



**IN THE MATTER OF THE DEATH OF A MALE  
WHILE IN THE CUSTODY OF THE SURREY RCMP  
IN THE CITY OF SURREY, BRITISH COLUMBIA  
ON MARCH 2, 2016**

**DECISION OF THE CHIEF CIVILIAN DIRECTOR  
OF THE INDEPENDENT INVESTIGATIONS OFFICE**

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

General Counsel:

Clinton J. Sadlemyer, Q.C.

IIO File Number:

2016-040

Date of Release:

March 26, 2018

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## **Facts**

On March 2, 2016, at 6:19 p.m., 911 began to receive multiple complaints that a male (the Affected Person (AP)) was causing a disturbance by yelling. British Columbia Emergency Health Services (BCEHS) was also dispatched in the event AP was in need of medical assistance. Officers 1, 2 and 3 were dispatched and attended the back yard of a residence in Surrey where AP was reported to be. AP was taken into custody and fell unconscious at the scene. BCEHS attended and transported AP to the hospital where he was pronounced deceased.

The Independent Investigations Office (IIO) was notified by the RCMP at 7:50 p.m. that evening. The IIO commenced its investigation as AP went unconscious while in police custody and was deceased shortly thereafter. A determination was required of whether there were any wrongful actions or inactions on the part of the Officers in connection with the death of AP.

Evidence collected during the investigation included the following:

- 1) Statements of eight civilians including a family friend of AP, neighbours and three paramedics;
- 2) Statement of a witness officer (Officer 3);
- 3) Recordings of police radio transmissions;
- 4) Computer Assisted Dispatch (CAD) records;
- 5) 911 recordings;
- 6) Medical records of AP;
- 7) Photographs of the scene; and
- 8) BCEHS related records.

Pursuant to section 17.4 of the Memorandum of Understanding between the IIO and BC Police Agencies, Officers who are the subject of an investigation are not compelled to submit their notes, reports and data. In this case Officers 1 and 2, who are the subjects of this investigation, declined to provide a statement, notes, reports or data to the IIO.

Officer 1 was the first to arrive on scene (6:56 p.m. according to CAD) and located AP at the bottom of a set of exterior stairs at the back of the residence. Officer 3 arrived shortly thereafter and saw Officer 1 at the bottom of the stairs pointing a Conducted Energy Weapon (CEW) at AP. Officer 3 told the IIO that Officer 1 was:

*issuing the warning, and saying, 'If you come any closer, you will be tasered. Put your hands up or you will be tasered.'*

AP's family friend, although unable to see what was happening, reported that Officer 1 told AP to put his hands up and the Officer also later told AP to put his hands behind his back and warned AP that, "*if you don't cooperate, I'm going to use the Taser.*" AP's friend was on the telephone with 911 during this exchange and 911 records show this

portion of the conversation was at 6:58 p.m. On the 911 recording, muffled and indiscernible shouting can be heard in the background.

Officer 3 said AP put his hands up and Officer 1 placed his CEW back in the holster. Officer 3 assisted Officer 1 to handcuff AP behind his back. CAD indicates that Officer 1 advised dispatch that at 6:58 p.m. he had one male (AP) in custody.

Officer 3 told the IIO that he and Officer 1 escorted AP to the stairs. Officer 2 had by this time joined them at the bottom of the stairs but did not assist. Officer 3 said AP was swearing as he:

*...walked up two, three steps, and decided to just jerk his body backwards. So then I kind of let go, and just kind of like backed up a bit. And then...[Officer 1] just came up and grabbed him [AP] on his right. Like, I think it was both his arms or maybe just his one arm, and then just pushed -- like carried him up the stairs. Guided him up the steps.*

Officer 3 said that the top of the stairs Officers 1 and 2 put AP on his knees on the grass and then onto his stomach. AP was angry and continued to swear.

When AP calmed down Officers 1 and 3 left Officer 2 with AP while they went to speak with a witness. Officer 2 was kneeling on the grass, with one knee up, and had one hand on AP's back trying to keep AP calm.

Officer 3 was speaking with the witness when he:

*...heard some sort of yelling going on. That the male [AP] started to raise his voice again really loudly. He's saying like 'You liar, you son of bitch' and all that and then I heard [Officer 2] yell out to him saying 'Calm down.' Like 'Don't raise your voice,' right? 'Because you're causing a disturbance.'*

Officer 3 said Officer 1 left him with the witness and went to AP and Officer 2. Approximately two minutes later, Officer 1 returned and said that everything was fine. Officer 1 and 3 spoke briefly and they decided to have EHS assess AP pursuant to the *Mental Health Act* (according to CAD records - Officer 1 informed dispatch of this decision at 7:04 p.m.), and take AP to Surrey Memorial Hospital. Officers 1 and 3 returned to AP and Officer 2.

Officer 3 told the IIO that AP was still on the ground when they returned and he nudged AP's shoulder and said:

*Hey, like, listen, like, we're going to take you to the hospital. We're going to get you checked out. Everything's going to be fine.*

Officer 3 noticed AP had purple lips and his eyes were open and not moving. Officer 3 checked AP and he could not detect AP's breathing. He shook AP a couple of times but

AP did not respond. Officer 3 said he then put his finger behind AP's right ear, underneath the jaw line to see if there was any kind of reaction to pain but there was none.

Officer 3 said they turned AP onto his back and Officer 1 shook AP and there was no response. Officer 3 asked Officer 2 what happen and Officer 2 told him:

*I don't know, like, I had my hand on his back, I felt him breathing, he was breathing the whole time. And then you guys came up and then this.*

CAD shows Officer 1 requested "EHS FOR UNCONSCIOUS MALE" at 7:06 p.m. At 7:08 p.m. CAD reflects that Officer 1 again radioed dispatch and advised that "MALE HAS STOPPED BREATHING" and seven seconds later that Officer 1 was "BEGINNING CPR."

Officers 1 and 3 alternated performing chest compressions until paramedics arrived about two minutes later. Paramedic Witness One (PW1) told the IIO that on his arrival he saw AP handcuffed, lying on his back on the grass and a police officer performing chest compressions.

PW1 said AP was very pale, had no pulse, was not breathing and showed no signs of trauma. PW1 took over chest compressions and PW2 used the Automated External Defibrillator (AED) which showed "no shock advised." The handcuffs were removed and they continued with chest compressions.

PW1 said Advanced Life Support (ALS) paramedics and a number of firefighters also attended to assist. He said they continued with chest compressions while AP was transported to Surrey Memorial Hospital. AP was pronounced dead at the hospital by the emergency physician at approximately 8:04 p.m.

An autopsy was performed on March 3, 2016. The direct cause of death was heart disease. The autopsy did not reveal any evidence that a CEW had been used on AP nor any "evidence to suggest that death would have been primarily unnatural." The toxicology report, however, showed that AP had consumed prescription medication resulting in a level in his body that was within a range where toxic effects have been reported.

Officer 1's CEW was seized by the IIO. Testing confirmed that the CEW was functioning properly. Data downloaded from the device showed that although the CEW was armed at the time of this incident, it was disarmed without being used.

### **Relevant Legal Issues and Conclusion**

The purpose of any IIO investigation is to determine whether an officer, through an action or inaction, may have committed any offence in relation to the incident that led to AP's injury.

More specifically, the issue to be considered in this case is whether any of the officers may have used excessive force, or indeed any force, during the arrest of AP that contributed to his death. Had they done so they may have committed manslaughter.

There is no evidence that AP's death was related to any police action or inaction. Police conducted themselves professionally and with restraint. There is no evidence that any excessive force was used by Officer 1. Officer 1 told AP he would be tasered if AP continued to move towards Officer 1. AP cooperated and was handcuffed without incident. Officer 1 also prevented AP from falling backwards down the stairs and assisted AP to the top of the stairs and onto the grass. AP continued to yell for some time after he was laid on the grass.

The evidence collected does not provide grounds to consider any charges against any Officer. Indeed, the evidence shows that Officer 1 acted as required by his duties as a police officer. The force he did apply was primarily to protect himself from the actions of AP (the threat to use the Taser) and to prevent AP from injuring himself (when he pushed himself backwards down the stairs while handcuffed behind his back). This later action by Officer 1 prevented AP from falling.

Officer 2 reported that he applied no force while he was alone with AP and the autopsy report corroborates that. Finally, Officers 1 and 3 performed lifesaving measures on AP when his medical distress became apparent.

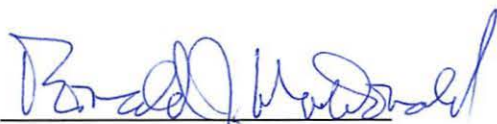
Accordingly, as the Chief Civilian Director of the IIO, I do not consider that an officer may have committed an offence under any enactment and therefore, the matter will not be referred to the Crown Counsel for consideration of charges.

The IIO acknowledges that the time passed since the date of this occurrence is significant and should be avoided. More recently, the IIO has amended its processes and augmented its investigative resources in an effort to ensure a much more timely completion of its investigations.



**Clinton J. Sadlemyer, Q.C.**  
**General Counsel**

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