



**IN THE MATTER OF THE INJURY OF A MALE  
WITH A POSSIBLE CONNECTION TO THE ACTIONS  
OF MEMBERS OF THE RCMP  
IN THE TOWN OF SMITHERS, BRITISH COLUMBIA  
ON JANUARY 8, 2018**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019-159

Date of Release:

April 22, 2020

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## **Introduction**

On the evening of January 8, 2018, the Affected Person ('AP') in this case was arrested in downtown Smithers for being intoxicated in public, and was transported to the RCMP detachment. The next morning, as he sobered up in cells, he realized that his ankle was injured. He was taken to hospital and diagnosed with a fracture of his right ankle. AP subsequently filed complaints saying that the injury was caused by the arresting officers. The Independent Investigations Office ('IIO') was not notified about this matter until July 22, 2019. Because there appeared to be a possible connection between the injury and the actions of police, the IIO commenced an investigation. The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- statements of AP, two civilian witnesses, two jail guards and one witness police officer;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- RCMP cell block video;
- RCMP prisoner report and guard log; 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, the Subject Officer ('SO') did not provide any evidence to the IIO.

## **Narrative**

At about 10:00 p.m. on January 8, 2018, Civilian Witness 1 ('CW1') saw AP "staggering" down the middle of Broadway Avenue in Smithers. She told IIO investigators that AP appeared to be "heavily intoxicated" and she was concerned for his safety, so called the police. CW1 said she did not see AP fall at any point, and did not see his arrest by attending police officers. Asked if she had noticed AP limping, she said she did not recall that. The ground was snow covered and icy, but the streets had been plowed.

Two officers responded to the call: Witness Officer 1 ('WO1') and SO. Interviewed by the IIO on November 28, 2019, WO1 pointed out that a significant period of time had passed since the incident. She said she remembered getting dispatched to investigate an apparently intoxicated male who was trying to cross the road. The location, she said, was about a three-minute drive from the detachment. She recalled arriving just before SO, in separate vehicles, and finding AP "sitting in a snow bank." WO1 continued "I do not recall how the arrest occurred or who placed him in handcuffs ... I did not transport [AP] to

cells.” In her written notes of the incident, WO1 wrote “Saw [AP] go to cross the street and fall on his butt in the snow bank. Didn’t hit head.”

The RCMP Prisoner Report, written at the time AP was booked into cells, stated that AP had been “stumbling down the road,” and that he had “fallen on his butt.”

Video recordings from the RCMP detachment show AP arriving in SO’s police vehicle. He is brought into the booking area and his handcuffs are removed. He appears to be unsteady on his feet, but is not noticeably avoiding placing weight on his right leg. SO and WO1 help AP remove his boots, and there is no indication from AP that this procedure causes him pain or discomfort. AP is compliant and neither officer mistreats him. He can be seen being taken to a cell, and again does not appear to be suffering any pain from his right ankle.

AP’s overnight stay in the police cell is recorded continuously on video, and there is no evidence that anything occurs to cause injury to his right ankle. During that period, though, AP can be seen starting to notice discomfort in the ankle, and at about 7:00 a.m. he is seen to limp to the cell door and bang on it for attention.

Shortly after this, AP was taken from the cell, retrieved his personal belongings, and was transported to hospital. He can be seen on the detachment video to be limping noticeably by this time.

AP has given differing accounts of the cause of his injury:

- Emergency room records indicate that AP reported to staff that police may have slammed a car door on his ankle.
- In his later written complaint to the Civilian Review and Complaint Commission for the RCMP (‘CRCC’), AP stated that at the time of the incident he was “intoxicated” and that he “blacked out” and woke up in RCMP cells in pain, unable to put pressure on his right ankle.
- AP later told the CRCC in a verbal statement that when he was arrested and placed into a police vehicle, the car door had been slammed on his ankle.
- An RCMP investigator subsequently interviewed AP, at which time AP told the investigator that he had no recollection of how or where his ankle was injured, as he is a heavy drinker and was heavily intoxicated at the time.
- AP told the IIO that:
  - he was severely intoxicated and does not recall how his ankle was broken;
  - the police may or may not have caused the injury;
  - the jail guards may have caused it; and
  - it is possible his ankle may have been broken before his contact with police.

## **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 committed an offence through an unjustified direct or indirect application of force that injured AP's ankle.

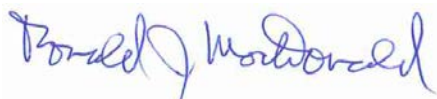
The only evidence that AP's injury was caused, either deliberately or accidentally, by an officer closing the door of SO's police vehicle on AP's ankle is his assertion, as detailed above, that this is what happened, or may have happened. On the other hand, AP has also said on more than one occasion that he has no memory of the incident, and in fact is not able to say how or even when the injury occurred.

It is clear from the video evidence that it did not occur between the time AP arrived at the police detachment and the time he first complained of it. That means that the ankle was already broken at the time AP was being booked in at the detachment, yet it is obvious from his behaviour, recorded on the video, that at that time he was unaware of the injury.

The remaining possibilities are that the ankle was injured as AP speculates, by being caught in the police vehicle's door, or that it was already injured (and AP was unaware of it) before police were called. He was heavily intoxicated, walking on icy, slippery pavement, and it appears he may have fallen before officers arrived.

In summary, there is no evidence beyond speculation that any police officer caused the injury, and certainly no evidence that it was caused either deliberately or through negligence.

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.



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

April 22, 2020  
**Date of Release**