

	<b>BURNABY RCMP</b> <b>NARRATIVE TEXT HARDCOPY</b>
--	---

GO# 1202 2019-10877

Narrative: **OCCURRENCE REPORT - 16**  
**Supplemental Report - Disclosure 10.0**  
Author: **076554 BROWN, KIRSTY**  
Related date: **Friday, 2019-Aug-23 at: 10:52**  
Related event: **GO 1202201910877**

---

**Burnaby RCMP 2019-10877**  
**R. v. Patrick Henry FOX**  
**Breach of Probation**

**Supplemental Report**  
**August 23, 2019**

On August 16, 2019 Constable Brown received a request from Crown Counsel with respect to accused Patrick Henry Fox's trial matter, advising that the trial had been adjourned until October 8, 2019. In addition, Crown Counsel was seeking additional information with respect to interactions between the accused and the Canadian Border Services Agency on March 15, 2019.

The following information has been compiled by Constable Brown, and provided in response to the request from Crown:

**Canadian Border Services Agency (CBSA) Interactions/Records - Relating to Patrick Henry Fox on March 15, 2019;**

***Initial Contact Between Police and CBSA***

Within Burnaby RCMP file 2019-10877, the initial Report to Crown Counsel Narrative (RCC Narrative/ Occurrence Report #8, dated 2019-03-22), detailed contact with CBSA by Vancouver Police Department on March 19, 2019 and the Burnaby RCMP on March 21, 2019. The following excerpts from the RCC Narrative are provided below;

**Vancouver Police Department/Investigative Actions - March 19, 2019** (located within the RCC Narrative "Allegation of Breach of Probation Conditions - Initial Reports" Section)

On March 19, 2019, Detective Fontana contacted U.S. Homeland Security to ensure that FOX would not be eligible to enter the United States and to have him flagged, at which time she learned that FOX entered the United States on March 15, 2019 at the Blaine border crossing, and had used his BC driver's licence as identification. Further inquiries by Detective Fontana into FOX's crossing were not disclosed, and she was advised this was because U.S. Homeland Security and VPD did not have a Memorandum of Understanding (MOU) in place.

Detective Fontana contacted CBSA to advise of FOX's movements and completed a lookout form to have FOX flagged if he attempted to enter back into Canada. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

\*\*\* CONFIDENTIAL \*\*\*

	<b>BURNABY RCMP</b> <b>NARRATIVE TEXT HARDCOPY</b>
	GO# 1202 2019-10877

**Burnaby RCMP HROU/Investigative Actions - March 21, 2019** (located within the RCC Narrative "Contact with Canadian Border Services Agency (CBSA) and U.S. Department of Homeland Security (U.S. DHS - ICE)" Section)

On March 21, 2019 at 1055 hours, Constable Hawkins contacted Shan-Marie PEREIRA, Intelligence Officer, Operations Branch, Canadian Border Services Agency (CBSA) to discuss FOX's current situation. PEREIRA was aware of FOX from previous involvement with his removal case in 2016, and advised that Homeland Security - U.S. ICE officers (her counterparts) notify CBSA when an individual is being removed from the country back to Canada, and that they normally notify 3 or 4 days prior to transport. CBSA assumes custody from U.S. authorities at the border and undertake their own investigation, prior to the subject being released. PEREIRA further advised that she her counterpart with U.S. Department of Homeland Security (ICE), Christopher SHIELDS, would have more information into the status of FOX's detention and the typical adjudication processes. PEREIRA confirmed that FOX was flagged in the CBSA system and was under investigation for breach of Probation, with HROU members advising that charges were being forwarded and a warrant request included.

Although not specifically documented within the two above-referenced sections relating to contact with CBSA officers, Constable Brown can confirm that during the March 21, 2019 contact with CBSA Intelligence Officer Shan-Marie Pereira (Pereira), she confirmed previously documented CBSA involvement during the index Burnaby RCMP 2016-25379 investigation, in relation to Fox's return from the U.S. In addition, she was able to confirm that CBSA had received information from Vancouver Police Department that Fox was now under investigation for breaching probation and was believed to be in the U.S., and as such had initiated an alert within the CBSA records management system should he return to Canada. During the initial contact with Officer Pereira, there was no indication that CBSA had any records relating to interactions with Patrick Henry Fox on March 15, 2019.

***Follow-Up Contact with CBSA/April 4, 2019***

On April 4, 2019 Burnaby RCMP Constables Brown and Hawkins attended the Peace Arch Douglas Border Crossing to meet with U.S. Custom and Border Protection (U.S. CBP) Officer Berg, who was transporting Patrick Henry Fox from the United States and back to Canada following his removal. The pre-arranged meet was completed outside the CBSA building, near the secondary inspection location parking area, located on the north side of the building. Officer Berg was waiting for the Burnaby RCMP with two CBSA officers, including CBSA Officers Gill and Bains, and Fox was removed from the backseat of Officer Berg's truck and walked to the Burnaby RCMP marked patrol vehicle, parked a short distance away. During the interaction with Officer Berg and Officer Gill, Officer Gill made a remark relating to Fox having been at the CBSA building on his way down to the U.S., and pointed towards the area leading from the parking lot to the building.

***Follow-Up Contact with CBSA/May 7, 2019***

On May 7, 2019 at 1320 hours Constable Hawkins sent an email request to CBSA Intelligence Officer Pereira, as follows:

Shan,

Could you provide me with a contact at CBSA whom I could speak with about obtaining a report documenting FOX's interaction with CBSA at the Peace Arch pedestrian crossing prior to walking to the US side on March 15, 2019? Also, we would be interested in obtaining any CCTV to document

\*\*\* CONFIDENTIAL \*\*\*

	<b>BURNABY RCMP</b> <b>NARRATIVE TEXT HARDCOPY</b>
	GO# 1202 2019-10877

his interaction and movements. We know that he was at the US pedestrian primary crossing at approximately 2000hrs.

Thanks,  
Tyler Hawkins  
High Risk Offender Unit  
Burnaby RCMP

The request was sent in order to ascertain whether there was any CBSA contact with Fox on March 15, 2019, prior to his attendance to the U.S. side of the border, and if there was, if any video footage or reports could be provided to document any interaction and movements. The request was made as a result of Fox indicating he had attended the CBSA building on March 15, 2019 during his warned interview with Corporal Potts (interview April 4, 2019) and based on the indication by CBSA Officer Gill, as provided to Burnaby RCMP members, following the arrest of Fox that he had been at or near the CBSA pedestrian crossing on his way to the U.S. on March 15, 2019 (arrest April 4, 2019). Given that Burnaby RCMP investigators had been in contact with CBSA Intelligence Officer Pereira prior to Fox's return from the U.S. and after March 15, 2019 (March 21, 2019), and had not been given any information relating to CBSA having had any interaction with Fox on March 15, 2019, it was unclear whether attendance to the CBSA Douglas Crossing building had been made by Fox, or if Fox had simply walked by the building prior to crossing the border and entering the U.S, which is the usual route for pedestrians (Cst. Hawkins email previously provided to Crown Counsel on August 13/ attached).

***Follow-Up Contact with CBSA/July 31, 2019***

On July 31, 2019 at 1146 hours Constable Brown sent an email follow-up request to Intelligence Officer Pereira, having confirmed with Constable Hawkins that he had not received a response (email or otherwise) from the May 8, 2019 request (Cst. Brown's email previously provided to Crown Counsel on August 13/ attached). At 1543 hours Constable Brown received a telephone call from Chad Brown, Intelligence Officer with CBSA who advised that he was calling in regards to the request sent to his partner Officer Pereira for video footage. Officer Brown advised that the original request from May had not been actioned, as Officer Pereira had advised him she had sent the request to him while off work at that time, but he had no recollection of receiving it and regardless of the miscommunication, the task had not been completed. Further, he advised he had now requested footage from March 15, 2019 but been advised that the footage was no longer saved as the retention date had since passed.

Officer Brown advised he would forward this information via email, as a follow-up, and at 1621 hours the email was sent from Officer Brown, which contained an email response from his colleague A/Superintendent Alexander Lo, Operations Branch/CBSA advising that CCTV footage only went back as far as April 4, 2019 (Officer Brown's email previously provided to Crown Counsel on August 13/ attached).

Constable Brown provided this update from CBSA to Crown Counsel on August 2, 2019 via email. In addition, Constable Brown advised that a secondary request was made to CBSA Officer Brown to attempt to contact officers assigned to duties at the Douglas Crossing CBSA building on March 15, 2019 to ascertain whether any could recall an interaction with Fox on that day.

***Follow-Up Contact with CBSA/August 7, 2019***

\*\*\* CONFIDENTIAL \*\*\*

	<b>BURNABY RCMP</b> <b>NARRATIVE TEXT HARDCOPY</b>
	GO# 1202 2019-10877

On August 7, 2019 Constable Brown sent an email to Officer Brown (0806 hours), and then subsequently to Officer Pereira (1213 hours) once confirmed from a previous email autoreply that Officer Brown was away, requesting any video footage, if available, from April 4, 2019, the date Burnaby RCMP attended the Douglas Crossing to arrest Fox. Email as follows:

Crown is wondering if the April 4, 2019 footage is still available...sigh. I'm guessing not by now. If I had known he wanted that I would have asked for it last week. This is the day my partner and I attended CBSA building and met with U.S. BP officer Berg to exchange Mr. Fox after his return to Canada (it was between around 1045-1110 hours). Let me know either way if it is available.

Also, any updates from your end regarding any officers who may have dealt with Mr. Fox prior to him crossing into the U.S. (March 15, 2019).

I have to provide an update prior to tomorrow morning as there is another pre-trail conference Friday morning.

Thanks,  
Kirsty

Constable Brown also forwarded Officer Pereira the previous response from her partner, regarding the March 15, 2019 footage request, for reference in terms of who provided the information regarding video footage and April 4, 2019 as the furthest back in retention as of July 31, 2019.

On August 7, 2019 Officer Pereira confirmed, via an email response from A/Superintendent Alexander Lo, Operations Branch/CBSA, that the retention is a constantly moving date so they no longer had April 4, 2019 as of this request (Officer Pereira's email previously provided to Crown Counsel on August 13/ attached).

***Follow-Up Contact with CBSA/August 14, 2019***

On August 14, 2019 Officer Pereira forwarded a further email response to Constable Brown, regarding follow-up with CBSA Officer Harvey Gill. Officer Gill clarified his interactions relating to Fox, which occurred on April 4, 2019 after Fox was returned from the U.S., and he was working in the secondary inspection area of the CBSA Douglas Crossing at Peace Arch:

Hey Shan, that was not the case. I think there might be a misunderstanding. I was the secondary officer, I told RCMP who was awaiting for Mr.FOX's return that I could not hand him over as I had to process him as a traveller first since he was returning from the USA. I think the southbound conversation might have been made by US ICE who was also present.

Constable Brown confirmed that the email request to Officer Gill from Officer Pereira included the original request sent by Constable Brown on July 31, 2019, so the response from Officer Gill was provided within the context of the original request for confirmation of any CBSA interaction or information relating to Fox attending CBSA as pedestrian on March 15, 2019. In the response, Officer Gill attributed the conversation about Fox "southbound" as possibly being made by the US ICE agent (Officer Berg) who was also present (Email chain not previously disclosed to Crown/attached: K. Brown, Pereira, Gill).

\*\*\* CONFIDENTIAL \*\*\*

	<b>BURNABY RCMP</b> <b>NARRATIVE TEXT HARDCOPY</b>
	GO# 1202 2019-10877

Given that no official information or records from CBSA relating to Fox existed from March 15, 2019, efforts to secure any CCTV from that date (or April 4, 2019) did not result in any footage being available due to a miscommunication between CBSA intelligence officers and retention purges, and no CBSA officers could be located with respect to an interaction with Fox from March 15, 2019 at or near the CBSA building, police cannot provide information to Crown to assist in regards to this matter.

***Follow-Up Contact with CBSA/August 21, 2019***

On August 15, 2019, following the final scheduled date for the Probation Breach trial of Fox, Crown Counsel sent a communication request to the Burnaby RCMP Constable Brown, advising that the trial had been adjourned to October 8, 2019.

In addition, Crown Counsel was seeking further information from CBSA, specifically a response from CBSA regarding person who may or may not have dealt with Fox on March 15, 2019. Further, the request is to receive, from CBSA "...an answer whether there are records of Fox interacting on March 15, 2019 and if he was in fact either denied entry or deported from Canada."

On August 20, 2019 Constable Brown sent an email request to Intelligence Office Pereira, advising of the trial adjournment and the request for information from Crown Counsel, specifically requesting a response from CBSA, as follows:

Shan-Marie,

The Breach of Probation trial from Mr. Fox has been adjourned until October 8/10, 2019.

I have now received a request from Vancouver Crown Counsel specifically asking for information to be supplied by CBSA, to address the following:

1) Are there any records relating to any CBSA interaction with Patrick Henry FOX (aka Richard/Ricky RIESS also spelled REISS) on March 15, 2019? This includes any deportation from Canada, any escort to the USA border, or any denial of entry to Canada on March 15, 2019. \*\*\*In person or by telephone\*\*\*.

If any CBSA records from that date exist, please advise. If no such records exist, please advise.

2) Crown has indicated that this request might result in you being subpoenaed to court to testify in this matter, and that if that were to occur it would not be as a Crown witness (i.e. as a defence witness).

I will be forwarding a supplemental report to Crown detailing our previous contact with you/CBSA for the purposes of our breach investigation, which will include:

-March 19, 2019/VPD Det. Fontana contacts CBSA to advise Fox is in the U.S. as of March 15th and to request he be "Flagged" with CBSA in case he returns to Canada. \*\*\*No indication that CBSA had any documented interaction with Fox in relation to this request for police assistance\*\*\*;

-March 21, 2019/Burnaby RCMP HROU initial call with you regarding Fox being in the U.S. & receiving Christopher Shields contact information from you for our follow-up (breach investigation relating to leaving BC and being within 100 m of U.S. A. border now being investigated by Burnaby RCMP), and you providing generic details regarding the process of U.S. removals to Canada & CBSA involvement should that occur;

-May 8, 2019/email to you from Burnaby RCMP HROU Cst. Hawkins requesting CBSA CCTV Peace Arch crossing footage from March 15th (no response),

-July 31, 2019/my email to you (Burnaby RCMP HROU Cst. Brown), a second request for CCTV footage from March 15th, resulting in the call from your partner Chad Brown who confirmed the CCTV request was not completed in May & a subsequent email reply confirming footage now only went back to April 4th (so March 15th not available),

\*\*\* CONFIDENTIAL \*\*\*

	<b>BURNABY RCMP</b> <b>NARRATIVE TEXT HARDCOPY</b>
--	---

GO# 1202 2019-10877

-August 7, 2019/my email to you requesting CCTV from April 4th (per Crown's request) and your response confirming it now was no longer available,

-August 14, 2019/email response from you and Harvey Gill clarifying the context of his involvement with Fox (none on March 15th/secondary officer & processed Fox as traveller returning from U.S. on April 4th i.e. when US CBP returned Fox to Canada).

Crown had already received the a/n information with respect to police contact with CBSA, except for the update from Harvey Gill, so most of this will be a repeat. I will also be including any response you provide relating to any CBSA records relating to Fox specific to any interaction which may have occurred on March 15, 2019.

Please call me if you have any questions or concerns.

Kirsty

Burnaby RCMP HROU

Officer Peirera and Constable Brown spoke by telephone on August 21, 2019, regarding the email request, at which time Officer Pereira confirmed that there were no CBSA records relating to Patrick Henry Fox from March 15, 2019, and had there been any she would have advised Burnaby RCMP during their initial contact. Further, CBSA had no authority to deport Fox to the U.S. or deny entry into Canada as he is a Canadian citizen. Officer Peirera was involved in a previous return of Fox to Canada by U.S. officials in 2016, and can confirm a familiarity with his case from 2016 and review of those records during the initial interaction with Burnaby RCMP. Officer Pereira also confirmed that it is not uncommon for pedestrians wanting to cross into the U.S., at the Peace Arch border crossing, to seek assistance from CBSA officers regarding how and where to cross, as the border is a busy location. Further, these interactions are not considered inspections as the access to the CBSA building from Canada and departures are not restricted (whereas entry from the northbound U.S. side is i.e. pedestrians/vehicles seeking entry into Canada), and as such would not likely be documented.

Following the telephone call, Officer Pereira replied to the email request, with a written response:

CBSA does not have any record of dealing with Mr. Fox on March 15/19. Furthermore, Mr. Fox could not be deported to the USA or denied entry into Canada due to he is a Canadian Citizen.

Sincerely

Shan-Marie Pereira

Intelligence Officer, Integrated Support Unit, Operations Branch  
Canada Border Services Agency / Government of Canada

V1

Unité du soutien intégré, Direction générale des opérations  
Agence des services frontaliers du Canada / Gouvernement du Canada

V1

(Email to and response from Officer Pereira not previously disclosed to Crown/attached).

\*\*\* CONFIDENTIAL \*\*\*

	<b>BURNABY RCMP</b> <b>NARRATIVE TEXT HARDCOPY</b>
--	---

	GO# 1202 2019-10877
--	---------------------

Response to Crown Request completed within this supplementary report and attached emails referenced within the report.

Cst. Kirsty Brown  
Burnaby RCMP-GRC High Risk Offender Unit  
47608/076554  
August 23, 2019

**\*\*\* END OF HARDCOPY \*\*\***

**\*\*\* CONFIDENTIAL \*\*\***