



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN THE CITY OF QUESNEL, BRITISH COLUMBIA
ON AUGUST 1, 2018**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2018-092

Date of Release:

July 18, 2019

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Introduction

On the afternoon of August 1, 2018, the Independent Investigations Office ("IIO") received a complaint from the Affected Person ("AP") that he had been injured while in the custody of members of the RCMP in Quesnel. AP stated that he had been arrested the previous night, and that during his transport to the RCMP detachment in the back of a police vehicle, the officer driving the vehicle had made an abrupt stop. AP said that this manoeuvre caused him to be thrown against the partition, injuring his face, and then back onto his cuffed hands, breaking his wrist. The IIO commenced an investigation.

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

- statements from AP, two other civilian witnesses (jail guards), three first responders (one paramedic and two firefighters) and four witness police officers;
- police Computer-Aided Dispatch ("CAD") and Police Records Information Management Environment ("PRIME") records;
- telephone and police radio audio recordings;
- closed-circuit TV ("CCTV") video from the RCMP detachment, including from cells;
- police vehicle GPS data; 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 Subject Officer ("SO") provided a written statement to IIO investigators.

Narrative

In the early morning hours of August 1, 2018, in Quesnel, AP was arrested by SO for being intoxicated in public. Arriving on scene to assist, a Witness Officer ("WO1") rated AP's state of intoxication at "eight out of ten." In his IIO interview, WO1 stated that SO handcuffed AP behind his back and transported him to the RCMP detachment in the back of SO's police cruiser. WO1 followed in his own police vehicle. WO1 described the route he recalled the officers having taken, and said that he had no recollection of anything unusual happening during the drive, or of any indication that AP was in pain or medical distress upon his arrival at the detachment.

When interviewed by IIO investigators, AP denied having been drunk on the night in question. He said that he had woken up from a nap at about 11:00 p.m. on July 31, had walked across town to buy cigarettes at a Chevron station, and was on his way back home when he encountered police. His arrest by SO, he said, was wrongful, and part of

a pattern of harassment by police. He denied resisting arrest, but said he warned officers to “please be gentle” with his right wrist, which had been previously injured. He said he complained to WO2, an officer at the detachment, that the handcuffs had been tightened excessively on his right wrist.

AP described SO having taken a route back towards the detachment that passed the hospital (a route different from the route described by WO1), and said that as they passed the hospital SO had “slammed on the brakes,” causing AP to be thrown forward against the divider screen, hitting his face, and then to fall back onto his cuffed hands, “crunching” his right wrist.

WO2, who was Watch Commander on the night in question, told investigators that he had encountered AP outside the detachment on the previous evening (July 31), and said that AP at that time had been “very intoxicated.” He said he told AP to go home to sober up. At about 2:00 a.m. on the morning of August 1, said WO2, AP called in to dispatch on “the outside reporting phone” at the front of the detachment, asking for officers to come out to speak with him. When two members went out, AP had disappeared, so WO2 instructed members to look around for him.

When SO subsequently brought AP into the detachment, WO2 said, AP was “verbally aggressive towards members, and began escalating his behaviour.” He was moved into the “drunk tank” and left to “sober up and calm down.” AP, said WO2, “was disruptive in his cell, banging on the door, carrying on his behaviour,” until WO2 later went off shift.

IIO investigators obtained and analyzed video evidence from the RCMP detachment covering the relevant time period. In the booking area, AP can be seen being brought to the counter by SO and WO1, and being un-cuffed. He is seen to take off his jacket and throw it across the counter, using his right hand, and he then removes a chain from his neck and throws that too, again with his right hand. Officers re-apply handcuffs at this point, and AP is taken into a cell and is un-cuffed again.

Over the next fifteen minutes or so, cell video shows AP knocking on the cell door with his right hand on more than a dozen occasions. About sixteen minutes after being placed in the cell, AP is seen to pull his right arm back and then to strike the cell door very forcefully with his open right hand. After that, he bangs on the door and wall several more times, the first time with his right hand but after that only with his left fist and with his foot.

During the rest of his time in the cell, AP can be seen to use his left hand almost exclusively, and several times is seen apparently comparing his right and left wrists. Shortly before 4:30 a.m. he is seen showing his right arm or wrist to a civilian witness, CW1, employed in the RCMP detachment as a jail guard. When interviewed by IIO investigators, CW1 did not recall this interaction. CW2, who came on shift later, did recall

being shown AP's right arm, at 6:37 a.m., and said it appeared reddened and "misshapen in some way."

WO2 had been relieved as Watch Commander by WO3 at 6:00 a.m. WO3 told investigators that at about 6:41, he received a report from jail guard CW2 that AP was complaining of an injured wrist. WO3 said that he checked on AP and examined the wrist. He said he observed that it appeared wider than the left wrist, but AP told him the right wrist had been broken on an earlier occasion and had been repaired with pins and bolts. This surgery had left a visible three-inch scar, but WO3 said he did not observe any sign of recent injury. As AP was still intoxicated, in WO3's judgement, WO3 decided against releasing him.

Later, at approximately 9:31 a.m., in response to a complaint from AP that he was experiencing chest pains, WO3 called an ambulance, and paramedics attended to assess AP's condition.

WO3 then had to respond to an urgent call and was relieved by WO4, leaving instructions that AP could be released, either to paramedics or by himself to go home. WO4 recalled noticing that AP was having difficulty with his right arm, and could not sign his release papers with his right hand.

The evidence from the first responders who attended (a paramedic and two firefighters) indicates that AP was complaining about a sore wrist and saying he wanted his medications. He asked to be driven home rather than to hospital, a request that was refused. The paramedic told investigators that AP's wrist appeared slightly deformed (a bone was "a bit off"), and was apparently painful. AP did not say how the wrist had been injured, according to this witness, who said there were no marks consistent with injury from handcuffing.

After being taken to hospital by ambulance, AP left without seeing a physician. He returned approximately six hours later and was examined, at which point it was determined that he was suffering from a fracture of his right wrist.

AP's allegation against SO did not come to SO's attention until December 17, 2018. By that time, SO stated, he had difficulty remembering the arrest of AP. SO provided the IIO with a written statement referring to his notes from August 1, 2018, in which he had recorded that AP was "intox, stumbling, falling over." SO stated that he did not recall any resistance by AP at the time of his arrest, nor any complaint from AP about wrist pain. The SO also provided written answers to questions posed by IIO investigators. He stated that he did not recall anything unusual or any sudden stops during his transport of AP to the detachment from the arrest site, and had that occurred he would have made a note of it in his notebook.

An analysis was undertaken of GPS data from the police vehicles of SO and WO1. From that analysis it was determined that in travelling from the location of AP's arrest to the RCMP detachment the vehicles took the route described by AP, and not that described by WO1. The resolution (level of detail) of the data was not, however, sufficient for investigators to determine whether or not a sudden braking event occurred during the journey. WO1 was re-interviewed to address the discrepancy between his account and the GPS data.

WO1's initial interview had been conducted on November 9, 2018, more than two months after the incident. He was re-interviewed on January 23, 2019. When the discrepancy between his account and the GPS evidence was put to him, he responded that he must have been mistaken in his description of the route the officers took with AP, and that the route he described was the one he would usually have followed (on the occasion in question, he did not decide which route to take, as he was following SO).

The route described by AP (the route the officers actually took, as indicated by the GPS data) followed the main thoroughfare through town, a four-lane highway lined by commercial premises. The route WO1 had described was slightly shorter and more direct, but followed secondary streets through mainly residential neighbourhoods.

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 caused bodily harm to AP through an assault or other unlawful act.

On the evidence, the injury to AP's wrist could have occurred

- while he was being handcuffed at the scene of his arrest (he said he complained the cuffs were too tight and his wrist was particularly vulnerable to injury);
- while being driven to the detachment (through the sudden manoeuvre of SO's vehicle that AP described);
- in the course of his re-cuffing at the detachment;
- while he was detained in the police cell; or
- following release and before his second attendance at the hospital, when the fracture was identified.

There is no objective evidence that the injury occurred during the initial arrest by SO or during interactions with officers at the detachment (though AP is said to have complained at the hospital—but not to the IIO—that an officer had dragged him by his handcuffs, and that he had been “beat up by police”).


On the other hand, there are significant indications that the injury had already occurred by the time of AP's release, so it seems reasonable to discount the possibility that it occurred while AP was no longer in police custody. That leaves two realistic possibilities: either the injury occurred during transport by SO in the manner described by AP, or while AP was in the cell—specifically when he forcefully struck the cell door with his right hand.

AP's evidence regarding the sudden stop by SO that AP says caused the injury is supported in one respect by the GPS evidence. That same evidence makes it possible to discount WO1's recollection in that respect—it was evidently affected by the passage of time. AP's allegation, though, is only that: an uncorroborated allegation—and it is contradicted by the video evidence.

As detailed above, whatever concerns AP says he had about his right wrist while being booked in at the RCMP detachment do not appear to rise to more than a complaint about a previous injury and about being handcuffed. There is no sign in the video evidence, at that point, of physical disability or discomfort around use of AP's right arm, hand or wrist. Indeed he is seen using he arm, hand and wrist to throw objects, and to knock on his cell door many times.

That disability and discomfort quite clearly arises, however, immediately after a specific and very forceful strike by AP against the cell door, using his right arm and hand. On the evidence as a whole, then, the only reasonable conclusion is that AP's injury was caused by his own actions, not by those of SO or any other officer.

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

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