



**IN THE MATTER OF THE DEATH OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN THE MUNICIPALITY OF PORT COQUITLAM, BRITISH COLUMBIA
ON DECEMBER 22, 2019**

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

Chief Civilian Director:	Ronald J. MacDonald, Q.C.
IIO File Number:	2019-232
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Introduction

On the afternoon of December 22, 2019, the Affected Person ('AP') fled from a residence in Port Coquitlam just as police officers arrived to arrest him. AP made his way down a steep bushy hill and out onto a highway, where he ran into traffic trying to stop and get into a passing vehicle. He was seen and chased by a witness police officer ('WO1') who happened to be on traffic duty close by. After considerable difficulties, and with the assistance of a civilian, WO1 was able to apprehend AP and take him to the ground. Subject Officers 1 and 2 ('SO1' and 'SO2') arrived to assist, and between the three officers they were able to handcuff AP, face down on the roadway, at which point WO1 disengaged. AP was still struggling and being restrained by SO1 and SO2. Shortly afterwards, though, he became unresponsive. Officers summoned an ambulance and attempted CPR, as did fire rescue personnel and paramedics when they arrived, but AP was declared deceased at the scene.

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 five civilian witnesses and three witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- police vehicle dash camera recordings;
- video recordings from civilian cell phones;
- recordings of police radio transmissions;
- scene photographic evidence;
- Conducted Energy Weapon ('CEW') data analysis; and
- BC Emergency Health Services records.

Narrative

Shortly after 5:00 p.m. on December 22, 2019, WO1 was on traffic duty and had parked in a pull-out beside the westbound lanes of the Mary Hill Bypass in Port Coquitlam. He had only been there a few minutes when he noticed something moving in the brush north of the highway, and then saw a male (AP) who had come out of the undergrowth onto the pavement. WO1 told investigators that he saw AP step out into the traffic trying to flag down passing vehicles, one of which, WO1 said, nearly struck AP.

WO1 turned his police vehicle and drove along the pull-out towards AP. Switching on his emergency lights, he got out of the vehicle and called out to AP, who immediately fled farther along the highway and farther into traffic. WO1 called for other officers to attend

and pursued AP on foot, yelling for him to stop and get down on the ground. Vehicles were stopping on the roadway and AP was running between them. WO1 said that AP appeared confused and “almost fearful”, and was saying he needed help. There was what appeared to be blood on his face and clothes.

WO1 said he tried to take AP to the ground with an arm bar, but AP pulled away and jumped over the concrete divider into eastbound traffic, which was still moving at normal speeds. WO1 said that AP was nearly struck by two eastbound vehicles before he jumped back over to the westbound side of the median. After trying unsuccessfully to get into a stopped vehicle, AP ran to a stationary SUV and opened the rear passenger side door.

Seeing AP enter the SUV and hearing a woman in the vehicle screaming, WO1 redoubled his efforts to apprehend AP. He told investigators that he grabbed AP by the back of the neck and the shirt and pulled him from the vehicle. AP, though, was able to push WO1 away with sufficient force that WO1 stumbled backwards several metres before falling to the ground.

Video footage from the dash camera of WO1’s police vehicle corroborates the evidence of WO1 and civilian eyewitnesses:

- WO1’s vehicle is seen to turn his vehicle to the left and move along the pull-out, and AP can be seen trying to flag down and stop a passing vehicle.
- WO1 stops his vehicle, turns on his emergency lights and gets out, shouting, “Hey, come here!” AP looks back and starts to run away from the officer along the edge of the highway. WO1 runs after AP, updating on the dispatch channel.
- WO1 runs into traffic behind AP, shouting “Get back here, you’re under arrest!”
- Sounds of a struggle follow, with WO1 ordering “Get down!” and “Stop, police!” AP can be heard shouting unintelligibly. The two men can be seen, a considerable distance away amongst slowing and stopped vehicles, moving back and forth in the light of headlights.
- WO1 says, “Get off the fucking car, get over here, back away”, and AP is heard to say “Please help me.”
- Then there is the sound of a car horn, and WO1 broadcasts, “He’s in eastbound traffic.”
- WO1 chases AP back across the westbound lanes, still shouting “Get on the ground!”

- One figure (apparently AP) can then be seen pushing another (presumably WO1) backwards onto the shoulder of the highway, where WO1 falls onto his back.
- A woman screams, there are the sounds of struggling, and WO1 shouts “Get out of the car!” The video appears to show WO1 being pushed violently away again, onto the highway shoulder.

At this point, Civilian Witness 1 (‘CW1’), who had been watching from a nearby stationary vehicle, decided to assist. He told IIO investigators that, seeing WO1’s difficulties, he got out of his car and “tried to calm the male down.” CW1 said that “[WO1] just did his best, you know, I really sensed that he was just trying really hard to do the right thing and to help this guy,” but WO1, he said, was “just out of his weight class.” CW1 said he turned AP around and held him against the hood of a vehicle, and told investigators that WO1 asked, “Can you take him to the ground?”. A cell phone video recorded by a civilian in the vehicle shows CW1 holding AP against the hood.

On the police equipment audio, CW1 can be heard saying calmly, “Just relax, just relax, it’s over buddy, it’s over.” WO1 says, “Can you throw him onto the ground?” and tells another civilian who has come to help, “Grab his legs, grab his legs.” WO1 said that he and CW1 pulled AP to the ground on his front, and they both fell on top of him. The cell phone video from inside the vehicle appears to show AP being taken down initially onto his back, and then rolled onto his front. WO1 said that AP was trying to get up, and WO1 held his head down with his forearm. On the police audio recording, AP can be heard shouting “Help!” and “You’re hurting me.” CW1 responds, “We’re trying to help you bud,” and WO1 tells AP, “Lay on your stomach.” AP is clearly panicked, saying “I can’t breathe,” and CW1 tells him, “You’ve just got to relax, and you’ll be able to breathe.”

A second cell phone video taken by a civilian witness from a nearby stationary vehicle shows AP face-down, pushing up from his elbows and struggling after being taken to the ground. WO1 is leaning with his weight on AP’s back, and CW1 is bending over, holding AP’s right arm and talking to him.

Other officers were arriving (two police cars with emergency lights flashing can be seen in WO1’s dash camera recording, pulling up in the eastbound lanes), and as SO1 and SO2 moved in to assist in controlling AP, CW1 stepped aside. On the second civilian cell phone video, SO1 and SO2 can be seen forcing AP’s arms behind his back, with WO1 applying handcuffs. WO1 described rolling AP from side to side on the ground to search his pockets, but said that no other force was used, though he was not sure whether either of the subject officers had his body weight on AP at any time, and it is not clear from the video if either officer applied his weight to AP’s back, or was only kneeling beside him. No use of force other than restraint can be seen on the cell phone video. Once AP was under control, WO1 stood off to one side.

For about a minute after the subject officers' vehicles arrived, AP can be heard repeatedly saying, "I can't breathe," and officers can be heard trying to reassure him, telling him, "It's going to be okay." An officer tells AP that he needs to know if AP has any weapons on him, and that he has to be searched. Within seconds, though, an officer notes that AP is not conscious, there is immediately a call for paramedics to attend and an officer says, "Get him in the recovery position."

"He did say at one point he couldn't breathe," WO1 said, but told investigators that it would not have been safe to reposition AP, for everyone's safety, because of the way he had been resisting and struggling. "He was still trying to pull away from us," WO1 said. After "ten to fifteen seconds," WO1 said, one of the officers started trying to ask AP questions, but he did not respond. WO1 said that one of the subject officers checked AP's pulse, and possibly his breathing, and determined that he appeared to be in medical distress. AP was turned onto his back and CPR was started. WO1 called for an ambulance and updated Dispatch. An attempt to use a defibrillator was unsuccessful, as the device advised that AP was not suitable for a shock. Fire Services attended, followed by EHS. AP was declared deceased at the scene.

Shortly before AP had appeared on the side of the road, he had been at a residence a few hundred metres north of and above the highway, and had fled as police officers arrived to execute a warrant for his arrest. CW2, who had been at the residence, told IIO investigators that AP was taking medications for a heart condition, and shortly before leaving the home had taken an unknown quantity of cocaine. CW2 said there was no contact between AP and police officers at the residence.

The autopsy report indicated the cause of death as:

- Polysubstance toxicity (cocaine and methadone); with significant conditions contributing to the death including:
 - Hypertensive (high blood pressure);
 - Atherosclerotic cardiovascular disease (plaque build-up in the arteries); and
 - Severe cardiomegaly (enlarged heart).

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 any officer used unauthorized or excessive force on AP, and thereby caused his death. If the officers were acting as required or authorized by law, on reasonable grounds, they were justified in using as much force as

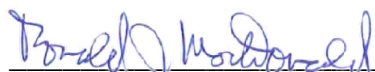
was necessary. Use of unauthorized or excessive force, on the other hand, could result in criminal liability.

WO1 was clearly acting lawfully, in execution of his duty, in trying to apprehend AP and prevent him from running in traffic and creating danger for himself and for passing motorists. When AP failed or refused to cooperate with WO1's lawful demands and in the course of his resistance committed a series of assaults on WO1, WO1 was justified in using a reasonable level of force to obtain compliance. With CW1's assistance, WO1 used no more than a reasonably necessary level of force, and was finally able to get control of AP.

SO1 and SO2 were responding to WO1's calls for assistance, and upon their arrival they found WO1 struggling to restrain AP, who was shouting and pushing up from the ground. The two subject officers were justified in using the force necessary to place AP in handcuffs and to hold him still to enable a search for weapons to be carried out. There is no evidence that anything more than this necessary and reasonable degree of force was applied.

The autopsy findings indicate that the cause of AP's death was not the use of force by any officer: it was AP's underlying heart conditions and the consumption of illicit substances. Those factors would undoubtedly have been amplified by the stress and exertion of the incident, but the officers cannot be blamed for that. AP presented as someone who was creating serious danger and needed quickly to be brought under control. That is all the officers did, and they did it with a necessary and proportional degree of force.

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

June 11, 2020

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