



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN QUESNEL, BRITISH COLUMBIA
ON MARCH 10, 2023**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2023-067

Date of Release:

April 24, 2024

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INTRODUCTION

On the afternoon of March 10, 2023, RCMP members were attempting to stop a pickup truck driven by the Affected Person ('AP'), who was driving around Quesnel despite being a prohibited driver. Two officers in separate police vehicles eventually disabled the pickup using their own vehicles to physically contact it. In the course of that manoeuvre, AP's arm was caught between the door and body of the pickup and was badly broken. 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, a paramedic and two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of police radio transmissions;
- police notes;
- scene photographs;
- data downloads from police vehicles, including location and speed information;
- collision reconstruction report; 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, neither 'subject officer' has provided any account to the IIO.

NARRATIVE

On March 10, 2023, members of the Combined Forces Special Enforcement Unit were in Quesnel, assisting local police dealing with an increase in violent crime. During a briefing that morning, members were provided with a photograph of the Affected Person ('AP') and the information that he was "associated with" criminal activity. AP was known to be prohibited from driving.

At about 5:20 that afternoon, Subject Officer 1 ('SO1') saw AP just south of Quesnel, driving a pickup truck. Other officers also observed AP driving (contrary to his prohibition)

and attempted a traffic stop. AP did not stop, and was seen to drive dangerously as he fled, including driving on the wrong side of the road and speeding in a school zone. The officers did not pursue. Over the following minutes, AP was seen by officers several times, driving around town. On one occasion he again failed to stop for police as they attempted to pull him over using emergency lights and siren.

AP told the IIO that on the day in question he had been driving through Quesnel in a truck belonging to a friend. The truck was not insured and was not fitted with valid plates. AP acknowledged that it was a mistake to drive, but he was “just hard up for cash...” AP said he was aware that police were trying to stop him, and that he should not be acting as he was.

At 5:41 p.m., the pickup truck was seen turning into a roughly Y-shaped cul-de-sac with only two exits. The road surfaces were ploughed but mostly covered in packed snow. SO1 drove in at one and SO2 at the other, while more officers approached behind them. SO1 reported that the pickup truck was backing up, and radioed, “let’s move in”. Evidence from AP and witness police officers, together with data downloads from police vehicles and analysis of the scene, establishes what happened next.

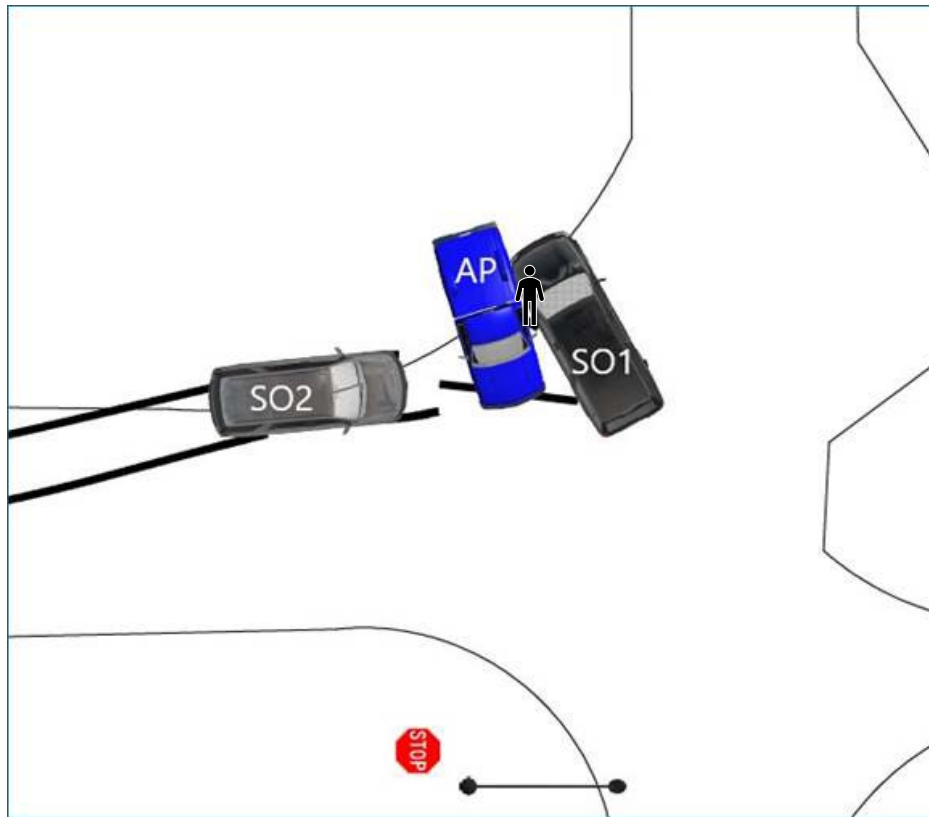
As AP was driving the pickup out of the dead-end ‘leg’ of the cul-de-sac and attempting to turn towards the exit covered by SO2, SO1 drove into the left side of the pickup’s box at a speed estimated to have been between 38 and 42 km/h, causing the pickup to spin counter-clockwise into a snow bank.

Witness Officer 1 (‘WO1’), who was driving directly behind SO1’s vehicle, said that immediately after SO1 rammed the pickup, AP was opening the driver’s door and attempting to get out. WO2, the passenger in SO2’s vehicle, said he saw AP moving “frantically” inside the cab of the pickup.

Within about two seconds, there was a second impact as SO2’s vehicle drove into the right side of the pickup, at an estimated speed between 33 and 38 km/h (the speeds were estimated using downloaded data by a collision reconstruction expert). SO2 had started driving towards the pickup before the first collision, but data from his police vehicle showed that he had applied the brakes for about three seconds before the second impact, and it appears to have been sliding on the snow at this point.

AP was outside the pickup on its left side when it was struck on the right side by SO2’s police vehicle. The collision was of sufficient force to tear the right front wheel off the pickup, and trapped AP’s arm in the driver’s door as the side of the pickup was driven into the side of SO1’s police vehicle.

The following diagram was prepared as part of the collision analysis (a figure has been added to indicate the approximate position of AP when he exited the pickup):



Describing the collisions with police vehicles, AP said he saw both SO1 and SO2 approaching as he was reversing out of the cul-de-sac. He said they appeared to be driving slowly. The first impact came as a surprise, he said, and caused him to be thrown out of the pickup onto the ground. He said he reached up with his right hand to pull himself up when there was a second impact, and his arm was pinched between the door and the truck body.

WO2 said he found AP “kinda under the truck”, and told SO2 to pull his police vehicle back to remove any pressure on the pickup. WO1 also described AP as being on the ground, and believed he was trying to crawl away, despite AP’s right arm being trapped in the door. Once SO2’s police vehicle was pulled back, an officer (believed to be SO1) physically moved the pickup’s door to free AP’s arm. They found that his forearm was noticeably broken. The injury was subsequently diagnosed as fractures of both the radius and the ulna.

The manner in which AP’s injury occurred was not accurately described in initial police reports. The notification to the IIO stated at one point that AP was injured when he

attempted to flee but “slipped on the icy ground”. The PRIME report sent to Crown in support of criminal charges against AP stated only that he was injured when he “fell to the ground”. AP’s patient care report, based on information from one of the arresting officers, said:

[AP] backed his van into snowbank at 10-20 kph, as [AP] was exiting vehicle with his right arm out police officers opened the doors to their vehicles and [AP’s] right forearm caught between doors...

Police forwarded significant criminal charges to Crown for approval. In addition to several driving-related offences, they included charges related to firearms and narcotics, based on items found in a search of the pickup AP was driving when he was apprehended. On August 16, 2023, Crown counsel wrote to RCMP advising that Crown would not be able to proceed with any of the firearm or drug charges because both ‘subject officers’ had refused to provide any evidence regarding the incident.

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.

This case involved potential driving offences by officers as well as potential assault offences through the use of police vehicles to exert force. The legal tests that must be applied concern justifications for the actions of each involved officer.

In the period between first sighting AP and arresting him in the cul-de-sac, according to GPS evidence, some officers drove at speeds in excess of posted speed limits. There is, however, a conditional immunity provision in the BC *Motor Vehicle Act* that permits operators of emergency vehicles to speed if they are doing so for legitimate purposes that outweigh any risk to the public. In this case, it appears that the officers' driving up to the point of the dual collisions with AP's pickup truck could reasonably be justified under that provision.

The first collision, deliberately caused by SO1, has the potential to be viewed both as dangerous driving and as an assault with a weapon (the police vehicle). The speed at which it was conducted was significantly higher than would be the case for a typical 'box and pin' manoeuvre, in which one or more police vehicles are brought at very low speed against a suspect vehicle that is either stationary or moving very slowly, to prevent it from driving away. What SO1 did would more accurately be characterized as a 'ramming', which involves a greater risk of harm and a correspondingly higher justification requirement.

Regarding the risk of harm, the evidence is that:

- there was no pedestrian or other traffic at the location, so no obvious danger to the general public;
- the road surface was snow-covered, so the pickup was more likely to slide away from the impact and suffer less damage; and
- the driver was enclosed within a large pickup truck, so less likely to suffer injury than, for example, the operator of a small compact car or a motorcycle.

Regarding the justification, on the other hand:

- the driver (AP) was known by police to be a prohibited driver; and
- he had shown he was willing to drive dangerously to evade capture by the police (although he had also been seen driving normally around town when officers were not trying to stop him).

It should be emphasized that information that AP was "associated with criminal activity" cannot in itself amount to a justification for the use of force, or in fact for an arrest. Nor can the discovery, after the fact, of contraband in AP's vehicle.

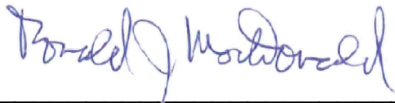
In summary, the justification for SO1's action in ramming the pickup truck was not particularly substantial, but the risk of harm was also quite low. While it might not have

been the most prudent expenditure of police resources, it cannot be said that it amounted to a criminal offence.

The evidence around the second collision, with SO2's vehicle, strongly suggests that it was not intentional, or at least that it was not intended to have happened at the relatively high speed involved. It seems clear that SO2 was braking before the impact, but that the vehicle skidded on the packed snow. While it was this second collision that caused the injury to AP, it appears that it was most likely an unfortunate accident.

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.

On a related subject however, it is concerning that, as mentioned above, Crown counsel attempting to conduct a prosecution on firearms and drug charges was prevented from doing so by the failure of two involved officers to comply with their duty to prepare and file police notes and reports about such a serious incident. This is a matter for RCMP Professional Standards to address.



Ronald J. MacDonald, KC
Chief Civilian Director

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