



**IN THE MATTER OF THE DEATH OF A FEMALE
AND OF AN ASSOCIATED INVESTIGATION BY A MEMBER
OF THE RCMP IN THE CITY OF VERNON, BRITISH COLUMBIA
ON OR ABOUT FEBRUARY 27, 2020**

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

Interim Chief Civilian Director:

Sandra J. Hentzen

IIO File Number:

2020-047

Date of Release:

August 8, 2024

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The file review in this matter was held June 21, 2022, at which time the decision was made that completion of this investigation would be delayed by concurrent court proceedings related to the death of the affected person. This was done in hopes the accused, now convicted, in that case would agree to provide a statement to IIO investigators. That statement was obtained March 1, 2024.

No additional investigative tasks were completed after the 2022 file review, and the matter was effectively concluded until this statement could be obtained and analyzed to finalize the investigation outcome.

INTRODUCTION

On the afternoon of February 27, 2020, RCMP received a 911 call about a potential disturbance or assault at a Vernon motel. The Subject Officer ('SO') spoke with the caller by telephone, but never met with him in person. The SO went to the motel and met briefly with the manager, who assured the officer that everything was alright. The officer then left. The following evening, the Affected Person ('AP') was found deceased in the room that had been the subject of the 911 call. Because of the potential connection between the AP's death and police action or inaction, 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 two civilian witnesses and one witness police officer;
- transcripts of two RCMP interviews with one of the civilian witnesses;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- Mobile Data Terminal ('MDT') data download from SO's police vehicle, including GPS data;
- Closed-Circuit Television ('CCTV') recordings from the scene;
- 911 call recording; and
- RCMP policy with respect to First Response to an Investigation.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, SO declined to provide his notes or duty reports, or to be interviewed by IIO investigators, but subsequently provided a written statement through his legal counsel, as well as written answers to follow-up questions.

NARRATIVE

At 1:09 p.m. on February 27, 2020, RCMP received a 911 call from Civilian Witness 1 ('CW1'), who told the call-taker that while outside his second-floor motel room he had "heard a confrontation between like two girls". CW1 continued, "I don't know if the other one's okay, maybe like send an ambulance and stuff". CW1 said the "confrontation" was in a room "like five doors down" from his, and he had heard "like a bunch of yelling". Asked when this had happened, he responded "about half an hour ago", and said he had not heard anything since.

As CW1 was finishing the 911 call, CW2, the motel manager, came to his door. CW2 had noted the 911 call on the motel switchboard and came to ask what was wrong. CW2 later told the IIO that CW1 said someone had been shouting but everything was okay. CW2 said that as he left, he noticed three bags outside a room along the landing from CW1's room. He said he knocked on the door of that room, but there was no answer. About twenty minutes later, he said, a police officer (SO) came to the motel office:

[The officer said] "we got a call from 911", and I said, "Yes, I checked with [CW1's room number] and he said someone was shouting". I might not be a hundred per cent but I said... but that's close to what I said. So he said, "Do you need any help or assistance with anything, or did you hear anything?" I said, 'cause I was in the office all the time, "I didn't hear anything", and then I think after that he left, but he asked me if I needed any assistance or help or if I heard anything, but because I didn't hear anything I said, "Yes sir, I haven't heard anything from my side".

A Witness Officer ('WO') happened to be conducting surveillance on the motel at the time, in connection with a different investigation. The WO told IIO investigators that at about 1:59 p.m. on February 27, 2020, she saw a police vehicle park at the motel, and saw the SO enter the office. Three minutes later, she saw him exit the office, enter his vehicle and drive away. The WO said she had not seen or heard anything unusual at the motel.

Police CAD records show an initial entry at 1:09:37 p.m. that stated, "Remarks – Assault – Caller had heard 2 females arguing approximately 5 doors from caller's room about 30 minutes ago, thought one female assaulted. No further information. EHS [Emergency Health Services] advised to stage". The file was assigned Priority 3 (routine attention, no current threat to life or property). Subsequent entries indicate that no ambulance was available at the time. The CAD records show the SO as being dispatched to the call at 1:41:47 p.m., that he was "on scene" at 1:41:56 p.m., and that he was back "in service" at 2:01:39 p.m. The records show that there was no other call to which the SO was assigned during that time period.

GPS data downloaded from the SO's police vehicle demonstrate that from the time of the dispatch at 1:41:47 p.m. until 1:49:35 p.m., the vehicle remained stationary at a location approximately three kilometres from the motel. The data show that the SO then drove to the motel at a maximum recorded speed of 57.1 km/h., arriving there at 1:58:22 p.m. The GPS data then indicate the SO departing from the motel at 2:01:39 p.m., just over three minutes later.

Motel CCTV recordings confirm that the SO was at the motel for approximately three minutes, and that he did not at any time go to any of the guest rooms.

At approximately 8:00 p.m. the following evening, February 28, 2020, the AP was found deceased in a room in the approximate location CW1 had identified as the scene of a confrontation between two females. RCMP Serious Crime officers commenced a homicide investigation.

On March 1, 2020, CW1 was interviewed by police detectives. He described having heard "really loud" yelling from a room "six rooms down" that was occupied by a female guest with whom he would occasionally "share a smoke or something like that". He said he had seen "a bunch of luggage" outside the room and assumed "something was going on, like maybe they're fighting and the person was leaving".

On March 23, 2020, after the IIO was notified by RCMP of a potential connection between police response to CW1's call and the AP's death, CW1 was interviewed by IIO investigators. In the course of that interview, he said that he had heard loud yelling and screaming from a room four to five doors down, and stated:

I heard arguing and got stopped and got asked for help but the person never opened the door and then all of a sudden like they just told me to go and then I thought they had got into an argument or something or fighting and it got me concerned so I decided to call 911. Just for them to come check it out.

...

I then received a phone call from a police officer saying that he was going to come and check the room and come talk to me and he didn't. The police officer didn't come to talk to me. I don't know if he checked the room or not. All I heard from the manager was that he had a discussion with the police officer and then I received a phone call from the manager saying everything was all good so I didn't think anything of it.

Asked exactly what he had heard, CW1 said that from behind a closed door a voice had asked for help, saying there was a medical emergency and asking if he knew CPR. He acknowledged that he had not mentioned the "medical emergency" to the 911 operator.

He said a police officer (SO) had telephoned him and had said he would come to talk to CW1, "which never happened". CW1 stated that "[SO] said he was coming to talk to me, and just for a precaution he was gonna come check out the scene". He confirmed that no police officer came to his door, or spoke with him in person. CW1 said he later received a call from the manager (CW2) saying "everything was okay". CW1 described his condition on the day in question as "pretty drunk", and said his ability to recall events was about "six out of ten".

CW1 was interviewed again by police investigators on March 31, 2020. On that occasion, he was presented with CCTV video showing him outside the room where AP was subsequently found deceased, peering in through the doorway and window. CW1 then expanded on the accounts he had previously given, acknowledging that he had been aware that a female had apparently been injured and needed assistance. He again stated that he had received a call from an RCMP officer (SO) who said he would speak further with CW1 when he attended at the motel, but who did not.

On June 12, 2020, the SO provided a written statement to the IIO through his legal counsel. In it he writes:

On February 27th, 2020 at 1309 hours, [CW1] made a report to 911. [CW1] reported that approximately 30-minutes ago, two females were heard yelling approximately five units from his room. [CW1] thought possibly one female was assaulted. I called [CW1] who advised that he called the front desk to enquire about what the disturbance was about. The front desk staff advised him that everything was cleared and okay. I attended the scene, and did not observe anything suspicious. I attended the front desk and spoke to the front desk who confirmed that everything was fine and that the issue was because the manager had luggage in the hallway. I cleared the scene and began report writing. This ends my involvement with this report.

In response to a subsequent clarifying question from an IIO investigator about what appeared to be contradictory CAD and GPS data, the SO indicated:

Many files are fully investigated in this manner, and complainants do not always require police to attend scene, therefore there are files where a police officer will never be "On Scene": the issue here is that the report cannot be processed unless the police officer selects the On Scene button otherwise a software error arises. To counter this issue, I select the On Scene button when the file is acknowledged by myself and the report writing, phone calling, or any investigational measures begin. I was both assigned, and on scene, at 1341 hours, because as soon as the file was dispatched, I began to investigate and report write while driving in preparation to clear the file after investigation as occurs with

many of my files. However, as intended and documented, I follow through and contact any contacts as CCTV clearly shows me. Sometimes it may be before the CAD shows it, sometimes during, and sometimes after.

Asked about the GPS indication that he remained stationary in his vehicle for approximately eight minutes after receiving a call to attend at the motel in response to an assault report, the SO responded:

GPS data can show myself 100 KM away from the physical location of scene, but as mentioned it does not reflect that I am physically at the dispatch location of a report; I could be calling the complainant, contacting the subject of complainant, investigating previous history of involved people and location, or even report writing from this distance. It is also common for complainants from previous police files to make contact to myself and intercept the present file, as they respond to voicemails I leave for them. This is what makes the CAD unit status logs even more inaccurate. The job of policing requires me to multitask, to go back and forward on files, and follow up with other police tasks as I respond to files. The nature of the job requires us to be at multiple locations and people at once. We can physically be at a location for one report, but be on the phone for another. I do follow proper procedure with police reports and fully investigate my files by making contact with everyone available; I made contact with the complainant here and continued to head to scene even though he made it sound like my attendance was not needed. I then made contact with the properly [sic] representative to make sure if there was anything else that I could assist them with.

On June 24, 2020, the IIO was informed that the Post-Mortem Report with respect to the AP's death did not offer any opinion regarding the time of death or the length of time it would have taken for the AP to die from her injuries.

The RCMP conducted a concurrent investigation into the suspicious death of the AP. That investigation led to an individual being charged and convicted for culpable homicide. The individual has been questioned, both by police and by IIO investigators. Unfortunately, those interviews have not elicited any information that might assist in determining either the time of the AP's death, or whether a proper investigation by the SO (and prompt medical attention) might have saved the AP's life.

Further Investigation and Evidence

IIO investigators subsequently posed specific questions to the responsible pathologist regarding the cause and time of the AP's death. The IIO was told that while there may have been a significant time between the apparent assault that killed the AP and her death, it was not possible to say whether she might have been saved by medical intervention at any given point after infliction of the injuries. Further, investigators were told that it was not possible to determine the time of the AP's death with sufficient certainty to assist the IIO investigation. Taken together, the responses obtained did not assist in determining whether the AP's death might have been prevented if the SO had attended at the room in response to CW1's 911 call.

Inquiries were made with RCMP about the significant delay between receipt of the 911 call and the dispatch of an officer to the scene. The response was that the delay was due to the fact that CW1 said the reported argument/assault was not currently occurring, but had been heard about thirty minutes earlier. This caused the call to be placed on a "queue" with lower-priority matters.

LEGAL ISSUES AND 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 an incident resulting in serious harm or death. More specifically, the issue to be considered in this case is whether the SO may have been criminally negligent by the manner in which he purported to investigate CW1's complaint. According to the *Criminal Code* definition, a person is criminally negligent if, in doing anything, or in omitting to do anything that it is his duty to do, he shows 'wanton or reckless disregard' for the lives or safety of other persons. The question here is whether the SO was criminally negligent in omitting to do something it was his duty to do: investigate properly to determine if there was an assault victim in urgent need of medical attention.

It must be noted that, as detailed above, there was a significant delay between CW1's 911 call and the dispatch of the SO to respond. The call was assigned a lower priority, the IIO was told, because of the somewhat dated quality of the complaint (CW1 told the call taker that it had been about half an hour since he heard the women arguing or fighting). This dispatch delay itself raises concerns, which will be raised as a potential policy issue with the RCMP. There is a further concern about the low priority assigned to a call of this sort, about a possible assault in progress, with potential injuries.

Notwithstanding these possibly systemic dispatch issues, the SO would have understood that he had been called to an apparent domestic assault with a female victim possibly injured and a request by police Dispatch to “stage” an ambulance ready to attend. While the need on occasion to “multi-task” alluded to in the SO’s written statement is duly noted, the appropriate response in these circumstances, rather than writing reports or returning phone calls, was for him to attend promptly to the scene, possibly to intercede in an ongoing assault, and at the very least for a safety and wellness check. Instead, the SO remained stationary for approximately eight minutes, and then made his way to the scene without haste.

Once at the scene, the SO’s clear duty was to investigate personally, by locating and speaking with the complainant and by going to the location where the alleged assault had occurred in an attempt to find and assist a potential victim. The sworn duty of this officer, and every officer, is to preserve life. He needed to find out what was going on, to determine whether a woman had been assaulted and whether an assault was potentially continuing. Instead of that, in the course of a brief and cursory conversation at the motel front desk, he effectively delegated that responsibility to the motel manager and then walked away. Had he spoken to CW1 directly while at the motel he could have received the additional details CW1 later provided, and could have gone to the room where the assault was believed to have occurred. This was neither an onerous nor a complex task, and clearly what is routinely expected in a case of possible domestic violence. It meant walking the several metres to the rooms in question, and conducting the most basic types of inquiries. Instead, the SO simply left after speaking to the motel manager.

These facts provide reasonable grounds to conclude that the SO was significantly negligent in the conduct of his duties on this occasion. However, before the IIO would refer this file to Crown counsel for consideration of a charge of criminal negligence causing death, two legal conclusions would have to be reached. The first, as mentioned above, is that the negligence involved amounted to ‘wanton or reckless’ disregard for the assault victim’s life or safety, and the second is that the officer’s failure contributed to the AP’s death to a non-trivial degree.

Essentially, that second conclusion would have to be based on evidence establishing a reasonable possibility that the AP was alive at the time of the SO’s visit and that the SO could have either saved her from further actions that caused her death, or allowed her to get medical attention that successfully avoided that outcome. The evidence here does not establish that causal connection. For example, the AP may have already been deceased at the time the SO went to the motel, or may have been healthy and not have been killed until later on. As a result, there can be no proof that the SO’s negligence played a role in her death.

Both of the legal tests described above have to be met before the offence of criminal negligence is made out.

Accordingly, as Interim 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.



Sandra J. Hentzen
Interim Chief Civilian Director

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