



**IN THE MATTER OF THE INJURY OF A FEMALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN KITIMAT, BRITISH COLUMBIA
ON MARCH 26, 2023**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2023-084

Date of Release:

September 11, 2023

THIS PAGE INTENTIONALLY LEFT BLANK

INTRODUCTION

On March 26, 2023, Kitimat RCMP members responded to a complaint that guests in a residence were intoxicated and refusing to leave. The Affected Person ('AP') was one of those individuals. Officers attempted to defuse the situation peacefully, but AP was not cooperative and was arrested. In the course of her arrest, she was taken to the ground and suffered a broken ankle. 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, three other civilian witnesses and two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- video recordings from the RCMP detachment; and
- medical records.

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') has not provided an account to the IIO.

NARRATIVE

AP told the IIO that on the evening of March 26, 2023, she and some friends were drinking at a residence in Kitimat, and she acknowledged that they were "being loud". Civilian witness statements gathered by the IIO were somewhat inconsistent or unclear, apparently because some witnesses were intoxicated at the time of the incident.

Police were called by Civilian Witness 1 ('CW1'), and were asked to remove AP and another individual, CW2. In the course of the 911 call, CW1 told the call taker,

Can you guys just come here, [CW2] is freaking out, he got came home all wasted and he's disturbing everybody ... there's no calming him down, it's either I beat the shit out of him and he goes to the hospital or can you please come take him out of the house.

In his IIO statement, Witness Officer 1 ('WO1') recalled responding to the call and arriving a few minutes before the Subject Officer ('SO'). WO1 initially simply asked CW2 if there was a place available where he could be taken and dropped off, but CW2 did not want to leave. WO1 said that during this conversation with CW2, AP approached them, and

described her as staggering and clearly intoxicated. WO1 said that CW1 then told the officer that he wanted AP removed as well as CW2.

WO1 advised SO that both CW2 and AP were arrestable for mischief, on the basis that they were causing loss of enjoyment of property. WO1 told CW2 that he was under arrest, but did not initially handcuff him, as he appeared compliant.

AP was outside the house at the time, and told SO that she had to go back into the house to get her possessions. She told the IIO that SO grabbed her, which made her “mad”. She said she pushed the officer away, telling him not to touch her. AP said that SO then pulled her towards the police vehicle and took her to the ground by pushing her knees forward. She described feeling pain in her foot while being held down on the ground, but did not know how her ankle was injured, saying she “didn’t feel it break”.

WO1 said he did not witness SO’s take-down of AP, as he was occupied with the arrest of CW2 in the garage of the residence at the time. He said that when he came outside, he saw SO holding AP down on the ground by placing his knee on her back, and handcuffing her before lifting her to place her in the back of the police vehicle. WO1 said he did not see any significant use of force by SO against AP.

As mentioned earlier, civilian eyewitness accounts (including that of AP herself) were not clear and consistent, but did confirm that AP was non-compliant with SO to the point of being assaultive.

AP’s description of the officer who had arrested her did not in any respect match SO, and it appeared she was describing WO1 who, based on the preponderance of the evidence, was dealing with CW2 at the time.

AP was taken initially to the RCMP detachment, but was subsequently transported to hospital for treatment of an ankle fracture.

In the course of an incident de-brief, SO told WO1 that he had permitted AP to go back into the house to get possessions, including her shoes. He said she then turned to him and told him not to touch her (which he said he had not done at that point). He said she then swung a fist at him, knocking his radio mike from its holder, so he took hold of her and executed a leg sweep to take her to the ground.

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.

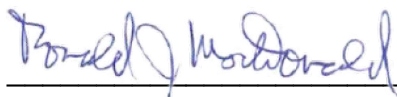
In the majority of cases, those conclusions are presented in a public report such as this one, which completes the IIO's mandate by explaining to the public what happened in the incident and how the Affected Person came to suffer harm. Such reports are generally intended to enhance public confidence 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.

Both WO1 and SO were clearly acting in lawful execution of their duty in responding to CW1's request to remove intoxicated and unwelcome individuals from the residence, and in arresting both CW2 and AP for mischief, based on the complaints received. When AP exhibited non-compliance, it was reasonable for SO to get her under control quickly, given a situation where a number of intoxicated and possibly volatile individuals were present. While it could be argued that a leg sweep was not the ideal way to take control of her (given the risk of injury), it was not a technique that could be called unreasonable in those circumstances. In all other respects, the evidence demonstrates that AP was treated appropriately.

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, KC
Chief Civilian Director

September 11, 2023
Date of Release