



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN THE CITY OF BURNABY, BRITISH COLUMBIA
ON JULY 19, 2020**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2020-173

Date of Release:

February 11, 2021

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INTRODUCTION

In the early morning hours of July 19, 2020, RCMP members responded to a domestic assault complaint at a residence in Burnaby. The Affected Person ('AP') left the home and was tracked by the Subject Officer ('SO') with a Police Service Dog ('PSD'). In the course of his arrest, AP was seriously injured by the PSD. 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, two other civilian witnesses, seven first responders (firefighters and paramedics), and two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recording of a 911 telephone call;
- recordings of police radio transmissions;
- Fire Department records;
- residential Closed-Circuit Television ('CCTV') videos;
- photographs of the incident scene;
- RCMP policies and officer training records; 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 has not provided any evidence to IIO investigators.

NARRATIVE

Just before 1:00 a.m. on July 19, 2020, police received a 911 call from the residence of Civilian Witness 1 ('CW1'). CW1 did not speak directly to the 911 operator, but she and AP could be heard arguing heatedly. Items of information passed to responding officers included an allegation that the home had recently been the scene of a domestic assault, and that AP was subject to a court-ordered condition that he neither contact CW1 nor be at her residence.

When police came to the front door, AP later told IIO investigators, he left through the rear, as he did not want to be arrested. Officers set up containment around the area, and received a description of AP, including details of the clothing he was understood to be wearing at the time.

Video cameras at nearby homes recorded AP running along a back alley, and then walking into a grassy area between two apartment buildings, approximately one hundred metres from CW1's home. A wooden fence separated the area from the alley. At 1:33 a.m., AP can be seen to walk back towards CW1's home, and then return to the grassy area behind the fence.

When patrols of the area failed to locate AP, officers requested assistance from a police dog and handler. At 1:37 a.m., CCTV recorded SO jogging along the alley behind his leashed PSD. The PSD was in 'search mode', so was on a longer leash. Witness Officer 1 ('WO1'), assigned to cover the dog and handler as they tracked, followed several metres behind SO. At the same time, AP can be seen moving across the grassy area behind the fence. The video recording shows that the PSD suddenly ran from the alley around a large bush and made contact with AP.

WO1 told IIO investigators that as he followed the PSD and SO around the bush, he saw AP standing on the grass, not hiding but difficult to see because of the low light. He said he heard SO shout, "Hey, you're under arrest!" At the time, WO1 said, AP was standing with his hands by his sides. WO1 could not tell whether the dog was intentionally deployed, but said it "got on" AP, "on front of his body".

The PSD maintained its hold on AP while he was being handcuffed, a process that was prolonged to some extent by an initial delay in WO1 providing assistance to SO. WO1 told investigators that he did not immediately assist because he thought SO was sufficiently in control. WO1 estimated that the dog was biting AP for approximately ten to fifteen seconds. AP later told investigators that the dog maintained its grip on him for up to twenty seconds.

AP was attended to initially by firefighters, and then transported to hospital by Emergency Health Services paramedics. He was found to have suffered serious dog bite injuries to his genitals requiring extensive surgery.

LEGAL ISSUES AND CONCLUSION

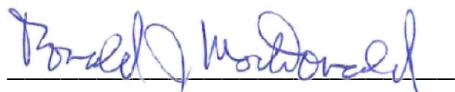
The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death. More specifically, the issue to be considered in this case is whether SO may have committed an assault offence by using the PSD as a weapon against AP. If SO was acting as required or authorized by law, on reasonable grounds, he was justified in using as much force as was necessary. Use of unauthorized or excessive force, on the other hand, could result in criminal liability.

The attending officers were clearly acting in execution of their duty in searching for AP and arresting him. He was apparently in breach of a court-ordered 'no go' condition, and the circumstances raised serious concerns of ongoing domestic conflict if he were not taken into custody and prevented from re-entering CW1's home. They therefore had authority to use necessary and reasonable force to affect that arrest.

The evidence of WO1 could be taken as suggesting that deployment of the PSD against AP when he was encountered was unnecessary, as he was described as simply standing with his hands by his sides. The video evidence, however, demonstrates that the interaction occurred very quickly and in a manner that would have been completely unexpected to SO. AP was moving away across the grassy area as the officers arrived in the alley on the other side of the fence, which would have obscured their view of him (the video is taken from an elevated position, with a sight-line over the fence). It appears that AP stops and turns as the PSD encounters him on its long leash, but it is doubtful that SO would have had an opportunity to restrain the dog in time to give AP an opportunity to surrender peacefully.

It is unfortunate that AP was bitten, and particularly unfortunate that he was bitten in a manner that caused a very significant injury. The only reasonable conclusion from the evidence, though, is that this was the result of the trained reaction of a PSD to bite when suddenly encountering a tracked suspect in the dark, and not of a conscious decision by SO.

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.



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

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