



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN THE DISTRICT MUNICIPALITY OF SQUAMISH, BRITISH COLUMBIA
ON DECEMBER 13, 2020**

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

Chief Civilian Director:	Ronald J. MacDonald, Q.C.
IIO File Number:	2020-305
<u>Date of Release:</u>	<u>May 27, 2021</u>

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INTRODUCTION

On the evening of December 13, 2020, police responded to a 911 call about a violent domestic incident at a hotel in Squamish. The Affected Person ('AP') was pointed out to officers as the perpetrator of an assault, but fled when told that he was under arrest. He went into a wooded, swampy area nearby, and a call was made for a Police Service Dog ('PSD') to be brought in to track him. The Subject Officer ('SO') and a cover officer went into the swampy area, and the dog bit AP on the arm when it located him. AP was arrested and transported to hospital.

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 paramedics and four witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of 911 calls and police radio transmissions;
- photographs and examination of the scene; and
- photographs of injuries and other 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 declined to provide any evidence to the IIO.

NARRATIVE

Affected Person

AP told IIO investigators that on the evening of December 13, 2020, he was leaving the Executive Suites Hotel at Squamish after having had "an argument". He said he did not know where he was going, but saw a gas station off to the right and "decided to cut through there" to use the phone. He said he quickly found that he had stumbled into a swampy area where the cold water was "neck deep". Then, finding a small area of firmer ground, he "decided to just wait there, and the police showed up at that time". He said that "there was a dog off-leash", so he ran from it. The dog, he said, "grabbed onto my arm, and doesn't let go". AP stated that the dog was biting him, unattended, for "a minute and half" while officers joked and laughed as he screamed in pain.

AP was taken to hospital, where he was treated for puncture wounds to his arm requiring surgery (no other signs of trauma were noted). Medical records indicate that he appeared to be intoxicated when admitted, and that he initially claimed that his girlfriend had bitten his arm, subsequently acknowledging that it had been a dog.

The Scene

The Executive Suites Hotel in Squamish is set back to the east from Tantalus Road, which at that point runs north-south, closely paralleling the Sea to Sky Highway, which is to the west. A narrow strip of woodland lies between the Highway and Tantalus Road. To the east, the area on all sides of the hotel and its parking lot is bushy and swampy with large areas of open water amongst the vegetation. The parking lot is in front of the hotel, and there is a short driveway connecting the parking lot westward to Tantalus Road. Tantalus is built up significantly above the swamp, so that there is a steep embankment down from the road into the swamp. The nearest gas station in AP's direction of travel is approximately one and a half kilometres away to the northwest.

Police Evidence

911 line recordings show that at 11:25 p.m. on December 13, 2020, Squamish RCMP received a complaint that AP had broken down the door of a guest room in the hotel and was being "very violent" in a confrontation with his ex-girlfriend. The caller said that the ex-girlfriend was "saying 'help' upstairs". The caller also said that AP was "throwing everything off the balcony". The connection was then cut off. When the police call-taker was able to reconnect, the complainant said that AP had come down from the room, had "thrown" her friend "on the ground", and was now running away with a drink in his hand. She said AP was "in the parking lot", and gave a description of his clothing.

Responding officers were warned by Dispatch that AP had a criminal record for assault offences and was flagged as violent. They were advised that at the hotel he was reported to have committed offences involving assault and property damage.

Witness Officer 1 ('WO1') told the IIO that when he arrived at the hotel, he received similar complaints in person, and AP was pointed out to him. He said AP was walking westward on the driveway from the parking lot. WO1 stopped his police vehicle about twenty feet behind AP, exited the vehicle and called to AP to stop, and that he was under arrest. WO1 said that when he called out again, AP turned his head, made eye contact, and then ran.

WO1 radioed that AP was fleeing northbound on Tantalus Road and requested assistance from a dog handler with a Police Service Dog ('PSD'). When WO1 drove out onto Tantalus, AP had disappeared, so had evidently turned either west into the woods or east into the swamp.

While WO1 held a containment position, WO2 and WO3 drove around the area for several minutes, searching for AP, but without success. WO2 described conditions on this December night as "pitch black" and cold (the temperature was about one degree Celcius). At 11:42 p.m., SO, responding to the call for a dog handler, advised that he was

coming but was about forty minutes away. Meanwhile, WO1 and WO3 both heard “cracking” noises coming out of the swampy area to the east, between the road and the hotel, and suspected that AP might be trying to get back to the hotel.

By this time, WO2 had spoken with the three female complainants at the hotel and had received details of assault allegations against AP. He had also observed the damaged hotel room door, further damage in the room and, on the deck below, a chair and a blanket that had apparently been thrown out of the window (he was told that a television had also been thrown out, but could not see it). WO2 reported to other members that AP was believed to be intoxicated, and that he was not believed to be in possession of a weapon or a phone. WO2 also confirmed that AP was arrestable for assault, mischief and obstruction of a peace officer.

WO3 told IIO investigators that the situation was ideal for a dog track. Police had an exact location where AP had last been seen and the area had not been “contaminated” by other people walking through it. WO1 stated that he felt it was appropriate to use the PSD to track and apprehend AP for the safety of civilians at the hotel but also for AP’s own safety, as he was understood to be drunk and lost in the woods on a cold dark night.

SO arrived at seventeen minutes past midnight. WO1 told investigators that he saw SO enter the swampy area with his PSD on a leash and with WO3 accompanying him as his “cover”. WO3 described the conditions she found herself in: she was quickly waist-deep in water, with her firearm submerged, and it was so dark that she had difficulty seeing SO and the black PSD ahead of her, her flashlight not throwing sufficient light in the gloom and underbrush. She said she then saw AP approximately fifteen or twenty feet from her, and called out to him that he was under arrest.

WO3 said that SO and the PSD were to her left when AP came into view, and suddenly she felt the dog bite her left leg. She shouted “real bite, real bite!” to alert SO, and felt the dog release its hold on her leg. She said the dog then bit AP on his right forearm, and estimated that the bite lasted for ten to fifteen seconds before the officers were able to reach AP and arrest him. WO3 said that when she and SO entered the swamp, the PSD was on the leash. Asked whether the dog was still leashed at the time it bit her and AP, she responded that she did not know.

WO2 told investigators that he did not see SO or WO3 in the swamp, but heard barking, WO3’s voice apparently giving commands, and a male yelling. Three minutes after SO and WO3 entered the swamp, WO3 advised by radio that she had “one in custody”.

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 used unauthorized, unnecessary or excessive force by deploying the PSD against AP during the arrest. If he 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.

By the time SO became involved, police clearly had reasonable and probable grounds to arrest AP, based on allegations and physical evidence of assault and mischief to hotel property. Further, all involved officers were lawfully authorized to use necessary and reasonable force to effect that arrest. The circumstances, though, made it impracticable and inadvisable for them to try to locate and apprehend AP by simply wading into the darkness, hoping to stumble upon him: AP had a record for violence, was believed to have committed offences of violence that night, and had hidden himself in the midst of a thick, dark, swampy area that would have made it close to impossible for a small number of officers on foot to find him without the assistance of the tracking dog. It was also in AP's interests to locate him quickly, as he was out in the bush, soaking wet on a freezing winter night, and was at risk of hypothermia. Provincial policing standards permit the use of a PSD to track and apprehend a fleeing or hiding suspect where circumstances make that necessary, and the use of the dog in the circumstances of this case was necessary and appropriate.

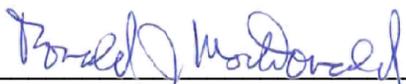
In AP's narrative, the dog was off-leash and therefore not under the control of its handler. AP also says, as detailed above, that the officers joked and laughed for about a minute and a half as the dog maintained its bite and he screamed in pain. If those allegations were credible, they would arouse serious concerns, but AP's account of the incident appears to be unreliable. He was evidently intoxicated at the time, which may have affected his later recollections. He was able, though, to provide a clear (albeit implausible) explanation for why he was found by police hiding in the swamp: while the evidence shows that he had plunged off the road down a steep embankment into pitch-dark bush and icy neck-deep water, he claimed that he did so to take a short cut to go to a gas station (the nearest one of which is about a kilometre and a half away in the opposite direction).

The only other evidence about whether the PSD was on-leash comes from WO1, as WO3 was not able to say whether the dog was leashed or not, and SO has not provided an account to the IIO. As mentioned earlier, WO1 told the IIO that the dog was leashed when he observed it at the start of its track. It would be highly unusual and rather impractical for a dog handler to release his PSD unleashed into an area such as the one where these

events unfolded, and the only reasonable conclusion is that SO was following his dog on a tracking leash in this case. Even with a leash, though, wading through deep water and mud in almost total darkness it would have been extremely difficult for SO to maintain complete control of the PSD, as is demonstrated by the fact that the dog initially bit WO3 before being called off. The same circumstances would likely have made it difficult for SO to know that the PSD was encountering AP and to have time to issue warnings to the suspect that he would be bitten if he did not immediately surrender, as required by the provincial policing standards.

In summary, there is no reason to conclude, on the evidence as a whole, that the PSD was deployed improperly in this case, or that it was left to bite AP for any longer than was reasonably necessary to permit officers to reach him and take control of him. There is no evidence that he was bitten more than once, and no evidence that any other force was used against him by any officer.

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

May 27, 2021

Date of Release