



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
for British Columbia

Protecting privacy. Promoting transparency.

July 30, 2018

Lisa Lapointe
Chief Coroner
Office of the Chief Coroner
PO Box 9259, Stn Prov Govt.
Victoria, BC V8W 9J4

Dear Lisa Lapointe:

RE: Verdict at Inquest—OIPC File No.: F18-74714

Thank you for your letter dated April 30, 2018 and the enclosed copy of recommendations made by an inquest jury to try and prevent tragic deaths similar to that of Mr. Tony Du. I very much appreciate having the opportunity to respond to the thoughtful recommendations made by the inquest jury to my office.

I will respond to each of them in turn.

Provide guidance to health care professionals and police agencies to assist with the development of a framework under which concerns brought forward by police officers about a person's mental health can be relayed by hospitals or health agencies to the person's general practitioner or psychiatrist.

In British Columbia, both the police and health authorities are public bodies subject to the *Freedom of Information and Protection of Privacy Act* (FIPPA). FIPPA governs how public bodies may collect, use, and disclose personal information. It also requires public bodies to protect the personal information in their custody or under their control.

FIPPA permits the disclosure of personal information if the head of a public body determines that compelling circumstances exist that affect anyone's health or safety [FIPPA, s. 33.1(m)]. Notice of the disclosure must be mailed to the last known address of the individual the information is about, unless the head of the public body considers that giving this notice could harm someone's health or safety.

I suspect that it may be very challenging for police to quickly communicate to an individual's general practitioner or psychiatrist as many of them are in private practice and their patient roster is not publicly available information. It may also be difficult to find out whether an individual has been receiving community-based mental health services and, if so, from which health authority. This is particularly problematic in the Greater Vancouver area (as noted by the Presiding Coroner at page 11 of the Verdict).

One option to efficiently identify those health care practitioners may be through the provincial PharmaNet system. That system records information about all prescriptions dispensed in the province, including the names of prescribers, who will likely be the general practitioner or psychiatrist. Since there are multiple points of access to the system (including at pharmacies, hospitals, physicians' offices, and HealthLink BC), the name of the prescriber and their contact information could be accessed easily 24/7.

Consideration might be given to expanding the mandate of HealthLink BC, which has the advantage of being a province-wide service, to assume responsibility for such a relay function. In the event there is no information available in the PharmaNet system about an individual's health care practitioner, HealthLink could be given access to other Ministry databases containing patient information for that specific purpose only or have the means to liaise directly with mental health intervention teams and community health clinics on a priority basis.

No doubt there are also other ways this relay function could be incorporated within the health care system. Should the Ministry of Health choose to implement a relay function that would involve a new collection, use, and disclosure of personal information, my office would be happy to review a privacy impact assessment for that initiative and provide guidance on developing a framework (including necessary legislative amendments, policies, procedures, and information sharing agreements) to ensure the sharing of personal information for this purpose is done in a privacy protective manner.

Provide guidance to health care professionals and the BC Lottery Corporation to assist with the development of a framework under which general practitioners and psychiatrists can be notified when their patients have been ejected from casinos or other gaming venues following a mental health incident.

The BC Lottery Corporation is also a public body subject to FIPPA and is authorized to disclose personal information when compelling circumstances exist that may affect anyone's health or safety. Should there be a mental health incident at a casino or gaming venue that is sufficiently serious as to be considered a compelling circumstance, employees of the BC Lottery Corporation would have the same challenges as the police regarding disclosure of that information to the individual's general practitioner or psychiatrist.

Again, I would be happy to work with the BC Lottery Corporation on a framework that would facilitate the disclosure of that personal information by BC Lottery Corporation in a privacy protective manner.

I am hopeful that the jury's recommendations result in changes in the way the police and other agencies respond to persons living with a mental illness who may harm someone's health or safety when their health status deteriorates. FIPPA is not a barrier to collaborative efforts to provide health care services to them on an urgent basis in the event they lack insight to seek services themselves.

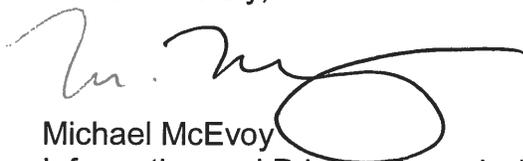
Other recommendations

I wish to comment on recommendations made by the inquest jury to police agencies and the Ministry of Health to create new or amalgamated databases in order to facilitate timely health services to individuals with deteriorating mental health status.

The inquest jury recommended that all police agencies create an "early warning system" in their jurisdiction such as exists to support the Vancouver Police Department's Assertive Outreach Team. Our office has worked with health authorities, police agencies, and local governments to facilitate such inter-agency programs while ensuring the protection of the privacy rights of individuals served by those programs. We are available to provide guidance and to explain the application of FIPPA to authorize those programs, and I encourage those public bodies to contact my office early on in their development.

For everyone's convenience I have copied the Honourable Adrian Dix, Minister of Health, the Honourable Judy Darcy, Minister of Mental Health and Addictions, and the Honourable Mike Farnsworth, Minister of Public Safety and Solicitor General to advise them of my views with respect to the inquest jury's recommendations and my willingness to provide guidance with respect to any future initiative to address this critically important issue.

Yours sincerely,



Michael McEvoy
Information and Privacy Commissioner
for British Columbia

cc: Hon. Adrian Dix, Minister of Health
Hon. Judy Darcy, Minister of Mental Health & Addictions
Hon. Mike Farnsworth, Minister of Public Safety & Solicitor General