



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED
BY MEMBERS OF THE VANCOUVER POLICE DEPARTMENT IN
VANCOUVER, BRITISH COLUMBIA
ON JANUARY 26, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019 - 028

Date of Release:

July 17, 2019

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Facts

On February 6, 2019, the IIO received a call from a male (the Affected Person or “AP”), claiming he had received injuries as a result of an interaction with members of the Vancouver Police Department (VPD). AP stated that on January 26, 2019, an altercation between two men and AP occurred outside a restaurant in Vancouver. VPD officers intervened and AP stated he was punched and fell to the ground. The following day, AP attended hospital and was informed he needed surgery on his orbital bone (eye socket).

The Independent Investigations Office (IIO) was notified by AP when the injury became apparent. The IIO commenced its investigation as the injury to AP may have been 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 and a civilian witness;
- 2) medical records;
- 3) CCTV footage from the area; and
- 4) jail cell footage.

On January 26, 2019, between 1:30 a.m. and 3:00 a.m., AP was inside a restaurant on Pender Street in Vancouver. AP stated he asked a woman waiting to be served if she could get him a water as he didn’t want to stand in the line up. AP said two men started pushing him, so he walked out of the restaurant.

AP said the two men followed him outside and one of the men pushed him again. He pushed back, and an altercation ensued. AP punched one of the two men and knocked him to the ground.

VPD officers attending another call arrived at the scene and intervened to break up the fight. AP states that an officer “sucker punched” him, “stabbed” him and “beat” him with a metal pole during his arrest. He said he fell to the ground and cracked his ribs. He said that when he was being punched and kicked, his face smashed into the pavement and caused the injury to his face. AP visited the hospital a day later and said he had received surgery for a fractured orbital bone.

The notification from AP came two weeks after the incident; however, the IIO was able to gather CCTV from the area and AP’s medical records.

Medical records confirmed there was evidence of a left orbital injury but no evidence of surgery and no record of broken ribs or stab wounds.

CCTV gathered from the area captured the altercation between AP and two males. AP can be seen to strike one of the males, and it also shows the male strikes back on the same side as AP’s facial injury. CCTV then shows officers taking AP to the ground and carrying out the arrest. The footage does not show officers carrying out the alleged use

of force that AP described. Officers are seen arresting AP, helping him stand up, walking him to the sidewalk and sitting AP on the ground with minimal force.

Cell CCTV was also collected to examine if AP received his injuries in custody. There is no evidence to suggest AP received the injuries while in custody.

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.

There is no evidence of any significant or inappropriate use of force by police. There is also no evidence of the allegations AP made against police. There is evidence that the AP could have received the injury during the altercation between him and the two males.

The evidence collected does not provide grounds to consider any charges against any officer.

Accordingly, as the Chief Civilian Director of the IIO, I do not consider that any 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

July 17, 2019
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