
**Missing Women Commission of Inquiry
Ruling on Shenher Manuscript Application**

**The Honorable Wally T. Oppal, Q.C.
Commissioner**

MISSING WOMEN COMMISSION OF INQUIRY

Ruling on the Shenher Manuscript Application

May 18, 2012

PART 1: INTRODUCTION

1. Independent counsel for Affected Individuals and Organizations in Vancouver's Downtown Eastside, and Independent counsel for the Aboriginal Interest, seek an order for the admission of a manuscript as an exhibit before the Commission. They seek the following specific remedies:
 - An order that the unpublished manuscript authored by Detective Constable Shenher (the "Document") be admitted to evidence and form part of the public record of this Inquiry;
 - Alternatively, an order that the Document be marked as an exhibit and form part of the public record of this Inquiry for reference purposes alone.

PART 2: BACKGROUND

1. Since the early 1990's women from the downtown eastside had been reported missing to the Vancouver Police Department. In July 1998 Detective Constable Shenher became the lead investigator in the investigations relating to the missing women. She testified that she had a most difficult and frustrating time in that she was given virtually no help or guidance. She had never investigated a homicide. She said she became extremely disillusioned with senior management which according to her was indifferent to the concerns she had for the women. Her frustration reached a peak in November 2000 when she left her position as the file coordinator in the missing women investigations. She saw the move as a protest.
2. Shortly after leaving her position she wrote the document which is the subject matter of this application. The document is an account of her recollection of the investigations, her view of the Vancouver Police Department and her somewhat provocative view of upper management. The document also contains letters written to the deceased women. As expected they are emotional in nature. One such letter is written to Janet Henry a woman who has been missing from the downtown eastside. Her sister Ms. Sandra Gagnon has testified in the Inquiry. She wishes to have that part of the document that contains a letter to her sister Janet, be disclosed to her. Without going further I am exceeding to Ms. Gagnon's request. It is an entirely reasonable and understandable request.

3. The document is generally consistent with her testimony in the Inquiry. However she does go further in her manuscript in her criticism of the police. These criticisms include comments about Sandy Cameron's conduct, her supervisor's involvement in the investigation and competence, police culture, and the way the investigation was handled.

However during the course of her testimony under cross examination, Detective Constable Shenher qualified, retracted or resiled from several statements contained in the document. She was clear that the document was a draft and contained her thoughts, experiences and impressions and it was going to require careful vetting before it was published.

PART 3: THE LAW

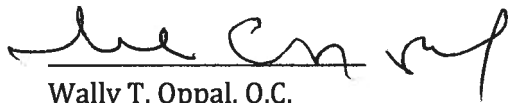
1. The law relating to admissibility is not in dispute and is fairly set out in Mr. Roberts argument. That is to say from a principled approach according to the rules of evidence the document is not admissible. It is hearsay in that it is an out of court document being admitted for the truth of the contents contained therein. It is neither a business record nor is it a case of past recollection recorded. At its best the document is a prior consistent statement. Prior consistent statements are not admissible except in rare circumstances. Parts of the document contain prior inconsistent statements. Similarly prior inconsistent statements are not admissible for the truth of contents except insofar as they are adopted as being true or accurate.
2. It is agreed that the laws of evidence are relaxed in Commissions of Inquiry; In fact much hearsay has been admitted in this inquiry. However this does not mean that all documents that contain hearsay are admissible.

PART 4: CONCLUSIONS

1. Counsel for the applicants have argued that the document ought to be admitted as it is the best evidence of her recollection of the investigation because it was made shortly after the investigation and in any event the Commission has relaxed the traditional rules relating to the admission hearsay evidence. They further submit that the Document will be of great assistance once an exhibit in ascertaining the facts of the investigation.
2. Counsel opposing the admission of the Document submit that the manuscript is inadmissible hearsay as it is an out-of-court made document that cannot be offered for the truth of the contents asserted in it. Further they submit that there is no exception to the hearsay rule or a principled approach that would render the Document admissible
3. The document does not meet the admissibility test as it does not fall into any of the hearsay exceptions or fall under the principled approach as it serves no probative value. Det/Cst.

Shenher has already provided sworn evidence before me over the course of five and half days during which she testified to the shortcomings and the mistakes made in the investigation.

4. The manuscript is not admissible. Whatever relevant information is contained in the manuscript has been given by her in her testimony. Moreover she has retracted some of the more controversial passages contained in the manuscript. It is titillating but not particularly helpful with regards to the terms of reference.
5. As noted above, the part of the document relating to Detective Constable Shenhers document be disclosed to Ms. Sandra Gagnon

A handwritten signature in black ink, appearing to read 'Wally T. Oppal', written in a cursive style.

Wally T. Oppal, Q.C.
Commissioner