

## MEMORANDUM

November 28<sup>th</sup>, 2001

TO: L.E.R.A. File #3958  
Complainant – A F

FROM: Judge Murray Howell

Re: **November 27<sup>th</sup>, 2001 – Review hearing at 2:00 p.m.**

Present: Commissioner: Mr. G. Wright  
Counsel for Commissioner: Mr. D. Guenette  
Counsel for Officers: Mr. P. McKenna  
Mr. A. F [redacted] for himself

After hearing representations on the issue of whether the Commissioner came to the correct conclusion to take no further action on the complaint because the complainant had abandoned the complaint; I am satisfied that the action of the Commissioner was appropriate in the circumstances. I am further satisfied the Commissioner did not err in coming to the decision he did.

  
\_\_\_\_\_  
Judge Murray Howell

NOTE: For the purposes of distribution, personal information has been removed by the Commissioner.

IN THE MATTER OF: Law Enforcement Review Act  
Complaint No. 3958

AND IN THE MATTER OF: An Application pursuant to  
Section 13(2) of The Law  
Enforcement Review Act,  
R.S.M. 1987, c L75

BETWEEN:

A1 F

Complainant,

- and -

CONSTABLE G. R #  
and CONSTABLE G. M # ,

Respondent.

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REASONS FOR DECISION, delivered by The Honourable  
Judge Howell, held at the Law Courts Complex, 408 York  
Avenue, in the City of Winnipeg, Province of Manitoba, on  
the 27th day of November, 2001.

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**APPEARANCES:**

MR. A. F. , in person.  
MR. D. GUENETTE, for the Commissioner, G. Wright.  
MR. P. MCKENNA, for the Winnipeg Police Association.

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1 EXCERPT FROM NOVEMBER 27, 2001

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3 THE JUDGE: Well, in reviewing this matter, it  
4 would seem that the commissioner had attempted to get a hold  
5 of Mr. F and after making some significant efforts in  
6 that regard, was unable to do so for a significant period of  
7 time and he then came to the conclusion that the complaint  
8 had been abandoned and sent a letter in that regard.

9 Now, Mr. F has attended here today and said  
10 that he just didn't get the letters, that he was away for  
11 some period of time and that when he became aware of what  
12 was going on, that he indicated to the commissioner that he  
13 hadn't abandoned the complaint.

14 There is an obligation, I'm satisfied that there  
15 is an obligation when somebody has a complaint before the  
16 commissioner's office and he's going to be out of the  
17 community or out of the province or out of the city for a  
18 while, that he has an obligation to at least inform the  
19 commissioner that he won't be available for some period of  
20 time and there is an obligation to provide some sort of an  
21 address or a telephone number or some means of communication  
22 so that the commissioner can contact the individual within a  
23 reasonable period of time and more than a reasonable period  
24 of time had passed here. And the commissioner, I guess, has  
25 established certain procedures that would seem, on the face  
26 of them, reasonable in the circumstances to deal with these  
27 matters and one of them is that a person has to be available  
28 to proceed with this matter and Mr. F was not. He was  
29 unable to contact him and I'm satisfied the procedures  
30 followed by the commissioner in this matter were appropriate  
31 and I'm satisfied that he came to the correct conclusion at  
32 that time, based on the information that he had, is that Mr.  
33 F had abandoned the complaint and in the circumstances  
34 I'm satisfied that he's acted reasonably and that's my

1 ruling.

2 So, Mr. F , I'm satisfied that he came to the  
3 correct conclusion that the complaint was abandoned and  
4 that's it.

5 MR. F : Thank you.

6 MR. MCKENNA: Your Honour, on the record may we  
7 have an order of ban of publication, ban on publication  
8 pursuant to Section 13(4.1) of the Act?

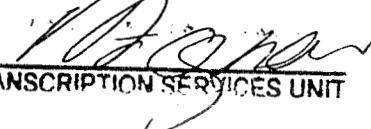
9 THE JUDGE: Yes, there will be a ban on  
10 publication pursuant to Section 13 of the Act. Thank you.

11 (EXCERPT CONCLUDED)

**CERTIFICATE OF TRANSCRIPT**

I, GAIL DAYTON, hereby certify that the foregoing pages of printed matter, numbered 1 to 2, are a true and accurate transcript of the proceedings recorded by a sound recording device that has been approved by the Attorney-General and operated by court clerk/monitor, Treasure Wilson, and has been transcribed by me to the best of my skill and ability.

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