



**IN THE MATTER OF THE INJURY OF A MAN
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN MAPLE RIDGE, BRITISH COLUMBIA
ON MAY 12, 2023**

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

Chief Civilian Director:

Jessica Berglund

IIO File Number:

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INTRODUCTION

On May 12, 2023, RCMP members were conducting a “blitz” on shoplifters at a large department store in Maple Ridge. Staff pointed out the Affected Person (“AP”) as a man who had repeatedly stolen from the store, and police determined that the AP also had outstanding warrants for his arrest. When the AP tried to leave the store through a fire exit, pushing a cart containing stolen merchandise, he was arrested after a struggle in a loading bay area. During this struggle, the AP suffered an injury to his left leg.

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 the AP, four other civilian witnesses and four witness police officers;
- police Computer-Aided Dispatch (“CAD”) and Police Records Information Management Environment (“PRIME”) records;
- audio recordings of police radio transmissions;
- video recordings from the scene of the incident, police dash camera equipment and the RCMP cell block;
- police operational documentation; and
- medical evidence.

The IIO does not require officers whose actions are the subject of an investigation to provide evidence. In this case, Subject Officer 1 (“SO1”) has not given any account; Subject Officer 2 (“SO2”) did not submit to an IIO interview but gave access to his written report. Investigators were also able to review the report of SO3.

NARRATIVE

Interviewed in hospital by IIO investigators on the day after his arrest, the Affected Person (“AP”) said that he had been “shopping” at a Maple Ridge department store. When he exited the store, he said, “there was a big man there, and I apologized to him and said that I was hungry.” The AP said he told the man he would not come back there again, but the man grabbed him and “he kept saying I was trying to resist, and I wasn’t.”

“Somehow,” continued the AP, “he managed to break my leg ... it happened so fast.” The AP said he thought the leg injury might have been caused by the shopping cart hitting his

leg as he clung to it (the AP's injured leg had suffered a fracture on a previous occasion and had screws inserted in the bone, so was vulnerable to further injury). The AP said that he told the man his leg was broken, but the man "told me it wasn't broken and [was] trying to make me walk on it."

The incident occurred on May 12, 2023. A team of plainclothes RCMP officers were at the department store to conduct an operation aimed at apprehending serial shoplifters. At about 2:30 p.m., a Loss Prevention Officer ("LPO") employed by the store pointed out the AP to officers on the store's security video system. The LPO indicated that the AP was well known to store personnel, and that he had been carrying out "fire exit thefts" over the previous days. Witness Officer 1 ("WO1") checked a list of outstanding arrest warrants and determined there were current warrants for the AP's arrest. WO1 shared this information with the rest of the police team by radio.

Based on his previous activity, it was anticipated that the AP would attempt to leave the store through a fire exit, pushing stolen items in a cart. Subject Officer 1 ("SO1") went to a location near the outside of the fire exit to be ready to arrest the AP if he followed his previous pattern. At the same time, Subject Officer 2 ("SO2"), who was dealing with another suspect in the LPO office, became aware that the AP was going towards the fire exit with a cart, and that SO1 was staged outside waiting for him.

Store security camera video shows the AP pushing a cart containing merchandise towards the exit. He does not appear to be limping or injured in any way.

WO1 told the IIO that she then heard the fire exit alarm sound, together with clicking and rumbling sounds on the radio. WO1 ran from her station in the LPO office, out the store's main entrance towards the loading bay. SO2's report states that he heard SO1 radio that the AP was fighting him and also ran in that direction. In his written report, Subject Officer 3 ("SO3") states that he heard SO1 calling for assistance, so he too ran to assist. He states that he found SO1 on top of the AP, who was still resisting, and helped SO1 get the AP into handcuffs.

Civilian Witness 1 ("CW1") observed the arrest from an upper-storey window across the street. CW1 told IIO investigators that the "scuffle" started out with SO1 and the AP on their feet, but that SO1 then took the AP to the ground by "taking his legs out and pancaking him." Watching for a short time after the AP was under control in handcuffs, CW1 said that the AP "seemed pretty hurt at this time."

The arrest was partially recorded on video from nearby commercial premises. The video shows SO1 pushing the AP against the store wall and then taking him to the ground where the two continue to scuffle. It does not appear to show any exceptional use of force by SO1 and does not assist in determining exactly what caused the injury to the AP's leg.

When WO1 arrived at the loading dock, she said, she was in time to see SO1 and SO3 finish handcuffing the AP. She recalled that when they then stood the AP up, she heard him screaming. She said she was not able to describe the screaming and also said she did not see any injury to the AP other than a scrape on his forehead. She went back to the LPO office to deal with another in-custody shoplifting suspect.

Civilian Witness 2 ("CW2"), a store employee, told investigators that she was at the exit door, taking the shopping cart back inside and turning off the alarm, and she saw the AP standing outside in the company of three police officers in civilian clothes. CW2 said she could not see the AP's legs from her position, but he appeared to be standing normally. She noticed a small cut on his forehead and recalled that he appeared to be handcuffed.

In his written statement, SO2 stated that the AP asked the officers to let him go, and when they told him he would not be released, the AP "then began stating that his legs were broken and that he couldn't walk." SO2 also stated that the AP would first hop on one leg and then on the other as the officers tried to escort him back to the LPO office. SO2 said he considered this to be an example of the passive resistance sometimes offered by detainees, dragging their feet and deadening their weight to make it difficult for officers to move them forward. SO2 said he did not believe that the AP had a broken leg.

The officers' efforts to move the AP from the loading dock to the LPO office inside the store were captured on security camera video. The AP can be seen to be half-carried between SO2 and SO3, his knees dragging on the sidewalk. He is handcuffed behind his back. They stop briefly and SO3 lifts the AP to his feet, but after a few hops forward on his right leg, the AP falls to the ground. The two subject officers then take the AP by his arms and drag him backwards. Inside the store, the AP can be seen being dragged between SO1 and SO3. The officers took the AP to the LPO office.

SO3 wrote in his report that when the AP was told, a little later, that he was going to be taken from the LPO office to a waiting police vehicle and to cells, he initially hopped towards the office door, but "as soon as he was in view of the public he dropped both legs out from under his person and began shouting that 'the police broke my legs, won't somebody help me.'"

In the store video recordings, SO3 can be seen bringing the AP out of the LPO office. SO3 is holding the AP by his left arm as the AP hops along on his right leg. The AP then drops his whole weight to the floor and SO3 continues out through the main entrance, dragging the AP by his left arm. Outside the store, SO3 places the AP into a seated position against the wall. A few seconds later, Witness Officer 2 ("WO2") appears, and the two officers lift the AP to a standing position and take him away, the AP again hopping on his right foot.

The AP was placed into the rear of a police vehicle driven by Witness Officer 3 (“WO3”) and was transported to the detachment. Upon arrival, when WO3 attempted to remove the AP from the vehicle, he realized that there was an injury to the AP’s leg and notified Witness Officer 4 (“WO4”) that the AP needed medical attention.

The AP was taken to hospital by paramedics, who recorded “a small amount of deformity” to his left leg, and it was discovered that he had suffered a fractured tibia. The injury was surgically repaired.

ANALYSIS

The Independent Investigations Office of British Columbia is mandated to investigate 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 most 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.

The officers in this case were acting in the lawful execution of their duty in conducting a targeted operation in what was evidently a high-crime location and in detaining or arresting suspects, such as the AP, who were observed apparently committing thefts. With respect to the AP specifically, the evidence that he was committing a criminal offence when noticed by police was clearly sufficient to justify his arrest, and the use of reasonably necessary force to execute that arrest. Further, in addition to the current offence, outstanding warrants for the AP also justified the actions of the subject officers.

The available evidence does not establish that the AP’s leg injury was caused by any officer’s use of excessive force, and the AP himself did not allege that. The actions of the subject officers immediately after the arrest, though, do raise serious concerns. They were told by the AP that he was injured, and specifically that he had a broken leg. That

information should have prompted the officers to sit him down on the sidewalk and conduct at least a cursory examination. While the officers were not medical professionals, even a lay person, in these circumstances, may well have been able to observe a potential injury, and to realize that it would be unreasonable to expect the AP to walk without significant difficulty. I am referring this file to the RCMP's professional standards department to review these concerns.

For the purposes of the IIO investigation, however, the issue is whether any of the evidence gives rise to reasonable grounds to believe that any of the officers committed an offence in the way they handled the AP. As noted above, there is evidence from a civilian witness that the AP appeared to be able to stand normally, immediately following his arrest. There is also video evidence showing occasions when he appeared to let himself fall to the ground, which lends an air of reality to the officers' stated belief that he was offering a form of passive resistance by exaggerating an injury. The medical evidence suggests that the AP's leg injury would not have been visible without examination. Finally, and although this factor is not determinative, it should be acknowledged that the involved officers were engaged in an operation with a significant public interest, involving multiple suspects and arrests and a corresponding motivation to process the arrestees in a relatively expedited manner, so as not to compromise the ongoing operation.

Accordingly, as 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 the matter will not be referred to Crown counsel for consideration of charges.



Jessica Berglund
Chief Civilian Director

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