



August 5, 2010

Commission for Public Complaints against the RCMP
7337 137 Street
Suite 102
Surrey, British Columbia V3W 1A4

VIA FAX: 604-501-4095

Dear Sirs/Mesdames:

Re: Incident involving Lloyd Gilbert, January, 2010, RCMP restraint policy

I am writing on behalf of the B.C. Civil Liberties Association (BCCLA) to initiate a policy complaint under the RCMP Act. These issues came to our attention after Lloyd Gilbert supplied to the BCCLA video of his detention where we was placed in an immobilization chair for hours at the Williams Lake RCMP detachment. In January of 2010, Mr. Gilbert called the Williams Lake RCMP to report a robbery and was placed in cells when officers arrived at his residence and determined that he should be arrested because they believed he was intoxicated.

This complaint is based on information gathered from Mr. Gilbert, the video of him in custody, and police reports on the incident. Based on this information, we understand that Mr. Gilbert was arrested due to heavy intoxication and taken into police custody. Mr. Gilbert was unsure why he was arrested and advises our office he believed he could escape through vents in his cell. To do so, he climbed onto a sink in his cell. Members of the Williams Lake RCMP then tied Mr. Gilbert into a chair and left him there for three hours and twenty minutes, checking on him only twice.

Our complaint has six parts.

Tying a severely intoxicated individual to a chair should not be an approved restraint policy

We have concerns about this particular method of restraint and its use generally. This is the first time the BCCLA has been aware of tying an individual into a chair as an approved restraint system, and this approach appears to raise serious safety issues with respect to its use in relation to extremely intoxicated individuals and the threat of aspiration of vomit and death by choking. It seems unlikely that tying individuals into chairs is approved use of force generally within the RCMP, and if it is, it is surprising to us that this mode of restraint would be approved for use on intoxicated individuals given the clear safety issue of placing restraints

across the chest that would restrict coughing, and restraints along the shoulders that would prevent leaning forward to vomit, as well as restraining an individual in an upright seated position rather than in the recovery position.

If tying an individual to a chair is an approved restraint policy, the RCMP policy approval process is flawed

If tying an individual into a chair when they are severely intoxicated is indeed an approved use of force within the RCMP, we have concerns about the approval process for such a policy. Which body reviewed this policy, what provisions govern its use, and what safety measures are in place to ensure its use does not compromise the health and safety of the individual tied into a chair? What is the RCMP process generally to approve new restraint policies, and how are medical professionals involved in drafting policy around their use to minimize the risk of in custody deaths, especially in situations of severe intoxication?

Williams Lake RCMP are not following process around cell checks and as a result put Mr. Gilbert at significant risk of harm, even death, and violated his human dignity

Mr. Gilbert's treatment, as a severely intoxicated individual in medical distress, was grossly inadequate. Mr. Gilbert was arrested from his home and transported to cells presumably under the legal justification that he was a danger to himself at his level of intoxication and would be in a safer environment in cells. Even assuming that was the case, which we do not, the video and the fact that Mr. Gilbert was tied into a chair suggests that he would have been safer, or at least as safe but with greater personal dignity, at home.

Mr. Gilbert was in the restraint chair for more than three hours and twenty minutes, starting sometime before 9:22 to 12:42. During this time, it appears that there were two visits to Mr. Gilbert's cell occurring at 11:15 and 12:34. The last entry resulted in Mr. Gilbert being removed from the chair. Contact with Mr. Gilbert was minimal: during more than three hours in the restraint chair, a physical check was performed only once.

Mr. Gilbert was forced to urinate on himself while in the restraint chair as he had no means of getting guards' attention due to the inadequate cell checks. He was not given any water while in the restraint chair. On the assumption that the officers involved thought that his arrest at his home and his transport to and incarceration in a jail cell were justified due to severe intoxication, his condition should have been closely monitored, with in person checks at least every 10 minutes if not more frequently to ensure that he was breathing and not losing consciousness. How would the RCMP have explained this video if Mr. Gilbert had aspirated on his own

vomit in this chair and died, as so many severely intoxicated individuals do in RCMP custody? Even after Silverfox, does the RCMP not have a force-wide policy on regular physical cell checks?

Further, how long may an individual be tied to a chair before he is released? Was Mr. Gilbert not sufficiently sobered at one hour, two hours, three hours? Why was nobody checking on his level of sobriety to determine when he could be untied?

The video suggests that tying Mr. Gilbert to a chair was a punitive, not a protective, measure

Given Mr. Gilbert's repeated intoxicated defiance of instructions to stay off the sink, coupled with the grossly inadequate cell checks, the indifference to Mr. Gilbert's basic human rights to access water and washroom facilities, and the lack of apparent concern about getting Mr. Gilbert out of the chair he was tied to as quickly as possible, tying Mr. Gilbert to a chair begins to assume a character that appears more punitive than protective. Whatever policy governs tying individuals to chairs in RCMP cells, should such a bizarre policy exist, should expressly prohibit such restraint being used as a punitive measure as the use of restraints in this manner is anathema to the idea of professional conduct.

The Williams Lake detachment requires a bare sobering cell

The BCCLA is concerned that, despite a clear demand for a sobering cell for severely intoxicated individuals in Williams Lake, the RCMP does not have access to an empty cell for that purpose. As Mr. Gilbert so ably demonstrated, drunk individuals will climb on cell furniture, and otherwise act in a bizarre and inappropriate social manner with whatever they can find in a cell as a result of their intoxication. The inability to provide a bare cell where an individual is free from risk of falling or otherwise injuring himself or damaging a cell leads to problematic solutions like tying an individual to a chair. We have difficulty imagining that this is the first time that Williams Lake RCMP have had to tie someone to a chair because of the inadequate sobering facilities at the cells.

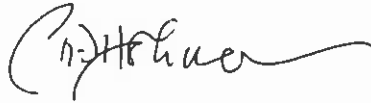
In order to prevent future gross rights violations of the type endured by Mr. Gilbert, who actually called the RCMP for assistance and was treated in this manner, the RCMP must immediately complete renovations to provide a bare sobering cell in Williams Lake, and should certainly advocate for the province to establish a sobering centre in Williams Lake for non-violent intoxicated individuals to recover from severe alcohol intoxication under medical supervision if one does not already exist.

The circumstances of Mr. Gilbert's arrest are questionable

Mr. Gilbert advises that he was arrested when calling to report a robbery to the RCMP. Officers' ability to arrest someone for intoxication is for intoxication in a "public place", not for intoxication in his or her own home. We request that you investigate the circumstances of Mr. Gilbert's arrest at his home for intoxication, if that is indeed what took place.

We look forward to your response.

Yours sincerely,

A handwritten signature in black ink, appearing to read "R. Holmes", with a long, sweeping flourish extending to the right.

Robert Holmes,
President

cc. *Bob Harriman, RCMP* via e-mail.