



PUBLIC REPORT OF THE
CHIEF CIVILIAN DIRECTOR

Regarding the serious injuries sustained by
an adult female on August 8, 2013, and
subsequent death involving the West Shore
RCMP

IIO 2013-000048

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 injury of an adult female that occurred on August 8, 2013, while she was in the care of a Royal Canadian Mounted Police (RCMP) officer in Metchosin. The affected person was hospitalized for treatment, and died as a result of complications relating to her injuries on August 26, 2013.

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. In this report, I will not be using the name of the affected person or of any other person involved in this matter.

At the time of her death, the affected person was 63 years old.

NOTIFICATION AND JURISDICTION DECISION

At 2:09 p.m. on August 8, 2013, the RCMP received a call for assistance from a hotel in Langford, requesting that the affected person be removed from their property. The subject officer provided the affected person a ride home to her residence in Metchosin. After exiting the police vehicle, the affected person fell on her driveway, breaking her hip. She died in hospital as a result of that injury on August 26, 2013.

The IIO asserted jurisdiction because the affected person sustained a serious fracture to her hip, an injury that fell within the definition of “serious harm” in the *Police Act*. This injury may have “significantly impaired the mobility of the body as a whole.”

INVESTIGATIVE EVIDENCE CONSIDERED

IIO investigators obtained information from the subject officer, witness officers, and one civilian witness. The affected person’s medical records were reviewed and the cause of death was confirmed by the BC Coroners Service (BCCS).

Interview of Subject Officer

The subject officer (SO) submitted to a voluntary interview with IIO investigators. She stated that on August 7, 2013, she attended the home of the affected person in response to a domestic dispute complaint. As a result of that, the affected person left her residence and was transported to a local hotel.

The SO stated that the following day, she was dispatched to the hotel in response to a complaint of a female patron who was refusing to leave. The SO recognized the subject of the complaint to be the same individual (the affected person) she had interacted with the previous day.

The SO stated that she drove the affected person home to her residence in a marked police vehicle. On arrival, she parked close to the front door, opened the trunk and went to assist the affected person from the vehicle.

The SO stated that as the affected person exited the vehicle, she stood up and rolled her ankle. She regained her footing and continued to walk towards the residence. The SO moved to the back of the vehicle to get the affected person’s personal items from the trunk.

The SO advised that the affected person was approximately eleven feet away from her when she fell. She was seated on her backside, but had some blood on her knee. The SO advised that she attempted to help the affected person, but the affected person could not stand. The SO called for the BC Ambulance Service to attend. Paramedics attended and transported the affected person to hospital.

Witness Officers

Witness Officer 1 (WO1) was interviewed by IIO investigators. He stated that on August 7, 2013, he and the SO attended a call at the affected person's residence in response to a report of a verbal domestic dispute. It was determined that he would drive the affected person to a local hotel. He stated that the drive lasted approximately 20 minutes, and that he dropped the affected person off at the hotel at approximately 5:15 PM. He had no further contact with her.

Witness Officer 2 (WO2) provided a written statement to the IIO. He stated that (on August 8, 2013) he responded to the hotel along with the SO and Witness Officer 3 (WO3). He reported that they located the affected person in the parking lot of the pub behind the hotel. The affected person explained that she had been dropped off at the hotel (by police) the night prior. WO2 stated it was decided that the SO would drive the affected person home.

Witness Officer 3 (WO3) also provided a written statement to the IIO. He stated that (on August 8, 2013) he responded to the call for service from the hotel. He had the affected person walk back to his vehicle, where she told him that she wanted to go home. He stated that the SO arrived approximately four minutes after he arrived, and he briefed her on the situation. He departed and had no further contact with the affected person.

Civilian Witness

A civilian witness was interviewed by IIO investigators. He stated that on the evening of August 7, 2013, he was working at a local hotel. He saw the affected person at the bar and he served her wine. He described her as somber, quiet and reserved.

At approximately 11:00 a.m. the following day, he found the affected person sleeping in a chair in the foyer of the hotel. He asked her to leave however was unsuccessful. A taxi was called, but when it arrived, the affected person stated that she did not have money for the fare, so the taxi left.

According to the civilian witness, the affected person subsequently became belligerent, and he called the RCMP. Police arrived at the hotel. The civilian witness spoke to an officer who indicated he knew the affected person. The civilian witness left officers with the affected person and he returned to the hotel. When he next looked outside about 10 to 20 minutes later, the RCMP officer, the police vehicle and the affected person were gone.

BC Ambulance Services

According to a report prepared by BC Ambulance Service personnel, the affected person reportedly told paramedics that she got out of the police car, felt her right leg 'give out' and she fell. She stated she couldn't bear weight on her leg but that she did not feel dizzy or light-headed.

Medical Records

According to hospital records, the affected person's blood-alcohol level at the time of admission was consistent with significant intoxication.

BC Coroners Service

The BCCS determined that an autopsy would not be conducted. They did however confirm that the affected person's hip had been broken as a result of the fall on August 8, 2013. According to medical records, the affected person was living with significantly compromised physical health.

ISSUES

The general issue after any IIO investigation is whether a person sustained serious harm or death as a result of the actions of an officer and, if so, how and why. If I consider that an officer may have committed an offence, then I must forward a report to Crown counsel. The legal issue to be considered in this case is whether the subject officer was in any way criminally culpable for failing to protect the affected person from harm while the affected person was in her care and custody.

There is no evidence that any force was used during police contacts with the affected person. As such, the only theory of criminal culpability that would be relevant to this case would be that of criminal negligence.

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

As a police officer, the subject officer was responsible for ensuring the safety of the affected person while the affected person was in her care and custody. The subject officer would also be responsible for ensuring that the affected person was not a danger to herself or others prior to releasing her from her care and custody. Further, according to the paramedics, the affected person stated she fell because her right leg "[gave] out."

In order to refer this file to Crown counsel, I would need to conclude that the subject officer's decision to allow the affected person to walk from the police vehicle to her front door, without assistance, may have involved a "wanton or reckless disregard" for the affected person's safety.

The evidence provided by the paramedics' report supports the belief that the affected person was oriented to her circumstances and was able to answer simple questions. That said, her blood-alcohol level was consistent with intoxication. There is no evidence however to disprove the subject officer's apparent belief that the affected person was not a danger to herself or others.

The subject officer took a risk when she let the affected person walk from the police car to her house. Objectively, however, the risk would not have appeared to have been great: the affected person successfully walked from the hotel to the police vehicle; and even though she stumbled when first she got out of the police vehicle, she was able to recover her balance.

No reasonable officer, under the described circumstances, could have predicted that a failure to escort the affected person to her front door would have resulted in the type of serious injury that occurred in this instance. Nor would a reasonable person have been able to predict that the affected person's right leg would "give out," causing her to fall and injure herself.

Even if an escort from the police vehicle to the front door might have been prudent, and may have mitigated any risk, the officer's failure to do so would not constitute such an extreme disregard for the affected person's safety that it could be considered that the officer acted with criminal negligence. This was not such a "wanton or reckless disregard" for the affected person's life or safety that it would constitute criminal negligence.

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 this 7th day of November, 2013

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