



**IN THE MATTER OF THE INJURY OF A MALE  
WHILE BEING APPREHENDED BY  
MEMBERS OF THE RCMP IN  
THE CITY OF RICHMOND, BRITISH COLUMBIA  
ON MARCH 5, 2018**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

General Counsel:

Clinton J. Sadlemyer, Q.C.

IIO File Number:

2018 - 029

Date of Release:

January 11, 2019

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## Facts

Shortly before 8:00 p.m., on March 5, 2018, police were called to the Olympic Oval in Richmond regarding a complaint that a male, the Affected Person (AP), had a chain wrapped around his hand and had been acting in a threatening and aggressive manner to the other patrons. Police arrived, a police service dog was deployed, and AP was bitten while being taken into custody and required stitches.

The Independent Investigations Office (IIO) was notified by the RCMP later that night and commenced an investigation as there was an injury believed to have been serious harm as defined in *the Police Act* and an officer was involved.

Evidence collected during the investigation included the following:

- 1) Statements of AP and three Civilian Witnesses (CW 1, CW 2 and CW 3);
- 2) Statements of 2 Witness Officers;
- 3) Emergency Health Services (EHS) records; and
- 4) Medical records.

Pursuant to section 17.4 of the Memorandum of Understanding between the IIO and BC Police Agencies, and consistent with the *Canadian Charter of Rights and Freedoms*, officers who are the subject of an investigation are not compelled to provide a statement, nor submit their notes, reports or data to the IIO. The Subject Officer, Officer 1, declined to provide a statement, notes, reports or data to the IIO.

AP told the IIO that he was working out and an employee came over to speak to him. AP said that he was listening to music with noise cancelling head phones on and did not want to speak with the gym employee so continued to work out until the gym worker said they were going to call the police.

CW 1, an employee at the Olympic Oval, received reports from staff that AP was causing concerns. CW 1 went to where AP was. AP was wearing headphones and did not remove them. CW 1 told the IIO that AP said, "*I know where the terrorists are*" and "*they're close by.*"

CW 1 said after several minutes of speaking to AP and receiving no response, AP picked up a long chain from his bag and held a three-faced pointed dagger-like object. CW 1 told AP that the police would be called. CW 1 said AP was agitated and non-responsive to the attempts to speak with him. CW 1 asked CW 2 to call the police.

AP told the IIO that he had the chain for self-defence and that he may have wrapped it around his left hand though he didn't threaten anyone. AP told the IIO that he believed that when police arrived he had put the chain down and he refused to talk to the police because he wasn't doing anything wrong.

CW 1 said that two officers arrived and AP began “*taunting*” the officers. CW 1 said that, in addition to the chain, AP was also holding the dagger-like object. CW 1 said the officers told AP “*to put down the chain*” and were trying to de-escalate the situation. CW 1 said the officers did not draw their firearms.

CW 1 said a third officer with a dog (Officer 1) arrived shortly after the first two. CW 1 could not hear what the officers were saying but AP backed away and was pepper sprayed at the same time as the dog was deployed. The dog bit AP’s leg. CW 1 said the officers held AP down and the dog was removed “*quite quickly*,” and AP was handcuffed.



Items seized from the scene (The inside measurement of the square is approximately 8 cm.)

CW 1 told the IIO that Officer 1 said that the dog was deployed because of a concern that AP could use the nearby dumbbells as weapons. CW 1 did not see any other use of force by the police.

AP made several allegations, unsupported by witnesses, to the IIO including that while he was still at the Oval and in handcuffs he was left alone by the police and during that period he was assaulted by two males (not police officers). AP also claimed that while still handcuffed and at the Oval, he was stripped naked and searched and then dressed again. AP said that he remained in handcuffs and was re-clothed; he said he saw one of the males, who had struck him while he was left alone, standing behind “*a female customer*” of the Oval with a dumbbell over his head “*about to hit her and I tackled her out of the way.*” AP said he did this while he was still handcuffed and that he had to move approximately seven feet from where he was positioned to get to the female.

There was no evidence of, or witnesses to, the allegations AP made to the IIO almost a month after the incident. AP’s medical records from the night of the incident do not show that AP related his allegations to medical staff. AP did tell two of the medical professionals that treated him that he could not remember what had happened or how he was bitten by the police dog.

None of the three officers present carried a conducted energy weapon (Taser).

## **Relevant Legal Issues and Conclusion**

The purpose of any IIO investigation is to determine whether an officer, through an action or inaction, may have committed any offence in relation to the incident that led to the injury to AP.

A police officer who is acting as required or authorized by law is, if he acts on reasonable grounds, justified in doing what he is 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.

More specifically, the issue to be considered in this case is whether Officer 1 may have used excessive force when he deployed his police dog. Had he done so, he may have committed assault causing bodily harm.

In this case, AP was in possession of two potential weapons that could have inflicted serious injury on the staff and other patrons of the Oval. When AP refused to speak with police or to put the chain down he displayed a level of non-cooperation that would cause further concern for the safety of not only the staff and patrons but also for the safety of the officers themselves.

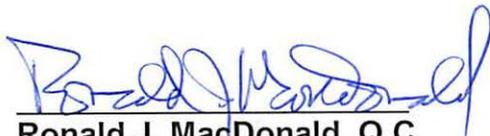
The use of force in this situation was measured, proportional and necessary. Objectively, the dagger-like item could have caused serious bodily harm and yet none of the officers drew their firearms. There were no lesser measures available to the officers and AP was taken into custody without injury to the officers or public. The officers used non-lethal force to subdue AP and there is no evidence that force was excessive.

Accordingly, as the Chief Civilian Director of the IIO, I do not consider 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.



**Clinton J. Sadlemyer, Q.C.**  
**General Counsel**

January 11, 2019  
**Date of Release**



**Ronald J. MacDonald, Q.C.**  
**Chief Civilian Director**

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