



**IN THE MATTER OF THE INJURY OF A FEMALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN THE MUNICIPALITY OF NORTH COWICHAN, BRITISH COLUMBIA
ON DECEMBER 30, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019-238

Date of Release:

April 8, 2020

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Introduction

On the evening of December 30, 2019, RCMP members were called to a residence in North Cowichan to remove the Affected Person ('AP'), who was intoxicated and demanding entry. AP became belligerent with police and was arrested. In the course of the arrest, AP suffered an injury to her arm. 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 civilian witness and a witness police officer;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- 911 call and police radio transmission audio recordings;
- police vehicle video and audio recordings;
- video recordings from the RCMP detachment;
- scene examination and photographs; and
- medical evidence.

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') did not provide any evidence to the IIO.

Narrative

At about 10:00 p.m. on December 30, 2019, North Cowichan RCMP received a call asking that AP be removed from outside a residence. AP was severely intoxicated, and had previously entered into an agreement that she would not be at the residence when she had been drinking, but was now demanding entry and causing a disturbance.

Civilian Witness 1 ('CW1') told IIO investigators that when officers arrived and asked AP to leave with them, she refused and became belligerent, yelling loudly. Witness Officer 1 ('WO1') said that at this point SO told AP that she would be arrested for mischief and causing a disturbance. WO1 said that he was holding AP's right arm, and as SO took AP's left arm behind her back to apply handcuffs, AP suddenly collapsed to the ground as a "dead weight". CW1 was watching at the time, and told investigators that as SO brought AP's arm behind her back, AP "flung herself" to the ground. WO1 said that he heard a "popping" sound as AP did this. The officers lifted AP by her armpits and helped her to the police vehicle, where she collapsed to the ground again.

CW1 described the behaviour of the officers throughout as appropriate. He told investigators that the officers were clear in their instructions and warnings to AP, and said that in his opinion police did not use excessive force against her.

AP was transported from the scene to the RCMP detachment where she was assessed by paramedics and then taken to hospital. She was diagnosed with a broken left humerus. Her blood alcohol concentration, when tested at the hospital, was found to be nearly five times the legal limit for driving. She told investigators that she recalled drinking on the day in question, but had no memory of the incident. She agreed that she knew she was not supposed to be at the residence while intoxicated, and that police would be called if she went there in that condition.

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 an officer may have used unauthorized or excessive force against AP. If the officers were acting as required or authorized by law, on reasonable grounds, they were justified in using as much force as was necessary. Use of unauthorized or excessive force, on the other hand, could result in criminal liability.

Both WO1 and SO were responding to a complaint of an unwanted person at a residence. Upon arrival, they found that AP was highly intoxicated and causing a disturbance. They were justified in placing her under arrest and removing her. In those circumstances, handcuffing a detainee before placing her into the police vehicle for transport is normal and proper procedure, to control the individual and ensure the safety of everyone involved.

On the evidence, it is clear that AP became particularly uncooperative at this point, and there is no suggestion that her fall to the ground was anything other than a tactic to thwart the officers' attempts to escort her away from the residence. SO was holding AP's left arm at the time, and it appears that the injury was caused by AP's deliberate act in dropping to the ground while her arm was restrained. There is no evidence that SO was using unjustified or excessive force, and could not be expected to foresee that AP would suddenly become a "dead weight" as described by WO1, or to "fling" herself down as CW1 described.

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.



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

April 8, 2020

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