



**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 MAY 24, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019-103

Date of Release:

March 30, 2020

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Introduction

At approximately 10:30 p.m. on May 24, 2019, the Subject Officer ('SO') attempted to stop a motorcycle driven by the Affected Person ('AP'), whom SO had seen speeding. AP accelerated away, but lost control of the motorcycle and crashed, suffering a broken bone in his shoulder and other 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 civilian witnesses and two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of police dispatch radio transmissions;
- data from the police vehicle's Mobile Data Terminal ('MDT'), including GPS data;
- forensic scene examination, including photographic evidence;
- Vancouver Police Department ('VPD') policies; 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, SO permitted access to his PRIME report.

Narrative

In his interview with IIO investigators, AP recalled driving a motorcycle southbound on Granville Street near West 16th Avenue when he saw police emergency lights in his side mirror "pretty far back." AP said he might have been driving over the speed limit, and decided to turn off the main road onto a side street and slow down. Soon, though, he saw the police lights again and thought he heard the siren. He said he "panicked" and increased speed, "possibly" to 80 km/h.

Emerging from the side streets, AP described turning right onto a busy street (actually, he had returned to Granville Street), and soon saw the police vehicle, still behind him. The emergency lights were still lit, and AP said he was sure now that he could hear the siren.

AP did not remember how he lost control (he suggested in his IIO interview that SO might have driven into him from behind), but recalled going down onto the pavement with the motorcycle and sliding for several seconds before colliding with the rear of a vehicle that

he thought was either parked or travelling in the same direction and pulled over to the right “because of the siren.”

AP said he knew he had injured his shoulder, and told SO about it, but complained that SO ignored him and “mocked” him while “slamming” him to the ground repeatedly and “yanking” his arms behind him to handcuff him. AP also complained that he was “treated like shit” at the hospital, saying he received inadequate service and treatment including a failure, he said, to even clean his wounds or to apply needed sutures.

Civilian Witness 1 (‘CW1’) told investigators that he was driving southbound on Granville Street at King Edward when he heard a siren and saw a police vehicle coming from behind with its emergency lights flashing. Just past the intersection, he pulled over to the right and then felt something hit the back of his car. Shortly after, CW1 said, he noticed that AP was trying to pull the motorcycle out from under CW1’s car.

CW1 then saw SO arrive. Getting out of his car shortly after, CW1 saw that AP was already handcuffed. He said he heard SO “scolding” AP for driving in a dangerous manner. He said AP asked for the handcuffs to be removed, but said that SO responded that they needed to wait for paramedics to arrive. When an ambulance came, CW1 said, SO removed the handcuffs so AP could be examined. CW1 did not corroborate any of AP’s allegations of physical mistreatment by SO.

CW2 was also driving south on Granville at the time of the incident. He heard a police siren coming from behind him and saw a motorcycle pass through the intersection at King Edward “in a pretty speedy fashion” and crash into a stationary vehicle. CW2 saw the arrest of AP and heard AP asking to be uncuffed and to stand up. CW2 said he heard SO telling AP he had committed a very dangerous act in fleeing from police, and would not uncuff AP or let him stand up. Nothing in CW2’s account suggested any physical abuse of AP by SO.

In his PRIME report, SO wrote that he was driving southbound on Granville Street at 14th Avenue West when he saw, ahead of him at 16th Avenue, two motorcyclists who appeared to be speeding. While SO was stopped for a red light at 16th Avenue, he saw one of the motorcyclists (AP) accelerate rapidly away up Granville Street. SO activated his marked police vehicle’s emergency equipment and drove ahead through the red light, “in an attempt to continue visual continuity of the speeding motorcycle in order to initiate a traffic stop. [SO] had been too far away to obtain a licence plate or a worthwhile description of the motorcycle.”

Up ahead, SO saw AP turn right onto Laurier Avenue, and followed him. Between 16th Avenue and Laurier, GPS data shows that SO drove at an average of 77 km/h in a zone with a speed limit of 50 km/h, and reached a maximum speed of 106 km/h for a period of

approximately two seconds. As he turned onto Laurier, SO saw AP make another right turn on Alexandra Street and disappear again. Following in the same direction and turning back towards Granville Street on Angus Drive, SO saw AP stopping momentarily before turning back south on Granville. While driving on the side streets, GPS data shows that SO drove at an average speed of 55 km/h, with a top speed of 85 km/h, again for approximately two seconds.

SO said he also turned out onto Granville, “and activated both lights and siren to initiate the traffic stop.” As he drove south towards King Edward Avenue, SO drove at an average speed of 58 km/h, and reached a top speed, for approximately one second, of 102 km/h.

Just south of King Edward, SO found that AP had crashed the motorcycle and appeared to be injured. He called for an ambulance to attend and AP was taken to hospital with a shoulder injury that turned out to involve a fractured humerus bone.

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 an incident resulting in serious harm or death. More specifically, the issue to be considered in this case is whether SO committed any *Motor Vehicle Act* or *Criminal Code* driving offence in the course of his attempts to pull AP over.

Under the BC *Motor Vehicle Act*, an officer driving an emergency vehicle, as SO was here, can sometimes drive in a way that would otherwise be contrary to the *Act*, as long as he or she does so in accordance with specific regulations.

In this case, SO initially drove ahead through a red light, but it appears that he did so using his emergency equipment (lights and siren) as required by the regulations. He then exceeded the speed limit on Granville Street, but still appears to have been using his emergency equipment. AP says that he saw SO’s emergency lights but is unsure about the siren. However, AP was a considerable distance ahead of SO at this time, and was driving a motorcycle, evidently at a considerable speed. That being so, he is less likely to have heard SO’s siren, and there is no other evidence on the point except SO’s statement that he had turned on his emergency equipment, with no mention of turning it off.

Regarding SO’s driving (and speeding at some points) on the side streets after turning off Granville, we know from AP’s evidence that SO was still using his emergency lights, because AP recalls reacting with alarm when he saw them still behind him. AP also says he thought he heard the siren. SO’s statement in his PRIME report that when he turned back onto Granville he “activated both lights and siren” suggests logically that neither had been active before that point. The statement, though, is contradicted by AP’s evidence

that the lights at least were on before that point, and possibly the siren too. On a balance of probabilities, then, it seems more likely that SO was correctly using his emergency equipment throughout, including during his final travel south on Granville to the scene of AP's accident.

Although AP made a number of serious allegations of physical mistreatment by SO during the arrest, civilian witnesses who had a good opportunity to make observations at the scene did not provide any evidence corroborating those allegations. While the IIO does not have jurisdiction to assess or act on AP's further allegations of mistreatment by medical professionals at the hospital, the somewhat implausible nature of those allegations are helpful in assessing AP's overall credibility. The allegations of physical abuse on the part of SO are not borne out by the evidence as a whole.

Accordingly, as the Chief Civilian Director of the IIO, I do not consider that there are reasonable grounds to believe 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

March 30, 2020

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