



**IN THE MATTER OF THE INJURY OF A MALE  
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP  
IN THE CITY OF PRINCE GEORGE, BRITISH COLUMBIA  
ON MAY 11, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019-086

Date of Release:

June 15, 2022

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## **Introduction**

On the evening of May 11, 2019, the Affected Person ('AP') was stopped while riding a bicycle on the street in Prince George. He was arrested by RCMP members after displaying non-compliance and being found in possession of weapons. Although AP was seriously injured in the course of his apprehension, he did not receive medical care until the following day. The Independent Investigations Office ('IIO') was notified and commenced an investigation. The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- statements of AP, four other civilian witnesses, two civilian jail guards and three witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- police dispatch channel radio recordings;
- cellphone visual and audio recordings of parts of the incident;
- Closed-Circuit Television ('CCTV') recordings from the RCMP detachment;
- RCMP detachment documentation;
- RCMP policies;
- photographic and physical exhibit evidence; and
- medical evidence, including an expert medical opinion.

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, both Subject Officers declined to provide any account to the IIO.

## **Narrative**

At about 8:30 p.m. on May 11, 2019, Witness Officer 1 ('WO1') saw AP cycling "erratically" on the street (swerving between traffic), and pulled him over to issue him a ticket. Based on his "rude" and "odd" behaviour, she concluded he was under the influence of drugs or alcohol, and told him he was under arrest for being intoxicated in public. AP, however, cycled away, and WO1 followed in her police vehicle, emergency lights flashing.

When AP described the incident to IIO investigators, he said that WO1 had permitted him to leave after giving him the ticket. He said he cycled to a relative's house where he was confronted by several police officers. He said he told the officers he had a weapon (a rock in a sock) in his pocket, and when he took it out and threw it on the ground, he was "rushed" and "hip tossed" to the ground.

WO1 had called for other officers to attend. When AP arrived at his relative's house, she ordered him to stop, and told investigators that when she did so, AP produced a "long metal thing" from his waistband. She said she told him to drop the object, and he did. WO2, who arrived at about this time in the company of Subject Officer 1 ('SO1'), confirmed that AP pulled out a metal object with a handle that looked like "a handmade baton". WO1 said that SO1 immediately took AP to the ground, and she assisted with handcuffing him. WO2 assisted by applying pressure to one of AP's shoulders as he lay face-down being restrained.

At about this point a nearby resident started recording the incident with a cell phone. The video shows AP being lifted to his feet by SO1 and then being taken to a police vehicle. AP is handcuffed behind his back. In the video, AP can be seen to be walking without apparent difficulty, bearing weight on both legs. The video ends with AP standing against the vehicle being searched by police.

In his IIO interview, AP alleged that SO1 also punched him in the head during the arrest, but there is no corroboration for this allegation from any civilian or police witness or video. There is no mention in the medical records of any injury potentially related to the allegation.

WO1 told investigators that while the officers were trying to search AP and remove dangerous objects (including a shotgun shell) from his pockets, he became "uncooperative", yelling and pulling away. WO2 said that because of this, AP was again taken to the ground by SO1, now assisted by SO2, who had just arrived. WO1 said that as the search of AP's person continued, officers also found a rock "zap-strapped" inside a sock in his pocket.

A second cell phone video was taken at about this time, and in that video AP can be heard screaming in apparent pain before he is lifted to his feet by the two Subject Officers. At this point it is apparent that AP cannot walk or bear weight on his legs. WO2 confirmed that AP was complaining of pain as he was put into the vehicle, but said that she did not believe he was seriously injured. Medical evidence later confirmed that AP was now suffering from a broken hip.

Video from the RCMP detachment shows AP clearly unable to bear weight on his left leg as he is moved into the cells area. He is seen being placed in a cell, where the handcuffs and his belt are removed and he is left lying on the floor. He later told IIO investigators that he was in great pain, and that he repeatedly asked a female civilian guard for medical attention. He said that her response was "It's not my fucking problem". Finally, he said, officers on the following day's shift called for an ambulance.

Asked about this by IIO investigators, WO1 acknowledged that AP had told her that “his leg hurt, and we didn’t do anything to his leg, so I just thought he was trying to get out of being in cells”. She said that AP “never once said his hip hurt”.

Civilian Witness 1 (‘CW1’) was housed in the same cell as AP during the night. CW1 told investigators that he had witnessed AP lying on his side, “like a baby and screaming in pain”, and confirmed that at no time during the night did any police officer or guard enter the cell to assist AP. CW1 said that when he tried to draw the attention of the guard to AP’s plight, he was told that if he did not “keep the noise down” his detention in cells would be extended.

Two civilian guards were interviewed by IIO investigators. Civilian Guard 1 (‘CG1’) was on duty throughout AP’s stay in cells. She acknowledged that “the main responsibility of my job is the care and safety of the prisoners”. She also acknowledged that she had noted in the cell logbook a complaint from AP that he had a broken leg, and said that she “would have” passed on that information to “numerous people”, but “nobody seemed concerned about it, so I wasn’t concerned either”. At different points in her IIO interview, CG1 named two RCMP officers, but could not recall specifically which officer or officers she “would have” told. Several log entries described AP “lying on his side, facing the wall, crying” or “yelling loudly”. Asked about this, CG1 responded “He made a lot of noise that night, but then, he always does—he’s a very obnoxious drunk person ... I like to say that he’s ugly inside as well as out”. CG1 told investigators that if a detainee complains of an injury, they have to prove it to her by showing her, and AP did not do that. “Everybody lies, they all lie, that’s my baseline”, she said. Asked if she recalled any interaction with any other occupant of AP’s cell, CG1 said she did not.

At about 5:00 a.m., CG1 said, RCMP members entered the cell to release AP, but he “refused to be released”, so the officers “kind of dragged him out” to the booking area, where he was found to be seriously injured, and an ambulance was called.

CG2, another jail guard interviewed, took over from CG1 in RCMP cells on the morning in question. When she arrived at the detachment, CG2 noticed a male (AP) sitting in the booking area. She said that CG1 told her an ambulance was coming for him, but did not give her any information about his condition. Asked about procedures around prisoner welfare, CG2 said that whenever a guard informs an officer that a prisoner has raised a medical issue, the officer comes to the cell and talks to the prisoner and then, if necessary, calls an ambulance. “It’s not my position to pick and choose what’s fact and what’s fiction, so I call an NCO”, she said.

WO2, a supervisor just coming on duty who was informed by SO1 at 5:20 a.m. on May 12 that AP was complaining of a broken leg and who directed that an ambulance be called, confirmed that it is the duty of the jail guard on duty to report any potential medical issue to an officer, who will then go to check on the prisoner personally and make a decision as to the appropriate response. WO2 stated that there was an acrimonious relationship between CG1 and the RCMP NCO's, that she would not report issues to them, and that he doubted she reported AP's injury to any officer. He told IIO investigators that he felt CG1's attitude was "fuck the prisoners, they're scumbags ... they all deserve it", and that she was primarily motivated by "revenge".

At the hospital, AP was diagnosed with a "comminuted, impacted, proximally subluxed fracture through the intertrochanteric region of the left femur", or fractures in the thigh bone where it connects to the hip, likely caused by a fall. A medical expert witness told the IIO that the injury would have been caused by "significant blunt trauma". He also stated that, given the nature of his injury, AP should have been immobilized and given strong pain medication in a hospital setting. AP would have suffered "severe pain" during the period he was left lying on the cell floor, which would have been exacerbated by any movement. Any movement of the hip, he said, would have been "excruciating". Some hip fractures, the doctor added, also have associated injury to blood vessels that can result in life-threatening bleeding, so that early diagnostic work should have been carried out (the doctor stated, though, that "In [AP's] case the fracture pattern was such that a delay in treatment would not endanger his life").

## **Legal Issues and Conclusion**

The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death. More specifically, the issues to be considered in this case are whether any offence may have been committed by an officer in relation to the mechanism of AP's injury itself, or to the lack of proper medical care at the RCMP detachment.

With respect to the first issue, the arresting officers were acting in lawful execution of their duty, and there are no reasonable grounds to conclude that their use of force against AP was unnecessary or excessive. On the evidence, AP was arrestable for public intoxication and obstruction, was carrying a number of dangerous home-made weapons and was aggressively non-compliant. It was not unreasonable to take him to the ground so that a search for officer safety could be completed, and although that appears to have been the action that caused the injury, it does not appear to have been conducted in an unorthodox

manner or with an excess of force. AP's complaint that he was punched in the head is not supported by any other evidence, and must be said to be unreliable.

The second issue is more troubling. Under the *Criminal Code*, police officers and jail guards are bound by a legal duty to provide 'necessaries of life' (including medical care) to any person in their custody. Failure to perform that duty is a criminal offence if it endangers the person's life, or causes or is likely to cause the person's health to be injured permanently. The *Code* also makes 'torture' a criminal offence, 'torture' being defined as intentional infliction by an official of severe pain or suffering on a person for a purpose, amongst others, of punishing or intimidating that person.

It is clear that, collectively, there was a failure by detachment personnel on the night in question to provide appropriate care for AP. The medical evidence also makes it clear that, given the nature of the injury AP was subsequently found to have suffered, there was an actual risk to AP's life arising out of the delay in getting him to hospital and the possibility of internal bleeding associated with his broken hip. That risk, though, would only be apparent to a medical professional who was aware of the specific nature of AP's injury. In order for a police officer, who does not have medical training, to be liable at law the injury must be such that it would be objectively reasonable to expect them to be aware that the injury could be life threatening. While there was evidence to suggest that AP had a broken leg, that can not be said to have amounted to evidence of a life threatening condition.

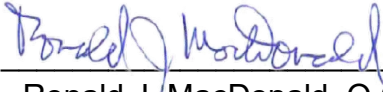
There is also difficulty ascribing actual knowledge of AP's condition to a police officer, other than WO1, who acknowledged that AP told her his leg hurt. CG1 seemed unwilling to provide clear evidence about any specific officer she actually told, other than to say she "would have" told the officers on duty that night, or "numerous people". Given that she did recall the officers who were working that evening, her failure to confirm which one she told impacts the reliability of her evidence. In addition, the evidence of CG2 was that in her experience, an officer who was told that a detainee was injured would come to cells and speak with the detainee. That evidence makes CG1's allegation that none of the officers on duty responded to AP's distress seem implausible. WO2's evidence about CG1 is also strongly suggestive that she may not in fact have told any officer.

The evidence does demonstrate that CG1, at least, was aware that AP was complaining his leg was broken, and spent the night on the floor, crying, shouting or screaming in obvious distress. In fact, the evidence is that he would likely have been in severe or "excruciating" pain. Further, there is evidence that CG1's attitude towards prisoners was antagonistic and motivated by "revenge" of some sort. Her significant antipathy towards

prisoners, and towards AP specifically, was demonstrated by her own responses in her IIO interview.

This body of evidence could be seen as providing grounds to conclude that CG1 may have committed a criminal offence through her conduct with respect to AP. CG1, however, is a civilian employee of the City of Prince George, and so is not an 'officer' as defined in the *Police Act* provisions that set out the jurisdiction of the IIO. That being so, the IIO does not have authority to refer CG1 to Crown counsel for consideration of criminal charges. Accordingly, the matter of CG1's conduct was referred to the RCMP for that police force to conduct an investigation. The IIO has now been informed by the RCMP that their investigation is complete and no criminal charge with respect to CG1 will be referred by them to Crown counsel.

Regarding the involved police officers, the evidence does not meet the legal tests with respect to the potential offences considered. Accordingly, as the Chief Civilian Director of the IIO, I do not consider that there are reasonable grounds to believe 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.

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

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