



**IN THE MATTER OF THE INJURY OF A MALE  
WHILE BEING APPREHENDED BY MEMBERS OF THE  
VANCOUVER POLICE DEPARTMENT IN  
THE CITY OF VANCOUVER, BRITISH COLUMBIA  
ON JANUARY 4, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019-005

Date of Release:

November 29, 2019

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## **Introduction**

On January 4, 2019, Vancouver Police Department ('VPD') officers went to a home in East Vancouver for a domestic violence complaint. The Affected Person ('AP') in this case was arrested and handcuffed outside the back of the residence, but while officers were speaking with family members, AP ran off down the back lane. The Subject Officer ('SO') chased AP and took him to the ground. In the course of that arrest, AP suffered injuries. Because of the connection between those injuries and police action, the Independent Investigations Office (IIO) was notified and commenced an investigation. The conclusion of this matter was delayed for some months as AP initially refused to give a statement to the IIO about what happened.

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

- statements of AP, two other civilian witnesses, three witness police officers and two paramedics;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- 911 call and police radio audio recordings;
- VPD manuals and regulations;
- scene examination and photographs; and
- Emergency Health Services and other medical records.

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, SO has not provided any evidence to investigators.

## **Narrative**

On January 4, 2019, police were called to respond to a domestic violence complaint at a home in East Vancouver. The home was occupied by AP and his spouse, who lived in the basement suite, and AP's parents and several other family members who lived upstairs. It was reported that AP had punched his father, and had left the residence.

SO was the first officer to arrive, at 12:40 p.m., and spoke with family members. They were outside at the rear when AP returned. At 12:41 p.m., other members heard SO call by radio for "cover," and a male voice could be heard yelling in the background.

Witness Officer 1 ('WO1') responded, and found SO struggling to apply handcuffs to AP, next to a parked vehicle at the back of the house. AP, said WO1, was yelling and

“resistive,” so WO1 moved in to assist SO in the handcuffing. SO then walked over to talk with family members while WO1 stayed with AP. WO1 said that AP was repeatedly trying to walk over to his spouse, and “stared her down,” causing WO1 to take AP farther away. WO1 described AP’s mood as volatile, sometimes cooperative and other times angry, calling WO1 names such as “pig” and “goof”.

WO2 arrived and spoke with AP’s parents. He described seeing AP “glaring” at his wife as she spoke with SO. WO2 authorized SO to arrest AP for breach of the peace, telling AP he would not be facing a criminal charge but had to go for an “adult time out”. AP asked to be allowed simply to go to a friend’s house, but WO2 refused, as AP had already left the scene once but had returned still angry and aggressive.

Suddenly, AP turned and ran away along the back alley. AP was still handcuffed behind his back, and WO2 described him as “running at full speed” with his head and upper body bent forward at a 45-degree angle.

SO and WO2 gave chase. WO2 said he was calling to AP as they chased him to “stop running.” WO2 told investigators that, several houses along the lane, he saw SO catch up to AP and “tap” him on the shoulder, causing AP to lose his balance and fall against a fence. WO2 described the “tap” as seeing SO’s left hand pushing AP’s right shoulder as he ran with “medium” strength, “as [police] are trained to do.” WO2 said that AP’s awkward running position meant that he was easily knocked off balance.

WO2 told investigators that AP “bounced” off a protrusion in a wooden fence, landing on his knees in grass and dirt. Examination of the scene, and photographic evidence, indicates that it is very likely AP impacted a portion of a back fence that juts out into the back lane at a ninety degree angle, at the spot where AP fell.

As AP tried to stand up, WO2 slid to a stop beside him and held him down with a knee in his back. WO1 arrived and knelt beside AP to assist in controlling him. WO2 said that SO had run on for several steps after knocking AP down, and looped back to join the other two officers.

A neighbour, Civilian Witness 1 (‘CW1’), told investigators he heard the sound of “a thump and an oof” from outside his residence. He said he then heard someone he believed to be a police officer say “We were just going to take you for a time-out.”

According to WO2, AP was complaining of pain, so WO1 and WO2 turned him into the recovery position, at which point AP said “that’s better.” WO1 said that AP had been saying it was hard for him to breathe, and so they rolled him on his side, and then let him sit up. WO2 said that AP was telling the officers his chest hurt, which WO2 said he found unsurprising given the way AP had just struck the corner of the fence.

CW1, who had come out of his house to observe, said he saw two officers dealing with AP. The officers appeared “calm ... no emotion either way.” CW1 said there was “no forceful action and nothing I was shocked by ... it seemed like it was a lot nicer than I’ve seen people get arrested before.” CW1 took photographs of the scene, showing the officers kneeling beside AP in the back lane.

At 1:03 p.m., a police wagon driven by WO3 arrived. CW1 said he saw three police officers search AP and place him in the rear of the wagon. WO2 said that AP boarded the wagon with little assistance, and said that there did not appear to be anything wrong with AP that would warrant medical assessment. WO3 reported putting AP into a compartment in the back of the wagon, and said he did not note any visible injury, nor hear any complaint about injury from AP, at that time.

Once AP was inside, CW1 said he heard “thrashing which sounded like kicking” coming from inside the wagon. As the wagon left the scene, WO3 said he felt it rocking somewhat from movement in the rear. After about five to ten minutes, he heard AP complaining of chest pains, and called for an ambulance to meet with the wagon. SO went to the same location and released AP to paramedics on a Promise to Appear.

Upon examination of AP by paramedics, there was concern about possibly broken ribs, and AP was transported to hospital. He was diagnosed with broken ribs causing “flail segments,” and a punctured lung.

AP’s mother, CW2, told IIO investigators that WO2 had caused AP’s injuries by placing his knee on AP’s back. She also accused WO3 of having given AP “a rough ride.”

Only with difficulty did investigators obtain a statement from AP at the time, beyond nonspecific complaints of having been “beaten up” by police. Several months after the incident, though, AP agreed to give an interview to IIO investigators, in which he described coming home after buying drugs at the “dispensary.” His wife had called police, and AP was detained and placed in handcuffs by attending officers: “and that’s when I got up ... and started running.” AP continued, “That’s where, I guess, I felt a football tackle, and one swung me around, smacked me to the ground. AP said that one officer was “putting his knee into the middle of my back” while the other held AP down with a hand on his neck. AP told investigators that, after this, he was being kneed in his left side, and “another officer” came and kicked him twice. His mother and father, he said, were asking the officers “Hey, what are you doing to my son?” The officers, he said, were telling them loudly to “Stand back!”

AP said that the next thing that happened was that the “paddy wagon guy” came, and “threw me in the paddy wagon.” At around this time, AP recalled, “One of the officers, I



think he punched me, I can't remember about that." The wagon driver, said AP, "he threatened me, and he slapped me in the face."

Asked to clarify his allegations, AP said that an officer "jumped up and down on" his back, another kicked him twice, and one punched him in the neck. The wagon driver, he said, used a racial slur and threatened several times to kill him, accompanying the verbal threat with a throat slitting hand gesture. AP said that the wagon driver was throwing him around in the back by "jumping curbs" as he drove.

AP also said that while handcuffs were being applied by SO, his head was rammed into the door of his parked vehicle. He gave one account in which this had happened before the handcuffing, and another in which it happened while he was already handcuffed. He was not noted in medical reports to have any head injuries.

AP told investigators that he had a seizure earlier in the day on January 4, which affected his recollection of the day.

## **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 injuries to AP. More specifically, the issue to be considered in this case is whether any officer may have committed an assault, an assault causing bodily harm, or the offence of uttering threats.

If the officers were acting as required or authorized by law, on reasonable grounds, they were justified in using as much force as was necessary. Use of unauthorized or excessive force, on the other hand, could result in criminal liability.

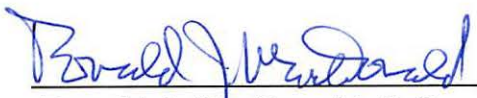
AP has made allegations of excessive force by several officers at the scene that are not consistent with each other, and are not consistent with other evidence collected. In particular, the evidence of CW1 is inconsistent with what AP says. Moreover, AP has acknowledged that his medical condition on the day in question makes his recollections unreliable. His accusations against WO3 are contradicted by the fact that WO3 evidently felt sufficient concern for AP's condition that he interrupted transport to police custody and called paramedics to attend.

On the evidence, the officers, in responding to a complaint that AP had assaulted a family member, were authorized to investigate and to detain AP while doing so. When he unlawfully tried to escape their custody, they were acting in execution of their duty in pursuing him and securing him. The evidence, both from the officers involved and,

importantly, from a disinterested civilian witness, leads to a conclusion that this was carried out with a minimum of force.

It is unfortunate that AP suffered injuries to his ribs in the course of being stopped from running away from the police, but it appears very likely that this was caused by unintentional contact with the fence post against which he fell. The technique that SO used to halt AP's flight was a standard approved method of halting a running suspect without involving the pursuing officer too in the fall to the ground. SO simply pushed AP to the ground. SO could not be expected to have applied the force needed to stop AP with precision in order to ensure that AP fell safely onto a soft surface without injury. Rather, he did what might be expected to stop AP as quickly as he could. It would be unreasonable to expect that in the heat of the moment SO could anticipate AP would run into the fence in this fashion. The uncontrolled way AP fell was largely due to the fact that he was running with his hands cuffed behind his back.

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**

November 29, 2019

**Date of Release**