



IN THE MATTER OF THE DEATH OF A FEMALE
IN PRINCE GEORGE, BRITISH COLUMBIA
ON MARCH 5, 2016

DECISION OF THE CHIEF CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATIONS OFFICE

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

Legal Counsel:

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Introduction

On March 5, 2016 the female Affected Person (AP) was located with serious head injuries in an alley between residences in Prince George. There was initial uncertainty about the cause of her injuries, but at autopsy a pathologist identified the most likely cause as being a motor vehicle running over her head as she lay on the ground. Because police vehicles were present in the area around the relevant time, the IIO was notified, three days after the incident.

Evidence

Incident Chronology

On the evening of March 5, 2016, AP was the victim of an alleged assault at the home of Civilian Witness 1 (CW1) in Prince George. In the course of the assault, AP had fallen and hit her head. Both she and the alleged assaulter (CW2), a basement tenant of CW1, had been drinking alcohol and were intoxicated. AP left the home after the incident, and was last seen standing in the back yard, leaning on a fence. She was described as apparently uninjured at that time. She was said, though, to fall down and lose consciousness for varying periods quite often when intoxicated.

CW1 had called a cab to take both AP and CW2 away. The call was made at 9:55 p.m. The cab arrived in the back alley behind the house, but according to CW1 AP had disappeared by this time. CW3, another witness at the scene, saw the cab leaving and ran after it:

I, like, ran past [CW2] and I went up to the cab driver, and I said, like, "He's still here." And the cab driver said, "They're too drunk". And then just left.

The home where the initial incident occurred was on a corner, and backed onto the south end of the alley where it met an east-west avenue. There was no street light in the area of the intersection of the alley and the avenue. The cab driver (CW4) told IIO investigators that he had pulled in behind the house from the south. He noticed people apparently looking for a missing woman, and saw CW2 who was clearly intoxicated. CW4 said he had declined to take CW2 as a passenger as the man was too drunk and had soiled his pants. CW4 said he locked his doors and backed out into the alley, turning to leave by the way he had come, southbound.

As he was doing so, he said he had seen a female lying by the fence at the side of the alley. The woman's feet were towards the fence, her head towards the alley. He called back to the people at the back of the house, and later told investigators a number of times that he had the impression they had heard him:

And I stopped my car and I yelled those guys, eh? Open my door a little bit. "Hey", I said, "the lady's here". Yeah. And they heard about it.

Security camera stills from the cab interior appear to confirm this account. CW4 is seen to react to something he sees, ahead and to his left, as he is leaving the alley. He is then seen to bend out of frame to his left, as if leaning out of an open driver's side door. It is apparent from the camera stills that AP did not get into the cab.

CW4 said that the woman had not been lying there when he had entered the alley. Although his description of where he had seen AP matched fairly closely to where she was later found, he told RCMP investigators at the scene that when he saw AP, she had not been "where the blood was".

GPS records showed that the cab arrived at the scene at 9:57 p.m., and departed at 10:02 p.m.

After the cab drove away, CW1 still wanted CW2 to leave the house, so she called the police. The call was made at 10:08 p.m. While CW1 was on the phone to the police operator, she said she had walked around the back yard looking for AP. She said she had looked over the fence into the area where AP was subsequently found, and AP had not been there:

I'm looking over to see if maybe she tried to jump, when she heard I called the police. But there was nothing there. Where they found her, I looked. Several times in that same area, and she wasn't there.

Two officers (SO1 and SO2, who are the subjects of this investigation) attended and arrested CW2. SO1 was driving a police cruiser; SO2 arrived in a police SUV. Both police vehicles drove into the alley from the south at about 10:13 p.m. SO1 placed CW2 under arrest. After about five or six minutes the officers left, SO1 to transport CW2 to the detachment and SO2 to patrol the area looking for AP.

Subject officers in IIO investigations are not required to provide statements to the IIO, pursuant to the Memorandum of Understanding between the IIO and police services, and consistent with the *Charter of Rights and Freedoms*. Both SO1 and SO2 agreed, through their respective legal counsel, to provide voluntary written statements, which have provided helpful evidence to the IIO.

SO1 said he had left the scene by driving on (northward) up the back alley. He took CW2 back to the police detachment, and had him lodged in cells. In the course of doing so, he heard on the radio that a new file had been created for the same address. It was reported that a female had been found very badly injured in the back alley. SO1 finished his paperwork and returned to the scene to assist. When he was updated on the situation, he formed the opinion that the injuries had likely been caused by CW2, so

returned to the detachment with another officer to seize and photograph CW2's clothing, and to take DNA swabs.

Returning again to the scene, SO1 was asked by police forensics officers to permit inspection of the tires and wheel wells of his police vehicle, which he did. Based on his discussions with them, he said they seized both his vehicle and that of SO2 for further examination.

SO2 described the arrest of CW2 by SO1 and said that, when he was advised that AP was missing, was intoxicated and had fallen and hit her head, he had looked around the immediate area for her. He walked up the side of the house shining his flashlight, and searched around the fence line and the garden shed. He said he had gone out into the alley in front of SO1's vehicle, and had shone his light up the alley, seeing nothing out of the ordinary. He had then walked to the back of his SUV which was parked less than twenty feet from the southern end of the alley, and shone his flashlight around that area, again noting nothing untoward. He had then backed out of the alley and departed.

In the course of his patrols looking for AP, SO2 circled around the neighbouring blocks, on one occasion driving north the length of the alley. After a few minutes of this, he returned to the detachment to see if CW2 might have any suggestion as to where AP might have gone. While he was there, he too heard the call for a badly injured female in the back alley, and returned to the scene to find paramedics and firefighters already in attendance.

When SO1 and SO2 departed, CW1 had returned to her house, but a short time later noticed bright lights in the back alley and the sound of approaching sirens. She went out to the alley and saw firefighters attempting CPR on AP, who was lying outside the fence with her feet *"right up against"* the fence and her head *"kind of on the alley."*

At about 10:25 p.m., only a few minutes after the subject officers had left the scene following the arrest of CW2, CW5 had driven southbound down the back alley. It was very dark, so he turned on a light bar mounted on his truck. Just as he was about to pull into the parking spot behind his house, he saw that there was *"something"* up ahead on the ground. Moving his truck closer, he saw that a woman was lying on the ground near the end of the alley. He called 911 to request that an ambulance attend, and went to help the woman.

First responders stated they arrived at 10:33 p.m. and found CW5 beside AP attempting CPR. She was lying at the side of the alley with her feet by the grass beside the fence and her head in the middle of the alley. There was a lot of blood on the ground around her head and she was unresponsive. After about ten to fifteen minutes, when an advanced life support ambulance (ALS) had arrived, AP was transported to hospital, where she was subsequently pronounced deceased.

Witness Observations at the Scene

One of the ALS paramedics attending, CW6, described arriving several minutes after the primary care paramedics, and conducting a cursory examination on AP while his partner was setting up to transport her. He noted trauma—a depressed skull fracture—to the right frontal area of AP's head, and a major soft tissue laceration at the back of the head. He looked around the surrounding area, and did not see any blood trail, or any other indication that she had been dragged to the spot where she was found. There was no sign from any marks in the soft dirt, he said, that CW5 had driven up to or over AP. CW6 looked also for any broken glass in the vicinity, but saw none.

AP was wearing dark clothing, and the scene was essentially unlit and very dark. The alley was unpaved, and was uneven and rough, with multiple shallow potholes. When found, AP was lying partly out into the alley, with her head in one of the potholes.

Initial Forensic Examination of Vehicles

Because the RCMP were aware that both subject officers had driven in the alley on the evening in question, both of their vehicles were examined by an RCMP forensics officer on the morning after the incident. No hair, blood or other biological material was noted on the tires, lower portions, undersides or wheel wells. However, both vehicles had driven some distance between when they had first been in the alley to when AP was found.

Autopsy and Toxicology

On 8 March 2016, a pathologist commenced the autopsy procedure with a brief visual examination of AP's head injuries. Based on that examination it was decided that the IIO should be notified, as there was a possibility that the injuries had been caused by contact with a motor vehicle. Police vehicles had been in the alley shortly before AP was found, so there was a possibility that a police vehicle had caused the injuries.

The autopsy was continued the next day, with an IIO investigator present. The cause of death was determined to be brain damage due to blunt force trauma to the head. There was a pressure fracture to the right side of the head and a hinge fracture at the base of the skull. The injuries were consistent with force being applied to the right side of the head while the left side was against the ground or a stationary object.

There were no injuries consistent with AP having been first struck by a vehicle, then having fallen and been run over by it.

AP's blood alcohol concentration was measured at 0.23%, almost three times the legal limit for driving in Canada.

Further Forensic Tests

The vehicles of both subject officers were more completely inspected and tested. There was no evidence that either vehicle had come in contact with AP, or that either vehicle had been cleaned between the evening of AP's death and the vehicle examination.

Shortly after the incident, CW4's cab was examined. There was nothing to indicate the car had been involved in a collision with AP.

IIO investigators attempted to re-create the circumstances that may have led to AP's death, using vehicles similar to those driven that night by the two subject officers, but with different drivers. In daylight, the two vehicles were driven repeatedly through a right turn manoeuvre into the south end of the alley, approximating the turn the subject officers would have taken when entering the alley. A marker was placed in the location where AP's head had been when she was found. On a majority of occasions, for both vehicles, the turn resulted in the front right tire missing the marker, but the right rear tire running over the marker.

Relevant Legal Issues and Conclusion

The objective of the IIO investigation is to determine if an officer may have committed an offence in connection with the incident leading to the death of AP. Since the cause of death appears to have been a vehicle driving over AP's head as she lay on the ground in the alley, the potential offences considered with respect to the two subject officers were driving offences such as dangerous driving or criminal negligence causing death, and leaving the scene of an accident.

The difficulty faced by the IIO in this case is that there is no direct evidence to explain what happened to AP during the approximately half hour between the time when she was last seen alive and the time she was discovered lying in the alley. Thus a careful examination of the known evidence was required.

It is clear that AP disappeared from the back yard of the residence in the few minutes between CW1's call for a cab at 9:55 p.m. and the cab's arrival at 9:57 p.m. There is evidence of the presence of three vehicles in the alley: the cab, and both police vehicles. It is generally not the mandate of the IIO to examine the actions of non-police individuals. In this case, however, it is necessary to examine the actions of the cab driver to some extent as that may demonstrate the injuries to AP were not caused by police. The actions of the cab driver have been the subject of an investigation by the RCMP.

The cab turned into the alley from a direction in which the area where AP was apparently lying was particularly difficult to see, especially in the extremely poor lighting conditions, because of the presence of a large utility pole and a small embankment at

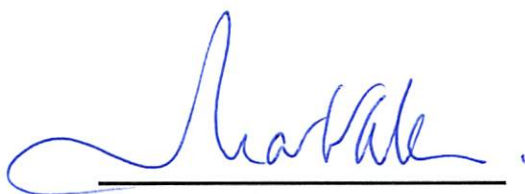
the side of the alley entrance. It is at least possible that AP had fallen down at the side of the alley, and was run over inadvertently by the cab as it entered the alley. CW4 denies he struck AP, and says he saw her and alerted others to her presence. And after he left CW1 says she was looking around, including outside the fence, and did not see AP. Even if CW1 was mistaken, SO2 specifically stated that after the cab driver left he used his flashlight at that time to scan the area where AP was later found, and saw nothing. Thus the evidence does not support a conclusion AP was struck by the cab.

As discussed above, both police vehicles drove into the alley on a path that could have brought them into contact with AP as she lay on the ground. However, at the time when police officers arrived, no civilian witness saw AP lying in the alley, and neither did either subject officer. In addition, the examination of the police vehicles did not discover any evidence that suggested any physical involvement with AP's death.

The most likely inference to draw from the known evidence is that AP wandered away from the back yard towards the end of the alley before the cab arrived. At some point after police attendance, it appears AP lay on the ground in the travelled part of the alley, and was run over in the darkness by a passing vehicle. There is no evidence to confirm what vehicle that was. Indeed, given the condition of the alley a person may not have noticed striking AP's head.

While the events of that evening and their consequences are tragic, the evidence collected does not provide grounds to consider charges against any officer.

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



Martin F. Allen
Legal Counsel

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Ronald J. MacDonald, QC
Chief Civilian Director

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