



**IN THE MATTER OF THE SERIOUS INJURY OF A MALE  
WHILE BEING APPREHENDED BY POLICE OFFICERS IN  
THE VILLAGE OF MOUNT CURRIE, BRITISH COLUMBIA  
ON AUGUST 10, 2018**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2018-098

Date of Release:

June 03, 2019

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## Introduction

On the afternoon and early evening of August 10, 2018, the Affected Person (“AP”) was out with his brother and two friends in the area of Pemberton and Mount Currie. The group was consuming significant quantities of alcohol. When fighting broke out amongst the group, a Tribal Police officer attended and arrested AP. In the course of the arrest, an RCMP member also arrived on scene and assisted.

AP was taken to hospital, where he was found to have a broken jaw. Because the injury was serious and appeared to have occurred in connection with police actions, the IIO was notified and commenced an investigation.

## Evidence

The account of the incident set out below is based on evidence gathered by IIO investigators, including the following:

- statements of twelve civilian witnesses, two professional witnesses (paramedics) and one witness officer;
- Closed-Circuit TV (“CCTV”) footage from nearby commercial premises;
- scene photographs and forensic examination;
- police Computer Aided Dispatch (“CAD”) and PRIME records;
- examination of a police conducted energy weapon (“Taser”);
- 911 recordings; and
- medical records.

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 subject officer (“SO”) declined to provide IIO investigators with any written materials or to participate in an interview.

Recollections of AP and his three companions were affected by consumption of alcohol. AP acknowledged having drunk “*quite a bit ... like several bottles of White Lightning [vodka].*” He told investigators that he only remembered parts of the incident.

AP recalled “*goofing around*” and getting into a “*friendly*” altercation with his brother, Civilian Witness 1 (“CW1”), that became physical “*brawling*”, with pushing and kicking (AP said “*he stunned me, or whatever*”). AP had no memory of the arrival of SO, but had been told by his friends that the officer had approached him and said “*I’ll stun you if you keep*

walking.” AP did remember being “*stunned*” twice by a taser, at which point his friends had walked away.

During the subsequent interactions, AP stated, “[the police officers] *were crushing my neck [and] doing a little bit of kicking.*” He complained that the officer who handcuffed him “*pretty much almost dislocated my arm.*” AP denied that either CW1 or his other male companion, CW2, had any physical contact with him before police arrived.

When CW1 spoke with IIO investigators, his recollection too was limited. He said he awoke from being “*passed out*” to see two officers hitting AP on the leg with batons. He walked away, he said, and when he returned the officers were holding AP down, one of them with his knee on AP’s jaw. According to hospital intake records, he had provided a more complete account to hospital staff: he had told them that CW2 had punched AP, and the brothers had been in a fight with each other and with the police.

CW2’s account was that there had been “*a commotion going on between [AP and CW1].*” He remembered AP on the ground on top of CW1, “*and then the police showed up.*” AP had moved toward SO, and SO had fired a Taser at AP, but AP had “*kept going forward,*” and SO had then struck AP in the leg with a baton. At that point, CW2 told investigators, he left the scene, and “*that’s pretty much all I’m going to tell.*”

CW2’s companion, CW3, said she had no recollection of the incident.

Several uninvolved civilian witnesses provided descriptions of the incident with varying degrees of detail and consistency. Common features of those accounts included two males fighting with a bigger male (believed to be CW2), who hit both of them, knocking one to the ground, and tasing by a police officer of the male who had been punched to the ground (AP). A witness described AP having been punched “*really hard*” by the bigger male, and another said the punch was “*to the jaw.*” A third witness said the initial punch was “*ten out of ten*” and was followed by several more mainly to the face while AP was on the ground. Two witnesses described AP as apparently having been knocked out by the blow. One witness had not seen the punch, but describing AP’s appearance afterwards, said there was “*blood all over his face, his mouth.*”

Civilian witnesses described SO arriving and approaching AP and his brother CW1 “*trying to settle them down.*” The two brothers were described variously as “*not cooperating*” and “*charging*” at SO. CW1 was said to have been shouting “*just kill me*” and “*just shoot me*” at SO. One witness observed that after some time CW1 got down on the ground, but “*the cop was having trouble getting [AP] down, and when we showed up [AP’s] jaw was already all bloody and the cop was already grabbing for his taser.*”

SO used the taser against AP, who fell to the ground and was restrained by SO. Two witnesses expressed concern about the manner in which AP was held down, both by SO and by WO1 when he took over control of AP. SO was said to have struck AP in the leg with a baton and twisted AP's arms up behind his back while handcuffing him, and WO1 was described by the two witnesses as having knelt first on AP's neck and then on his back.

While this was going on, CW1 was still "*wandering around*," and was taken aside by a passing civilian. CW1 then passed out on the side of the road, and was subsequently arrested by the RCMP member, WO1.

WO1 told investigators that he heard over the radio that SO was in a fight and had a male "*proned out*." Upon arrival, he found AP already in handcuffs with SO holding him down on the ground. WO1 took over control of AP, holding AP's right arm and shoulder between his knees. SO needed to remove some equipment from the back seat of his vehicle, but once that was done the two officers placed AP into the vehicle, said WO1, "*with no incident*."

WO1 said that when he arrived at the scene he had received an account of the incident from SO. When he had approached the males, SO told WO1, they had "*turned on him*." He identified one of the aggressors as AP, and pointed out the other, lying across the street, apparently passed out. This second male (CW1) was arrested and placed in the back of WO1's police vehicle.

Paramedics were called to check on both detained males, but by the time they arrived the scene was "*surrounded by swarms of people*," said WO1. This caused the paramedics, he said, to become "*fearful for their safety*," so the two males were transported away some distance for examination.

SO told the paramedics that he had arrested AP because AP had "*come after him*" when SO tried to break up a fight between AP and two other males. He said he had been able to "*talk down*" the other two males, but had used a taser to control AP.

AP was examined and treated in hospital, and was found to be suffering from a broken mandible (jaw bone) and associated facial swelling. No other injury was noted.

### **Relevant Legal Issues and Conclusion**

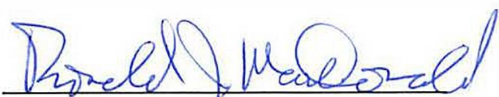
The purpose of any IIO investigation is to determine whether an officer, through an action or inaction, may have committed any offence in relation to the incident that led to the injury to AP. A police officer who is acting as required or authorized by law is, if he acts

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. If a police officer uses unreasonable or excessive force, those actions may constitute a criminal offence. In this case, the question is whether SO or WO1 may have committed an offence in the course of the arrest of AP, by using unjustified or excessive force.

On the evidence, the arrest of AP was lawful, and both WO1 and SO were acting as authorized by law. SO's attention was first drawn to the group of fighting males by the disturbance they were causing on a public street. When he approached them, AP and CW1 were confrontational and non-compliant.

While there were complaints from some bystanders that the force used on AP by each of the attending officers seemed excessive, there is no objective evidence from either witness statements or CCTV that it was. AP was quite difficult to deal with, and in the circumstances the force used by both officers was used to attempt to control him and was reasonable. In addition, the only significant injury AP suffered was a broken jaw. The evidence weighs heavily in support of a conclusion that this injury was the result of blows struck by CW2, leaving AP stunned and bloody around the mouth before any interaction with SO. The video evidence is particularly compelling on this point.

Considering the evidence as a whole, it would not be reasonable to conclude that either officer used unjustified or excessive force in the course of the arrest. 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.



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

June 03, 2019

**Date of Release**