

## **Citizen seeks release of Gregson psychiatric report**

**'Unprecedented' request would provide context to an interested public, lawyer argues**

By Andrew Seymour, The Ottawa Citizen September 2, 2010

A psychiatric assessment that found suspended Mountie Kevin Gregson wasn't suffering from any mental health issues affecting his criminal responsibility when he allegedly stabbed an Ottawa police officer to death should be released publicly, a lawyer representing the Citizen argued in court Wednesday.

Wendy Wagner said there was a high degree of public interest in seeing the report, which was filed with the court following the completion of a two-month stay by Gregson at the Oak Ridge Facility of the Penetanguishene Mental Health Centre earlier this year.

Gregson's lawyer and the Crown oppose the request, arguing public access to the report would impede his right to a fair trial and invade his privacy.

Gregson, 43, is charged with first-degree murder in connection with Const. Eric Czapnik's stabbing death outside the emergency room at The Ottawa Hospital's Civic campus on Dec. 29.

"The public has an extremely high interest and concern whether Mr. Gregson will be held criminally responsible," said Wagner, who argued that both Gregson's lawyer and the Crown acknowledged Gregson's mental capacity for criminal intent would be a "central issue" at his trial.

Gregson surrendered any inherent rights to privacy when he entered the criminal court process, Wagner argued, adding his fair trial rights couldn't be prejudiced by publication of a court-ordered psychiatric report that was admissible and very likely to be entered into evidence.

Wagner also argued that concerns that jurors might be influenced by the report's findings before the trial could be dealt with during jury selection or a judge's instructions to jurors about the weight they should give to the report and its contents. Gregson could also seek a change of venue, she said.

Gregson's lawyer, Geraldine Castle-Trudel, argued even that could prove impossible if the public was given unfettered access to the report in the electronic age.

"We would be talking the Internet, Facebook, Twitter, Google, Wikipedia," Castle-Trudel said. "It would make protecting the jury pool, not just in this city, but virtually throughout Ontario, impossible."

Gregson, who was not in court Wednesday, also feared falling victim to the "prejudice, ignorance and bias" that exists in public opinion, particularly as it relates to mental health issues, Castle-Trudel said.

Castle-Trudel said releasing the document would also violate the spirit of mandatory publication bans on evidence presented during bail or preliminary hearings, just weeks before Gregson's preliminary hearing is scheduled to begin on Oct. 13.

Acting deputy Crown attorney Brian Holowka argued that protecting Gregson's fair-trial rights were not only in Gregson's interest, but also in the public interest. Public disclosure of the document would cause "untold mischief" to those fair-trial rights, Holowka said, and arguments about its release should be delayed until it was entered as evidence at trial.

Ontario Court Justice Lise Maisonneuve questioned the urgency of reporting on the details of the report now.

"The whole issue here is timing. Why do we need to get this report out today?" Maisonneuve asked, when "there is a substantial likelihood this report will become a central issue of such a high-profile trial."

Wagner acknowledged that the Citizen's request was "unprecedented" and that there was no "extreme urgency" in reporting on the report other than to provide context to a story of high public interest in a timely manner.

Maisonneuve is expected to issue her decision on Oct. 4.

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