



PUBLIC REPORT OF THE
CHIEF CIVILIAN DIRECTOR

Regarding the serious injury sustained by an
adult male on February 4, 2013, involving an
officer of the RCMP in the city of Mission,
British Columbia

IIO 2013-00003

INTRODUCTION

The Independent Investigations Office (IIO) is responsible for conducting investigations into all officer-related incidents which result in death or “serious harm” (as defined in Part 11 of the *Police Act*) within the province of British Columbia. As the Chief Civilian Director of the IIO (CCD), I am required to review all investigations upon their conclusion, in order to determine whether I “consider that an officer may have committed an offence under any enactment, including an enactment of Canada or another province.” (See s.38.11 of the *Police Act*). If I conclude that an officer may have committed an offence, I am required to report the matter to Crown counsel. If I do not make a report to Crown counsel, I am permitted by s.38.121 of the *Police Act* to publicly report the reasoning underlying my decision.

In my public report, I may include a summary of circumstances that led to the IIO asserting jurisdiction; a description of the resources that the IIO deployed; a statement indicating that the IIO, after concluding the investigation, has reported the matter to Crown counsel; or a summary of the results of the investigation if the matter has not been reported to Crown.

This is a public report related to the investigation into the serious injuries sustained by an adult male on February 4, 2013, in the city of Mission. The affected person was being sought by police after failing to comply with a traffic stop. After abandoning his vehicle and a subsequent foot pursuit, the affected person was apprehended and bitten by a police service dog. He sustained serious injuries to his hand.

Pursuant to s.38.11 of the *Police Act*, RSBC 1996 Chapter 367, I have reviewed the concluded investigation. I do not consider that any officer may have committed an offence under any enactment and will not be making a report to Crown counsel.

In my public report, I am only permitted to disclose personal information about an officer, an affected person, a witness, or any other person who may have been involved if the public interest in disclosure outweighs the privacy interests of the person. Prior to disclosing any personal information, I am required, if practicable, to notify the person to whom the information relates, and further, notify and consider any comments provided by the Information and Privacy Commissioner (s.38.121(5) of the *Police Act*).

In this case, I will not be disclosing the names of any persons associated with this case or any other personal information.

NOTIFICATION AND JURISDICTION DECISION

The RCMP notified the IIO of the incident on February 4, 2013. The jurisdictional decision was suspended until medical information could be assessed. On February 15, jurisdiction was sustained after confirmation that the injuries met the definition of serious harm.

EVIDENCE CONSIDERED

IIO investigators obtained information from the affected person, several witness officers, and through a review of RCMP dispatch radio transmissions as well as Computer Aided Dispatch records.

According to police reports and interviews with involved officers, the events leading up to the serious injury of the affected person took place over a period less than one hour from the time he and his vehicle first came into contact with police until he was taken into custody. Eleven police officers and two Police Service Dogs were involved, some officers more peripherally. The pursuit by vehicle and on foot extended across approximately six kilometres in geography with the last two kilometres being on foot.

On February 4, 2013, at approximately 12:35 a.m., a RCMP Integrated Police Dog Service (PDS) member located two vehicles associated to a person of interest, the affected person. The affected person had been the subject of an officer safety bulletin where police were advised that he was a person of interest in a series of robberies and indicated that he was possibly armed and dangerous, carrying a firearm in a bag or concealed in his vehicle. The affected person was believed to be a "Freeman of the Land" and unlikely to cooperate with police.

At 12:45 a.m., the two vehicles (a U-Haul truck and a Sunfire) were observed heading westbound towards Abbotsford from Chilliwack. The Integrated PDS member requested Abbotsford Police Department (APD) assist with a vehicle stop. During this time, the Integrated PDS member was in radio contact with APD; the decision was made to pull the two vehicles over near Harris Road, the last turn before reaching the Mission Bridge. Officers confirmed that the affected person was a prohibited driver.

A marked APD police vehicle initiated the stop of the U-Haul on Highway 11. The driver pulled over and was confirmed as someone other than the affected person. While the traffic stop of the U-Haul was uneventful, police recovered handgun ammunition from the vehicle.

The Sunfire did not stop and instead, headed northbound towards the Mission Bridge.

Four members of the Mission RCMP were already on the bridge conducting an impaired driving roadblock. They were directed to assist with stopping the Sunfire. Three marked police vehicles were present with emergency lights activated. The vehicles were positioned so that only one traffic lane was open.

The Sunfire was observed approaching the bridge travelling at a high rate of speed. The decision was made to deploy a spike belt. The Sunfire crossed the spike belt and continued north, stopping at a mall parking lot. The driver, the affected person, exited the vehicle and fled on foot.

Two police service dogs were deployed to assist in the search for the affected person. The first dog reportedly began tracking at 12:58 a.m.; the second dog picked up the track at approximately 1:08 a.m. The affected person was apprehended by the second dog (assigned to the subject officer) at 1:33 a.m.

Radio Broadcasts

- At 12:36:55 a.m. Dispatch requested “some units” to attend highway to possibly intercept (male) who was being followed by the RCMP.
- At 12:45:10 a.m. APD reported following the affected person northbound on Sumas. He was confirmed as a prohibited driver. Units were advised to “hang back” and “not get made.”
- At 12:51:30 a.m. Marked APD vehicle given direction to pull over U-Haul.
- At 12:53:15 a.m. Sunfire is reported to have “taken off” and “not stopping NB [Northbound].” RCMP Mission officers were reported to have put out a spike belt.
- At 12:58:29 a.m. An officer reports the first police dog has started a track “we are just in the lumber yard and I think we’ve got him in the bushes.”
- At 1:01:52 a.m. Dispatch confirmed that the affected person was in the Sunfire.
- At 1:08:32 a.m. An officer reports “tracking west on train tracks, approximately south end of...not yet at Superstore.” (*This is when the second dog with the subject officer commenced the track.)
- At 1:11:53 a.m. An APD officer is reported to be with the PSD about 100 metres ahead of the other officers and still tracking.
- At 1:14:12 a.m. Officer reports that they are 50 metres short of Walmart, currently tracking. . . “Coming off the bank onto the back of Walmart.”
- At 1:20:08 a.m. An officer reports they are trying to “re-establish track.”
- At 1:33:05 a.m. An officer reports “In contact with male.”
- At 1:33:58 a.m. An officer reports “Got him in the back of the temple, fight[ing] with the dog.” (Dog can be heard barking.)
- At 1:34:39 a.m. An officer requests Emergency Medical Services to respond.

Computer Aided Dispatch (CAD)

During the search for the affected person, dispatchers provided updates via the Computer Aided Dispatch (CAD). These times are delayed as they reflect the time the information is sent across CAD (after being keyed in by the dispatcher) and not necessarily when the action took place.

- At 1:33:22 a.m., “Contact with male.”
- At 1:33:37 a.m., “Dogs got him.”
- At 1:34:18 a.m., “Back of the Temple Fighting with the Dog.”
- At 1:34:32 a.m., “Fighting with Dog behind Temple.”
- At 1:35:14 a.m., “Getting male cuffed now.”
- At 1:35:29 a.m., “Walking male out of back of Superstore.”
- At 1:36:14 a.m., “One I/C.” (in custody)

- At 1:40:37 a.m., “EHS O/S.” (EHS on scene)

Information from Subject Officer/Dog Handler (RCMP)

The subject officer was not interviewed by IIO investigators as he declined to provide a voluntary statement, as is his right under the Charter of Rights and Freedoms.

Information from Witness Officer 1 (RCMP)

Witness Officer 1 (WO 1) was one of the officers who set up the roadblock on the Mission Bridge. He was positioned on the downslope and could hear the Sunfire approaching the bridge: “it was, in my estimation, doing at least 120 km an hour.” WO 1 was able to recognize the driver as the affected person. WO 1 was the officer who deployed and then cleared the spike belt.

According to WO 1, after the Sunfire passed over the spike belt, he heard a radio report that the affected person had headed toward the mall. WO 1 made his way there and heard the Integrated PDS member radio that the dog had tracked the affected person near the railway tracks.

The WO 1 responded to the call for back up in the area near the Superstore. WO 1 recalled speaking with the subject officer and hearing him call out that he had seen the affected person. WO 1 used his marked police vehicle to try to cut the affected person off however the affected person responded by jumping over the fence back into the Temple parking lot.

According to WO 1, the subject officer’s dog was unleashed, went over the fence and waited for the command to track. WO 1 and the subject officer followed the dog over the fence and into the bush area. They moved in when they heard the affected person yelling about getting the dog off of him. WO 1 estimated the dog had hold of the affected person about 15-20 feet into the bushes.

Both officers had their pistols out as they approached the bushes. Once WO 1 saw that the dog had the affected person by the right hand, he holstered his pistol. The subject officer was trying to get the affected person to lie down and was heard saying “stop resisting, show me your hands.” WO 1 estimated the dog had hold of the affected person for 10-12 seconds until officers were able to see and secure his left hand: “we were able to control his hands and handcuff him without incident.” WO 1 heard the subject officer say “off” to his dog, the dog released and then was pulled away from the affected person.

WO 1 and another officer were involved in handcuffing the affected person and walking him out of the bush. The affected person was subsequently attended to by BC Ambulance Services.

Information from Witness Officer 2 (APD)

WO 2 was one of the officers in a police vehicle assisting with the traffic stop. When the Sunfire did not stop, WO 2 and his partner were directed to follow: "so we go behind it and we turned on our emergency lights and the vehicle took off exceptionally fast, continuing northbound over the bridge...so we turned our lights down and we let everybody know it had taken off from us."

Once at the mall, WO 2 observed the affected person running from the vehicle and called out "police, stop." Back-up was called and along with other officers, WO 2 followed the affected person's route, west, then north, over a fence and onto the train tracks. WO 2 was trying to make radio contact with Mission RCMP to let them know that he was acting as a cover man for the dog handler. He stated that at times, he and the dog handler (and the dog) were a few hundred metres ahead of the rest of the officers and that he was concerned about the terrain: "in my mind is the thought that this is somewhat of a valley; there is no room for any cover down here. In the worst case scenario, if this person is armed and wants to hurt me, it would be really easy to do that."

According to WO 2, the dog ran between the lumber yard and the Temple parking lot and the group followed. At some point, WO 2 heard "we've got him" over the radio. He saw the affected person run and jump a fence and then over another fence. WO 2 saw "a police dog came flying over the fence" with the dog handler following. The dog continued to track while the two officers waited. WO 2 heard "get your dog off me" and he knew it was the affected person.

WO 2 recalled officers yelled for the affected person to "come out with your hands up." The affected person responded that he couldn't. Officers located the affected person about 50 feet into the bushes; the dog had hold of his right hand. WO 2 did not observe any struggling between the affected person and the dog and noted that the dog held on for less than a minute until his handler removed him.

WO 2 did not see anyone jump on the affected person but did recall seeing an officer sit on him in order to restrain him. While officers were walking the affected person out of the bushes, the affected person was complaining about his hand, he was not happy about being bit by the dog and he was in lot of discomfort. "We asked him how he was - 'yah, I'm good' - he just brushed it off."

Information from Witness Officer 3 (RCMP)

WO 3 was one of the officers involved in the road block on the Mission Bridge. He also had been at an earlier briefing re the affected person.

WO 3 had a new recruit with him that shift. The officers were in the north bound lane of the bridge. WO 3 recalled that WO 1 had deployed the spike belt on the Sunfire. The car had hit

the spike belt and continued travelling. WO 3 lost sight of the Sunfire but was advised it had gone to the mall.

At the mall, WO 3 met up with other officers. He stated he was told to stay with the Sunfire and to assist the Integrated PDS member with the track.

WO 3 recalled a lot of radio traffic and he heard that the affected person had gone over the fence into the Temple yard. He and his recruit went into the Temple yard and saw a second dog and his handler, the subject officer. He noted that the subject officer was about 30 paces ahead and that his dog was off leash. Officers were running towards the bush:

“The next thing I hear is members are yelling at somebody in the bush to show their hands. I’ve got my gun at low ready but there are other members in front of me so I can’t safely point it at anybody...it sounds like the male has stopped and been engaged by the dog. We go in the bush, it’s thick prickly prickle bush type stuff. We go in the bush yelling for the male to show his hands – show your hands. The male is yelling something, I don’t have a clue what. Show us your hands, we go in, for the first time I actually see the male...the dog has clearly taken grip of the male, has him by the, I’m going to say right arm, grabs him by the arm, the male we are still yelling at him because he still has his other arm like this (tucked under his body)...the dog is still there with his one arm and I’m going in at this point to take, try to get the other arm out from underneath him, I don’t know what he’s got in it, I don’t know why he’s still hiding it.”

WO 3 recalled reaching for the affected person’s left arm and bringing it behind his back. He asked WO 1 for assistance to physically put the handcuffs on: “So WO 1 gets the handcuff on him that would be his left hand. At that point, I take a breath, somehow at some point the dog must have released because he has two handcuffs on. I don’t have a clue how but he has two handcuffs on.”

WO 3 estimated the time between him seeing the dog on the affected person to getting a handcuff on him as being about 20 seconds. He stated he did not use any force on him other than pulling his arm out from under his body and putting it in a “chicken wing” behind his back.

Information from the Affected Person

The affected person was interviewed by IIO investigators. He stated that on February 4, 2013, he had been moving his belongings to a new residence.

He acknowledged running from the police by the train tracks and jumping the fence into the parking lot of the Temple. He was aware the police had deployed a dog. When he was running, he had his hands at his sides in a normal running action and stated his hands were empty. He said he could hear the dog behind him while he was running. When he fell to the ground, he immediately spun himself around to face the oncoming dog which he then grabbed around the neck.

The affected person described holding the dog between his knees and holding the dog's jaw. He had the dog in "kind of a headlock" and the dog was trying to bite at his neck and chin. He took hold of the dog by the jaws, grabbing its upper jaw in his right hand and its lower jaw with his left. He had done this to prevent the dog from biting him. He held the dog off while the officers came running up. His expectation was that officers would remove the dog from him once they arrived.

The affected person stated that as officers approached, they were yelling at him to stop: "and I was already stopped, I was already sitting down because I fell. That was when the dog was trying to bite my face and I grabbed its head."

He stated that officers were about 20 feet away from him and the first officer to reach him kned him in the head, knocking him back. At the same time, a handcuff was applied to his left wrist. The affected person reported that the officer, who had kned him, also had one knee on his head and the other on his back. The affected person was facing to his right and the dog, which had not been removed, had now grabbed on to his right hand.

"I was already subdued and on the ground and then a few of the other cops were stomping on my legs...and the dog was chewing on my arm and they let the dog sit there and chew on my arm while I was already subdued and they could have brought the dog off my arm right away but they were letting it chew on my arm for about three minutes...while I was screaming and yelling and they kept on saying 'quit resisting' and like how can I be resisting when I am already on the ground with you guys all jumping on me."

The affected person stated an officer came to the dog and was tapping it on its side while the dog was chewing on his hand. The officer then removed the dog. After the dog was removed, an officer said "see what happens when you run." The affected person indicated he was in too much pain to respond – that he could barely walk out of the bushes: "They're making me walk and I keep falling down and they're picking me up."

The affected person was subsequently charged with multiple counts related to driving while prohibited, obstructing a police officer, dangerous driving and possession of a controlled substance. He was sentenced to three months in custody and received a three year driving prohibition.

REASONS

I have to consider the information provided by the affected person as well as the information obtained from the eleven police officers from Mission RCMP; Upper Fraser Valley Integrated Police Dog Service and the Abbotsford Police Department. I also considered the radio broadcasts and CAD relays.

The affected person acknowledged that he was running from police and that he knew that a police service dog had been deployed. He acknowledged struggling with the dog by grabbing

the dog by the neck between his legs and holding the dog by its jaws. Although the affected person acknowledged that he had the dog in “kind of a headlock,” he expected the officers to remove the dog once they arrived at his location. He alleged that the officers allowed the dog to chew on him for about three minutes while he was screaming and yelling.

Witness officer 1 asserted that the dog had a hold of the affected person’s hand for only 10 to 12 seconds, from the time the dog went into the bushes to the time the officers applied the handcuffs. During that time, he stated that although the affected person said he was willing to give up, he kept his left arm under his body. According to the witness officer, the subject officer (and dog handler) directed the affected person to lie down and put his hands out. Ultimately, after the affected person complied with those demands, the dog was pulled off of him and “we were able to control his hands and handcuff him without incident.” Witness officer 1 heard the subject officer say “off” to his dog, the dog released and then the dog was pulled away.

Witness officer 2 described that it took about 30 seconds to get to the affected person’s position after hearing him yelling “get your dog off me.” He said the affected person was lying on his stomach; the dog had a hold of his right hand, he did not know the location of the affected person’s left hand. Witness officer 2 estimated that this dog had a hold of the affected person’s hand for less than a minute in total and that it took approximately 15 seconds for the subject officer and handler to remove the dog through a combination of commands and pulling.

Witness officer 3 also stated that when he saw the affected person being engaged by the dog, his arm was tucked under his body and that officers were yelling at him very loudly to “show us your hands.” Witness officer 3 stated that he approached the affected person and pulled his left arm out from underneath him while the dog was biting his right hand. Witness officer 1 assisted in handcuffing the affected person’s left hand. At that point, witness officer 3 stated the dog “must have released” because someone was able to put the handcuff on the affected person’s right hand as well. Witness officer 3 estimated that the time it took from seeing the dog on the affected person to getting a handcuff on him was about 20 seconds.

The affected person’s actions that night supported the deployment of police service dogs to ensure his immediate apprehension while minimizing the risk to pursuing officers. In addition, based on the evidence presented, it appears to me that the subject officer likely removed his PSD from the affected person at the earliest possible opportunity. Given the information that was available to police, the subject officer was justified in not removing the dog until the affected person’s hands were visible.

Radio communication establishes that police contact with the affected person was made at or near 1:33:05 a.m. By 1:34:39 a.m., a request for emergency medical assistance was made. It is reasonable to conclude that officers would not be calling for emergency medical assistance until after the dog was removed and the affected person was in physical custody. As such, it is reasonable to conclude that the dog’s contact with the affected person was for a period of less than 94 seconds.

The affected person alleged that while being taken into custody, officers unnecessarily stomped on his legs. The affected person's medical records were reviewed and while he complained about general soreness to the legs, hips, shoulders and back, there was nothing in the medical records which supported the presence of leg injuries and thus the use of excessive force.

DECISION

Based on the evidence obtained during the course of this IIO investigation, I do not consider that any officer may have committed an offence in relation to the pursuit and apprehension of the affected person. Therefore the IIO will take no further action in relation to this case.

Submitted this 27th day of August, 2013 by

Richard A. Rosenthal
Chief Civilian Director
Independent Investigations Office of BC

Attachments:

- #1: Photograph depicting path of Affected Person from first police attempt to stop to arrest location.
- #2: Photograph depicting path of Affected Person, on foot, to include location of arrest.



#1: Photograph depicting path of Affected Person from first police attempt to stop to arrest location.



#2: Photograph depicting path of Affected Person, on foot, to include location of arrest.