



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN THE CITY OF BURNABY, BRITISH COLUMBIA
ON JULY 4, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2019-117

Date of Release:

June 26, 2023

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The release of this public report was delayed pending the conclusion of concurrent criminal court proceedings. The decision in this matter was initially reported on [October 25, 2019](#).

Introduction

On July 4, 2019, members of the RCMP Emergency Response Team ('ERT') responded to a high-rise apartment building in Burnaby to deal with a reported kidnapping. As they were preparing to enter the target apartment on the 11th floor, individuals inside the apartment became aware of their presence. Three suspects climbed out over the balcony in an attempt to escape. One, the Affected Person ('AP') in this case, fell to the ground and suffered serious injuries. The Independent Investigations Office (IIO) was notified and commenced an investigation. The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- statements of AP, three other civilian witnesses and two police witness officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of police radio transmissions;
- ERT scribe notes;
- scene examination, a 3D scan of the scene, video and photographs; and
- medical and first responder records.

Narrative

Civilian Witness 1 ('CW1') told IIO investigators that on July 2, 2019, he was kidnapped by three males and taken to an apartment in Burnaby, where he was still being held on July 4, 2019. CW1 said that the males were in possession of firearms.

The RCMP investigated the abduction and generated strong grounds to believe that they had identified both the 11th floor apartment where CW1 was being held and at least one of the kidnapers, who they understood was a murder suspect. Based on the available information, they believed that CW1 was in danger, and after considering and rejecting other options the Critical Incident Commander decided that a "dynamic" (unannounced) entry should be made. The stated objectives were "safe recovery of hostages and arrests of suspects."

Some officers were placed in a location with a view of the subject apartment's balcony and others were stationed in the lobby of the building. Occupants of neighbouring apartments were quietly evacuated.

Inside the apartment, CW1 told IIO investigators, there had been discussions amongst the hostage-takers about killing him, but they finally told him they would be letting him go.

At 10:17 p.m., ERT members were in place above and below the subject apartment and a team took up a position in the hallway. The plan was to place an explosive charge on the outside of the apartment door and deploy an explosive distraction device onto the balcony as members forced entry from the hallway. At that moment, though, AP told investigators, he opened the apartment door to leave on an errand, and saw two armed people in the hallway. He closed, locked and barricaded the door.

CW1 saw that something had startled AP, and ran to hide. He heard the sounds of the hostage-takers exiting the apartment onto the balcony, and the shouts of police as they broke through the front door.

Witness Officer 1 ('WO1') was observing the outside of the apartment from an adjacent building. Over the radio he heard the preparations for ERT entry and then the warnings "compromise!" and "failed breach!" He told IIO investigators that he saw three males run out onto the balcony and climb over the railing. He saw all three go down at least one floor, and then heard an officer with him say "I think that guy fell." WO1 said he did not see any ERT members inside the apartment before this.

WO2 was in a police vehicle a short distance from the building, and drove quickly forward to help contain any escaping suspects. To his surprise, he found AP face down in a bush next to the building, and directed another police officer to handcuff him. He then directed his attention to other suspects, who were climbing down the outside of the building towards him. One climbed down to the fifth floor and the other to the tenth, before each of them was apprehended, the former when he broke into a fifth floor apartment and the latter when he reached the lobby.

Back in the apartment, CW1 heard police officers moving through the suite, checking and clearing rooms. He was patted down by an officer and told to sit against the wall for his own safety while police completed the arrest of the suspects. A firearm was located in the apartment.

At 10:18 p.m., WO2 reported by radio that there was a male [AP] in custody on the lawn in front of the building, and requested paramedics to respond "code 3" (with lights and siren). A doctor was also available at the scene and was asked to attend to AP.

Firefighters were already in attendance, and were the first to reach AP. They moved him out of the bush and onto the ground, in order to provide medical attention. An Advanced Life Support unit then arrived and transported AP to hospital. AP was diagnosed with a

broken neck and suffered some degree of paralysis, though the long-term prognosis is unclear.

Legal Issues and Conclusion

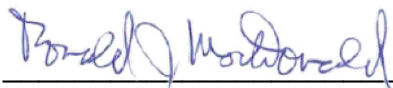
The purpose of this IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to the incident that led to AP's injury. More specifically, the issue to be considered in this case is whether any unjustified or excessive action on the part of police led directly to AP's fall from the balcony.

The evidence collected does not provide grounds to consider any charges against any officer. The decision to conduct a 'dynamic' entry into the apartment was justified in these circumstances, given the information that there was a hostage in that place whose life was in imminent danger from armed kidnappers. Those urgent circumstances also justify an initial entry without warrant.

It was unfortunate that the operation was compromised, seconds before execution, by AP opening the apartment door and seeing members in the hall, so that the element of surprise was lost. That failure, though, was simply bad luck and cannot be laid at the feet of ERT officers; nor can those officers be blamed for AP's decision to put his life in jeopardy by attempting a highly dangerous escape down the outside of a high-rise building in the dark.

Finally, there is no evidence that any police officer (or in fact any first responder) dealt inappropriately with AP as he lay injured after his fall.

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, KC
Chief Civilian Director

June 26, 2023

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