



PUBLIC REPORT OF THE  
CHIEF CIVILIAN DIRECTOR

Regarding the August 27, 2013 incident of  
Serious Harm involving an adult female and  
the Victoria City Police in Victoria, British  
Columbia

IIO 2013-000056

## **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 Counsel.

This is a public report related to the investigation into the incident of serious harm involving an adult female that occurred on August 27, 2013, in Victoria. The affected person sustained self-inflicted sharp force injuries while being detained in police cells by officers of the Victoria City Police Department.

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, 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. I will not be disclosing names of any persons involved.

The affected person was 27 years old at the time of her injuries.

## **NOTIFICATION AND JURISDICTION DECISION**

The IIO was notified on September 18, 2013 by the Office of the Police Complaint Commissioner. Jurisdiction was asserted in order to determine whether the affected person’s injuries occurred as a result of any action (or failure to act) on the part of a police officer in British Columbia.

## **EVIDENCE CONSIDERED**

IIO investigators conducted limited interviews with police officers and reviewed the officers' Duty to Report documents. The affected person was interviewed and video evidence from the Victoria Police Department was reviewed.

## **GENERAL TIMELINE (from police reports and video recordings)**

At 7:02 a.m., the affected person was arrested for public intoxication, prohibited driving and leaving the scene of an accident.

At 7:25 a.m., the police vehicle transporting the affected person arrived at the garage at the police station.

At 7:32 a.m., the affected person was escorted from the police vehicle into the security bay inside the police station.

At 7:33 a.m., the affected person was brought into the main booking area from the security bay and was searched. Over the next few minutes she had her footwear and necklace removed, and was escorted into an interview room. The affected person used a phone in the interview room for approximately two minutes and was escorted from the interview room at 7:48 a.m.

At 7:49 a.m., the affected person was placed in a cell by herself. Within two minutes of being placed in the cell, a strip search was initiated. Officers appeared to struggle to remove an object from her hand.

At 7:53 a.m., a male officer entered the cell and picked up an item from the floor. He turned away as the search continued. At 7:54 a.m., the search was completed.

At 7:54 a.m., officers picked up unidentifiable items from the floor and bench of the cell and left. Within 31 seconds, the affected person picked up unidentifiable items from the floor of the cell. Moments later, she appeared to cut her left forearm from her wrist to approximately an inch below her elbow. At 7:55 a.m., she appeared to discard the item on to the cell floor.

At 7:57 a.m., the affected person was observed at the sink washing her arm. She smeared blood on the wall and mattress near the door of the cell.

At 8:01 a.m., the affected person retrieved another item from the floor and began making slashing motions across her neck. Officers returned to the cell and provided first aid.

The affected person was subsequently transported by ambulance to hospital.

## **STATEMENT OF THE AFFECTED PERSON**

The affected person was interviewed by an IIO investigator. She recalled having been arrested and taken by police car to the station. She stated she was left alone in the underground garage "for about an hour and a half, maybe two hours." She recalled being brought from the police vehicle directly to a cell without the opportunity to call anyone. She stated the item she used to cut herself with was a glass

cylinder she found in the police vehicle. She stated she kept the object in her hand and took it into the cell with her. She indicated she was upset about having been left underground and alone in a dark place. She stated that prior to being placed in the cell, she had no discussions with officers.

## **STATEMENTS OF POLICE OFFICERS**

**Subject Officer 1 (SO1)** reported she was on duty and in a supervisory role at the jail. She was advised by SO3 that he had transported the affected person to cells for being intoxicated in a public place and that additional charges may be forthcoming. The affected person had been involved in an MVI and was heavily intoxicated. SO1 noted that she and SO2 went to help SO3 with assisting the affected person out of the vehicle. She noted the smell of alcohol. The affected person expressed her wish to call a lawyer and was advised she needed to get out of the vehicle and processed into cells first. The affected person was described as distraught and not overly cooperative. SO1 allowed the affected person to walk unescorted, but handcuffed, into the booking area. She became more cooperative but remained agitated and upset as she talked about some personal problems. She appeared to have difficulty focusing on directions.

SO1 reported that SO2 began processing the affected person including conducting a search. The affected person did not provide any resistance. Once the "pat down" was completed, the affected person was asked to sit to remove her boots. She did this, however when SO2 asked her to remove her jewelry, the affected person became aggressive and threw the jewelry.

The affected person was escorted into an interview room. SO1 advised her that the decisions regarding charges were pending and that once a decision had been made, the affected person could contact a lawyer. The affected person was told she could not make her call yet as police were waiting for the investigating officer to arrive. The affected person was observed bending down and picking something up off the ground and indicated it was a tampon "she was observed to pull the back of her leggings away from her waist and stick her hand down her leggings towards her bum." The affected person asked if SO1 wanted to see it and although SO1 was unsure what had dropped, she responded "that's ok".

It was determined that the affected person would be charged and that she would be placed in a cell until she was sober. At that time, she would be able to understand the charges and make the call for counsel.

At 7:48 a.m., she was escorted to cells by SO2, SO3 and SO4. SO1, in speaking with SO4, learned that a "crack pipe" had been found outside of the vehicle that had transported the affected person. Given the recent issue with the tampon, SO1 directed that a strip search be conducted to clarify what object the affected person had placed down her leggings.

The female officers, SO1 and SO2, conducted the search, asking the male officers to "give them a minute"; the male officers remained in the hallway out of sight. Searching the affected person's lower body, SO 1 and SO2 found only the back of a cell phone cover. The affected person re-dressed.

During the search of the affected person's upper body, her hands were pulled away from her mouth, and an object fell and appeared to shatter. At that point, SO3 and SO4 were asked to return to the cell and assist in restraining the affected person.

After the search was completed, SO1 was satisfied that the affected person did not have any other objects concealed on her.

SO1 reported that SO4 subsequently located materials on the floor that were consistent with a crack cocaine pipe including several small pieces of broken plastic. The officers cleared the cell of the materials and SO1 returned to the booking area.

A short time later, SO1 observed the affected person in her cell via close circuit television. She was observed looking at her arms and after closer examination saw what appeared to be blood on the cell wall. She alerted officers and proceeded to her cell. SO1 noted the affected person seemed unresponsive and observed healed scars on her arm. She saw “approximately two superficial incisions approximately 15-20 cm in length from wrist to elbow.” There were also superficial cuts to the affected person’s throat – SO1 noted “the cuts did not appear deep and appeared to be approximately 5 cm in length.”

First aid was provided and an ambulance was called. A decision was made to apprehend the affected person under the *Mental Health Act*.

Subsequently, once the mattress was removed from the cell, officers located a small piece of glass about 0.5 cm x 0.5 cm in size.

**Subject Officer 2 (SO2)** reported she was on duty in the cell area when the affected person was brought into the station. She heard the affected person refuse to exit the police vehicle so went to assist. SO2 recalled smelling alcohol from the back of the police vehicle. SO1 was able to convince the affected person to get out in order for her to contact her lawyer.

SO2 conducted a routine search at the booking bench then had the affected person sit down to remove her boots and jewelry for safekeeping. SO2 recalled the affected person removing her boots however her mood appeared to “escalate” with her throwing her jewelry at SO3. The affected person was placed in an interview room to contact her counsel.

It was subsequently determined the affected person was “in no fit state to comprehend what was going on” and was taken to a cell in order to “sober up”.

SO2 recalled a discussion with officers about the possibility that the affected person had dropped an object thus resulting in the need for a strip search. The search was conducted by SO1 and SO2. A “phone backing” was found and turned over to SO1. As the search continued, the affected person started to struggle and appeared to be concealing an object that was thought to be a crack pipe. The object fell and shattered, leaving shards on the floor of the cell. SO1 requested additional assistance from SO3 and SO4 so that the “search could be finished in a safe and conscious (sic) manner”. As they were leaving the cell, SO2 picked up a few pieces of glass and observed SO4 do the same. She thought they had removed all of the pieces.

SO2 recalled being occupied by incoming prisoners however recalled seeing SO1 rush to the women’s wing of the jail. SO1 told her that it appeared the affected person had cut herself and as one of the first aid attendants, SO2 went to assist. She heard SO1 ask for an ambulance. SO2 noted the affected person had cuts to her forearm and what appeared to be less serious injuries to her neck.

When reviewing the cell video, SO2 wrote in her report:

- “0752 a.m. – struggle for item in affected person’s hands. Item drops and shatters. Bra removed. Pieces of broken glass removed from cell as visible to officers.
- 0754 a.m. – she picks up piece of broken pipe, cuts hard up left anterior forearm from wrist approximately an inch below her elbow crease.
- 0755 a.m. – she sits on bench
- 0757 a.m. – she goes to sink and washes cut arm with water. Smears blood on wall/mattress on wall near door.
- 0801 a.m. - she picks up piece of glass from floor, sits on mattress, back against bloody wall. She cuts neck once. She checks cut on neck with hand. She cuts at throat again three times.”

**Subject Officer 3 (SO3)** reported he had arrested the affected person at 7:02 a.m., and had transported her to Victoria Police cells. During the transport, he noted the affected person was argumentative –“her behavior changed frequently as she was attempting to convince (me) to take her to her parents’ home and when this was denied, she would become quite hostile and verbally aggressive”.

SO3 reported that the affected person’s behavior continued to be disrespectful and aggressive. She was placed in an interview room where she picked up the phone and attempted to dial out. SO1 and SO3 subsequently removed the phone out of concern it would be damaged.

SO3 and SO4 discussed the affected person’s circumstances and determined that there was enough evidence to charge her with multiple offences.

SO3 noted that SO4 chartered and warned the affected person who remained in the interview room. He recalled she continued to display evidence of intoxication, was argumentative and uncooperative. SO4 did not provide the affected person with her right to counsel at that time as she needed to sober up and calm down. She was placed into a holding cell.

**Subject Officer 4 (SO4)** reported his first direct contact with the affected person was when she was seated in an interview room. At approximately 7:30 a.m., SO4 “chartered and warned” the affected person who was being detained for multiple offences. He noted that the affected person appeared intoxicated and that she became very argumentative and uncooperative with him. As a result, he did not provide the affected person with her “right to counsel” at that time as he believed she needed to sober up and calm down. The affected person was then escorted from the interview room to a holding cell.

Once the affected person was placed in a holding cell, SO1 and SO2 advised SO4 that the affected person possibly had an unknown item in her hand. As a result, SO3 and SO4 entered the affected person’s cell and assisted while SO1 and SO2 conducted a secondary search of the affected person. During this time, SO4 located a small amount of steel wool on the cell floor. He also reported locating several small pieces of broken plastic. These items along with the steel wool were charred (black), and were consistent with coming from a broken crack pipe.

As a result of locating these items, SO1 and SO2 conducted a strip search of the affected person. No other items were located.

Approximately 1-2 minutes later, SO1 advised him that the affected person was up to something in her cell. As a result he checked on her and found that she had cut her left wrist and neck with an unknown item. The cuts appeared to be superficial as there was little blood. Due to her behavior, SO3 apprehended her under section 28 of the *Mental Health Act*. The affected person was then transported to hospital for medical treatment and psychiatric evaluation.

## **ANALYSIS**

Given that the injuries to the affected person were clearly self-inflicted and there is no reason to believe any police officer used force upon her, it is my responsibility to determine if any officer may have been criminally negligent by failing to provide the required level of care to ensure her safety while she was in their custody. If I find that an officer may have been criminally negligent in that regard, I would be required by the Police Act to forward this file to Crown Counsel for consideration of charges. Specifically, 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."

In this case, I could only find criminal negligence if I found that by either failing to adequately search the affected person or failing to ensure that she had no means by which to harm herself while in cells, the officers acted in wanton or reckless disregard for her safety.

The statements of the officers and the video evidence are generally consistent. There is no evidence of any use of force against the affected person. There is no evidence to suggest that the officers knew that the affected person was a danger to herself prior to being placed in cells. Nor is there reason to believe that any deficiencies in the original search constituted a wanton or reckless disregard for the affected person's safety, as would be required to find there was criminal negligence relating to ensuring her safety.

Although it is clear that the officers failed to pick up all of the shattered pieces of glass from the cell which afforded the affected person with the opportunity to hurt herself. Without the knowledge that she was a danger to herself and the reasonable belief that she would use these small pieces of broken material to harm herself, it is impossible to conclude that the officers may have acted with criminal negligence.

## **DECISION**

Based on the evidence obtained during the course of this IIO investigation, I do not consider that any officer may have committed an offence in relation to the injury of the affected person. Therefore the IIO file will not be referred to Crown Counsel for consideration of possible charges.

The Police Complaint Commissioner has initiated an investigation into the actions of the officers pursuant to s. 89 of the *Police Act*. That administrative investigation is a more appropriate vehicle to evaluate the involved officers' conduct.

Prepared for release 11th day of February, 2014 by

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