



**IN THE MATTER OF THE INJURY OF A FEMALE WHILE BEING
APPREHENDED BY A MEMBER OF THE VANCOUVER POLICE
DEPARTMENT IN VANCOUVER, BRITISH COLUMBIA ON
DECEMBER 7, 2018**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2018 - 147

Date of Release:

November 5, 2019

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Facts

On December 7, 2018, Vancouver Police Department (VPD) officers received a call from a Civilian Witness (CW1) regarding a suicidal person in Vancouver.

When officers arrived, they located the Affected Person (AP). AP threatened CW1 and struck the Subject Officer (SO) in the groin area. SO reacted by pushing AP away. AP fell forward and struck a door. AP's resulting injuries included fractures to her face and left shoulder.

The Independent Investigations Office (IIO) was notified by VPD. The IIO commenced its investigation as police officers were present and the injury to AP was "*serious harm*" as defined in the *Police Act*.

Evidence collected during the investigation includes the following:

- 1) statement of AP;
- 2) statements from Civilian Witnesses and a Professional Witness (First Responder);
- 3) statements from Witness Officers;
- 4) medical records;
- 5) canvass for witnesses and video; and
- 6) recordings of 911 calls and police radio transmissions.

Pursuant to section 17.4 of the Memorandum of Understanding between the IIO and BC Police Agencies, officers who are the subject of an investigation are not compelled to submit their notes, reports and data. In this case, the Subject Officer ("SO") permitted access to his duty reports and notes but was not interviewed by IIO investigators.

Narrative

On December 7, 2018 at approximately 12:34 a.m., CW1 called 911 to report that her friend was suicidal. AP had been messaging CW1 indicating that she was sad and wanted to end her life.

CW1 stayed on the line with 911 until she found AP and was asked to meet police at the address where AP was located. Two police units responded: uniformed officers in a marked car and plain clothes officers in an unmarked car.

Both CW1 and the officers searched for AP around the building. Witness Officer 1 (WO1) found a female walking in and out of a suite who identified herself as AP. AP informed the officer that she did not live in that suite.

WO1 described AP as drunk and "all over the place." WO1 arrested AP under s.28 of the *Mental Health Act* and placed her in handcuffs. Witness Officer 2 (WO2) assisted WO1 with the arrest, which occurred with no issue.

AP told officers that she had been drinking and was upset over the breakdown of the relationship with her boyfriend. She also informed them that she had a history of mental illness. Because WO1 believed AP to be compliant, he left her outside with SO while he and WO2 checked the suite where AP had been.

CW1 told the IIO that she saw AP being handcuffed on the landing while she was standing on a staircase close to the landing. She said it was icy that night and AP was slurring her words. CW1 said AP turned towards her and with a "crazy look in her eye" said "I'm gonna kill you." CW1 described AP's manner as "violent" and "scary."

AP turned to face CW and SO. CW1 said AP then moved forward and "attacked" SO by either kneeling or kicking him in the groin. SO's notes describe AP as "pushing me with her chest while I was standing with back to stairs. Then kicked me in the groin area." AP acknowledged she had been "freaking out" and kicked the officer.

SO reacted to AP by pushing her away and turning her towards the back wall of the landing, away from the staircase. A door to another apartment formed most of the back wall. SO described pushing AP backward to create space and prevent her from kicking him again. As he turned her to face away from the stairwell AP fell forward and appeared to strike her forehead against the door at the back wall. SO noticed what appeared to be a bump and bruising under AP's right eye. SO surmised that AP may have struck the round door handle of the door with her face as she fell.

AP said she recalled being on the landing and being shoved by a police officer (SO) towards a fence where she fell and hit her face against the post. She did not know if the officer meant to push her into the post but believed his push was directional.

WO1 and WO2 returned to the landing after hearing a commotion. WO1 saw AP with her head against the back wall of the landing, a cut under her eye and complaining of shoulder pain. WO2 saw AP on the ground being controlled by the SO.

AP was transported by Emergency Health Services with police in attendance. The IIO interviewed a Paramedic as a Professional Witness (PW1) who determined AP was intoxicated; he said she was yelling and crying en route to the hospital. PW1 noted that AP had a swollen and bruised eye and that AP complained of pain in her arms and shoulder. PW1 said AP refused a full assessment of her injuries until she was at hospital.

The IIO received permission to access AP's medical records. Those records state AP told hospital staff that her eye and shoulder injuries occurred when she hit a patio door and that she was not cooperative. The records also indicate AP had alcohol and recreational drugs in her system. AP was held at hospital under the *Mental Health Act* and left on her own when she was later released.

AP's injuries following her interaction with police were: a "depressed fracture" on the right side of her face and a left shoulder fracture, neither of which required surgery and both of which were to be treated on an outpatient basis.

IIO investigators canvassed the area for CCTV and witnesses. No other witnesses were found and there was no CCTV.

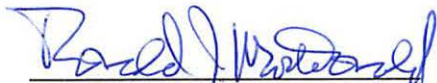
Conclusion

The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to the incident that led to the injury of AP. More specifically, the issue to be considered in this case is whether an officer may have committed the offence of assault causing bodily harm. If the officer was acting as required or authorized by law, on reasonable grounds, he was justified in using as much force as was necessary. Use of unauthorized or excessive force, on the other hand, could result in criminal liability.

AP's behaviour caused concern when she expressed anger and threatened to kill CW. AP admits that she kicked SO which caused him to "push" AP, given they were both close to a flight of stairs. Unfortunately, due to the proximity to the suite door and AP's intoxication, it is more likely than not that she was unable to keep her balance and fell, injuring her face and shoulder.

There are no grounds to conclude that SO used excessive force in controlling of AP, given her threat against CW and her violence toward the officer.

Accordingly, as the Chief Civilian Director of the IIO, I do not consider that any officer may have committed an offence under any enactment and therefore the matter will not be referred to Crown counsel for consideration of charges.


Ronald J. MacDonald, Q.C.
Chief Civilian Director

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