



**IN THE MATTER OF THE INJURY OF A FEMALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN THE CITY OF SURREY, BRITISH COLUMBIA
ON JANUARY 10, 2020**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2020-009

Date of Release:

September 4, 2020

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Introduction

On the evening of January 10, 2020, Surrey RCMP responded to a 911 call about an alleged domestic assault. Upon arrival, the Subject Officer ('SO') and Witness Officer 1 ('WO1') found the complainant injured and his home in disarray. The Affected Person ('AP') was arrested and taken into custody. The following morning she was transported to hospital and was found to have broken ribs and a punctured lung. 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 and another civilian witness, and of five witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- Closed-Circuit Television ('CCTV') recordings from the Surrey RCMP detachment;
- Surrey RCMP C13 (prisoner intake) form, prisoner logs and prisoner check sheets;
- police radio channel recordings;
- 911 call recording; 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, SO did not provide any account to the IIO.

Narrative

AP told IIO investigators that on January 10, 2020, she had an argument with her father, Civilian Witness 1 ('CW1'), and acknowledged throwing a table and a vacuum cleaner. She also acknowledged "acting out" and hitting a female officer who subsequently attended. AP said that a male officer told her she was under arrest, "slammed" her to the ground and "pounded" on her, breaking her ribs. AP said that she was already in handcuffs when the officer was hitting her, "as far as I know". She added that she was either in cuffs, or an officer was holding her hands. AP apparently believed that these events occurred at around 2:00 a.m.

WO1 described responding to a disturbance call at approximately 9:11 p.m. on January 10, 2020, with SO as her back-up. CW1 had told the 911 call-taker that AP had thrown a table at him, but would not tell the attending officers how he had been injured. WO1 said CW1 was holding his ribs and had blood on his face and arm. She said CW1 told her that he just wanted the officers to get AP out of the house.

WO1 said that she went into the living room to speak with AP, who was with SO. AP was sitting in a chair with a blanket over her, crying. WO1 told AP that she was not going to be charged with an assault, but had to leave the residence and go to a shelter, a hotel or to stay with a friend. WO1 told investigators that in response AP became “heated”, standing up aggressively and saying she had nowhere to go.

WO1 said that AP then said “I’m just going to fucking leave”, and tried to walk past WO1. SO told her “No, calm down, you’re under arrest right now”, and grabbed AP’s right hand. WO1 reached for AP’s left hand to assist in handcuffing her, but AP pulled free and slapped or scratched the side of WO1’s face. SO then swung AP away from WO1 and took her to the floor. WO1 said that AP hit a dresser on the way down, causing a jar of pennies to fall to floor and smash. AP, said WO1, started to kick at both officers, “flailing around, just going absolutely bonkers”. WO1 said she got on AP’s legs while SO had his knee on AP’s shoulder, and “eventually” the two officers were able to get a set of handcuffs on.

WO1 told IIO investigators that during the attempts to get handcuffs on, SO deployed “one or two” closed fist punches to AP’s shoulder or rib area for pain compliance, because AP was actively resisting, kicking and flailing.

CW1 told the IIO that AP was already in handcuffs when SO struck her. AP was struggling, with WO1 on her legs and SO half-kneeling on her back or shoulder. At a different point in his interview, however, CW1 only described AP’s hands being behind her back and said he did not see the cuffs go on. CW1 did confirm that AP was struggling against the officers.

WO1 called for more officers to attend, and to bring a “cord cuff” so AP’s ankles could also be cuffed and linked to the handcuffs on her wrists. WO1 said this procedure is only used where a detainee is “really out of control”. AP was then carried out to a police vehicle and taken to the RCMP detachment. On the way, AP told WO1 “I think my ribs are broken”. WO1 said she told the cell sergeant that AP appeared to be in pain and thought her ribs were broken.

AP told IIO investigators that at the detachment she was made to stand up for ten minutes while being fingerprinted. She said she needed a wheelchair because of her injuries, but was told “we don’t have wheelchairs”. She told investigators that she was put in a cell for a short period, then placed in “seg” (segregation). When she asked why, she was told it was so she could be monitored “24/7, because of the oxy” (oxycontin). AP continued her account by saying that “after a couple of days of that, I said ‘get it over, get it done’”. In a different version, she told investigators that an hour or an hour and a half after being arrested, she was sent to see the nurse.

Cell block video contradicts AP's account in a number of respects. It shows that AP was taken from the police vehicle directly into a cell in a wheelchair. In the cell, she was searched, and WO1 noticed that AP had a scratch with a drop of blood on her right ribs. AP was then left without receiving any care or attention until the following morning.

The RCMP C13 form records AP arriving at the detachment at 9:55 p.m., but the cell log does not record AP arriving in cells. However, the Prisoner Check Sheet includes this note, apparently made at 10:17 p.m., shortly after AP arrived in cells: "I need to see a doctor". The sheet also contains a number of notes through the night that AP was "moaning". At 5:34 a.m. the following morning, evidently at handover between staff, there is a note: "assault P.O. – straight to cell". The next reference to AP is at 10:12 a.m.: "ambulance called". This was shortly after a jail nurse assessed AP and determined that she needed medical attention.

AP was admitted to hospital with "left-sided rib pain on her back ... mid back, left flank". She was found to have three broken ribs and a punctured lung on her left side, as well as soft tissue injuries in a number of locations.

WO1 identified an RCMP Sergeant as having been in charge of the RCMP cells on the evening in question, and said she provided him with the information that AP was complaining that her ribs were broken. The evidence gathered demonstrates that no medical assistance was made available to AP for approximately twelve hours. IIO investigators offered the Sergeant an opportunity to respond, but he declined.

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 either arresting officer may have used unauthorized or excessive force in the course of AP's apprehension.

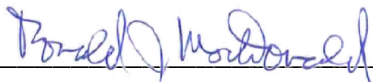
SO and WO1 were dealing with AP in response to a complaint that she had assaulted CW1, and the physical evidence supported that accusation. It appears that AP was resistant to an initial attempt by WO1 to resolve the situation by simply having AP leave the residence. At that point there were certainly sufficient grounds to arrest her and take her into custody for assaulting CW1, grounds that were augmented by AP striking WO1 in the face. That act on AP's part may have been partly accidental, but it clearly prompted an immediate escalation, with SO pulling AP away from WO1 and dropping her to the floor to be restrained.

AP's non-cooperation and aggressive behaviour as this was happening justified the use of force to control her and place her in handcuffs, moves which she resisted energetically, as confirmed by CW1. On the evidence as a whole it appears that SO's blows to her shoulder or back were delivered while the officers were trying to hold AP's arms back so as to place handcuffs on her wrists, and while she was still "flailing". That use of force to obtain compliance is within a reasonable range of options available to the officer. *Criminal Code* provisions regarding the justified and necessary use of force by police provide a defence against a charge of assault on the officer's part.

Once AP was secured in handcuffs, there is no reliable evidence that any further significant force was used against her. Allegations by both AP and CW1 that the blows struck by SO occurred after the handcuffs were fastened are inconsistent, and include comments to the contrary. The balance of the evidence supports a conclusion that SO's punches were intended to obtain compliance from AP so that the cuffs could be applied.

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.

There are significant concerns raised by the evidence that the officer in charge was made aware of AP's injuries when AP was booked in, yet nothing whatsoever was done to help her or get medical attention for her until quite late the following morning, as set out above. Those concerns do not rise to the level of a criminal offence. They do, however, fall within the jurisdiction of the Civilian Review and Complaint Commission for the RCMP, which is responsible for the oversight of the investigation of conduct issues, and will be passed along for their consideration.



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

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