

**CIVILIAN REVIEW AND COMPLAINTS COMMISSION
FOR THE ROYAL CANADIAN MOUNTED POLICE**

Report Following a Public Interest Investigation

***Royal Canadian Mounted Police Act*
Subsection 45.66(1)**

Complainant

British Columbia Civil Liberties
Association

File No.: PC-2013-0358

COMPLAINT AND PUBLIC INTEREST INVESTIGATION

[1] On February 6, 2013, the British Columbia Civil Liberties Association (BCCLA) filed a complaint (**Appendix A**) with the Commission for Public Complaints Against the RCMP (now the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police,¹ hereinafter “the Commission”) concerning the events that led up to the shooting death of Mr. Gregory Matters. Those allegations related to the deployment and conduct of RCMP Emergency Response Team (ERT) members in the hours leading up to the shooting and included member conduct relating to the arrest, detention and treatment of Mr. Matters’ mother, Ms. Lorraine Matters.

[2] On May 1, 2013, the Commission sent a letter (**Appendix B**) to the Minister of Public Safety and the RCMP Commissioner notifying them that it would conduct a public interest investigation into the BCCLA’s complaint, pursuant to the authority granted to it under subsection 45.66(1) of the *Royal Canadian Mounted Police Act* (RCMP Act). The Commission’s public interest investigation concluded in April 2014. This report sets out the conclusions of the Commission as they relate to the allegations raised by the BCCLA in relation to Ms. Matters.

[3] The Commission’s public interest investigation set out to review the conduct of RCMP members who responded to a situation involving Mr. Matters on September 9 and 10, 2012, in Prince George, British Columbia, which tragically resulted in Mr. Matters’ death following a police-involved shooting. In relation to that incident, the BCCLA alleged that RCMP ERT members:

- 1) were inappropriately deployed, given that they were conducting an arrest related to a domestic disturbance on private property;
- 2) displayed poor communication, which placed Mr. Matters at risk and may have contributed to his death; and
- 3) placed emphasis on show of force and use of firearms, and limited emphasis on planning, forethought and preparation to protect the safety of the person they were attempting to arrest, which may have resulted in officers using excessive force and failing to de-escalate, putting Mr. Matters at risk and contributing to his death.

[4] Those allegations are addressed in a separate report dealing with the conduct of RCMP members involved in the events of September 9 and 10, 2012 as they relate to the death of Mr. Matters. The purpose of this report is to address those allegations relating specifically to the arrest and subsequent treatment of Ms. Matters.

¹ As a result of the coming into force of the *Enhancing Royal Canadian Mounted Police Accountability Act*, the Commission for Public Complaints Against the RCMP was replaced with the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police (CRCC).

COMMISSION'S INVESTIGATION AND REVIEW OF THE COMPLAINT

[5] It is important to note that the Commission is an agency of the federal government, distinct and independent from the RCMP. When conducting a public interest investigation, the Commission does not act as an advocate either for the complainant or for RCMP members. As Vice-Chairperson of the Commission, my role is to make findings after an objective examination of the information available to me and, where judged appropriate, to make recommendations that focus on steps that the RCMP can take to improve or correct conduct by RCMP members. The Commission does not make findings of criminal or civil liability.

[6] My findings below are based on a thorough review of the complaint, the information and documentation gathered by the British Columbia Independent Investigations Office (IIO) during its criminal investigation of the incident leading to the shooting death of Mr. Matters, video and audio recordings, statements received by the IIO from Ms. Matters, and statements taken by the Commission's investigator from Ms. Matters and the involved members.

BACKGROUND

[7] On September 9, 2012, Mr. Matters and his brother were involved in a vehicular incident near the residence of an off-duty RCMP member. That member reported the incident to the RCMP, as did Mr. Matters. Two members attended the scene to investigate. Over the course of that day, members of the Prince George RCMP Detachment had repeated contact with Mr. Matters, and a decision was reached to arrest Mr. Matters for dangerous driving, assault with a weapon, assault, and breach of a peace bond. While arrangements were made on multiple occasions for Mr. Matters to submit to an arrest, he ultimately decided not to do so. On September 10, 2012, the RCMP's North District Emergency Response Team (NDERT) was deployed in order to effect the arrest, and to that end attended his rural property. RCMP members continued to attempt to negotiate a surrender with Mr. Matters by telephone while the NDERT stood by, and neared his location on the property. Following an apparent surrender attempt that was not completed, Mr. Matters was approached more closely by the four-member NDERT. Mr. Matters was in possession of a hatchet, which he did not release upon being directed to do so. Ultimately, Mr. Matters was shot twice by a member of the NDERT and died at the scene.

[8] This incident was centred in and around two properties long-owned by the Matters family, which span more than 150 acres. Ms. Matters' home was situated on one section of the land. Another section was jointly owned by Mr. Matters and his brother at the time of the events in question and has been referred to as the grandparents' homestead throughout the various proceedings examining the incident. Several derelict buildings stand on the property. Access to buildings is made by a driveway, as well as via a cross-country trail from Ms. Matters' section. Just prior to Ms. Matters' arrest, RCMP members observed a vehicle, believed and later confirmed to have been operated by Mr. Matters, make its way through the field and onto the property shared by the brothers. Ms. Matters went out in search of Mr. Matters, and was stopped and ultimately arrested on the laneway leading into that property.

FIRST ALLEGATION: An unidentified member unnecessarily pointed a gun at Lorraine Matters.

SECOND ALLEGATION: An unidentified member employed unjustified and excessive force against Lorraine Matters.

THIRD ALLEGATION: An unidentified member unjustifiably arrested Lorraine Matters for assault, which resulted in unlawful detention.

[9] There is no dispute that Ms. Matters was arrested by Corporal Colin Warwick during the events that took place on September 10, 2012, and just hours before the fatal confrontation between the RCMP and her son, Mr. Matters. Up until that time, Ms. Matters had been in telephone contact with Staff Sergeant Brad Anderson, whose intention was to arrest Mr. Matters and who was seeking her assistance with that. Ms. Matters' arrest occurred shortly after her last telephone conversation with Staff Sergeant Anderson that day.

[10] According to Ms. Matters, after concluding her conversation with Staff Sergeant Anderson, she put her boots on, intending to walk from her residence to the area of the property where Mr. Matters had gone (the homestead). However, as she explained in an interview with the Commission's investigator, her feet were sore from a recent surgery and she soon realized that she would not be able to walk across the ploughed fields, so she decided to drive. She left her property and drove a short distance along the road to the laneway to the homestead. The distance was approximately 650 metres. As she turned into the laneway, Ms. Matters stated that she saw the emergency lights on a vehicle behind her, so she stopped. There is little agreement between Ms. Matters and Corporal Warwick on what happened next.

Lorraine Matters' Account

[11] Ms. Matters reported the following in her initial interview with IIO investigators just days after the incident: When she pulled into the laneway, a suburban drove up behind her with its lights activated. She stopped and got out of her vehicle. As she did, she saw a member (later identified as Corporal Warwick) get out of the suburban with a machine gun. She could not believe what she was seeing and told him that he was being ridiculous, and that there were no criminals there. Corporal Warwick told her: "Get your hands in the air on that car now." Ms. Matters stated that she went to take her keys out of the ignition, but Corporal Warwick grabbed her hand and threw the keys on the seat. Corporal Warwick then frisked her and told her to go to the front of his vehicle. She had her big boots on and lost her footing. He grabbed her by the scruff of the neck and dragged her through the gravel. He then kned her and her glasses went flying. She tried to reach for them but he told her not to move or he would knee her again. A younger member was with him (later identified as Constable Travis Wierenga) and to her looked almost embarrassed by what was occurring. Constable Wierenga tried to help her up. Corporal Warwick grabbed her by the neck again and told Constable Wierenga to get the handcuffs. She was subsequently thrown into the back of the police car until two younger female members came to take her into town. In Ms. Matters' statement to the IIO, who were not specifically investigating the circumstances surrounding her arrest, she stated that she was confused by what happened because she told Staff Sergeant Anderson that she was going to the farm property and she did not hear him say no.

[12] A typed account later submitted to the IIO by the Matters family added the following: When Ms. Matters exited her vehicle, she saw that Corporal Warwick was wearing a bulletproof vest and a face helmet, and pointed what appeared to be a machine gun at her. When he grabbed her keys and told her to get her hands up and put them over her car, she became terrified. She pleaded with him to call Staff Sergeant Anderson, who she now indicated had told her that it was okay to go to the property to look for her son. When Corporal Warwick grabbed her by the scruff of her jacket and practically picked her up, her internal shirt was torn significantly. When she stumbled, he yelled at her to quit resisting arrest. She told him that she tripped over her own feet, that she had surgery and had a sore foot. She fell to the ground and he grabbed her again by the scruff of her jacket and dragged her through the shale and gravel on the road. She struggled to get up, so he kned her in the chest so hard that she lost her breath and her glasses were knocked off. She was scared for her life and the life of her son. When Corporal Warwick instructed the other member to handcuff her, she told him that she could not put her arms behind her back because of arm injuries. However, Corporal Warwick attempted to pull her arms back before relenting, handcuffing her in front, and throwing her in the car.

[13] Although no mention was made in either of the above-noted statements provided to the IIO, Ms. Matters later recalled and testified at the Coroner's Inquest that Corporal Warwick pressed the muzzle of his rifle under her chin during her arrest. Photos show a bruise under the jawline on the left side of her face, which she attributes to the muzzle being pressed against her. Ms. Matters' statement to the Commission was generally consistent with her previous statements to the IIO. However, she added that Corporal Warwick had his gun pointed in her chin after her glasses were knocked off, consistent with her testimony at the Coroner's Inquest . She further stated that she tried to kick Corporal Warwick but could not reach him. She then saw Constable Wierenga and just fell to the ground.

Corporal Warwick's Account

[14] Corporal Warwick explained his actions in arresting Ms. Matters in detail when he provided his written statement to IIO investigators. He indicated that he saw the vehicle later determined to be driven by Ms. Matters depart from her driveway and travel to the next driveway. He was able to catch up with it and conduct a stop in the driveway. He requested over the radio that Constable Wierenga attend to assist with the stop. He described the driveway as a narrow one-lane access with dense brush and a swampy area on either side. It appeared to be seldom used, as it was overgrown in the centre and plants were growing in the tire tracks. He was concerned about why the van was going to that area given the situation with Mr. Matters.

[15] Corporal Warwick stated that when he activated the lights, the van stopped. He could see only one occupant clearly, and was unaware if there were others inside. A female exited and he asked her if she was Lorraine. She confirmed that she was. He asked her to step to the back of the van and she initially complied. Corporal Warwick asked why she was driving up the driveway and she became argumentative, swore at him and stated: "You guys are something else." She then turned and started to return to the driver's side door. He told her to stop, but she continued. He was concerned that Ms. Matters was either delivering something to Mr. Matters on the property, or that he was inside the vehicle. He ran up behind her and grabbed the collar of her shirt to prevent her from getting back into the vehicle. He told her that she was under arrest for obstructing a peace officer. Corporal Warwick stated that Ms. Matters began yelling and swearing, and tried to punch him, although she did not successfully strike him. He indicated that Constable Wierenga had not yet arrived to assist.

[16] Corporal Warwick stated that he was concerned about whether there was anyone else in the van when Ms. Matters was pulling away from him. He was also concerned about her fleeing in it or retrieving a weapon from inside. Ms. Matters struck at him and kicked at him, so he pulled her to the ground and kept her there with his knee while he awaited Constable Wierenga's arrival. Ms. Matters continued to yell and swear at him. She also told him that she had sore ribs from a prior injury. Corporal Warwick stated that he was not able to handcuff her at that time, as he was maintaining observation of the vehicle. He told Ms. Matters to stop resisting and lie still but she continued to struggle. He told her several times that if she was injured she should lie still so as not to further injure herself. Again, she continued to struggle.

[17] Constable Wierenga arrived shortly after Corporal Warwick pulled Ms. Matters to the ground. Constable Wierenga handcuffed her in front due to her injury. Both members assisted her to her feet to escort her to Constable Wierenga's vehicle. Corporal Warwick reported that she continued to yell and resist and would not move her feet. When they tried to drag her, she went limp in the legs and dropped herself to the ground. They assisted her to her feet again, but she would not walk. Corporal Warwick explained that it was clear to him that Ms. Matters was attempting to prevent them from removing her from the area. He was concerned that Mr. Matters was in close proximity, and possibly in the van. He could not see behind the vehicles or into the bush, which grew to the edge of the driveway, and believed them to be at a serious tactical disadvantage. They ultimately dragged Ms. Matters to the police vehicle and secured her inside. He then approached the van and cleared it, noting that there was nobody inside and no obvious weapons. He seized two key rings from the front passenger seat and a key from the ignition. Shortly after Ms. Matters' arrest, he returned to remove the van from the area as it was believed that Mr. Matters was nearby due to the gate having been closed and locked in the interim.

[18] During the Commission's investigation, Corporal Warwick was asked further questions regarding his reasons for arresting Ms. Matters and removing her from the property. He explained that it is standard ERT procedure to remove persons from the scene during the type of incident that was occurring with Mr. Matters, regardless of their relationship to the person. The standard procedure is for the protection of the individual. Aside from standard operating procedure, he believed that Ms. Matters was arrestable for obstructing a peace officer and that arrest involved removing her from the scene. He based his grounds for arrest on the following:

- While negotiations were ongoing with Mr. Matters, Corporal Warwick had made observations that led him to believe that Ms. Matters had lied to Staff Sergeant Anderson. For example, Staff Sergeant Anderson reported that Ms. Matters told him that Mr. Matters had gone to bed for the night and was in his bed downstairs; however, Corporal Warwick observed Mr. Matters outside his residence within minutes of that statement. (In other words, he did not believe her to be trustworthy.)

- Ms. Matters had stated several times that she would bring Mr. Matters to the detachment but did not do so. Corporal Warwick stated that he did not believe she had any intention of doing so. He believed her to be stalling and acting as a buffer for Mr. Matters, intentionally interfering with the police efforts to make an arrest and impeding direct negotiation with Mr. Matters.
- When he first stopped Ms. Matters' vehicle, Ms. Matters was initially compliant with his instructions. However, her demeanour changed drastically once asked why she was there—she began yelling and swearing and went toward her vehicle, which appeared to him to be an attempt to flee.
- Corporal Warwick believed at the time that Mr. Matters could be in the vehicle and Ms. Matters' failure to listen to his instructions and "attempt to flee" during the stop obstructed him and prevented him from searching the vehicle.
- It was clear that the one-lane driveway was very seldom used and he was concerned about Ms. Matters' reasons for going there. Given the events of the previous two days, he believed she was there to either hide or to help Mr. Matters avoid apprehension. Given the circumstances, he did not see any reason for her presence unless delivering something to him or giving him a ride away from the police.
- Ms. Matters' actions made it clear to him that she was obstructing him and other members from locating and arresting Mr. Matters.
- When he prevented Ms. Matters from getting back into her vehicle and told her that she was under arrest for obstruction, she began punching and kicking at him. He told her at that time that she was under arrest for assaulting a police officer.

[19] Corporal Warwick further stated that given Ms. Matters' refusal to comply with his directions, the ongoing struggle, the necessity to prevent a continuation of the offence, and the unsecure area, he believed it was necessary to arrest and move her to another location. He understood that he had reasonable grounds to believe that her son—Mr. Matters—was arrestable, suspected that he may be present in Ms. Matters' van, and conducted the stop in order to confirm if Mr. Matters was present and to arrest him if he was. Corporal Warwick stated that for those reasons he believed it was absolutely necessary to prevent Ms. Matters from continuing up the driveway in her van.

[20] Corporal Warwick stated that he did not point a firearm at Ms. Matters. His rifle was slung across the right side of his body and was in plain sight. When she stepped out of the vehicle, he could see that she had no weapons in her hands. He did not need to point his rifle at her, and stated that doing so would have obstructed his view of the van and immediate area. He ensured that his rifle was pointed in a safe direction and away from Ms. Matters at all times during the interaction. He used his left hand to control her movements. Corporal Warwick further stated that he did not remove his service pistol from the holster on his hip during the interaction.

[21] With respect to the use of force during the arrest, Corporal Warwick stated:

I utilized Physical Control Soft techniques during my arrest of Lorraine MATTERS. This amounted to grabbing hold of her shirt to prevent her from fleeing into her vehicle. I pulled Lorraine MATTERS back towards my police vehicle, and in the process of doing so, pulled her to the ground. She went to the ground softly and without any significant impact. I continued to hold her clothing with my left hand, and placed my knee on her to hold her down. This was necessary because she repeatedly struggled to get free of my grasp and in order to prevent her from continuing to assault me by kicking and punching at me. I maintained my hold on her clothing with my left hand, and did not let go until Cst. WIERENGA arrived to assist.

[22] He further stated that he was unable to handcuff Ms. Matters while keeping control of her and of his firearm and maintaining awareness of his surroundings in case Mr. Matters appeared from the van or the surrounding area. He awaited Constable Wierenga's arrival and maintained his hold on her. Ms. Matters was dragged to the police vehicle due to her refusal to walk on her own, which he believed she was physically capable of doing without difficulty.

Constable Wierenga's Account

[23] Constable Wierenga confirmed in his statement to the IIO that Corporal Warwick had Ms. Matters out on the ground by the time he arrived. She would not comply with commands to put her hands behind her back. She explained that she had been kicked in the chest and had problems with her ribs, and that she could not put her hands behind her back. Constable Wierenga handcuffed her in the front and she was advised by Corporal Warwick that she was under arrest. However, she would not get up and walk and was yelling at them. They dragged her by the arms and placed her in the police vehicle. Corporal Warwick told him to move off the property quickly due to the danger of Mr. Matters being nearby. Constable Wierenga stated that Corporal Warwick told him that Ms. Matters was arrestable for assaulting a peace officer, obstructing a police investigation and mischief. That instruction is confirmed by the radio transmissions.

Analysis

a) *Grounds for Arrest*

[24] In his statement, Corporal Warwick indicated that "[i]t is ERT Standard Operating Procedure to remove persons from the scene . . . to protect the safety of the individual." He went on to articulate his reasons for arresting Ms. Matters, based primarily on the offence of obstructing a peace officer. Section 129 of the *Criminal Code* of Canada provides that "every one who (a) resists or wilfully obstructs a public officer or peace officer in the execution of his duty" is guilty of an offence.

[25] Generally, “obstruction” has been interpreted by the courts in Canada to apply when a person has done something which has made it more difficult for the police to carry out their duties or otherwise frustrated a police investigation. Three elements must be proven in order to establish obstruction of a peace officer:

1. there was an obstruction;
2. the member, a peace officer, was in the execution of his duty;
3. the person obstructing did so willfully.²

[26] A person does not commit the offence of obstruction merely by doing nothing, absent a common law or statutory duty to do so.³ Obstruction “requires either some positive act, such as concealment of evidence, or an omission to do something which one is legally obliged to do.”⁴

[27] Since Corporal Warwick’s arrest was based on Ms. Matters’ alleged failure to comply with his directions, it is necessary to determine whether she had an obligation to comply. This in turn requires an examination of the lawfulness of the stop and her detention. If Ms. Matters was not obliged to cooperate with Corporal Warwick’s efforts to detain her, then his decision to physically stop and then arrest Ms. Matters was not the result of any obstruction by Ms. Matters.

[28] The seminal statement of the duties and powers of the police at common law is set out in the English Court of Criminal Appeal judgment in *R v Waterfield*, [1964] QB 164, namely that if the police officer’s conduct is prima facie an unlawful interference with a person’s liberty or property,

. . . it is then relevant to consider whether (a) such conduct falls within the general scope of any duty imposed by statute or recognized at common law and (b) whether such conduct, albeit within the general scope of such a duty, involved an unjustifiable use of powers associated with the duty.

The *Waterfield* test, as it has come to be known, has been applied on numerous occasions by the Supreme Court of Canada and other Canadian courts.⁵

² See, for example, *R v Wright*, 2009 Carswell Man 536, 2009 MBPC 51 (Man Prov Ct) [Affirmed by the Man QB, leave to appeal refused by the Man CA and SCC], para 28.

³ *R v Lavin* (1992), 76 CCC (3d) 279 (Que CA) at p 282.

⁴ *Ibid.*, at p. 282. See also Chief Justice Dixon’s dissent in *R v Moore*, [1979] 1 SCR 195 enunciating the general principle regarding self-identification to a police officer.

⁵ See, for example, *R v Clayton*, [2007] 2 SCR 725.

[29] At common law, the principal duties of police officers are “the preservation of the peace, the prevention of crime, and the protection of life and property.”⁶ Paragraph 18(a) of the RCMP Act states that the duties of RCMP members who are peace officers include the duty to perform all duties that are assigned to peace officers in relation to the preservation of the peace, the prevention of crime and of offences against the laws of Canada and the laws in force in any province in which they may be employed, and the apprehension of criminals and offenders and others who may be lawfully taken into custody.

[30] The *Waterfield* test can support only lawful police conduct. The duty to preserve the peace and to protect life and property does not give the police all the powers they would wish to have in order to carry it out effectively. The extent of common law powers is limited by the minimal intrusion required by the “reasonably necessary” test. This involves assessing and balancing the importance of the reason for the intrusion and the need for it, with the nature and extent of the intrusion. The majority of the common law powers to detain and search that have been held to be justified involve emergency situations, or apprehended violence, or both, and are restricted to a measured response to the threat.

[31] Did Constable Warwick’s attempt to stop and detain Ms. Matters fall within the general scope of the common law police duty to protect life and safety? In my view, it did. RCMP members were actively involved in locating Mr. Matters for the purposes of facilitating his arrest and were attempting to contain the property due to ongoing and pressing safety concerns, which are discussed at length in the Commission’s report relating to the shooting death of Mr. Matters. I accept that Corporal Warwick was in the execution of his duties when attempting to stop and detain Ms. Matters due to safety concerns, which included concerns that she may be either concealing Mr. Matters or providing assistance to him for the purposes of evading the police.

[32] The second requirement is that the actions of Corporal Warwick in stopping and detaining Ms. Matters at the property be reasonably necessary. In my view, members had reasonable grounds to arrest Mr. Matters without a warrant, and again there was a pressing need to do so due to safety concerns. I find that it was of great importance to the police in carrying out their duties that day, and to that end reasonably necessary, to prevent all persons from entering the property on which they were attempting to contain Mr. Matters. That reasonably included Ms. Matters, who had begun proving problematic to the police in terms of arresting her son.

⁶ *Dedman v The Queen*, [1985] 2 SCR 2 at paras 11 and 32; *R v Mann*, [2004] 3 SCR 59 at para 26; *R v Clayton*, [2007] 2 SCR 725 at para 69; *R v Kang-Brown*, [2008] 1 SCR 456 at para 151.

[33] The record clearly indicates that members were not able to observe the buildings on the property or otherwise determine Mr. Matters' exact whereabouts. Some time had passed since Mr. Matters was observed driving his vehicle across the property, and that vehicle had not been located. Corporal Warwick stated his concern that Mr. Matters was either in the van or in the immediate vicinity. He noted that when he asked Ms. Matters why she was travelling up the driveway, her demeanour and behaviour changed "immediately and drastically," which served to heighten his concern. Because she began hurrying back to her vehicle after ignoring his instructions, he believed he had grounds to arrest her for obstruction. His observations over the previous day led him to believe that she was interfering with their attempts to arrest Mr. Matters. He believed that he had a duty to locate and arrest Mr. Matters. He believed that Ms. Matters was going to flee and was obstructing him in the performance of those duties. Consequently, he grabbed her collar to stop her and told her she was under arrest for obstruction. I find those beliefs and actions to be reasonable.

[34] Ms. Matters was clearly upset with the actions of the police, with their ongoing presence in the area and at the properties, and at their interference with her. Her reaction to the stop was understandable. However, I do not accept that Staff Sergeant Anderson told her that it was okay to go to the homestead to find her son; the investigation record suggests otherwise. I find it more probable that Ms. Matters stated her intention to Staff Sergeant Anderson and hung up the telephone before receiving a response. That is in line with Staff Sergeant Anderson's recollections, his general approach to the situation and subsequent discussions with Superintendent Eric Stubbs, and the initial statement Ms. Matters gave to the IIO.

[35] These events unfolded very quickly. Approximately four minutes elapsed from the time that Corporal Warwick spotted the vehicle until Ms. Matters was in custody in the rear seat of Constable Wierenga's patrol car. While Ms. Matters may have viewed her actions of going to the driver's door and reaching in to take the keys from the ignition as harmless, it heightened Corporal Warwick's concerns regarding the location of Mr. Matters and his own personal safety, and led him to believe that Ms. Matters was attempting to get back into her vehicle and flee. I accept that Corporal Warwick had the lawful authority to prevent Ms. Matters from advancing further into the property due to the ongoing situation with Mr. Matters. When she did not listen to his instructions to stop, there were imminent safety concerns that permitted him to use physical force to stop her. Ultimately, I find that her actions gave Corporal Warwick reasonable grounds to believe that she was wilfully interfering with him in the performance of his duties, and that as a result he had grounds to arrest her pursuant to subsection 495(2) of the *Criminal Code*.

[36] Ms. Matters acknowledged in her statement that she attempted to kick Corporal Warwick at one point during the arrest. Corporal Warwick stated that Ms. Matters tried to punch at him after he grabbed the collar of her shirt to stop her from getting back into her vehicle, and attempted to strike and kick at him when he had her on the ground. Ms. Matters submitted photos showing that her shirt had been ripped during the altercation. I find that to be consistent with a struggle and that it is more probable than not that Ms. Matters did attempt to apply force against Corporal Warwick, which gave him reasonable grounds to believe that she had committed an assault on a peace officer, contrary to section 270 of the *Criminal Code*.

[37] Corporal Warwick did not recall instructing Constable Wierenga to include the charge of mischief, although such instructions were confirmed by the radio recordings. Corporal Warwick stated to the Commission:

I don't recall making this comment. I believe I may have been indicating the charge of Public Mischief related to Lorraine MATTERS' conversation with S/Sgt. ANDERSON and her obstructing police efforts to locate/arrest Greg MATTERS. I do not recall any specific observations which would have led me to suggest a charge of Mischief.

[38] Given the member's lack of specificity with respect to the reasons why he would have made an arrest based on the offence of mischief, I find that no such grounds have been properly articulated. However, as I have found sufficient grounds with respect to the offences of obstructing and assaulting a peace officer, I am satisfied that Corporal Warwick's arrest was reasonably based.

[39] I acknowledge that Ms. Matters' arrest was an unfortunate turn of events and that she would not have appreciated (or agreed with) the RCMP's assessment of the risk associated with her entering onto the property at that time. She had clearly expressed her dissatisfaction to Staff Sergeant Anderson with their decision to arrest her son, and, as evidenced by her first interaction with Corporal Warwick, believed their presence and approach to be an overreaction and excessive. However, that does not diminish the risks that were reasonably perceived by the police or their reasons for ensuring her removal from the property at that time.

FINDING: Corporal Warwick had reasonable grounds to arrest Ms. Matters for obstructing and assaulting a peace officer.

b)

Use of force

[40] The *Criminal Code* permits members to use force when circumstances warrant it, and the RCMP's Incident Management/Intervention Model (IM/IM) guides the members in its application. Members are taught that public safety is paramount and that officer safety is essential to public safety. A member must be able to explain the intervention methods he or she chooses to manage an incident, taking into account all of the circumstances, including perceptions, situational factors and subject behaviour. Intervention options include member presence, verbal intervention, empty hand control (soft and hard), intermediate devices, impact weapons, lethal force and tactical repositioning. In considering the intervention options, the Commission must consider the fact that to ensure public safety, police officers cannot be asked to intervene in dangerous situations, yet be denied the authority to take protective measures to ensure their safety when reasonable.

[41] In this case, the primary concern of Corporal Warwick with respect to the need to arrest and remove Ms. Matters from the property was the unknown whereabouts of Mr. Matters, the belief that he may be nearby or even in Ms. Matters' vehicle, and the topography of the location of the arrest that he determined left him at a serious tactical disadvantage should Mr. Matters be proximate to them. Ms. Matters acknowledged having kicked at Corporal Warwick, and the two members are consistent in their recollections of Ms. Matters' behaviour as they attempted to handcuff her and move her to the police vehicle. I accept those recollections as reliable, as they are consistent but not identical and the members' reports and statements were prepared independently.

[42] Ms. Matters was "grounded," handcuffed and forcibly placed in the back of a police car by Corporal Warwick and Constable Wierenga. Corporal Warwick stopped Ms. Matters' vehicle on a narrow laneway leading to the homestead where Mr. Matters was last believed to be. As Corporal Warwick stated, that location put him at a tactical disadvantage, and I accept that he needed to move quickly to physically control Ms. Matters and move her and himself to safety. He used his knee to maintain her on the ground (where she admittedly was kicking at him) but was not able to apply handcuffs prior to backup arriving, as he was concerned about the threat of Mr. Matters being nearby. The description of his actions in the situation at hand, for example grounding the person to overcome resistance while scanning for additional threats, is consistent with his training. The legitimate application of use of force techniques is controlled violence. It can be difficult to watch and even worse to experience firsthand. But that does not mean that the application of use of force was improper. In my view, Corporal Warwick applied force in a controlled and measured manner.

[43] With regard to the allegations contained in the complaint that Corporal Warwick had unnecessarily pointed a gun at Ms. Matters, no such assertion was made during her statement to IIO investigators just after the incident, or in the statement she dictated to her daughter, which was also provided to investigators. While Ms. Matters has provided a photograph of a bruise under her jaw line, there is no way to determine what caused the bruise. Corporal Warwick was categorical when he denied this allegation, and provided a detailed account of his actions. In my view, there is insufficient evidence to establish that Corporal Warwick pointed his firearm at Ms. Matters.

FINDING: Corporal Warwick did not point his firearm at Ms. Matters and did not press it to her chin.

FINDING: The force used to effect the arrest of Ms. Matters was reasonable in the circumstances.

c) Ongoing detention

[44] Ms. Matters was transported to the Prince George RCMP Detachment following her arrest. Staff Sergeant Anderson noted in his report that he asked that Constable Jason Dickinson meet Ms. Matters when she got to the detachment and take her into an interview room instead of a cell. Constable Dickinson was also to stay with Ms. Matters during her time at the detachment. He did so from the time she was released from the cell block—just after 5:30 p.m.—until she left the detachment at approximately 11:30 p.m. Most of her time at the detachment was spent in what is known as the soft interview room.

[45] Charges were ultimately never laid against Ms. Matters, as it was determined not to be in the public interest to do so. While it is not clear when that decision was made, it was evident that there was no desire to lodge Ms. Matters in cells upon her arrival at the detachment and no indication that it was necessary to do so. Corporal Claudette Garcia spoke directly with Ms. Matters about remaining at the detachment and the reasons for doing so. She recalled:

I asked her actually if she would agree, because she was calm. She was really calm. She had been really good. She realized that this was more important than her situation that we get her son out. I think, she didn't say. She realized it, but she was acting as though, okay, maybe this isn't about me right now, this is about my son. And I felt comfortable with that. And I asked her if she was willing to stay at the detachment in the company of a police officer, that she could go out for a cigarette, she could go get coffee, go get food. But, she needed to stay in the company of the police officer because I had to make sure, for her own safety and the safety of her son and the police officers out there, that was not going back out to that farm. She agreed to that. So, Jason, Constable Jason – I'm sorry. I can't remember his last name.

. . . So, I had the police officers not release her. So, she was still being detained, absolutely, and put her down into one of the interview, there's a comfortable interview room downstairs with couches and chairs. It's not like your stale plain table chair and interview room. And she agreed to stay there. And at that point I left. And so, at 17:15 hours, so a quarter-after-five, I advised Superintendent Stubbs of the information that she told me. And, okay, so, I'm sorry. I advised Superintendent Stubbs of that information and then at 17:32 hours Lorraine agreed to remain at the detachment in the interview room with (inaudible) in the company of a police officer. So, I actually advised Superintendent Stubbs before I gave all that. Lorraine agreed.

[46] While there are several indications that Ms. Matters agreed to remain at the detachment, it is clear that she was not actually being given an option. I am satisfied that she was being detained and did not have the freedom to come and go as she pleased. As indicated by Corporal Garcia, the reason for her continued detainment was to ensure that she did not return to the property. RCMP members were continuing in their efforts to contain Mr. Matters at the property, to determine his location on the property, and to facilitate his surrender or safe arrest.

[47] I am satisfied from the record, and from my review of all the circumstances surrounding the events leading to the confrontation between the RCMP and Mr. Matters as set out in that report, that members reasonably believed that Ms. Matters' detainment was necessary. I accept that there were legitimate concerns that Ms. Matters might return to the property, given her ongoing dissatisfaction with the actions taken by the police and her reactions to them being in and around the Matters properties. It is evident that members took steps to make her reasonably comfortable while she remained at the detachment, including leaving her to lie down in the soft interview room and by taking her out for food and cigarette breaks.

[48] I note that approximately two hours passed between the death of Mr. Matters and Ms. Matters' notification of same, at which time her detainment would have ended. The delay in notification was a result of an unfortunate misunderstanding by the Incident Commander, Superintendent Stubbs, and is discussed in the Commission's report dealing with Mr. Matters' death. That misunderstanding led to an unreasonable and unnecessary prolonging of Ms. Matters' detainment during that time period. Had she been appropriately notified of Mr. Matters' death within a reasonable time, her detainment past that point could have been avoided.

FINDING: Ms. Matters' continued detainment following her initial arrest pending the apprehension of Mr. Matters on the family property was reasonable in the circumstances.

FINDING: Ms. Matters' detainment following the death of her son was unnecessarily prolonged due to a misunderstanding on the part of the RCMP with respect to the next-of-kin notification, which resulted in its delay.

FOURTH ALLEGATION: An unidentified member made Lorraine Matters position herself in a manner which he knew would cause her pain and injury.

[49] As noted throughout Ms. Matters' account of her arrest above, she suffered pain and injury as a result of this incident in part due to pre-existing physical conditions which she identified to the arresting member.

[50] Corporal Warwick stated the following to the Commission in response to this allegation:

- After Lorraine MATTERS was pulled to the ground, she yelled twice that she had sore ribs, and stated that it was from a previous injury.
- At the time, Lorraine MATTERS was struggling to get up, and was continuously striking at me. She was also attempting to kick at me, but was unable to connect due to body positioning (I was out of reach of her feet). I was still holding her shirt with my left hand and was trying to limit her movements by holding her down with my knee.
- Both times Lorraine MATTERS yelled that she had sore ribs, I told her to lay still and if she did so, she would not further injure herself. However, she continued to struggle and resist arrest and I continued to hold her down.
- . . .
- Even as I was maintaining control of Lorraine MATTERS, I provided clear verbal direction to her to stop struggling so that she did not injure herself further.
- I was unaware of any existing medical condition of Lorraine MATTERS prior to her stating she had sore ribs. The position she was in at the time would not cause injury or pain to anyone under normal circumstances, and I had no way to know about her previous injury. However, her continued struggling and fighting at the time precluded me from moving her to a more comfortable position until she could be secured.
- I had no intention of causing Lorraine MATTERS pain and injury. I utilized the lowest amount of force possible to effect her arrest despite her efforts to resist and assault me.

[51] According to the radio transmissions, approximately four minutes elapsed from the time that Corporal Warwick spotted the Caravan until Ms. Matters was in custody and in the rear seat of Constable Wierenga's patrol car. A good deal happened in those four minutes. But by all accounts, there was limited meaningful conversation between Corporal Warwick and Ms. Matters during that period. He stopped her, took her into custody and placed her into Constable Wierenga's vehicle. Given that time frame and the fear expressed by Corporal Warwick that Mr. Matters could be close by, I am satisfied that his actions were taken in an attempt to secure her quickly as opposed to any deliberate intention to cause her pain or injury. I am also satisfied that Ms. Matters was struggling to some extent against Corporal Warwick's control, whether it was intended resistance or for some other purpose, that likely contributed to her level of discomfort from the application of force for the purposes of maintaining control over her position.

FINDING: Corporal Warwick did not make Ms. Matters position herself in a way that he knew would cause her pain and injury.

FIFTH ALLEGATION: An unidentified member accused Lorraine Matters of lying and refused to listen to her.

[52] During the interview with the Commission's investigator on February 5, 2014, Ms. Matters recalled that there were two additional officers involved after she was arrested. She stated that after her arrest she was first lodged in the back of the Suburban being operated by Corporal Warwick, then removed from that vehicle and put into the rear seat of Constable Wierenga's patrol car. Constable Wierenga then drove her out of the laneway to Pinko Road, where she was transferred into a patrol car which was occupied by two unidentified male officers. Ms. Matters stated that it was those officers who questioned her about whether her son had access to firearms and accused her of lying. Two female officers later arrived—constables Blom and Reis—and transported her to the RCMP detachment. She stated the following with respect to her encounter with the unidentified officers:

When they took me to the parked car here, the driver was quite young and he kept saying where are the weapons? Where are the weapons? Where are the guns? And I'm laying in the back seat again because I've been kneed in the chest – and the school bus – I know exactly what time because the school bus went by then.

And Valerie's grandkids were on that school bus. That's about 2:30, or something like that. He kept asking where the weapons are and I said they confiscated them. They're locked up at [a neighbour's] down the road. But he kept calling me a liar. The police officer kept saying you're a liar. Why should we believe you?

I said call [the neighbour] and I knew their number and I told them what it was. I said please call them. They're locked up there. And then he said to me, the driver, well, what other weapons could be there? [sic throughout]

[53] Available evidence indicates that after her arrest, Ms. Matters was handcuffed to the front and placed in the rear seat of Constable Wierenga's patrol car. She was not put into the Suburban where Police Service Dog Baron was being kept. Constable Wierenga and Corporal Warwick both indicate that Ms. Matters was placed in Constable Wierenga's vehicle and driven out to Pinko Road. In his report, Constable Wierenga wrote:

At this time Cst WIERENGA was advised by Cpl WARWICK to move off the property quickly due to the danger of Gregory MATTERS being nearby.

The female was driven down the road by Cst WIERENGA and when it was safe, Cst WIERENGA stopped and identified the female as Lorraine MATTERS. Cpl WARWICK advised that Lorraine was arrest-able for: Assault peace officer, Obstructing a police investigation and Mischief.

At 1538hrs Cst WIERENGA advised Lorraine MATTERS she was under arrest for Assaulting a peace officer, Obstructing a police investigation and Mischief. Cst WIERENGA read 10(b) and asked Lorraine if she understood and she replied-“I understand.” When asked if she required a lawyer, Lorraine stated-“Yes I do.” The official police warning was read.

Shortly after the arrest Lorraine was transferred into the custody of Cst BLOM and Cst REIS who transported Lorraine back to Prince George City Cells.

[54] Constables Blom and Reis were dispatched to take custody of Ms. Matters and transport her back to the detachment. Ms. Matters was in the rear seat of Constable Wierenga’s cruiser when constables Blom and Reis arrived to transport her to the Prince George Detachment. Ms. Matters recalled that this conversation occurred when she was transferred from Constable Wierenga’s patrol car to another patrol car occupied by two other, unidentified officers. However, when constables Blom and Reis arrived on Pinko Road, Ms. Matters was still in the rear seat of Constable Wierenga’s patrol car. There is no credible information to support a conclusion that Ms. Matters was placed in another patrol car with two unidentified RCMP members or that an unidentified RCMP member accused Ms. Matters of lying or refused to listen to her.

<p>FINDING: There is no credible information to support the allegation that an unidentified RCMP member accused Ms. Matters of lying and refused to listen to her.</p>

SIXTH ALLEGATION: An RCMP member refused to allow Lorraine Matters to call a lawyer or her son.

[55] Prior to her being placed into the care of Constable Dickinson, Ms. Matters was given an opportunity to make a phone call to retain counsel. According to cell block video, at 4:41 p.m., Ms. Matters was escorted into the telephone room adjacent to the booking room at the detachment. During an interview with the Commission’s investigator, Ms. Matters disputed that she was ever in the telephone room. She said that she believed the video has been altered to make it appear as though she was there. Because she could not see her face clearly in the video clips she saw, she does not accept that she was actually there.

[56] The video recordings have been carefully analyzed by the Commission. Images of Ms. Matters were captured by 23 different cameras in various locations in the detachment and from different angles. The time codes appear to line up perfectly. The quality is good and sufficient to identify the persons whose images were recorded. The video indicates that Ms. Matters was in the telephone room.

[57] There is no evidence to indicate that the video has been altered in any way. At 16:41:08, the camera records images of Ms. Matters stepping across the threshold from the booking room into the telephone room. At 16:41:09, the video camera in the booking room captures images of Ms. Matters. Because the camera is positioned at the ceiling high above, it is not possible to see full facial images. However, during the period that Ms. Matters was in the telephone room, there are opportunities to see partial images of her face. Although Ms. Matters has no recollection of being in that room, there is no doubt that she was.

[58] At 4:41 p.m., Constable Reis is seen stepping past Ms. Matters and moving to the end of the room where a telephone was located. Constable Reis picks up a printed page and has a conversation with Ms. Matters. At one point photos of persons can be seen on the pages of what appears to be a telephone directory. Constable Reis dials a number on the telephone. She appears to read the number she dialed from the list she was holding. Seconds later, Constable Reis has a conversation with someone on the telephone. At 4:42 p.m., Constable Reis is seen hanging up the phone and resumes checking the list. As she does, Constable Reis and Ms. Matters continue their conversation. At 4:44 p.m., Ms. Matters is seen shaking her head as if to say no and Constable Reis closes the phonebook. Constable Reis then makes reference to a list posted on the wall over the telephone. Constable Reis and Ms. Matters continue their conversation. At 4:46 p.m., Constable Reis picks up the phone and begins to dial a number, which appears to be from a list posted on the wall. Before the call is completed, Corporal Garcia steps into view. She is dressed in uniform, and is wearing a protective vest and a duty belt. Corporal Garcia speaks to Ms. Matters and they shake hands. Constable Reis' statement to the Commission was consistent with the video evidence. She recalled that it never got to the point that Ms. Matters was speaking with a lawyer and that they were in the process of a call when Corporal Garcia entered the room. Constable Reis left Ms. Matters with Corporal Garcia.

[59] Corporal Garcia stated that she spoke with Ms. Matters in the small telephone room. Ms. Matters was visibly upset. It appeared to her that the member that was in the room with her had been just trying to get her organized for a telephone call. Corporal Garcia's role at that time, she recalled, was to calm Ms. Matters down and gain as much information as she could from her about her son.

GARCIA: Okay. So, she was very focused on herself, what had happened to her. She was crying I told her, I said, as long as you're okay, I said, I need your help. I need you – she wanted me to take a complaint. And I said I can't take that complaint from you. I said I'm not the person to take that complaint. My job right here, my focus is to help you calm down and get you to focus on helping me help your son. Can you do that? And then she carried on about how she wanted to deal with her issues. And I went, somebody will help you with that when we're, once we get your son out safely. You can absolutely, and I'm sure I used that word, absolutely speak to somebody about how you were, how you were dealt with after we get your son. But I need your help. Are you able to give me that help? And it took me a couple of times of repeating that. And once she calmed

down and realized that was my focus, she did. She calmed right down. She stopped crying. She didn't complain about any injuries or any pain throughout my conversation with her. And she was able to give me a great deal of information about her son. [sic throughout]

[60] The video recording indicates that Ms. Matters was in the telephone room and that at least one phone call was made on her behalf. The video also recorded the initial meeting between Ms. Matters and Corporal Garcia. The images appear to support the description provided by Corporal Garcia. Although Ms. Matters does not believe that she was ever in the telephone room, she was offered the opportunity to place a telephone call to legal counsel. It appears that she was in the process of completing a second call to a lawyer when she was interrupted by the arrival of Corporal Garcia. According to Corporal Garcia, Ms. Matters agreed to remain at the detachment in the company of a police officer. She was able to go out for coffee and a cigarette, but needed to remain in the company of the police officer. The last images of Ms. Matters on the video recording are of her and Constable Dickinson leaving the detachment, headed for a Tim Hortons coffee shop.

[61] During her interview with the Commission's investigator, Ms. Matters recounted that she had asked Constable Dickinson if she could be allowed to make a telephone call. She stated that Constable Dickinson then went out of the room to consult with his superiors and when he came back Constable Dickinson advised her that she was not able, at that point, to make a call. Ms. Matters does not recall what time she would have had that conversation with Constable Dickinson. There is mention in Constable Dickinson's notes that at approximately 9:44 p.m. Ms. Matters asked to speak to her son. At that point, Constable Dickinson was aware that Mr. Matters had been fatally shot. However, he was under instructions not to tell Ms. Matters at that time, for reasons which are detailed in the Commission's report examining the RCMP's actions relating to the shooting death of Mr. Matters. That is the only indication of a request to make a telephone call during her time with Constable Dickinson. Constable Dickinson's notes appear to be detailed and comprehensive and I accept them as an accurate reflection of the conversations he had with Ms. Matters.

[62] Reasonable attempts were made by Constable Reis to connect Ms. Matters with legal counsel. There is no indication in the investigation record that, during her subsequent detainment and following her discussion with Constable Garcia, Ms. Matters wished to pursue those calls any further. While she asked Constable Dickinson if she could make a telephone call to her son, it appears that her request came too late. In any event, if any earlier requests had been made, it was reasonable for RCMP members to restrict telephone calls made to Mr. Matters to their negotiation team, which they were attempting to do. Staff Sergeant Anderson had, at that point, reasonably determined that Ms. Matters was no longer assisting the negotiations and may in fact be hindering them.

FINDING: RCMP members did not prevent Ms. Matters from contacting legal counsel and reasonably restricted any requests made by her to call Mr. Matters directly.

SEVENTH ALLEGATION: Unidentified members conducted an unlawful strip search of Lorraine Matters.

[63] Ms. Matters stated to the Commission’s investigator that after she arrived at the detachment, no one asked if she needed medical assistance, but she could still hardly breathe and was holding her chest, handcuffs in the front, for at least half an hour. She sat on the wooden bench, crying, putting her feet up, “trying to get comfortable because he had beat[en] [her] in the chest so hard [she] didn’t think [she]’d ever get up again.” One of the female members eventually came over to her and told her that she did not need the handcuffs on, and removed them. The BCCLA complaint stated that her processing included “a strip search to a single layer of clothing, removing all rings and jewelry” and taking her photograph.

[64] Video recordings show that Ms. Matters arrived at the Prince George RCMP Detachment at approximately 4:18 p.m. Constable Reis escorted her to the elevator and then into the booking room, where she was seated on a bench at 4:21 p.m. Nine minutes later, Constable Reis removed the handcuffs. On the video, Constable Reis is seen having a conversation with Ms. Matters. At 4:31 p.m., during that conversation, Ms. Matters took off her jacket and placed it on the bench behind her. Constable Reis picked up the jacket and appeared to search it. At 4:32 p.m., Ms. Matters unlaced her boots and took them off. Constable Reis picked up the boots and took them and placed them on the counter across the room from the bench where Ms. Matters was seated.

[65] At 4:33 p.m. Constable Reis appeared to give Ms. Matters instructions, and Ms. Matters stood up. Constable Reis then commenced a search by checking Ms. Matters’ hair. That was followed by a pat-down search over Ms. Matters’ clothing. Following that, at 4:34 p.m., Constable Reis instructed Ms. Matters to stretch her arms out to her sides. Ms. Matters complied and Constable Reis completed the search using a wand. That was the extent of the search done on the person of Ms. Matters. Consequently, I find that there is no evidence that any “strip” search was conducted on Ms. Matters. The search that was conducted was minimally invasive. Such searches are done on a routine basis to ensure basic cell block security and are reasonable.

FINDINGS:

- 1. No strip search was conducted on Ms. Matters by RCMP members following her arrest on September 10, 2012.**
- 2. The search conducted by Constable Reis was minimally invasive and reasonable in the circumstances.**

EIGHTH ALLEGATION: Unidentified members kept Lorraine Matters in handcuffs for over 30 minutes.

[66] During her arrest, Ms. Matters was restrained using handcuffs in accordance with RCMP policy and general practice. Because she told the officers she could not put her arms behind her back, the handcuffs were placed on her in front of her body. That occurred at approximately 3:33 p.m. Following her arrest, she was placed in the rear seat of Constable Wierenga's police cruiser and remained there until she was transferred to the vehicle of constables Blom and Reis. Ms. Matters was then taken to the Prince George RCMP Detachment. The video recording indicates that she arrived there at approximately 4:18 p.m. and shows her getting out of the police car, still wearing the handcuffs. As noted previously, Ms. Matters was taken to the cell block area and was seated on a bench. Thirteen minutes after arriving at the detachment, the handcuffs were removed.

[67] RCMP policy provides that a police officer may restrain a person using RCMP-approved restraints,⁷ such as handcuffs. The decision to handcuff a person who has been arrested is within the discretion of the arresting officer.⁸ For the safety of all involved, part of a member's common practice in an arrest situation is to handcuff the detainee and escort him or her to the police vehicle. I am satisfied that it was not unreasonable for members to follow the common practice in this circumstance given the actions of Ms. Matters throughout her arrest. Members handcuffed her in the front to minimize her discomfort and, in my view, removed the handcuffs within a reasonable period of time following their arrival at the detachment.

FINDING: Members removed the handcuffs from Ms. Matters within a reasonable period of time following their arrival at the RCMP detachment.

NINTH ALLEGATION: Unidentified members ignored Ms. Matters' pleas for the RCMP to contact the doctor who had been treating her son.

[68] According to the video recordings, Corporal Garcia first spoke to Ms. Matters at 4:46 p.m. According to the handwritten notes of Corporal Garcia in the Negotiator's Log, Ms. Matters disclosed that her son was in treatment with Dr. Passey in Vancouver and that he contacted him via Skype on a weekly basis. That disclosure occurred sometime between 4:58 p.m., when Corporal Garcia made note of the time, and 5:06 p.m., when she was seen leaving the "soft" interview room. During an interview with the Commission's investigator, Ms. Matters stated that she later begged Constable Dickinson "to call Dr. Passey, to call somebody."

⁷ RCMP *Operational Manual*, chap. 17.6. "Restraining Devices", s. 2.1.

⁸ *R v Sandhu*, 2005 CanLII 51465 (ON SC).

[69] The contact RCMP members had with Dr. Passey, who was treating Mr. Matters for post-traumatic stress disorder, is discussed in detail in my report regarding the events leading up to the fatal confrontation between RCMP members and Mr. Matters. It is evident from the investigation that significant efforts were made to reach Dr. Passey, and those efforts were ultimately successful. Consequently, I find that RCMP members did not ignore Ms. Matters' pleas for the RCMP to contact the doctor who was treating her son.

FINDING: RCMP members did not ignore Ms. Matters' pleas to contact the doctor treating her son, but rather made significant efforts to contact him and were ultimately successful in reaching him.

TENTH ALLEGATION: Unidentified members made an unwarranted comment about Lorraine Matters' son's ability to recognize her.

[70] The BCCLA's complaint alleges that Ms. Matters was told that her son was "out of it" and would not know her anyway even if she called. The complaint does not attribute the comment to Constable Dickinson, but rather to a female member. The other member who had ongoing and direct discussions with Ms. Matters at the detachment that evening was Corporal Garcia. During an interview with the Commission's investigator, Corporal Garcia stated the following in response to this allegation:

Yeah, I would never have said that to her directly. I needed her to help me. The last thing I wanted to do was agitate her in any way. So, my demeanour throughout that conversation was very, I would call it more soothing. She was upset. I needed her to calm down. I had a very strong, strong background in child interviews where it's very important to get children to be calm. So, I, I kind of treated her in a manner where, she was in distress. It was very obvious she was upset. She didn't want to be there. I felt, not knowing all the circumstances I felt really bad for her because of what was going on. I knew she didn't understand. So, I tried to explain to her what was going on. So, there's no way that I would have agitated her. I know I didn't agitate her, not purposefully. And she was really, really good with me.

[71] Further to that explanation, the video recording demonstrates that Corporal Garcia made overt attempts to be compassionate and comforting to Ms. Matters. For example, when she first met Ms. Matters, Corporal Garcia positioned herself at eye level by crouching down while Ms. Matters remained seated. Corporal Garcia then placed her left hand on the upper arm of Ms. Matters in a comforting gesture. Corporal Garcia was also seen making other, similar gestures to Ms. Matters. These gestures, as recorded on the video, support the general demeanour of and explanation provided by Corporal Garcia. Based on the foregoing, I find on a balance of probabilities that Corporal Garcia did not make an unwarranted comment to Ms. Matters that her son was "out of it" and would not recognize her.

FINDING: Corporal Garcia did not make an unwarranted comment to Ms. Matters that her son was “out of it” and would not recognize her.

Pursuant to subsection 45.76(1) of the RCMP Act, I respectfully submit my Public Interest Investigation Report.



Mr. George Gibault
Vice-Chairperson