



**IN THE MATTER OF THE DEATH OF A MALE AFTER
BEING APPREHENDED BY MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
THE CITY OF VANCOUVER, BRITISH COLUMBIA
ON NOVEMBER 26, 2020**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2020-292

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Introduction

On the afternoon of November 26, 2020, Vancouver Police Department officers were called by a restaurant staff member who was seeking assistance after the Affected Person ('AP') locked himself in the bathroom for over two hours and refused to come out. Officers arrived and arrested AP, who went into medical distress after being taken into custody and eventually died.

Because the death occurred in connection with the actions of 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 six civilian witnesses;
- statements of six witness police officers;
- statements of two responding paramedics;
- police Computer-Aided Dispatch ('CAD');
- Police Records Information Management Environment ('PRIME') records;
- CCTV footage from Tim Horton's restaurant;
- police radio to radio transmissions;
- photographs of scene; and
- autopsy and toxicology reports.

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 Officers did not provide any evidence to the IIO.

Narrative

On November 26, 2020 at 4:12 p.m., Vancouver Police Department officers were called by a staff member of a Tim Horton's restaurant for assistance after the Affected Person ('AP') had locked himself in the bathroom for several hours and refused to come out.

CCTV footage captured the movements of AP that day. Approximately five hours earlier, the AP had come into the restaurant and ordered a coffee. After spending an hour and a half inside the restaurant, he approached the counter at 2:02 p.m. and was buzzed by a staff member into the women's washroom. At that point, he locked himself inside. The women's washroom was the only washroom facility in service at the restaurant that day.

At 2:38 p.m., Civilian Witness 1 ('CW1') approached the bathroom to use it, but was unable to as AP was still in it. AP refused to exit and kicked the shut door. At 2:53 p.m., Civilian Witness 2 ('CW2'), who was a manager at the restaurant, tried to get AP to exit

the washroom, and AP refused. At 4:00 p.m., a second attempt was made by CW2 to get AP out. AP was told that if he did not leave, the police would be called. However, AP refused, saying: "*I don't want to come out*". A further attempt was made five minutes later with no success. This prompted CW2 to call police and request assistance at 4:12 p.m.

At 4:33 p.m., Subject Officer 1 ('SO1') and Subject Officer 2 ('SO2') arrived to the restaurant to assist. After discussing the situation with CW2, SO1 and SO2 approached the door and asked AP to come out, a request he continued to refuse. SO1 and SO2 tried to manipulate the lock mechanically to gain entry, but their attempts were also unsuccessful.

Instead of standing outside of the washroom, SO1 and SO2 adjusted the convex mirror in the hallway leading to the washroom so they could view the washroom door and went back into the restaurant to wait for AP to exit.

At 6:05 p.m., AP exited the washroom and walked down the corridor towards the counter. SO1 and SO2 moved towards AP and announced: "*Vancouver Police!*". SO1 walked towards AP and took hold of him. SO2 also took hold of AP and a struggle ensued as AP was taken to the ground. Civilian Witness 3 ('CW3') observed the struggle, and said that AP's hands were clenched into fists, and that he would not open them on police command. AP was eventually placed into handcuffs, and Emergency Health Services ('EHS') was requested by the officers because AP had a cut to his head.

AP continued to struggle once in handcuffs. Other officers arrived and placed him into a hobble (a device that restrains the individual's feet) and into the recovery position. AP told officers that he had consumed 10 grams of methamphetamine.

EHS arrived at 6:14 p.m. and assessed AP. As they were preparing to put him on the stretcher, the AP became unresponsive. Resuscitation was immediately started, but it was unsuccessful and AP died at 7:10 p.m. Autopsy results confirmed there were high quantities of methamphetamine in AP's system and there were no injuries to AP that caused his death.

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.

The issue to be considered in this case is whether the Subject Officers may have used excessive force or otherwise acted improperly in connection with the arrest of AP.

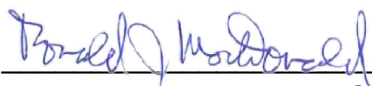
The officers were acting lawfully and in accordance with their duties when they responded to the call requesting assistance from a staff member at Tim Horton's restaurant. Officers are often asked to assist businesses in dealing with difficult or disorderly customers. In this case, AP had locked himself in the only functioning washroom within the restaurant for a period of over two hours.

Once they arrived, the Subject Officers took reasonable steps to try to get AP to come out of the washroom by knocking on the door and talking to him. When that failed, they tried to get into the washroom by manipulating the lock, which also did not work. AP refused to comply, and officers patiently waited in a different area of the restaurant until he came out.

Once AP came out, the officers announced who they were, and AP did not comply with officers' directions. Officers used reasonable force to get AP to the ground, which resulted in a small cut to his head. This injury in no way contributed to AP's death.

In these circumstances there is no evidence to suggest that officers used more force than what was necessary in their attempt to control AP. When they noticed that he had a cut to his head, they ensured he received medical attention. On the evidence, AP was treated properly by police and provided with medical attention as soon as possible once it was noted that he was in medical distress.

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

September 23, 2021

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