivalent.
75. This protocol should require that a police service investigating an in-custody death in which it is discovered that unsafe premises, practices or procedures may have contributed to the death be reported to the DG-APD, the provincial equivalent and the force that detained the deceased. The report should set out the circumstances of the death and any identifying factors that may have contributed to the death.
76. This protocol should require that the DG-APD forward, forthwith, any recommendations and reports made pursuant to (73) and (74) above to all First Nations Police Services.
77. This protocol should require that the DG-APD confirm that all First Nation Police Forces have reviewed the report and recommendations; identified if the unsafe premises, practices or procedures are applicable to their service; and if actions have been taken or if actions are not required.
78. This protocol should identify if any additional funding or resources are required pursuant to (76), to address any unsafe premise, practices or procedures.

FUNDING

79. Canada and Ontario should agree that the funding split set out in the tripartite agreement should not prohibit either level of government from providing funding in excess of the 52-48% arrangement.

80. Canada and Ontario negotiators should visit NAN communities and NAPS detachments to gain a better understanding of the unique needs and challenges of policing within this remote region. Canada and Ontario should provide funding for their negotiators to undertake such travel.
81. Canada should amend the terms and conditions of the First Nations Policing Policy (FNPP) to allow for major capital funding.
82. Canada, Ontario and NAN should amend the terms of the Tripartite Agreement to allow for major capital funding.
83. Sections 14.2 and 15.1 in the Tripartite Agreement should be amended to include a binding arbitration process.
84. Section 16.1 in the Tripartite Agreement should be reevaluated considering the binding arbitration process pursuant to (82) above.
85. Canada should create an advocacy position within the Federal Government to assist First Nation communities in identifying and accessing programs, funding, and services.
86. Contextual evidence provided at this inquest has suggested many contributing factors to these deaths. A public inquiry or Royal Commission should be conducted for the NAN communities which addresses parity of services, community health and safety, and quality of life.

Closing comment:

In closing, I would like to stress once again that this document was prepared solely for the purpose of assisting interested parties in understanding the jury verdict. It is worth repeating that this is not the verdict. Likewise, many of the comments regarding the evidence are my personal recollection of the same and are not put forth as actual evidence. If any party feels that I made a gross error in my recollection of the evidence, it would be greatly appreciated if it could be brought to my attention so that the error can be corrected.



Presiding Coroner

2009-05-27

(date)

Exhibit: *National Inquiry into Missing and Murdered Indigenous Women and Girls*

Location/Phase: Part 2 Regina

Witness: Alana Morrison

Submitted by: Kyrylyn Ordyniec

Add'l info: P02P02P0301

Date: JUN 27 2018

Initials

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I/D

Entered

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