



## **Overview of Weekly Proceedings for the Missing Women Commission of Inquiry**

*By Robyn dean Gervais, Independent Counsel for Aboriginal Interests, Missing Women Commission of Inquiry*

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The purpose of this overview is to provide readers with a brief summary of the proceedings of the Missing Women Commission of Inquiry for the week of February 6 to February 9, 2012. Readers are welcome to distribute this summary to any person or organization they think may benefit from it.

Readers are also welcome to follow my Twitter feed at RobynGervaisMWI, or to visit the website of Harper Grey LLP (<http://www.harpergrey.com>), the firm of Bryan Baynham, Q.C., who is providing *pro bono* counsel.

### **A. WOMENS MEMORIAL MARCH AND CRAB PARK WATER FOR LIFE SOCIETY VIGIL**

The 21<sup>st</sup> Annual Women's Memorial March to honour the memory of the Missing and Murdered Women from the Downtown East Side will be held on February 14, 2012. A press conference will be held at 10:30 at the Carnegie Centre Patio in Vancouver. The Memorial March will begin at 1:00 pm.

The Women's Memorial March will also be held in twelve other cities including Victoria, Toronto, Montreal, Ottawa, Winnipeg, Edmonton, Penticton, Calgary, Kelowna, Merritt, Thunder Bay, and London.

On February 14, 2012 at Crab Park at 11:00 am Crab Park Water for Life Society will also be holding a candlelight vigil, and memorial prayers, in honour of the Murdered and Missing Women.

### **B. CORPORAL MIKE CONNOR**

Royal Canadian Mounted Police ("RCMP") member Corporal Connor ("Connor") of the Serious Crime Unit began working with the Vancouver Police Department ("VPD") in August 1998 and was the lead RCMP investigator in the Robert Pickton ("Pickton") investigation until he was promoted and transferred out of his unit in August 1999. Corporal Connor targeted Pickton as a suspect for investigation where he arranged surveillance of Pickton, arranged meetings with officers from various police agencies, including the Provincial Homicide Unit, interviewed various informants, and took other investigative steps.

### **CROSS-EXAMINATION CORPORAL MIKE CONNOR**

This week I did not cross-examine Connor. Connor's participation in the missing women investigation was focused solely on the investigation of Pickton as a suspect and was not tasked with investigating the missing women. I am taking a strategic approach to the cross-examination of each witness. The five lawyers who cross examined Connor ahead of me thoroughly canvassed the issues and once it was my turn to

cross-examine Connor I did not feel that he was able to provide the Commissioner with any further evidence to advance my mandate.

In light of this please find below a brief summary of the highlights of Connor's testimony.

While a corporal in the RCMP's Coquitlam Detachment, Connor conducted an investigation into an attack by Pickton in 1997 on a sex trade worker who, because of a publication ban, is referred to in these proceedings by the pseudonyms "Victim 97" and "Ms. Anderson". Connor recommended a charge of attempted murder to Crown prosecutors, but despite the fact that Ms. Anderson nearly died as a result of her injuries, the charges against Pickton were stayed because prosecutors believed that her heroin addiction would render her unreliable as a witness. The following year, in 1998, Connor began another investigation into Pickton, this time based on information from a source named Bill Hiscox ("Hiscox") that Pickton was slaughtering sex trade workers on his farm. He continued as lead investigator on that file until he was promoted and transferred out in August 1999.

Connor expressed deep regret that he did not push Crown Counsel harder to prosecute Pickton for the Ms. Anderson attack, and told the Commission that he suffers from post-traumatic stress and thinks about the Pickton case daily. Thirteen women disappeared from the Downtown East Side between the time the Ms. Anderson charges were stayed and when Pickton was arrested in February of 2002. DNA of eleven of those women was eventually located on Pickton's farm.

Under direct examination by Commission Counsel Art Vertlieb, Q.C., Connor revealed that surveillance conducted by the RCMP on Pickton in July and August of 1999 was eventually suspended when Pickton was tipped off to the fact that he was being watched by police. It remains unclear exactly how Pickton learned that he was under surveillance, and despite being tracked by police for a period of thirty days, the operation yielded no evidence that he was hunting his victims in the Downtown East Side.

A video was played during the Commission hearings of a police interview of Pickton conducted in January of 2000 by RCMP Constables Ruth Yurkiw ("Yurkiw") and John Cater ("Cater"). In the video, Pickton recounts the Ms. Anderson incident, and claims that he acted in self-defence after Ms. Anderson initiated the attack. Police never believed his version of events, despite the Crown's decision to stay the charges against him. When Cameron Ward, acting for the families of 25 of Pickton's victims, asked Connor why he and the RCMP did not take measures to stop Pickton in spite of the source information he had received from Hiscox, and Pickton's obvious lies in the Yurkiw and Cater interview, Connor responded that he couldn't comment because he no longer had any role in the investigation after he was promoted and transferred away in August 1999.

Documents introduced during Connor's testimony indicated that the RCMP decided to slow the investigation into Pickton in 1999 because the provincial major crimes unit thought that the investigation "lacked validity" and was becoming too expensive. However, Connor testified that lack of resources was not in fact a hindrance to the investigation, and that generally, if an officer needs more resources to conduct an investigation, they are available. Instead, he attributed the operational wind-down to the fact that investigators had failed to find the definitive evidence that would convince senior officers to devote more resources to the Pickton investigation.

Nevertheless, Connor was himself so certain that Pickton was responsible for the disappearances that he authored a draft search warrant application in the summer of 1999, and it was to his "great reluctance" that the Pickton investigation petered out. Further, Connor, after his transfer from the investigation, conducted his own surveillance of up to 30 times on the farm after midnight. However, he felt that his own evidence was insufficient to obtain a search warrant on the farm.

Connor also revealed that when he was taken off the Pickton file, he took the precaution of making copies of his investigation file and kept them in a safe, because he feared that his files might go missing after being handed over to the joint missing women task force comprising of the VDP and RCMP, which was known as Project Evenhanded.

It was suggested by Tim Dickson, counsel for the VDP, that many steps could have been taken in the investigation in August 1999 by the RCMP but, for reasons unknown, were ultimately not taken. Such steps could have included undercover operations on Lynn Ellingsen, a sex trade worker who had apparently seen Pickton butchering a woman on his farm, and on Hiscox, who had told police that Pickton was storing bags of women's bloody clothing, purses and identification as "trophies". Connor acknowledged that if he was aware that Pickton was disposing bodies in barrels at a rendering plant in Vancouver, he would have set up a search at the plant where the barrels were sent.

Work on the investigation stalled after Connor's transfer from the case. Over the succeeding two and a half years the only steps taken by the RCMP was re-interviewing Lynn Ellingsen, capturing new aerial photographs of the farm and ruling out Pickton as a suspect in a separate investigation of murders known as the Valley Murders. When asked if the amount of progress was far too little for a file of this seriousness, Connor agreed. Furthermore, Connor agreed that a "sustained investigation would be required" to either confirm or eliminate the information and allegations pointing to Pickton as a suspect in the missing women investigation; however, no such sustained investigation was done.

### **C. THIS WEEK:**

On Monday February 13, 2012 the Commissioner will hear Cameron Ward's application for production of documents. Please find the full text of the application below:

#### MISSING WOMEN COMMISSION OF INQUIRY

#### AMENDED NOTICE OF APPLICATION

#### **Names of Applicants:**

**Families of Dianne Rock, Georgina Papin, Marnie Frey, Cynthia Dawn Feliks, Cara Ellis, Mona Wilson, Helen May Hallmark, Dawn Crey, Angela Hazel Williams, Jacqueline Murdock, Brenda Wolfe, Andrea Joesbury, Elsie Sebastian, Heather Bottomley, Andrea Borhaven, Tiffany Drew, Angela Jardine, Stephanie Lane, Tanya Holyk, Olivia William, Debra Jones, Janet Henry, Marie Lorna Laliberte, Sereena Abotsway, and Dianne Melnick (the "Applicants")**

To: The Commission  
 And to: Commission counsel  
 And to: Participants or their counsel  
 And to: Counsel for Doug Fell  
 And to: Counsel for Don Adam  
 And to: Counsel for Gary Bass  
 And to: Counsel for Earl Moulton  
 And to: Counsel for Brian McGuinness  
 And to: Counsel for Terry Blythe  
 And to: Counsel for Brock Giles  
 And to: Counsel for Gary Greer  
 And to: Counsel for Fred Biddlecombe

And to: The Organized Crime Agency of British Columbia  
And to: The Combined Forces Special Enforcement Unit of British Columbia  
And to: West Coast Reduction Ltd.

TAKE NOTICE that an application will be made by counsel for the Applicants to the presiding Commissioner at the hearing room at 801-701 West Georgia Street, Vancouver, B.C. at 9:30 a.m. on Monday, February 13, 2012 or as soon thereafter as counsel may be heard for the orders set out in Part 1 below.

#### Part 1: ORDERS SOUGHT

1. An order that the Vancouver Police Department (“VPD”) deliver to the Commission copies of all relevant records in its possession or control, including but not limited to:
  - a) members’ notebooks, handwritten notes, memoranda, correspondence, emails, logs, continuation reports, database search results, surveillance reports, meeting minutes and agendas, statement and interview transcripts, audio/video recordings, photographs and all other physical and electronic records in the possession or control of the VPD;
  - b) notes, agendas, memoranda, minutes, correspondence and all other records relating to the meeting of April 9, 1999, attended by several high-ranking members of the VPD and RCMP, Attorney General Ujjal Dosangh, cabinet ministers and their aides;
  - c) notes, agendas, memoranda, minutes, correspondence and all other records relating to the “brainstorming session” of May 19, 1999;
  - d) all “monthly updates” drafted and sent by Det. Cst. Lori Shenher to all sworn VPD members during her tenure as investigator on the Missing Person Unit;
  - e) all relevant handwritten notes and “log book” entries of Cst. Dave Dickson created during the time period defined by the terms of reference;
  - f) records of offline CPIC searches of David Francis Pickton.
  
2. An order that the Royal Canadian Mounted Police (“RCMP”) deliver to the Commission copies of all relevant records in its possession or control, including but not limited to:
  - a) members’ notebooks, handwritten notes, memoranda, correspondence, emails, logs, continuation reports, database search results, surveillance reports, meeting minutes and agendas, statement and interview transcripts, audio/video recordings, and all other physical and electronic records in the possession or control of the RCMP;
  - b) correspondence between Sgt. Mike Connor and then Crown Counsel Mr. Peder Gulbrandsen relating to the investigation of Robert William Pickton as a suspect in the missing women investigations;
  - c) correspondence between Sgt. Mike Connor and Sgt. Wade Blizard relating to the investigation of Robert William Pickton as a suspect in the missing women investigations;
  - d) notes and records of Det. Cst. Lori Shenher created during her tenure as investigator on the Missing Person Unit and later provided to Project Evenhanded;
  - e) notes and records of Cst. Sylvestri related to his attendance at the Pickton residential property on May 1, 1999;
  - f) records in the possession of the RCMP relating to the well-publicized allegations of systemic gender discrimination and workplace harassment raised by Cpl. Catherine Galliford;
  - g) videotapes of interviews of Robert William Pickton conducted on February 19, 20, and 23, 2002, by members of the RCMP; and
  - h) videotapes of the “cell plant” of Robert William Pickton conducted on February 22, 2002 at the Surrey RCMP Detachment.
  
3. An order that the following current and former VPD and RCMP officers, in their personal capacity, deliver to the Commission copies of all relevant notebooks, handwritten notes, memoranda, correspondence, emails, logs, continuation reports, database search results, surveillance reports, meeting minutes and agendas, statement and interview transcripts, audio/video recordings, and all other physical and electronic records in their possession or control:
  - a) Doug Fell (VPD);
  - b) Mark Wolthers (VPD);
  - c) Don Adam (RCMP);
  - d) Gary Bass (RCMP);
  - e) Earl Moulton (RCMP);
  - f) Brian McGuiness (VPD);

- g) Terry Blythe (VPD);
  - h) Brock Giles (VPD);
  - i) Gary Greer (VPD); and
  - j) Fred Biddlecombe (VPD).
4. An order that the Criminal Justice Branch deliver to the Commission copies of all records in its possession or control related to its decision on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault, including but not limited to:
    - a) the Criminal Justice Branch's copy of the Report to Crown Counsel;
    - b) correspondence, notes, emails, charge assessment memoranda, and other physical or electronic records related to the charge assessment decision; and
    - c) records explaining the inability of the Criminal Justice Branch to produce any part of the file.
  5. A order that the Province of British Columbia deliver to the Commission copies of all relevant records in its possession or control, including but not limited to:
    - a) handwritten notes, memoranda, correspondence, emails, and all other physical and electronic records; and
    - b) notes, agendas, memoranda, minutes, correspondence and all other records relating to the meeting of April 9, 1999, attended by several high-ranking members of the VPD and RCMP, Attorney General Ujjal Dosangh, cabinet ministers and their aides.
  6. An order that Commission counsel be directed to obtain and disclose to all participants' counsel copies of the Port Coquitlam Provincial Court file #52808, *R. v. Pickton* (1997).
  7. An order that Commission counsel be directed to disclose to all participants' counsel copies of all correspondence with Deputy Chief Jennifer Evans related to her engagement, instructions, and the preparation of the report she produced for the purpose of this Inquiry.
  8. An order that Commission counsel be directed to disclose to all participants' counsel copies of all correspondence to and from Don Celle related to his engagement, instructions, and the preparation of the report he has allegedly produced for the purpose of this Inquiry.
  9. An order that the Organized Crime Agency of British Columbia ("OCABC") and the Combined Forces Special Enforcement Unit of British Columbia ("CFSEU") deliver to the Commission copies of all relevant records in their possession or control, including but not limited to:
    - a) records of all investigations of Robert William Pickton, David Francis Pickton and members of the Hells Angels Motorcycle Club associated with the Picktons; and
    - b) records of all investigations of the establishment known as "Piggy's Palace" located at 2252 Burns Road, Port Coquitlam, BC.
  10. An order that E-Comm Emergency Communications for Southwest British Columbia Incorporated ("E-Comm") deliver to the Commission copies of all relevant records in its possession or control, including but not limited to:
    - a) transcripts of 9-1-1 calls relating to or originating from the residential property of Robert William Pickton, located at 953 Dominion Avenue, Port Coquitlam, BC, during the period January 23, 1997 to February 5, 2002; and
    - b) missing person reports made by members of the public to E-Comm during the time period defined by the Terms of Reference.
  11. An order that the following record keepers deliver copies of all relevant records in their possession or control to the Commission:
    - a) the City of Vancouver;
    - b) the Vancouver Police Board;
    - c) the Vancouver Police Union; and
    - d) West Coast Reduction Ltd.

## Part 2: FACTUAL BASIS

1. The Applicants are the surviving relatives of 25 women who went missing in or around Vancouver and who were subsequently determined or believed to have been murdered by convicted serial killer Robert William Pickton.
2. The Applicants were granted “full participant status” in this Commission on or about December 7, 2010, “due to their clear legal interest in the subject matter of the Commission”.
3. The Applicants have received periodic disclosure of some records from the Commission since June, 2011, primarily through the “Concordance” database, which currently contains approximately 9,150 files.
4. In accordance with s. 36 of the Commission’s *Practice and Procedure Directive for Evidentiary Hearings* the Applicants’ counsel have made numerous requests of Commission counsel to use the powers bestowed upon the Commission by the *Public Inquiry Act*, S.B.C. 2007, c. 9 to obtain specific, relevant documents from participants and third parties.
5. While some of these requests have been satisfied, many remain outstanding or have been denied by Commission counsel on various grounds. The Applicants submit that numerous probative documents relevant to this Commission’s mandate have not yet been obtained from participants and third parties by this Commission.
6. The Commission issued summons for the production of documents to the Vancouver Police Department and Criminal Justice Branch on or about August 18, 2011, almost one year after the establishment of the Commission and less than 2 months before the commencement of the hearings on October 11, 2011.
7. To the Applicants’ knowledge, no other participants or third parties have been served summons for production of documents by the Commission. All other participants and third parties who have provided documents to the Commission have done so on a voluntary basis.
8. The Applicants seek orders from the Commissioner that certain participants and third parties, named herein, produce specific documents or classes of documents to this Commission.
9. The Applicants submit that full and proper disclosure in accordance with their requests is necessary in order for this Commission to achieve its mandate, and in order for the Applicants to properly prepare for the witnesses who are expected to testify.

### Part 3: LEGAL BASIS

1. *Public Inquiry Act*, S.B.C. 2007, c. 9, ss. 7, 9, 10, 21, 22
2. Missing Women Commission of Inquiry: *Terms of Reference*
3. Missing Women Commission of Inquiry: *Practice and Procedure Directive for Evidentiary Hearings*, ss. 1, 30-32; 36-42; 46

### Part 4: MATERIAL TO BE RELIED UPON

1. Affidavit of Robin Whitehead to be sworn
2. The transcripts and exhibits in the proceedings herein
3. Such further material as counsel may advise and the Commissioner may permit

Dated this 10<sup>th</sup> day of February, 2012

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“A. Cameron Ward”

Counsel

I will support Mr. Ward's request for certain classes of documents which are directly related to my mandate. These include, the Vancouver Police Native Liaison Society Documents, the notes and log books of Constable Dave Dickson, the records in the possession of the RCMP relating to allegations of systemic gender discrimination and workplace harassment raised by Corporal Catherine Galliford, E-Comm records, emails sent and received by VPD and RCMP officers involved in the missing women investigation, and the original missing person file of Elsie Sebastian whose whereabouts remain unknown today.

It is anticipated that Mr. Ward's application will conclude on February 13, 2012.

On February 14, 2012, we will hear evidence from Sergeant Don Adam ("Adam") of the RCMP. Adam was the Special Project Coordinator for the "E" division of the major crime section in the RMCP Coquitlam Detachment. In November 2001 Adam was assigned to conduct a review of the missing women investigations.

In early 2001 the review, which eventually became known as Project Evenhanded, began an assessment of historic criminal files in search of persons of interest that could be linked forensically to three unsolved homicides from Agassiz, BC. RCMP officers reviewed the missing women files and created a list of suspects from the project Amelia and RCMP files.

The logic behind the review was that if the team identified the offender or offenders, DNA from the Agassiz homicides may lead to the identity of the offender(s) responsible for the missing women from the Downtown East Side.

Former Attorney General ("AG") Ujjal Dosanjh ("Dosanjh") is scheduled to provide testimony on February 16, 2012. In February 1997 AG Dosanjh received a letter from Chief Mathias of the First Nations Summit requesting his intervention into the "investigation of unsolved murders of fifty-five Aboriginal women in the Vancouver area over the last ten years". Dosanjh responded in writing stating that he would not direct the police on how to conduct their investigation. However, he indicated that he would inform the Provincial Unsolved Homicide Unit ("PUHU"). In response PUHU assigned a VPD member to investigate the list of names provided.

On March 30, 1999, Maggie de Vries, whose sister was reported missing on April 21, 1998, wrote a letter to AG Dosanjh and copied then Vancouver mayor Philip Owen, then Chief Constable Chambers, then Detective Shenher and other members of the VPD. The letter was a request for a reward, public acknowledgement of the abduction and murder of the missing women, and a task force dedicated to the missing women.

On April 7, 1999, Detective Shenher wrote a memorandum to AG Dosanjh. The purpose of the letter was to outline the investigative challenges surrounding the disappearances of the missing women.

On July 28, 1998, AG Dosanjh set a letter to then Solicitor General of Canada, the Honourable Andy Scott regarding underfunding in the RCMP in British Columbia. The letter indicated that the underfunding directly impacted the RCMP "E" division, which at that time was investigating Pickton as a suspect.

AG Dosanjh is currently scheduled to provide evidence on February 16, 2012.

I will continue to provide daily updates of witness testimony and scheduling on my twitter page. Please follow me at RobynGervaisMwi if you would like to receive daily information.

Please feel free to contact me if you would like to offer any comments, suggestions or insight.

**Robyn dean Gervais**

Email: [gervais@rogelaw.ca](mailto:gervais@rogelaw.ca)

Twitter: @RobynGervaisMwi

Phone: 604. 812. 9694