



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED
BY MEMBERS OF THE ABBOTSFORD POLICE DEPARTMENT
IN THE CITY OF ABBOTSFORD, BRITISH COLUMBIA
ON OCTOBER 12, 2018**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2018-131

Date of Release:

May 30, 2019

Introduction

On the afternoon of October 12, 2018, police officers in an unmarked police vehicle and in a police helicopter were conducting surveillance on a stolen truck as it drove around Abbotsford. The truck was being driven by the Affected Person ("AP"). When AP parked the truck and walked away, officers gave chase on foot and arrested him. In the course of the arrest, AP suffered a serious injury. The Independent Investigations Office ("IIO") was notified, and commenced an investigation.

The narrative that follows is based on evidence collected during the investigation, including the following:

- statements of AP and two civilian witnesses;
- statements of two police witness officers;
- police computer-aided dispatch ("CAD") and PRIME records;
- video from a police helicopter ("Air One");
- police cell block video; and
- medical evidence.

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, the IIO did not obtain a statement from the Subject Officer ("SO").

Narrative

On October 12, 2018, Abbotsford police were on the lookout for a pickup truck that had been reported stolen. At one point the truck was spotted and a police officer tried to stop it by blocking it with the officer's vehicle, but the truck drove around the police vehicle and left the area at high speed.

Later that afternoon, officers in an unmarked police surveillance vehicle spotted the stolen truck and started to follow it, requesting assistance from other ground units and from Air One. They observed the truck being driven in a manner consistent with attempts to evade surveillance.

At about 3:00 p.m., the truck was seen by Air One pulling into a parking lot. The driver, AP, was seen walking away along the street towards a busy intersection. The surveillance vehicle was just arriving on scene and as AP walked past it, one of the officers, Officer 1, recognized AP. The officers exited the police vehicle and ran after AP, and Officer 1 tackled him and brought him down onto the sidewalk, just a few metres before a major

thoroughfare. Had AP continued without being arrested, he would very shortly have been crossing that major street.

IIO investigators asked AP, two civilian witnesses and two police witnesses about the manner of the arrest.

AP said he *"was just walking towards the courthouse ... and got tackled from behind."* He said there were three officers and it was *"pretty hard, they were pretty big guys."* He told investigators that he received no warning before being taken down, and had no indication that the people running up from behind were police officers. He suffered injuries to his elbow and his knee, and a swelling and abrasion on his head where it struck the sidewalk.

Two civilian witnesses observed parts of the incident and were able to tell investigators about what they had heard from inside buildings across the street, but neither witnessed the arrest itself. Civilian Witness 1 ("CW1") heard someone yell *"Get on the ground,"* and saw two officers (one of whom was identified as Officer 1) running along the street. He went out to a better vantage point, and could see AP being handcuffed on the ground, with five officers standing around him.

CW2 said he heard words to the effect of *"Put your hands on the ground,"* and saw officers arriving on foot, but did not make any observations of the arrest scene itself.

Officer 2 told investigators that he had been second to exit the police vehicle, behind Officer 1. When Officer 2 caught up, he said, Officer 1 had already tackled AP and *"pretty much had him in control."* Officer 2 *"assisted in rolling him over to get him into position to handcuff."* AP, he said, was repeatedly complaining that his elbow was broken. Officer 2 said that he did not see the actual take-down of AP, as he was negotiating a down-grade or embankment at that moment, and had taken his eyes off the pursuit.

Officer 3 was the driver of the unmarked police vehicle with other officers riding as passengers. When they encountered AP, he said, the passengers exited to pursue AP on foot, and Officer 3 followed. He too said that he did not see the take-down of AP because it happened as he was jumping down the same embankment described by Officer 2. When Officer 3 looked up, he told IIO investigators, AP was already on the ground being arrested.

A video recording from Air One shows the positions of the various individuals at the moment of the take-down. As Officer 1 tackles AP, Officer 2 is approximately seven metres past the embankment, and is running towards AP, approximately ten metres from him. At the time Officer 1 tackles AP, Officer 3 is still approximately ten metres before the embankment. The video, which was taken from a considerable height, does not provide

a sufficiently detailed view of the tackling itself to assist with any analysis of how it was carried out.

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 injury to AP. More specifically, the issue to be considered in this case is whether an officer may have acted unlawfully in arresting AP, or in the manner of that arrest.

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.

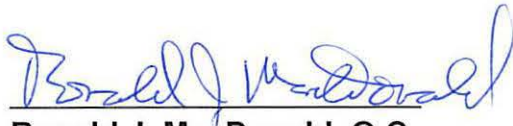
Lawful authorization for Officer 1 to arrest in these circumstances flowed from the information he possessed: that AP had been driving a stolen vehicle. Regarding the manner of the arrest, Officer 1 faced two options: either use force to bring AP quickly under police control, or try to detain him by commands, and perhaps by attempting to block his path while fellow officers caught up.

On the evidence, Officer 1 or another officer had called out to AP to stop and get down on the ground (loudly enough to be heard by civilian witnesses inside buildings some distance away) without success. The fact that the witnesses heard those commands raises doubts about AP's claim that he was tackled by the police without warning. At the least, it is clear that the commands were given, and it was reasonable for SO to perceive AP as being intent on escaping from police. Had AP been able to continue, the resulting foot chase would have continued into a busy intersection, which could have created risks to civilian traffic, to police and to AP himself.

While it is unfortunate that quite serious injury to AP resulted from the force applied to him by Officer 1 in bringing him to the ground and eliminating those risks, it cannot be said that, in the circumstances, the manner of the take-down and the degree of force applied was unnecessary or excessive. There is no evidence of any further force used by officers once AP was restrained and in custody.

Simply put, AP was attempting to escape from the police. He was ordered to stop, and from the available evidence he appears to have ignored those orders and instead continued to move away from the police. Being grabbed and tackled by SO was, in all these circumstance, a foreseeable outcome.

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.

A handwritten signature in blue ink, reading "Ronald J. MacDonald". The signature is fluid and cursive, with the first name "Ronald" and last name "MacDonald" clearly legible.

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

May 30, 2019

Date of Release