



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
ROYAL CANADIAN MOUNTED POLICE IN
THE CITY OF CHILLIWACK, BRITISH COLUMBIA
ON MARCH 20, 2020**

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

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

IIO File Number: 2020-059

Date of Release: August 28, 2020

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Introduction

On the evening of March 20, 2020, Royal Canadian Mounted Police ('RCMP') officers were called to investigate a bomb threat at a grocery store in Chilliwack. Two individuals inside the grocery store had threatened to blow it up previously, and had returned to the store.

RCMP officers attended the area and were in the process of evacuating the public, setting up containment and arranging for specialized officers to enter the store in response to the threat. As they were doing so, the Affected Person ('AP') approached the officers with some information and was told to leave the area. AP refused to obey the officers' directions and was arrested for obstruction. During the arrest, AP suffered a broken collarbone.

Because the injury had occurred in connection with the actions of police officers, 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 and two civilian witnesses;
- statements of three witness police officers;
- police Computer-Aided Dispatch ('CAD');
- Police Records Information Management Environment ('PRIME') records;
- 911 recordings;
- police radio to radio transmissions; and
- 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, the Subject Officer ('SO') did not permit access to his records.

Narrative

On the evening of March 20, 2020, RCMP officers were called to a bomb threat at a grocery store in Chilliwack. Two individuals inside the grocery store had threatened to blow it up previously, and had returned to the store.

RCMP officers attended the area and were in the process of evacuating the public, setting up containment and arranging for specialized officers to enter the store in response to the threat.

Two Witness Officers ('WO1' and 'WO2') were approached by AP, who was coming back from a nearby liquor store and had information about two suspicious persons he had seen at the liquor store. According to WO1 and WO2, they told AP to immediately leave the area due to a bomb threat, and AP started swearing and calling the officers names. WO2 indicated that, had they not been involved with dealing with the bomb threat, he would have arrested the AP for obstruction at this point.

AP then walked around to the rear of the building and encountered the Subject Officer ('SO'). AP approached SO and started to tell him about two males at the liquor store. SO yelled at AP to leave the area, and AP swore at the officer and refused to leave. AP said that he was trying to tell the officer about the suspicious males but the officer kept telling him that he had to leave the area. The AP believed he was trying to assist the SO.

Several civilian witnesses and one witness officer saw the incident between AP and SO unfold. Civilian Witness 1 ('CW1') said they saw AP yelling and staggering towards the building, and SO repeatedly telling AP to move away from the area. CW1 estimated that AP was told 3-4 times to leave the area. CW1 said AP was not listening to SO and kept talking back and wanting to fight the officer, even raising his fists at one point. CW1 overheard SO tell AP that if he did not leave the area, that he would be arrested.

AP also confirmed that he was warned by SO that he would be arrested if he did not leave the area because he was interfering with a police incident. AP did not comply with SO's direction to leave the area immediately, and was arrested by SO. CW1 saw SO take hold of AP's arm, and said that there was a struggle between AP and SO, resulting in AP being spun around and then put to the ground by the SO.

Civilian Witness 2 ('CW2') recalled the incident differently from CW1. CW2 said that two officers grabbed AP's arms and dropped AP down face first into the cement. Upon further follow-up questioning on a later date, CW2 changed his account and said that he did not specifically recall a second officer assist in the takedown.

Witness Officer 3 ('WO3') also witnessed the incident between SO and AP. He described AP as being uncooperative with SO. He said that SO took hold of AP's arm and that both of them fell to the ground at the same time. He said that the fall happened quickly and it seemed uncontrolled and "awkward". WO3 then assisted to hold AP's legs.

AP does not remember what happened once the SO grabbed his arm to arrest him. AP lost consciousness briefly during the incident and was taken to the hospital with a broken collarbone.

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.

The issue to be considered in this case is whether the officer may have committed the offence of assault causing bodily harm by using excessive force or otherwise acted improperly in connection with the arrest of AP.

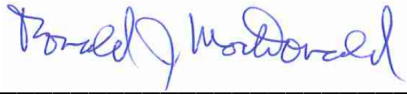
In these circumstances, the SO was acting lawfully, in execution of his duty, when he arrested AP for obstruction. AP had been told to leave the area at least 3-4 times and was obstructing SO in his duty to clear the area and make the public safe from the bomb threat. From AP's own account, he was warned by SO that he would be arrested if he did not leave the area.

Although AP was initially trying to be helpful by providing information to the officers, they were focused on dealing with the bomb threat and a miscommunication may have occurred between the police and AP. AP's demeanour changed quickly, with aggression towards the officers and a refusal to leave the area.

There is contradicting information from witnesses about what happened next. In particular, how the SO arrested AP. CW2 initially said that AP was dropped head first into the cement by two officers, but then later said he did not specifically recall seeing a second officer assist with the takedown. That was a significant change, and brings the reliability of CW2's evidence into question somewhat. CW1 described the arrest differently from CW2, and said the AP had his fists raised in the air trying to fight SO, and then was taken down by SO. Lastly, WO3 described AP as "falling" to the ground with the SO in the struggle.

It was clear that the SO was dealing with a serious threat to public safety, and AP needed to be controlled quickly. Given the exigency, it was reasonable for the SO to take AP to the ground. Although there are differing accounts of what occurred, the more reliable evidence supports a conclusion that SO's actions were reasonable and necessary to remove AP from a potentially dangerous situation.

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.

Handwritten signature of Ronald J. MacDonald in blue ink.

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

August 28, 2020

Date of Release