



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

December 18, 2012

12-17

Delayed Announcement of Appointment of Special Prosecutors

Victoria – The Criminal Justice Branch of the Ministry of Justice today announced that David Butcher, Q.C. and Richard Peck, Q.C. were appointed in 2009 as Special Prosecutors in connection with an investigation into the death of Ronak Wagad, and the subsequent prosecution of Charles Anthony Leslie and Babak Najafi-Chaghabori. The trial prosecution has now completed with the imposition of sentence on December 14, 2012.

Mr. Butcher, a senior Vancouver lawyer, was appointed by then Assistant Deputy Attorney General Robert W.G. Gillen, Q.C. on June 25, 2009 following receipt by the Criminal Justice Branch of an interim report from the Integrated Homicide Investigation Team. One of the three subjects of the investigation, Travis Winterlik, is a close relative of a person who was at the time a senior member of the Criminal Justice Branch and had provided assistance to Mr. Winterlik in retaining legal counsel. Mr. Gillen concluded that it was appropriate to appoint a Special Prosecutor to avoid any risk of real or perceived improper influence in the exercise of prosecutorial responsibilities.

Mr. Butcher's mandate included:

- Conducting an independent charge assessment review based on a Report to Crown Counsel when submitted by the investigative agency and making the charging decision he deemed appropriate in the exercise of his independent prosecutorial discretion.
- Offering such legal advice as was necessary to the police in the event that further investigation by them was required;
- Providing a written report to the Assistant Deputy Attorney General with the results of his review and the reasons for his decision; and

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- If in his view a prosecution was warranted, conducting that prosecution and any subsequent appeal

Following discussions between police investigators and Mr. Winterlik, counsel for Mr. Winterlik contacted Mr. Butcher and requested that Mr. Winterlik be granted immunity from prosecution in return for providing evidence that would advance the case against the other suspects. The RCMP requested that Mr. Butcher proceed with discussions of this proposal. In accordance with Criminal Justice Branch policy relating to “Immunity From Prosecution”, which states it is preferable that such negotiations be handled by a prosecutor other than the prosecutor who has conduct of the case, on June 30, 2009 Richard Peck, Q.C. was appointed as a Special Prosecutor by then Acting Assistant Deputy Attorney General Richard de Boer to take responsibility for consideration of whether it was appropriate to enter into such an immunity agreement. Mr. Peck’s mandate included:

- Reviewing the request for an immunity agreement from counsel for Mr. Winterlik and related correspondence from Special Prosecutor David Butcher;
- Reviewing relevant investigative material;
- Determining in the independent exercise of his discretion whether it was appropriate to enter into an immunity agreement and if so, to negotiate the terms of that agreement with counsel for Mr. Winterlik;
- Communicating with the police as was necessary to facilitate his independent decision making with regard to any immunity agreement;
- Communicating with Special Prosecutor David Butcher as necessary to reach his decision;
- Providing a written report to the Assistant Deputy Attorney General, with the results of his review and the reasons for his decision.

An agreement granting Mr. Winterlik immunity from prosecution was subsequently reached. Mr. Winterlik testified at trial.

Mr. Butcher ultimately approved charges against the two other suspects, Charles Anthony Leslie and Babak Najafi-Chaghabori. In accordance with the mandate initially granted, Mr. Butcher continued to have conduct of the prosecution. The existence and terms of the immunity agreement were fully and properly disclosed to the accused in the course of that case.

In consultation with Mr. Butcher, Mr. Gillen concluded that it was not in the interest of the administration of justice to publicly announce the appointments of the Special Prosecutors or the reasons for their appointments prior to the conclusion of any prosecution. This decision was consistent with general Branch practice to not publicly release the names of potential witnesses, nor the evidence they may provide, prior to commencement of the trial.

In response to a specific media inquiry that arose during the course of the prosecution, the Branch did confirm that Mr. Butcher had been appointed as a Special Prosecutor in the case. However, to protect the integrity of the ongoing prosecution, the Branch did not issue a Media Statement announcing the reasons for the appointment. Nor did the Branch announce the appointment of Mr. Peck. In light of the fact that the trial prosecution has now completed, the Branch considers it in the public interest to release the information.

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