



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
RCMP IN THE CITY OF CHILLIWACK, BRITISH COLUMBIA
ON MAY 16, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019-093

Date of Release:

September 19, 2019

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Introduction

On May 16, 2019, the Affected Person (“AP”) in this case was driving, and was involved in a minor collision with a parked vehicle. He displayed erratic behaviour at the scene and became involved in a physical struggle with paramedics, firefighters and police officers. He suffered cuts and grazing, and was subsequently diagnosed with a brain bleed. Since he had previously experienced neurological issues and had undergone brain surgery about a year before this incident, there was uncertainty about whether a connection to police actions on this occasion existed, so the 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 and seven civilian eyewitnesses, including four attending firefighters;
- police Computer-Aided Dispatch (“CAD”) and Police Records Information Management Environment (“PRIME”) records;
- police radio traffic recordings;
- photographic evidence from the scene; 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, Officer 1 did not provide access to her notes or reports.

Narrative

AP was interviewed by IIO investigators, but said that he had no memory of the day in question, between leaving his home “for a smoke” and waking up in hospital.

Civilian Witness 1 (“CW1”) told the IIO that she saw AP driving a minivan on a street in Chilliwack bordered by commercial premises. She noticed that he was “bobbing his head around” in a way that caught her attention. She watched as the minivan slowly crossed the intersection ahead “as though it was idling,” and then she turned off into a parking lot.

CW2, driving in the opposite direction at the same intersection, said she noticed AP leaning out of the van’s window, staring up at the sky.

Shortly after this, both CW1 and CW2 were retracing their paths, and saw that the AP’s van had come to rest against the back of a parked horse trailer about one hundred metres

from the intersection. CW1 went to check on AP while CW2 went to a nearby shop to seek assistance from the owner, CW3.

All three eyewitnesses described AP, when they tried to communicate with him, as unresponsive, sweating and agitated, with rolling eyes. CW2 said that he was “dry heaving.” AP tried to climb into the back of the van, and vomited.

An ambulance arrived, and AP got out of the van and walked towards it. Initially, he walked past it, but then turned around and climbed into the front passenger seat. The paramedics removed him, but he struggled with them as they attempted to hold him up, and as firefighters arrived they moved in to assist. They told the IIO that they viewed AP at this point as an aggressive intoxicated individual.

An RCMP member, Officer 1, attended. Telling AP to calm down, she attempted to have him face the ambulance and spread his legs. AP pushed away from the ambulance and took her down onto her back, falling on top of her. She struck her head on the ground as she fell. The exact movement AP made in doing this is unclear:

- CW1 said that AP turned, crouched and took hold of Officer 1’s legs, causing her to fall to the ground.
- CW2 said that AP spun around, picked Officer 1 up and “slammed” her down on her back.
- CW3 told investigators that Officer 1 told AP to “stop fucking resisting” and was attempting to put his arms behind his back when he pushed back and fell on top of her.
- Firefighter CW4 said that AP, struggling, spun around and knocked the officer over, and then fell on top of her and appeared to struggle with her on the ground.
- Firefighter CW5 said that Officer 1 had been “raising her tone” with AP, who had been yelling incoherently, when suddenly AP was on top of the officer on the ground.
- Firefighter CW6 recalled that Officer 1 appeared to be trying to arrest AP, but AP was struggling and screaming, and he threw Officer 1 to the ground by grabbing her around the waist.
- Firefighter CW7 did not see the fall to the ground, but saw his colleagues restraining AP as Officer 1 called for back-up.

The witnesses all agreed that Officer 1 got up quickly as paramedics and firefighters went to assist the officer and were restraining AP, who was now face-down on the ground. CW7, though, checked on the officer and concluded she had struck her head and might be suffering from concussion. He asked the paramedics to attend to her. At this point, he said, AP was screaming as the firefighters attempted to control and calm him.

More police units arrived, and AP was placed in restraints and taken away on a stretcher. Witnesses described him as continuing to scream and resist. CW5 said AP, now secured in handcuffs and webbing straps, was nevertheless still “thrashing and fighting.” CW7 told investigators that AP’s face was “beat up” from the gravel, and that his wrists were cut and bleeding from struggling against the handcuffs.

Asked about use of force by police officers, CW4 stated that he saw no strikes or use of force other than the use of body weight by those struggling to hold AP down, and the application of handcuffs and webbing straps to secure him. CW3 told investigators that she felt the attending officers were doing no more than trying to control AP, and saw no other use of force.

IIO investigators determined that AP had suffered from a history of neurological problems, and that he had undergone brain surgery in June of 2018. A portion of his frontal lobe had been removed and he had been required to take medication since that time. On the day of the incident AP said he had “changed the dosage” of his medications.

At the hospital, AP was diagnosed as having suffered a seizure and a brain bleed. He also had deep grazing on the right side of his face and deep cuts on his wrists. A toxicology report indicated no alcohol in AP’s blood but evidence of cocaine consumption.

Legal Issues and Conclusion

The purpose of any 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 the injury to AP. Since the jurisdiction of the IIO is limited to “officers” as defined in the B.C. *Police Act*, the conclusion reached in this investigation is similarly limited—to an evaluation of the actions of the police officers who dealt with AP (it should be noted, however, that there is no evidence of any criminal act on the part of any other person who dealt with AP on the day in question).

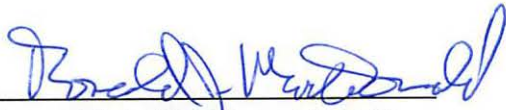
With respect to the actions of police officers, more specifically, the issue to be considered is whether an officer may have used unauthorized or excessive force at any point in the course of the incident.

The evidence collected in that respect does not provide grounds to consider any charges against any officer. Officer 1 had reason to believe she was dealing with an intoxicated driver who had just been involved in a traffic accident and who was being uncooperative and unruly, and she behaved appropriately for those circumstances. The physical struggle between them was apparently initiated and continued by AP, and resulted in injury primarily to Officer 1. There is no evidence, in fact, that any use of force by Officer 1—or by any other involved officer—caused injury to AP other than the grazing to his

face, which was simply the result of his fighting with first responders on the ground, and cuts to his wrists which were, again, the result of his own fighting and struggling while in handcuffs.

There is good reason to conclude that the brain bleed detected at the hospital was a condition that pre-existed the roadside confrontation. AP's memory loss from the moment he left his home and his reported bizarre behaviour subsequently can reasonably be attributed to the onset of this unfortunate condition, which could have been exacerbated by the change in medication dosage that morning described by AP, well before any police interaction.

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.

A handwritten signature in blue ink, appearing to read "Ronald J. MacDonald", is written over a horizontal line.

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

September 19, 2019

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