



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN COURTENAY, BRITISH COLUMBIA
ON OCTOBER 5, 2022**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2022-265

Date of Release:

March 1, 2023

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INTRODUCTION

On October 5, 2022, RCMP officers in Courtenay were following up on a report of a stolen pickup truck. In the course of the investigation, the Affected Person ('AP') used the stolen truck to ram multiple police vehicles. Eventually, AP found himself trapped in a cul-de-sac with police vehicles blocking the exit. Rather than surrender, he attempted to drive past on the sidewalk, and rolled the stolen truck, causing serious injury to himself. Because there was a connection between AP's injuries and police actions, 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 four civilian witnesses and four witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of police radio transmissions;
- Watchguard dash camera video recordings from police vehicles; and
- BC Patient Care Report.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, neither of the two Subject Officers has provided any evidence to the IIO. Likewise, AP has declined to speak with IIO investigators.

NARRATIVE

At about 12:45 p.m. on October 5, 2022, an RCMP officer located a vehicle that had been reported stolen earlier that day. The stolen vehicle was a green Dodge pickup truck, and it was parked in a Tim Hortons parking lot in Courtenay. In the driver's seat was the Affected Person ('AP'). When AP became aware of the officer's presence, he drove the truck forward, ramming the police vehicle and disabling it, then reversed over a concrete divider and raced away.

Following these events, the police investigation was stepped up, with increased resources including unmarked vehicles and aerial surveillance. AP was seen driving the stolen truck in apparently random directions and at high speed. At one point, he rammed two more police vehicles when they tried to block his path. Officers were careful to avoid pursuing so as not to provoke a dangerous chase, but continued surveillance.

At one point as he drove around, AP found himself in a dead-end residential street. What happened next was set out in witness statements and recorded graphically by police dash camera systems.

Beside the curb at the exit of the cul-de-sac, municipal garbage collectors had stopped their truck while they collected bins from the fronts of nearby houses. Subject Officer 1 ('SO1') pulled his unmarked police vehicle in behind the garbage truck, facing AP in the stolen pickup, which was now heading back the way it had come. SO2, in another unmarked police vehicle, arrived a few seconds later, and stopped to the right of SO1. The roadway was now effectively blocked. Other police vehicles were pulling into the nearby area.

One officer exited her police vehicle, intending to lay a spike belt across the road. Seeing the stolen pickup truck turning and then speeding back down the cul-de-sac, she quickly got back into her vehicle and fastened her seat belt. "I thought he was going to drive into us", she later told IIO investigators.

AP did not, however, drive into the police vehicles. He swerved to the right, mounting the sidewalk in an attempt to smash through between the parked garbage truck and a fence bordering residential property on the corner of the street. The truck's wheels apparently hit a large rock, resulting in the truck flipping over onto the driver's side. It slid forward into the intersection on its side and then rolled when it struck the opposite curb. It landed on its wheels in the front yard of a home. One of its wheels had been torn off.

AP was removed from the truck and was arrested. He was then transported to hospital where he was found to have suffered internal injuries.

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 some cases, the evidence gathered may give the Chief Civilian Director ('CCD') 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 the majority of cases, though, the conclusions of the investigation 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.

Of course, it is possible for there to be a connection between police actions and serious harm without those actions having been the direct cause of the harm. This case is an example. Certainly, if police had not blocked AP's exit from the cul-de-sac, he would not have tried to drive the stolen pickup truck along the sidewalk, the truck would not have struck a rock, it would not have crashed and AP would not have been injured (not, at least, on that day and at that time). So police actions were an indirect cause of the harm. But the direct cause was AP's decision to respond in the reckless manner he chose. That decision cannot be laid at the feet of police.

A question still remains regarding the appropriateness of the Subject Officers' decision to block AP's path, when he had already shown that he was intent on escape and that he was prepared to ram police vehicles, if necessary, to do so. It is easier, of course, to address that question with the benefit of hindsight than it was for the officers in the moment. We now know that the result could have been death or grievous bodily harm for one or more police officers, for one or more municipal garbage collectors, and of course for AP himself. The issue is whether it was reasonable for the officers to attempt a stop in this location, and to expect the result to be AP bringing the stolen truck to a halt and being taken from it under arrest.

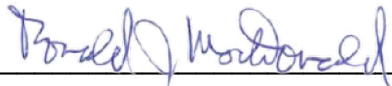
Important factors to consider were: that the police did not pick a busy location for the tactic, which may have potentially put large numbers of bystanders at risk; that they did not place themselves in increased danger by getting out of their vehicles and facing the oncoming vehicle on foot; that they did not draw and point firearms, risking a lethal conclusion to the incident; and they did not use their vehicles as weapons by ramming.

It is also worth noting that all involved officers evidently followed prudent procedures before this by not engaging in high-speed pursuits when AP failed to stop as directed. After all, this was a stolen vehicle case, and while AP needed to be arrested, it made sense not to increase the risk to the public, AP and the police by conducting such a pursuit.

Overall, it was important to apprehend AP, given his observed reckless driving behaviour, and it would have seemed to the involved officers that simply blocking his way with a passive roadblock of stationary police vehicles would achieve that safely and effectively.

The police can not be expected to utilize a tactic the eliminates all risk, only one that keeps risk to a reasonable minimum. In this case, by utilizing the passive roadblock, they did that, and while the outcome was unfortunate, the officers cannot reasonably be blamed for that.

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", is written over a horizontal line.

Ronald J. MacDonald, KC
Chief Civilian Director

March 1, 2023

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