



**IN THE MATTER OF A CARDIAC ARREST SUFFERED BY A MALE
WHILE BEING ARRESTED BY MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
VANCOUVER, BRITISH COLUMBIA
ON SEPTEMBER 5, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2021-251

Date of Release:

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INTRODUCTION

On September 5, 2021, the Affected Person ('AP') was arrested by Vancouver police officers responding to a 911 call from a grocery store on West 4th Avenue. AP resisted and assaulted officers, who struggled to control him on the street in front of the store. AP then went into cardiac arrest and was taken to hospital, where he was found to be under the influence of narcotics. Because police officers had used force during the apprehension and there was a potential link to AP's medical distress, 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:

- written complaint from AP;
- statements of three civilian witnesses and five witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of 911 calls and police radio transmissions;
- civilian cell phone video recordings; and
- BC Emergency Health Services records.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, all three Subject Officers have declined to provide any account to the IIO. AP has not participated in an IIO interview or provided any evidence other than an initial complaint.

NARRATIVE

Shortly after noon on September 5, 2021, police received a series of 911 calls from a grocery store on West 4th Avenue in Vancouver. The security guard who called told the call taker that a male (AP) was in the store "disturbing the environment".

Police radio transmission recordings include the following:

- At 12:19 p.m., when Witness Officer 1 ('WO1') attended in response to the 911 call, she initially announced that she had AP in custody.
- Seconds later, she requested backup.
- At 12:26 p.m., Subject Officer 1 ('SO1') was on scene.

- After a further fifteen minutes, at 12:41 p.m., WO1 again requested backup.
- Another half minute passed and SO1 announced, “We have it under control. We just need an extra member to help us load [AP] in the wagon”.
- Despite this, two minutes later, at 12:44 p.m., WO1 was requesting “Code 3 cover”.
- SO1 then stated, “We’ll need a hobble”. A loud moan can be heard in the background.
- At 12:46 p.m., SO2 and SO3 arrived on scene.
- Shortly after this, WO2 announced, “The guy’s in custody and he’s hobbled. We’ll need EHS”. WO2 said that AP was conscious and breathing, but had a cut on his face.
- At 12:49 p.m., WO2 updated: “We’re just concerned about a drug overdose here with this fighting suspect, so just for EHS Code 3 (emergency lights and siren) please”.
- At 12:52 p.m., WO2 said, “His lips are starting to go blue and it looks like he had a bag of drugs in his mouth as well so, can you let EHS know we need them here as quick as they can”.

In the course of the IIO investigation, interviews were conducted with witness police officers and civilian eyewitnesses, and multiple civilian cell phone videos showing some parts of the incident were examined. The following description of the interaction between AP and officers is based on that body of evidence, correlated with the radio transmissions set out above.

WO1 was the first officer to arrive at the grocery store in response to the 911 calls from the security guard. She found grocery items and baskets strewn around, and the guard told her that AP had assaulted him. WO1 went to AP, told him he was under arrest for assault and placed him in handcuffs. AP was protesting that he had not done anything, but WO1 was able to confirm the assault by viewing security video.

Once SO1 arrived, the two officers walked AP out of the store onto the sidewalk. At that point, AP began actively resisting, pushing, twisting and kicking. He then “dead-weighted” and flopped to the ground. As the two officers lifted him back to his feet, he broke free, still handcuffed, and ran into the street. Only a short distance past the curb, WO1 and SO1 took him down to the ground. Because he appeared to calm down, they lifted him back onto his feet, but he immediately began struggling again.

AP was taken back to the ground, kicking at WO1 and causing minor injuries to her. These assaults were captured on cell phone video from a civilian across the street. As AP continued to kick and struggle, face down on the asphalt, WO1 called for more officers to

attend. SO2 and SO3 came on scene and helped to hold AP down while she applied a hobble to his ankles in an attempt to control his kicking.

Two civilian witnesses told IIO investigators that they saw SO1 punch AP in the face area in the course of the struggle, and another described SO1 delivering a knee strike to AP's thigh.

Shortly after AP stopped struggling, it became apparent that he was in medical distress and an ambulance was requested urgently. A piece of plastic wrap, apparently containing drugs, was retrieved from his mouth. Officers administered first aid to him, with doses of Narcan, CPR and the attempted use of a defibrillator. When Advanced Life Support paramedics arrived, they were able to re-establish a pulse and AP was transported to hospital in critical condition. He was released several days later, and subsequently entered guilty pleas to two charges of assault.

The substance found wrapped in plastic in AP's mouth was believed to be crystal methamphetamine, and amphetamines were noted in AP's toxicology report.

LEGAL ISSUES AND CONCLUSION

The Independent Investigations Office of British Columbia has been given the task of investigating any incident that occurs in the province, in which an Affected Person has died or suffered serious physical harm and there appears to be a connection to the actions (or sometimes inaction) of police. The aim is to provide assurance to the public that when the investigation is complete they can trust the IIO's conclusions, because the investigation was conducted by an independent, unbiased, civilian-led agency.

In the majority of cases, those conclusions are presented in a public report such as this one, which completes the IIO's mandate by explaining to the public what happened in the incident and how the Affected Person came to suffer harm. Such reports are generally intended to enhance public confidence in the police and in the justice system as a whole through a transparent and impartial evaluation of the incident and the police role in it.

In a smaller number of cases, the evidence gathered may give the Chief Civilian Director reasonable grounds to believe that an officer has committed an offence in connection with the incident. In such a case, the *Police Act* gives the CCD authority to refer the file to Crown counsel for consideration of charges.

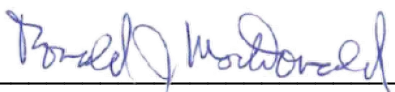
In a case such as this one, involving the use of force by officers, one of the threads of the IIO investigation will be the gathering of evidence about potential justifications for that use of force. The CCD will then apply legal tests such as necessity, proportionality and

reasonableness to reach conclusions as to whether officers' actions were lawful, or whether an officer may have committed the offence of assault.

All the involved officers were acting in lawful execution of their duty in responding to a 911 call and a complaint of assault. The evidence shows that WO1 was careful to verify the complaint by reference to security video, and she and SO1 clearly had sufficient grounds to arrest AP and take him into custody. In the course of that process, they were authorized to use a necessary and reasonable degree of force. It appears that the arrest was proceeding reasonably smoothly until AP began to resist before being loaded into the police van, and the evidence as a whole demonstrates that his resistance was considerable, and violent. It went beyond either passive or active resistance and became assaultive.

That being so, a somewhat elevated level of force by the arresting officers was justified. It is always a concern when a handcuffed detainee is punched with a closed fist, particularly in the face or head. In this case, however, it is clear that AP's behaviour was very violent and difficult to control, and it cannot be said that blows struck by SO1, which do not appear to have been sufficient to cause any serious injury, were disproportionate or unreasonable.

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, KC
Chief Civilian Director

January 30, 2023

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