



**IN THE MATTER OF THE DEATH THAT TOOK PLACE IN THE CITY OF
BURNABY, BRITISH COLUMBIA
ON DECEMBER 20, 2017**

**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:

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Introduction

On December 20, 2017 at 4:01 a.m. members of the Burnaby RCMP were on patrol and noticed a vehicle idling in a recreation centre parking lot. Officer 1 approached the vehicle and attempted to speak with the male occupant, the Affected Person (AP).

As attempts to communicate with AP were unsuccessful, Officer 1 shone his flashlight into the interior of the vehicle and observed what appeared to be a weapon in the lap of AP. Officer 1 backed off, set up a perimeter to secure the surrounding area and called for backup.

At 7:45 a.m. Lower Mainland Emergency Response Team (ERT) members approached the vehicle and broke the side windows. A flash bang distraction device was thrown outside the passenger side of the vehicle while ERT members sprayed OCCS (a combination of pepper and tear gas) into the driver's side. ERT officers confirmed at that time the male inside the vehicle was deceased. This was subsequently confirmed by Emergency Health Services at 7:51 a.m.

The Independent Investigations Office (IIO) was notified by the RCMP at 8:05 a.m. The IIO commenced its investigation to determine if there was any connection between the actions of the officers and the death of the AP.

Facts

Evidence collected during the investigation included the following:

- 1) Statements from multiple officers;
- 2) Physical evidence at the scene was consistent with police account;
- 3) Witness canvassing;
- 4) Recordings of police radio transmissions;
- 5) An autopsy report (consistent with self-inflicted injury).

On December 20, 2017 at 3:56 a.m. Officer 1 noted a vehicle idling in the parking lot at a recreation centre located in Burnaby. At 04:01 a.m. Officer 1 returned to the recreation centre. The vehicle was still parked with the engine running. Officer 1 pulled in behind the vehicle to conduct a check. AP turned off the engine.

Officer 1 stated that he approached the vehicle from the driver's side and tapped on the windows to get the driver's attention and attempted to speak with him. AP squinted at the flashlight. Officer 1 saw a rifle on AP's lap which was pointed at the side-view mirror; a pellet gun was subsequently recovered from the vehicle (shown in the photo below). Officer 1 drew his duty firearm, retreated behind his police vehicle, and called for backup.

At 04:03 a.m. Officer 1 used the public address system in his police vehicle in an attempt to reach AP. There was no response. Other RCMP officers began to arrive and set up a perimeter. Further attempts were made by Officer 1 to contact AP over the public address system. The windows of AP's vehicle fogged up and officers could not see the inside of the vehicle.

At 04:28 a.m. the brake lights of AP's vehicle illuminated several times indicating AP pressing his foot to the brake pedal. A minute later, the brake lights illuminated again momentarily. The Emergency Response Team (ERT) was contacted by dispatch to attend the scene.

At 05:39 a.m. movement was seen in the front seat of AP's vehicle.

At 06:50 a.m. AP's family provided a cell phone number for AP. ERT members made twenty-two attempts to contact AP's cell phone.

At 07:21 a.m. the ERT Tactical Assault Vehicle (TAV) moved into position behind AP's vehicle and ERT officers broke the side windows.

A flash bang distraction device was deployed outside of the vehicle's passenger side. This device creates a bright flash and loud noise which is designed to distract a person. At the same time other ERT members deployed OCCS (often referred to as pepper spray) into the driver's side window of the car. ERT officers announced at that time AP was deceased. This was confirmed by Emergency Health Services at 07:51 a.m.

An autopsy was conducted and revealed the cause of death was consistent with a single pellet gunshot wound to the head. There was no evidence of any other harm.



Seized pellet gun (cropped)

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 the death of or injury to an affected person.

There is no indication of any police officer firing a weapon or causing any injury. The evidence indicates the only force options used are the flash bang and OCCS canister,

which are reasonable measures, given the circumstances. Given the potential risks the officers faced their actions throughout were understandable and appropriate.

Following a review of all the evidence collected during the course of this investigation there is no evidence that any officer committed any offence in the course of this investigation and therefore there are no grounds to consider any charges against any Officer.

Accordingly, as the Chief Civilian Director of the IIO, I do not consider that any of the attending officers may have committed an offence under any enactment and therefore, the investigation is concluded.

Clinton J. Sadlemyer, Q.C.
General Counsel

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