



**IN THE MATTER OF A MEDICAL EMERGENCY SUFFERED BY A MALE
WHILE IN THE CUSTODY OF THE RCMP IN
WILLIAMS LAKE, BRITISH COLUMBIA
ON NOVEMBER 15, 2022**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2022-299

Date of Release:

October 30, 2023

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INTRODUCTION

On the evening of November 13, the Affected Person ('AP') was arrested in Williams Lake and taken to cells at the RCMP detachment. He initially appeared to be eating and sleeping normally, but by November 15, he began vomiting and became lethargic. After a significant period during which jail staff observed this deterioration in AP's condition, he was transported to hospital, where his condition deteriorated until he was placed into intensive care. He was eventually discharged from hospital on November 28. Because AP had suffered a life-threatening health crisis while in police custody, 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 one civilian witness, two first responders and five 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;
- video recordings showing AP's arrest and his stay in RCMP cells;
- scene photographs;
- RCMP Prisoner Report and cells Log Book;
- RCMP policies;
- BC Emergency Health Services Patient Care Report;
- AP's medical records; and
- expert medical opinion commissioned by the IIO.

NARRATIVE

At about 10:40 p.m. on November 13, 2022, AP was arrested for theft under \$5,000 and breach of a probation order. He was lodged in RCMP cells at 10:52 p.m. AP appeared unsteady on his feet, and a little confused, and the arresting officers felt that he was intoxicated or under the influence of drugs.

AP's stay in cells was recorded from several perspectives on detachment video, and multiple entries were made in the cell logbook about the guards' observations of him. He slept through the night of November 13-14 in a detox cell before being transferred to a regular cell on the morning of November 14. He ate breakfast that morning. He then slept again until lunch, and again until dinner. He was not exhibiting any signs of medical distress during this period.

AP fell asleep again on the evening of November 14, but shortly after 9:30 p.m., he began vomiting, and this continued intermittently through November 15. He was offered meals throughout the day but did not eat. All of this was recorded on cell video and also noted in the cell log. It is clear from these records that guards and officers at the detachment were aware of AP's worsening medical distress, but the log attributes it to "withdrawals".

Finally, at 7:37 p.m. on the 15th, a guard noticed that AP was "struggling to breathe", and an ambulance was called. The following morning, at the hospital, AP suffered a seizure. Later that day, he became hypoxic and was intubated. He was transferred to Royal Inland Hospital in Kamloops and continued to suffer seizures and periods of reduced consciousness before being eventually discharged on November 28.

As part of its investigation, the IIO obtained an expert medical opinion from an experienced emergency room physician. The objective was to determine whether there were grounds to conclude that any delay in obtaining medical aid for AP may have caused his health to be endangered permanently, or may have endangered his life. The expert provided a detailed analysis, concluding as follows:

In summary, my opinion is that the failure of police to arrange for a medical evaluation sooner in the course of his illness did not put [AP] at increased risk of a bad medical outcome. If anything, earlier medical evaluation may well have increased the risk of medical personnel deciding to discharge him from the ER instead of arranging for hospitalization. Such an early discharge could well have falsely reassured the police officers watching him in cells and convinced them that there was no point in returning him to hospital in the next 24 hours when his vomiting continued. Had he been transported later than he was (e.g. subsequent to deteriorating and requiring intubation on November 16, 2022), the risk of him suffering a bad outcome—either death or anoxic brain injury—would have increased.

Restating my opinion in closing, [AP] was transported to [hospital] for medical evaluation at a time that proved medically optimal. Earlier or later transport could have increased the risk of a bad outcome, as explained above.

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 ('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 a case such as this one, involving a potential negligence offence, one of the threads of the IIO investigation will be the gathering of evidence about whether officers met the relevant standard of care. In order to constitute the offence of 'failing to provide the necessities of life' under section 215 of the *Criminal Code*, the actions of an officer would have to fail to meet the standard of care applicable to custodial supervision of detainees. That standard can reasonably be gleaned from RCMP policies, which state clearly that

if there is any doubt that a prisoner may be in medical distress, the member or guard observing or becoming aware of the issue is to contact Emergency Health Services (EHS) immediately...

The evidence establishes that RCMP members in the detachment must have been aware, even if only from reviewing the cell log, that AP was in medical distress, long before the call to EHS. The failure to call for medical attention earlier was a failure to follow policy, and a failure to meet the standard of care in the circumstances.

The definition of the offence under section 215, though, includes a 'consequences' element. In other words, a negligent failure on the part of an officer only becomes criminal if the consequences for the Affected Person are sufficiently serious. Specifically, for this offence, the *Criminal Code* specifies that the officer's failure is an offence only if it:

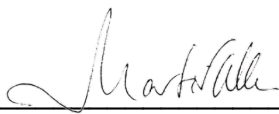
...endangers the life of the person to whom the duty is owed or causes or is likely to cause the health of that person to be injured permanently.

As mentioned earlier, it was the existence of that further element of the ‘necessaries’ offence that prompted the IIO to seek an expert medical opinion; and as set out above, the expert opinion, based on these very specific circumstances, was that the timing of the call to EHS was actually “medically optimal”. Given this evidence, it cannot be concluded that any failures by detachment staff to respond appropriately to AP’s medical distress endangered his life or health, and thus it also cannot be concluded that any officer committed an offence under section 215.

This case, however, still raises concerns about how intoxicated prisoners are housed generally in British Columbia. Officers and jail guards are not trained medical personnel, and jail cells are not the best place for such prisoners. Holding intoxicated persons in police cells, ostensibly for their own protection, guarded by people who are not trained health professionals, is an outdated practice, and proven not to provide adequate guarantees of their safety and health. There are other options, including sobering centres and having health professionals on site to assist with the care of intoxicated persons. Both of these options are already utilized in various locations in British Columbia.

Too many people die in police custody, often through no fault of the police. The care of intoxicated persons should not be a police responsibility. It is a health care issue. It is time for government to take steps to facilitate the changes necessary to ensure intoxicated persons who need care receive it from trained health care professionals.

In conclusion, 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.



Martin Allen, General Counsel,
for Ronald J. MacDonald, KC
Chief Civilian Director

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