



**IN THE MATTER OF THE INJURY OF A MALE WHILE BEING
APPREHENDED BY A MEMBER OF THE RCMP IN COQUITLAM,
BRITISH COLUMBIA ON DECEMBER 14, 2018**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

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Introduction

On December 14, 2018, RCMP officers responded to the report of a physical altercation between two males. During the 911 call, the witness reported the unknown male in the fight (Affected Person 'AP') limped away slowly at the end of the altercation. Two officers attended the scene and discovered AP intoxicated and arrested him for being intoxicated in public. AP was transported to cells and in the morning complained of pain in his ankle and said that it was caused by one officer closing the police vehicle door on his leg.

The Independent Investigations Office (IIO) was notified by the RCMP when the injury became apparent. The IIO commenced its investigation as the injury to AP was 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) statements from Civilian Witnesses;
- 3) medical records;
- 4) canvas for witnesses and video;
- 5) CCTV footage from cells; and
- 6) recordings of 911 calls and police radio transmissions.

On December 14, 2018, at 10:55 p.m., RCMP officers responded to the report of a fight between Civilian Witness 2 and an unknown intoxicated male (AP) on Cottonwood Avenue, Coquitlam. The caller, Civilian Witness 1, reported to the 911 operator and the IIO that AP was limping after the altercation. Two officers attended the scene and found AP was intoxicated. AP was arrested for being intoxicated in public and taken to cells.

In the morning when AP was being released, he complained that his left ankle was painful. He claimed the injury had occurred when the police vehicle door was closed on his ankle.

AP was transported to hospital, where it was determined that he had a broken fibula.

In an interview with AP, he explained that on the night of the incident, he had been drinking alcohol and consumed recreational drugs. He said he got into an altercation with a male and that the injury did not happen during the scuffle. AP only remembers one officer attending the scene and dealing with him.

AP stated he was wearing tall ankle work boots and his leg got caught while he was getting in the rear driver's side of the police vehicle. The officer closed the door when AP was not fully in the vehicle, but AP believes it was an accident as the officer apologized. AP stated there was "*no malice*" in the officer's actions. He said the officer was polite and treated him well.

AP acknowledged there were two civilian witnesses, but they would not have seen the officer close the door on his ankle as they were the other side of the vehicle.

AP states that in the police vehicle he told the officer that he was in pain at least four times and asked for medical treatment. He said he also told officers twice when he was

in the cells that he was in pain. He said they did not agree and said it looked fine in the cell he wrapped his long johns around his ankle to support it. He said officers took the long johns away and he was left with just his t-shirt overnight.

At shift change in the morning, AP informed the new officer on shift about his ankle. The officer could see it was swollen and that AP was in pain. The officer called for an ambulance. At the hospital, AP was advised that the injury, a broken fibula, was consistent with a "crush" and not an "ankle roll" and required surgery.

Medical records obtained and reviewed by the IIO confirmed an injury to the fibula that was, in fact, a spiral fracture and may have been caused by a rotating or twisting force.

Conclusion

At the conclusion of an IIO investigation the Chief Civilian Director must determine whether there are reasonable grounds to believe an offence has been committed under any enactment in relation to the incident that led to injury of AP. In this case the possible offences included assault causing bodily harm.

It is unclear whether the spiral fracture was pre-existing, happened during the altercation with the male (Civilian Witness 2) or when the police door was closed on AP's leg. If the injury was pre-existing or from the altercation, since AP was reported to be limping afterwards by Civilian Witness 1, there would be no connection with the actions of an officer.

AP makes no allegation the injury was malicious or intended. AP stated the officer said "sorry" when he realized the foot had been caught in the door.

If AP's injury was pre-existing or occurred in the course of his fight with the second male, then no fault lies with the arresting officer. If, on the other hand, the injury occurred when AP's foot was caught in the car door, there is no evidence of any criminal intent on the part of the officer, and in fact the evidence strongly suggests that it was entirely accidental.

In order for the officer's action to be a criminal offence there must be evidence that the officer intentionally closed the door on AP's leg. Without that intent there can be no criminal act. Here the evidence shows it was an accident. Therefore, whether AP's leg was injured by the officer or not, there are no reasonable grounds to believe an offence has been committed.

Accordingly, as the Chief Civilian Director of the IIO, I have determined 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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