



INCOMPETENT DEATH INVESTIGATIONS: THUNDER BAY POLICE SERVICE

PRESENTED BY FALCONERS LLP (APRIL 22, 2024)

Families are Denied the Two most Important Features of a Credible Death Investigation

1. Timely investigation (i.e., first 24 hours)
2. Fostering of community trust



Thunder Bay Police Service: A cold case factory for Indigenous Death Investigations

Seven Youth Deaths and Inquest

- Between 2000 and 2011, seven First Nations youths, Jethro Anderson, Curran Strang, Paul Panacheese, Robyn Harper, Reggie Bushie, Kyle Morriseau, and Jordan Wabasse, died while attending school in Thunder Bay. The death of each of the students was investigated by TBPS. Five of the students were found in the McIntyre or Kaministiquia Rivers.
- A Coroner's Inquest into the Deaths of Seven First Nations Youths (the "Seven Youth Inquest") was held in Thunder Bay between October 5, 2015, and June 28, 2016.
- The Seven Youth Inquest resulted in 145 recommendations including recommendations regarding the need to ensure timely reporting to police of all missing person matters that involve a student (Recommendation #91(i)) and the establishment of a working group to review issues relating to ground searches for missing persons and missing persons investigations (Recommendation #92).

Thunder Bay Police Service: A cold case factory for Indigenous Death Investigations



➤ Stacey DeBungee Death Investigation

- On October 19, 2015, the body of Stacey DeBungee was recovered from the McIntyre River in Thunder Bay.
- Approximately three hours after the discovery of Stacey DeBungee's body, prior to the autopsy being completed the TBPS issued a press release indicating that the death appeared to be non-suspicious.

➤ Some of the failures of the death investigation include:

- The scene was not protected
- No photos of the scene
- No exhibits seized
- Witness not interviewed

TBPS IS BROKEN: CAN'T PROVIDE ADEQUATE AND EFFECTIVE INDIGENOUS DEATH INVESTIGATIONS

In December 2018, the OIPRD released its systemic review of the Thunder Bay Police Service and found:

The failure to conduct adequate investigations and the premature conclusions drawn in these cases is, at least in part, attributable to racist attitudes and racial stereotyping. Racial stereotyping involves transforming individual experiences into generalized assumptions about an identifiable group defined by race. We observed this process of generalization based on race in a number of the investigations we reviewed.

Officers repeatedly relied on generalized notions about how Indigenous people likely came to their deaths and acted, or refrained from acting, based on those biases.

OIPRD
OFFICE OF THE INDEPENDENT
POLICE REVIEW DIRECTOR

Gerry McNeilly,
Independent Police Review Director
December 2018

BROKEN TRUST

Indigenous People and the Thunder Bay Police Service



2018: Broken Trust Recommendations: Reinvestigation of 9 Indigenous Death Investigations

#1-5: Re. TBPS Sudden Death and Other Investigations

#	Content
1-2	<u>A multi-discipline investigation</u> team should be established to <u>undertake, at a minimum, the reinvestigation of nine specific deaths</u> – based on OIPRD’s identification of nine sudden death investigations “ <u>so problematic</u> ” as to require reinvestigation.
3	Multi-discipline team should <u>establish a protocol for determining if other sudden deaths need to be reinvestigated.</u> ➤ In other words, those identified by OIPRD may be tip of the iceberg.
4	Multi-discipline investigation team should <u>assess whether the death of Stacy DeBungee should be reinvestigated.</u>
5	TBPS should <u>initiate an external peer-review process</u> for at least three years following release of <i>Broken Trust</i> (December 2018).



2021: Broken Record

Failing Grade



ASSESSMENT

GRADE

- **Recommendations #1-#2:** Concerns re. Chief of Police Hauth controlling findings; Multi-discipline team described by Chief Hauth as “independent” but she sits on its Executive Governance Committee.
- **Recommendation #3:** No protocol exists for determining whether other TBPS sudden death investigations should be reinvestigated. How many Indigenous deaths have been neglected?
- **Recommendation #4:** Reinvestigation resisted by Chief Hauth; Not started for over two years after *Broken Trust* published; Concerns re. Chief of Police Hauth controlling findings.
- **Recommendation #5:** No external review process after two-and-a-half years.



Reinvestigation of 14 additional Indigenous Death Investigations



In March of 2022 APTN reported that a Blended Investigative Team, which includes police officers from a number of outside agencies, identified 14 new Indigenous Death Investigations of the Thunder Bay Police that should be reinvestigated.

It is reported that the Indigenous death investigations went as far back as 2006 and appeared to be less than complete and showed a lack of consistency and accuracy.

In addition, there are 25 unresolved missing and murdered Indigenous women and girls (MMIWG) cases from Thunder Bay — some of which have remained open and have been unresolved for over two decades — that the report recommends be reviewed.



External Investigations of Thunder Bay Police Service



External investigations of Thunder Bay police



CBC NEWS

(CBC News Graphics)

<https://www.cbc.ca/news/canada/thunder-bay/reinvestigations-called-for-thunder-bay-sudden-deaths-1.6376992>

Stacey DeBungee Death Investigation – PSA Decision



- On July 19, 2022, over six years following the death of Stacey DeBungee, a decision stemming from a *Police Services Act* hearing found the lead investigator into Stacey DeBungee’s death, Staff Sergeant Shawn Harrison **guilty** of neglect of duty and discreditable conduct.
- The decision marks the first finding of discreditable conduct for a racist-led police investigation.
- In reaching this decision, Supt. Walton referenced his inability to understand how or why Staff Sergeant Harrison concluded so quickly that alcohol was a contributing factor into Stacy’s death, other than reliance on his conscious or unconscious bias linking it to Stacy’s Indigenous status.

“There is no doubt whatsoever in my mind that Staff Sergeant Harrison decided very early on that the death was nonsuspicious. I am equally convinced that because the deceased person was Indigenous, found in a river where other Indigenous men had been found drowned, with a high level of alcohol in their system, he assumed the very same circumstances must have therefore existed in this case.”

Propping up the “Unproppable” - Administrators Appointed to the TBPSB



➤ Administrator #1: Tom Lockwood

- Appointed as Administrator of the TBPSB on December 14, 2018.
- No background in policing, no Indigenous cultural competency, and unknown to Indigenous community.
- In June 2020, Lockwood leaves, declaring the TBPSB with a clean bill of health.



➤ Administrator #2: Malcom Mercer

- Less than two years after Lockwood’s departure, Malcom Mercer is appointed as Administrator of the TBPSB on April 19, 2022.
- No background in policing, no Indigenous cultural competency, and unknown to Indigenous community.
- Mercer indicates that the TBPS and Board has been slow to implement recommendations from Broken Trust.
- Under the watch of Mercer as Administrator, Former Chief of Police Sylvie Hauth and lead lawyer for TBPS, Holly Walbourne are criminally charged with obstruction of justice.



“Project Cedar”

- Since May of 2023, the OPP has been reinvestigating 13 death investigations by the Thunder Bay Police as part to “Project Cedar”.
- All 13 these reinvestigations are still in progress, leaving 13 families without answers.



Chief of Police and Lead Lawyer for the Thunder Bay Police Service Criminally Charged

- On April 9, 2024, Holly Walbourne, lead lawyer for the Thunder Bay Police Service, was arrested and charged with:
 - Obstruction of a public or peace officer;
 - Breach of trust by a public officer; and
 - Three counts of obstruction of justice.
- On April 12, 2024, Chief of Police Sylvie Hauth was arrested and charged with:
 - Obstruction of a public of peace officer;
 - Breach of trust by a public officer; and
 - Two counts of obstruction of justice.



Cold Case Death Investigations still Piling up in Thunder Bay



- November 1, 2022: Death of Corey Belesky of Marten Falls First Nation
- December 18, 2023: Death of Mackenzie Moonias of Neskantaga First Nation
- December 30, 2023: Death of Jenna Ostberg of Bearskin Lake First Nation



<https://www.dallasnews.com/news/weather/2021/02/11/winter-weather-causes-hazardous-conditions-on-north-texas-roads/>

Families Ask Inspector General of Policing to end discriminatory Status Quo in Thunder Bay Service Indigenous Death Investigations



- On April 22, 2024, the families of Corey Belesky and Jenna Ostberg filed a complaint with the newly appointed Inspector General of Policing, Mr. Ryan Teschner.
- The Inspectorate of Policing has the power to review complaints about the inability of a police service to provide adequate and effective policing to members of the community it serves.
- The Belesky and Ostberg families have asked the Inspector General to:
 - a. Reassign the death investigations for Corey Belesky and Jenna Ostberg to a different police Service; and
 - b. Dissolve the Thunder Bay Police Services Board and disband the Thunder Bay Police Service.



Miigwetch!



Litigation with a conscience.