



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

May 29, 2015

15-08

No Charges Approved in IIO Investigation of Hope RCMP Officers

Victoria – The Criminal Justice Branch (CJB), Ministry of Justice, announced today that no charges have been approved against two members of the Hope Royal Canadian Mounted Police (RCMP) detachment in connection with circumstances surrounding an arrest on August 25, 2014. As the man arrested in the matter was injured after falling down some stairs, the matter was investigated by the Independent Investigations Office (IIO), which subsequently submitted a Report to Crown Counsel to CJB.

Following an investigation, where the Chief Civilian Director of the IIO determines that an officer may have committed an offence, the IIO submits a report to CJB. The Chief Civilian Director does not make a recommendation on whether charges should be approved.

In this case CJB has concluded based on the available evidence that there is no substantial likelihood that the officers subject to investigation would be convicted of any offences arising from the circumstances. A Clear Statement explaining the decision in greater detail is attached to this Media Statement.

In order to maintain confidence in the integrity of the criminal justice system, a Clear Statement explaining the reasons for not approving charges is made public by CJB in cases where the IIO has investigated the conduct of police officers and forwarded a report to CJB for charge assessment.

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To learn more about B.C.'s criminal justice system visit the British Columbia Prosecution Service website at:

www.ag.gov.bc.ca/prosecution-service/

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Clear Statement

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Summary

On August 25, 2014, two members of the Hope RCMP (referred to as “Officer 1” and “Officer 2”) attended at a disturbance at a motel in Hope, B.C. An intoxicated guest was arrested (“the Guest”) and while being escorted down some stairs by Officer 1 fell and suffered a significant injury. There is no evidence that the fall was other than an accidental occurrence. At issue in the case was whether or not the officers made a false statement in their reports or in the course of the IIO investigation, and might therefore be subject to a charge of Obstructing Justice.

Following a thorough review of the Report to Crown Counsel submitted by the IIO, CJB has concluded that the available evidence is not capable of establishing that either officer made a false statement, and therefore there is not a substantial likelihood that either officer would be convicted of Obstructing Justice. As a result, no charges have been approved against these officers.

This Statement contains summaries of the evidence gathered during the IIO investigation, and the applicable legal principles. The summaries are provided to assist the public in understanding the decision of CJB not to approve charges against the officers who the Civilian Director concluded may have committed an offence. They do not detail all of the evidence considered, or discuss all relevant facts, case law or legal principles.

The charge assessment in this matter was conducted by a senior Crown Counsel who is located in a different area of the province than the officers under investigation, and who has no prior or current connection with the officers.

Charge Assessment and the Criminal Standard of Proof

The Charge Assessment Guidelines applied by the Criminal Justice Branch in reviewing all Reports to Crown Counsel are established in Branch policy and are available online at:

http://www.ag.gov.bc.ca/prosecution-service/policy-man/pdf/CHA1_ChargeAssessmentGuidelines.pdf

In making a charge assessment, Crown Counsel must review the evidence gathered by investigators in light of the legal elements of any offence that may have been committed. Crown Counsel must also remain aware of the presumption of innocence, the prosecution’s burden of proof beyond a reasonable doubt and the fact that under Canadian criminal law, a reasonable doubt can arise from the evidence, the absence of evidence, inconsistencies in the evidence or the credibility or reliability of one or more of the witnesses. The person accused of an offence does not have to prove that he or she did not commit the offence. Rather, the Crown bears the burden of proof from beginning to end.

A criminal trial is not a simple credibility contest between witnesses for the Crown and witnesses for the defence. If an accused person testifies and denies an offence, he is entitled to be acquitted in any or all of the following circumstances: if the judge or jury

accepts his evidence; if the judge or jury finds that his evidence raises a reasonable doubt; if the judge or jury does not know whom to believe; or, even if the judge or jury does not accept the evidence of the accused, but nonetheless finds that there is a reasonable doubt in favour of an acquittal on the totality of the evidence.

Relevant Law

Section 139 of the *Criminal Code* provides that anyone who wilfully attempts in any manner to obstruct, pervert or defeat the course of justice is guilty of an offence. Making false statements to investigators, or in relation to an investigation, may be a basis for a charge of Obstructing Justice, where the allegedly unlawful act is made for the purpose of obstructing justice.

Summary of Relevant Evidence

On August 25, 2014 a Motel Manager called Hope RCMP to attend the motel to deal with the Guest, who was causing a disturbance in his room, swearing, shouting, and banging, and would not desist after being asked to do so. The officers who attended the motel initially arrested another man, who was lying on the ground in front of the motel office and who was extremely intoxicated. Officer 1 took this individual to a patrol car.

Meanwhile, the Guest was verbally abusing the officers from an upstairs balcony, just outside his guestroom. Officer 2 went upstairs to deal with the Guest. Officer 1 and the Manager then joined Officer 2 upstairs, and the Guest was arrested for Causing a Disturbance. His hands were handcuffed behind his back.

Officer 1 then escorted the Guest along the balcony and down the stairs. About three or four stairs from the ground, the Guest's legs gave out. Officer 1 tried to prevent him from falling, but was unable to support his weight and the Guest fell face first on the ground. Officer 1 shouted "Oh no" and began to render first aid. Officer 2 attended very quickly to assist. Officer 2 called for an ambulance to attend, and then obtained the first aid kit and an emergency blanket from the patrol car. Paramedics attended and conveyed the Guest to hospital.

According to Officer 1 he released his hold on the Guest when he began to fall, as he was concerned that if he did not then both of them would fall and his own bodyweight would then land on the Guest. Although Officer 1 was not aware of Officer 2's location at the time the Guest fell, Officer 2 joined him very quickly after it happened. Officer 1 believed or assumed that Officer 1 must have been behind him at the top of the stairs when the Guest fell.

According to Officer 2, he and the Motel Manager were following as Officer 1 proceeded to the top of the stairs. Officer 2 recorded the following in his police report:

(Officer 1) proceeded down the staircase and (Officer 2) remained on the landing; that (Officer 2's) attention was then drawn to (Officer 1) shouting something similar to, "Whoa, whoa, whoa", and (Officer 2) then turned and saw the Guest falling forwards in front of (Officer 1) and that (Officer 1) appeared unable to hold the Guest without falling himself and (the Guest) fell face first to the sidewalk.

One motel guest told investigators he heard someone falling and the shout of “whoa, whoa” followed by an officer calling for an ambulance. He did not see what had occurred.

The Motel Manager advised IIO investigators that he was in the room with Officer 2 when he heard Officer 1 shout out, and he and Officer 2 left the room, walked quickly to the top of the stairs, and could see the Guest lying on the sidewalk with Officer 1 near him.

Another guest advised investigators that Officer 2 was in the parking lot and came running from beside the police car when the Guest fell.

The Guest was under medical advice to not consume alcohol with a medication that he had been prescribed. He had experienced previous episodes where he had collapsed. However, he had been drinking that evening in a bar and a restaurant in Hope. The Guest has no clear recollection of the incident. While he had a vague recollection of being arrested by police, he thought that had occurred at a bar. He had no memory of meeting anyone that evening, although there were other individuals in his room when he was arrested. He was not aware of having returned to his motel room. He was described by another motel guest as being extremely intoxicated.

Application of the Law to the Facts

On the available evidence there is no basis to conclude that the Guest falling was anything other than an unfortunate accident caused when he collapsed as Officer 1 was escorting him down the stairs.

In order to sustain a conviction for Obstructing Justice the Crown requires proof, beyond a reasonable doubt, that each officer knowingly provided a false account of events in his police report or in his statement to IIO investigators. It would not be enough that an officer provided a statement that was incorrect – the statement must have been made knowing that it was false.

The only possible basis for a charge of Obstructing Justice would be the inconsistency between the two (different) versions of events from the Motel Manager and another civilian witness, and the version of events provided by the two officers.

Some evidence suggests Officer 2 was not in a position to view the Guest fall as he described in his police report.

Similarly, other evidence could be interpreted as suggesting that Officer 1 provided an incorrect account to investigators when he stated that he believed that Officer 2 must have been somewhere at the top of the stairs when the Guest fell.

CJB has concluded that there is no evidence sufficient to establish that either officer was in fact untruthful or has committed any offence in this matter. There are two conflicting civilian reports which are markedly inconsistent about the location of Officer 2 at the time when the Guest fell down the stairs. One places the officer in a second floor motel room, while the other places him in the motel parking lot. Given these significant inconsistencies in the evidence of the two civilians, the Crown would not be able to prove that Officer 2 was not actually in the location that he stated in his report when the

Guest fell. There is also no apparent reason for Officer 2 to be untruthful about his location or what happened.

Officer 1's statement that Officer 2 was behind him near the top of the stairs was an assumption based on the facts available to him at the time. It is reasonably capable of belief, given they had just been together in order to effect the arrest, and Officer 2's very quick attendance at the place where the Guest landed after he fell.

In the circumstances of this case CJB has concluded that it cannot be proven beyond a reasonable doubt that the statements made by the officers were false. As such, there is no evidence sufficient to establish that the officers intended to obstruct justice or were making an attempt to obstruct justice, and no charges have been approved.

In completing the charge assessment in this matter CJB reviewed the following material:

- Incident Synopsis
- Event Chronology
- Witness Statements
- Police Notes and Reports
- Investigators' notes and summaries
- General Occurrence and Task Action Reports
- Medical Records
- Audio and Video Recordings
- Photographs