



**IN THE MATTER OF THE INJURY OF A FEMALE  
WHILE BEING APPREHENDED BY MEMBERS OF THE  
VANCOUVER POLICE DEPARTMENT IN  
VANCOUVER, BRITISH COLUMBIA  
ON OCTOBER 21, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, K.C.

IIO File Number:

2021-290

Date of Release:

October 25, 2021

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## **INTRODUCTION**

On the evening of October 21, 2021, officers went to a barber shop in Vancouver in response to a 911 call alleging that the Affected Person ('AP') was harassing the owner. Officers subsequently discovered that AP had vandalized the complainant's car. In the course of AP's arrest, she suffered a broken wrist. 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, two other civilian witnesses, two first responders and three witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of 911 calls and police radio transmissions;
- scene and exhibits photographs;
- police training records;
- video recordings from the incident scene and from Transit buses (none of the latter captured the incident); 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') provided access to his written PRIME statement.

## **NARRATIVE**

AP told IIO investigators that on October 21, 2021, she visited a barber shop whose part-owner was her ex-boyfriend, Civilian Witness 1 ('CW1'). She acknowledged that she had been drinking, and when asked what she had had to drink, she said it was "a little thing of whisky", holding up her fingers about three inches apart. Asked if she had been intoxicated, she said "a little", between 7 and 8 on a scale of 1 to 10. She also said she was drinking "Jerry's rum" (an almost empty bottle of 'Sailor Jerry' rum was subsequently located by IIO investigators in a waste bin at the barber shop).

AP said that there was an argument, and CW1 told her to leave. She said she thought he was joking, so did not leave. Even when CW1 called 911, she said, she still thought it was a joke. AP said that she sat down, and was working on her eyebrows when two police officers arrived.

Security camera video from the shop at that time shows AP sitting in a chair facing CW1, who is cutting a customer's hair. SO and Witness Officer 1 ('WO1') enter and speak briefly with CW1, and can then be seen talking with AP and gesturing for her to come with them. SO guides her to the door and out onto the sidewalk without any use of force. It is dark in the street, and the video from inside the shop does not record what happened outside.

Continuing her account, AP said that after the officers took her outside they told her she was under arrest for mischief. She said she could not understand that, because the officers had not talked to her (about CW1's complaint):

*And so I started to walk away, and then the other officer came, and he grabbed me, and then he punched me in my arm, and that's when I went on the ground ... after that I don't remember much.*

AP repeated that she resisted arrest because "he did not listen to my story or anything".

At another point in her interview, AP added, "Oh, I also wrote with lipstick on his car, on the window, and he didn't like that, but it was nothing bad".

Shortly after AP was brought out of the shop, Witness Officers 2 and 3 ('WO2' and 'WO3') arrived to assist. WO2 later told IIO investigators that as the two back-up officers arrived, they saw AP walking away from SO, out into the street. WO2 said he heard SO tell AP, "Stop" and "You're under arrest for mischief", and heard AP respond, "What the fuck is mischief?" as she continued trying to leave.

*She appeared to be walking away from him or trying to walk away as he had her, one of her arms at least, under control ... it was a kind of a struggle ... she was clearly trying to walk away, and he was clearly trying to physically control her, stop her from doing that.*

WO2 went to assist SO, taking hold of AP's left arm in an "escort position". WO3, after parking the police vehicle, took a position behind AP in order to apply handcuffs. He told IIO investigators that he could smell a heavy odour of liquor from her. He said he was trying to get her to calm down, but she was not listening:

*She's kicking and flailing her arms, and screaming ... She was tensing up, she like, flailing. Like she was pulling her arms away. She was kicking at us. It was—there was zero cooperation on her part".*

WO2 described AP as "actively resistant", kicking, pulling her arms away and raising her knees so that SO and WO2 had to support her whole weight by her arms. WO2 said that the officers were trying continually to communicate with AP and de-escalate the situation, but without success. He stated that once WO3 managed, after a struggle, to get a cuff onto AP's left wrist, her behaviour changed:

*[AP] became quite—her resistance increased, where she wasn't just trying to pull her arms away and walk away, like, with her legs. So, she was—appeared to be trying to get out of our grasp ... she was kicking out in kind of all these direct directions. Just generally was non-compliant and actively resisting us despite being told that she was under arrest.*

WO1, returning from examining CW1's car in his response to the complaint that AP had vandalized it, found the other three officers in a physical struggle on the sidewalk. He said he tried to move in to control AP's legs, but was unable to because of her kicking. WO1 said the officers were pleading with AP to comply, but she just yelled more and more loudly. Finally, he said,

*they decided that they had to take her to the ground, and so then they took her to the ground, and then they were still trying to get her arms behind her back and she was still flailing and they weren't able to get the handcuffs on ... and then I heard [SO] saying that he thought that her arm was broken.*

WO2 told the IIO that he heard one of the other officers say, "Are we going to the ground?" and said that AP was then lowered slowly to the sidewalk in a controlled manner. For his part, WO3 did not recall AP actually being taken to the ground, but did describe bending down as AP was pulling away, and remembered AP sitting on the sidewalk at one point.

Based on her description of the sequence of interactions, AP's recollection was that it was an officer other than SO that punched her. She also believed that she sat down on the sidewalk of her own volition. None of the arresting officers mentioned a punch to AP's arm, and in his written report, SO states that he took her to the ground in a controlled manner using a leg sweep:

*[SO] had control of [AP's] right arm with an escort grip while other members attempted to handcuff her left wrist. [AP] continued to be actively resistant with [SO] and was pulling away trying to break free from his grip. [SO] observed that other members were unable to apply handcuffs and that [AP] was continuing to be actively resistant. [SO] then attempted to take [AP] to the ground in a controlled manner by putting his left leg in front of her and attempting to guide her to the ground. [AP] went down to the ground under the control of [SO]. At this time [SO] heard a loud snapping sound come from [AP's] arm. [SO] advised other members on scene that he believed [AP's] arm had been broken.*

Hospital records describe AP upon arrival as an "agitated and combative patient", and she was sedated before being treated for an oblique fracture of her humerus and subsequently being certified and detained under the *Mental Health Act*.

## LEGAL ISSUES AND CONCLUSION

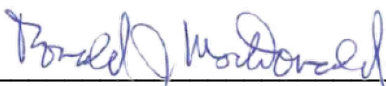
The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death. More specifically, the issue to be considered in this case is whether any officer may have committed an assault by using unnecessary or excessive force against AP.

The attending officers were acting in lawful execution of their duty in responding to CW1's complaints, and in arresting AP for mischief after being told that she had defaced his car. The evidence, both from the officers and from AP herself, is consistent in establishing that she was resistant to arrest, and that a degree of force was necessary to restrain her.

The evidence also establishes that AP was intoxicated and highly emotional at the material times, and her recollections of the incident may not be wholly reliable. Her allegation that an officer came up to her and punched her in the arm is not consistent with any other evidence; it is also inconsistent with normal police procedure, which would generally call for a second officer to take hold of the detainee's free arm, as WO2 says he did here, rather than punch it. The sharp pain at the moment of the break may well have felt like a blow to the arm, but it has to be concluded that AP's injury was caused by her struggles while she was being taken down to the ground, rather than by a punch.

There is no evidence capable of supporting a reasonable belief that any unnecessary or excessive force was used by any officer, and no evidence of any other injury suffered or complained of.

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, K.C.  
Chief Civilian Director

October 25, 2022

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