



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

Gray
SURNAME

Myles Thomas
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: 17 April – 1 May 2023

before: Larry Marzinzik, Presiding Coroner.

into the death of Gray (Last Name) Myles Thomas (First Name) 33 (Age) Male Female

The following findings were made:

Date and Time of Death: 13 August 2015 (Date) 16:21 (time)

Place of Death: 8375 Joffre Avenue (Location) Burnaby, BC (Municipality/Province)

Medical Cause of Death:

(1) Immediate Cause of Death: a) Cardio pulmonary arrest complicating law enforcement subdual and restraint (involving the application of OC spray, multiple blunt force injuries, neck compression, dorsal handcuffing, and forcible prone positioning); in an individual exhibiting features of acute behavioural disturbance.

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 1 day of May AD, 2023

LARRY MARZINZIK
Presiding Coroner's Printed Name

Presiding Coroner's Signature



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PARTIES INVOLVED IN THE INQUEST:

Presiding Coroner:	Larry Marzinzik
Inquest Counsel:	John McNamee & Steven Liu
Court Reporting/Recording Agency:	Verbatim Words West Ltd. Ian Donaldson, K.C., Jason Biring and Curtis Armitage, counsel for the family of Mr. Gray
Participants/Counsel:	David McKnight and Naomi Krueger, counsel for the Vancouver Police Department (VPD) Christine Joseph, counsel for 14 VPD members

The Sheriff took charge of the jury and recorded **14** exhibits. **42** 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. This is to assist in understanding, but does not replace, the jury verdict and recommendations. This summary is not evidence.

Myles Thomas Gray came to his death on the afternoon of August 13, 2015, after experiencing an acute behavioral disturbance, physical altercations with members of the Vancouver Police Department and subdual by the officers in a backyard in Burnaby, B.C.

Myles Gray operated an evergreen business which supplied florists throughout the Lower Mainland. The jury heard evidence from his sister that she idolized her older brother as he was kind and loyal. She testified that Myles Gray had the ability to make people laugh and people adored him. She stressed that he was a person who would do anything for his friends and family.

Both his sister and his family physician testified that Myles Gray was diagnosed with bipolar condition which was controlled for several years by medication. A physician testified that Myles Gray had decided to stop taking Divalproex, a mood stabilizing medication prescribed for his bipolar condition, during the 12 months prior to his death with no known adverse effects. The physician also indicated Myles Gray was well-muscled through weightlifting and had disclosed self-injection of non-prescription testosterone approximately a year prior to his death.



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On August 13, 2015, Myles Gray attended a floral supply business located on Marine Way, near Boundary Road, in Burnaby to unload an order of evergreens. An employee observed Myles Gray walking away from the business sometime between 1230 to 1330 hours. He left his truck partially unloaded with his wallet, keys, and backpack in the unlocked truck cab. Myles Gray's disappearance was reported to the Burnaby RCMP and his parents later that afternoon. The former manager of the floral supply business provided this testimony.

Between 1300 to 1400 hours, two witnesses observed Myles Gray on the sidewalk of the 8600 block of Greenall Avenue, Burnaby. This is a city block away from where Myles Gray had abandoned his truck. The witnesses testified that Myles Gray was acting in an erratic manner. They described him pacing back and forth near a bus stop, looking under bushes, talking to himself, shouting, and raising his fists toward the sky. His behavior made one of the witnesses uneasy and concerned about the safety and welfare of Myles Gray, and anyone potentially interacting with him. The second witness thought Myles Gray may be in distress or 'off their medications'. At one point the second witness thought about approaching Myles Gray; however, did not feel comfortable doing so.

At approximately 1430 hours Myles Gray approached a woman who was watering the plants in her front yard, situated in the 3600 block of Southeast Marine Drive, Vancouver. This woman testified that Myles Gray approached her from behind and pulled the garden hose from her. He then sprayed her with water from the hose, while making comments that she believed were sexually inappropriate. This woman indicated that she screamed at Myles Gray.

The woman's son came out of their house at this time. A neighbor also came outside at this time due to the disturbance. The son testified he advised his mother to go in the house and he called 911. The son stated that Myles Gray appeared intoxicated and/or having mental health challenges. Myles Gray was shirtless and was not wearing footwear. The son stated Gray wanted to fight him and then walked away westbound towards Southwest Marine Drive. The son spoke with the 911 operator to provide additional information and kept observing Myles Gray as he wandered from this location. The son testified that he was worried Myles Gray would attack a neighbor, so he kept him in sight while following him at a distance.

At one point Myles Gray walked in circles on the street screaming. While on the street Myles Gray was almost struck by three passing vehicles. Myles Gray then walked eastbound on Southwest Marine Drive towards Boundary Road. The witness lost sight of Myles Gray at this time; however, a short time later a Vancouver Police Department marked police van attended and he spoke to a lone female officer about the incident.



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The officer drove to Southeast Marine Drive and Joffre Avenue. The police officer exited the police vehicle and approached Myles Gray near this intersection. The interaction between the female officer and Myles Gray was observed by this witness who testified the officer approached Gray and appeared to become scared due to Myles Gray approaching her in a 'sudden violent way'.

He observed the female officer get back in her vehicle with Gray then hanging or pulling on the van driver's door window. This witness then saw Myles Gray run up the steps into a forested residential area. When a second unmarked police vehicle arrived, two male plainclothes officers went up the stairs in the same direction. This witness could not see the interaction between Myles Gray and the police after this point due to the heavy foliage.

The female officer responding to the initial call for service received at 1505 hours testified that she arrived at the 3600 block of Southeast Marine Drive at approximately 1511 hours and spoke with the complainant. She then drove eastbound on Southeast Marine Drive towards the area in which Myles Gray was last seen.

She observed Myles Gray near the intersection of Southeast Marine Drive and Joffre Avenue and parked the vehicle at the northwest corner of this intersection. She rolled the driver's door window down halfway and asked Gray 'Hey man, how's it going?'. Gray replied 'Good, good', and continued walking northbound on Joffre Avenue.

She partially exited her vehicle and attempted to engage Myles Gray in conversation as he was 4-5 meters from her vehicle. He said his name was Tommy and she asked him to sit down on a long cement block he was standing by. Myles Gray complied and the officer exited her vehicle.

When the officer said she was called to attend a disturbance related to a hose, Myles Gray stood up and angrily asked 'A hose, what about a hose?'. The officer stated she was there to help him. Gray clinched his fists while staring at her tensely, in a way that frightened her. Gray said 'You're here to make sure I'm okay? Are you okay?'.

She felt threatened and that she required cover or assistance from additional officers. Mr. Gray asked her what her name was, and she responded 'Hardeep ... 2801', pointing to her police ID number on her uniform. She indicated she was worried Myles Gray might strike or grab her, so she backed up to the police van and got in, closing the door. Myles Gray grabbed the partially lowered driver's door window, attempting to pull it down or break it in an apparent attempt to gain entry. The officer testified she feared for her life at that time.

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The officer called for assistance as Myles Gray was becoming aggressive towards her. Myles Gray yelled at her '2801 ... Where are you going? 2801 ...You better be calling for backup.' Gray then began opening the door by pulling on the handle and the officer pulled it shut and yelled at him 'Back off'. Myles Gray then went to the front of the police van and started waving down passing vehicles.

One vehicle slowed and the officer waved the vehicle on so Myles Gray would not have the opportunity to interact with or harm a civilian. Myles Gray was then standing in front of the police van. Gray then ran up a set of steps on Joffre Avenue, leading to a residence above street level.

The officer wanted to keep Myles Gray under observation until assisting officers arrived. She exited her vehicle and walked across the street from the bottom of the steps ascended by Gray. She testified Myles Gray was standing at the top of the first portion of steps clenching his muscles, in an 'Incredible Hulk' stance and said to her 'Welcome to the jungle'. The officer testified she was very afraid and returned to her vehicle until two plainclothes officers attended to assist.

The female officer testified she indicated to the two assisting officers that Myles Gray was aggressive and would fight. She was worried about any people who may be in the house that the stairs lead to. All three officers went up the steps which lead to a two-level yard. They located Myles Gray near the front entrance / southeast corner of the house on the upper level of the yard.

One officer testified that Myles Gray was yelling 'Charlies are coming Charlies are coming'. This officer directed Myles Gray to 'take a seat' or to 'get down on the ground'. Gray was talking to himself and then said, 'Let's see your badges boys'. The officer speaking to Gray pulled out his badge, which was on chain around his neck and displayed it to Gray. Gray said, 'That doesn't mean anything'.

The officer testified he had already had his baton in his right hand behind his leg and after displaying his badge he used his left hand to access his Oleoresin Capsicum (OC) Spray cannister. The officer interacting with Myles Gray testified he observed Myles Gray lower his head and move towards him. The officer sprayed the OC Spray into Gray's face. The other two officers testified that they observed Gray being sprayed by the other officer after Gray did not comply with instructions to get on ground; however, did not see Gray move towards the third officer.

The officers testified Gray hesitated and wiped his face with his hands as he appeared to be stunned. Two officers attempted to grab Gray's arms and pull them behind his back to handcuff him. The third officer used his baton to strike Gray on the upper legs two to three times; however, the baton strikes did not appear to have any effect on Gray.



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Gray broke loose from the two officers holding his arms with the handcuffs secured on only one wrist. Gray moved away from the officers in the yard and swung the arm with the handcuffs in the air in a circular motion. One officer testified the handcuffs had inadvertently become a weapon Myles Gray could use against the officers.

At this time Gray then punched one of the officers in the face. The officer punched in the face by Gray testified they lost consciousness for a period. The remaining two officers testified they struck Gray in the legs with their batons several times with little response from Gray. One officer then grabbed Gray around the waist and wrestled him to the ground. The officer and Myles Gray ended up under a tree/bush in the northwest corner of the upper level of the backyard. The other two officers then attempted to assist in controlling Myles Gray.

At this point two other officers arrived at the scene and joined the other officers attempting to subdue Gray so he could be handcuffed. The officers testified it was difficult to gain control of Gray while positioned under the bush. The two additional officers testified that they used fist punches to the Grays head and knee strikes to his arms and torso, with baton strikes to his legs with little effect.

Myles Gray was described by officers during their testimony to possess 'superhuman strength' with no indication of feeling any pain during this altercation. They all stated Myles Gray did not respond to verbal commands and some indicated he was vocalizing a primal growl and grunting while fighting with the officers.

During this period of interaction with Myles Gray the officers managed to secure a hobble device on his ankles to restrain his leg movement. Also, during this period one of the officers testified he utilized a vascular neck restraint twice without effect or being able to control Gray.

Sometime during this interaction between Myles Gray and the police officers, two additional officers attended the scene to assist and three of the officers who had been interacting with Gray returned to the street level to receive medical assistance from the fire department personnel and BC Ambulance staff.

A short time later two additional officers attended the scene, and a second set of handcuffs were finally utilized with the original pair already on one of Gray's wrists to secure his hands behind him at his hips. The officers' testimony indicated four or five of the remaining officers kept Gray secured in a prone position while he continued to struggle against the restraint measures. Myles Gray's physical altercation with the police officers had lasted approximately eight minutes, with him physically interacting with one to six officers at any given time throughout this period.



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Testimony indicated that the police officers restraining Gray in the prone position, two of which had prior paramedic experience, did not allow Basic Life Support paramedics to approach Gray as he was still actively resisting. They testified that Basic Life Support paramedics would not be equipped to assist in calming and controlling Gray.

Several police officers indicated during their testimony Gray was exhibiting an inability to communicate, non-compliance to verbal commands, profuse sweating, agitation, aggressive abnormal behavior, extraordinary strength, abundant energy, and a high level of pain tolerance. Some of the police witnesses testified these observations indicated that he was experiencing a medical crisis.

The police officers had requested and were awaiting the arrival of the Advanced Life Support paramedics to administer sedation to assist in controlling Gray for assessment and transport for medical treatment of a life-threatening condition. However, several witnesses, including one of the Advanced Life Support (ALS) paramedics, also stated that in order to safely provide medical assistance, any person acting in an aggressive manner would need to be restrained and controlled to prevent injury to the person, the police, and medical professionals.

While continuing to resist in the prone position Myles Gray suddenly became unresponsive and the police officers turned him onto his side to check for his pulse. One of the officers with previous paramedic experience testified he applied a sternum rub to generate a response, and shortly after that Gray became responsive and once again started to resist. The officer who had revived Myles Gray testified that the officers moved Gray out from the area of the tree into the middle of the yard at this time and restrained in the prone position once again as he continued to struggle against the measures taken to subdue him.

The officers held Gray once again in a prone position and then became unresponsive a second time approximately eleven minutes later. Several other first responders were present at this time and testified they observed the police restrain Gray in a prone position, either with his head moving from side to side, face down or turned to the side.

The Fire Department Captain testified Gray was still struggling while restrained and when he stopped struggling the officers turned him over to his side to check for his vitals. The officers removed the handcuffs from one of Gray's wrists and rolled him onto his back.

All witnesses present at this time testified that two police officers began Cardiopulmonary Resuscitation (CPR) with the assistance of the fire fighters and the Basic Life Support (BLS) paramedics. The ALS paramedics arrived approximately ten minutes later and took over the resuscitation efforts for approximately thirty-one minutes.



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After consultation between the lead ALS paramedic and their Emergency Department physician, resuscitation efforts were discontinued at 1621 hours, as it was determined Myles Gray was deceased at that time. The noted timelines match testimony and times associated to radio transmissions documented in Exhibit 10.

The initial toxicology report dated April 29, 2016, indicated the presence of mitragynine in Myles Gray's blood. The toxicologist who testified at the inquest was not involved in the original investigation and reviewed the original documentation in preparation for testimony at the inquest.

Upon his review, he determined that the level of mitragynine did not meet the existing standard to definitively determine the presence of mitragynine. The toxicologist concluded that it could not be determined if mitragynine was present in Gray's blood and that if present, it would not have been at a toxic level. A supplemental toxicology report was entered as an exhibit by this witness. The toxicologist also advised that Gray's blood samples would have been disposed of after a six month hold period, thus eliminating any further testing during the investigation.

An autopsy was conducted on August 18, 2015. The forensic pathologist's post-mortem examination report was entered as Exhibit #12. In testifying to the content of his report the pathologist indicated he had observed and documented extensive blunt force injuries to Myles's Gray's head, face, neck, torso, arms, legs, and testicles that were consistent with the use of force outlined in the testimony of the involved officers.

The pathologist testified he could not associate any specific injury or combination of injuries to a definitive cause of death. The pathologist's initial report also documented use of OC spray, forcible restraint, external pressure to the Gray's neck, observations of agitation / physical exertion / anxiety experienced by Gray and the presence of mitragynine, as possible factors contributing to Gray's death.

The pathologist's original opinion was the cause of death was unascertainable; however, he indicated in his report that he may be able to provide a more informed opinion if he was able to glean additional circumstantial information from inquest disclosure documents and testimony. Prior to his testimony the pathologist was provided access to additional circumstantial information through disclosure of some investigative material and during his testimony he was provided with a verbal summary of the events leading up to Miles Gray's death.

The pathologist testified that the indicators of the phrase 'excited delirium' in use at the time, including agitation, inability to communicate, excessive sweating, and abnormal strength which were observed by various witnesses indicated to him that Myles Gray was experiencing an acute behavioral disturbance prior to and during his physical altercations with the police officers.



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He stated this acute behavioral disturbance in combination with police efforts to subdue Gray, Gray's extreme exertion in resisting, and associated physiological effects (rapid breathing / heart rate / adrenalin release / deeper expiration-inspiration), created the 'perfect storm' which led to Myles Gray's death.

He also testified that he did not believe Myles Gray would have died if not for the police actions to subdue and restrain him, as historical data supports higher risk of death in situations involving forcible restraint. The pathologist stated although he was unable to provide a definitive, discrete, and isolated cause of death, that the most accurate reflection of the evidence would be to consider Myles Gray's death as multi-factorial, and best described as:

'Cardiopulmonary arrest complicating law enforcement subdual and restraint (involving the application of OC spray, multiple blunt force injuries, neck compression, dorsal handcuffing, and forcible prone positioning); in an individual exhibiting features of acute behavioral disturbance.'

The pathologist acknowledged this cause of death was 'to some extent imprecise and vague'; however, he believes this is the best explanation as to how Myles Gray came to his death given the evidence presented. The jury accepted this cause of death statement and documented it on page one of this verdict.

During their testimony, numerous officers indicated there was no plan, or coordination of their efforts, to subdue and control Myles Gray. They testified their actions were reactive and instantaneous, while becoming exhausted in exerting as much energy as possible in attempts to contain and control Gray.

Most of the officers testified that they were unable to advise of actions of fellow officers as they were concentrating on their specific task at hand, whether that be attempting to control one of Gray's appendages or gain compliance through a pain response or muscle motor disfunction using baton, fist, and knee strikes. Several officers testified they had experienced 'tunnel vision' in focusing on their individual efforts and were not aware of other officers' actions during the physical altercation.

Most witnesses, including some involved police officers, agreed that the use of body cameras by the police would have assisted in documenting events leading to Myles Gray's death. Some witnesses testified that body camera video would not only allow for a timelier completion of the investigation but also provide additional information that could lead to recommendations to prevent similar deaths. Testimony provided by Vancouver Police Department officials indicated that a patrol officer body camera pilot project is scheduled for fall of 2023, with intentions to implement body camera use by all patrol officers.



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An expert witness testified about the use of force in policing as well as crisis intervention and de-escalation.

A Vancouver Police official also reviewed the existing training Vancouver Police Department officers receive relating to de-escalation tactics and use of force options. It was stressed that situational/scenario training was optimum practice in having the officers being able to react appropriately in high stress situations with limited opportunity to coordinate actions.

The Patrol Supervisor on duty at the time of this incident testified that during dynamic situations in which officers are in a physical altercation, the officers' observations, assessments, and subsequent decisions over-rule any direction from any personnel, including supervisors, who are not directly involved.



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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: Chief Constable, Vancouver Police Department

- 1. To expedite the implementation of the use of body cameras (with audio recording capabilities) for all patrol officers.

Presiding Coroner Comment: *Jurors heard recommendations for the use of body cameras from multiple VPD personnel (including several police officers), as well as the IIO Chief Civilian Director and the Pathologist, for the purposes of aiding with justice and the timeliness of investigation resolution, and to improve public trust.*

- 2. To review and enhance the crisis de-escalation and containment training that VPD officers receive, specifically adding more frequent in-person/blended-learning training on:
 - a. How to make ongoing health and safety assessments of, and reduce risk to, a subject exhibiting a mental health disturbance; and
 - b. How to implement a "step back and reassess" methodology; and
 - c. How to ensure effective communication and coordination among officers, to determine leadership in multi-officer responses.

Presiding Coroner Comment: *Jurors heard evidence of "tunnel vision" among police officers engaged in the incident, leading to a lack of coordination of efforts to restrain and control the deceased.*

To: President and Chief Executive Officer, Provincial Health Services Authority

- 3. To review the policy pertaining to the retention of relevant toxicology samples and consider retention of samples until the completion of all investigations.

Presiding Coroner Comment: *Jurors heard evidence that toxicology samples were destroyed after six months, as per BC Provincial Toxicology Centre policy, and were therefore not available for any pertinent follow-up testing that may have assisted the investigations into cause of death.*