



**IN THE MATTER OF THE INJURY OF A MALE  
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP  
IN THE CITY OF RICHMOND, BRITISH COLUMBIA  
ON SEPTEMBER 3, 2020**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2020-224

Date of Release:

May 5, 2021

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## **INTRODUCTION**

Shortly before 5:00 a.m. on September 3, 2020, Richmond RCMP members attended at a construction site in response to a call from a guard who reported he had seen an intruder in the unfinished building, via a security video camera. Officers tried repeatedly but unsuccessfully, using calls on a loudhailer, to have the suspect exit the building peacefully. Police were not aware of his identify at the time, but the suspect was the Affected Person ('AP') in this case. The Subject Officer ('SO'), a dog handler with a Police Service Dog ('PSD'), then entered. The dog found AP where he was hiding, and he was bitten and injured during the apprehension. 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 from two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- a Closed-Circuit Television ('CCTV') recording of the incident;
- recordings of police radio transmissions;
- RCMP policies;
- BC Provincial Policing Standards;
- SO's 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 did not provide evidence to the IIO.

## **NARRATIVE**

At about 4:46 a.m. on September 3, 2020, Richmond police received a report from a security guard that an individual had broken into a construction site. AP had been monitored remotely via security cameras entering unfinished condominium buildings, and was still inside when officers arrived.

Police set up a perimeter around the site, and two officers entered in an attempt to search for AP on foot. Finding that the area was too large and complex, they decided to call for a dog handler with a PSD to assist. Meanwhile, CCTV footage shows AP concealing himself under an unfinished stairwell in one of the buildings. It can also be seen that the searching officers passed close to AP's hiding place, using flashlights, without noticing him or causing him to relocate.

At about 5:16 a.m., police began issuing warnings that if AP did not come out and surrender, he may get bitten by a police dog. There was no response. Witness Officer 1 ('WO1') told IIO investigators that warnings were being broadcast from a location only a short distance from where AP was eventually found, so he would certainly have been able to hear them.

At about 5:34 a.m. SO, accompanied by WO1, began a systematic search of the site with his PSD. The PSD was on a long leash, in search mode. After only about two minutes, the PSD can be seen on CCTV footage locating AP where he is hiding in the stairwell. The dog can be seen to push its head into the enclosed space and then pull AP partly out. SO disengages the dog and WO1 effects the arrest. WO1 told investigators that he could see the PSD was biting AP somewhere on his upper body but could not determine the exact location of the bite. He said that AP told SO "You can take the dog off". The CCTV video shows that the maximum time the PSD could have been in contact with AP was approximately 32 seconds, and WO1 estimated that the dog was released by SO after only about 15 seconds, as soon as AP showed his empty hands.

AP was arrested and transported to hospital, where he was treated for a serious dog bite to his right ear.

BC Provincial Policing Standards for the use of a PSD permit their use for tracking criminal suspects and apprehending them by biting. They are permitted to bite in circumstances where the suspect is fleeing or hiding and there are reasonable grounds for their immediate apprehension. A warning must be given before a PSD is deployed to bite a suspect.

AP did not provide a statement to the IIO.

## **LEGAL ISSUES AND CONCLUSION**

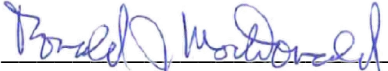
The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death. More specifically, the issue to be considered in this case is whether SO may have committed any offence by the manner in which he deployed the PSD.

There were clear grounds for the arrest of AP at the time SO arrived at the scene. He had been witnessed entering a closed, restricted area with the apparent intention of committing a property offence. The attending officers, including SO, were therefore authorized to apprehend AP and to use necessary and proportionate force in doing so.

The evidence demonstrates that initial attempts to locate and arrest AP were made, but the circumstances of the site made those attempts futile. The partly-constructed buildings were dark, cluttered and extensive. All the police could determine was that AP was still in the construction site, with no apparent intention of surrendering and ample access to 'weapons of opportunity' if he chose to pick up a tool or piece of building material. The use of a PSD to track and find AP was therefore reasonable and necessary. AP had clearly hidden himself very effectively, as officers had already searched around his hiding spot without finding him. AP was given ample warnings that the dog would search for him, and that it might bite if it found him. It would have been sensible and appropriate at that point for him to show himself and surrender, but he did not.

The video shows that the PSD essentially stumbled on AP and engaged him before he would have been visible to SO. As soon as it was apparent that AP had empty hands, with no weapon, the dog was released, as was proper. In fact, the use of the PSD overall in this case was proper and reasonable, and consistent with the Provincial Standards. There is no evidence that the arresting officers were anything but calm and professional, and no other force was used in AP's arrest.

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.

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

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