



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING ARRESTED BY MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN BRITISH COLUMBIA
ON OCTOBER 2, 2020**

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

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

IIO File Number: 2020-243

Date of Release: January 12, 2022

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Introduction

On the early morning hours of October 2, 2020, the Vancouver Police Department ('VPD') was called to investigate an alleged impaired driver and assault near Kingsway Avenue in Vancouver. Officers arrived and after some investigation, they served an immediate roadside suspension on the Affected Person ('AP'). AP suffered a broken ankle during his interaction with the Subject Officer (SO).

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 a civilian witness;
- statements of three witness police officers;
- statements of two responding paramedics;
- CCTV video;
- police Computer-Aided Dispatch ('CAD');
- Police Records Information Management Environment ('PRIME') records;
- police radio to radio transmissions and 9-1-1 calls;
- medical records; and
- records from BC Emergency Health Services.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, SO did not provide any evidence to the IIO.

Narrative

On October 2, 2020 at approximately 2:21 a.m., Civilian Witness 1 ('CW1') phoned 9-1-1 to report a suspected impaired driver in a white truck at the Chevron gas station on Kingsway Avenue in Vancouver. CW1 provided a description of the driver to police, and advised police that the driver had departed the gas station and pulled his vehicle over to the side of Killarney Street, which was approximately a block away.

CW1 described the Affected Person ('AP') as "*hammered*" and said that he was making a taxi driver play music, and that he saw AP "*hit him in the face...I watched him bop him in the face.*"

VPD were advised by dispatch that the driver of the white truck was the same AP that they had spoken to just a few hours earlier. A few hours earlier, SO and Witness Officer 1 ('WO1') had encountered AP intoxicated and walking on a street nearby. At that time, AP was permitted to proceed after AP's friend came by and agreed to take him home.

Within six minutes of the 9-1-1 call reporting the suspected impaired driver, VPD officers arrived. Upon arrival, WO1 approached the white truck and found AP unsteady on his feet and slurring his speech. He observed at least 10-11 empty cans of alcohol in the truck and saw that there was an open can of alcohol in the centre console.

AP was placed under arrest and required to blow into an alcohol screening device. After 10 failed attempts, WO1 impounded AP vehicle and issued him a 90 day Immediate Roadside Prohibition (IRP) for driving under the influence of alcohol. After explaining the forms to him, WO1 informed AP that he was free to go, as he lived nearby.

CCTV video from a nearby residence captured what happened next. AP did not leave the scene immediately and became agitated with police.

The video showed AP approach SO on the street, and SO put his hand out to stop him. WO1 described AP as trying to get closer to the officer and SO *“had his hand up, like in a motion ‘Stand back. You’re getting too close.’”*

AP proceeded to continue to move towards SO, eventually putting his hand on SO and possibly pushing him. At that point, SO appeared to deliver a leg sweep to AP [a technique designed to trip someone to the ground], which caused AP to suddenly fall. WO1 approached just as AP was falling to the ground, and described AP’s fall as a “soft fall” on to the grass.

WO1 attempted to help AP up, but AP declined and advised that his leg was broken. Witness Officer 2 (‘WO2’) then pulled up AP’s pant leg and the officers noticed that AP’s ankle was obviously broken or dislocated.

At 3:18 a.m., Emergency Health Services (EHS) were requested for AP. AP was transported by paramedics to Vancouver General Hospital for treatment for his fractured ankle.

WO1’s initial account that he provided to the IIO did not correspond to the CCTV video. Initially, WO1 said that he was in the car during part of SO’s interaction with AP, and suggested that AP may have tripped over the curb. After reviewing the video, WO1 clarified that he must have been mistaken in his initial recollection, as it was clear from the video that he was not in his car and that AP did not trip over the curb.

Witness Officer 2 (‘WO2’) and Witness Officer 3 (‘WO3’) were present during the interaction between AP and SO, but did not witness any use of force as they were occupied doing other duties.

IIO investigators attempted to get a statement several times from AP, but he did not provide one in this case.

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 used excessive force or otherwise acted improperly in his interactions with AP.

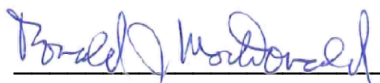
The officers acted lawfully, in execution of their duties, when they arrested AP following public complaints and officer observations that AP was driving while impaired.

AP was compliant while interacting with SO initially. However, the CCTV shows that AP's level of compliance changed once he received the immediate roadside prohibition and was free to leave. AP walked towards SO, and despite SO's clear hand signals to AP not to proceed further, SO continued to advance, eventually placing his hands on SO.

SO was dealing with a male who was not complying with a reasonable police direction, and based on the video, laid hands on and possibly even pushed the officer. This placed SO in a difficult position, as it was uncertain whether AP may escalate to using force on SO and officers are trained to keep a reasonable distance between themselves and others. As a result, SO applied a low level of force by using a leg sweep to prevent AP from coming closer and potentially endangering SO.

It is not clear what AP's intentions were in that moment, nor what SO believed, as neither individual provided a statement to the IIO. However, based on the video information available in this case, it cannot be said that SO's actions were unreasonable, given the clear level of non-compliance and proximity between AP and SO at the time SO used force.

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

January 12, 2022

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