



**IN THE MATTER OF THE INJURY OF A FEMALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN VERNON, BRITISH COLUMBIA
ON DECEMBER 12, 2020**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2020-303

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INTRODUCTION

On December 12, 2020, four members of Vernon RCMP attended at the home of the Affected Person ('AP') in response to a complaint about a domestic disturbance. They found three intoxicated individuals in the home, and arrested one of the males for a breach of court-ordered conditions. AP was also arrested, and fell while being escorted out, seriously injuring her eye. 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, six other civilian witnesses, two paramedics and four 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;
- downloaded data from police vehicles, including Watchguard dash camera recordings;
- RCMP cell logs, prisoner reports and cell block video recordings;
- scene video recordings;
- scene examination; 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 did not provide any account to the IIO.

NARRATIVE

Affected Person

Asked for an account of the incident, AP told IIO investigators that police came to her home for "a noise complaint". She said officers "just came in", and told her she was being "belligerent" (AP acknowledged being "upset" and "very angry" at police, who were arresting her partner, Civilian Witness 1 ('CW1')). AP was taken into custody, she said, and handcuffed. She said she complained that the handcuffs were tight, and were hurting because of a previous wrist injury. In response, she said, her arms were pushed farther up behind her back, causing the pain to increase, and she was "pushed up against the stove". She said that two officers then escorted her out, down the hallway. She said she

was complaining about her eye, and how it hurt from previous surgery. She said she was taken from cells to hospital for “emergency eye surgery”, and then returned to cells “a couple of hours” later.

Asked for more detail about the incident, AP also stated that, in addition to pushing her “up against the stove”, the officers had pushed her “down towards the ground” in the kitchen, and mentioned a garbage can. She said the officers were telling her to stop resisting, and were pushing her head down. At another point in the interview, she said she was being held by the shoulders as she fell.

AP told investigators that at the time of the incident she had consumed “maybe a mickey” of liquor, and was a “six” on an intoxication scale of one to ten. She said she could still tell “right from wrong”. Police had been called to the residence multiple times for domestic disturbances. AP acknowledged that there was a court order for CW1 not to be with her if he had been drinking.

Civilian Witnesses

CW1 told investigators that on the day in question he was drinking with AP and CW2 at AP’s home. He described AP as “drunk”, but “not severely”. He said he hid in the bedroom when police knocked at the door because of a “no contact” condition. He said the officers found him, arrested him, and brought him out into the living room. He said he saw AP in the kitchen with two police officers (the Subject Officer (‘SO’) and Witness Officer 1 (‘WO1’)). He said that the two officers “slammed her on the stove”, and said they were “just roughhousing her”. CW1 stated that the two officers then walked AP out of the door without incident, and he was taken out behind her.

CW1 said that outside the building, he saw the officers picking AP up off the ground, and saw that AP’s eye had been injured: “I didn’t think it was that bad, though”.

CW2, the third occupant of the apartment when police arrived, said he was sitting in the living room and did not see anything significant, though he said he did hear some screaming.

Video Evidence

Officers are first seen on building CCTV at about 5:30 p.m., and are seen to go up to AP’s apartment. At 5:44 p.m. they can be seen escorting AP and CW1 out of the apartment. AP is in handcuffs and her left eye is visibly injured. SO and WO1 are holding her by the arms, and there is no visible force being applied. Shortly after this, in the lobby, CW1 can be seen to initiate a physical altercation with WO2 and WO3. AP leaves more cooperatively with her officer escorts.

RCMP detachment video shows AP arriving in WO1's vehicle at 6:03 p.m. She is escorted in handcuffs into the booking area. She is visibly injured, with blood on her face. She is placed in a cell until attended to by a paramedic at 6:21 p.m. At 6:27 p.m., she is taken away on a stretcher by the paramedics.

Police Evidence

In her IIO interview, WO1 described finding AP's apartment in a "deplorable state". She said that garbage, rotten food, personal items, spilled beverages and spilled cooking oil covering the counters and floor. WO1 said that as other members moved farther into the apartment, she remained in the kitchen with AP, who appeared intoxicated. She said AP seemed to have been crying and was unable to articulate lucidly, other than to tell police to "just fucking leave".

WO1 said that as other officers were escorting CW1 out of the apartment in handcuffs, she tried to move AP aside to permit passage through the kitchen area. She said that AP swung her fist at WO1's face and resisted by flailing her arms. WO1 decided to arrest AP "for mischief" and pulled her arms behind her back to apply handcuffs.

WO1 said that SO then took hold of AP and attempted to move her through the kitchen to the front door. WO1 said that AP stopped, bent forward at the waist and allowed her body to go limp, causing her to fall face forward onto the floor. WO1 interpreted this as a deliberate act on AP's part, as she did not see SO do anything to cause it. WO1 stated that she has seen the same thing happen in the past with other detainees, who go "dead weight" in an attempt to obstruct the arresting officers. She said that AP did not say anything accusatory to the officers after the fall.

As they left the apartment, WO1 said, she could see that AP's eye appeared to be injured, with fluid and blood seeping from it. WO1 called ahead to ask for an ambulance to meet police when they arrived at the Vernon detachment. WO1 said that subsequently, at the hospital, AP became belligerent with one of the physicians, whom she accused of assaulting her.

WO2 described AP's apartment as "some of the worst living conditions I've ever seen". He said that he and WO3 went into the bedroom where they found CW1 hiding, and arrested him for a breach of his court conditions. WO2 said that AP then became "a little excited", telling police that they could not take CW1, and "throwing her hands and then, like, swinging, kinda like drunken fists, towards [WO1]". He said that after several seconds of this, SO and WO1 got AP under control and arrested her.

WO2 said that WO1 then let go of AP to give SO room to move towards the front door with AP. He said the kitchen floor was covered in beer and cooking oil. He described seeing AP "just go limp, like deadweight kind of thing, and she fell on the floor and hit her

head, hit her face off the floor. WO2 was clear that the fall was not the result of anything done by SO, saying that AP went “down on her knees and upper torso over”. He said that SO immediately picked AP up and walked her out with WO1.

WO3 provided a similar account:

[AP] was in the kitchen. She started freaking out, yelling and screaming and flailing around and she tried to grab [WO1], who was in the kitchen right behind her. At that point, [WO1] and [SO] arrested her as well. They had her in handcuffs, she was up against the counter ... it's really tight in there and there is stuff all over the place and you can barely walk ... when they were trying to get her out of the kitchen she just kinda went deadweight. Like, just stopped walking and slumped down. And at that point ... she just hit her face off the garbage can in the kitchen.

WO3 said he heard the impact, but did not actually see that it was the garbage can that AP had hit.

The audio track from a Watchguard system in one of the involved police vehicles, after the vehicle arrived at the RCMP detachment, recorded a voice off-camera saying, “Oh yeah, she fuckin’ slipped and fell in the fuckin’ kitchen. She’s fuckin’ bleeding everywhere”. Despite their best efforts, investigators were not able to identify the speaker.

Booking-in documentation at the RCMP detachment describes AP as angry, confused, violent, and with indications of impairment such as slurred speech and poor balance.

Scene Examination

A few days after the incident, IIO investigators visited AP’s residence to examine the scene where the arrest occurred. They noted that at that time the ‘galley’ kitchen area was the only way to move in or out of the apartment, due to an interior hallway being completely blocked. The passageway through the kitchen was measured as 36 inches wide. A garbage can was located in the kitchen, 24 inches tall and 12 inches wide. The can was metal with a hard plastic rounded edge. There was no evidence of blood or any other bodily fluid on the can and no evidence of impact damage. Several drawers directly above and near to the garbage can were observed to be slightly open, leaving relatively sharp corners exposed. Of some significance, there was a considerable quantity of spilled liquids throughout all areas of the kitchen floor, some sticky and some slippery. Investigators could not establish whether any of the observed conditions had changed since the incident, or to what extent.

LEGAL ISSUES AND CONCLUSION

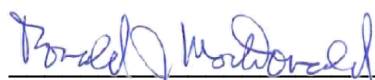
The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death. More specifically, the issue to be considered in this case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

As set out above, AP's allegation is that her fall in the kitchen, and the resulting injury, was caused by an unnecessary application of force against her by SO as she was being walked out of the apartment in handcuffs. The officers' statement, on the other hand, describe the fall as being a result of AP deliberately letting herself slump forward out of SO's hold. CW1's allegation, that the fall actually occurred outside the building, does not assist as the CCTV demonstrates that AP was already injured upon exit.

In considering whether reasonable grounds exist to accept AP's allegation and conclude that SO committed an offence, the consistency and apparent reliability of the conflicting accounts must be weighed.

The evidence is that AP was significantly intoxicated at the time of the incident, and it is apparent that she does not have a clear memory of the events. She was (even by her own account) angry and uncooperative with police. Once she was in handcuffs and being walked out of the apartment, there was no reason for SO to suddenly and gratuitously push her down to the floor, and it appears unlikely that he did. The officers' descriptions of the fall are consistent with each other and with experience of how resistant detainees respond, not uncommonly, to being taken into custody. Intransigence on AP's part, perhaps in combination with the cluttered and confined conditions in the kitchen and the state of the floor, is the most likely cause of the fall and the injury, not any unlawful act on the part of SO. It is worth noting, further, that there is no indication on any of the video recordings, either at AP's apartment building or at the RCMP detachment, of any rough or otherwise inappropriate handling of AP 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.



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

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