



**IN THE MATTER OF THE INJURY OF A MALE  
WHILE BEING ARRESTED BY MEMBERS OF THE RCMP  
IN ENDERBY, BRITISH COLUMBIA  
ON NOVEMBER 24, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, K.C.

IIO File Number:

2021-320

Date of Release:

October 4, 2022

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## **INTRODUCTION**

On the evening of November 23, 2021, the Affected Person ('AP') was arrested by Enderby RCMP while intoxicated. He was released the following morning, sober, but an hour later, intoxicated again, he was re-arrested for breaching the peace. In the course of his arrest, he suffered an injury to his ankle. 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 four civilian witnesses, two first responders and two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- 911 call recording;
- video recordings from RCMP cells;
- scene photographs; and
- medical evidence.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, the Subject Officer ('SO') has declined to provide any account to the IIO. AP has also not provided investigators with a formal statement, but has provided some information via a telephone call to the Primary Investigator.

## **NARRATIVE**

### **Background**

AP was initially taken into police custody late on the evening of November 23, 2021. He was lodged overnight in Enderby RCMP cells. Detachment video recordings show that when he was released at 7:34 a.m. the following morning, November 24, he did not appear to be suffering from any injury or mobility issue.

At 8:35 a.m., Civilian Witness 1 ('CW1') called 911 complaining that AP was at CW1's residence, "drunk" again and causing a disturbance. CW1 later told IIO investigators that AP had arrived with a half-empty bottle of vodka, and quickly drank the remaining half. CW1 said he asked AP to leave but AP refused, trying to get CW1 and his brother CW2 to come outside and fight.

SO responded, together with Witness Officers 1 and 2 ('WO1' and 'WO2'). The three officers arrived on scene separately between 8:54 and 8:57 a.m. SO spoke with CW1 outside the house while WO1 (who had released AP from custody about an hour earlier) approached AP, and WO2 went to the front door of the residence to talk to other civilian witnesses.

### **Civilian Witnesses**

CW1 said that after getting accounts from the civilians, the three officers were all with AP, and CW1 returned to the house. He said that as he was approaching his front door, about 60 to 70 feet from where AP was standing, he heard AP say something to the effect of "You can't take me". After entering the house and looking out, his view partially obscured by a parked vehicle, CW1 said, he could see AP, apparently handcuffed behind his back but still shouting at the house, with the officers standing talking two to three feet from him. A few seconds later, after having looked away briefly, CW1 saw what appeared to be AP rolling around on the ground on the other side of the parked vehicle. He said he did not see how AP came to be on the ground.

CW2 told the IIO that AP came to the house inebriated, swigging from a bottle of vodka and uttering threats about "burning the house" and "kicking people's asses". While being handcuffed by the attending officers, said CW2, AP twice tried to step toward the house and was held back by SO. CW2 said that as AP was being walked towards the police vehicles, something caused him to fall, with SO holding onto him as if to prevent him falling.

AP's ex-partner CW3 told investigators that she was at CW1's house on the morning of November 24, and received a call from AP's mother to say that AP had been released from police cells and wanted to see CW3. CW3 said that AP came to the house, but she did not want to talk to him. She recalled CW1 calling 911 and AP standing out in front of the house waiting for police to arrive. CW3 said she was told by WO2 that AP could either be taken to his mother's home or back to cells. CW3 said she saw AP being handcuffed, apparently without incident, though he was yelling her name repeatedly. She said she then saw SO make contact with AP's front and push him down onto the ground. She added that neither of the other officers was touching AP at the time, but went down to the ground with him. She said that AP was then stood up and placed in the back of a police vehicle. She only learned later that he had been injured, and said he never told her how the injury had occurred.

CW4 described AP arriving at CW1's home that morning carrying a half-full bottle of vodka. She said he was slurring his words and fell over at one point. She said he was threatening to hit or fight with everyone at the residence. When police arrived, CW4 said, AP was squirming and flailing as he was handcuffed to the rear. She described AP falling

to the ground at a point when SO was behind him and the other two officers were to his sides. CW4's view, like that of the other civilian witnesses observing from the house, was largely obscured by parked vehicles, but said that AP appeared to be resisting being taken to a police vehicle and was physically pulling away in the direction of the house. She said she thought that SO pushed AP or possibly used her knee against the back of his leg to take him down. CW4 said that SO's action did not look aggressive, and said that SO was holding AP as he fell slowly to the ground. She added that there were a lot of potholes in the area where this happened, and the ground was muddy and slimy.

AP, in a telephone conversation with an IIO investigator, denied being drunk on the morning of the incident. He said he was calling CW3's name as he "could not help" himself. He said he was placed in handcuffs and thrown to the ground by SO. AP said that he was complying with police instructions when this happened. He has since refused any further contact with the IIO.

### **Police Witnesses**

In his IIO interview, WO1 described releasing AP from custody on the morning of November 24, and then being dispatched about an hour later to deal with a complaint that AP was intoxicated again and being belligerent at the house of the complainant (CW1). Upon arrival, WO1 said, he found that AP was "slightly impaired" by alcohol. He said that the officers collectively decided, based on the complaints received, that AP should be arrested for breach of the peace. WO1 said that, after being handcuffed, AP was yelling and refused to stop. As a result, he said, SO told AP that he was also being arrested for mischief.

WO1 said that he was holding AP by his left arm, and was about to double-lock the cuffs. He said that SO reached under AP's right arm pit to support him as he was escorted to a police vehicle. At that point, WO1 said, AP unexpectedly fell down onto the gravel and mud, his legs crossing under him as if in a "curtsy". WO1 said that it was clear to him that SO was trying to hold AP up rather than push him down. He said that AP complained of leg pain and paramedics were summoned to examine him at the police detachment, but AP was belligerent and uncooperative with them. WO1 stated that AP continued to be belligerent after being transported to hospital, so that staff were not able to treat his injury. He was returned to cells to sober up, with an appointment for subsequent medical attention after release.

WO2 told investigators that WO1 initially arrested AP and placed him in handcuffs. He said that, because AP continued to shout at the house, SO told him he was also under arrest for causing a disturbance. WO2 recalled SO saying, "Let's go" and turning AP to walk him to a police vehicle, at which point AP "loses his balance over his foot and basically comes crashing down". WO2 said that AP fell as if sitting on his leg, which was

folded under him. He said that AP immediately complained of pain and accused SO of pushing or throwing him to the ground.

## **LEGAL ISSUES AND CONCLUSION**

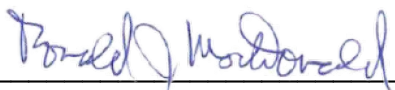
The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death. More specifically, the issue to be considered in this case is whether SO may have committed the offence of assault by using unnecessary or excessive force against AP during his arrest.

It is apparent that AP recalls having been thrown to the ground by SO without any justification, in what would amount to an assault causing bodily harm. It is relevant to an evaluation of AP's reliability, however, that despite his denial the evidence is that he was significantly intoxicated at the time. Further, his account is contradicted by the preponderance of the other available evidence.

Of the civilian witnesses who saw the fall, all of whom had somewhat obscured views, only CW3 described what appeared to be simply a push from SO; CW2 said that SO was apparently trying to prevent AP falling; and CW4 stated that AP was resisting and was taken down slowly as a result. Both witness officers, who were in the best position to see what happened, gave descriptions of an accidental off-balance fall, with SO trying to hold AP up.

The evidence as a whole, then, establishes that an intoxicated AP fell awkwardly, either completely by accident on the uneven, slippery ground, or possibly taken down by SO in response to his resistance, and the officer was trying to support him as he went down. The injury he suffered was not the result of any exertion of unjustified or unreasonable force against him.

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, K.C.  
Chief Civilian Director

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