



**IN THE MATTER OF A SERIOUS INJURY OF A MALE WHILE BEING  
TAKEN INTO CUSTODY BY DUNCAN RCMP IN THE CITY OF  
DUNCAN, BRITISH COLUMBIA  
ON AUGUST 24, 2017**

**DECISION OF THE CHIEF CIVILIAN DIRECTOR  
OF THE INDEPENDENT INVESTIGATIONS OFFICE**

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

General Counsel:

Clinton J. Sadlemyer, Q.C.

IIO File Number:

2017 - 112

Date of Release:

February 26, 2018

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## Introduction

On August 24, 2017 at 8:41 a.m. members of the Duncan RCMP attended the residence of a male [the Affected Person (AP)] following reports of suicide. AP denied suicidal thoughts and officers left without incident. At 11:30 a.m. AP called 911 reporting that he had been assaulted by an unknown male and that his jaw was “*really hurt*.”

At 1:10 p.m. Duncan Mental Health reported that AP was suicidal; the same officers attended AP’s residence and apprehended him under the *Mental Health Act* and transported him to hospital.

AP later alleged the injury to his jaw occurred during his apprehension by police. The IIO was notified of this incident by Duncan RCMP. The IIO commenced its investigation to determine if there was any connection between the actions of the officers and AP’s injuries.

## Facts

Evidence collected during the investigation included the following:

- 1) Statements from a witness officer;
- 2) An auditory witness;
- 3) Recordings of police radio transmissions; and
- 4) Medical records.

Pursuant to section 17.4 of the Memorandum of Understanding between the IIO and BC Police Agencies, Officers who are the subject of an investigation are not compelled to submit their notes, reports and data. In this case, Officer 1 declined to provide a statement or notes, reports and data to the IIO.

Officer 1 and Officer 2 attended AP’s residence August 24, 2017 shortly after 08:41 a.m. after he was reported as suicidal. AP denied suicidal thoughts, appeared sober and the officers did not find sufficient grounds for apprehension under the *Mental Health Act*. The officers left without incident.

Later that day, at 11:30 a.m., AP called 911 reporting that he had been assaulted by an unknown male. AP stated he was “*sucker punched*” twice, that he had a “*really bad jaw*” and that his jaw “*really hurt*”. AP said there were witnesses to the assault. Initially AP wanted charges laid but then, citing his anxiety and depression, said he didn’t want to speak to anyone in person regarding his complaint and so told the operator to forget about it. On the 911 audio recording, AP sounds intoxicated and quite distressed, periodically crying.

Officer 2 called AP shortly after. AP repeated he was punched by an unknown male in the jaw and that he had hit the man, and that his right arm was now paralysed. Officer 2 asked AP if he was still in the location where the assault took place but AP said he had

left, and that the male rode away on his bicycle afterwards. Officer 2 took down AP's description of the man, and let AP know that they (police) would be on patrol for the rest of the day.

At 1:10 p.m. Duncan Mental Health reported to police that AP was suicidal. Officer 1 and Officer 2 again attended AP's residence. Officer 2 recalled that the door to AP's trailer was closed, so she knocked and asked AP to come outside repeatedly. AP then flung the door part way open and stuck his hand out the door, with his cell phone in his hand, saying that he was talking to his social worker. Officer 1 took AP's phone and put it down on a stack of garbage just outside the trailer door and told AP he was being apprehended under the *Mental Health Act*. Officer 2 stated that AP said he wasn't going with them and quickly retreated into his trailer.

Officer 2 said they grabbed AP by the arm before taking him to the ground, telling him that he needed to listen as he was being apprehended, and that they would be taking him to the hospital. AP was face down. Officer 2 stated that she did not hear any particularly loud sounds and did not see if AP hit his head on the ground. AP shouted, "get your knee off me" and that he was not going to the hospital.

Officer 2 handcuffed AP and observed a large scab inside his left ear was bleeding. AP did not make any mention of his jaw at this time. Officer 2 did not see any other signs of injury. Officer 1 retrieved AP's cell phone from outside the trailer, and found the phone line was still connected. Officer 1 spoke to the person on the phone stating that AP was being taken to hospital.

En route to the hospital, AP deliberately banged his head against the Plexiglas divider in the police car several times. Officer 2 did not observe any new injuries to AP on arrival at hospital. While being triaged, AP started complaining about his jaw. At the request of a nurse, the officers then moved AP to the seclusion room and that was the end of their contact with AP.

The IIO obtained a statement from the auditory witness who was listening to the interaction between AP and police. This witness stated she had spoken to AP for 30 minutes along with another nurse. She believed AP was intoxicated because his speech was garbled and he was difficult to redirect. The witness heard AP tell the police three times that he was on the phone. She then heard an altercation and AP cry out. She stated that she also heard a male officer say, "do as I fucking tell you".

The witness heard AP screaming that he was in pain and that there was a knee on his neck and back. She then spoke to Officer 1 on the phone who informed her that AP was being apprehended.

AP was interviewed by the IIO on September 1, 2017 and he stated that prior to when the officers arrived at his residence on August 24, he had no previous head or jaw injury. AP stated that earlier that day he was in a "scuffle" with an unknown male and

that he was pushed, but did not fall down or have any marks; AP was adamant that he had not sustained any injury from that “scuffle” with the male. AP was not able to recall any witnesses to this incident.

Medical records indicate that AP suffered a fracture of the left mandibular ramus and a fracture of the nasal bone. Medical evidence cannot establish when the jaw was broken.

### **Relevant Legal Issues and Conclusion**

The purpose of any IIO investigation is to determine whether an officer, through an action or inaction, may have committed any offence in relation to the incident that led to the death of or injury to an affected person.

AP’s statement to the 911 operator, police and the IIO are inconsistent. On two occasions, AP stated that his jaw hurt as a result of a punch from another individual. These both occurred prior to his interaction with Officer 1. It is only when he reached the hospital that AP alleged that the police hurt his jaw.

The only evidence that AP’s injuries relate to a police officer is from AP himself. AP however also reported to 911 that he had been injured when he was “sucker punched” two times, that he had a “really bad jaw”, and that his jaw “really hurt”. The 911 call was recorded. However, he later described that incident to the IIO as a “scuffle” wherein he was not injured.

Following a review of the evidence collected during the course of this investigation there is insufficient evidence to consider that an officer may have committed any offence during this interaction between AP and police.

Accordingly, as the Chief Civilian Director of the IIO, I do not consider that any of the attending officers may have committed an offence under any enactment and therefore this matter will not be referred to Crown counsel.

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**Clinton J. Sadlemyer, Q.C.**  
**General Counsel**

February 26, 2018  
**Date of Release**

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**Ronald J. MacDonald, Q.C.**  
**Chief Civilian Director**

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