



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED
BY A MEMBER OF THE RCMP IN DUNCAN, BRITISH COLUMBIA
ON FEBRUARY 02, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019 - 027

Date of Release:

May 2, 2019

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Introduction

On February 2, 2019, RCMP officers responded to a complaint concerning three male youths slashing vehicle tires in Duncan, B.C. All three youths were arrested. Four days later, officer 1 returned to work after his days off and was informed by the father of one of the youths that his son (Affected Person or 'AP') had been injured during the arrest. The injuries included a broken elbow and two fractures to his right arm.

The Independent Investigations Office (IIO) was then notified by the RCMP when the injury became apparent. The IIO commenced its investigation as the injury to AP may have been within the definition of "*serious harm*" as defined in the *Police Act* and officers were present.

Evidence collected during the investigation included the following:

- 1) statement of AP;
- 2) medical records;
- 3) dashcam footage from police vehicle;
- 4) closed-circuit television ("CCTV") footage from local residence;
- 5) police Computer-Aided Dispatch ("CAD") and police reports;
- 6) recordings of 911 calls and police radio transmissions.

On February 2, 2019, at 02:27 a.m., the RCMP received a report of three male youths slashing vehicle tires near Sherman Road. At 2:28 a.m., officers saw three youths running on Sherman Road. Two of the youths were arrested, but AP resisted arrest and a struggle occurred before he was taken to the ground and handcuffed.

In an interview with AP, he stated he was with two friends, one of whom stabbed a vehicle tire and then yelled "*run!*", which all three did. AP said he saw police and did not think he had done anything wrong, so he walked away. AP said an officer tackled him to the ground and described landing on outstretched arms and rolling onto his elbow as he hit the ground. AP said he resisted arrest and kept his arms underneath him and that police grabbed his wrists and pulled his arms behind his back. AP claims his right arm was pulled so hard that he felt the ligaments pull. AP yelled that police were hurting him; he was then handcuffed and arrested for mischief.

At 2:34 a.m., AP was checked into cells. He admitted that he gave a false name, date of birth and refused to give police his parents' contact details. Police determined his identity much later when one of his friends gave his real name and AP confirmed it. However, he still did not provide his parents' details voluntarily.

AP's mother collected him and took him home at 6:40 a.m. When AP woke a few hours later, he told his mother his arm was hurting. This was the first time he had told anyone he was in pain. He said his arm had hurt when he was in the cells but didn't tell anyone because he was angry.

The next day, February 3, 2019, AP was taken to hospital where it was determined that he had a fracture in the elbow joint and two fractures in his arm. AP's medical records obtained corroborate these injuries.

Officer 1 and Officer 2 drove towards the roundabout on Sherman Road at Canada Avenue when Officer 1 saw three males running and attempting to hide when they saw the police car. Officer 1 exited the police vehicle and approached AP, advising him he was under arrest for mischief. AP told Officer 1 that he had done nothing wrong and attempted to walk away. Officer 2 took AP's arm and told him he was under arrest. AP again said he had done nothing wrong and attempted to walk away. Officer 1 said Officer 2 used a "*bear hug*" to take AP to the ground. Officer 1 took control of AP's legs and used his body weight to control AP. AP continued to resist arrest by refusing to give the officers his arms. Officer 3 arrived and ordered AP to put his arm behind his back; when AP failed to comply, he then used force to place the arm behind AP's back.

CCTV footage from an on-looking residence shows AP running. It shows another youth run towards a tree and drop something on the ground, before returning to the police with his hands up. Another youth can be seen to put his hands up and wait for police to arrest him. AP can be seen walking away from an approaching officer. In the video, a command from officers to "*get on the ground*" can be heard as the officer takes AP to the ground. AP replies, "*why? I did nothing.*" Footage is then obscured by police emergency lights from the second police vehicle that arrives on scene.

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 injury to AP.

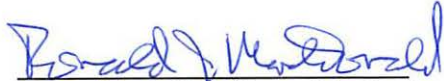
A police officer who is acting as required or authorized by law is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do, and in using as much force as is necessary for that purpose.

Police had lawful authority and reasonable grounds under the circumstances to arrest the youths. The information they had received was that the youths had apparently committed the offence of mischief by damaging property. Further, reports that a sharp object had been used provided a basis for caution on the officers' part in dealing with the youths. This resulted in verbal instructions that the three youths were under arrest. AP admits he did not comply with police instruction when he was told to get down. Therefore, officers used force to contain a person that they believed may have a sharp object. AP also stated he refused arrest and officers were justified in using force to put his arms behind his back to apply the handcuffs.

The other two youths were arrested without police using force.

The evidence collected does not provide grounds to consider any charges against any officer.

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


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

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