



**IN THE MATTER OF THE SERIOUS INJURY OF A MALE  
IN AN INCIDENT INVOLVING MEMBERS OF THE  
VANCOUVER POLICE DEPARTMENT IN  
THE CITY OF VANCOUVER, BRITISH COLUMBIA  
ON MARCH 21, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019-056

Date of Release:

September 26, 2019

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## **Introduction**

On March 21, 2019, officers with the Property Crime Unit of the Vancouver Police Department (“VPD”) executed a search warrant at a third floor apartment on East Hastings Street in Vancouver. The suite’s tenant vacated the suite and told officers that the Affected Person (“AP”) in this case was still inside. AP did not respond to the door, so after a warning a Police Service Dog (“PSD”) was sent inside, on a leash. There was no indication of any contact between the dog and AP, but when officers entered the suite they discovered that AP had exited through the window and had fallen to the parking area below, where he was found severely injured. Because of the connection between his injuries and the actions of police, 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 AP and another civilian witness;
- statements of eight involved police officers;
- VPD surveillance report;
- police Computer-Aided Dispatch (“CAD”) and Police Records Information Management Environment (“PRIME”) records;
- Closed-Circuit Television (“CCTV”) recordings from inside and outside the building where the incident occurred;
- 911 line and police radio audio recordings;
- examination and photographs of the scene;
- copy of a search warrant for the address at which the incident occurred; and
- Emergency Health Services records and other medical evidence.

## **Narrative**

On the afternoon of March 21, 2019, VPD officers conducting a property crime investigation went to a low-rise apartment building in Vancouver’s Downtown East Side to execute a search warrant. The tenant of the suite targeted by the warrant was Civilian Witness 1 (“CW1”), whose boyfriend (AP) was present in the suite at the time. Eight officers, including two dog handlers, were in attendance. One officer was stationed in a location with a view of the rear of the building to watch for AP. Many of the movements of officers both inside and outside the building were captured on CCTV video.

At first, there was an extended period during which officers knocked on the apartment door and tried unsuccessfully to open it with a master key (video shows the officers staged outside the door, waiting, and one of the dog handlers joining them with a PSD on a leash). After a while, a female (CW1) called through the door that she would open the

door but needed to get dressed first. She finally opened the door, partly clad, and was led away by an officer. She informed police that AP was in the suite.

Officers then called into the suite through the partly open door, ordering AP to come out. They were concerned, because of the lack of a response, that they might meet resistance upon entry, so warned AP that if he did not show himself the PSD would be sent in.

When there was still no response, the PSD was let into the apartment, controlled by its handler on a leash (interior video does not capture movement inside the apartment). The apartment is extremely small, but the dog failed to make contact with anyone inside. Officers entered, and found the suite empty and the window open. As they did so, Witness Officer 1 ("WO1"), the surveillance officer at the rear, informed them by radio that he had seen AP exit through the window and fall out of sight (within a few seconds of the police entry, interior video shows a number of the officers running down the stairs from the third floor to attend at the rear of the building).

AP was subsequently discovered lying motionless and unconscious on his back in the fenced rear yard of the property. Rows of anti-pigeon spikes from the outside window sill of CW1's suite were lying on the ground below the window.

WO1 described to investigators having heard, through the open window, the exchange between CW1 and police in the hallway, and then seeing AP's head and shoulders appear in the window. He said he saw AP quickly climb out and swing around as if he was preparing to drop feet first. He then saw AP fall out of sight, but could not see how he landed, inside the enclosed yard.

The latter part of AP's fall is captured by exterior video. He is seen to fall facing away from the building, landing partly face down, partly on his left side, with his arms extended as if to break the fall. He then rolls to his left onto his back and becomes motionless. Police are seen gaining entry to the locked rear area and attending to AP.

AP was taken to hospital, where he was treated for complex facial and skull fractures, a brain bleed, pelvic fractures, fractured left shoulder, fractured ribs and fractured right wrist. No injury consistent with any interaction with a dog was noted.

### **AP's Complaints**

When he was interviewed by IIO investigators, AP told them that when police had entered the apartment, they "smacked [him] in the head and assaulted, whatever. There were dogs there, right? And then I woke up a month later in the Vancouver Hospital." He said he believed he had tried to hide under the couch, but had been dragged out and kicked and punched in the face. He acknowledged struggling with his short-term memory.

## **Legal Issues and Conclusion**

The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to the incident that led to AP's injuries.

As noted above, AP has made allegations that attending officers caused his injuries in the apartment by unjustified kicks and punches, but the objective evidence of the CCTV video establishes beyond any doubt that those injuries were caused by AP jumping or falling from the third floor onto the ground.

The real question, then, is whether any officer caused AP to fall from the apartment window by the use of inappropriate or excessive force, or in any other unjustified manner.

The officers were in lawful execution of their duties, with a valid search warrant. When AP failed or refused to come to the door or show himself within the suite, it was reasonable for them to be concerned about potential dangers to them upon entry. Given those concerns, using a PSD to clear the space by locating any occupants was an acceptable tactic. There is no suggestion that the PSD attacked or threatened AP, and he has not made that allegation.

Because AP's memory of the incident appears to have been largely erased, presumably by the head injuries he suffered, it is not possible to know what he intended by climbing out through the window. What we do know is the result. And the officers involved cannot be blamed for that result, since it evidently flowed from AP's own inappropriate response to the lawful acts of the police.

Accordingly, as the Chief Civilian Director of the IIO, I do not consider that there are reasonable grounds to believe that any officer may have committed an offence under any enactment and therefore the matter will not be referred to Crown counsel for consideration of charges.



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

September 26, 2019

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