



CANADA
Province of
Alberta

**Report to the Minister of Justice
and Attorney General
Public Fatality Inquiry**

Fatality Inquiries Act

WHEREAS a Public Inquiry was held at the Law Courts, 1A Sir Winston Churchill Square
in the City of Edmonton, in the Province of Alberta,
(City, Town or Village) (Name of City, Town, Village)
on the 4th, 5th, 6th days of February, 2008, (and by adjournment
year
on the 20th day of June, 2008),
year
before The Honorable Judge E. A. Johnson, a Provincial Court Judge,
into the death of WAYNE ROLAND TUCCARO 41
(Name in Full) (Age)
of #22, 701 Beacon Hill Drive, Ft. McMurray, Alberta and the following findings were made:
(Residence)

Date and Time of Death: June 23, 2006 at approximately 3:11 a.m.

Place: In front of Unit 59, 9606 – 180 Street Edmonton, Alberta

Medical Cause of Death: Gunshot wound to chest
Statistical Classification of Diseases, Injuries and Causes of Death as last revised by the International Conference assembled for that purpose and published by the World Health Organization – The Fatality Inquires Act, Section 1(d)).

Manner of Death: Suicidal (see attached)
("manner of death" means the mode or method of death whether natural, homicidal, suicidal, suicidal, accidental, unclassifiable or undeterminable – The Fatality Inquiries Act, Section 1(h)).

Circumstances under which Death occurred: See attached

Recommendations for the prevention of similar deaths: See attached

DATED February 13, 2009

at Edmonton, Alberta.

The Honorable E. A. Johnson
A Judge of the Provincial Court of Alberta

FATALITY INQUIRY REPORT - WAYNE ROLAND TUCCARO

I. Introduction and Summary

In the early morning hours of June 23, 2006, the deceased, Mr. Tuccaro was staying at the home of his aunt and uncle. He had become angry and intoxicated. He threatened to shoot them and left the house to retrieve a rifle from his vehicle. His aunt and uncle called police and locked him out. Unable to gain re-entry Mr. Tuccaro went back to his vehicle and left the area.

Police were dispatched, and a description of his vehicle was broadcast. It was soon located travelling westbound. Police cars followed the vehicle and it was tracked by Air 1, a police helicopter. The police made three unsuccessful attempts to stop the vehicle. A spike belt was deployed. Some time after driving over the spike belt, Mr. Tuccaro's vehicle came to a stop in a parking lot of a residential apartment complex.

The Tactical team was deployed and its members took various positions in the complex. Using a loud-hailer from a position behind the vehicle, police attempted, unsuccessfully, to persuade Mr. Tuccaro to leave his vehicle.

After some minutes a shot was heard from inside the vehicle. Tactical team members approached the vehicle and cleared it, determining that Mr. Tuccaro was the only occupant. He was deceased, with a gunshot wound to his chest

II. The Inquiry and its Mandate

The Inquiry was convened February 4, 2008 and heard witnesses on February 4, 5, and 6. The Inquiry was reconvened June 20, 2008. Evidence was presented through Inquiry counsel.

At a pre-Inquiry meeting, the Edmonton Police Service ("EPS") and April Marcel, common-law wife of Mr. Tuccaro, were granted status under section 49(2) of the *Fatality Inquiries Act* (the "Act"). They appeared and participated in the Inquiry through counsel.

The *Act* calls upon the judge conducting the Inquiry to make a report to the Minister containing findings as to: the identity of the deceased; the date, time and place of death; the circumstances under which the death occurred; the cause of death; the manner of death (s. 53(1)). The judge may make recommendations as to the prevention of similar deaths (s. 53(2)). The findings of the judge may not include any findings of legal responsibility or any conclusion of law (s. 53(3)).

III. Circumstances under Which Death Occurred

The relevant events took place during the early morning hours of June 23, 2005.

Mr. Tuccaro, a resident of Fort McMurray, was staying in Edmonton at the home of his aunt and uncle at 9642 - 109 Avenue. The previous evening, he had been drinking and had become agitated. At one point he left the house to go outside to his vehicle saying words to the effect that he was going to get his gun and shoot them. He went to his vehicle and retrieved a 303 rifle whereupon his aunt and uncle locked the doors to the house. He returned to the house and rang the doorbell a number of times. Unable to gain entrance, Mr. Tuccaro went back to his vehicle and left the area. His uncle and aunt telephoned the police.

Officers were dispatched to the area at approximately 2:25 in the morning, in response to a "man with a gun" call. By the time the police arrived at the address, Mr. Tuccaro was no longer there. The description of his vehicle, including license plate number was broadcast over the police radio.

In response to the broadcast, Constable Bechtold located the vehicle travelling westbound on 107 avenue at approximately 108 street and pulled in behind it. By the time the vehicle reached 126 street, three other police vehicles had fallen in behind and Air 1 was overhead.

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Crossing the Groat Road overpass, Constable Bechtold activated his emergency equipment. Mr. Tuccaro's vehicle continued, neither slowing nor speeding up, and emergency equipment was deactivated.

Mr. Tuccaro's vehicle stopped at 149 Street at a red light and remained stopped after the light turned green. Police made another attempt to stop him. However, when overhead lights were activated, the vehicle began travelling westbound and emergency equipment was again deactivated.

A further unsuccessful attempt to stop the vehicle was made after Mr. Tuccaro's vehicle turned southbound on 156 street and into a Domo parking lot east of 156 street north of Stony Plain Road. The vehicle accelerated away, turning westbound on Stony Plain Road.

A spike belt had been deployed on Stony Plain Road and about 161 street. The vehicle drove over it and continued westbound on Stony Plain Road turning south on 178 street, west on 98 Avenue, south on 180 street and westbound into the entrance to Primrose Gardens, a residential apartment complex, where it came to a stop.

At this point, three of the tires were deflated.

I understand that a friend of Mr. Tuccaro's lived in the complex, although there is no evidence from which I can conclude that he made any effort to contact her.

The Tactical team was called in and arrived at 2:58 am. Members of the team with rifles and high powered scopes were deployed within the area to attempt to gain a view of the vehicle while remaining at a safe distance, having regard to the fact that Mr. Tuccaro was reported to have a high powered rifle.

From the primary police vehicle which was parked about 10 feet behind Mr. Tuccaro's vehicle, attempts were made over the loudhailer to have the driver leave the vehicle. The door of the van was opened briefly once or twice, but apart from that, attempts to have the driver of the vehicle exit the vehicle and come back to the police cars were unsuccessful.

At 3:11 a single shot was heard from inside the van.

After hearing the gunshot the police waited briefly. The snipers who had been deployed in the area and who were able to see the vehicle through their high powered scopes looked for movement in the vehicle. A decision was made for members of the Tactical team to approach which they did slowly.

They determined that Mr. Tuccaro was the only occupant of the vehicle. He was found with a rifle - its stock on the floor of the passenger's side and the barrel against his chest - and a bullet hole in his chest. The back window on the driver's side was blown out.

At 3:20, after police had approached and cleared the vehicle (that is, took steps to ensure that it was safe to come into the area of the vehicle), EMS members were allowed access to Mr. Tuccaro. They examined him and determined that he was deceased.

Dr. Bannach, Assistant Chief Medical Examiner, performed an external examination of the deceased. He concluded that the cause of death was a gunshot wound to the chest. The bullet travelled from front to back, right to left and upwards. The presence of soot in the wound indicated that it was a contact entrance wound.

Dr. Bannach measured the length of the barrel and the length of Mr. Tuccaro's arm and concluded that it was physically possible for Mr. Tuccaro to pull the trigger when the gun was in the position it would have had to have been in order to create the wound he examined.

Toxicology results indicated a blood alcohol level of 230 milligrams percent, approximately 3 times the legal limit. Diazepam, codeine and diphenhydramine were present. In Dr. Bannach's opinion, the drugs, alcohol or a combination of them would not have caused death.

Dr. Bannach also described a linear cigarette burn to the right hand side, the cigarette butt (or filter) still in place.

Others who saw the body mentioned the burning cigarette. Alan Soderstrom (EMS) and Constable Morrison described a cigarette, smoldering hanging from the left side of the lip; John Ernst (EMS), Constables Abbott, Hermanutz, Crawford, Herczog, and Wing spoke of the cigarette hanging from the lips as though smoking.

Counsel for Ms. Marcel raised concern about an apparent discrepancy among the various descriptions of the cigarette.

Dr. Bannach described the cigarette and related burn as they appeared at the time the external examination was made. Accurately making and recording these kinds of observations is a part of his role. The observations of others were made at other times, and were incidental to their other duties. It is clear that there was a still lit cigarette in Mr. Tuccaro's mouth when he died. The presence or positioning of the cigarette is immaterial relative to what I have to decide. The cigarette did not play any part in his death.

IV. Manner of Death

As indicated previously, I have concluded that the manner of death was suicide. I have taken into account the following: Mr. Tuccaro had a rifle with him in his vehicle when he left the home of his aunt and uncle; he was the sole occupant of the vehicle; the shot came from inside the vehicle; the rear window on the drivers side had been blown out; the rifle was found propped up against his chest; the wound was a contact wound; measurements were taken to establish that it was physically possible for Mr. Tuccaro reach the trigger; no police officer discharged a weapon. I am mindful that counsel for Ms. Marcel has suggested that I should not make a conclusive finding. However, I am obliged to reach a conclusion as to manner of death, if such a conclusion can be reached, based on the evidence. Suicide is the only rational conclusion I can reach which comports with the physical evidence and the medical examiner's findings.

V. Recommendations

I make no recommendations.

I acknowledge that Counsel for Ms. Marcel raised several issues in relation to possible recommendations and I will address those. I recognize the pain that the family must feel when an event such as this befalls them. However, the kind of recommendations I am statutorily mandated to make must be directed to prevention of future similar deaths and cannot be based on speculation as to what might have happened if circumstances had been different.

The EPS "pursuit policy". It is suggested that there is evidence that the EPS did not comply with their "pursuit policy" and that the attempts to stop Mr. Tuccaro's vehicle should not have been made. I am invited to make a recommendation that the EPS comply with their policy.

Counsel for EPS disputes the suggestion that there was a failure to comply with policy.

EPS tabled a document entitled "Criminal Flight Response". It is part of a larger document which was not before me. Counsel for EPS described as a guideline for the police which is largely concerned with high speed chases.

Constable Bechtold said he stayed with the vehicle and did not drop back because of his concern that the occupant, who was reported to have a gun, could have stopped and exited his vehicle. Constable Bechtold and his police dog would then have been in a position to pursue on foot.

Mr. Tuccaro was not driving at high speeds which is generally the concern with respect to a criminal flight.

The determination of whether EPS complied with their policy would doubtless require a much more complete hearing. That determination is not before me. Further, it is not clear how other similar deaths could be prevented by the recommendation suggested.

Administration of First Aid. Counsel noted that a period of some minutes elapsed between the gunshot and the point at which EMS personnel were permitted to attend to the deceased, and suggested that police personnel should consider administering first aid in such circumstances. It was Dr. Bannach's evidence that the gunshot would not have been immediately fatal (that is, Mr. Tuccaro's heart would not have stopped immediately), but that he would not likely have survived even if the incident had happened in the ambulance bay at the University of Alberta hospital.

There is nothing from which I can conclude that anyone acted otherwise than appropriately, first ensuring that the scene was safe, then permitting EMS to do their work. The area was cleared to ensure that it was safe before EMS personnel were allowed in. That practice is reasonable and I would not recommend anything different.

Whether the police are or should be trained in first aid and what they should do in response to a situation involving potential injury is a determination best left to those trained personnel on site. The interaction between services provided by the police and those provided by EMS is complex and requires balancing of a number of interests.

It is not clear that the recommendation sought would prevent future similar deaths.