

**Ruling on the Application to Expand the Scope of the Inquest
into the Deaths of Diane ANDERSON, Jahziah WHITTAKER and
Tayjah SIMPSON
Heard in Coroner Courts on March 24th 2011**

The Family and the Provincial Advocate for Children and Youth brought an application to expand the scope of the inquest to include:

An examination of the services/resources provided to or accessed by the family of Diane Anderson, Tayjah Simpson and Jahziah Whittaker including the Children's Aid Society, Toronto District School Board, Toronto Community Housing Corporation, Victim Services and the Employment and Social Services Division of the City of Toronto, and the coordination of those services and the sufficiency of those services.

The Children's Aid Society, The Children's Aid Society workers, The Toronto Community Housing Corporation and The Toronto District School Board supported the application, but The Toronto Community Housing Corporation and The Toronto District School Board expressed some reservations about the wording as to how it would affect the depth of their participation in the inquest.

The Ontario Fire Marshall's Office, took no position on the motion, whereas The City of Toronto and Victim Services opposed the application to expand the scope of the inquest. The City of Toronto further indicated that if the application was successful, they would need an adjournment in order to prepare for the inquest.

The Toronto District School Board also indicated that if the scope and focus of the inquest was extended and depending on the wording of the new scope, they may require an adjournment of the proceedings to enable them to re examine their involvement with the deceased parties and prepare further witnesses for the inquest

I thank all counsel for the motion material they've provided, and for attending our after hours motion, which I'm sure created some inconvenience. I've listened to all your submissions intently, and have also reviewed a transcript of your oral submissions in coming to this ruling.

The Deaths of Diane Anderson, Jahziah Whittaker and Tayjah Simpson occurred in a house fire at their residence in the Grandravine Drive Toronto Community Housing Complex.

The deaths were subject to investigation by the Coroners Office, and the Ontario Fire Marshall's Office.

The jury will hear evidence about the results of those investigations including the medical causes of death as determined by post mortem examination and the circumstances of the fire.

The Coroner's Office then considered Section 20 of the Coroners Act

What coroner shall consider and have regard to

- 20.** *When making a determination whether an inquest is necessary or unnecessary, the coroner shall have regard to whether the holding of an inquest would serve the public interest and, without restricting the generality of the foregoing, shall consider,*
- (a) whether the matters described in clauses 31 (1) (a) to (e) are known;*
 - (b) the desirability of the public being fully informed **of the circumstances of the death** through an inquest; and*
 - (c) the likelihood that the jury on an inquest might make useful recommendations directed to the avoidance of death in similar circumstances.*

The requirements of s. 20(a) did not warrant a discretionary inquest, as the answers to the five questions listed in Section 31(1) have been established and are not in dispute. The Coroners Office then turned their attention to, s. 20(b) and s.20(c) of the Coroners Act , and determined that the circumstances of these deaths were such that the public had an interest in being fully informed and these were deaths from which there was a likelihood that a **jury could make useful recommendations directed to the avoidance of death** in similar circumstances.

I anticipate the jury will hear evidence about a review of the circumstances leading to the deaths conducted by the Paediatric Death Review Committee and some suggested recommendations for consideration by the jury.

The Ontario Divisional Court has held in its decision in *People First v. Porter*¹ that an inquest is not a trial or a royal commission and:

“...it retains its essential quality of an investigation conducted by a medical man (or woman) into the death of individual members of the community. It must never be forgotten by the parties at every inquest that the central core of every inquest is an inquiry into how and by what means a member of the community came to her death. Notwithstanding the emerging public interest in the jury recommendations in the modern Ontario inquest, an inquest is not a trial; an inquest is not a royal commission; an inquest is not a public platform; an inquest is not a campaign or a lobby; an inquest is not a crusade.”

Rather an inquest is **a focused inquiry** into a specific death or deaths, so that the facts concerning the death are presented to the jury to enable them to answer the five questions as outlined in Section 31(1) of the *Coroners Act* and make any recommendations to prevent a similar death.

s. 31 (1) of the Coroners Act states in part:

Where an inquest is held, it shall inquire into the circumstances of the death.....

One of the purposes of the inquest is to educate the public of the facts of the circumstances of the **death** to show that no death in the community will be overlooked, concealed or ignored. You must remember that the inquest cannot not make any finding of legal responsibility or express any conclusion of law on any matter in answering the five questions or in any recommendations in the verdict.

Consequently, as upsetting or difficult or systemically challenging as a person's life may be, an inquest does NOT look into the whole life of the deceased but focuses on the circumstances surrounding and leading up to the death.

In this inquest we are looking into the circumstances of the cause of the fire and what could have been done to prevent the fire and/or the loss of life. I am not aware of any evidence that established a connection between the involvement of The Employment And Social

¹ (1991), 5 O.R. (3d) 609 at 622

Services Department of the City of Toronto and the circumstances of the deaths. And no such evidence has been presented to me in any of the motion material provided. While Social services may have had a large impact on Diane Anderson's life, there is no evidence that The Employment and Social Services Department of the City of Toronto may be directly connected to these deaths.

The motion to expand the scope and focus is denied. If however as the evidence flows some connection between The Employment and Social Services Department of the City of Toronto and the deaths is established I will reconsider the motion.

Given to the time involved in preparing and responding to the motion the Inquest will commence on Wednesday April 6th 2011 at 0930 at 180 Dundas Street West Toronto.



Dr. David H. Evans
Presiding Coroner

March 28th 2011