



OFFICE OF THE
POLICE COMPLAINT COMMISSIONER

British Columbia, Canada

22 March, 2005
Victoria, BC

REASONS FOR DECISION RE: BENNY MATSON

Mr. Benny Robert Matson came to a tragic and untimely death during the early morning hours of 12 May 2002 on Davie street near Granville St, during an altercation with members of the Vancouver Police Department who were in the process of arresting him.

Shortly thereafter, the Vancouver Police requested an order for investigation pursuant to s.55(3) of the *Police Act*, from then Acting Police Complaint Commissioner Murphy. On 15 July 2002 Murphy ordered a *Police Act* investigation into the matter. Once that investigation had been launched, the daughter of the deceased lodged a Form 1 complaint with this office approximately a year after the incident, on 16 May 2003 and subsequently amended it in July 2003 to include a request into the conduct of the officers in the incident.

The complaint process under the *Police Act* is designed so that complaints are dealt with as expeditiously as possible. From time to time however, circumstances and events intercede so that the timely resolution of issues becomes difficult if not impossible. This is one such case. Regardless of the various reasons for the unduly long period of time it has taken to reach this stage of the process, it has in my view taken far too long. I shall briefly outline the history of the proceedings to date.

As is not uncommon, the internal investigation concerning the conduct of the police was suspended during the necessary criminal investigation that follows an event of this type. The suspension remained in place until Crown Counsel reviewed the results of that investigation. It is the responsibility of Crown Counsel to determine whether a criminal investigation has resulted in sufficient evidence being gathered to warrant the laying of criminal charges and whether that evidence is sufficient to meet the test of a substantial likelihood of conviction.

The Crown Counsel review was completed in June 2003. It was their determination that no criminal proceedings be commenced. Once Crown Counsel had made their decision, the suspension order was lifted and the police began an internal investigation into the conduct of their officers.

In December 2003 the VPD provided the complainant with a copy of their report of the internal investigation. Their report concluded that "...there is no evidence of a disciplinary default...committed by any member of the Vancouver Police Department in relation to this incident." The VPD concluded their internal investigation on that basis and closed the file as "unsubstantiated."

The VPD report also informed the complainant that if she was dissatisfied with their internal investigation, that she had 30 days in which to request a Public Hearing pursuant to section 60(1) of the *Police Act*. Although no such request was received by this office it is the policy of this Office to review complaints that have been concluded whether such a request is received or not. The review by this Office, due to the complexity of the issues, the seriousness of the complaint, personnel shortages, and other factors has taken longer than anticipated. We also wanted to await the decision by a Coroner's jury in this particular case before making our final determination.

In October 2004 the Office of the Chief Coroner held an Inquest in order to determine issues that fall within their jurisdiction. That Inquest returned a verdict of accidental death. The Coroner's jury also made a number of recommendations concerning police training and equipment.

Any review by this Office concerns itself with issues germane to the *Police Act* and the *Code of Professional Conduct Regulation*. That is a fairly narrow band of responsibility. Similarly, the options open to this Office are narrow. Should I disagree with the Discipline Authority, (the person delegated by the Chief Constable of the VPD to decide whether one of their officers has acted contrary to the *Code of Professional Conduct Regulation* and should be subject to some form of discipline), the sole recourses available to me are to order a re-investigation or to convene a Public Hearing. Since I am satisfied that there was a thorough and adequate investigation into this matter, my sole remaining consideration is whether to confirm the Discipline Authority's decision or to order a Public Hearing.

When reviewing a complaint file to determine whether a Public Hearing is necessary in the public interest a number of factors must be considered. Factors particularly relevant to this matter are:

- (a) the seriousness of the complaint;
- (b) the seriousness of the harm alleged to have been suffered by the complainant;
- (c) whether there is a reasonable prospect that a Public Hearing would assist in ascertaining the truth;
- (d) whether an arguable case can be made that:

- (i) there was a flaw in the investigation, or
- (ii) the discipline authority's interpretation of the Code of Professional Conduct was incorrect, and;
- (e) whether a hearing is necessary to preserve or restore public confidence in the complaint process or in the police.

In addition to considering these factors as mandated in the legislation, the Commissioner must also take practical considerations such as cost into account in determining the public interest. Although cost alone is not a determining factor, it must be considered in the justification of expenditure of significant public funds associated with the calling of a Public Hearing.

In conducting the review of this file, our Office has examined not only the report of the internal investigation but also the report prepared by the Major Crime Section of the VPD that was submitted to Crown Counsel for their consideration. Other materials considered during the decision making process are noted later in this letter.

Having considered all of those factors in addition to other factors, it is my decision that the Discipline Authority has reached the correct outcome. There is no evidence to indicate that a member of the VPD involved in this matter committed a disciplinary default. Consequently, a Public Hearing is not justified or warranted in this case. The reasoning behind this decision is noted below.

This entire tragic matter began over a minor parking dispute. On May 12, 2002 when the VPD received a 911 call to respond to the vicinity of the Yale Hotel the call was dispatched as a "man with a knife." It was also known to the police officers responding to the call that an off-duty RCMP officer was present at the scene and involved in the altercation. The RCMP member identified himself to the first VPD officers on the scene. The RCMP officer, who had not personally made the 911 call and was not aware of what had been said during the call that had been placed by the convenience store clerk at the request of the RCMP officer's brother, quickly informed the VPD officers that he had not seen a knife and knew nothing about a knife; as far as he was concerned there had been no knife. That message was conveyed by radio to the VPD officers at the scene but it cannot be established whether all of them heard this transmission. Nevertheless, the VPD officers chose to continue to treat the call as involving a knife until they could verify differently for themselves. That was a logical and prudent decision on their part, one that is consistent with police training, and one they cannot be faulted for making.

Mr. Matson exited the Yale Hotel and was pointed out to some of the VPD officers on the street by patrons. When the police called out to him he turned and ran or, according to at least one witness, walked very quickly, back into the hotel and directly out a rear door. It is not known why he ran and, from what is now known, there is no apparent explanation for him having done so. Even persons who had been with Mr. Matson inside the hotel prior to anything taking place could not explain why he acted as he did. By that time officers had been

on the scene for approximately seven minutes. There is no indication that the officers were yet in a position to be completely certain about what had transpired prior to their arrival. In hindsight it is easy to question why anyone felt a need to chase after Mr. Matson. However, still operating under the belief the situation may have involved a knife, and not yet being aware of all of the facts of what had transpired prior to their arrival, officers gave chase through the hotel.

It is noteworthy that as Mr. Matson ran through the hotel he tipped over a bar stool in an apparent attempt to impede his pursuers. One of the officers felt that Mr. Matson looked back and made eye contact with him as he ran yet continued through the hotel. It is also noteworthy that more than one officer reported that Mr. Matson seemed to be searching through his jacket pockets for something as he ran and that he was seen to throw something away while running through the back alley. This object was never located, despite a search for it as soon as time permitted. These incidents are noteworthy because impeding their progress and searching through pockets or attempting to retrieve an item from a pocket would have, and did, heighten the officers' vigilance and apprehension about what was taking place. Despite the fact there is no evidence that Mr. Matson had committed any offence it does not appear that the police, based on what they knew of the situation at the time, can be faulted for wanting to speak with Mr. Matson and for chasing after him when he ran.

According to police computer records, at 01:41:13 hours Mr. Matson was running through the alley and onto Davie Street being chased by the police. While running Mr. Matson tripped and fell. A few of the sixty-plus witness who were eventually interviewed were of the belief that Mr. Matson was brought down by the pursuing officers. The preponderance of the evidence, however, is that he tripped and fell and that the first officer was at his side before he could get up. That first officer, with his weapon drawn, approached Mr. Matson and ordered him to remain on the ground. Mr. Matson continued to attempt to regain his footing and get up. At one point the officer kicked him in the head in order to gain compliance with his demand that Mr. Matson remain on the ground. Other officers were there within seconds. A violent struggle followed.

At 01:41:41 hours it was reported that Mr. Matson was in custody but still resisting. Mr. Matson was face down on the ground with his hands underneath him. At 01:42:00 hours police on the scene called for a paddy wagon. Approximately four minutes later, at 01:45:50 hours, one of the officers on the scene had been able to obtain Mr. Matson's identification from his pocket and asked that his name be queried on the police computer system. It would seem appropriate to conclude that by the time they were able to gain sufficient control in order to obtain the identification that the police at least had some degree of control over Mr. Matson. Statements from the officers involved indicate that by that time Mr. Matson had been handcuffed. Officers and many of the civilian witnesses present reported, however, that the struggle continued even after Mr. Matson had been handcuffed. The next time period that can be established was when the police called for an ambulance. The time was then 01:49:21 hours.

By the time a request for an ambulance was made 7 minutes, 40 seconds had elapsed since police reported that Mr. Matson was in custody but continuing to struggle. Mr. Matson's name had been queried on the police computer 3 minutes, 31 seconds prior to the call for an ambulance. It is this critical period, the 7 plus minute period and, particularly, the 3 plus minute period, which require the closest examination.

As with any incident viewed by a number of persons, recollections and observations varied widely. Some witnesses saw and heard things others did not. Almost all the civilian witnesses interviewed described the scene as a violent one. Some felt the police used excessive force in subduing Mr. Matson. Others felt that, although violent and unsettling, the force used was justified due to the resistance the officers were facing in attempting to control Mr. Matson. Witnesses, both civilian and police, commented on the degree of strength exhibited by Mr. Matson and that it took a number of officers to even hold him down.

As well as using verbal commands, officers used their hands as well as kicks or leg strikes to gain compliance from Mr. Matson. Once Mr. Matson was on the ground a number of officers quickly attempted to control his movements. The police officers attempted to gain control of Mr. Matson's hands so that he could be handcuffed. Again, it cannot be forgotten that the police officers were still operating on the assumption that a knife was somehow involved in the incident and were aware that Mr. Matson was seen to be attempting to gain access to or remove something from his pockets as he ran. Control of his hands would have, from a police safety point of view, been critical. There is no dispute that the police used a number of kicks or leg strikes in order to gain compliance. These were directed to the head, neck, back, right mid-section and right hip of Mr. Matson. This had been confirmed by available medical evidence. There is no evidence that police hit or punched Mr. Matson with their fists or any other object.

It cannot be argued that an individual need suffer significant injury at the hands of police for the actions of the police be determined to have been excessive. Similarly, the application of force by police is not, in and of itself, excessive. The degree of injury is, however, a factor that cannot be overlooked.

The results of the post-mortem examination conducted by Dr. Gray indicate areas of deep bruising on the scalp and other areas of the body that are indicative of Mr. Matson having been kicked. It is significant that Dr. Gray found no evidence to indicate that any of the kicks were forceful enough to have caused secondary injury such as fractures to the skull or facial bones, or injury to the brain, neck, liver, spleen or other internal organs. There was evidence of deep bruising indicative of Mr. Matson having been subject to forceful kicks to his back but these kicks were not associated to any rib fractures or other internal injury.

In conducting our review of the matter we took note of the various kicks administered to Mr. Matson to determine firstly whether they in and of

themselves amounted to the use of excessive force, and secondly whether they may have contributed to Mr. Matson's death.

Dr. Gray concluded that there was no evidence that the blows to Mr. Matson's head caused or significantly contributed to his death and that there was no specific blow or injury to which the aspiration event could be attributed.

There is evidence that during the violent struggle Mr. Matson continued to attempt to get up and continued to resist the officers, and evidence that the officers were applying force to Mr. Matson in order to keep him down and to gain control. The officers, and some civilian witnesses, noted they were surprised by the strength exhibited by Mr. Matson. There is evidence that Mr. Matson was yelling that police were hurting him during this struggle. He was heard to yell "You're killing me" and "I can't breathe" and "You're hurting me." Despite the prophetic nature of Mr. Matson's pleas, the police cannot be faulted for not taking them literally. Everyone, those involved and those witnessing the event, knew the struggle was violent. The police were attempting to gain compliance by force. Under the circumstances, that force, including the kicks to the head, was not excessive.

According to the pathologist, Dr. Gray, the aspiration was likely caused by a number of factors, including exertion and variations in the restraint forces applied to the body. Another question therefore, is should the police officers involved in the struggle have been aware that variations in pressure could have lead to medical consequences? Exertion and variations in pressure on various parts of the body are natural consequences of a struggle. Similarly, the police were not aware at the time that Mr. Matson had recently used cocaine. Based on available information, it would not have been foreseeable to the police that their actions would have the consequences they did. Even if those consequences were foreseeable, what alternatives were available to the police? Mr. Matson had run from the police. The police held a reasonable belief that Mr. Matson may have had a knife. There were a growing number of civilians in the immediate vicinity who could have been at risk from someone with a knife. Both for their own safety and the safety of civilians in the vicinity, and in accordance with their training, no disciplinary default is apparent in the manner in which the police dealt with Mr. Matson in order to gain control of him.

The police gained sufficient control of Mr. Matson to put the handcuffs on. It was shortly thereafter that they were able to retrieve his identification and able to check his name on the police computer. Once he was under their control the duty of care owed by the police to Mr. Matson increased. He was then solely dependent on them for his well-being. According to both police and civilian witnesses Mr. Matson continued to struggle even after he was handcuffed. Many witnesses, civilian and police alike, commented on how much he continued to struggle even after being handcuffed. Throughout this period of continued resistance Mr. Matson continued to yell and make sounds and grunts. One officer noted that Mr. Matson's words did not make any sense and she was not able to understand what he was saying. Mr. Matson was in the prone position, on his stomach, throughout the struggle and remained in that position once

handcuffed while the arrival of transport was awaited. While there is some evidence that Mr. Matson's struggling was diminishing over time, his vocalization continued. According to the police, as Mr. Matson's struggling decreased, so did the degree of force they were applying in order to maintain control.

All of the police who were holding Mr. Matson down, and some of the civilian witnesses, who were in a position to see what was happening, described a sudden change in Mr. Matson's behaviour. Whereas he had been struggling and yelling one second, the next he was noted to be unconscious. Police immediately checked for a pulse, began CPR, and called for an ambulance.

At least three of the police officers who were directly around Mr. Matson reported that it was during this time that their attention was distracted from Mr. Matson. A large and unruly crowd had gathered and the police were having difficulty maintaining control of the situation. This aspect was examined in some detail to determine whether allowing themselves to be distracted from Mr. Matson, a person under their care, amounted to neglect. These officers should not have allowed themselves to be distracted by the crowd. That, understandably, is much easier said than done. Based on the information available, it does not appear that this neglect was anything more than transitory. Although not itself determinative of the issue, it is nevertheless material that nothing appears to turn on the fact that some of the police were momentarily distracted. Statements of other police officers and of civilian witnesses all describe Mr. Matson's collapse as sudden.

There is medical support for concluding that it was inconsequential whether any of the officers were distracted or not. According to Dr. Gray, "individuals under the influence of cocaine are prone to sudden rapidly fatal cardiac arrest, particularly under stressful conditions and after physical exertion..." Although this particular incident is not specifically mentioned in the larger context of the internal investigation report, it does not appear that the distraction was of such a marked degree that discipline should attach. The decision of the Discipline Authority not to have found a disciplinary default in relation to this incident as a whole is, in relation to this aspect of the incident, confirmed.

Consideration was also given to the issue of Positional Asphyxia. The question asked was whether there was any evidence to conclude that any of the police had committed a disciplinary default for having left Mr. Matson in a prone position while handcuffed and while his legs were restrained by being held. Although a separate issue, in the context of this incident, the phenomenon of Positional Asphyxia cannot be considered separate from either what is known as Cocaine Psychosis or Excited Delirium. These issues are significant in that Dr. Gray reported that "restraint-associated cardiac arrest in an individual in an acute cocaine-induced psychotic state may have caused or contributed to [the aspiration of stomach contents]."

According to the literature, it is recommended that an individual not be maintained in the prone position once restrained, particularly when their legs are

also restrained in a bent position. The VPD training material in use at the time notes that it is important to get the individual off their stomach as quickly as possible.¹ The major focus of the training material, however, dealt with how a person was transported when restrained. What is clear from the training material is that the recommendation that an individual not remain in the prone position once restrained presupposed the individual is under control. In the case of Mr. Matson, he was not yet under complete control, even though handcuffed, prior to his sudden collapse because he was continuing to struggle. There is no evidence to suggest that the police were in a position to yet consider changing Mr. Matson's body position prior to his collapse. What is also clear is that the phenomenon of Positional Asphyxia is not yet fully understood by medical professionals² and that there continues to be gaps in the knowledge concerning it.³

The incidence of Positional Asphyxia is increased when the individual has cocaine in their system. Cocaine Psychosis or Excited Delirium are important factors to consider in the context of Mr. Matson's death. The symptoms of excited delirium include "bizarre or hyperactive behaviour, paranoia, shouting, thrashing, ranting and performing feats of apparently 'superhuman' strength."⁴ Mr. Matson exhibited some of these symptoms. Persons who had been with him in the Yale Hotel described him as jumpy, nervous and agitated. According to Dr. Gray, "the exertion of the chase in conjunction with stress and catacholamine [sic] rush in the context of a cocaine-induced state would have significantly contributed to the subsequent fatal cardiac arrest."

It is not the purpose of this review to become a treatise on either Positional Asphyxia or Cocaine Psychosis. The medical evidence is that Mr. Matson had ingested cocaine in some form only hours prior to this incident and that this significantly contributed to his death. The question from a disciplinary point of view is, should the police have recognized the symptoms and should they then have acted differently towards Mr. Matson. Based on all of the events noted above, and based on the training materials available to them, in my view the answer is no.

While it is not apparent that the police could have acted differently in this matter, the possibility of Positional Asphyxia and the phenomenon of Cocaine Psychosis deserve more attention, from a training perspective, from police management. It

¹ Fawcett, W. Brad, "Positional Asphyxia & Excited Delirium Lesson Plan," Vancouver Police Department, February 1996.

² Mohr, W.K., Petti, Theodore A., and Mohr, Brian D., "Adverse Effects Associated with Physical Restraint," *Canadian Journal of Psychiatry*, Vol. 48, No. 5, June 2003.

³ Day, P., "What Evidence Exists About the Safety of Physical restraint When Used by Law Enforcement and Medical Staff to Control Individuals with Acute Behavioural Disturbance?" *NZHTA Technical Briefing Series*, New Zealand Health Technology Assessment Department of Public Health and General Practice, Christchurch School of Medicine, University of Otago, September 2002, Vol. 1, No. 3.

⁴ Pollanen, M.S., Chiasson, D.A., Cairns, J.T. and Young, J.G., "Unexpected Death Related To Restraint For Excited Delirium: A Retrospective Study Of Death In Police Custody And In The Community," *Canadian Medical Association Journal*, June 16, 1998, Vol. 158, No. 12, 1603 – 1607; see also Milliken, D., "Death By Restraint," 1611-1612.

is recommended that police receive up to date and comprehensive training on these issues. The internal investigation report makes a similar recommendation in relation to Excited Delirium. In making this recommendation I am aware that the Justice Institute of B.C. (Police Academy) and the VPD are both presently updating their lesson plans and training materials on this subject. As well, the medical science concerning these phenomena is still not completely understood and remains in a state of development. I am also aware that the mere recognition of the symptoms of Cocaine Psychosis will not necessarily prevent similar incidents from occurring in the future. Those symptoms are the same or similar to symptoms exhibited by many persons that police encounter on the streets. Police officers cannot and should not be expected to make decisions based on medical issues that are beyond their knowledge, skills and abilities.⁵

I have also considered the other factors listed above in determining whether to confirm the decision of the Discipline Authority or to call a Public Hearing into this matter. I am satisfied that both the Major Crime Section of the VPD and the Internal Investigation Section conducted a thorough investigation into this matter and that their investigations were not flawed. Similarly, I am of the view that the Discipline Authority has correctly interpreted the *Police Act* and the *Code of Professional Conduct Regulation* in dealing with the issues as they have. It is not unusual for a third party reviewer to be able to identify areas of investigation that could have been examined or to raise questions that have not been answered by the written report. During the review, this Office has spoken with various medical professionals, an external (to the VPD) use of force expert, and reviewed a number of written medical and police related articles that deal with similar incidents.

This matter was exhaustively reviewed by two Sr. Investigative analysts in my office, and subsequently, I requested an additional opinion from Commission Counsel, Dana Urban QC. Mr. Urban also followed up with two of the experts who testified at the Coroner's Inquest to clarify certain issues. It must also be remembered that there was a Coroner's Inquest into this matter and all the known facts surrounding this incident were thoroughly canvassed in a public forum. None of the additional resources consulted have led me to determine that any of the officers involved in this matter committed disciplinary defaults and were therefore subject to censure under the provisions of Part 9 of the *Police Act*.

Based on all of the factors listed above, the decisions of the Discipline Authority are confirmed. No disciplinary defaults have been identified. The Office of the Police Complaint Commissioner will not be taking further action concerning this matter other than to make some additional observations for consideration by the police authorities, the Vancouver Police Board, the Justice Institute and the office of the Solicitor General pursuant to my mandate under s.50 of the *Police Act*.

⁵ See the recent Judgment of the BCCA in *Roy v. Canada (Attorney General)* BCJ No 293;205 BCCA 88, where Southin, JA, stated at para 44: "Peace officers are not emergency services personnel and cannot be held, unless and until they receive similar training, to a standard which would be appropriate for such persons."

I have availed myself of the opportunity of reviewing a number of articles on the issue of excited delirium and positional asphyxia. I also had the opportunity of hearing Dr. Chris Hall, an expert on the topic speak at a Conference held in February 2005 sponsored by the Edmonton City Police. I have also spoken with Dr. Laurel Gray to clarify certain aspects of her evidence at the Coroner's Inquest.

As early as April 1999, two prominent causes of custodial related death have been recognized by medical research – excited delirium and positional asphyxia. These factors led to the conclusion that the Calgary Police Service recommended in their basic training curriculum that:

“Police officers must take steps to recognize the risk factors associated with excited delirium and positional asphyxia so that appropriate steps may be taken in an effort to prevent such deaths from occurring. If a person displays any of the signs and symptoms of excited delirium or positional asphyxia, treat the situation as a medical emergency, and provide appropriate medical assistance immediately”.

First of all, it is clear that positional asphyxia is a continuing concern today. Judging by the actions of the officers in this case, I am concerned that the officers may not have received adequate training on correct arrest and restraint protocols for individuals who exhibit symptoms of excited delirium.

Although admittedly, the signs and symptoms of an individual displaying excited delirium may also be seen in other persons who are simply violent, the literature indicates that the following signs and symptoms are not usually found in persons who are simply violent: **impaired thinking** which may manifest itself as disorientation hallucination, acute paranoia, bizarre behaviour, panic or breaking of glass or mirrors with bare hands; **unexpected physical strength** (may manifest itself of pepper spray being ineffective or a significantly diminished sense of pain; **evidence of fever or heat intolerance** – may be inexplicably naked or shedding clothing and very hot to the touch; **struggling violently when restrained**; and **sudden tranquility after frenzied activity**.

Secondly, it is extremely important that all police officers receive adequate training on the proper techniques to avoid positional asphyxia. Once it is recognized that a person may be exhibiting symptoms of excited delirium, the officers need to be trained that they ought to treat the matter as a medical emergency and call for medical assistance immediately. Needless to say, the subject may still have to be apprehended and restrained in order to prevent injury to the subject, the public or the police themselves.

The literature indicates that once initial control over the subject has been achieved the methods and positions used to maintain restraint may cause further deterioration of the subject's condition. Leaving a person on his stomach may cause positional asphyxia; and leaving him on his back while handcuffed may

also be a problem. The literature suggests that the subject be placed on their side (the recovery position) until they can sit up.

It must also be observed that positional asphyxia may lead to death, whether or not the subject is also suffering from excited delirium or cocaine induced delirium. Similarly, subjects who demonstrate "super-human strength" may not necessarily be suffering from excited delirium, but are merely fighting for their lives and gasping for oxygen. In either event, super-human strength ought to serve as a clue to the officers that something is amiss.

What in my opinion is important to note is that positional asphyxia may occur independently from the presence of either excited delirium or cocaine-induced delirium being present. As earlier indicated, our office has had subsequent discussions with the forensic toxicologist, Dr. Huckin, and the pathologist Dr. Gray, who both testified at the Inquest. Both testified as to their opinions based on the evidence available to them at the time. The factors that Mr. Matson had in fact not been waving a knife around at the time for no apparent reason, nor the fact that Mr. Matson did not have an elevated body temperature were not taken into consideration in arriving at their opinions to which they testified at the Inquest.

In a subsequent interview Dr. Gray was clear that the kicking, kneeing and other blunt injuries did not cause the vomiting or reflux that was subsequently aspirated into Mr. Matson's lungs. What is particularly significant is that in her opinion Mr. Matson died of a sudden cardiac event such as ventricular fibrillation and that it is not uncommon to see vomiting associated with such an event. She also clarified that in a case of true or pure positional asphyxia alone, the event would take much longer and symptoms such as the lips turning blue and other indicators of oxygen deprivation would be more apparent. Therefore, in this case she concluded that the cause of death was massive peripheral aspiration due to restraint-associated cardiac arrest due to cocaine agitated delirium.

What is clear from all of the information available to me is that further study is required with respect to both excited delirium as well as positional asphyxia. I suspect that the medical community as well as law enforcement agencies are continuing their research in this regard. In the interim, police officers in BC require additional training when faced with these types of situations. I therefore recommend that police be trained to recognize the symptoms of excited delirium, as well as cocaine agitated delirium and how they might differ from individuals who may merely be violent or while under the influence of alcohol or other drug. I acknowledge that it may be extremely difficult to distinguish a psychotic paranoid patient from one suffering from a drug related delirium. Nevertheless, when symptoms of excited delirium are evidenced (see page 9) and where the subject is displaying superhuman strength while at the same time displaying frantic activity followed by a sudden cessation, it is my recommendation that officers should be trained to regard this as a medical emergency and call for immediate medical assistance. I also strongly recommend that all police officers receive regular updated training on the issue

of positional asphyxia, and are taught methods of restraint that do not unnecessarily compromise the safety of the subject. I understand that my recommendations support to a large degree the findings and recommendations found by the Jury at the Coroner's Inquest that concluded on 21 October 2004.

For the above reasons, a copy of these Reasons for Decision are being sent to the various agencies to whom I have a responsibility to make recommendations as the circumstances dictate.

Dirk Ryneveld, Q.C.
BC Police Complaint Commissioner
[Return to Commissioner's Reasons](#)