



VERDICT AT INQUEST

File No.: 2009:0364:0124

An Inquest was held at The Coroners Court, in the municipality of Burnaby

in the Province of British Columbia, on the following dates May 9 - 11, 2011

before Mr. Vincent Stancato, Presiding Coroner,

into the death of BAINES, KENNETH KEITH, 46, Male Female

and the following findings were made:

Date and Time of Death: July 15, 2009 at 16:09 Hours

Place of Death: Royal Columbian Hospital, New Westminster

Medical Cause of Death

(1) Immediate Cause of Death: a) MASSIVE ANOXIC BRAIN INJURY DUE TO OR AS A CONSEQUENCE OF

Antecedent Cause if any: b) VASCULAR DISRUPTION TO RIGHT CEREBRAL HEMISPHERE DUE TO OR AS A CONSEQUENCE OF

Giving rise to the immediate cause (a) above, stating underlying cause last. c) GUNSHOT WOUND TO HEAD AND NECK

(2) Other Significant Conditions Contributing to Death:

Classification of Death: Accidental Homicide Natural Suicide Undetermined

The above verdict certified by the Jury on the 11 day of MAY AD, 2011.

Vincent Stancato, Presiding Coroner's Printed Name

Handwritten signature of Vincent Stancato, Presiding Coroner's Signature



## VERDICT AT INQUEST

### FINDINGS AND RECOMMENDATIONS AS A RESULT OF THE INQUEST INTO THE DEATH OF

FILE No.: 2009:0364:0124

**BAINES**

SURNAME

**KENNETH KEITH**

GIVEN NAMES

#### **PARTIES INVOLVED IN THE INQUEST:**

Presiding Coroner: Mr. Vincent M. Stancato  
Inquest Counsel: Mr. Rodrick MacKenzie  
Counsel/Participants: Mr. David Kwan, Attorney General of Canada  
Court Reporting/Recording Agency: Verbatim Words West Ltd.

The Sheriff took charge of the jury and recorded 2 exhibits as entered. Twenty witnesses were duly sworn and testified.

#### **PRESIDING CORONER'S SUMMARY:**

*The following is a brief summary of the circumstances of the death as presented to the jury at the inquest. The summary and my comments respecting the recommendations, if any, are only provided to assist the reader to more fully understand the Verdict and Recommendations of the jury. This summary is not intended to be considered evidence nor is it intended in any way to replace the jury's verdict.*

On July 14, 2009 at approximately 1430 hours, two civilians witnessed a male breaking into a truck that was parked at the Strawberry Hills Plaza at 120 Street and 72 Avenue in Surrey, BC. The civilians confronted the male in an attempt to stop the vehicle break in. A short verbal confrontation ensued and the male was witnessed to jump into a gold, four door, early 1990's Honda Accord (license plate number [REDACTED] and flee the scene. The witnesses described the male as white, tall and thin. They also testified that he appeared "angry" and "without a care in the world". The witnesses reported the incident to a staff person at the local Earl's restaurant who reported it to the police.

On July 14, 2009 at approximately 1834 hours, four members of the Surrey RCMP Community Response Team set up surveillance at a warehouse complex located at 12639 80<sup>th</sup> Avenue, for a separate surveillance investigation. At approximately 1940 hours, one of the police officers involved in the operation identified a vehicle that was being driven with excessive speed while traveling eastbound on 80<sup>th</sup> Avenue at 12400 block. He testified that he ran the license plate on the Canadian Police Information Centre (CPIC) and Police Records Information Management Environment (PRIME). His search of PRIME indicated that the vehicle was stolen on July 14, 2009 at approximately 1200 hours. He notified the other members on his team. The vehicle in question subsequently entered the business complex at 12639 80<sup>th</sup> Avenue, which happened to be the location of the surveillance operation. The members terminated their operation and proceeded to deal with the stolen vehicle.

The police located the stolen vehicle stopped in an alley way at the industrial complex with the suspect, later identified as Kenneth Keith Baines, outside the vehicle. The four members, who were all driving separate unmarked police vehicles, moved into positions in order to contain the suspect. Two officers approached the suspect from the south end and the other two officers approached from the north end. The officers approaching from the North end stopped their vehicles within close proximity



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to the Honda Accord. These two officers testified that they exited their respective vehicles and approached Mr. Baines on foot. They testified that as they approached Mr. Baines, he ran back to the Honda Accord and started the engine. Another officer, who had approached Mr. Baines' vehicle from the south end of the alley way, testified that he had positioned his vehicle within very close proximity to the Honda Accord in order to prevent Mr. Baines from fleeing the area. The placement of the police vehicles on the north and south sides had the effect of "boxing in" the Honda Accord. Police witnesses testified that once Mr. Baines got into the Honda Accord he proceeded to ram the police vehicles.

While Mr. Baines was ramming the police vehicles, one of the officers on foot testified that he lost sight of his partner and feared for his partner's safety. He testified that he thought his partner might have been hurt (struck by the vehicle) or was in a position where grievous bodily harm might occur. He testified that he also feared for his own safety as Mr. Baines appeared motivated to flee the scene and continued to ram the police vehicles.

The officer testified that he made a decision to discharge his service pistol in order to stop the threat and prevent grievous bodily harm or death to him and his partner. One of the four shots fired struck Mr. Baines at the right side of his head behind his right ear. Police immediately called dispatch to report shots fired and to request an ambulance code 3. First aid was performed until the ambulance arrived after which the paramedics took over and transported Mr. Baines to Royal Columbia Hospital. Mr. Baines received medical attention however his injuries were severe and his prognosis grave. On July 15, 2009 at 1609 hours, Mr. Baines was removed from life support and pronounced dead.

There were no direct independent eye witnesses to the event. A local business owner that was in his business premises did report hearing police identify themselves and give verbal commands to stop. This was followed by the sounds of an engine revving and the sound of a collision, followed by several shots being fired.



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*Pursuant to Section 38 of the Coroners Act, the following recommendations are forwarded to the Chief Coroner of the Province of British Columbia for distribution to the appropriate agency:*

#### **JURY RECOMMENDATIONS:**

To: Peter Hourihan - Deputy Commissioner  
Pacific Region & Commanding Officer  
Royal Canadian Mounted Police  
657 West 37th Avenue  
Vancouver, BC V5Z 1K6

1. We recommend that the RCMP review current practice and training in respect to commands (Example: hand signals when audio communication is not possible).

**Coroners Comment:** *The jury heard testimony from the police officers involved that it was very loud (screeching tires, crashing) at the scene during the incident which made verbal communication difficult.*

2. We recommend that the RCMP review procedures given to officers in training about self assessment in volatile situations (Example: Am I calm and thinking clearly).

**Coroners Comment:** *Self explanatory.*

3. We recommend the RCMP review procedures of junior officers communicating with lead officers before lethal force is used.

**Coroners Comment:** *The jury heard that the officers involved in the incident did not engage in any planning prior to confronting Mr. Baines. The jury also heard that the officer that shot Mr. Baines was unable to communicate with the senior officer once they became engaged with Mr. Baines after exiting their vehicles.*

4. We recommend the RCMP review information entered into their systems in a timely manner, thus allowing all officers immediate access.

**Coroners Comment:** *The jury heard testimony from various police officers that there was some confusion about the status (stolen or not) of the Honda Accord. The jury heard that the Honda Accord had not been entered as stolen on CPIC at the time the officer ran the initial check. However, it was confirmed and entered on PRIME as stolen on July 14, 2009, at 1200 hours.*

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5. We recommend the RCMP add more training for new officers with specific attention to improving skills in reacting to dangerous situations.

***Coroners Comment:*** *The jury heard from a police use of force expert that every dangerous interaction presents possible unintended consequences both to the police officer and suspect/offender and that the only way to limit the possibility for a negative outcome is through proper planning and communication.*

6. We recommend that the RCMP review and implement training for vehicle take down situations such as box and pin.

***Coroners Comment:*** *The jury heard that none of the officers had received training with respect to proper methods to deal with the apprehension of suspects fleeing police custody while in control of a vehicle.*

To: Peter Hourihan - Deputy Commissioner  
Pacific Region & Commanding Officer  
Royal Canadian Mounted Police  
657 West 37th Avenue  
Vancouver, BC V5Z 1K6

To: Les Fisher. Chief Operating Officer  
BC Ambulance Service  
2261 Keating Cross Road, Block C  
Saanichton, BC V8M 2A5

7. We recommend reviewing staging procedures between the RCMP and BCAS for quicker response time.

***Coroners Comment:*** *The jury heard testimony that the BC Ambulance Crews that were summoned code 3 (lights and sirens) and arrived in the vicinity approximately two minutes prior to entering the scene. The jury heard that they were waiting at a "staging" area until the scene was cleared for entry. This is a BCAS policy. The jury heard that there was a delay in communication between the police and paramedics regarding the safety of the scene for entry.*

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To: Honourable Michael de Jong  
Minister of Health  
PO BOX 9050  
STN PROV GOVT  
Victoria BC V8W 9E2

8. We recommend there should be more facilities available for rehabilitation of addicts.

**Coroners comment:** *The jury heard that Mr. Baines had battled with addiction throughout his adult life.*