



**IN THE MATTER OF THE INJURY OF A MALE
DURING AN INCIDENT INVOLVING MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
VANCOUVER, BRITISH COLUMBIA
ON AUGUST 2, 2020**

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

Chief Civilian Director:	Ronald J. MacDonald, Q.C.
IIO File Number:	2020-191
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INTRODUCTION

In the early evening of August 2, 2020, the Vancouver Police Department ('VPD') received a 911 call about two males allegedly threatening or fighting with knives at a location in Vancouver's Downtown Eastside. Officers quickly responded and arrested the two males, but a crowd gathered around the scene and a disturbance ensued. Police deployed OC (pepper) spray and made several more arrests, but then withdrew. In a television interview the following day, the Affected Person ('AP') complained that he had been pushed to the ground by a police officer while trying to intervene in the arrests of the original two males, adding that his wrist had been broken in the fall. The broadcast of the television interview brought the matter to the attention of the Independent Investigations Office ('IIO'), and because AP's allegation was that serious harm had been caused by a police officer, the IIO commenced an investigation.

The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- statements of AP, two other civilian witnesses and seven witness police officers;
- responses by 43 VPD officers to IIO questionnaires regarding the incident;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- recordings of 911 calls and police radio transmissions;
- a video recording of AP speaking with news media; and
- medical evidence.

NARRATIVE

Affected Person

AP told IIO investigators that at about 5:15 p.m. on August 2, 2020, at the intersection of Hastings and Main Streets in Vancouver, he saw two "maybe native" males "smiling at each other and start play fighting". Suddenly, he said, "a whole bunch" of police officers arrived, ran up and knocked both the males to the ground. He said one of the officers then "tasered" the males several times until the weapon apparently jammed, with liquid coming out of it. The officers then kicked one of the unresponsive males

probably like ten, twenty [times]...

And then, then I said "hey!" One of them jump out of the crowd and twist my arm and throw me up in the air, and I fall completely flat on my back.

And then I stand up with a broken arm, but I thought it was only sprained. I didn't know it was broken. And it took about half an hour before the pain get bigger, and then I went to the hospital with a taxi.

Returning to his account of the incident, AP said,

Right away, I stand up, and I said, "Wah", I said, "I just woke up", because the sergeant is right front of me. I said, "I just woke up, that you're the guilty one". First word he says, "I didn't touch you. I told you twice to back up", which I only hear once. ... I said, "You're the guilty one, this riot is your fault".

AP insisted that police had "attacked" two innocent people on the street for no reason, and had given them "phoney charges". AP said he told the sergeant, whom he knew as "Dave", that he was an evil man who was part of an evil organization, and called him "every name in the book", but added that in response, "actually he was polite". AP said that the "riot" started in response to a crowd of onlookers having seen AP thrown to the ground: "then they bring out the flag and the whole show".

AP said that he could not identify the person who threw him to the ground, but added that one of the bystanders had told him he knew who it was. This witness, he said, had described the person as "a two hundred and fifty pound guy". AP said he knew the witness, who had said he was "willing to come and testify". AP was given contact information for the IIO investigators, to pass on to the witness. No civilian eyewitness has come forward to tell the IIO about having seen AP pushed to the ground by a police officer.

Asked for more details about the alleged assaulter, AP said,

So when I say "hey!" I didn't see absolutely nobody. The only thing that I remember is that my, somebody catch my arm, and whether it were a policeman or a civilian happening, I don't have no clue, I don't remember absolutely zero of his face or his being.

Providing more detail about events before he fell, AP described the sergeant trying to clear "twenty or thirty" bystanders away from where officers were dealing with the original two males. The sergeant, AP said, was shouting, "Everybody move back, move back, move back!" AP continued, "and me, I did not move, I stayed frozen, you know, I froze like this". As he spoke, AP physically demonstrated standing with his clenched fists raised, head turned down and to the right.

Hospital records indicate that there was a visit by AP at 6:00 p.m. on August 2, 2020. He is recorded as having complained of being thrown on the ground by police. He was found to have a broken bone in his right wrist, and was subsequently treated with a cast.

Police Evidence

The primary source of police eyewitness evidence came from Witness Officer 1 ('WO1'), a VPD acting sergeant who was one of the first officers on scene. Regarding the cause of AP's fall and injury, WO1 provided evidence in three forms: his handwritten notes, prepared at or close to the time of the incident; a written narrative report in PRIME; and an interview with IIO investigators.

- In his notes, WO1 wrote, "male instructed twice to move back – old male grey hair – pushed back to ground by other member".
- In his PRIME report, WO1 wrote, "...an older Caucasian male with silver hair kept pushing forward. He was instructed twice by [WO1] to step back. During the arrest [of the two original males] the older male continued to move forward. At the time he was screaming and appeared very angry. [WO1] observed the male getting pushed back by another police officer and fell to the ground".
- In his IIO interview, WO1 stated, "I could see the same gentleman that I instructed twice to move back. He was moving back... he had been pushed. He was coming from where the police officers on the ground were and he was falling backwards or he was stumbling backwards... He was going away from where the police officers were on the ground. It's assumptive on my part, but I assume he had gotten pushed back, but from where I saw him to where he was going he had actually started to encroach on the members that were down on the ground again. That gentleman he fell backwards and he did hit the ground".

Several other witness officers, all of whom had responded to the scene after police received 911 calls about two men fighting with knives, were interviewed by the IIO with respect to AP's injury:

- WO2 was assisting in the arrest of the two fighting males when she saw an older man (AP) screaming and running at the officers. WO2 said that AP was "extremely irate" and "would not listen to any police commands". She said she saw that AP had been pushed back, and saw him stumble and fall to the ground, but could not identify the officer who pushed him. She added that she also saw AP later that evening, yelling at and insulting police.
- WO3 assisted in the arrest of other "volatile" individuals at the scene, but said he did not see AP or hear anything about AP's injury.
- WO4 said she participated in the arrest of two males who were reported to have threatened another male with a knife. During the arrest, she said, the officers were surrounded by "thirty to forty" people shouting at them, and said that the intersection quickly became chaotic, with police sirens wailing and as many as a

hundred yelling people spreading out half a block in each direction. She said she did not see AP at any point during the incident, but saw him later on television.

- WO5 said she was one of several officers responding to a call about two males brandishing knives. She said that upon arrival, the officers were directed by civilian bystanders to two males who were now fighting, farther along the street. By the time they had the two males under control, she said, a crowd had formed around them, shouting profanities and throwing objects at police. WO5 said she did not see AP at any point during the incident.
- WO6 said that when he arrived on scene, there was already a crowd of one to two hundred people around the intersection. WO6 made two arrests, but said he did not see AP or hear anything about him until AP appeared on television later.
- WO7 recalled arriving at Hastings and Main to assist officers dealing with a knife fight. He said he deployed his Conducted Energy Weapon ('CEW' or 'Taser') at a male who was fighting and punching an officer. He said he also arrested another man who he saw throw a bottle at officers, and used his CEW again against a second bottle-throwing individual, who was then arrested and loaded into a police wagon. WO7 stated that he did not see AP during the incident.

Apart from WO1's PRIME entry, noted above, there is no mention of AP in PRIME or CAD. Nor is there any mention of AP, or of anyone matching his description, in any of the recorded 911 calls or radio transmissions.

In the course of the investigation, IIO investigators sought and received written answers to questions about the incident from 43 other VPD officers thought to have been present in the area at some point during the incident. None of the written responses acknowledged that the writer had seen AP or had witnessed his fall and injury.

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 an officer may have committed the offence of assault causing bodily harm by pushing AP and causing him to fall. In considering that issue, it is fair to conclude that AP was indeed pushed by an officer, that the push caused him to fall, and that the fall caused him to suffer an injury.

Based solely on AP's account, it would not be possible to reach that conclusion. As set out above, he told investigators, in effect, that he had no idea who pushed him but was quite prepared to assume it was a police officer. The evidence of WO1 and WO2, though,

establishes that AP was pushed by someone from the area where only officers and the two original male suspects were present.

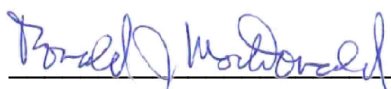
It might be considered surprising that no other officer present had any recollection of seeing AP at any time during the incident. Because of his appearance, he is an individual who would have been readily distinguished from others in the crowd, and he evidently engaged in a significant interaction with WO1 immediately after suffering his injury. That interaction is one that, given the circumstances, one would have expected would have been noticed by other officers in the immediate vicinity.

In any event, following the conclusion that AP was pushed by an unidentified police officer what must be considered is whether such an action was justified in the circumstances, or whether it was an unnecessary or excessive use of force amounting to an assault on AP.

The evidence as a whole paints a very clear picture of the situation facing the attending officers. In most places in Canada, police officers responding to 911 calls about individuals on the street threatening or fighting with knives would reasonably expect that the only resistance they would encounter would be from the suspects themselves. In this place, the intersection of Hastings Street and Main Street in the heart of Vancouver's Downtown Eastside, what they encountered was violent resistance from a significant proportion of the bystanders. Television footage of the mob violence provoked by the police presence demonstrates unequivocally what officers were dealing with: they had to simultaneously make lawful arrests and protect themselves from attacks and potential injury.

Evidence both from AP and from WO1 leads to a conclusion that AP was one of a quickly growing number of angry and abusive people surrounding the arresting officers, and was intruding upon and attempting to obstruct them in the execution of their duty. In those circumstances, it was neither unreasonable nor excessive for an officer to push AP away. The evidence does not establish any intent to cause injury.

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

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