

Families of men killed by OPP get day in court

Thu Feb 3 2011



Doug Minty, 59, was shot five times at his Elmvale home on June 22, 2009, by OPP Const. Jeff Seguin, who was responding to a call about a disturbance.

Tracey Tyler Legal Affairs Reporter

For nearly 20 months, the families of two Ontario men shot dead by police have questioned not only why their relatives were killed, but some of the unusual practices followed by the officers afterwards, such as having their notes vetted by a lawyer before turning them over to investigators.

Now, the families of Douglas Minty and Levi Schaeffer will ask a court to determine whether the way police routinely conduct themselves when dealing with the province's Special Investigations Unit (SIU) is authorized by any statute or regulation.

In a unanimous decision Thursday, a three-judge panel of the Ontario Court of Appeal agreed to hear an appeal brought by both families against a lower court decision, which found they have no authority to ask a judge to rule on the issue.

The court also awarded the families \$10,000 in legal costs for Thursday's hearing, which was instigated by officers in an attempt to stop the appeal from going forward.

While the decision was a victory for the families, it's wrong that they should bear the financial and emotional burden of bringing a case before the courts, their lawyer, Julian Falconer, said in an interview.

It should be up to officials with authority over policing, including Attorney General Chris Bentley, Community Safety Minister Jim Bradley and the province's police chiefs, to say whether officers involved in SIU investigations can continue to engage in eyebrow-raising conduct, he said.

But so far, Falconer said, they've refused.

"We should not have to be here," said Diane Pinder, Minty's sister, adding that each new court appearance brings "more sleepless nights."

Pinder was at Osgoode Hall for Thursday's hearing, along with her mother, Evelyn, brother Brian, other family members and Schaeffer's mother, Ruth.

Minty, 59, who was intellectually challenged, was shot five times at his Elmvale home on June 22, 2009, by OPP Const. Jeff Seguin, who was responding to a call about a disturbance.

Minty had become agitated by a door-to-door water heater salesman who made repeated visits to the house.

Two days later, Schaeffer, 30, who was schizophrenic, was shot by OPP Const. Kris Wood of the Pickle Lake detachment.

Suspected of stealing a boat, Schaeffer, who was from Peterborough, was confronted by Wood and another officer at a fishing camp, eight hours north of Thunder Bay.

The Minty and Schaeffer families don't yet know when they'll have their day in court — the case is being managed by an appeal court justice and the hearing date has yet to be set.

But when it comes, the appeal may involve more than simply the question of whether they have standing to bring these issues forward.

The appeal panel told lawyers representing both the families and the officers involved to come to court prepared to argue the broader issue of whether police officers should be allowed to engage in practices the SIU director says are hampering homicide investigations.

In addition to having their notebooks vetted by a lawyer, officers who are the subject of SIU investigations often share a lawyer with officers who witness altercations with civilians.

This could mean the lawyer is duty-bound to share with officers what each has told him, opening the door to the possibility of police tailoring their evidence.

OPP officers, the appeal court was told, have also been known to “debrief” civilian witnesses before contacting the SIU to report a shooting.

Joe Kim, a spokesperson for Bradley, the community safety minister, told the *Star* he can't comment while the case is before the courts.