



**IN THE MATTER OF THE INJURY OF A MALE  
WHILE BEING ARRESTED BY MEMBERS OF THE RCMP  
IN THE CITY OF VERNON, BRITISH COLUMBIA  
ON MAY 16, 2020**

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

Chief Civilian Director:	Ronald J. MacDonald, Q.C.
IIO File Number:	2020-093
<u>Date of Release:</u>	May 6, 2021

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## **INTRODUCTION**

On the morning of May 16, 2020, RCMP members responded to a 911 call from a residence reporting a domestic incident involving death threats. The Affected Person ('AP') was arrested in the residence by Subject Officers 1 and 2 ('SO1' and 'SO2') and suffered an injury in the course of the arrest. 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 two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- recordings of a 911 call and police radio transmissions;
- medical evidence.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, SO1 did not provide any evidence to the IIO, but SO2 permitted access to his written PRIME report.

## **NARRATIVE**

At 10:13 a.m. on May 16, 2020, Civilian Witness 1 ('CW1') called 911 to report that her boyfriend (AP) was threatening to kill her and AP could be heard in the background making such threats. SO1, accompanied by Witness Officers 1 and 2 ('WO1' and 'WO2') arrived and were let into the home by CW1. Shortly afterwards, SO2 also arrived.

CW2, a neighbour, told IIO investigators that she heard CW1 and AP screaming at each other, with CW1 screaming for AP to "get his hands off her". CW2 said that she had heard the couple arguing before, but this incident seemed more threatening than usual.

Shortly after the incident, CW1 gave a statement about it to the RCMP. In that statement, she accused AP of having made death threats against her, her family and her dog. She said she called the police because "I's just scared outta my mind, not sure what he was gonna do with all the threats".

Subsequently, though, speaking with IIO investigators, CW1 said she had called the police just to get AP out of the apartment, and had made up the threats allegations: "I did this stupid thing to call the cops and get him out of the house, which blew this whole thing out of proportion". CW1 said that when she was on the phone to 911 she was sitting in the bedroom by herself.

In that same IIO interview, CW1 said that after being removed from the residence she could still see what was happening in the living room, where she said that initially AP was standing calmly with the officers before being assaulted by them for no apparent reason:

*They handcuffed him and told him to sit down on our chair in the living room, and then one of them said "stand up". He stood up and then they said "Oh, you're resisting arrest". "Oh, you told me to stand up", and then they slammed him on the ground. One stepped on him, and one had his knee in his neck.*

CW1 was apparently unhappy with the consequences that had flowed from the incident. She had wanted AP removed from the apartment, but wanted to be able to be with him afterwards. AP, however, had been placed on court-ordered conditions to stay away from the apartment, and to have no contact with CW1.

Speaking with IIO investigators, WO1 said that upon arrival at CW1's residence she found CW1 "hysterical and crying", and took her out of the building to get a statement from her in a police vehicle. As she was leaving, WO1 said, she heard SO1 tell AP he was under arrest for assault, and heard AP respond "I didn't fuckin' do anything". Nevertheless, AP was compliant with being handcuffed, and sat down. WO1 said she did not witness the altercation that followed, but subsequently saw the subject officers escorting an apparently angry AP out of the building. In the course of the conversation in the police vehicle, WO1 said, CW1 alleged that AP had threatened her with a kitchen knife.

WO2 told the IIO that he took up a position at the entrance door to the apartment while WO1 and SO1 entered. He said SO1 spoke with AP, handcuffed him and sat him on a stool in the living room. CW1, meanwhile, came out of the apartment and fell to her knees, apparently distraught. SO2 arrived as back-up, and WO1 came and dealt with CW1, taking her out to a police vehicle.

When SO1 made a move to escort AP out under arrest, WO2 continued, AP became resistant, pulling away violently. The two subject officers attempted to control AP, but the trio fell to the floor, with SO1 on AP's left and SO2 on his right. WO2 said he moved in and took control of AP's legs. AP was picked up and taken out of the building, and WO2 said he was not aware that AP had been injured until later.

In his written PRIME statement, SO2 describes entering the apartment and finding SO1 trying to read AP his legal rights. AP was sitting handcuffed on a chair at the time. SO2 states that AP became agitated and stood up, refusing to sit back down. SO2 says that while SO1 was trying to gain control of AP, SO2 assisted by grabbing AP's left leg and the two officers took AP down to the floor. SO2 says that as he was escorting AP out to his police vehicle, AP complained that police had broken his shoulder.

## 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 of the subject officers may have committed an offence in the nature of an assault that caused an injury to AP's shoulder.

All attending officers were clearly acting in lawful execution of their duty when they entered the residence to effect a warrantless arrest of AP. The 911 call and CW1's allegations provided reasonable and probable grounds to believe that AP had committed an assault and/or the offence of uttering death threats. There was an urgent need to separate the parties and ensure the safety of the complainant and of anyone else in the residence.

On the evidence that appears reliable, SO1 acted properly in placing AP in handcuffs and having him sit down while officers cleared the apartment and verified what was alleged to have happened. The available police evidence is that AP provoked the physical altercation by standing up, refusing to sit back down and then becoming actively resistant.

As AP has not provided an account to the IIO, the only civilian evidence about that part of the incident comes from CW1, who has given the IIO a version that differs significantly from the account she gave the RCMP, closer in time to the events. In particular, she told the IIO that she made up the allegations of threats, suggesting they did not occur. That is inconsistent with the evidence of CW2, who heard her yell at AP to "get his hands off her".

Those contradictions may be connected with her concern that the legal fall-out from the incident has been more severe than she expected, but they impact her credibility and/or reliability as a witness. As a result, in determining what caused the interaction to become violent I have to give greater weight to the evidence of WO2 and SO2, as set out above. That evidence leads to a conclusion that it was physical resistance and non-compliance on AP's part that led to the struggle between him and the officers.

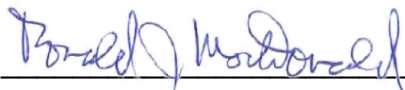
It is also noteworthy that the evidence of what happened up to the time AP stood up from where he was seated is relatively consistent from all parties: AP had been relatively easy to deal with, and he was handcuffed and seated without difficulty. This suggests that the officers were acting appropriately and without any excessive force. CW1's version of events suggests that when AP was standing calmly the officers simply decided to slam him to the ground. That seems inconsistent with the previously described demeanor of the officers.

It is unclear whether the struggle went to the floor simply by accident, as a result of AP pulling away and the officers attempting to hold onto him, or because SO2 caused AP to lose balance by grabbing his leg, as SO2 describes in his written statement. Obviously, if the fall was unintentional, then neither officer can be held responsible.

If on the other hand it was intended by one or both officers that AP should be taken down onto the floor in order to gain control, that manoeuvre in the circumstances was not an unreasonable use of force. Even though AP was handcuffed he was still mobile. The risk of violence from him, and with it a risk of harm to the officers or of damage to CW1's home, still existed. It was necessary for the officers to maintain physical control over him, and a use of force to put him on the floor where he could most easily be held was not excessive.

The evidence establishes that the manoeuvre, whether deliberate or accidental, was in fact successful in subduing and calming AP, and there is no suggestion that any further force was used by any officer.

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.

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

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