



**IN THE MATTER OF THE INJURY OF A FEMALE
WHILE BEING APPREHENDED BY A MEMBER OF THE RCMP
IN COMOX, BRITISH COLUMBIA
ON JANUARY 3, 2018**

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

Interim Chief Civilian Director:

Sandra J. Hentzen

IIO File Number:

2023-045

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September 9, 2024

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INTRODUCTION

On January 3, 2018, in Comox, the Affected Person ('AP') was apprehended by the Subject Officer ('SO') as a 'child in immediate danger' under section 27 of the *Child, Family and Community Services Act*. She resisted the officer, and was taken to the ground and arrested for assaulting a police officer. Several years later, she sued for damages for injuries alleged to have been suffered during the arrest. Becoming aware that the incident may fall within the jurisdiction of the Independent Investigations Office ('IIO'), the RCMP notified the IIO, and an investigation was undertaken.

The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- statements of the AP, three civilian witnesses and four witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records, including the partially-redacted written account of the SO;
- the AP's notice of civil claim;
- police cell block records;
- sheriff department records;
- scene examination and exhibit seizure; and
- medical evidence.

Officers whose actions are the subject of an IIO investigation are not generally required to provide any account to IIO investigators. In this case, investigators had access to the Subject Officer's PRIME report, but he did not otherwise cooperate with the investigation.

NARRATIVE

In late December 2017, the Affected Person in this case ('AP'), a minor female person, was reported missing. Given the AP's status as a minor, some details about her history have been withheld from this report to protect her privacy.

The missing person report indicated that she had likely travelled from her home some distance from Comox and was believed to be in an older male's company.

On January 3, 2018, the AP called Comox RCMP to say she was “fine” and that she was “not missing”. She wanted the police to leave her alone and stop looking for her. The call-taker told the AP that she would have to meet in person with an officer before the police would be satisfied that she was not in danger. The AP agreed to meet outside the Comox Centre Mall.

Before the AP’s call, the Subject Officer (‘SO’) had already familiarized himself with her history and that of the male she may be with. While on his way to meet the AP, the SO spoke with case workers from the Ministry of Children and Family Development, who requested that he “take charge” of the AP and hold her in safe custody to be picked up by Ministry staff.

Unfortunately, when the SO approached the AP and told her, “You’re coming with me”, she refused and started to walk away. The SO reached to take hold of her, and she swung her right hand at him. The AP told the IIO that she recalled being taken to the ground, but did not know exactly how. She said he held her left hand against her back, but she struggled and would not let him take hold of her right hand.

Witness Officer 1 (‘WO1’) recalled arriving on scene in response to a call from the SO for assistance, and was aware of the AP’s history, and the criminal history of the male she was reported to possibly be with. He reported that the Comox police believed the AP was in an unsafe situation, and provided information to support that reasonable belief.

WO2 told investigators that when officers picked the AP up and walked her to a police vehicle, the only apparent injuries she had suffered were scrapes to her knees. The AP said that she was picked up by all four limbs and handcuffed while being held in the air.

While being transported to cells, the AP was yelling and complained of having wrist and back injuries from the arrest. She told the IIO that she was so badly injured, she had to be held up for fingerprints to be taken. She said that when sheriff’s deputies came in the morning to take her to court, charged with assaulting a peace officer, she could not support her weight on her legs, and had to be dragged from the cell. At the courthouse, she said, she had to be carried up stairs and held up in front of the judge.

Video footage from security cameras in those areas show the AP walking unassisted, including up and down the stairs. When she was released to family members, however, she presented as having difficulty walking, and required being held up on both sides to be able to walk to a waiting car.

The AP was taken to a physician the next day, complaining of pain in several parts of her body and great difficulty walking. Asked for a urine sample, she mixed it with water to

dilute it. The doctor directed her to attend a hospital. There, medical records indicate that she was found to have a “mild” compression fracture in her spine, with “no malalignment or neurologic compromise”. A back brace was recommended. Over the following months, the AP complained of continuing pain and other symptoms.

On November 21, 2022, nearly five years after the incident, a notice of civil claim was filed on the AP’s behalf, claiming damages for a list of injuries she alleged had been caused by the SO having used excessive force in her apprehension.

LEGAL ISSUES AND CONCLUSION

The Independent Investigations Office of British Columbia has been given the task of investigating any incident that occurs in the province in which an Affected Person has died or suffered serious physical harm and there appears to be a connection to the actions (or sometimes inaction) of police. The aim is to provide assurance to the public that when the investigation is complete, they can trust the IIO’s conclusions, because the investigation was conducted by an independent, unbiased, civilian-led agency.

In the majority of cases, those conclusions are presented in a public report such as this one, which completes the IIO’s mandate by explaining to the public what happened in the incident and how the Affected Person came to suffer harm. Such reports are generally intended to enhance public confidence in the police and in the justice system as a whole through a transparent and impartial evaluation of the incident and the police role in it.

In a smaller number of cases, the evidence gathered may give the Chief Civilian Director (‘CCD’) reasonable grounds to believe that an officer has committed an offence in connection with the incident. In such a case, the *Police Act* gives the CCD authority to refer the file to Crown counsel for consideration of charges.

In a case such as this one, involving the use of force by an officer, one of the threads of the IIO investigation will be the gathering of evidence about potential justifications for that use of force. The CCD will then apply legal tests such as necessity, proportionality and reasonableness to reach conclusions as to whether the officer’s actions were lawful, or whether the officer may have committed the offence of assault.

The SO was acting within his lawful authority in attempting to ‘take charge’ of the AP under provincial legislation aimed at protecting vulnerable youth. To do so is permissible in circumstances where ‘the child’s health or safety is in immediate danger’. The Comox RCMP had reliable evidence at the time that led them to the reasonable belief that the AP may be in an unsafe situation. As previously mentioned, the details of that evidence

have not been included in this report to lessen the impact this report may have on the AP's privacy rights, given she was a minor at the time this incident occurred.

In addition to his own understanding of the situation, as noted above, the SO was also entitled to rely on the knowledge and expertise of Ministry staff, who requested that he apprehend the AP and keep her safe.

There is no credible evidence that the SO used any unnecessary, excessive or unreasonable force against the AP after attempting simply to escort her from the scene, and after she assaulted him in response. Whatever injuries she may have suffered in the course of the incident do not appear to have been as serious as claimed by the AP, as is evidenced by video recordings contradicting her account.

Accordingly, as Interim 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.



Sandra J. Hentzen
Chief Civilian Director

September 9, 2024

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