



PUBLIC REPORT OF THE
CHIEF CIVILIAN DIRECTOR

Regarding the serious injuries sustained by
an adult male on August 23, 2013, involving
the Prince George RCMP.

IIO 2013-000045

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 an investigation into the injury of an adult male that occurred on August 23, 2013, in Prince George. The affected person sustained serious injuries after he was bitten by a Police Service Dog (PSD) under the control of the Royal Canadian Mounted Police (RCMP).

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 have considered the advice provided by the Information and Privacy Commissioner. In this report, I will not be using the name of the affected person or of any other person involved in this matter.

At the time of his injury, the affected person was 21 years old.

NOTIFICATION AND JURISDICTION DECISION

Shortly after midnight on August 23, 2013, a Prince George RCMP officer and his PSD encountered the affected person in a public park. After a reportedly non-confrontational verbal exchange, the affected person allegedly punched the police officer in his chest. The PSD immediately responded by bringing the affected person to the ground and biting him.

A review of the affected person's medical records revealed that he sustained bite-related injuries to his groin area, which required hospitalization and multiple stitches. The IIO asserted jurisdiction after confirming that his injuries met the statutory definition of "serious harm".

INVESTIGATIVE EVIDENCE CONSIDERED

IIO investigators interviewed the affected person, the Subject Officer (SO) and two Witness Officers. There were no civilian witnesses to the incident.

Information was also obtained from the affected person's medical records and a review of RCMP radio and Mobile Data Terminal transmissions.

Affected Person

IIO investigators contacted the affected person on August 25, 2013. He provided a general description of his injuries but was unable to provide details relating to the incident. He gave consent to IIO investigators to review his medical records.

Interview of Subject Officer

The subject officer (SO) submitted to a voluntary interview with IIO investigators. He stated that on August 23, 2013, he entered a park in the City of Prince George to allow his PSD out of the vehicle to "stretch his legs". He chose that location because the park was closed at that time of night and he could allow the PSD to go off leash. The SO advised that he was in full police uniform at the time.

He stated that just after midnight, the PSD was wandering off leash in the park when the PSD indicated to the SO that there was someone in the park. The SO put the PSD on a six-foot leash and continued their walk. He found the affected person lying on the ground. He believed that the affected person was intoxicated and described him as wearing only underwear and a t-shirt. The SO stated that he used his portable radio to request a general duty officer assist him in transporting the affected person to a shelter, as his vehicle was equipped with a kennel for the PSD and therefore not suitable for transporting individuals.

The SO stated that he approached the affected person to rouse him. He stated that he identified himself as a police officer and informed the affected person that he was not under

arrest or in any trouble; that he just wanted to get him into an area shelter. According to the SO, the affected person was agreeable to the offer of a ride to a shelter. The SO assisted the affected person to his feet and walked back towards his vehicle with him. The SO had the affected person sit on the rear bumper of his vehicle and asked him to wait while he put his PSD in the back.

According to the SO, he opened the rear driver-side door of the vehicle so the PSD could enter the kennel in the back. He stated that when he closed the door to the vehicle, he turned towards the rear and the affected person punched him in the chest. The SO stated that he took a step or two backwards to stop himself from falling, and when he did so, his PSD immediately exited the vehicle.

The SO stated that the PSD brought the affected person to the ground and bit him in the groin area. The SO stated that although training dictates that a police dog handler leave a PSD on a suspect until the suspect is safely restrained, when he saw that the PSD had the affected person in the groin area, he commanded the PSD to release. He put the PSD back in the vehicle and then handcuffed the affected person.

The SO noted that PSD's are trained to bite in order to protect their handlers.

Interviews of Witness Officers

Witness officer 1 (WO1) reported that he was riding with witness officer 2 (WO2) in a two-person car that night. He heard the SO call for assistance and report that there had been a dog bite. He stated that he and WO2 were the first officers to arrive on scene. When he arrived, he observed the affected person handcuffed, on his stomach. He noted that the affected person appeared to be highly intoxicated.

He stated that the SO told him he had arrested the affected person for assaulting a police officer. After the SO checked the affected person for injuries, he called for Emergency Health Services to attend. After a short while, however, they made a decision to transport the affected person to hospital.

Witness officer 2 (WO2) stated that he was with WO1 when he heard the SO call on the radio for a general duty member to attend and assist with transporting someone. Shortly after the initial radio transmission, he heard the SO radio that he had been assaulted and his PSD had bitten someone. He and WO1 attended the park, and upon their arrival, he saw the affected person lying on his stomach, handcuffed behind his back. The SO informed them that the affected person had punched him. His PSD had jumped out of his vehicle and bitten the affected person.

WO2 recalled it was about five degrees Celsius and when he sat the affected person up, he realized the man was shivering. He also noticed that there appeared to be blood in and around the affected person's groin area. When the affected person started to shiver uncontrollably,

WO2 decided not to wait for the ambulance, placed the affected person into his police car and transported him to hospital.

Medical Records

According to medical records, the affected person's blood-alcohol content at the time of his admission to hospital was consistent with significant intoxication. Medical records also confirmed that he received multiple stitches for bite-related injuries.

Radio and Mobile Data Terminal Transmissions

The following radio/MDT communications were reviewed for the purposes of the IIO investigation:

- 12:17:15 a.m.: The subject officer reported that he was "out with a male" at the park
- 12:18:24 a.m.: The subject officer requested a unit for transport
- 12:23:29 a.m.: The dispatcher checked on the subject officer. He responded: "10-4"
- 12:24:31 a.m.: The subject officer reported: "There was an assault PO [police officer] and a dog bite." Dispatch asked the SO if he needed EHS [Emergency Health Services]. He replied, "I don't think so. He just (inaudible) at me and the dog jumped out of the truck at him." [barking could be heard in the background]
- 12:25:25 a.m.: The witness officers radioed that they would respond to the call
- 12:26:07 a.m.: The witness officers reported that they were at the scene
- 12:27:32 a.m.: Witness officer 1 requested "routine EHS" for a minor dog bite and stated: "This fellow is very intoxicated."
- 12:30:53 a.m.: The subject officer radioed: "We're just going to transport this fellow to the hospital by ourselves."

ISSUES

The general issue in any IIO investigation is whether or not there is reason to consider that a police officer may have committed an offence under any enactment.

In this case, I considered specifically whether the SO allowed his PSD to unnecessarily engage the AP or failed to disengage the PSD from the AP in an appropriate manner. If the injuries were the result of an unreasonable use of a PSD, the SO could be liable for the offense of assault, assault causing bodily harm or aggravated assault. Culpability for an officer's use of force is governed by the following *Criminal Code* provisions:

1. Any police officer who uses force "is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess" (Section 26).

2. A police officer 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.” (Section 25(1)).

ANALYSIS

The subject officer indicated the affected person punched him in the chest while he was in full uniform and attempting to assist the man in getting to a shelter. The subject officer stated that his PSD was obeying commands to get into the vehicle when the affected person punched him, and that the dog reacted to protect his handler. The subject officer stated that he promptly restrained the PSD when the affected person no longer posed a threat.

The subject officer’s account describes neither the use of excessive force against the affected person, nor any carelessness for his wellbeing.

Independent evidence corroborates some details of the subject officer’s account: hospital records and other officers confirmed the affected person’s intoxication; the other officers confirmed that the affected person was wearing light clothing on a cold night; and radio calls confirmed that the subject officer’s first reaction was to request transport for the affected person, with no mention of any intent to arrest.

No evidence suggests that the subject officer did anything different than he described. The affected person could provide no differing explanation of the events. Finally, the investigation found no evidence to contradict the subject officer’s account in any significant detail.

CONCLUSION and DECISION

Based on the evidence obtained during the course of this IIO investigation, I do not consider that the subject officer may have committed an offence in relation to his PSD’s actions. Therefore, the IIO will not refer this case to Crown counsel.

Prepared for Public Release this 7th day of November, 2013

Richard A. Rosenthal
Chief Civilian Director
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