

Title Concluding Investigations by Addendum, in particular with Suicide or Self-Inflicted Harm Notifications	Number 5170
Section Investigations	Original Effective Date March 30, 2022
Responsibility Chief Civilian Director	Last Revised Effective Date Not Applicable

POLICY

General

1. Sections 38.09 and 38.10 of the B.C. *Police Act* require an officer to notify the Independent Investigations Office (IIO) immediately when:
 - a) a person *may* have died or suffered serious harm; *and*
 - b) the death or serious harm *may* have been caused by the actions of an officer, whether on or off duty.

2. Section 2.1 of the *Memorandum of Understanding Respecting Investigations* between the IIO and BC Police agencies ('the *MOU*') stipulates that:
 - The Chief of each police agency will designate a position that shall immediately notify the IIO upon identification of any on-duty or off-duty incident that *may* fall within the jurisdiction of the IIO.

3. Section 2.1 of the Chief Civilian Director's *Guidelines and Expectations with Respect to the Conduct of IIO investigations* ('the *Guidelines*') states that:
 - A police agency must immediately notify the IIO whenever its on-duty officers attend at or become aware of:
 - a) an incident where there is a reasonable belief that the presence, action, inaction, or decision of an officer ... *may* have been a contributory factor in:
 - i. the death of any person (including any in-custody death);
 - ii. a life-threatening injury to any person;
 - iii. an injury to any person that *may* cause disfigurement (permanent change in appearance) if there were no medical intervention; or
 - iv. an injury to any person that *may* cause permanent and substantial loss or impairment of mobility of the body as a whole or of a function of any limb or organ, if there were no medical intervention; or
 - b) any incident involving the discharge of a firearm by an on-duty officer where there is a reasonable belief that any person (including any officer) *may* have been injured.

The "may" within the statute, the *MOU* and the *Guidelines* was designed to provide a low threshold for police to report so that all possible incidents are reported to the IIO. As a result, police agencies often report matters where in fact serious harm or death did not occur, or if it did, it was not the result of police action.

The IIO has jurisdiction to investigate any matter upon notification that there *may* be serious harm, or death, which *may* have arisen from the actions or inactions of police. The IIO's jurisdiction is not dependent upon each of those conditions actually being in existence. Jurisdiction for the IIO to investigate commences upon police notification.

4. When such an investigation obtains objective evidence that is able to confirm that one of the two statutory conditions do not exist, the Chief Civilian Director may exercise their discretion to conclude an investigation. This will most often occur after a recommendation made by the Team Director and

Chief of Investigations, Operations, which is generally noted within an addendum to the original Jurisdiction Form. Sometimes this conclusion will be made public if there is a public interest in doing so. This will most often be done by a media release, not a public report.

5. If there is no objective evidence, the matter will generally be resolved through the normal file review process.
6. Objective evidence includes video, medical, scientific, or reliable non-police witness evidence that speaks directly to the existence of serious harm or death or whether police action played any role in the injury.
7. Conducting these investigations has great value even if they result in the matter being concluded based on a finding that there was no serious harm or death or that police action did not play a role in the injury. To the public, the injury may appear to meet the definition of serious harm and may appear to be the result of police action. The IIO's objective investigation is available to give the public confidence that police were not responsible for the injury, or that the injury did not result in serious harm or death.

Advice Files

8. In situations of a report from a police agency about a possible case where it is immediately apparent that the actions or inactions of police did not play a role in the death or serious harm of the Affected Person, or where the injuries sustained by the Affected Person clearly do not meet the level required to be considered serious harm, the notification is recorded as an advice file. Although a file number will be assigned for administrative purposes, no investigative actions are taken.
9. The decision to provide that advice to police should be made by applying a test from the public's point of view. Ask: "If the public were aware of these facts and their source, would a significant majority be satisfied that police action or inaction was not responsible for a serious injury or death?"
10. The following factors should be considered in making this assessment:
 - a) Is there information of serious harm or death?
 - b) Is there information that police caused the harm or death by action or inaction?
 - c) Was there any direct or indirect contact between police and the Affected Person at a time relevant to the injury/death?
 - d) May police actions or inactions have contributed to behaviour on the part of the Affected Person that resulted in their harm or death?
11. While in a perfect world independent oversight would examine every interaction between the police and the public, that is impossible. Thus, to a reasonable extent the IIO must rely on the information received from the police, while still keeping the public perspective test in mind.

Suicide Referrals

12. For referrals where the Affected Person has committed suicide and there is:
 - a) no evidence that it occurred while the Affected Person was detained or in custody of the police;
 - b) no evidence that it occurred in the officer's presence or while the officer was in contact with the Affected Person;
 - c) no information received that a failure to take action by police may have contributed to the death; and
 - d) no allegation of wrongdoing from a member of the public related to police action/inaction;it may be appropriate to provide advice to police and not commence an IIO investigation.

POLICY

Approved by:

A handwritten signature in blue ink, reading "Ronald J. MacDonald", is positioned above a solid black horizontal line.

Ronald J. MacDonald, QC, Chief Civilian Director

Date Approved:

March 30, 2022
