



**IN THE MATTER OF THE DEATH OF A MALE ON JUNE 1, 2020,
AFTER BEING IN THE CUSTODY OF THE RCMP,
APPROXIMATELY TWO DAYS EARLIER,
IN THE CITY OF KITIMAT, BRITISH COLUMBIA**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2020-114

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INTRODUCTION

On the evening of May 30, 2020, Kitimat RCMP members arrested the Affected Person ('AP') for being intoxicated in public. While in cells, AP fell several times, and an ambulance was called. He was taken to hospital and was released the following morning. That evening, May 31, at a shopping plaza, AP again fell while intoxicated and was taken back to hospital. On the morning of June 1, hospital staff became concerned about his condition and he was transported to hospital in Terrace. In the late afternoon of June 1, AP succumbed to his injuries and was declared deceased. Because of the relatively recent interaction between AP and police officers, the Independent Investigations Office ('IIO') was notified and commenced an investigation. The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- statements of eight civilian witnesses and two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- RCMP officers' notes;
- audio recordings of police radio transmissions;
- photographs and Closed-Circuit Television ('CCTV') recordings;
- BC Emergency Health Services ('BCEHS') records;
- RCMP policies; and
- post-mortem examination report.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, the Subject Officer ('SO') declined to provide evidence to the IIO.

NARRATIVE

At 7:14 p.m. on May 30, 2020, BCEHS records show that an ambulance was called for an 'elderly' intoxicated male (AP) who was reported to have fallen several times behind the Kitimat Centre Mall. Paramedics examined AP and found that he was alert and that his injuries were only superficial. However, the paramedics told IIO investigators, AP said he had been consuming alcohol for "a while" and appeared to be highly intoxicated, so they asked police to attend.

Witness Officer 1 ('WO1') later told investigators that, responding to a "man down" call, he found AP sitting on a concrete planter, struggling to stay upright. WO1 said that AP appeared dishevelled and had a small cut on his forehead, but was otherwise uninjured. WO2, though, arriving just after WO1, felt that AP should receive medical attention, and told WO1 to transport AP to hospital for an assessment. Meanwhile, WO2 went to AP's

residence looking for someone who could take care of AP. Unfortunately, WO2 found no one home at that address.

The officers judged that AP was too intoxicated to be left to his own devices in public, and was medically cleared for incarceration by a duty nurse at the hospital, who signed WO1's notebook to that effect. Accordingly, AP was arrested for public intoxication and taken to RCMP cells, where he could be monitored until sober enough for release. He was placed in the 'drunk tank', a concrete-floored cell that has no bench to reduce the risk of falls. He was given a mattress to lie on, and CCTV video shows that the officers laid AP gently on it when he was escorted into the cell.

While in cells, AP was initially monitored on video by SO, and then by Civilian Witness 1 ('CW1'), an on-call civilian jail guard who was called in by SO. CW1 told investigators that he arrived at the detachment at about 8:30 p.m. on May 30. He said he was told by WO2 to watch AP carefully on CCTV, and did so. He said that AP was the most intoxicated prisoner that he had ever seen. He said he saw AP fall three times in the cell. The first two falls did not cause him any concern, but the third was more worrying. He said AP attempted to use the toilet but fell off it onto the floor, and CW1 heard a loud "thump". CW1 called WO2 and told him AP had hit his head and was bleeding (cell video shows that within a period of a little under half an hour, AP actually fell five times in total, the fifth being the most significant).

WO2 went into the cell to check on AP, and AP said he was alright. Despite this reassurance, officers followed appropriate protocol and called for BCEHS to attend. While waiting for them to arrive, WO2 can be seen on the video attending to an injury on AP's face.

AP was taken to Kitimat General Hospital, where he was recorded as being admitted for intoxication and an abrasion on his left temple. He was given a mattress on the floor of an observation room. Despite this, he was recorded that evening as falling three times. From about 11:00 p.m. until 6:00 a.m. the next morning, May 31, AP is recorded as having slept on the mattress, frequently changing positions.

At 7:30 a.m. on May 31, hospital staff woke AP and allowed him to leave the hospital. He asked where his belongings were, and was told they would be at the RCMP detachment. He responded that he would go to collect them himself. At the police detachment, at about 8:00 a.m., AP was recorded as presenting with clear speech, good balance, and able to make plans and take care of himself. There is no evidence of any subsequent interaction between AP and the police.

Shortly before 4:00 p.m. that day, CCTV at a commercial location recorded a male who appeared to be AP standing up from a bench outside City Centre Mall and falling straight

forward onto the concrete sidewalk. Two people can be seen approaching and attending to him. One of those individuals, CW2, told IIO investigators that he saw AP fall. He said AP landed on the right side of his forehead. CW2 said he watched as an ambulance arrived and paramedics placed AP in a neck brace and took him away in the ambulance.

CW3, an employee at a nearby store, told investigators that he had called 911 when someone came and informed him that AP had fallen. CW3 said he was familiar with AP, who he said came into the store every other week.

BCEHS records show that an ambulance attended at the Mall at 4:23 p.m. on May 31, 2020. An attending paramedic told IIO investigators that he was told by witnesses that AP had fallen from a standing position onto concrete and had hit his head. AP was found to have a laceration over his right eye and swelling over his left eye. He was transported to the local hospital. Hospital records show that he was observed to be asleep by 10 p.m. that evening.

At 8:40 a.m. the next morning, June 1, a nurse tried to wake AP, but found him unresponsive. He was transferred to the emergency department and examined by a physician, who suspected a brain hemorrhage and possible blood infection. AP's chest was X-rayed, with no fracture found. At 9:00 a.m. on June 1, about sixteen and a half hours after he was brought into the hospital, toxicology testing showed AP's blood alcohol concentration at a level one and a half times the legal limit for driving in Canada.

AP was transferred to Mills Memorial Hospital in Terrace, where he arrived at 2:23 p.m. A CT scan of his head showed a very large subdural hemorrhage with "transtentorial herniation" (a life-threatening condition caused by internal pressure forcing the brain down into the base of the skull). AP was declared deceased shortly afterwards.

The post-mortem report stated that AP died as the result of a subdural hematoma due to a fall. He was also suffering from cirrhosis of the liver, which was said to be a significant condition contributing to his death. There was evidence of injuries from a number of falls, and it was not possible to attribute death to any specific event. Several witnesses familiar with AP told the IIO about a history of heavy alcohol consumption, falling and hospital visits.

LEGAL ISSUES AND CONCLUSION

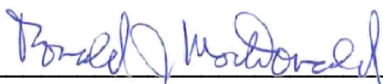
The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death. More specifically, the issue to be considered in this case is whether an officer may have committed any negligence-based offence in the course of AP's custody with the RCMP.

IIO investigators designated the officer who initially had the duty of supervising AP's stay in police cells as a Subject Officer because of the possibility that AP's death may have been the result of an injury he suffered through some failure by that officer to carry out his duties. Based on the evidence, there is no reason to conclude that SO was negligent in any respect during the period he was responsible for AP's safe custody.

The IIO does not have jurisdiction to investigate civilian RCMP jail guards, but it should also be stated here that there is no evidence that CW1 was in any way negligent. Short of restraining AP physically in the 'drunk tank' cell, there was no way for any officer or guard to prevent him from getting up from the mattress that had been provided for him, and stumbling and falling. As soon as it appeared that he might have been injured by a fall, CW1 followed proper procedure and called a uniformed member to go into the cell. The officer attended to AP's injury and called for an ambulance. From the time paramedics transported AP to hospital on the evening of May 30, to the time of his unfortunate death on the afternoon of June 1, nearly two days later, he was not in the custody of the RCMP.

The evidence shows, further, that on the morning of May 31, AP was showing no sign of impairment or significant injury. As detailed above, AP was medically cleared for release from hospital, and at 8:00 a.m. he picked up his effects without incident from the front counter of the RCMP detachment. Based on his apparent condition about eight hours later that day, he had again consumed a significant quantity of alcohol and was intoxicated to the point of falling and striking his head on the concrete pavement. While it is not possible to know with any degree of certainty which specific event or events led to the brain bleed that caused AP's death nearly a day after that latest fall, there is no reason to conclude that his demise was the result of anything that happened in police custody, or of any negligent act by any officer or jail guard.

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



Ronald J. MacDonald, Q.C.
Chief Civilian Director

March 26, 2021

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