**IN THE MATTER OF THE INJURY OF A MALE
IN AN INCIDENT INVOLVING MEMBERS OF THE RCMP
IN PENTICTON, BRITISH COLUMBIA
ON JUNE 20, 2023**

**<u>DECISION OF THE CHIEF CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATIONS OFFICE</u>**

Chief Civilian Director: Ronald J. MacDonald, KC

IIO File Number: 2023-161

Date of Release: October 27, 2023

INTRODUCTION

In the early morning hours of June 20, 2023, Penticton RCMP members attempted to stop two individuals riding motorcycles. The motorcyclists had been reported to police as having been acting suspiciously in a residential area. Three police officers made brief attempts to follow and/or stop the suspects, who sped away. Shortly afterwards, the Affected Person ('AP') was found to have crashed his motorcycle at an intersection. He was found to be unconscious but breathing, and an ambulance was summoned. AP was taken to hospital and was subsequently found to have suffered serious injuries to his spine, brain and shoulder. 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 other civilian witnesses, one paramedic and three witness police officers;

- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;

- Watchguard dash camera recordings from three police vehicles;

- security camera video recording from commercial premises near the scene of the incident;

- audio recordings of police radio transmissions;

- scene photographs;

- RCMP pursuit policies; and

- medical evidence.

NARRATIVE

At about 3:40 a.m. on June 20, 2023, Penticton police received a complaint of suspicious activity in a residential area. Two individuals on motorcycles were said to be "checking out" houses and vehicles.

At the time, three officers were available to patrol the immediate area. Officer 1 was the first to locate two motorcyclists matching the suspects' descriptions, and confirmed that their behaviour was suspicious. He later told the IIO that he did not believe the motorcyclists saw him, and he did not attempt to stop them. He said they drove away at

high speed and he lost sight of them. He drove at normal speeds in the direction in which they had left, hoping to encounter them again.

Officer 1 then met up with Officer 2, and they pulled up alongside each other on the street, facing in opposite directions, to discuss the situation. Officer 1 said that he then saw the two motorcycles approaching from behind him. They drove slowly past the two police vehicles and then sped away again. Officer 1 turned on his emergency lights and drove after them, at speeds somewhat in excess of the speed limit, hoping to 'close the distance' sufficiently to read the licence plates on the motorcycles. He quickly realized, though, that continuing the attempt would be dangerous, so he turned off his emergency lights and pulled over to the side of the road.

Officer 2 also followed the motorcycles. When they passed the two stationary police vehicles, Officer 2 turned on his emergency lights, but only long enough to execute a turn in the road, and then drove in the same direction as the motorcycles, at moderate speeds and with no emergency equipment activated. He passed Officer 1, who was stopped at the curb, and quite soon afterwards came upon the scene of a motorcycle crash.

Officer 3, who had been advised by radio that the two suspects were coming in his direction, saw them pass in front of him as he approached a three-way intersection. He activated his emergency lights and turned to follow. After about 21 seconds, he came upon the scene where one of the motorcyclists had crashed into a low concrete wall and was trapped under the bike. A civilian driver who had seen the crash and had stopped at the scene helped lift the machine off the unresponsive driver (AP). A call was made for paramedics to attend.

All three police vehicles were equipped with Watchguard dash camera equipment, which records video and audio and indicates on the recording the status of the vehicle's speed, braking and activation of emergency lights and siren. The Watchguard recordings, obtained by IIO investigators, corroborate and confirm the narrative set out above. A CCTV video recording from commercial premises at the crash scene shows that Officer 3 arrived approximately ten seconds after the crash.

The civilian witness who witnessed the crash told the IIO that he estimated the speeds of the motorcycles as they passed through a stop sign and crossed the intersection to be between 70 and 90 km/h.

Upon examination, it was discovered that the motorcycle driven by AP was stolen and its identification markings had been partially filed off. A quantity of methamphetamine was located in AP's backpack.

AP later told IIO investigators that on the night in question he had been out riding around with another male, whose name he said he did not know. He said he fled from police because "I don't have a licence on the bike, right?" He said that a police vehicle "cut in front of" the other motorcyclist, almost hitting him (this allegation is not supported by any other evidence, including video and other data from police vehicles). AP said he did not remember what caused him to crash.

AP's medical records include blood test results indicating the presence of methamphetamines, opioid, MDMA and benzodiazepines.

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.

All the officers involved in this incident had reasonable grounds to stop and question the two motorcyclists based on previous suspicious behaviour in a residential area in the middle of the night. Officer 1 quite properly disengaged after a brief attempt and pulled over the the curb. Officer 2 simply followed the suspects in the same direction, but without using emergency equipment except when turning around. Officer 3, essentially, did not have time to turn off his emergency lights and pull over before he came upon the accident scene, only seconds after he first encountered AP and his companion.

Although there were short periods during which officers exceeded the speed limit, either with or without emergency equipment activated, in all cases these actions were justified

under the proviso found in section 122 of the *Motor Vehicle Act* for drivers of emergency vehicles driving within the provisions of the *Emergency Vehicle Driving Regulation*.

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

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