



PUBLIC REPORT OF THE
CHIEF CIVILIAN DIRECTOR

Investigation into October 7, 2012
Officer-Involved Death

Vancouver Police Department

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.

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, notify and consider any comments provided by the Information and Privacy Commissioner (s.38.121(5) of the Police Act).

In this case, although the identity of the deceased was previously released by the British Columbia Coroners Service (BCCS), I have consulted with the Information and Privacy Commissioner and concluded that the identity of the deceased will not be released in this report.¹

CIRCUMSTANCES LEADING TO NOTIFICATION TO THE IIO

On October 7, 2012, at 18:46 hours (6:46 p.m.), the Vancouver Police Department (VPD) received a 911 call regarding a man who was allegedly creating a disturbance at a park located

¹ The Information & Privacy Commissioner has previously issued Guidelines on the Electronic Publication of Decisions of Administrative Tribunals which describes some of the factors that should be considered when evaluating whether the disclosure of personal information is in the public interest: “For example, a public interest in the disclosure of personal information may exist where disclosing the information could protect the public from fraud, physical harm or professional misconduct or if disclosing the personal information would promote deterrence.” None of these factors can be said to apply to the incident described in this report. While the identity of the deceased has been previously disclosed by the BC Coroners Service, such fact is most relevant where an incident is of sufficiently high public profile that the withholding of personal information would not serve a meaningful purpose. An individual’s privacy rights survive his or her death, as do the rights of third parties who might also be affected by a disclosure. This report reveals information about the deceased that involve his privacy rights and I cannot find any interest in public disclosure that would outweigh those privacy interests.

in the 900 block of West 7th Avenue. Two officers were dispatched to handle the complaint and located the man in the area.

After contacting the man, it was determined that he would not be arrested or sent to detox, but instead offered a ride home to his residence. The man accepted the offer and was placed inside a VPD van driven home by a uniformed officer. The three kilometre trip took just under seven minutes to complete.

Once at the residence, the transporting officer opened the door and found the man to be unconscious and in medical distress. Emergency Health Services were called at 19:24 hours (7:24 p.m.). Paramedics arrived at the location within 12 minutes, initiated resuscitation efforts and transported the man to Vancouver General Hospital (VGH). He did not regain consciousness and was pronounced dead shortly after his arrival at VGH.

NOTIFICATION AND IIO JURISDICTION

The IIO was first notified of the incident by the VPD on October 7, 2012, shortly after the deceased was transported to the hospital. Subsequent notification of the death occurred within eight minutes of the pronouncement by hospital personnel.

Jurisdiction was asserted as the circumstances reported by the VPD met the criteria of an officer-related death.

Six IIO investigators were initially deployed and were assisted by three other IIO investigators during the course of the investigation.

INVESTIGATIVE EVIDENCE CONSIDERED

An interview with the civilian witness who was the original 911 caller confirmed that no force was used to place the deceased into the VPD van. The caller stated: "it was uneventful...he just walked into the van and away they went."

The officers who initially contacted the deceased were interviewed and described the deceased as intoxicated but cooperative. The officer who made primary contact with the man did not believe an arrest was appropriate and confirmed he initially planned to transport the man to the Vancouver Detox Centre. This plan was abandoned once it was confirmed with police dispatch that the deceased had been temporarily banned as a consequence of his past aggressive behaviour toward centre staff.

The man was instead offered a ride home in a VPD van. The offer was accepted. Neither handcuffs nor any other restraints were utilised. The van left the park at 19:16 hours (7:16 p.m.) and arrived at the man's residence at 19:22 hours (7:22 p.m.).

A civilian witness to the release of the deceased from the VPD van confirmed he had observed the van's arrival at the residence and indicated that the man "just fell right out...the officer grabbed him as best as he could to stop the fall."

Computer Aided Dispatch records from VPD confirmed the times previously noted: namely, when the van left the park, arrived at the residence, when EHS were called and when they reached the scene.

An autopsy was conducted on October 9, 2012 and toxicology was ordered. The results of the toxicology analysis were received on October 30, 2012. The autopsy report was received on November 19, 2012.

The autopsy report confirmed there were no recent injuries to the deceased; the toxicology report indicated the deceased's blood alcohol content was .30%. The pathologist's finding was that the deceased died of "Acute Alcohol Toxicity."

The VPD Sprinter van at issue was placed into service on June 15, 2012. The VPD has reported that since being placed into service, the van has transported a large number of detainees without incident.

CONCLUSIONS

The general issue in such a case is whether or not there is evidence that a police officer may have committed an offence under any enactment.

I have considered the investigation report and investigative file, and the principles of causation in criminal law as summarized in *R. v. Maybin*, 2012 SCC 24. I conclude that there is no evidence that any police officer may have committed an offence in relation to this death.

Both civilian and VPD witnesses provided consistent accounts of the events that took place prior to the death. The autopsy report did not indicate the presence of injuries that would have been consistent with any recent use of force by police or any injuries that could be associated with a fall to the ground from the police van.

The actions of the officers to remove the man from the park and to transport him to his residence appear appropriate in light of the lack of access to the Detox Centre. Although the officers potentially had cause to arrest the deceased for being intoxicated in a public place, discretion was exercised not to make an arrest, as it was believed that he was not a danger to himself or any other person. Although the deceased's blood alcohol level was extremely high, such fact does not disprove the officers' assessment that he was in no immediate danger. Factors such as age, gender, physical condition, amount of food consumed and a person's history of alcohol use can influence how alcohol may affect a person's behaviour and result in varying objective indicators of impairment.

I have directed that notice of this public report be provided to the involved police service, the Police Complaint Commissioner, the British Columbia Coroners Service and the Vancouver Detox Centre, as each may have an interest in this investigation and my findings in that regard. Family of the deceased who have been in contact with the IIO have also been advised. I have further directed that this report be posted to the Independent Investigations Office public website in order to ensure transparency through public reporting.

Submitted this 3rd day of December, 2012 by

Richard A. Rosenthal
Chief Civilian Director
Independent Investigations Office of BC

Appendix: Photographs of police van.



Photographs of outside and inside police van.