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Family of Peterborough man shot by OPP returning to court next week to appeal ruling on SIU investigations

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Levi Schaeffer

Families of a Peterborough man and another Ontario man who were shot dead by OPP officers are taking their fight to change how police handle their notes and are represented by legal counsel to the Ontario Court of Appeal on Wednesday.

Levi Schaeffer, 30, of Peterborough, and Doug Minty, 59, of Elmvale, Ont., died in separate incidents.

The Special Investigations Unit, which investigates shooting deaths involving police, cleared the officers involved in the incidents.

When the SIU investigated the shooting of Mr. Schaeffer, it noted that both officers who were involved consulted with an Ontario Provincial Police Association lawyer before preparing their notes two days after the shooting.

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Rachell Sauve

It contends that the lawyer vetted those notes before they were handed to the SIU investigators.

The two families want the court to make a legal determination on policies and procedures dealing with the relationship between the SIU and the OPP, particularly on the preparation of police notes following such incidents and allowing subject officers and witness officers to share the same legal counsel, said Rachelle Sauve, with the Coalition for Justice for Levi.

It's a "maddening scenario" that families can't know what happened when their loved ones have been killed or injured through an incident with police because evidence is not trustworthy, Sauve argued.

"To be faced with what seems like a level of impunity for police officers within the criminal justice system is a secondary grievance on top of the loss and harm," she said.

The goal is for a far more accountable police service, Sauve added.

An Ontario Provincial Police Association official couldn't be reached for comment.

Sauve said the case is set to be heard by the Ontario Court of Appeal in Toronto on Wednesday, Thursday and Friday.

The case was dismissed in the Superior Court of Justice on June 23.

The issues in dispute are a matter of government policy, not law, Mr. Justice Wailan Low wrote in the decision.

"It is not the proper function of this court to act as the policy maker of last resort," Low wrote.

Attorney General Chris Bentley has agreed to implement recommendations made by former Chief Justice Patrick LeSage in a report released in April.

Among his recommendations, LeSage commented that subject and witness police officers in an SIU investigation have the right to counsel, but not by the same attorney.

He also said the provincial government should make it clear to lawyers representing several witness officers that their notes should not be shared with each other.

OPP Const. Kris Wood shot Mr. Schaeffer in the chest in the Osnaburgh Lake area in northern Ontario on June 24, 2009. The OPP officers, who were investigating a possible stolen boat, claimed that Mr. Schaeffer approached them holding a knife and ignored their commands to drop the knife.

Mr. Schaeffer's mother, Ruth Schaeffer, couldn't be reached for comment Friday.

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