BRITISH COLUMBIA

Ministry of Justice

VERDICT AT INQUEST

File No.: 2012:0376:0113

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

in the Province of British Columbia, on the following dates November 12 - 15, 2013

before Liana Wright, Presiding Coroner,

into the death of Mitchell, Angus David 26 ☒ Male ☐ Female
(Last Name, First Name, Middle Name) (Age)

and the following findings were made:

Date and Time of Death: May 30, 2012 13:23

Place of Death: Royal Columbian Hospital (Location) New Westminster, B.C. (Municipality/Province)

Medical Cause of Death

(1) Immediate Cause of Death:	a) Multiple gun shot wounds
	DUE TO OR AS A CONSEQUENCE OF
Antecedent Cause if any:	b) N/A
	DUE TO OR AS A CONSEQUENCE OF
Giving rise to the immediate cause (a) above, stating underlying cause last.	c) N/A
(2) Other Significant Conditions Contributing to Death:	N/A

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

The above verdict certified by the Jury on the 15th day of November AD, 2013.

Liana Wright
Presiding Coroner's Printed Name

Presiding Coroner's Signature

MITCHELL	Angus David
Surname	Given Names

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:	Liana Wright
Inquest Counsel	Rodrick MacKenzie
Counsel/Participants:	David Kwan/Attorney General Of Canada/RCMP
	Richard C.C. Peck/Mitchell Family
	David G. Butcher/Victoria Police Department
	M. Kevin Woodall/Csts. Bruce and Douglas-Hunt

Court Reporting/Recording Agency: Verbatim Words West Ltd.

The Sheriff took charge of the jury and recorded eight exhibits as entered. Twenty-four 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 May 30, 2012, the Lower Mainland Emergency Response Team (ERT) was summoned to the north end of 216th Street in Maple Ridge, BC, following a citizen's 9-1-1 call reporting the discovery of the vehicle belonging to Mr. Angus David Mitchell. Mr. Mitchell, age 26 years, was the subject of a media release and province-wide manhunt following the recent shooting and wounding of his ex-landlord and the double-homicide of two employees at a sushi restaurant in Burnaby.

After being unsuccessful at having Mr. Mitchell peacefully surrender, ERT members rammed Mr. Mitchell's vehicle with a Tactical Armoured Vehicle (TAV). Mr. Mitchell fired two shots from a 30-06 Mosberg rifle and fled from his vehicle, pointing his firearm towards police officers. Mr. Mitchell was then shot by members of the ERT. Paramedics, who had been staged nearby, attended to Mr. Mitchell immediately. He was flown by air ambulance to Royal Columbian Hospital where a trauma team awaited. His injuries were not amenable to treatment and he was pronounced dead shortly after arrival at 1323 hours.

The jury heard that Mr. Mitchell had a troubled youth. Substance abuse and apparent mental health issues caused him and his family major difficulties. In spite of many attempts by family to get Mr. Mitchell the professional help he needed, his behavior became increasingly threatening and unpredictable. Mr. Mitchell's family reported their concerns to Vernon RCMP and a file was created. Mr. Mitchell had come to the attention of the Vernon RCMP following a trespassing incident at the Vernon SPCA. Unfortunately, the complaints lodged by Mr. Mitchell's family were stored in PRIME (the BC provincial police database) under the file of the trespassing incident. This would later come to play a significant factor in the events that unfolded.

Mr. Mitchell's family had severed ties with him due to his abusive and threatening behavior. The jury learned that Mr. Mitchell moved and spent time on Vancouver Island and in the Lower Mainland. He saw a counselor in Vancouver from July- December 2005 and in May – October 2006. He was diagnosed as having mental health and substance abuse issues and spent some time in a shelter, Covenant House. He was seen at the Concurrent Disorders Program at BC Children's Hospital where the psychiatrist reported he was foggy-headed, had no social skills, had trouble relating to people, and suffered from depression and a personality disorder.

He came to the attention of Vancouver Police following a threatening incident with a random stranger with her baby stroller. He worked briefly as a security guard for a company in Victoria but was fired in December 2011 following an off-duty threatening incident in which he was wearing his work uniform. Mr. Mitchell made threats of retribution to his former employer, telling him he would be sorry for firing him. This was reported to police and Mr. Mitchell abided by the no-contact order that was issued.

On June 20, 2011, Mr. Mitchell applied for a Possession and Acquisition License (PAL) under the Firearms Act. Mr. Mitchell had names of two persons for reference checks on his application; however, these references were not checked. The jury heard that reference checks are not conducted for persons applying for a license for a non-restricted weapon. A non-restricted firearm is any rifle or shotgun that is neither restricted nor prohibited. Most common long guns are non-restricted. The Chief Firearms Officer testified that if they checked all the references they received it would be an administrative burden as they could not feasibly process all of the applications with the number of staff currently in place. The jury heard that firearms officers have access to police databases PRIME and CPIC and look for any 'flags' that may arise, such as mental health issues. Firearms officers do not have any access to health databases or records. Mr. Mitchell's application was initially reviewed at the central processing office in Nova Scotia. He was initially found to be ineligible to receive his firearms license and the application was sent to a provincial firearms officer for further investigation. The witness testified that the firearms officer who conducted the review looked at Mr. Mitchell's last five years and documented that there were insufficient grounds to not issue a license. He cited that there were three potential incidents that would prohibit Mr. Mitchell from receiving a license: 1) an incident of uttering threats 2) a verbal altercation at a career centre and 3) an argument at a rooming house with another tenant. All three of these incidents resulted in no charges and therefore no convictions. The earlier incident of threats reported by family to Vernon RCMP was not noted on the review, possibly because it had been stored under a trespassing incident on PRIME. The Chief Firearms Officer reported that they currently working on developing policy respecting medical disclosure.

On September 8, 2011, Mr. Mitchell was issued a firearms license. The jury learned that on February 7, 2012, Mr. Mitchell purchased a Mosberg 30-06 rifle at a local sporting goods store in Victoria at approximately 1800 hours. He left the store and took the bus to a medical walk-in clinic. Mr. Mitchell entered the clinic to see the doctor on-duty. The nurse at the desk noticed that he appeared to be carrying a rifle case and confronted Mr. Mitchell about it. He reluctantly agreed to hand over the rifle case which was stored in a room and returned to him after his visit with the doctor. The nurse called Saanich Police Department to report the incident some time after Mr. Mitchell left the office.

A Saanich police officer responded to the call and spoke with the doctor who had seen Mr. Mitchell. Mr. Mitchell had presented to the clinic with back pain. She described him as 'tense'. He told the doctor he thought he had been poisoned by mercury and it had damaged his esophageal sphincter. The doctor thought that he had some sort of mental health issue. She told the police officer who attended that Mr. Mitchell was dangerous and that he was walking around the street with a gun.

Mr. Mitchell lived in Victoria, outside of the Saanich Police jurisdiction. The Saanich police officer liaised with Victoria Police and they reviewed PRIME entries before approaching his residence. They learned of a dispute with a landlord and an eviction in which he was noted as being angry and having possible mental health issues. They also reviewed the incident of the threatening remarks he had made to his former employer after being fired. The police spoke with his current landlord who told them that Mr. Mitchell was strange, anti-social and had some mental health issues. The landlord told them that Mr. Mitchell had written him a note on January 25, 2012, which stated that in the event of his death or incarceration that all of his personal property should be thrown in the garbage. It also stated that in the event he went to jail, that his possessions should be stored as he would want them back. The investigating Victoria police officer checked Facebook and found an account with a single photo of Mr. Mitchell in which he appeared to be scowling and angry. Of significant note, he had no friends on his account. The police were wary of a 26 year old speaking of death or going to jail and approached his residence with caution.

In the early morning hours of February 8, 2012, police knocked on Mr. Mitchell's door. He appeared at the door wearing boxer shorts with a knife tucked in the waistband. Police arrested Mr. Mitchell under section 28 of the Mental Health Act and seized his rifle and knife. He was transported to Royal Jubilee Hospital for assessment.

Mr. Mitchell was seen by the Emergency Room physician on-duty. The Emergency Room physician was concerned with the history the police officers gave him, including the note written to the landlord in which Mr. Mitchell made reference to his possible death. He learned that Mr. Mitchell had a history of depression, had taken anti-depressants in the past, was living alone, had no contact with his family and was angry at being fired from his job. In the doctor's opinion, young males who live alone and are depressed are at increased risk for killing themselves. The doctor certified him under the Mental Health Act by completing a Form 4, which would hold him for 48 hours to allow for a second doctor to assess his mental health status.

Mr. Mitchell was seen by the on-duty psychiatrist approximately nine hours later. The psychiatrist stated that he received information about Mr. Mitchell from his interview with him and from the nursing staff.

He testified that in the mental health field a patient's history can be unreliable and that sometimes it is difficult to tell who is being truthful and who is not. The jury heard that the psychiatrist did not have access to databases outside of his health authority and therefore he would have no way of knowing which hospital a patient has been previously treated. He did not speak to any police officers regarding Mr. Mitchell. He reported that although he could ask police for information about a patient, privacy and confidentiality would prevent him from giving information about the patient to police without the patient's permission. He reported the only exception was a 'Duty to Warn' and cited American case law. He gave an example that if he learned from a patient that the patient was planning a murder, he would have a duty to report this to police which would override any privacy or confidentiality issues. The psychiatrist reported that Mr. Mitchell had rational explanations for his actions. He told the doctor that he had purchased the gun for hunting. He told the doctor that he had brought the gun to the medical clinic because he had just purchased it and needed to get to the doctor's office for a prescription before it closed. He would not have had enough time to go home and then take the bus to the clinic before it closed. He explained that when he heard someone banging on his door in the middle of the night, he picked up a knife when he walked past the kitchen. As for the letter he wrote to his landlord, Mr. Mitchell explained that he had suffered from long term stomach illness and pain and thought he was dying. He told the psychiatrist that he had a new job (which was not true) and reported he had a good appetite, was sleeping well and had a better mood now. The psychiatrist reported that Mr. Mitchell was cooperative and made good eye contact. Mr. Mitchell denied any suicidal or homicidal thoughts. The doctor reported that Mr. Mitchell told him that if he had had plans to kill himself, he would not have brought a gun into a clinic. The doctor reported that he had good insight.

The psychiatrist diagnosed Mr. Mitchell with a major mental illness: depression, schizophrenia and substance abuse. He also diagnosed him with a personality disorder. In his opinion, Mr. Mitchell's issues were chronic and not something to be treated in an acute hospital setting. His conclusion was that Mr. Mitchell would benefit from long term psychotherapy but that it would require his voluntary involvement. He deemed him not certifiable under the criteria of the Mental Health Act therefore he did not sign a second Form 4 which would have kept him in hospital for up to 30 days. Mr. Mitchell was then discharged from hospital.

The jury heard that Mr. Mitchell left a voice mail for the investigating Victoria police officer, laughing at her and telling her he had been released from hospital. He wanted his knife and his firearm returned. Under the Criminal Code, the seized firearm would need to be returned to its owner 30 days following its seizure or an application for forfeiture/prohibition of the firearm would have to be made in court. The officer sought advice from her superiors and from the National Weapon Enforcement Team (N-West). She received some guidance in an emailed response; however, she testified that the picture painted was that she would not likely be successful in an application to keep Mr. Mitchell from receiving his gun back. Factors such as Mr. Mitchell's discharge from hospital and lack of convictions would be hurdles in proving her case.

Mr. Mitchell's firearm license had been frozen by the Office of the Firearms Officer as soon as it was learned that he had been apprehended under the Mental Health Act. On April 19, 2012, they were contacted by the Victoria Police and were asked to release their hold. Mr. Mitchell received his rifle back from Victoria Police on April 20, 2012.

On May 27, 2012, two employees of a Burnaby sushi restaurant are murdered. Mr. Mitchell was found to be responsible for these deaths as a result of ballistic evidence. On May 29, 2012, Mr. Mitchell shot and wounded his ex-landlord who was able to identify him as the shooter. This led to the confrontation with ERT members which resulted in Mr. Mitchell's death.

JURY RECOMMENDATIONS:

TO: The Minister of Health and the College of Physicians and Surgeons of BC:

1)That the Mental Health Act be amended to require physicians to report the outcome of the assessments conducted on persons arrested by the police under Section 28 of the MHA where a firearm is involved to the CFO & police agency involved.

Coroner's Comments:

The jury suggested that this recommendation should create a PRIME entry and FIP (Firearms Interest to Police) which in turn will require the CFO (Chief Firearms Officer) to place the firearm license under suspension/review.

2)The psychiatrist assessing a person brought to them under Section 28 of the MHA, make all effort to contact Next Of Kin or close friends to obtain collateral information of the patient's mental status.

Coroner's Comments:

The jury indicated that a psychiatrist would be able to make a more comprehensive assessment by collecting collateral information as well as it may bring forward relevant information that was not given to him by the patient.

3)That a study be conducted respecting the feasibility to allow a family to request a psychiatric assessment of a family member if they believe a mental illness exists, even though that family member may be resistive to voluntary assessment.

TO: The Commanding Officer E Division RCMP and all Municipal Police Chiefs and PRIME Corporation:

4)The PRIME system be unified to permit ready access for police officers in all areas of the province.

Coroner's Comments:

The jury indicated that timely access to PRIME files is necessary in order for investigating police officers to complete a thorough investigation.

5)That a process be developed to ensure the accuracy and consistency of the coding in PRIME.

Coroner's Comments:

The jury indicated that improper coding in PRIME can result in relevant information being missed in the course of an investigation.

TO: The Chief Firearms Officer for BC:

6)That all applications or renewals for a PAL include a consent for release of medical information. MSP and PharmaNet records should be reviewed by the CFO prior to licence issuance.

Coroner's Comments:

The jury indicated that access to medical records could reveal pertinent information regarding an applicant's suitability to hold a PAL (Possession and Acquisition License). Renewals are included to take into account changing circumstances in the applicant's life. This recommendation is specifically directed at the PAL application, section C 19(d).

7)That the legislation be amended to suspend a PAL for renewable periods of 30 days, upon being advised that the holder has been arrested under Section 28 of the MHA and require the consequential surrender, or authorize the seizure of all firearms, for the same renewable period.

Coroner's Comments:

The jury made this recommendation to ensure that a firearm seized under a section 28 MHA arrest is not released to the license holder until such time that the Chief Firearms Officer has completed their investigation and are satisfied that the license can be safely reactivated.