



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
VANCOUVER, BRITISH COLUMBIA
ON MARCH 23, 2022**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2022-050

Date of Release:

January 20, 2023

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INTRODUCTION

In the early morning hours of March 23, 2022, the Affected Person ('AP') was arrested by Vancouver Police Department ('VPD') officers after ignoring directions to stay out of an area temporarily closed for the purpose of filming movie scenes. Upon release from custody a few hours later, he was given a voucher for a taxi to hospital because he complained of chest pain. He was subsequently diagnosed as having suffered injuries to the ribs on his left side. Once VPD became aware of the diagnosis, 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 AP, four other civilian witnesses and five witness police officers.
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment (PRIME) records.
- VPD jail video recordings and other jail records.
- VPD policies; 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, both Subject Officers have declined to provide any account to the IIO.

NARRATIVE

On the night of March 22-23, 2022, the Georgia Viaduct in Vancouver was temporarily closed off to permit stunt driving movie scenes to be filmed. AP came to the east end of the viaduct, intending to cross on the south pedestrian sidewalk. As he started up the ramp from street level, though, he was stopped by a movie company employee who informed him of the closure. AP was significantly intoxicated and refused to heed the employee's directions. As he proceeded up onto the viaduct, the employee radioed for police assistance.

Another civilian employee spoke about the intrusion with Subject Officer 1 ('SO1'), who was assigned to assist with traffic and pedestrian control that night. SO1 moved to intercept AP and a confrontation commenced, quickly becoming physical. Civilian eyewitnesses later described SO1, who was wearing a fluorescent yellow police uniform

jacket, telling AP repeatedly to “get off the bridge”, but AP refused. Shortly after this, AP was seen to have SO1 pinned against the side railing, and a call went out by radio for more officers to assist. At this point, SO1 was at risk of being forced over the railing and off the bridge.

However, SO1 was able to regain control sufficiently to push AP away from the railing and the two fell over the concrete barrier between the sidewalk and the roadway. IIO investigators were told that SO1 fell on his back holding onto AP, who fell on his side. The officer wrestled with AP for about thirty seconds or so and was then able to get on top of him. As SO1 held AP down, SO2 ran up to help. SO2 was reported by civilian witnesses to have given AP two or three knee strikes as the officers got AP rolled over and, with the aid of another officer who did not deploy any strikes against AP, into handcuffs.

AP was booked into VPD cells at 2:00 a.m. At about 4:46 a.m., he complained of breathing difficulties, and was seen by the jail nurse. He was released at 5:20 a.m. and was sent to hospital in a taxi. He was later found to have suffered several mildly displaced rib fractures. His blood alcohol concentration while at the hospital was measured at approximately one and a half times the legal limit for driving in Canada. Given the time that had passed since the incident, his level of intoxication would have been significantly higher at the time of the incident.

When interviewed by IIO investigators, AP described having been assaulted by “security guards”. He said he was physically attacked without anything being said and said he had done nothing to provoke the assault. He remembered “teetering” around with the initial attacker (SO1) and falling over the concrete barrier. He said he then received “five or more” knee strikes from a second “security guard”.

AP was then placed under arrest by officers he recognized as police and was transported to jail in a police van. He told IIO investigators that he was “relieved” when police arrived to take custody of him from the “security guards” who had “attacked” him.

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.

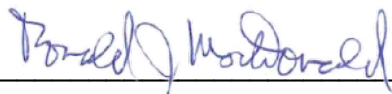
If AP's accounts—that he was essentially the victim of an unprovoked assault and did no more than defend himself—were reliable, there would be serious concerns about SO1's actions. AP, though, was clearly quite intoxicated, and his observations and recollections cannot be relied upon. This is particularly so considering that his account is contradicted by the evidence of several civilian eyewitnesses. Without casting any doubt on the honesty of AP's mistaken beliefs about what happened, it is the evidence of those witnesses that is to be preferred.

Both Subject Officers were acting in lawful execution of their duty by preventing AP from violating an area closure under permit for the shooting of potentially dangerous movie scenes. They were entitled to use necessary and reasonable force in doing so. Even without any explanation from either Subject Officer, it is possible to conclude from the evidence as a whole that SO1 attempted to carry out his duty without using force. When AP showed himself to be uncooperative, SO1 was justified in laying hands on him to stop him physically. Eyewitness accounts demonstrate that AP responded aggressively, fighting with SO1 and putting him at risk of being pushed over the side barrier of the bridge.

It cannot be determined whether AP's rib injuries were caused by his fall over the concrete sidewalk divider, or by knee strikes used by SO2, or by both. Given the circumstances, SO2 was also justified in using a reasonable degree of proportionate force in helping SO1 overpower and subdue AP, who could otherwise have seriously injured SO1. The knee strikes were within the reasonable range in these circumstances. Once AP was under

control, there is no suggestion that he was subjected to any other use of force from any officer at the scene. Because he indicated that he was pleased to be transferred into the custody of the officers who arrived after his arrest, it can be concluded that none of those officers used any inappropriate 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.

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

Ronald J. MacDonald, KC
Chief Civilian Director

January 20, 2023

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