



**IN THE MATTER OF THE DEATH OF A MALE
AND OF THE ACTIONS OF A MEMBER OF THE RCMP
IN KAMLOOPS, BRITISH COLUMBIA
ON JUNE 28, 2022**

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

Chief Civilian Director:	Ronald J. MacDonald, KC
IIO File Number:	2022-151
<u>Date of Release:</u>	February 13, 2023

THIS PAGE INTENTIONALLY LEFT BLANK

INTRODUCTION

On the afternoon of June 28, 2022, a civilian witness saw two males sitting near a bus loop in Kamloops. The two males appeared to be under the influence of substances, and the witness was concerned. He saw an RCMP member fueling his police vehicle at a nearby gas station, and went to the officer to report his observations of the two males. He asked the officer to check on the males, and the officer said he would do so. However, when the officer left the gas station, he turned in the opposite direction and drove away. One of the males, the Affected Person ('AP') was subsequently found unresponsive at the location where he had been seen earlier. Despite life-saving attempts by paramedics, AP was declared deceased at the scene.

Because there was an allegation of inaction by an officer, with a possible connection to serious harm, 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 two civilian witnesses and three paramedics;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- data download from the Subject Officer's police vehicle;
- video recordings from transit buses and a gas station; and
- Coroner's 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 has not provided any account to the IIO.

NARRATIVE

On June 28, 2022, at about 5:28 p.m., Civilian Witness 1 ('CW1') was walking across a parking lot by a bus loop in Kamloops when he noticed two males sitting on the ground under a blanket. He was concerned that they appeared to be under the influence of alcohol or narcotics. CW1 told IIO investigators that he did not approach the two males, but seeing an RCMP vehicle at a gas station nearby, he approached the driver's window and spoke with the officer. CW1 said he told the officer that the males should be "checked on", and the officer "assured me that he would go to the bus loop and check on the two individuals". CW2 said that his conversation with SO lasted about two to five minutes.

CW1 said that he then saw the officer drive away from the gas station, but instead of going in the direction of the bus loop, he turned in the opposite direction and drove away. When CW1 walked back, he saw the two males still slumped in the same position.

The officer spoken to by CW1 was subsequently identified as the Subject Officer ('SO') in this case. GPS data downloaded from SO's vehicle confirms that SO was stopped at the gas station from 5:26 to 5:33 p.m. on the day in question. His police vehicle then left the area.

Just before 7:00 p.m. that day, the Affected Person ('AP') was found unresponsive by other civilian witnesses, who called 911. Civilian Witness 2 ('CW2'), who attempted to provide first aid to AP, told the IIO that he felt AP had been deceased for some time when he was discovered. Paramedics attempted for about thirty minutes to revive AP before he was officially declared deceased. Cause of death was determined to be fentanyl toxicity.

IIO investigators gathered video evidence from the gas station and from Transit buses that had passed the location where AP was found between 4:07 and 6:53 p.m.

On the gas station video, SO is seen fueling his vehicle and taking a receipt. The time stamp on the receipt was found to be 5:28 p.m. A little over two minutes later, as SO sits in his vehicle, CW1 is seen approaching the driver's window. There is an interaction between CW1 and SO that only occupies approximately two to three seconds of video time, but it appears that there is a gap of indeterminate duration in the video because the video system is motion-activated.

The video clips from passing buses show that, from shortly after 5:00 p.m. (at a time before CW1 noticed AP) to the time AP was attended to by CW2 and other civilians, AP was sitting on the sidewalk beside a tree, slumped forward and not significantly changing his position. During that time, two or three other individuals were sitting or moving around close to him, and there were what appear to be items of luggage on the ground in the area. No one appears to be taking any notice of AP or interacting with him.

LEGAL ISSUES AND CONCLUSION

The Independent Investigations Office of British Columbia has been given the task of investigating any incident that occurs in the province, in which an Affected Person has died or suffered serious physical harm and there appears to be a connection to the actions (or sometimes inaction) of police. The aim is to provide assurance to the public that when the investigation is complete they can trust the IIO's conclusions, because the investigation was conducted by an independent, unbiased, civilian-led agency.

In the majority of cases, those conclusions are presented in a public report such as this one, which completes the IIO's mandate by explaining to the public what happened in the incident and how the Affected Person came to suffer harm. Such reports are generally intended to enhance public confidence in the police and in the justice system as a whole through a transparent and impartial evaluation of the incident and the police role in it.

In a smaller number of cases, the evidence gathered may give the Chief Civilian Director reasonable grounds to believe that an officer has committed an offence in connection with the incident. In such a case, the *Police Act* gives the CCD authority to refer the file to Crown counsel for consideration of charges.

In a case such as this one, involving a potential negligence offence, one of the threads of the IIO investigation will be the gathering of evidence about whether the officer met the relevant standard of care.

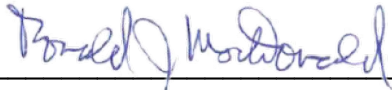
There is no doubt that, in general, a police officer has a duty to safeguard the lives and safety of citizens when it is reasonably within his ability to do so. At a time when it is public knowledge that high numbers of drug users are dying from ingesting toxic narcotics such as fentanyl, one would expect that officers would be particularly heedful of any report that an individual nearby may be suffering from a drug overdose.

In this case, the nature of CW1's occupation meant that he worked in the area of the bus loop on a regular basis, and the evidence is that the location is commonly frequented by users of illicit drugs. That being so, the fact that CW1 was expressing concern specifically about AP and his companion should have caused SO to register the concern as significant and worthy of investigation. It has to be concluded that there was a measure of negligence in his failure to do so.

If the evidence supported the further conclusion that a negligent failure to act on SO's part contributed significantly to AP's death, a referral to Crown counsel for consideration of a criminal charge might well have been the result in this case. In essence, the question to be answered is: if SO had gone to help AP, could that have saved AP's life? In this case, the evidence does not establish whether earlier action by SO would have made any difference in the eventual outcome.

CW1's report to SO occurred at about 5:30 p.m. The video evidence indicates that about half an hour earlier, AP had slumped into the position in which he was eventually attended to. There is no eyewitness or expert medical evidence to assist in a determination of when he died, or at what time medical intervention might have saved his life. That means there is no way to know whether SO's failure to follow up on CW1's report did or did not contribute to AP's death.

Accordingly, as the Chief Civilian Director of the IIO, while it can be said that SO should have followed up on CW1's report, 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.

A handwritten signature in blue ink, reading "Ronald J. MacDonald", written over a horizontal line.

Ronald J. MacDonald, KC
Chief Civilian Director

February 13, 2023

Date of Release