



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING ARRESTED BY MEMBERS OF THE
RCMP IN
THE CITY OF PORT ALBERNI, BRITISH COLUMBIA
ON APRIL 20, 2024**

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

Chief Civilian Director: Jessica Berglund

IIO File Number: 2024-088

Date of Release: October 23, 2024

THIS PAGE INTENTIONALLY LEFT BLANK

Introduction

On the evening of April 20 2024, officers responded to a call that the Affected Person ('AP') was in breach of his court ordered conditions not to contact Civilian Witness 1 ('CW1') or be in the area. CW1 also said the AP was suicidal. Officers attended the residence, arrested the AP, and transported him to cells within the Port Alberni RCMP Detachment. The AP suffered a dislocated elbow which required surgical intervention as a result of his interaction with police that evening.

The Independent Investigations Office (IIO) was notified of this incident by the RCMP and commenced an investigation.

The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- the AP's statement;
- statements of three civilian witnesses;
- statements of two first responders;
- statement of one witness police officer;
- police Computer-Aided Dispatch ('CAD');
- Police Records Information Management Environment ('PRIME') records;
- BC Emergency Health Services records;
- police radio to radio transmissions;
- 9-1-1 calls;
- prisoner logs from cells;
- medical records;
- video from police vehicle; and
- CCTV video from cells.

Narrative

On April 20, 2024 at 6:31 p.m., Civilian Witness 1 ('CW1') called the Port Alberni RCMP to report that the Affected Person ('AP') was contacting her, contrary to a court condition that he not be in contact. CW1 said that the AP was also at a residence in Port Alberni, where he was not supposed to be and contrary to his court ordered conditions.

At 7:02 p.m., Subject Officer 1 ('SO1'), Subject Officer 2 ('SO2') and Witness Officer 1 ('WO1') responded to the location provided, but could not locate the AP.

At 8:14 p.m., CW1 called the Port Alberni RCMP again and said that the AP was in contact with her again, this time stating that he was going to hang himself. SO1, SO2 and WO1 were dispatched again to the residence.

Watchguard video footage from the officers' cars shows the officers arriving at 8:20 p.m. The video footage captured the officers walking into the driveway approaching the front of the house, but did not capture the interaction that took place between the AP and the officers because it occurred on the back side of the house.

WO1 described that they approached the back of the residence after hearing a lot of yelling coming from that area of the residence. They observed the AP standing in the kitchen at the back of the house holding a cellphone. Officers entered the open residence and spoke to the AP, who said he was fine and that officers could leave. WO1 said that the AP was "*extremely agitated and aggressive*".

The officers arrested the AP for breaching his court ordered conditions. WO1 said that the AP attempted to pull away when the officers brought him to the floor. While the AP was on the floor, SO1 took one of the AP's arms, and SO2 took the other.

The AP said that SO1 held one of his arms, while SO2 attempted to pull his other arm out from under him. The AP said that his arms were pulled back at an unnatural angle and that he warned the officers that they would break his arm. The AP believes that is when his arm "*popped out*". The AP said that he would like to believe SO1 did not hurt him intentionally and noted that "*the last thing he wanted to do was tangle with two large police officers*". The AP thought it was an accident that his elbow dislocated, and that he was compliant with the officers.

WO1 said that there was a struggle between the officers and the AP, and that it took several minutes to get the AP under control and in handcuffs. Nearby neighbors heard a commotion but were not able to see the AP being arrested, as it took place inside the residence.

The AP was put into the police car and taken to the RCMP Detachment at 8:31 p.m. CCTV video recordings captured video and audio from when the AP was brought into cells and taken into the booking area. The AP walked in unassisted by the officers, handcuffed behind his back. When the AP approached the front booking counter of the RCMP cells, the AP said, "*f*** that*" and took a seat.

WO1 said that given the behaviour that the AP was displaying, the officers wanted to take the AP to cells before removing his handcuffs. WO1 told the AP to come with him, as he was going to take him to cells. The AP responded "*Drag me. Come on. Just drag me.*" The AP then stood up from his chair and unexpectedly dropped to sitting on the floor. Once on the floor, SO1 and WO1 lifted the AP's arms to pick him up and the AP can be heard saying "*Ow. Okay. Wait. That hurts too much. Never mind, that hurts too much*".

The AP then walked to his cell escorted by the officers. The officers searched the AP, and then removed the handcuffs in his cell. At 8:37 p.m., footage from the AP's cell showed him clutching his right arm and elbow area in apparent pain.

Paramedics were called at 9:05 p.m. to attend to the AP, and they arrived at 9:45 p.m. As the AP was being transported to go to the hospital, he motioned towards SO1 and said “*I don’t want him anywhere near me. He’s the one that did this to me.*”

The AP was then taken to the hospital and confirmed to have a dislocated elbow that required surgical intervention to fix.

Legal Issues and Conclusion

The Independent Investigations Office of British Columbia is mandated to investigate 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.

A police officer must be acting in the lawful execution of their duties when they arrest or detain someone. In this case, officers had received a call of a suicidal male that was breaching his court ordered conditions not to be in contact with CW1 or stay in the Port Alberni area. Police officers have a general duty to preserve the peace and protect life, and they needed to attend the call to protect the AP’s life and also make sure CW1 was safe.

The AP suffered a dislocated elbow as a result of force used by the officers. In a case such as this one, one of the avenues of the IIO investigation will be gathering evidence about potential justifications for that use of force. The CCD will then apply legal tests such as necessity, proportionality and reasonableness to reach conclusions as to whether officers’ actions were lawful or not.

It was reasonable for SO1 and SO2 to use some force to arrest the AP and put him into handcuffs. WO1 said the AP was pulling away and they needed to get him under control in order to handcuff him. They did this by manipulating AP's arms, and the AP believes the officers did not intend to cause him injury. Officers are permitted by law to use some level of force to put someone into handcuffs, and I have determined that there is not sufficient evidence to suggest that the level of force used was excessive or unreasonable in this case.

Once inside the detachment, the AP sat on the floor and suggested he should be 'dragged' by the officers into his cell. At that point, the AP's behaviour was escalating and the officers needed to get him into cells. The video evidence that captured the interaction does not show any use of force that was unreasonable or excessive. Instead, the officers appear to simply pick up the AP, who is resisting the officers' attempts to get him into cells. It was reasonable for the officers to stand up the AP at that juncture, and there was not any excessive force used to do so.

The law requires that the level of force applied by officers must be reasonable, necessary and proportionate to the situation the officers find themselves in. Officers are permitted to use some level of force to apply handcuffs to a person. It is unfortunate that the AP was injured, but even the AP himself suggested that it was not intentional. Nothing from the cell videos suggests that the officers acted unreasonably or used excessive force in their interactions with the AP.

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.

Jessica Berglund
Chief Civilian Director

October 23, 2024
Date of Release