



PUBLIC REPORT OF THE
CHIEF CIVILIAN DIRECTOR

Regarding the death of an adult male on July 31, 2014, involving officers employed by the South Coast British Columbia Transportation Authority Police Service (Transit Police) in Surrey

IIO 2014-000132

INTRODUCTION

The Independent Investigations Office (IIO) is responsible for conducting investigations into all officer-related incidents which result in death or “serious harm” (as defined in Part 11 of the *Police Act*) within the province of British Columbia. As the Chief Civilian Director of the IIO (CCD), I am required to review all investigations upon their conclusion, in order to determine whether I “consider that an officer may have committed an offence under any enactment, including an enactment of Canada or another province.” (See s.38.11 of the *Police Act*). If I conclude that an officer may have committed an offence, I am required to report the matter to Crown Counsel. If I do not make a report to Crown Counsel, I am permitted by s.38.121 of the *Police Act* to publicly report the reasoning underlying my decision.

In my public report, I may include a summary of circumstances that led to the IIO asserting jurisdiction; a description of the resources that the IIO deployed; a statement indicating that the IIO, after concluding the investigation, has reported the matter to Crown Counsel; or a summary of the results of the investigation if the matter has not been reported to Crown.

This is a public report related to an investigation into the death of an adult male that occurred on July 31, 2014, in the city of Surrey. The affected person went into medical distress while being transported to hospital by officers. The affected person subsequently died at hospital.

Pursuant to s.38.11 of the *Police Act*, RSBC 1996 Chapter 367, I have reviewed the concluded investigation. I do not consider that any officer may have committed an offence under any enactment and will not be making a report to Crown Counsel.

In my public report, I am only permitted to disclose personal information about an officer, an affected person, a witness, or any other person who may have been involved if the public interest in disclosure outweighs the privacy interests of the person. Prior to disclosing any personal information, I am required, if practicable, to notify the person to whom the information relates, and further, to notify and consider any comments provided by the Information and Privacy Commissioner (s.38.121(5) of the *Police Act*).

In this case, I have considered the advice provided by the Information and Privacy Commissioner. In this report, I will not be using the name of the affected person or of any other person involved in this matter.

NOTIFICATION AND JURISDICTION DECISION

On July 31, 2014, officers responded to a complaint at the Central Surrey bus loop. The affected person was on a bus, however appeared to be in need of medical attention. Officers detained the affected person and decided to transport him to hospital which was approximately 3.5 kilometres away. On route, he became unresponsive in the back of the

police vehicle. Attempts by medical personnel to resuscitate were unsuccessful and the affected person did not survive.

The Independent Investigations Office (IIO) was notified immediately; jurisdiction was sustained.

INVESTIGATIVE EVIDENCE CONSIDERED

IIO investigators interviewed a civilian witness and reviewed reports written by the two subject officers. Medical records and the autopsy report were also obtained and considered. The IIO obtained radio communications and CCTV.

General Timeline -Radio and Video

- 11:33 p.m. Transit officers assigned to check affected person at bus loop
- 11:37 p.m. Officers report they will transport affected person to hospital
- 11:43 p.m. Officers leave the bus loop for the hospital
- 11:47 p.m. Officers arrive at hospital and report that the affected person is unresponsive

Civilian witness 1

Civilian witness 1 was present at the time the affected person was taken into protective custody. According to civilian witness 1, he observed no use of any force by the officers. The officers were able to get the affected person off of a transit bus with the use of only verbal commands and minimal, if any, touching.

The affected person was placed in handcuffs and then in the officers' patrol car without any force. Once inside the vehicle, the affected person reportedly kicked at the officers and at the car door and window with no response on the part of the officers. The officers were described as acting in a "gentle" manner.

Civilian witness 1 was of the view that the affected person was under the influence, however he did not see any signs of medical distress at any time.

The two subject officers consented to the IIO reviewing the police reports they prepared the night of the incident.

Subject officer 1 prepared and submitted his report at 3:15 a.m. on the morning of August 1, 2014. Subject officer 1 stated he first observed the affected person lying under the bench of a transit bus in the Central Surrey bus loop. The affected person appeared to be disoriented and in distress. According to the report, officers applied handcuffs to restrain him. Subject officer 1 advised the affected person that they were there to help him and that they would be taking him to the hospital. The affected person reportedly got into the back of the police vehicle on his own accord. Once in the police vehicle, he began kicking without striking anything.

Subject officer 1 reportedly requested that police dispatch advise Surrey Memorial Hospital that they were on their way. Subject officer 1 asked the affected person if he wanted to see a doctor and he responded “yes.”

According to the report, during the course of the transport, the affected person continued to move around in the seat, sometimes making banging noises. Subject officer 1 could see the top of the affected person’s head in the rear view mirror. Subject officer 1 reported that he drove the police vehicle taking the shortest route (about a four minute drive) while obeying the speed limit and all traffic control devices. The affected person was heard moving about throughout the trip, however as subject officer 1 got to the hospital, he could no longer hear anything from the back seat. Subject officer 2 looked back and called to the affected person but he did not respond. Subject officer 2 told subject officer 1 that he could see the affected person breathing but that he was otherwise non-responsive.

Subject officer 1 reported that he pulled into the ambulance bay, as close to the emergency room entrance as possible and subject officer 2 ran into the building to obtain medical assistance. Subject officer 1 opened the back door and saw the affected person lying face up, with his mouth open and eyes wide. Subject officer 2 felt for a pulse but could not detect one. He ran into the emergency room, obtained a stretcher and returned to the vehicle. He placed the affected person on the stretcher and by then, emergency room personnel responded and began CPR.

Subject officer 2 prepared his duty to account report at 5:40 a.m. on August 1, 2014. Subject officer 2’s report provided detail regarding the officers’ initial contact with the affected person, confirming that no force was used against him above and beyond handcuffing him behind his back. Subject officer 2’s report also confirmed that the affected person informed the officers that he was “wired,” which he took to mean under the influence of narcotics. Subject officer 2 advised the affected person that he would be transported to hospital. Subject officer 2 did not provide any detail regarding the affected person’s actions during the course of the transport to Surrey Memorial Hospital.

Medical Evidence and Autopsy Report

According to the emergency room physician, one of the officers ran into the hospital to request immediate medical assistance for the affected person. Hospital staff saw the affected person, who was handcuffed behind his back, without a pulse and not breathing. CPR was commenced and several medications were administered in an attempt to revive the affected person however his death was pronounced at 12:39 a.m.

The cause of death was determined to be “complications of drug use due to or as a consequence of combined use of methamphetamine and heroin.” The pathologist wrote: “This is not a classic example of the presenting features of a typical excited delirium syndrome. There was no reported struggle during the initial apprehension. Restraint may have contributed to this death, but this is not certain. Based on the current available information, including the history, scene circumstances, the autopsy findings and the toxicology results, death is

attributed to complications of mixed drug use, methamphetamine and heroin. The most significant drug is most likely methamphetamine.”

ISSUES

The general issue after any IIO investigation is whether a person suffered serious harm or death as a result of the actions of an officer and, if so, whether an officer may have committed an offence in relation to that incident. If I consider that an officer may have committed an offence, then I must forward a report to Crown Counsel.

There is no evidence of any use of force against the affected person. As such, the only issue is whether officers acted appropriately in restraining the affected person. This was identified by the pathologist as a possible contributory factor in the death. Further, I need to consider whether the officers acted with due care for the affected person’s safety while transporting him to hospital.

If the officers acted without due care for the affected person’s safety during the course of the transport, such action could be considered criminally negligent. Criminal negligence is defined by section 219 of the *Criminal Code*: “Everyone is criminally negligent who (a) in doing anything, or (b) in omitting to do anything that it is his duty to do, shows a wanton or reckless disregard for the lives or safety of other persons.”

ANALYSIS

It is clear that the officers had appropriate cause to handcuff the affected person. He was under the influence of mixed substances and was disoriented. The act of handcuffing, without any additional use of force, cannot be considered to be an act of force that would constitute a criminal assault. To constitute criminal assault by a police officer in the course of his duties, it would have to be established that in the context of the totality of the circumstances known to the officer, the force was disproportionate or unnecessary. Given the circumstances in this case, such a conclusion is not possible.

Video evidence and computer aided dispatch records confirm that the officers took the most direct route possible to the hospital and that the transport lasted no more than four minutes. Subject officer 1’s report provided a detailed record of his observations during the course of the transport and establishes that the affected person went into significant medical distress upon reaching the hospital. The emergency room doctor confirmed that the officers sought immediate medical attention for the affected person who, unfortunately, did not survive.

CONCLUSION and DECISION

Based on the evidence obtained as a result of the IIO investigation, I cannot conclude that any of the involved officers may have committed any offence in this case. As such, no further

action will be taken by the IIO and the IIO file will not be referred to Crown counsel for consideration of possible charges.

Prepared for Public Release March 12, 2015

Richard Rosenthal,
Chief Civilian Director