



**IN THE MATTER OF THE INJURY OF A MALE  
WHILE IN THE CUSTODY OF THE RCMP  
IN NANAIMO, BRITISH COLUMBIA  
ON APRIL 22, 2022**

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

Chief Civilian Director:	Ronald J. MacDonald, K.C.
IIO File Number:	2022-083
<u>Date of Release:</u>	October 20, 2022

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## **INTRODUCTION**

On the afternoon of April 22, 2022, the Affected Person ('AP') was arrested in Nanaimo after threatening and assaulting another individual while intoxicated. AP behaved in an argumentative and aggressive manner in the RCMP detachment booking area, and while being escorted to a cell by the Subject Officer ('SO'), AP made an assaultive gesture that caused SO to take hold of his arms and push them down. AP fell to the floor and suffered injuries to an arm and a leg. 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, two civilian jail guards and two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of a 911 call and police radio transmissions;
- security video recordings from a civilian location and from RCMP cells; 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**

At 3:46 p.m. on April 22, 2022, AP was brought into the Nanaimo RCMP detachment, under arrest for uttering threats (AP's assaultive behaviour that caused police to be called was noted on security camera video recordings subsequently obtained by the IIO as part of its investigation).

Civilian jail guards who were present while AP was being booked in at the detachment described AP as intoxicated, belligerent and yelling. He was escorted by SO, whose manner was described by the guards as calm and composed, despite AP's aggressiveness and several weak attempts to strike out at SO while he was being searched and relieved of his outer clothing.

Once the booking-in process was complete, SO started to move AP along a corridor towards the cells. Their interaction was out of direct view of the guards, but was recorded on Closed-Circuit Television ('CCTV') video.

The video shows AP moving along the corridor in the company of SO, without apparent injury or physical difficulty. There is no audio track on the recording, but it is apparent that AP is talking or arguing with SO, and is gesturing vigorously with both hands, pointing at times to the officer's duty belt. SO appears calm and patient, and is not responding physically, other than by briefly restraining AP's hands at one point, pinning them against AP's chest and holding him against the wall.

When SO releases AP, AP takes a step along the hallway, but then turns back and again confronts SO, who tries again to control AP's wildly gesturing hands. The video shows AP extending his left arm towards SO's face, and his right arm is raised and bent at the elbow. SO takes hold of AP's arms and directs them downwards towards the floor. AP pitches forward and falls to the floor.

At this point, despite what appears to be SO's direction for AP to get up and continue down the hallway, AP is clearly unable to stand, and falls back against the wall with his legs extended on the floor. SO's attempts to help him up are unsuccessful. After some brief conversation, SO turns AP so he is seated facing backwards and pulls AP to the cell by holding him under the arms.

Video from the cell itself shows officers placing a foam mattress on the concrete floor and lifting AP onto it. AP is evidently in pain. About fifteen minutes later, paramedics enter the cell and assess AP (SO had called for medical assistance). The paramedics lift AP onto a gurney and remove him from the cell.

Witness Officer 1 ('WO1') had been called to cells to assist SO, and told investigators in his IIO interview that SO mentioned AP having tried to punch SO while he was being escorted to the cell. WO1 said that SO acknowledged pushing AP away, and stated that AP then fell to the floor.

Interviewed subsequently by the IIO, AP stated that he had no memory of how he had been injured, but thought it might have happened at his home. He has since passed away for reasons unrelated to this incident or to police actions.

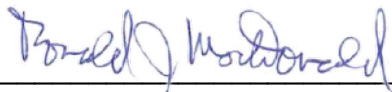
## **LEGAL ISSUES AND CONCLUSION**

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 the offence of assault against AP by the use of unnecessary or excessive force.

That issue can be resolved without great difficulty by a careful review of the video of the interactions between SO and AP. The video evidence shows repeated demonstrations of agitation and aggression on AP's part, and calm restraint on SO's. The fall that caused AP's injury was the direct result of a particularly assaultive move from AP, that was simply warded off by SO without any excessive force—or indeed without any force at all beyond what was required to deflect AP's arms down away from SO's face.

Once it became apparent that AP was injured, SO acted appropriately in moving him with minimal force to the security of a cell, and then in summoning assistance. Officers made AP as comfortable as reasonably possible by lifting him onto a mattress, and paramedics quickly took over his welfare. There was no other application of force against him by any officer.

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.



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

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