



VICTORIA POLICE

Our Ref: LEXD 21534

Coroner Paul Lawrie
Coroner's Court of Victoria
65 Kavanagh Street
SOUTHBANK VIC 3006

Shane Patton APM
Chief Commissioner of Police

Victoria Police Centre
311 Spencer Street
Docklands Victoria
3008 Australia

Telephone +61 3 8335 6400

P.O. Box 913
Melbourne Victoria 3001 Australia

By email only: cpuresponses@coronerscourt.vic.gov.au

Subject: Andrew David Berry
Finding into death with inquest
Court reference: COR 2020 000259
Date of finding: 29 July 2024

Dear Coroner Lawrie,

This letter provides the response to your recommendations to Victoria Police arising from your Finding into the death of Andrew David Berry, delivered on 29 July 2024.

Victoria Police support Recommendations One and Two and sets out its specific response below:

Recommendation One

That Victoria Police review all policies and manuals that relate to the aftercare of persons who have been subjected to OC foam to ensure clarity in all respects. Particularly, the relevant policies and manuals should:

- a. Treat separately the concept of 'aftercare' as active treatment of the effects of OC foam (for example, irrigation of the face and eyes) and the concept of 'observation' of the subject person;*
- b. Provide greater clarity of the steps that may be taken when a subject refuses aftercare (or further aftercare) or no longer displays signs or symptoms of OC exposure;*
- c. Provide greater clarity regarding the permitted manner in which observation of the subject may be maintained, and for what period of time.*

Victoria Police supports this recommendation. However, upon a review of the Victoria Police Manual (VPM) and Oleoresin Capsicum (OC) Manual, Victoria Police does not consider further changes to the policies are necessary. These manuals were recently reviewed and updated as part of recommendations received from IBAC.

Recent updates to the VPM and OC Manual clarified the following:

- Medical attention must be provided immediately if the affected person does not recover within a reasonable time, complains of a medical condition, requests medical attention, or, in the member's opinion, appears to be suffering from a medical condition.

OFFICIAL

- Where there is any doubt as to a person's wellbeing or where the effects of OC spray continue after 45 minutes, medical attention must be sought. While medical treatment is being sought, officers are to continue to provide reassurance and appropriate after care techniques.
- When an OC-affected person is being transported in any police vehicle, keep them under constant observation to detect any change.
- A person can be transported during the observation period. However, consideration ought to be given to the type of vehicle used to transport an OC affected person and, if practicable, the Divisional Patrol Manager must approve transportation. Ideally, the person should be transported in a sedan to facilitate direct observation in the first instance and should only be transported in a divisional van in limited high-risk situations. Updated guidance now makes clear that a person should not be transported in a brawler van or similar vehicle which does not provide for continuous observation of the person.

Further, Victoria Police has developed and distributed two 'prompt cards' that detail the appropriate use of OC foam and how to administer aftercare. These prompt cards are available to all Victoria Police members through their mobile devices and can be easily accessed in the field.

RECOMMENDATION TWO

That Victoria Police review the equipment used for remote monitoring of persons in the custody pod of police vehicles to ensure that it provides an image of suitable size and quality to operate as the best possible aid to police members.

Victoria Police supports this recommendation, and it has been implemented. Victoria Police has reviewed its remote monitoring equipment and equipped its new divisional vans with updated technology. Specifically, new divisional vans are equipped with a higher-resolution camera that provides improved image quality. The live feed has been moved from the central console to the rear-view mirror, which provides an unobstructed view at the driver/passenger's eye level.

Within 36 months, Victoria Police will progressively update these systems with a new Digital Video Recorder (DVR) system that can display live video across the entire display. When implemented, the image displayed in the rear-view mirror will be doubled in size from its current form. The new system will also display either a single camera or a dual camera view.

Yours sincerely,



Shane Patton APM
Chief Commissioner

6/11/24