



February 25, 2021

21-03

Special Prosecutor issues recommendations regarding possible miscarriage of justice in *R. v. Bouvette*

Victoria – The BC Prosecution Service (BCPS) announced today that Special Prosecutor Marilyn Sandford QC has made a series of recommendations following her review of the conduct of the prosecution of Tammy Bouvette. Ms. Bouvette was originally charged on Cranbrook file # 29382 with second degree murder for a fatality which occurred in 2011. The file involved the death of an infant and concluded in 2013 with the conviction of Ms. Bouvette for criminal negligence causing death.

Ms. Sandford, a senior Lawyer with the private bar in Vancouver, was appointed by the Assistant Deputy Attorney General Peter Juk QC (ADAG) on January 14, 2020. Her appointment, which followed the receipt of media inquiries about disclosure issues involving the pathologist on the case, was announced in a previous [media statement](#).

Ms. Sandford's mandate included conducting a review of the handling of the Bouvette case by the BCPS to determine if a miscarriage of justice occurred in the course of the prosecution and taking any remedial steps to rectify the matter including if necessary, initiating any court proceedings or other actions as may be necessary for that purpose.

Ms. Sandford recently completed her review and has provided a written report. In her report Ms. Sandford concluded that:

- There is a strong case to be made that Ms. Bouvette did not receive disclosure of significant, relevant materials.
- As a result of that non-disclosure, Ms. Bouvette's *Charter* rights may well have been breached and that her conviction may accordingly represent a miscarriage of justice.
- Appellate review is desirable in order to determine whether a potential miscarriage of justice has occurred.
- Ms. Bouvette should be provided with copies of all of the materials collected as part of the Special Prosecutor's investigation, with necessary redactions of those materials or

portions thereof that do not meet the test of relevance or with respect to which redaction is otherwise justified based upon the application of relevant legal principles.

- If Ms. Bouvette applies to the British Columbia Court of Appeal for an extension of time to file a notice of appeal from conviction on the basis of matters raised in the Special Prosecutor's report and the new disclosure provided to her, the Crown will not oppose her request that the Court extend the time for filing a notice of appeal.
- If Ms. Bouvette applies to the Court of Appeal to file fresh evidence on appeal related to any disclosure materials that were not previously disclosed to her, the Crown will not oppose such an application.

The Special Prosecutor also recommended that Ms. Bouvette be provided with a copy of the report.

Ms. Sandford will continue as Special Prosecutor on this matter and has already taken steps to begin implementing her conclusions and recommendations.

As the BCPS anticipates that this matter may soon be back before the court the BCPS will not be releasing additional information or commenting further at this time.

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