



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY A MEMBER OF THE RCMP
IN LANGLEY, BRITISH COLUMBIA
ON MARCH 27, 2022**

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

Chief Civilian Director:	Ronald J. MacDonald, Q.C.
IIO File Number:	2022-052
<u>Date of Release:</u>	August 24, 2022

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INTRODUCTION

On the morning of March 27, 2022, the Affected Person ('AP') was apprehended by police and certified in hospital under the *Mental Health Act*. A few hours later, though, he walked out of the hospital and an Apprehension Order was issued. When officers went to AP's home, he was seen trying to flee on an electric bicycle. The Subject Officer ('SO') pulled his police vehicle across the road in front of AP. AP tried to manoeuvre around the police vehicle, but collided with it and was injured. 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 and two other civilian witnesses, two paramedics and two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of 911 and radio transmissions;
- data downloads from police vehicles;
- scene photographs;
- examination of AP's e-bike; 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, SO has not provided any evidence to the IIO.

NARRATIVE

AP told IIO investigators that on the day before the incident that caused his injuries, he had broken up with his girlfriend. He said he had been telling his mother, Civilian Witness 1 ('CW1'), "over and over again ... all day and all night" that he wanted to kill himself. On one occasion, he said, he had jumped from a moving vehicle, though he said he was not trying to kill himself by doing so. He said that on the morning of March 27, 2022, in response to a call from CW1, police came to his home and apprehended him under the *Mental Health Act*. AP did not offer any resistance, and no force was used by the officers.

At the hospital, AP changed into hospital scrubs, but was then left alone. He said he walked out, called a cab and went home. Finding him at home, CW1 asked why he had come back, and he told her he did not feel suicidal any more. He told investigators that CW1 said the hospital would probably call the police again, so he decided to leave. As he

left, riding his electric bicycle, he said, he saw two police vehicles parked up the road. He said that one of the police vehicles drove in his direction:

So I pulled to the right to go around him, he pulls to the right, so then I pull to the left, and then he pulls to the left, and smashes into me. And then I went flying off the bike, and then as soon as I hit the ground I already knew that my leg... thought my leg was broken, but it was dislocated and my pelvis was broken.

AP told the IIO investigators that he was travelling at full speed, approximately 45 to 50 km/h, when he struck the front of the police vehicle. He was reported as having told attending paramedics that he was only travelling at 10 km/h at the time.

CW2 observed the incident from his home. CW2 told the IIO that he saw two police vehicles proceeding east along the road, in the direction of AP's home (police evidence is that the first vehicle was driven by SO and the second by Witness Officer 1 ('WO1')). CW2 said that the police vehicles were not travelling very quickly. CW2 then saw a cyclist (AP) coming westbound, in the middle of the road. He said AP swerved left, as if trying to swerve past SO's vehicle. He then saw SO swerve to the right to cut AP off. CW2 said that AP made contact with the hood of the police vehicle and was propelled into the ditch on the south side of the road. He said he felt that the police vehicle might still have been moving, but only slowly, at the time of the collision. He said that neither police vehicle had activated its emergency lights or siren.

WO1 told the IIO that he saw SO pull away and start to drive eastbound in the middle of the road, and then saw him wave his left hand out the window in a stopping motion. WO1 saw that someone (AP) was riding a bicycle westbound on the north side of the road. WO1 said that AP swerved quickly across the road towards the south side, and SO also turned quickly towards that side of the road to block AP. There was a collision between the bicycle and the police vehicle, and AP was thrown into the ditch.

CW1 came to the scene of the collision and found her son lying beside the road, injured, with officers standing nearby. She told investigators that, indicating SO, AP said, "He hit me", and SO responded, "No, I didn't". CW1 stated that SO presented as pleasant, helpful and non-threatening, and she felt he was doing a good job in dealing with her son.

A collision reconstruction assessment was conducted by an IIO forensic specialist. Among the conclusions reached was that the impact occurred at low combined speed. The bicycle was equipped with hydraulic brakes and tires in good condition, so the absence of any evidence of braking was suggestive than any braking was only partial.

The collision occurred a few seconds after 12:54 p.m. Data downloaded from SO's police vehicle show that at 12:54:06, the vehicle was travelling at 24.2 km/h. At 12:54:09 it had slowed to 12.6 km/h, and at 12:54:15 it was stationary.

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 any offence through the use of his police vehicle to assist in AP's apprehension.

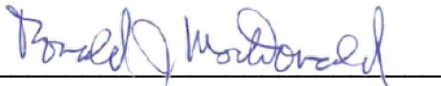
In cases such as this one, where a motor vehicle is used by an officer to stop an individual riding a bicycle or motorcycle, there are always concerns about a possibly excessive use of force and/or the commission of a driving offence. The IIO will, as a result, always look closely at such cases, particularly focussing on a balancing of the risks involved. In that respect, the risk of serious injury to the cyclist is virtually a given, so the main question will typically be: what was the risk of harm that the officer was seeking to forestall?

Without any evidence from SO, it is not possible to be sure exactly what he anticipated when he turned his vehicle into AP's path. He was clearly intent on stopping AP, and he had sufficient grounds for doing so. Based on recent history, it was reasonable for him to consider AP an imminent threat to himself, and it is particularly significant that AP had already been certified that day by a psychiatrist. AP was obviously highly motivated to escape and, presumably, to carry out the intent he had announced repeatedly—to kill himself.

From the physical evidence and collision analysis, it appears that SO did no more than stop, or slow almost to a stop, on the right side of the road (for him), likely expecting that AP, seeing his passage blocked, would simply brake and stop. Assuming SO was calculating risks appropriately, he would have seen the risk to AP of letting him escape as potentially death, while the risk to AP from blocking his path would have been judged as either no or only minor injury. It is unfortunate that the injury suffered was serious, but that is not something it would have been reasonable to expect SO to have foreseen. This is a case where the officer used his vehicle, not so much as a weapon, but as an obstacle.

In the circumstances, the manner in which SO conducted himself and manoeuvred his vehicle was justified, the risk created being less than the risk he sought to prevent. He is entitled to the protections offered by section 25 of the *Criminal Code* to a peace officer acting in a reasonable and necessary manner in administration of the law.

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, reading "Ronald J. MacDonald", written over a horizontal line.

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

August 24, 2022

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