



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING DETAINED BY MEMBERS OF THE
RCMP IN
THE CITY OF SURREY, BRITISH COLUMBIA
ON FEBRUARY 8, 2021**

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

Chief Civilian Director:	Ronald J. MacDonald, Q.C.
IIO File Number:	2021-038
<u>Date of Release:</u>	<u>December 1, 2021</u>

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Introduction

On the early morning hours of February 8, 2021, RCMP officers were called to investigate an armed robbery that had taken place at a gas station. Officers were dispatched and an officer found the Affected Person ('AP') nearby, who matched the description of the suspect. The officer chased AP on foot and knocked him off his bicycle, resulting in AP suffering orbital and nasal fractures to his face.

Because the injury 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:

- statement of AP;
- statements of three witness police officers;
- statements from paramedics;
- CCTV video evidence;
- police Computer-Aided Dispatch ('CAD');
- Police Records Information Management Environment ('PRIME') records;
- 911 recordings;
- police radio to radio transmissions; and
- medical records.

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 officers did not provide evidence directly to the IIO.

Narrative

On February 8, 2021 at 5:23 a.m., Surrey RCMP received a 9-1-1 call related to a robbery at a gas station involving a firearm. Members were dispatched to search for two suspects, one whom was last seen travelling south on 152nd Street on a bicycle.

Subject Officer 1 ('SO1') was patrolling the area when he received a dispatch that stated: *"male took money, pointed the firearm at the complainant, suspect's going to be a white male, 30, fat build, wearing a hat, black face mask, black sweater, white t-shirt, dark coloured pants. Left on a bicycle last seen south 152."*

SO1 was among five officers who were dispatched to investigate the incident and search for the male on the bike.

Shortly after being dispatched, SO1 saw the Affected Person ('AP') riding a bicycle a few blocks away from the robbery. SO1 believed that AP matched the description that was communicated over the radio: *"I gotta male on a bike here at uh, right by Subway and Dollarama. I'm just going to pull him over"*. AP was wearing an oversized black jacket, black hoodie and camouflage pants.

AP said that he was riding his bicycle when SO1 pulled over beside him in his vehicle with his police lights on. SO1, who was dressed in full uniform, then got out of his vehicle and yelled something at AP. AP slowed down but continued biking away from the officer. AP said the officer chased him and hit him off his bike. AP said that he was hit several times, but was not sure if his injuries occurred when the officer hit him, or whether he was struck by a pole when being removed from his bike.

AP did not remember all the details of the use of force clearly because he believed that he had blacked out for a second. AP was unhappy with the use of force, and said that SO1 was a much bigger guy than him and *"he didn't need to do what he did."*

SO1 subsequently placed AP in handcuffs with the assistance of Subject Officer 2 ('SO2'), who arrived as the arrest was unfolding.

Witness Officer 1 ('WO1') arrived after AP was in handcuffs. WO1 said that AP matched the description of the suspect in the robbery (white male with black clothing on a bike). WO1 said that according to information from SO1, the AP had seen SO1 and did not stop his bicycle when he was told to do so.

Witness Officer 2 ('WO2') also arrived after AP was in handcuffs. WO2 also heard SO1 tell AP that he was ordered to stop because he was the only person in the area that matched the description of the suspect that they were looking for. WO2 heard SO1 apologize to AP for using force, but added that it could have been avoided if AP had cooperated and stopped when ordered to do so. AP agreed that he did not stop but was upset with how the situation was handled.

Approximately fifteen minutes later, after receiving a photo of the robbery suspect, SO1 discovered that AP was not who the police were looking for, and that he had been arrested in error. At that point, SO1 broadcasted: *"I confirmed its not our guy. I'm just going to cut him loose but before I do that I was gonna have EHS come check him out. His face is bleeding."*

AP had injuries to his face and was assessed by paramedics but declined to go to the hospital. AP returned home after the incident but decided to go to hospital later after his injuries worsened.

AP was assessed by a doctor and diagnosed with orbital and acute nasal fractures.

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 may have used excessive force or otherwise acted improperly in connection with the apprehension of AP.

The subject officers were acting lawfully in execution of their duties when they arrested AP. The officers were investigating a serious offence of armed robbery, and AP mostly matched the description of the alleged suspect. SO1 located AP on a bicycle with dark clothing, within minutes of where the robbery occurred. This all took place in the early hours of the morning when it is reasonable to assume that there would be very few people around, let alone people riding on bicycles. Given that information, at law SO1 had grounds to detain AP for further investigation based on a reasonable suspicion AP may be connected to the robbery.

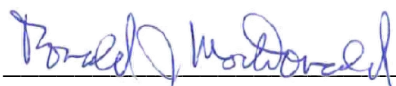
From AP's own admissions and the information received from WO1, AP did not stop his bicycle when told to do so by a fully uniformed officer. At law, he was required to do so. Given the seriousness of the offence, it was not reasonable for SO1 to just let AP go in these circumstances. SO1 had a duty to prevent AP from leaving the area, believing that AP may be connected to a robbery committed with a firearm.

As a result, given AP would not stop and get off his bicycle on his own when ordered to do so, SO1 was justified in running after AP on foot to knock him off his bicycle and take him to the ground. Knocking an individual off a bicycle can be dangerous, as it is uncertain where the individual may land and there is a high likelihood of injuries. However, given that AP did not stop, SO1 was left with no option but to chase AP and contain him.

It is quite possible that AP injured his face in the tumble from his bicycle. Although AP is not clear exactly how his injuries occurred, there is no evidence that the injury the AP suffered was a result of the unlawful application of force during the arrest. It is reasonable to conclude that some application of force would be required to contain what the officers mistakenly believed to be a robbery suspect with a firearm who was fleeing from police.

It is extremely unfortunate that AP ended up being in the wrong place at the wrong time, resulting in him being injured in this incident. However, the officers' actions were reasonable considering the information that was known to them, and the danger that an armed suspect posed.

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.

A handwritten signature in blue ink, appearing to read "Ronald J. MacDonald", is written over a horizontal line.

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

December 1, 2021

Date of Release