

On Behalf of the Estate and Family of Brian Sinclair of Winnipeg, Manitoba, Canada

IN THE MATTER OF
the Universal Declaration of Human Rights;
the International Covenant on Civil and Political Rights;
the International Covenant on Social and Economic Rights;
the Declaration on the Rights of Indigenous Peoples;
and other applicable instruments.



Photo ©Maurice Bruneau

IGNORED TO DEATH IN THE PROVINCE OF MANITOBA, CANADA

INITIAL COMMUNICATION TO THE UN SPECIAL RAPPORTEUR
ON THE SITUATION OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLES

June 11, 2009

“The sacrificial victims of this culture of discrimination since historical times have been the aboriginal peoples [in Canada...]...”¹

United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, 2004

“[I] was disturbed to see the devastating impact of the paternalism that marks federal and provincial government, legislations, policies and budgetary allocation for Aboriginal people on and off reserve.... These policies have seriously compromised the right to self determination that Aboriginal people enjoy under the original treaties and the International human rights instruments and deeply affected their housing and living conditions.”²

UN Special Rapporteur on adequate housing, 2007

¹ *Ibid* at para 68.

² United Nations, “United Nations Expert on adequate housing calls for immediate attention to tackle national housing crisis in Canada” (November 2007) available at <http://www.unhchr.ch/hurricane/hurricane.nsf/0/90995D69CE8153C3C1257387004F40B5?opendocument> (accessed June 11, 2009).

THIS SUBMISSION:

(a) Concerns the slow death of a disabled and sick homeless Indigenous man while waiting FOR 34 HOURS (but never receiving) emergency health and other care in a hospital in Canada, in September 2008.

(b) Involves (*inter alia*) the right to life; the inherent dignity of the human person; the right to health; the right to the timely provision of emergency health care and the necessities of life; the right to freedom from racism, xenophobia and discrimination; the right to housing.

A. SUMMARY OF FACTS

1. On September 19, 2009, Brian Sinclair, a homeless, disabled, Indigenous, vulnerable man, attended at the emergency department of the Winnipeg Health Sciences Centre, a government-operated health care facility in the City of Winnipeg in the Province of Manitoba.
2. Mr Sinclair complained of abdominal pain and a catheter problem. Hospital staff directed him to wait in a waiting area, and so he did.
3. Mr Sinclair sat in his wheelchair in the emergency room waiting area for thirty-four hours.
4. For these thirty-four hours, Mr Sinclair was neglected and ignored. No one gave Brian Sinclair the attention, emergency medical care, and necessities of life that he urgently required. As a result he died.
5. Government authorities have recently appointed a judge to conduct an inquest into this wrongful death. Governmental parties will have legal counsel to represent them at the inquest, who will be remunerated at state expense on an open-ended basis and at adequate rates.
6. However, after many months of requests and waiting, the responsible authorities have told the victim’s penniless estate and indigent family members that if they wish to participate in the inquest *they will have to accept and make do with discriminatorily inferior and inadequate governmental funding for their essential legal representation*. This would compound the marginalization faced by Mr Sinclair in his death and life.
7. In light of these and the other discriminatory, neglectful and inequitable circumstances detailed below, the Estate and Family of Brian Sinclair are very concerned that the entrenched, widespread and systemic marginalization, dispossession, and racism and discrimination against Indigenous peoples; against poor, vulnerable and homeless persons; and against mentally and physically disabled people may be inadequately addressed (or even ignored) at the inquest.

B. THE FEDERAL STATE PARTY: CANADA

8. Canada is a G8 State, currently governed by a Conservative Party government headed by Prime Minister Stephen Harper. The Government of Canada voted against the UN Declaration on the Rights of Indigenous Peoples in 2006.³
9. The federal government of Canada holds exclusive jurisdiction in Canada with respect to Indigenous peoples and Indigenous persons (including so-called “Indians”), pursuant to section 91(24) of the *Constitution Act, 1867* which provides for federal jurisdiction over “Indians, and Lands reserved for the Indians”.
10. The federal government of Canada (“the State Party”) provides all provinces and territories in Canada with funding for health care facilities and programmes. The overarching relevant State Party federal legislation is the *Constitution Act, 1867*⁴ and the *Canada Health Act*,⁵ and legislation concerning federal funding of provincial health care programmes. The Winnipeg Regional Health Authority (“WRHA”), is a corporation established pursuant to legislation passed by the Province of Manitoba (“the Province”) in Canada. The relevant provincial legislation is the *Regional Health Authorities Act*,⁶ and the Regulations thereunder.
11. In addition to its overall supervision of the standard of the provision of health care in Canada through the *Canada Health Act*, the State Party provides the Province of Manitoba with much of the necessary funding that is applied to operate a number of health care facilities in Winnipeg, Manitoba including the Health Sciences Centre (a large city centre hospital) and the Health Action Centre (a community health clinic).
12. The State and the Province are responsible for administering health services in a manner that complies with s. 7 of the *Canada Health Act*, which sets out the criteria of, *inter alia*, comprehensiveness, universality and accessibility in relation to the operation of the Manitoba Health Services Insurance Plan.

B. THE PROVINCE OF MANITOBA, AND INDIGENOUS PEOPLES ISSUES IN THIS PROVINCE IN CANADA

13. The Province of Manitoba is currently governed by a New Democratic Party (social democratic) government headed by Premier Gary Doer.
14. Manitoba is Canada’s fifth largest province,⁷ with a high overall standard of living.⁸

3 See “Indigenous peoples win historic vote on rights – Canada votes against” (August 7, 2006) available at <http://www.survival-international.org/news/1787> (accessed June 10, 2009).

⁴ *The Constitution Act, 1867* (U.K.), 30 & 31 Victoria, c. 3

⁵ *Canada Health Act*, R.S.C. 1985, c. C-6

⁶ *Regional Health Authorities Act*, C.C.S.M. c. R34

⁷ Statistics Canada, “Population by year, by province and territory” available at <http://www40.statcan.gc.ca/101/cst01/demo02a-eng.htm> (with a population of 1,184,000 in 2006) (accessed June 11, 2009).

15. There were over 175,000 Indigenous persons living in Manitoba in 2006, representing more than 15% of the population in the province.⁹ One in three Indigenous people in Manitoba live in the City of Winnipeg.¹⁰
16. Despite the high standard of living enjoyed by many Manitobans, Indigenous peoples in the province continue to experience disproportionately high levels of poverty and incarceration, and lower levels of overall health and well-being.
17. The average life expectancy of Indigenous persons in the province is 5 to 7 years less than for other Manitobans. In every age category, Indigenous persons in Manitoba are more likely to suffer from long-term physical and mental disabilities.¹¹
18. The majority of homeless people in Winnipeg are Indigenous persons. One estimate is that over 75% of the people in Winnipeg shelters or living on the street are Indigenous persons.¹²
19. The rate at which Aboriginal people are being incarcerated in Manitoba is 15.8 times higher than general population.¹³ Only 38% of Indigenous persons in Manitoba, age 25-34, have completed high-school.¹⁴
20. In Canada overall, almost every indicator of the social and economic well-being of Indigenous persons and Indigenous peoples points to their systemic and ongoing marginalization by the State Party. In 2004, the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance was “worried about the persistent disparity from generation to generation, between aboriginal people and the majority of Canadians with respect to the enjoyment of economic, social and cultural rights.”¹⁵ The Special Rapporteur stated that “[b]ecause of its history, Canadian society, as in all the countries of North and South America, carries a heavy legacy of racial discrimination... The sacrificial victims of this culture of discrimination since historical times have been the aboriginal peoples...”¹⁶

⁸ Statistics Canada, “Median market income by selected family types – Manitoba” available at <http://www.statcan.gc.ca/pub/75-202-x/2007000/t119-eng.htm> (accessed June 11, 2009) (median income in Manitoba in 2007 was CDN \$59,300 for a family of two persons or more).

⁹ Statistics Canada, “2006 Aboriginal Population Profile” available at <http://www12.statcan.ca/census-recensement/2006/dp-pd/prof/92-594/details/page.cfm?Lang=E> (accessed June 11, 2009). For the purposes of these statistics, the Indigenous population in Manitoba is composed of three general identity groups: First Nations (North American Indian), Métis, and Inuit.

¹⁰ Bruce Hallett, Service Canada, “Aboriginal People in Manitoba” (2006) available at <http://www.servicecanada.gc.ca/eng/mb/aboriginal-profile/aboriginals.pdf> (accessed June 11, 2009).

¹¹ *Ibid.*

¹² Canadian Broadcasting Corporation, “Native leaders blame Ottawa for aboriginal homelessness problem” (April 16, 2004) available at <http://www.cbc.ca/canada/story/2004/04/16/homeless040416.html> (accessed June 11, 2009).

¹³ See Aboriginal Council of Winnipeg, “Winnipeg Urban Aboriginal Community Justice Forum” available at http://index.abcouncil.org/index.php?option=com_content&task=view&id=41&Itemid=2 (accessed June 11, 2009).

¹⁴ *Supra*, note 9.

¹⁵ Report by Mr. Doudou Diène, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, (1 March 2004) GE.04-11397 at para 54.

¹⁶ *Ibid* at para 68.

21. The death of Brian Sinclair in a Winnipeg hospital in September 2008 occurred in the context of this ongoing history of entrenched discrimination, marginalization, dispossession, neglect, and denial of fundamental human rights.

C. MATERIAL FACTS

22. Brian Sinclair was a marginalized and very vulnerable Indigenous person. He was very poor and transient, confined to a wheelchair as a double amputee; cognitively impaired; addicted to solvents; impaired in his speech; afflicted by chronic illness including a seizure disorder, a kidney ailment, and a neurogenic bladder, and incapable of advocating for himself.¹⁷
23. Brian Sinclair’s parents were Ojibwa people living in Manitoba, Canada. However, they purportedly lost their Indigenous “status” as a result of the application of unjust and discriminatory Canadian law, and with it, they lost their treaty rights and their eligibility to live in their own communities. In the 1970s they migrated to the nearest urban centre, Winnipeg, but found opportunities to be scarce and racial discrimination rampant. The family lived in poverty while alcohol and substance abuse took its toll and tore the family apart. This was a fate familiar to many victims of Canada’s anti-indigenous laws.
24. Brian Sinclair and his brothers were unable to escape the devastating intergenerational effects of these discriminatory laws. Their lives have been marked by poverty, homelessness, serious chronic health problems, and the demons of substance abuse.
25. According to the *Winnipeg Free Press*, Mr Sinclair was no stranger to maltreatment during his life in Winnipeg as an indigenous man with many challenges. In September 2007, “someone pushed Brian out of his wheelchair and down the stairs of an inner-city church. Then they threw sidewalk bricks on him. By that time Brian had already lost his legs to amputation because no one had cared to help him when he passed out in a snowbank.”¹⁸
26. On September 19, 2008 at about 14h15, Brian Sinclair attended a community health clinic in Winnipeg (the Health Action Centre) complaining of abdominal pain, no urinary output in the previous 24 hours, and possible problems with his catheter. The physician gave him a referral letter and directed him to immediately attend the Emergency Department of the Winnipeg Health Sciences Centre for further urgent assistance and treatment.¹⁹
27. Mr. Sinclair arrived at the Health Sciences Centre at about 14h53. A hospital employee at the triage area spoke with Mr. Sinclair, made some notes, and then directed him to wait. Mr. Sinclair obediently wheeled himself into the waiting room. Brian Sinclair remained there in his wheelchair in the waiting room for 34 hours, in considerable pain in discomfort, as sepsis set in uncontrolled. No medical staff ever spoke with him during that 34 hour period.²⁰

¹⁷ Report of the Chief Medical Examiner of Manitoba (January 30, 2009).

¹⁸ Gordon Sinclair Jr., “Man’s suffering could lead to better system” *Winnipeg Free Press* (February 10, 2009) available at http://www.winnipegfreepress.com/local/homeless_mans_suffering_could_lead_to_better_system-39356547.html (accessed June 11, 2009).

¹⁹ *Ibid.*

²⁰ Chinta Puxley, “Inquest called into death after 34-hour wait in ER” *The Toronto Star* (February 4, 2009).

28. On September 21, 2008, shortly after midnight, someone noticed that Mr. Sinclair appeared not to be breathing and security staff were alerted. He was wheeled to the treatment area where emergency staff attempted resuscitation, but it was much too late. Brian Sinclair was pronounced dead at 00h51 on Sunday, September 21, 2008.²¹ At this time, the referral letter from the physician at the Community Health Clinic was found in Mr Sinclair’s pocket.
29. The medical cause of Brian Sinclair’s death was “acute peritonitis due to severe acute cystitis due to neurogenic bladder.” This condition was treatable.
30. Brian Sinclair would have lived if he had been provided with the prompt and appropriate emergency care he so badly needed, and the necessities of life such as food and water, at the Winnipeg Health Sciences Centre.²²
31. The Hospital and Provincial Government officials indicated shortly after the death of Brian Sinclair that he had not registered for care on arrival at the hospital, with the apparent implication that Brian Sinclair may have been somehow responsible for his own death.²³
32. After some months, Manitoba’s Chief Medical Examiner issued a report based on surveillance camera footage that contradicted this official government misinformation: Brian Sinclair had reported to the triage area of the hospital to be registered and attended to, and had spoken to a health care employee there who apparently directed him to sit and wait in the waiting room.²⁴
33. In the end, Brian Sinclair, an Indigenous man, was ignored to death over 34 hours, in a G8 state, in the 21st Century.

D. ACTIONS TAKEN BY THE PROVINCE AND STATE PARTY

34. The Provincial Government has apologized for the death of Brian Sinclair and has appointed an official inquest into his death.
35. The Provincial Government has stated that the Estate and Family of Brian Sinclair is entitled to participate in the inquest by applying for standing at the inquest.²⁵
36. However, the Family of the victim are unable to participate at the inquest themselves. They also do not have the resources to pay for legal representation, as they have all been adversely affected by the intergenerational effects of discriminatory Canadian law and have faced

²¹ *Ibid.*

²² *Supra*, note 17.

²³ Canadian Broadcasting Corporation, “New info contradicts health authority on Winnipeg homeless man’s death” (February 8, 2009) available at <http://www.cbc.ca/canada/manitoba/story/2009/02/08/man-sinclair.html> (accessed June 11, 2009).

²⁴ *Supra*, note 17.

²⁵ Letter of Joanna Abbot, Office of the Chief Medical Examiner (January 30, 2009).

poverty, discrimination, and social and health challenges throughout their lives. For three months they have been asking for funding to participate in the inquest fully and equitably.

37. Official parties to the inquest will be provided with full funding. In contrast, the government of Manitoba had indicated to the Sinclairs that they must accept grossly inferior funding, with an absolute limit on the amount such that they may not be able to see the inquest through to the end, and may not be able to participate at all.²⁶
38. In 1994, the Manitoba Associate Chief Judge Murray Sinclair (no relation to the victim) recommended that victims’ families’ full legal costs of participation in inquests be covered (at the usual scale for government counsel) to ensure a “fair and proper proceeding”.²⁷ However, this recommendation has never been implemented.
39. In addition, it is not assured that the State Party (the Government of Canada) will participate in the inquest or otherwise assist the victim’s estate and family, notwithstanding its exclusive jurisdiction concerning “Indians”.
40. The Sinclair family has not been assured that the inquest will include full exploration of the systemic and broad factors of entrenched discrimination, racism, dispossession and other factors especially affecting Indigenous people in the Province of Manitoba.
41. In light of the above discriminatory, neglectful and inequitable factors, the Estate and Family of Brian Sinclair are very concerned that the entrenched, widespread and systemic marginalization, dispossession, and racism and discrimination against Indigenous peoples; the poor, vulnerable and homeless persons; and mentally and physically disabled people may be inadequately addressed or ignored at the inquest.
42. It cannot be known whether the government of Manitoba intends that the Estate and Family of Brian Sinclair are unable to participate in the inquest so that these important questions can be ignored or not dealt with properly. But this may be the *effect*.
43. The Estate and Family of Brian Sinclair are still hoping that a thorough, broad, fair and proper inquest can be held. But the failure of the government of Manitoba to assure their participation on a non-discriminatory, non-inferior basis does not bode well. Rather, it represents their re-victimization, and is emblematic of the ongoing and entrenched “paternalism that marks federal and provincial government, legislations, policies and budgetary allocation for Aboriginal people [in Canada]”.²⁸

²⁶ Letter of the Hon. Jeffery Schnoor, Deputy Minister of Justice of Manitoba (June 5, 2009); Letter to the Hon. David Chomiak, Minister of Justice and Attorney General of Manitoba (June 9, 2009).

²⁷ Report of the Manitoba Pediatric Cardiac Surgery Inquest.

²⁸ *Supra*, note 1.

E. CONTINUING INJUSTICE, INEQUALITY AND INEQUITY AFFECTING ABORIGINAL PEOPLES IN MANTOBA – AS EXEMPLIFIED BY THE SITUATION FACING THE SINCLAIR ESTATE AND FAMILY

44. The Aboriginal Justice Inquiry was established by the Government of Manitoba in April 1988. The Inquiry reported:

For more than a century the rights of Aboriginal people have been ignored or eroded . . . Aboriginal peoples have experienced the most entrenched racial discrimination of any group in Canada. Discrimination against Aboriginal people has been a central policy of Canadian governments since Confederation . . . The discrimination against Aboriginal people by our governments and permitted by the general Canadian population represents a monumental symbol of intolerance.

45. Since then, a succession of other major federal and provincial inquiries have been held in Canada concerning the entrenched injustices still being endured by Aboriginal peoples in Canada, including the Royal Commission on Aboriginal Peoples (1991-96)²⁹, the Manitoba Aboriginal Justice Implementation Commission³⁰, Commission on First Nations and Métis Peoples and Justice Reform (2002-04)³¹, and the Ipperwash Inquiry (2004-07)³².

46. The slow and painful death of Brian Sinclair -- and his and his family’s posthumous re-victimization through the governmental emplacement of discriminatory barriers to their full and equitable participation in the inquest into his death -- are testament to the continuing injustice, inequality and inequity affecting hundreds of thousands aboriginal people in Manitoba and the rest of Canada, one of the most prosperous and resource-rich nations in the world.

F. RESPECTFULLY SUBMITTED

47. This Communication is respectfully transmitted to the *Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people* in order that this latest information is known about the continuing marginalization, dispossession, and victimization of Indigenous peoples in Canada.

48. This particularly egregious instance of loss of life -- an Indigenous man simply being ignored to death in a hospital waiting room in a large city in a wealthy G8 state -- is the “tip of the iceberg” consisting of deaths by suicide, illness, violence, homelessness and other problems that take the lives Indigenous people in Canada disproportionately.

29 See “Royal Commission Report on Aboriginal Peoples” available at <http://www.ainc-inac.gc.ca/ap/rrc-eng.asp> (accessed June 11, 2009).

30 See “The Aboriginal Justice Implementation Committee” available at <http://www.ajic.mb.ca/> (accessed June 10, 2009).

31 See “Commission on First Nations and Métis Peoples and Justice Reform” available at <http://www.justicereformcomm.sk.ca/> (accessed June 10, 2009).

32 See “The Ipperwash Inquiry” available at <http://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/index.html> (accessed June 10, 2009).

49. Regarding of the slow, painful death of Brian Sinclair in September 2008, it is apparent that governments of Canada and Manitoba are, *inter alia*, in violation of:

- a. The right to life.³³
- b. The inherent dignity of the human person.³⁴
- c. The right to health and the timely provision of emergency health care.³⁵
- d. The right to freedom from racism and discriminatory treatment.³⁶
- e. The right to housing and an adequate standard of living.³⁷

50. The Estate and Family of Brian Sinclair will update the Special Rapporteur of further developments as they may occur in this case.

Orkin Barristers

per: Andrew Orkin
Vilko Zbogar
James Baxter

Hamilton | Toronto
103 Glenfern Avenue
Hamilton Ontario
Canada L8P 2T9
tel 905-522-7929
fax 905-522-0884
www.orkinlaw.ca

³³ Article 3 of the Universal Declaration of Human Rights (“[e]veryone has the right to life, liberty, and security of person”); Article 6.1 of the International Covenant on Civil and Political Rights (“[n]o one shall be arbitrarily deprived of his life”).

³⁴ Preamble to the International Covenant on Civil and Political Rights and International Covenant on Social, Economic and Cultural Rights (the international human rights in these two instruments “derive from the inherent dignity of the human person”).

³⁵ Article 12.1 of the International Covenant on Social, Economic and Cultural Rights (“[t]he State Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”).

³⁶ Article 1 of the Universal Declaration of Human Rights (“All human beings are born free and equal in dignity and rights”); Preamble to the UN Declaration on the Rights of Indigenous Peoples (affirming that “indigenous peoples are equal to all other peoples”); Article 1 of the UN Declaration on the Rights of Indigenous Peoples (“Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights³³ and international human rights law”).

³⁷ Article 11.1 of the International Covenant on Social, Economic and Cultural Rights (“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”).

By hitting your financial targets with BMO InvestorLine.

BMO InvestorLine
Make money work for you



Inquest called into death after 34-hour wait in ER

February 04, 2009

CHINTA PUXLEY
THE CANADIAN PRESS

WINNIPEG – A homeless man found dead after a 34-hour wait in a hospital emergency room spoke to an employee at the triage desk within an hour of his arrival, Manitoba's chief medical examiner said today.

Thambirajah Balachandra said security tapes show that Brian Sinclair, a 45-year-old double amputee, was wheeled to the desk by an unidentified man after Sinclair arrived in a taxi last September.

"It appears an employee ... at the triage desk spoke to Mr. Sinclair at that time," Balachandra said in a statement. "Mr. Sinclair was then seen wheeling himself away from the triage desk and toward the waiting area."

But officials from the Winnipeg Health Sciences Centre said Sinclair spoke to an aide and was never properly registered by a nurse.

Sinclair sat in the emergency department for 33 hours until someone approached a security guard shortly after midnight on Sept. 21.

"The security employee recognized Mr. Sinclair and noted that he was sitting in his wheelchair with his head slumped to the side, as if he were sleeping," Balachandra said.

The security guard wheeled the unresponsive Sinclair to the treatment area where emergency staff tried to revive him, Balachandra said, but the man was pronounced dead a minute later.

Hospital staff then discovered a letter written by a physician who had referred Sinclair to the emergency department two days before.

An autopsy showed Sinclair died of a bladder infection made worse by a blocked catheter. His death was ruled natural, but Balachandra said it was preventable and treatable.

Brock Wright, chief medical officer for the Winnipeg Regional Health Authority, said Sinclair spoke to housekeeping staff, a security guard and a triage aide during his time in the emergency department.

But he said Sinclair wasn't registered or assessed by any medical staff until it was too late.

"He was in the triage area. He had interactions with staff but those staff were not a triage nurse," said Wright, who had not seen the security video.

"It was a deficiency in our system that he wasn't identified as somebody seeking care, but to the best of my knowledge he never presented to the triage desk.

"There was no documentation, nothing that had Mr. Sinclair's name on it that indicated he was

Ads by Google

waiting for care."

The inquest will try to determine the circumstances that led to Sinclair's death and look at what can be done to prevent a similar one. The inquest will also examine "reasons for delays in treating patients" in Winnipeg's emergency departments and what can be done to get more timely care.

An internal hospital review of Sinclair's death in November found no single person was to blame and no one has been disciplined.

"What we really have here is a combination of a lot of people who made various assumptions that led to a tragic end," said Jan Currie, the authority's chief nursing officer.

The hospital has made some changes. Anyone arriving in the emergency department is now registered electronically before going to the waiting area and hospital staff must talk to each patient every four hours.

The downtown hospital has already announced it is adding the equivalent of 10 positions to ensure someone speaks to all incoming patients.

The date of the inquest will be set by Manitoba's chief judge.

The inquest is also expected to look at whether the hospital's practice of allowing homeless people to take shelter there might have played a role in Sinclair's death.

Some native organizations also want the inquest to look at how First Nations people are treated in the health-care system.

Man's suffering could lead to better system

By: [Gordon Sinclair Jr.](#)

10/02/2009 1:00 AM

I don't know much about Brian Sinclair's first 44 years on Earth, but I know enough about his last year to tell you this.

It was brutally bookended. First by the kind of cruelty that could have killed him and finally by the kind of neglect that did.

The neglect was so disturbing that it's become a national story, as it should be considering the aboriginal man with no legs and a profound speech impediment was found dead in an emergency waiting room 34 hours after arriving in a wheelchair.

That was early on a morning in late September.

The September before that, someone pushed Brian out of his wheelchair and down the stairs of an inner-city church. Then they threw sidewalk bricks on him.

By that time Brian had already lost his legs to amputation because no one had cared to help him when he passed out in a snowbank.

I only bring this to your attention because of how the little man in the wheelchair -- who had trouble speaking for himself -- continues to be abused by "the system" that killed him.

We still don't know how long Brian lay dead in the Health Sciences Centre's ER waiting room before a shocked citizen noticed him and called for help.

Or how the people at the top of the Winnipeg Regional Health Authority reacted when they heard what happened in one of the hospitals they're responsible for.

All Brian needed, after all, was for someone to change his blocked catheter.

But two days later -- and only after the story was leaked to the media -- Dr. Brock Wright, the then-chief operating officer of the HSC, stammered out the following statement at a news

conference.

"He... he... he, never made it to that triage desk."

Last week, nearly five months later, we learned that Wright's statement was, at best, misleading.

It took another statement -- this time as Manitoba's chief medical examiner announced an inquest -- for the public to learn that contrary to what Dr. Wright suggested, the hospital video surveillance cameras show Brian Sinclair trying to line up at the triage desk. Then a triage aide appears to speak to him and jot something on a clipboard, and Brian is seen wheeling into the waiting room where he'll die.

But Dr. Thambirajah Balachandra's revealing what the WRHA wouldn't say didn't end there.

Dr. Balachandra told me on Friday that security staff attempted to help Brian.

Little wonder.

He'd been vomiting in the waiting room.

Balachandra said security tried to alert medical staff "many times" but "to no avail."

Yet three days after Brian's body was found, the WHRA issued a statement that read in part: "After spending 34 hours in the waiting room, the patient died, without ED (emergency department) staff being aware that he was there awaiting care."

That may be true -- the staff may not have thought he was there for care -- but it was misleading too.

Besides, if the emergency staff didn't know Brian was there for care -- if they thought he was just hanging out -- one would have thought that his vomiting might have gotten their attention.

It certainly seemed to get security's.

That's another disturbing aspect of what Wright and the WRHA did -- and didn't -- tell us originally.

Wright said that Brian had contact with security, housekeeping and, as they now tell it, a triage aide.

But he didn't say what kind of contact.

Instead, he and the WRHA left the media -- and hence the public -- to believe that Brian wasn't triaged because "he never made it to that triage desk."

When the video shows he did.

Wright stressed last week that it wasn't Brian's fault that he wasn't triaged.

But the implication of Wright's initial statement is clear.

At least it is to me.

After all if Brian Sinclair wasn't triaged because Brian Sinclair didn't get to the triage desk then that must be Brian Sinclair's fault.

What bothers me just as much, though, is how -- by misleading the public about what happened during those 34 hours, by failing to be open and transparent -- they have continued to treat Brian the way the ER "system" did.

As if he doesn't matter.

But he did, and maybe he still will.

Last Friday, when I spoke to Dr. Balachandra, he hinted at something else.

That the inquest he has called might not just be about how and why Brian Sinclair died in a city ER waiting for treatment.

It might also be about why we all have to wait so long in the ER.

And how the service can be improved for all of us.

"The government is holding a monopoly in health care," Dr. Balachandra said. "And in that case they have to deliver."

As I was suggesting, I don't know much about Brian Sinclair's first 44 years on earth, but maybe his last torturous year might turn out to have meaning far beyond what he could have ever known.

The little man in the wheelchair who could hardly speak for himself might just get to speak for all of us.

gordon.sinclair@freepress.mb.ca
