



VERDICT AT CORONER'S INQUEST

File No.: 2006:364:1192

An Inquest was held at Coroner's Courtroom, in the municipality of Burnaby

in the Province of British Columbia, on the following dates May 13-15, 2008

before Marj Paonessa, Presiding Coroner,

into the death of BERTHOLET James Hector 21  Male  Female.  
(Last Name, First Name) (Age)  
and the following findings were made:

Date and Time of Death: 30 August, 2006 2158 hours

Place of Death: Surrey RCMP Cell Block Surrey, BC  
(Location) (Municipality/Province)

Medical Cause of Death

(1) Immediate Cause of Death: a) Acute alcohol intoxication.  
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:

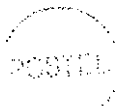
Classification of Death:  Accidental  Homicide  Natural  Suicide  Undetermined

The above verdict certified by the Jury on the 15 th day of May AD, 2008.

MARJ PAONESSA

Presiding Coroner's Printed Name

Presiding Coroner's Signature





## VERDICT AT CORONER'S INQUEST

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

FILE No.:2006:364:1192

**BERTHOLET**

SURNAME

**James Hector**

GIVEN NAMES

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

Presiding Coroner: Marj Paonessa

Coroner Counsel: Chris Godwin

Court Reporting/Recording Agency: Verbatim Reporting Services

Counsel/Participants: Mr. Ralph Hildebrand, City of Surrey; Ms. Helen Roberts, Attorney General of Canada representing the RCMP.

The Sheriff took charge of the jury and recorded twelve exhibits. Fourteen witnesses were duly sworn in 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 Verdict and Recommendations of the Jury. This summary not intended to be considered evidence nor is it intended in any way to replace the Jury's verdict.*

The Jury heard evidence that James Hector Bertholet was a 21 year old man with a history of illicit drug and alcohol abuse. At a young age he had been diagnosed with ADHD (Attention Deficit Hyperactivity Disorder) and fetal alcohol syndrome. A family member testified that he was an impulsive, active young man who did not understand the dangers of excessive drug or alcohol use. On a number of occasions, James had been brought to hospital by family as a result of being unresponsive due to extreme intoxication. In the weeks prior to his death, Mr. Bertholet had spoken to his family about wanting to go to a treatment centre. His understanding was that if he could go before a judge, he would be sent to a centre where he could get counseling and that would help him "be normal". His family member made concerted efforts to get Mr. Bertholet to understand that there were more appropriate ways to get assistance.

At approximately 1915 hours on August 30, 2006, an employee of the Wheelhouse Pub and Liquor Store in Surrey summoned the RCMP after Mr. Bertholet walked into the store, opened a 40 ounce bottle of vodka and begin drinking from it. A store employee approached Mr. Bertholet who handed over the bottle upon request. He attempted to open another bottle from the rack but was prevented from doing so by the employee. He was subsequently escorted to the parking lot to await the arrival of the RCMP. He told the two staff members who waited with him that he had already consumed a 26 ounce bottle of alcohol that day.

A general duty RCMP officer subsequently attended and was advised of the circumstances by the two employees. Mr. Bertholet remained seated on the curb and made no effort to walk or run away. He was able to speak and did so in a manner that was disruptive to the officer's conversation with the staff. Mr.



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Bertholet provided his name and offered no resistance, however, he appeared to be intoxicated due to his speech and appearance. The officer was able to determine that Mr. Bertholet was in breach of a recent probation order to abstain from alcohol. Despite the staff not wishing to pursue theft charges, Mr. Bertholet was placed under arrest for the breach, handcuffed and transported to the RCMP detachment arriving at approximately 2016 hours. The opened bottle of vodka which was approximately one third empty, was seized by the officer.

The officer testified that during transport to the RCMP detachment, Mr. Bertholet was able to speak but about half way through the 15 minute trip, he was heard snoring as he lay on his side across the back seat. Upon arrival at the parking bay, Mr. Bertholet could not be aroused. The officer requested assistance from two officers in the cell area to remove him from the vehicle. He appeared unable to stand on his own on the videotape footage and was carried by the three officers directly into one of the drunk tanks at approximately 2025 hours. One of the officers testified that Mr. Bertholet was breathing fine on his own and responded to pain stimuli by moaning.

Mr. Bertholet was uncuffed and searched before being placed in the recovery position (on his right side) on a blanket covered mat in the cell. He is seen on the video rolling onto his back a number of times. The officers placed his right leg a bit higher so that he is leaning more on his side before they prepared to leave the cell. As the cell door closes, however, Mr. Bertholet rolled over onto his back and remained in that position for several minutes. A C-13 form was completed by the arresting officer. This form outlines pertinent information about the incoming prisoner, reason for the arrest as well as personal information. This form is passed along to the guards for their reference.

The Jury heard evidence about national RCMP policy with respect to assessing prisoner responsiveness. This policy is referred to as the "4R's" – Rousability, Response to Questions, Response to Commands and Remember (drowsiness may be an indicator of serious illness or injury). Both RCMP officers and guards are aware of the importance of this policy as it clearly outlines that medical assistance should be summoned immediately if the prisoner does not respond appropriate to any of the conditions listed. This policy is also posted in the cell area. The guards are instructed to conduct the "4R" examination every four hours with a prisoner who is booked into cells in an extremely intoxicated condition.

The cell guards testified that their duties include monitoring of all prisoners in the cell block to ensure their wellbeing. This is accomplished by observing the bank of monitors in their office as well as physical checks through the door and/or window of each cell every 20 minutes. These checks are subsequently recorded in the prisoner log book. Videotape footage and the prisoner log indicated that Mr. Bertholet was checked approximately every twenty minutes from 2100 hours to just before 2200 hours. The videotape footage shows that Mr. Bertholet attempted to roll back onto his side at approximately 2120 hours. It appears that Mr. Bertholet retches a number of times and may be vomiting while lying on his right side. The last significant movement observed on the videotape is at 2136 hours.



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Both guards told the jury that they heard Mr. Bertholet loudly snoring on each check, including the last check at approximately 2140 hours. Shortly before 2200 hours, the guard could not confirm that Mr. Bertholet was breathing. He called for assistance from an officer, as per policy, and the door to the cell was opened. The officer and guard noted vomit on the blanket near Mr. Bertholet's mouth. His airway was checked and a small amount of vomit was cleared from his mouth. A pulse could not be located and Mr. Bertholet did not appear to be breathing. Emergency assistance was summoned and resuscitative efforts were initiated by the guard and officer.

An Advanced Life Support paramedic advised the Jury that their crew arrived on scene at about 2210 hours. Despite approximately 40 minutes of efforts, they were unable to resuscitate Mr. Bertholet. At no time did he demonstrate any vital signs. They were instructed to discontinue their efforts at 2246 hours by a Surrey Memorial Hospital emergency physician.

The postmortem examination did not identify any significant pre-existing natural disease to have caused or accelerated Mr. Bertholet's death. There was also no evidence of a significant trauma. A forensic toxicologist advised the jury that toxicology testing on samples of Mr. Bertholet's blood detected a level of alcohol at 0.37% and in the urine at 0.42%. These levels are considered to be consistent with the amount within the lethal range and therefore significant in and of themselves to cause death.

At the conclusion of their deliberations, the Jury classified the death as accidental and put forward the following recommendations.

Marj Paonessa  
Presiding Coroner



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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: Deputy Commissioner Gary D. Bass  
Commanding Officer Pacific Region  
Royal Canadian Mounted Police  
5255 Heather Street  
Vancouver, BC V5Z 3L7

1. Take whatever measures deemed necessary to ensure full compliance with Policy 19.2 "Assessment Responsiveness/Medical Assistance" with particular attention to 2.1 and Sections 19.2.4.2.
2. We recommend that the C-13 Form be amended to include two boxes confirming that the "4R Assessment" has been completed on each prisoner as they arrive in cells, and again within an hour of arrival for those prisoners who have had any possible ingestion of alcohol or drugs. These boxes should have the initial of the personnel performing the check and a recording of the time of the procedure.
3. If a person in an extremely intoxicated state is assessed by the "4R's" and is in a questionable state of consciousness in the opinion of the arresting officer given the circumstances of his arrest, the prisoner should be placed in cells and the guards given instruction to enter the cell with an officer and assess the prisoner (using the 4R's) every 30 minutes to confirm their wellbeing until their condition is clearly improved.
4. Two more boxes should be put on the C-13 Form to record initials and time indicating the guards have read the C-13 for new prisoners.

### Coroner's Comments

The Jury heard that the National policy with respect to prisoner assessment clearly outlines the criteria that must be followed to determine whether medical assistance should be summoned but that compliance to this policy needs to be reinforced. The Jury heard evidence throughout the inquest that this policy was not followed.



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To: Chief Supt. Fraser McRae  
Surrey RCMP Detachment  
14355 – 57<sup>th</sup> Avenue  
Surrey, BC V3X 1A9

Mr. Murray Dunwoodie  
City Manager  
City of Surrey  
14245 – 56<sup>th</sup> Avenue  
Surrey, BC V3X 3A2

5. We recommend that there be nursing or properly trained medical staff on site at Surrey RCMP cells readily available for intake assessments on prisoners arriving in a compromised state prior to the transfer of responsibility of care to the guards.

Coroner's Comments

The Jury heard that Surrey RCMP Detachment is the biggest detachment in Canada with 28 holding cells and 4 drunk tanks. Approximately 8,000 prisoners are handled in the course of one year through the cells. The Jury heard that while there had been previous discussion with the City of Surrey for funding of medical/nursing staff in the cells, there have been no recent developments in this regard.

To: Mr. Murray Dunwoodie  
City Manager  
City of Surrey  
14245 – 56<sup>th</sup> Avenue  
Surrey, BC V3X 3A2

6. We recommend:
- a) documentation of adherence to the policy section entitled "Commencement of Shift" requiring a review of all the C-13 Forms on arrival on shift (see pg. 56 of 147) of Module D "Standing Operation Procedures".
  - b) Update Module D -- "Standard Operating Procedures" Module D (pg. 57 of 147) to indicate more frequent cell checks at 15 minute intervals on all new prisoners;
  - c) Adding "Ensure you have read C-13 Forms for all newly admitted prisoners prior to your next cell check". Guards should initial that they have read the C-13 and have initialled and recorded the time on the C-13.

Coroner's Comments

These recommendations are self-explanatory.



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To: Deputy Commissioner Gary D. Bass
Commanding Officer Pacific Region
Royal Canadian Mounted Police
5255 Heather Steret
Vancouver, BC V5Z 3L7

Honourable George Abbott
Minister of Health
PO Box 9050
Stn Prov Govt
Victoria, BC V8W 9E2

Mr. Murray Dunwoodie
City Manager
City of Surrey
14245 - 56th Avenue
Surrey, BC V3X 3A2

- 7. We recommend that the above named should meet to collaborate and develop a specialized, enhanced airway training course that would be beneficial to guards. This course should be required for at least one guard per shift at each facility where prisoners are incarcerated, in this case at the Surrey cells.

Coroner's Comments

The Jury heard that while resuscitative efforts were initiated immediately upon discovering Mr. Bertholet unresponsive, the importance of maintaining a prisoner in the recovery position with their airway as uncompromised as possible could be further reinforced. Mr. Bertholet was witnessed on the videotape lying on his back for a significant amount of time. Given the evidence that he was placed in the cell in an extremely intoxicated condition, the likelihood of his airway being compromised by his lying on his back was substantially higher than usual.

To: Commisioner William J. S. Elliott
Royal Canadian Mounted Police
1200 Vanier Parkway
Ottawa, ON K1A 0R2

- 8. We recommend that a section be added to the Operational Manual of the RCMP to indicate that any intoxicated prisoner should not be allowed to sleep on their backs unless they have responded successfully and appropriately during the "4R" Assessment.
9. Guards should be instructed to place sleeping prisoners in the recovery position, with their backs against the wall, or use a sandbag bolster against the wall to ensure a higher degree of confidence that they do not roll onto their backs. In such cases, guards should monitor their video screens more closely for changes.

Coroner's Comments

The Jury heard evidence from one of the paramedics on scene about the elevated risk of aspiration and of compromised airways when an individual in an intoxicated state is lying on their back. Suggestions were put forward to ensure the individual remains in a recovery position.



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GIVEN NAMES

To: Mr. Murray Dunwoodie  
City Manager  
City of Surrey  
14245 - 56<sup>th</sup> Avenue  
Surrey, BC V3X 3A2

- 10. We recommend consultation with the B.C. Ambulance Service to ensure appropriate and "best practice" resuscitation equipment is chosen for the use of the RCMP and guards at the Surrey cells.

To: Commissioner William J. S. Elliott  
Royal Canadian Mounted Police  
1200 Vanier Parkway  
Ottawa, On K1A 0R2

Chief Supt. Fraser McRae  
Surrey RCMP Detachment  
14355 - 57<sup>th</sup> Avenue  
Surrey, BC V3X 1A9

- 11. We recommend that this case serve as a teaching tool during future block training sessions with respect to reinforcing the importance of the "4R" Assessment, when a prisoner arrives in a non-responsive state.
- 12. We recommend reinforcing the importance of airway control and positioning for intoxicated prisoners, and the importance of following National RCMP policy.

To: Honourable George Abbott  
PO Box 9050  
STN PROV GOVT  
Victoria, BC V8W 9E2

- 13. We recommend that persons at risk such as James Bertholet be provided with the opportunity to receive treatment for mental health issues in a timely fashion at the nearest hospital if they request it. Resources should be available to ensure this is possible.

Coroner's Comment

The Jury heard evidence that Mr. Bertholet's family sought mental health and treatment resources in Surrey but were not successful in their attempts. The evidence was heard that Mr. Bertholet had suffered from depression as well as drug and alcohol abuse and he was therefore considered to have a dual diagnosis. The family member reported that he would not have been accepted at a mental health facility such as a psychiatric department for treatment until his addiction issues had been addressed. She testified that Mr. Bertholet did not see any other option in his own mind but to get himself arrested in order to obtain the appropriate referral for treatment.