



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
SURREY POLICE SERVICE AND RCMP IN
THE CITY OF SURREY, BRITISH COLUMBIA
ON JULY 9, 2023**

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

Interim Chief Civilian Director:

Sandra J. Hentzen

IIO File Number:

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Introduction

In the early morning hours of July 9, 2023, police officers were responding to a 9-1-1 call where a member of the public was worried about his safety after getting into a traffic collision. Officers arrived and dealt with the Affected Person ('AP'), who had an outstanding warrant. While the officers were arresting the AP, an interaction occurred which resulted in the AP severing the tip of his finger.

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:

- statement of the AP;
- statements of nine civilian witnesses;
- statement of three witness police officers;
- police Computer-Aided Dispatch ('CAD');
- Police Records Information Management Environment ('PRIME') records;
- BC Emergency Health Services records;
- police radio to radio transmissions;
- video taken following the incident; and
- photographs taken from scene.

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 Officers have not provided any account to the IIO.

Narrative

On July 9, 2023, shortly after 12:40 a.m., Subject Officer 1 ('SO1') and Subject Officer 2 ('SO2') were dispatched to a vehicle collision in Surrey. SO1 is a member of the Surrey RCMP and SO2 is a member of the Surrey Police Service. Both officers were working together that day. Civilian Witness 1 ('CW1') had been the driver involved in a collision with parked stationary vehicles. CW1 called 9-1-1 to say that he did not know where he was, and that there were a bunch of 'drunk people' around his vehicle asking him for money and threatening him. CW1 was concerned for his safety.

SO1 arrived to the collision scene at 12:46 a.m., followed by SO2 a few minutes later. The officers conducted a preliminary investigation to determine how the collision occurred, deeming it not related to alcohol consumption. Firefighters arrived and provided first aid to CW1.

While the police officers conducted their investigation, the group of male bystanders that CW1 had previously described as 'drunk people' remained at the scene. This group of males included the AP.

Civilian Witness 2 ('CW2') was one of four firefighters who attended the scene and was interviewed by IIO investigators. CW2 said she was treating CW1 for some minor injuries, when CW2 noticed a group of males on a nearby sidewalk. CW2 said that the males appeared to be intoxicated and the officers instructed them to "*stay back*" several times.

The police officers engaged in conversation with the AP, who was part of the group of males. The officers ran the AP's licence in the police database system (CPIC) and determined that he had an outstanding warrant for his arrest related to an immigration matter.

At 1:12 a.m., SO1 updated the police dispatch that they had the AP in custody pursuant to the immigration arrest warrant. Shortly after, the officers requested "Code Cover" over the radio. "Code Cover" is sought when officers need urgent assistance from other police members.

The civilian witnesses present during the incident had different accounts of the timing and sequencing, but were generally consistent about what happened as the incident unfolded between SO1, SO2 and the AP.

CW1 stated that the AP was resisting as officers tried to put him into the police car, describing that the AP was "*pushing and pulling hard to try and get away from them*". CW1 recalled the officers and the AP falling on the grass at one point. CW1 did not see any police officer strike the AP, explaining it was more of a wrestle between the officers and the AP.

CW2 said that the AP got into an altercation with the police officers, and had to be wrestled to the ground and put in handcuffs. CW2 described this as a "*full on wrestling match*". CW2 stated that they "*bounced off*" the police vehicle before going to the ground. CW2 said that "*all three were pushing against the cop car and then he was taken to the ground*".

CW2 said that the other male bystanders were moving aggressively towards where SO1 and SO2 were struggling with the AP, so the firefighters put up a barrier between the officers and the males to prevent the situation from escalating.

Civilian Witness 3 ('CW3') described the incident similarly to other civilian witnesses. CW3 said that the officers let the AP urinate against a nearby bush, and that the AP had tried to run away but that the officers "*tackled him up against the car*". CW3 said that the AP was wrestling with the officers, and they all ended up on the ground.

At 1:17 a.m., SO1 confirmed over radio that they "*have one male in custody and everyone can slow down [their response]*".

During the struggle, the top portion of the AP's right ring finger was severed. CW2 witnessed this missing piece of finger stuck in the rear passenger door of the police vehicle where the officers were attempting to lodge the AP. CW3 also saw the tip of the AP's finger inside the rear passenger door frame of the police car.

Civilian Witness 4 ('CW4') was another firefighter on scene and described seeing the severed nub of the AP's finger stuck to the edge of the rear passenger door of the police vehicle. CW4 stated he assisted police in removing the severed section of finger from the car door before it was placed in a police evidence bag with a cold pack in an attempt to make it possible to re-attach the fingertip at hospital.

CW3 and CW4 both commented that the AP himself did not appear to know he was injured until he was informed about it, summarising this was possibly due to the AP's level of intoxication.

None of the civilian witnesses were able to describe in detail how the injury to the AP occurred, noting that there was no exclamation or visible moment of pain from the AP which would have indicated the moment of injury. All civilian witnesses suggested that the only time the injury could have realistically occurred was when the officers were struggling up against the side of the police vehicle while the officers attempted to take the AP into custody.

The AP suggested that the injury occurred because an officer was angry with him. The AP did not detail how the injury occurred but believed an officer cut his finger using something similar to a "cigar cutter" shortly after he was allowed to urinate on a nearby bush. There is no evidence to support the AP's theory for the mechanism of injury. Other persons present at the location with the AP either declined to provide a statement or confirmed that they did not witness the moment the injury occurred.

The AP was treated by firefighters and paramedics at the scene before being transported to the hospital. Unfortunately, medical staff were unable to re-attach the severed portion of the AP's finger, resulting in a permanent amputation to the tip of the AP's right ring finger.

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.

A police officer who is acting as required or authorized by law is, if they act on reasonable grounds, justified in doing what they are required or authorized to do and in using as much force as is necessary for that purpose. If a police officer uses unreasonable or excessive force, those actions may constitute a criminal offence.

In a case such as this one, one of the avenues of the IIO investigation will be gathering 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 officer actions were lawful or not.

In this case, the officers were acting lawfully, in execution of their duties, when they arrested the AP due to an outstanding warrant.

During their interactions, and inexplicably, the AP tried to flee from officers. This occurred in a very brief period, sometime after the officers allowed the AP to urinate. As a result, it became necessary for the officers to try to control the AP quickly, and get him into custody.

Although no civilian witness saw the exact point in time when the AP's finger was severed, given that the finger was found in the door of the police car, it is reasonable to conclude that the injury happened when the police car door closed on the AP's hand. There is no physical evidence or evidence from any civilian witness to support the AP's allegation that a police officer had a cigar cutter or some other device and used it to cut the AP's finger.

Several civilian witnesses described the AP trying to flee officers and resist arrest, noting that officers were "wrestling" with the AP on the ground. It is reasonable to conclude that some application of force would be required to contain the AP, who was fleeing from police.

Officers have lawful authority to use force, providing it is reasonable, necessary and proportionate. In this case, based on the evidence obtained from the civilian witnesses who were present during the incident, there is no evidence to suggest that the use of force went beyond what was required to get the AP into custody. The actions of SO1 and SO2 were limited in nature, and appear to be proportionate to the degree of resistance used by the AP against the officers. It cannot be said that this use of force was unreasonable in the circumstances.

Similarly, there was no evidence to suggest that officers intentionally applied force to the AP's finger in order to sever it. It is reasonable to conclude that the AP's finger was severed by an unintentional occurrence during the arrest, and the officers' use of force in this instance was necessary to take the AP into custody.

It is extremely unfortunate that the AP lost the tip of his finger in this incident. However, the officers' actions were reasonable based on the evidence available.

Accordingly, as the 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
Interim Chief Civilian Director

July 25, 2024
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