



**IN THE MATTER OF THE INJURY OF A MALE
WHILE IN THE CUSTODY OF THE
NEW WESTMINSTER POLICE DEPARTMENT
IN THE CITY OF NEW WESTMINSTER, BRITISH COLUMBIA
ON JANUARY 13, 2020**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2020-011

Date of Release:

April 30, 2020

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Introduction

On the evening of January 13, 2020, the Affected Person ('AP') was arrested for public intoxication and taken to New Westminster Police Department ('NWPD') cells. AP was highly intoxicated, and fell several times while in cells. On the final occasion, he struck the back of his head against the concrete wall of the cell and was injured. Because the injury occurred while AP was in police custody, 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, a civilian witness, five medical first responders and a witness police officer;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- Closed-Circuit Television ('CCTV') recordings from police cells;
- scene examination;
- NWPD Prisoner Log and Cell Check Report;
- NWPD policies; and
- medical evidence.

Narrative

Shortly before 5:00 p.m. on January 13, 2020, AP was arrested for being intoxicated in public, and was transported to NWPD cells. The period of time AP spent in his cell was completely recorded by CCTV video which, when reviewed, provides the following account:

- 5:03 p.m.: AP is brought into the cell by two officers and is laid down on a mattress pad approximately in the centre of the floor. His handcuffs are removed, as well as some items of clothing. There is no inappropriate application of force by either officer. Once the process is complete, the officers carefully move AP so he is fully on the pad.
- 5:08: the officers leave the cell. AP remains lying in the fetal position on the mattress pad.
- 5:10-5:41: AP moves around randomly, half on and half off the pad. He twice pulls his pants halfway down, then back up. He tries to crawl from the pad on his hands and knees, but falls face-first onto the floor. He sits up and then flops down onto

his side on the pad. On another occasion, he gets up onto his knees, and then falls backwards onto the floor.

- *The cell log for the period 5:00 to 5:45 p.m. states “[AP] presented very intoxicated and was thrashing and flailing against the mattress.”*
- 5:41: AP stands, braces with his hand against the wall and stumbles to the cell door. He then staggers to his right, collides with the built-in toilet/washbasin, turns and falls heavily onto his left side.
- 5:42: an officer, summoned by the jail guard, enters the cell and checks on AP, who is lying in the corner of the cell. The officer helps AP to his feet, helps him use the toilet, and then guides him back to the pad, where he again settles in the fetal position, after the officer assisted AP to make sure his pants were fully pulled up.
 - *The cell log notes that the jail guard “rushed” to the cell and summoned an officer, who assisted AP and said that “he seemed okay.”. This description of the guard’s actions is corroborated by cell block video, which shows the guard moving quickly to the cell door each time AP falls, and summoning an officer on the occasions when AP appears to need assistance.*
 - *The officer told the guard that he would report the incident to the Watch Commander.*
- 5:45: the officer leaves the cell.
- 5:45-6:19: AP continues restless, uncoordinated movements on the pad. On one occasion he tries to sit up, but falls over backwards onto the floor. He does not appear to hit his head.
- 6:19: AP sits up, pulls off his socks and throws them into the corner of the cell.
- 6:19-6:37: AP is lying on the pad.
- 6:38: AP stands up, then falls backwards, landing at the foot of the cell wall. It appears he may have struck his head against the wall. He crawls to his socks, retrieves them, and puts them back on. He can be seen to rub his head. He crawls back to the pad.
 - *The cell log notes that the jail guard saw the fall and spoke through the door with AP, who said he was “fine” and began to swear at the guard.*

- 6:44: AP stands again, by bracing off one wall of the cell with his hands, but immediately stumbles backwards across the cell, and again falls against the far wall. Again, it appears that he strikes his head. He lies almost motionless in the corner of the cell.
 - *Again, the fall is noted in the cell log, but this time when the guard called to AP through the door slot, AP was unresponsive. The guard paged for an officer to attend, as required by police policy.*
- 6:50: officers enter the cell and check on AP, moving him away from the wall. AP is moving his limbs occasionally. The officers bring the pad beside him, and roll him onto it, but AP rolls away onto the floor. An officer turns the pad so that it cushions AP's head as he rolls around.
 - *The cell log records officers calling paramedics immediately once they find AP unresponsive on the cell floor.*
- 6:58: paramedics enter the cell and attend to AP.

AP underwent a CT scan at the hospital and was found to be suffering from multiple brain bleeds, one recent but some older. Surgery was performed to drain the blood. Civilian Witness 1 ('CW1'), a friend of AP's, confirmed that AP had fallen about a month earlier, had complained of intense headaches and had sought treatment, but had only been prescribed painkillers.

AP told IIO investigators that on the afternoon in question he had become extremely intoxicated, had been punched in the head by someone, and had then been arrested. He did not accuse police officers of any wrong-doing, and said that he was healing well.

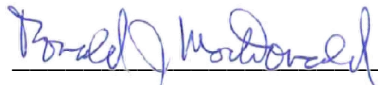
Legal Issues and Conclusion

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 an officer may have caused or exacerbated AP's injury through unjustified or excessive use of force, or by neglect of duty.

The evidence collected, particularly the video evidence, demonstrates that no officer committed any offence. AP's injury was caused by his own actions in becoming so intoxicated that he could not stand or control his movements, causing him to fall and strike his head. On each occasion when AP experienced those difficulties, officers and jail staff

responded rapidly and appropriately. When a fall caused AP to become unresponsive, the civilian jail guard again acted entirely in accordance with policy, summoning officers to assist AP. NWPD officers too responded commendably, providing as much care for AP as possible while waiting for paramedics to arrive on scene. The video evidence demonstrated that all officers acted with compassion toward AP, which ensured he received the medical assistance he required in a timely manner.

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

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