



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
THE CITY OF VANCOUVER, BRITISH COLUMBIA
ON FEBRUARY 4, 2020**

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

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

IIO File Number: 2020-033

Date of Release: September 14, 2020

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Introduction

On February 4, 2020, police officers responded to a report of a group of twenty to thirty individuals causing damage and laying debris on rail tracks in Vancouver. Officers challenged the Affected Person ('AP') and a female companion, who they saw placing items on the tracks. Both suspects ran away and hid, and a Police Service Dog ('PSD') handled by the Subject Officer ('SO') was used to search for them. When they were located, they ran off and were warned that the dog would be sent after them if they did not stop. The female stopped and was arrested, but AP continued fleeing and attempted to crawl away through bramble bushes. The PSD apprehended him and was taken off once AP was safely in custody. AP suffered serious injuries in the incident, so 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 one civilian witness and four witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- 911 call audio recording;
- Closed-Circuit Television ('CCTV') video from the site;
- photographic evidence; and
- medical evidence.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, SO did not participate in an IIO interview, but permitted access to his PRIME report. AP did not provide any evidence to the IIO.

Narrative

At a little after noon on February 4, 2020, CN Railway staff called for assistance from Vancouver police to deal with a group of individuals vandalizing railway tracks. When officers arrived, they found railway workers clearing the tracks and a group of people who had apparently caused the damage, walking away.

Officers then saw AP and a female associate, both wearing face masks and hoods, throwing large pieces of debris onto the tracks nearby. Seeing police, both individuals fled through a previously damaged fence and disappeared. The assistance of a PSD was requested to locate and apprehend them.

Witness Officers 1 and 2 ('WO1' and 'WO2') spotted the pair, and saw them run back through the fence onto the railway right-of-way. The two officers and SO with his PSD followed through the fence and saw AP and the female running away along the tracks.

SO shouted several times that they were under arrest, and to stop running or the dog would be released. They did not stop, so SO released the PSD.

The female suspect told IIO investigators that she did not hear a warning about deployment of the PSD, though she acknowledged hearing commands shouted by police, saying she did not understand them. She did, however, stop as the dog approached her, and she was taken into custody. AP did not stop, and tried to escape by climbing through bramble bushes. He was caught in the bushes by the PSD, which bit him and held on until AP could be safely taken into custody by officers.

AP was found to have suffered injuries to his groin area, and was taken to hospital. He was diagnosed with significant injuries to his genitals as well as bite marks on the left hand and some lacerations and puncture wounds to the right leg.

Legal Issues and Conclusion

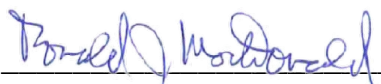
The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death.

AP was observed committing the criminal offences of mischief and being masked with intent to commit an indictable offence, and was arrestable for those offences. The offences themselves created a serious potential danger, as debris on or damage to railway tracks can cause significant issues for railway traffic. Police had a duty to stop that risky behaviour, and in this case that meant arresting the culprits. AP not only took steps to conceal his identity with his clothing and a mask to avoid subsequent apprehension, he then fled to avoid arrest. Had he escaped, he would have been free to continue the behaviour. As a result, it was appropriate that police did what they could to stop AP at that time. In these circumstances, the use of the PSD, an intermediate force option, was appropriate and proportionate. Otherwise it is very likely AP would not have been apprehended. It is important to note that often contact with a PSD does not lead to serious harm. The particular facts of this case, including that AP was crawling over bramble bushes when the dog reached him, led to these particular injuries.

On the evidence, it is clear that AP was warned that the dog would be employed if necessary, and indeed the female suspect's actions demonstrate that she was aware that it was not wise to continue fleeing. If AP had simply stopped as ordered, he would not have suffered injury. His decision to continue escaping resulted in the contact with the PSD.

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

A handwritten signature in blue ink, reading "Ronald J. MacDonald", written over a horizontal line.

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

September 14, 2020

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