



**IN THE MATTER OF THE INJURY OF A MAN
WHILE BEING APPREHENDED BY MEMBERS OF THE
DELTA POLICE DEPARTMENT IN
DELTA, BRITISH COLUMBIA
ON OCTOBER 29, 2023**

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

Delegate of the Chief Civilian Director: Sandra Hentzen

IIO File Number: 2023-321

Date of Release: February 5, 2025

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This report details situations that may be distressing to some readers. If you are in crisis, help is available:

- (1) Call 310-6789 to be connected to the crisis centre nearest you (no area code required)
- (2) Crisis Services Canada: crisisservicescanada.ca
- (3) British Columbia: crisislines.bc.ca
- (4) Vancouver and surrounding areas: crisiscentre.bc.ca
- (5) Vancouver Island: vicrisis.ca
- (6) VictimLinkBC: 1-800-563-0808

INTRODUCTION

On the evening of October 29, 2023, police officers responded to a call about an unwanted person on private residential property. When they arrived, they spoke with the Affected Person (“AP”) and tried to persuade him to come with them voluntarily. The AP refused, and then became physically resistant. In the ensuing struggle, the AP suffered an injury to his right wrist.

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 two civilian witnesses and two witness police officers; and
- police Computer-Aided Dispatch (“CAD”) and Police Records Information Management Environment (“PRIME”) records;

The IIO does not require officers whose actions are the subject of an investigation to provide any account. In this case, the subject officers gave access to their written duty reports on the incident.

NARRATIVE

On October 28, 2023, Civilian Witness 1 (“CW1”) answered the doorbell at his home in Delta and found the Affected Person (“AP”) on the doorstep. CW1 told the IIO that he did not know the AP and had never met him before, but the AP asked if he could leave some of his possessions by the side of CW1’s garage. CW1 said he permitted the AP to do this,

and provided a new garbage bag for the AP to keep his possessions clean and dry. A few hours later, the AP came by again and picked up his property.

The next evening, the AP went back to CW1's residence to drop his bag off again. This time, he was told by CW1 and Civilian Witness 2 ("CW2"), the residents in the home, that he could not continue to leave his belongings there. They suggested an alternative, a suitable facility nearby, but the AP said, "No." CW2 asked a friend who was fluent in the AP's native language to speak with him on the phone, but the friend told CW2 that the AP was "not making sense."

The homeowners were unaware that a short time earlier the same evening, the AP had called 911 alleging that his mobile phone had been tapped and that people were chasing him. He had arranged to meet police at a specific location, but when officers went there they could not locate him. Police were concerned, as a result, that he might be having mental health issues.

At 9:54 p.m., CW2 called the police to ask for their assistance in removing the AP from the property, and advised them that the AP seemed to understand very little English. CW2 told the IIO that two officers initially responded. She described the demeanour of Subject Officer 1 ("SO1") as "gruff" and "maybe frustrated or annoyed," and said he did not have "the friendliest tone."

CW1 told investigators that when the officers approached the AP, he appeared to "freak out." CW2 described Subject Officer 2 ("SO2") trying to engage with the AP, who backed away from the officer, saying, "No ma'am, no ma'am." CW1 said he made it clear to the officers that the AP had already been told he could not stay on the property, and that he wanted the AP removed.

With the civilian witnesses observing, SO1 tried to communicate with the AP, directing him towards the police vehicle at the end of the driveway. SO2 also attempted to convey to the AP that he should come with police so that his mental health could be assessed. The AP refused, and was then told he was under arrest for trespassing.

CW1 and CW2 described seeing the interaction between the AP and the officers become physical. The officers took hold of the AP's arms, but he resisted, and a "scuffle" followed.

CW1 said that SO1 tried to place one of the AP's arms behind his back, but had trouble doing so because the AP was wearing a backpack. CW1 said that SO1 "slammed" the AP against the garage wall and onto the hood of CW1's truck, and the struggle then went down onto the ground, with SO2 moving in to assist. CW1 said that he then heard the AP yelling that his arm hurt. CW1 said that he felt "more dialogue" could have prevented the violence.

CW2 said that the AP appeared to be “confused” as the officers were speaking to him. She described the AP as not fighting the police, but “shrugging them off.” She said she would have taken a more “empathetic” approach. She saw the AP handcuffed on the ground, then stood up and taken off the property.

The security camera system at the residence did not capture the incident.

In his written report, SO1 states that he attempted dialogue with the AP but the AP did not want to engage. When verbally directed to the police vehicle, the AP moved away. SO1 then writes that:

[SO1] reached to guide [the AP] by the arm but he pulled away and moved behind a truck parked in the driveway... [The two officers] took [the AP] by each arm in an attempt to guide him off the property but he began tensing his body and pulling his arms inward.

The report continues, describing SO1 attempting to handcuff the AP but being kicked at and grabbed by the AP. After noting that the struggle then went to the ground, the report states:

[SO2] advised she was unable to get control of [the AP's] right arm as he was still pulling it into the centre of his body. [SO1] reached under [the AP] and utilized a wrist lock to bring [the AP's] right arm behind him and apply the handcuff. [The AP] was shouting that police injected him with something causing his arm to be broken... It is unknown if the injury occurred during the hard take down or while trying to secure the male in handcuffs.

In her written report, SO2 stated that upon arrival, the officers had made Crisis Intervention and De-Escalation Attempts (“CID”):

[SO1] initially asked the subject how he was doing and if police could find him a warm place to stay for the night. The subject was not responsive to this. When [SO2] then asked the subject if he would walk to her PC and off of the property in order to sort out the situation, the subject immediately refused and appeared to be suffering from mental health issues. Due to the quickly unfolding events, [SO2] was unable to further use CID techniques.

SO2’s report continues with her account of the “unfolding events,” stating that at one point, the AP had grabbed her vest and that his hand had been on the handle of her “taser.” It describes the AP’s physical actions and the concerns she felt about the risk of harm:

The male continued to struggle with police. [SO2] is aware through previous experience, training and knowledge that persons who are homeless will often carry weapons as street life can be extremely violent. Due to this fact, that the subject was resisting arrest, and had grabbed at police, [SO2] assisted [SO1] with taking the subject to the ground. The subject continued to fight police while on the ground by thrashing in an attempt to break free and attempting to kick at police. Once the male was eventually placed into handcuffs, he was helped onto his feet and escorted to the nearest police vehicle. Once the subject was at the police vehicle, he attempted once again to kick at police.

Two witness officers, WO1 and WO2, responded to a call for assistance from SO1 during the arrest. WO1 told IIO investigators that when he arrived, he found the two subject officers and the AP “dusting off,” and said that it appeared to him that the AP was in medical distress, or was suffering from a mental disorder. He said the AP was complaining that he had been given “an injection” and had a sore arm. WO2 described the AP as agitated and possibly affected by drugs, alcohol, or mental health concerns.

The AP was transported to hospital where he was found to have a broken forearm that was treated with a cast, and without surgery. The IIO has been unable to contact him since the incident to obtain his account.

LEGAL ISSUES AND CONCLUSION

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 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 officers, IIO investigators collect evidence with respect to potential justifications for that use of force. The IIO then analyzes this evidence using legal tests such as necessity, proportionality and reasonableness to reach conclusions as to whether officers' actions were lawful, or whether an officer may have committed the offence of assault.

The officers had reasonable grounds to arrest the AP, or at a minimum to detain him and try to determine if he was at risk by reason of mental disorder. Only a short time before this incident, he had made a concerning call to 911 strongly suggestive that he thought he was in danger, and he was now refusing to leave private property after being requested to do so by the residents. That was an arrestable offence under the provincial *Trespass Act*. If he had been cooperative with the officers, though, it is highly unlikely that there would have been any consequences to him. He could have gone with police to a shelter to spend the night, and there is little likelihood that he would have been charged with any offence.

Based on the evidence of the civilian complainants, the AP was resistant to any suggestion that he take his possessions and leave the property, and the same witnesses confirm that he was equally resistant to the officer's attempts at persuasion. When he refused to accompany the officers voluntarily, they were acting lawfully in using a low level of force to get him off the property. His active resistance to that low level of force justified their application of a higher level, still short of force likely to cause injury.

It is not possible to determine with any certainty what caused the AP's wrist to break, but the most likely causes are his being held by the arms and taken to the ground, or SO1's wrist lock that enabled the officers to get the AP's arms behind him to be handcuffed. In either case, the evidence does not establish that any unnecessary or excessive force was applied by either of the two subject officers. The AP's injury appears to have been an unfortunate but unintended accident, and a direct consequence of his resistance to their lawful actions.

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



Sandra Hentzen
Delegate of the Chief Civilian Director

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