BRITISH COLUMBIA

Ministry of Justice
Coroners Service
Province of British Columbia

File No. 2014:0364:0143

# VERDICT AT CORONERS INQUEST

FINDINGS AND RECOMMENDATIONS AS A RESULT OF THE CORONER'S INQUEST PURSUANT TO SECTION 38 OF THE CORONERS ACT, [SBC 2007] C 15, INTO THE DEATH OF

| **MOOSOMIN** | **Ernest Shawn** |
|---|---|
| SURNAME | GIVEN NAMES |

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

in the Province of British Columbia, on the following dates November 2nd to 4th 2015

before: Dr. D. Kelly Barnard, Presiding Coroner.

into the death of MOOSOMIN (Last Name) Ernest (First Name) Shawn (Middle Name) 41 (Age) ☒ Male ☐ Female

The following findings were made:

Date and Time of Death: 01 August 2014 00:39

Place of Death: Surrey Memorial Hospital (Location) Surrey, BC (Municipality/Province)

Medical Cause of Death:

*(1) Immediate Cause of Death:* a) Complications of drug use due to combined methamphetamine and heroin

Due to or as a consequence of

*Antecedent Cause if any:* b)

Due to or as a consequence of

*Giving rise to the immediate cause (a) above, stating underlying cause last.* c)

*(2) Other Significant Conditions Contributing to Death:*

Classification of Death: ☒ Accidental ☐ Homicide ☐ Natural ☐ Suicide ☐ Undetermined

The above verdict certified by the Jury on the 04 day of November AD, 2015

Dr. D. Kelly Barnard
***Presiding Coroner's Printed Name***

***Presiding Coroner's Signature***

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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:*

## PARTIES INVOLVED IN THE INQUEST:

| | |
|---|---|
| Presiding Coroner: | Dr. D. Kelly Barnard |
| Inquest Counsel: | Mr. Rodrick H. MacKenzie |
| Court Reporting/Recording Agency: | Verbatim Words West Ltd. |
| Participants/Counsel: | Transit Police/David Crossin |

The Sheriff took charge of the jury and recorded four exhibits. Sixteen witnesses were duly sworn and testified.

## PRESIDING CORONER'S COMMENTS:

*The following is a brief summary of the circumstances of the death as set out in the evidence presented to the jury at the inquest. The following summary of the evidence as presented at the inquest is to assist the reader to more fully understand the Findings 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 Findings and Recommendations.*

Ernest Shawn Moosomin aged 41 years died in Surrey Memorial Hospital at 00:39 on August 1st, 2014. One of his sisters testified that their mother was born on the Red Pheasant Reserve in Saskatchewan and had been placed in residential school and was abused there and at home. Mr. Moosomin and his seven siblings were involved with the child welfare system as babies and were apprehended and moved many times during early childhood. His sister reported that her file documents that she was moved18 times to and from her mother's home before she was eight years old. At age nine, Mr. Moosomin was placed with two of his sisters in a non-aboriginal farm family. His sister reports that he struggled in that placement and left at age 14. In the following years he was in Alberta, Ontario and BC, and he increasingly suffered from addiction to a variety of substances including heroin and cocaine, and most recently methamphetamines. His 15 year old daughter testified that they had reunited in the years prior to his death and that he was in regular contact with her and was kind and attentive. His former partner also stated that she was in contact with him and supporting him as he attempted to address his addictions issues. He had attended Onsite transitional housing unit following a detox program in Vancouver and then was living in a "recovery home" in Surrey while waitlisted for residential treatment in a First Nations treatment facility in the north. She outlined some of the challenges that they had encountered in navigating the systems to access treatment.

Mr. Moosomin entered the area of the Surrey Central Skytrain station on the evening of July 31st 2014. The jury heard testimony from BC transit staff; including the supervisor, a transit operator and the transit police, and heard police radio communications and viewed CCTV footage of events beginning at approximately 23:25 hours. Mr. Moosomin was seen moving erratically across the station and trying to open the door of an unoccupied transit police care before crossing the station, dropping his back pack, and entering a bus occupied by a dozen or so passengers. Upon entering the bus he did not pay and initially sat on a seat and then was observed lying down on the floor under the row of seats near the front of the

bus. The bus driver testified that he heard Mr. Moosomin say something like "help me". The bus driver then was concerned that Mr. Moosomin might be under the influence of drugs or alcohol so he asked him "what are you doing" and when Mr. Moosomin did not respond he put on the emergency lights on the bus and exited to get some help. He found two transit police officers on foot and his supervisor and explained to them that there was a person on the floor of his bus who appeared to be intoxicated.

The two officers testified that they had been in the office at the Surrey Central bus loop completing paperwork. As they returned to their car they encountered the transit supervisor who said that he was about to call in a report of an intoxicated male at the station. The bus driver then approached and indicated that a man was aboard his bus. At 23:32 one of the officers used the radio to update dispatch that they would be attending to the situation on the bus. One of the officers then entered the bus and observed Mr. Moosomin, whom he described as very sweaty and with large pupils, under the seat. Mr. Moosomin was ducking and covering his head saying something like "they are trying to hit me". The officer said "police" and "it will be ok" and helped Mr. Moosomin to his feet. The officer then said "section 28" indicating that Mr. Moosomin would be apprehended under the Mental Health Act based on the finding that he was acting in a manner "likely to endanger himself or others and apparently suffering from a mental disorder". The officer then led Mr. Moosomin from the bus. Mr. Moosomin said "help me" and cooperated fully with the officers, who placed him in handcuffs behind his back, and told him that they were taking him to the hospital to get help. They then led him to the transit police vehicle where he leaned on the door and said "let me in". No further video was available from this point forward as the vehicle was parked outside of the surveillance area.

One of the officers testified that he asked Mr. Moosomin his name, but could not understand his response. The transit supervisor then retrieved Mr. Moosomin's bag and one of the officers searched it finding drug paraphernalia and a lab form with his name on it. The officer then addressed him as "Ernest" and asked if he was on drugs to which Mr. Moosomin replied "down". Mr. Moosomin was searched and placed in the back of the police vehicle. He was noted to be sweating profusely. The officers reported that although fully cooperative to that point, Mr. Moosomin began kicking at the doors and seat of the vehicle. He was noted to be lying sideways in the seat at this time. At 23:36 one of the officers updated dispatch that Mr. Moosomin was in the vehicle, possibly "wired" and kicking at the seats, he also asked that dispatch inform Surrey Memorial Hospital that they were on their way. The officers then completed some computer updates in the vehicle before beginning the transport at 23:37. They reported that Mr. Moosomin continued to kick at the front seat and was not responding to their questions coherently. The officers reported that during the transport they could see the top of his head in the rear view mirror and heard him moving. As they arrived at the Surrey Memorial Hospital at 23:47 they no longer heard him moving in the back seat. One of them turned and shouted "Ernest, Ernest!" with no response. One officer then went into the hospital to get help and the other opened the back door noting that Mr. Moosomin was lying face up on the back seat with his eyes open wide, foam coming from his mouth and no pulse was detectable.

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Hospital staff arrived with a stretcher and the emergency room physician began CPR at 23:51. Mr. Moosomin was still handcuffed behind his back. Once wheeled into the emergency room he was rolled over and the cuffs removed. The Emergency room physician reported that he called for an anaesthetist to assist him, as both intravenous access (requiring the placement of a femoral line) and endotracheal intubation (requiring a tracheostomy) were unusually difficult. During the resuscitation Mr. Moosomin appeared very pale and was noted to have a very high core temperature of 42 degrees C. There were no noted injuries. Medical interventions included the administration of naloxone (a drug used to reverse the effects of narcotics), epinephrine and calcium. No heart rhythm was obtained at any time during the 50 minutes of resuscitation and Mr. Moosomin was pronounced dead at 00:39.

The officers testified that although transit police policy indicated that the ambulance should be called to transport people in medical distress they did not feel that this was warranted in this case as they were a short drive from Surrey Memorial Hospital and that they felt that calling the ambulance would have added more delay to the trip. When asked about their knowledge of the recognition and management of signs of dangerous intoxication or physical or mental illness they said that other than basic CPR they had no training in this area. This was corroborated by a senior officer with the transit police who stated that the policies for the transit police had been adopted directly from other non-specialized police agencies. The officers said that they encounter people with these problems daily in their work. The bus driver testified that he too encounters people who appear to have serious mental health and addictions issues daily.

Several witnesses were called to provide background. One of the doctors who had treated Mr. Moosomin for his addictions in the year prior to his death was admitted as an expert in addictions medicine. She testified that she had treated Mr. Moosomin, prescribing an antidepressant medication for depression and a medication called suboxone used as treatment in opioid addiction. She testified that finding suitable housing during and following treatment was a real challenge. The so-called "recovery houses" like the one Mr. Moosomin lived in are unregulated and known to be places where illicit drugs are available and in use and therefore an unsuitable environment for people in recovery. She recommended that these be monitored and appropriately dealt with. She indicated that there are gaps in the access to services across the spectrum including nutrition, housing, employment and that better integration of the services that are available would help patients in their recovery. She also emphasized that all service providers should understand how to provide safe and culturally appropriate care that recognizes the emotional and physical trauma that many patients have suffered.

The Executive Director for Mental Health and Addictions at Fraser Health testified that the service covers a large geographic area with a wide range of programs to support people with addictions. This is described as the substance use continuum from sobering centres and medical detoxification units to residential treatment. He stated that although there were some programs with waitlists the access time for acute detoxification services was short. When asked about the estimated number of people in the health region who may need these services but are not accessing them, he stated that the information was not available in that detail. He also stated that although people moved across health authority boundaries for services and that the health authorities have separate information systems, staff take extra efforts to try to ensure continuity of care. He stated that although housing was an ongoing challenge for patients, staff do

not refer to unregulated "recovery" houses, instead referring to the approximately 70 legitimate recovery houses that are regulated by the Provincial Assisted Living Registrar and Community Care Facilities Licensing Program.

The jury also heard from the Manager of Bylaw Enforcement from the City of Surrey. He described an ongoing program arising from the 2012 Mayor's Task Force on Crime. The High Risk Location Initiative was initiated in November 2013 as a partnership between bylaw enforcement, the Surrey RCMP and Surrey Fire Services. He was not aware of programs like this in other municipalities. They identify properties causing neighbourhood concern including drug labs, grow ops, and unregulated "recovery" houses with the view to coordinating enforcement and closing those that do not comply. The facilities regulated under Assisted Living are not a source of problems in the community. He confirmed that two of the addresses where Mr. Moosomin had lived had come under this process and were among the approximately 150 locations that had been shut down by this process. He stated that it is an ongoing challenge as the operators will reestablish in new locations and constant monitoring and vigilance is required.

An autopsy and toxicology testing were performed in this case. Blood and urine testing revealed a number of substances, including morphine from heroin and bupropion (an antidepressant) and a toxic level of methamphetamine. The pathologist concluded that the medical cause of death was complications of drug use due to the combined use of methamphetamine and heroin with no other underlying or contributory causes. He stated that this finding was consistent with the clinical findings prior to death, including the very high temperature which can result from methamphetamine toxicity.

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**JURY RECOMMENDATIONS:**

To: ***Chief Officer, South Coast BC Transportation Authority Police Service***

1. *Consult with external emergency response experts including qualified medical practitioners to develop a coordinated program of regular and ongoing training for officers to enable them to provide safe assistance for passengers in distress. This should include:*
    a. *Specific first aid training and equipment tailored to transit circumstances.*
    b. *Specialised training from medical professionals at a level appropriate for transit officers in the assessment of people with disordered behaviour. The officers should be trained to recognise and appropriately respond to signs of frequently encountered conditions including medical distress, delirium, psychosis, intoxication, drug overdose and withdrawal.*
    c. *Specific training in trauma informed services and cultural competence.*
    d. *All cell phone conversations to be recorded – incoming and outgoing*
    e. *Emergency vehicle (transit police and EMS) parked in sight of cameras*
    f. *Transit Police to be trained to administer the antidote "Narcan".*

2. *Review policies to ensure that they are directly applicable to the unique policing environment of a transit service. This should include medical guidance on the development of a risk based approach to the application and removal and or repositioning of restraints such as handcuffs and supervision of people during transport.*

3. *Develop clear protocols for access to specialised police services including Car 67/87.*
    a. *Increase the number of Cars 67/87.*

**Presiding Coroner Comment:**

The jury heard that the transit police received general police training that did not recognize some of the specific needs of people using transit. In particular, although the transit staff and transit police officers described encountering people with disordered behavior daily during their work, they had no training in the recognition of signs of medical distress. Additionally, their training did not specifically recognize the diversity of influences on the behavior of the people served, including approaches to public service such as trauma informed service, nor the development of cultural competence. The Executive Director for Mental Health and Addictions for Fraser Health indicated that the health authority would be prepared to

support the Transit Police in a needs assessment and any required targeted training in the recognition of medical distress.

All police dispatch and communications conducted over the radio were recorded and available for review at inquest. However, during this incident, cell phone calls between the transit officers and their supervisors were used to communicate important information and there is no record of that communication.

The surveillance video of the incident was of value to the jury; however, the period of time that Mr. Moosomin was in the transit police vehicle prior to transport to hospital was not available as the police transit car was parked out of sight of the surveillance cameras.

Narcan (naloxone) is an antidote for narcotic overdoses that is increasingly available for administration by people without formal medical training including first responders like the transit police.

Specialized units have been established to provide assistance in circumstances where mental health professionals can support appropriate crises response by police. The jury heard from the transit police officers that this support was not available to them. They also heard that the number of units available across the lower mainland was limited and thus could only be used in a small percentage of cases where they might be helpful.

To: ***The Minister of Health, all Health Authorities***

4. *Undertake a population-based needs assessment for the full continuum of addiction services including estimates of the number of people requiring each type of service.*

5. *Review of the range and location of services for people with addictions and concurrent conditions to ensure that they are based on the best practises.*

6. *Work with clients and their families to ensure that they have adequate access to these services through clear accessible on-line information and in-person assistance.*

7. *Consider and minimize the impact of health authority boundaries on the continuum of care for people who move frequently between these authorities.*

8. *Coordinate housing services with addiction treatment services and provide mixed housing options for people with substance use disorders and in recovery so that they are not placed in environments where relapse is likely to occur.*

9. *A First Nations person with status to be appointed to the boards of all Health Authorities.*

10. *Support the work of municipalities to identify and eliminate unlicensed and unsafe facilities currently labeled as "Recovery Houses".*
11. *Mortality follow-up information shared with all pertinent service providers.*

**Presiding Coroner Comment:**

The jury heard that Mr. Moosomin suffered from longstanding addictions problems. Evidence was presented that the health authorities deliver a variety of addictions programs; however, it was not clear that there were any estimates of the adequacy of these programs for the populations served as there is no clear delineation of community need. For Mr. Moosomin access to culturally appropriate services was particularly important. In order to support the development of these services the jury suggests that there be First Nations representation on governing boards of all health authorities.

The processes for access to service requires access to the internet, an advocate to help prepare materials and considerable research to identify the options for service, particularly for people who are moving frequently between health authority boundaries. Mr. Moosomin's family indicated that more in-person assistance would have made it easier to navigate the system.

Following addictions treatment, Mr. Moosomin was living in an unregulated "recovery home" where there was easy and open access to illicit drugs and he relapsed soon after moving there. Sufficient access to adequate and safe supportive housing arrangements should be incorporated into addiction treatment programs.

In the provision of care to people who are moving frequently between communities and care providers it is difficult to follow up and learn of outcomes. As there may be quality improvement lessons to be learned from deaths following treatment, it was considered important for health authorities to obtain mortality information pertaining to people who have participated in their programs.

To: ***The First Nations Health Authority***

12. *Review and report on the availability of funded recovery spaces for First Nations clients and prepare a plan to eliminate financial barriers and address any capacity issues.*

13. *Improve access to information available through the band to clients and service providers.*

14. *Improve communication and follow up provided by all client service providers including timely response to all inquiries.*

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**Presiding Coroner Comment:**

Mr. Moosomin was disconnected from his culture at an early age. As he struggled with his addictions he identified the need to access services that would help him recover in an environment of cultural safety. The jury heard that there were complex application processes for financial support for recovery services, and that capacity was limited resulting in significant waiting periods. Communication and support during the waiting time was poor; for example, phone calls were not returned, and he and his family were apparently unsure about when services would be available.

To: ***The Union of BC Municipalities and the City of Surrey***

15. *Provide an opportunity (for example as a presentation or workshop) for the City of Surrey to share their experience with the High Risk Location Initiative in order to ensure that a successful approach based to unlicensed "Recovery Houses" is deployed wherever it may be required in the province.*

**Presiding Coroner Comment:**

The jury heard from municipal officials that there are successful initiatives underway in the City of Surrey to identify and eliminate these establishments and that this approach had not yet been widely shared with other municipalities in BC.