



**IN THE MATTER OF THE INJURY OF A FEMALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN DAWSON CREEK, BRITISH COLUMBIA
ON SEPTEMBER 11, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

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INTRODUCTION

On the morning of September 11, 2021, Dawson Creek RCMP members responded to a complaint of a female said to be smashing car windows while carrying a knife and bat. In the course of the subsequent apprehension of the Affected Person ('AP'), she suffered a broken bone in 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 five civilian witnesses, one paramedic and three witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- civilian cell phone video recordings;
- audio recordings of a 911 call and police radio transmissions;
- scene and exhibit photographs;
- B.C. Emergency Health Services records; and
- 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, the Subject Officer ('SO') declined to provide any account. Despite multiple attempts, IIO investigators were not able until very recently to locate AP in order to obtain evidence from her. When contacted, she told investigators that she did not wish to provide a statement.

NARRATIVE

Civilian Witnesses

Civilian Witness 1 ('CW1') is AP's 'common law' spouse. He told a police investigator that on the morning of September 11, 2021, AP had started to get "agitated". He said he left the house to go to the park, but AP followed him out with a baseball bat and he heard something smash behind him. He said he tried calling 911, but got no answer, so hoped someone else would call (the failure of 911 to answer was not confirmed). He said that when he returned home, police were there, and had "cleared the house".

CW2, a neighbour, told investigators that at about 9:00 a.m. that morning, he had heard “some screaming and hollering and stuff, and then we heard some glass smashing”. CW2 said he saw AP with CW1, and

[AP] was smashing the windows out of the car that’s parked in their yard, and then they had a, they were having words, and [CW1] got in the truck with the puppy and left. And then, so she came across the street into our yard, and it looked like she was going to smash the windows out of my van.

CW2 said he told AP to get out of his yard, and she walked away down the road. Seeing her smash the tail lights out of a parked car, he said, he called 911. CW2 said that AP was carrying a knife and a baseball bat in her hands.

CW3 was standing outside in the area of the provincial government buildings near the centre of the town. She said she saw a police vehicle pull up and an officer got out, saying “Stop”. CW3 saw a female with a bat in one hand, but could not see what was in the other. The female, said CW3, started running. More officers arrived, four in total. CW3 described what she saw of the interaction between AP and police:

Every time they would try to step towards her, she was flailing her arms back and forth. She was in the middle of traffic, so then officers were trying to stop traffic. Of course, with incidences like that, it creates a crowd, so it was like trying to keep her and vehicles at a safe distance. Um, and then she went over to the government, on the government lawn, and the RCMP’s were following her, telling her to stop, telling her to stop, telling her to stop, and she was just flailing arms, one for sure with a weapon, like some sort of windmill actions, so it made them almost impossible to approach her, because every time they tried to approach her, something was winging in the air, and then she would back up, go forward, go sideways, and she was all amongst traffic everywhere. And it eventually moved where I, there was the trees, so we couldn’t really see anything, but we did see police cars moving around, and then an ambulance coming immediately.

CW4 stated that she saw the first officer arrive with the emergency lights on his police vehicle activated. She said she heard him shout “Stop”, and saw a female (AP) “with what looked like a stick and something else in her hands”. AP, she said, was not wearing shoes. AP ran out onto the road, and more officers arrived. CW4 said the officers chased AP around some trees, and AP then ran behind a bush and CW4 could not see much more.

CW5 recalled seeing three or four police officers with a “young person” who appeared to be “strung out on Fentayl or something”. The person (AP) then “kind of calmed down, laid down on the ground”. CW5 said that when she first saw AP, officers already had hold of

her, but she was “flailing around”. CW5 saw no physical force used other than attempts by the officers to control AP and stop her hitting them.

IIO investigators obtained two short cell phone video recordings from civilian witnesses. One shows AP on the ground with an officer apparently holding her in place with his knee and other RCMP members standing nearby. The officers appear calm, but AP can be heard to be yelling something unintelligible. The second video shows AP on an ambulance gurney and paramedics attempting, with police assistance, to secure her for transport. AP is clearly uncooperative, moving her arms and legs in a way that is making it very difficult for restraints to be applied. AP’s lower right arm is in a splint.

Police Witness Officers

Witness Officer 1 (‘WO1’) told IIO investigators that RCMP received a call about a woman with “a bat and a knife, and they were smashing up vehicles”. There was information, said WO1, that the woman had “stabbed a member, or tried to stab a member a couple of weeks before” (the IIO has not been able to verify that any such incident actually occurred, but the CAD record confirms that the allegation was communicated to responding officers, so formed part of their understandings regarding the level of risk).

Arriving at the scene, WO1 saw a “very tiny woman” in shorts and a cut-off tee shirt, with two police officers running after her. The woman (AP) was being pepper sprayed. She had a bat in one hand and a kitchen knife in the other. Officers were yelling at her to put the knife down. WO1 said that she brought out her baton, but another officer (SO) was already “poking” at the knife with his:

And it looked like he was just going to get the knife, but all of a sudden her hand just flailed out, and he got her whole arm.

WO1 said the knife fell to the ground, and there was blood spurting from AP’s wrist. She was still holding the bat, but “[WO2] came in, and he just used his whole body to push her down to the ground”. WO1 described AP as sweating profusely and trying to take her clothes off. She said AP was non-compliant, both with police and with paramedics, and was trying to punch nurses while being cared for later, at the hospital.

In his IIO interview, WO2 recalled being directed to investigate a complaint about a woman with a baseball bat and a knife smashing car windows. WO2 said he found WO3 standing in the middle of the street behind the government buildings “with his gun out”. AP was on the street, but when she saw officers coming towards her, she ran up onto the lawn. WO2 said he tried to drive in front of her, and as she ran around the front of his police vehicle, he yelled at her out of the open window, “Drop the knife!” He said he was “not so concerned” at that point about the baseball bat.

AP, WO2 said, was “ranting” and swearing. She ran away across the grass, then “turned around and squared off with us”. SO caught up, and sprayed her with OC spray. “It bothered her”, WO2 said, but “she was just shaking her head, swearing”, still holding the weapons. WO3 also tried spraying her, but the spray blew back in his face and temporarily disabled him. AP then ran again, and SO said he was going to try hitting her knife hand with his baton. WO2 described SO hitting AP’s arm and the knife dropping, but said that AP turned around and looked at the officers, still holding the bat.

WO2 said that he was concerned because AP then started moving off towards downtown. It was Saturday morning, and he knew there would be more people around in that area. He holstered his pistol and ran after her, hitting her in the back and knocking her down. He said she was still combative, swinging at officers. WO2 said officers noticed that “her arm was not looking like it should look”, so she was not handcuffed, and an ambulance was immediately called.

WO3 told investigators that he had received a report that AP had damaged her roommate’s vehicle, slashing the tires and smashing the windows. When he located her, he said, he told her she was under arrest for mischief, but she ignored him. WO3 said that WO2 then arrived, drawing his service pistol. WO3 noted that AP was not actually attacking anyone, but said he was concerned because she was walking closer to the downtown area, where there would be more people around, and she would not drop her weapon. He said that AP appeared to be suffering from a “mental state”, and officers felt they needed to get the weapons out of her hands. He said that SO used a whole can of pepper spray on her, but “it did not work”, so he used his own spray, much of it coming back in his face because of the wind. WO3 said that SO “smacked” AP’s arm with his baton and she dropped the knife. WO2 then “used his body to try to take her to the ground to get the bat out”.

AP remained on the ground until an ambulance arrived. She was transported to hospital where she was found to have a compound fracture of her right wrist.

Recovered from the scene were an aluminum baseball bat and a kitchen knife with a blade approximately seven inches long.

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 any officer may have committed an offence

in the nature of an assault by using unauthorized, unnecessary or excessive force against AP during her apprehension.

All involved officers were clearly acting in lawful execution of their duty in attending and arresting AP, based both on complaints that she had committed acts of criminal mischief and also on their observations of her behaviour in public while armed with a knife and a baseball bat.

The evidence establishes that AP was not behaving rationally, and was armed with weapons that were quite capable of causing significant physical harm to any of the officers attempting to take control of her physically. In those circumstances, their deployment of OC spray against her in attempts to disable her temporarily was proportionate and reasonable.

When that tactic was unsuccessful, escalation to a strike with an extendable baton was necessary and proportionate to the risk she continued to pose. It is unfortunate that the blow that successfully caused AP to drop the knife also caused a serious injury to her, but the evidence does not raise any concern that the force of the blow was excessive, or that it was struck for any purpose other than to disable AP so that she could be taken into custody without risking harm to the arresting officers.

In fact, based on the account of WO1, it appears possible that SO was actually aiming for the knife itself rather than AP's arm (if SO had provided an account of his actions to the IIO it might have been possible to determine whether contact between his baton and AP's arm was deliberate or accidental). Certainly, a baton blow intended to disarm requires sufficient force to achieve its purpose, and it is potentially relevant that the AP, judging from witness descriptions and video evidence, is relatively thin and frail in appearance.

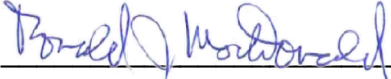
IIO investigators determined that none of the attending officers was carrying a Conducted Energy Weapon ('CEW' or 'Taser') that might have been an appropriate further or alternative force option to use in subduing and controlling AP.

Finally, the action of WO2 in physically taking AP to the ground while she was still actively non-compliant and armed with the baseball bat was reasonable and justified, and did not cause any further harm to AP. On the evidence, including the accounts of civilian eyewitnesses and cell phone video of the incident aftermath, officers did not use any significant force against AP once she was under control and disarmed.

The involved officers in this case acted with restraint, ensuring as their duty required that the public be protected and that AP be prevented from causing any more harm, to others or to herself. They applied increasing but appropriate levels of force in a measured way

without over-reacting. In summary, they handled a difficult situation as well as could be expected.

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

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