



**IN THE MATTER OF THE INJURY OF A MALE  
WHILE BEING APPREHENDED BY MEMBERS OF THE  
VANCOUVER POLICE DEPARTMENT IN  
VANCOUVER, BRITISH COLUMBIA  
ON JULY 17, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2021-189

Date of Release:

January 28, 2022

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## **INTRODUCTION**

In the early morning hours of July 17, 2021, the Affected Person ('AP') and another male were apprehended by the Subject Officer ('SO') and his Police Service Dog ('PSD') while allegedly committing a residential break-and-enter in Vancouver. Both males were bitten by the PSD in the course of the incident, and the injuries to AP were serious enough to meet the jurisdictional threshold for an investigation by the Independent Investigations Office ('IIO'). Accordingly, the 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, three other civilian witnesses, four paramedics and four witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- Closed-Circuit Television ('CCTV') recordings from a private residence;
- audio recordings of 911 calls and police radio transmissions;
- forensic scene photographs;
- photographs of injuries to the two males;
- Vancouver Police Department policies;
- B.C. Provincial Standards for the deployment of Police Service Dogs;
- 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 provided access to his duty report on PRIME.

## **NARRATIVE**

At 4:30 a.m. on July 17, 2021, Vancouver police received a 911 call complaining that two males had broken into a residence and were still inside. The homeowners were away, but had been alerted to the break-in via a live video feed from the home. At about the time officers arrived, though, video coverage was lost because the intruders had disconnected the cameras.

AP and his companion, Civilian Witness 1 ('CW1') saw that police were outside, and that they had a PSD with them. They decided to hide in the house, AP upstairs and CW1 in a crawl space downstairs.

SO and his PSD, together with Witness Officer 1 ('WO1'), were able to gain entry into the residence, and commenced a search for the suspects. Both officers later stated that loud warnings were given, that the intruders could be bitten by a police dog if they did not show themselves. In his statement to the IIO, CW1 agreed that he heard officers demanding that he and AP surrender, but said he did not hear anything about the dog.

The officers initially passed by the location where CW1 was hiding, and made their way upstairs. The PSD barked at one bedroom door in particular, and SO entered with the dog on a short leash. WO1 told the IIO that he then heard "a commotion" from the room.

In his account of that "commotion", AP told IIO investigators:

*They discovered me in a surrendered state cowering inside of a closet. I was on my hands and knees in a closet. And when they opened the door and discovered me, I was like "I surrender, I surrender, please don't let the dog attack me, please don't let the dog attack me." The dog wasn't attacking me at first. I had my hand out to the dog because I'm very good with animals. I am very good with dogs and I have had a lot of experience with dogs, right, and they interact very well with me. Like I'm an animal guy, 'kay. So I had put my hand out to the dog and he had sniffed me and was cool. And then they basically loosed--gave him commands to attack me and to continue to attacking me. And it got to a point that I thought they were just maybe they were going to latch on once and then I went limp. I tried to just comply, ok I realized they are going to let him bite me so I tried to give in and I tried to do what they wanted. But the dog just kept on attacking me and biting me in different places . . . [arm, this arm, leg, back, and head] . . . several several times this dog attacked to me. And then, I started to defend myself, because I got the dog between my legs in a scissor hold and I grabbed both sides of his jaw, just to hold his mouth open, right. And the dog was helpless to do anything against me at this point. Then the police were angered by this and they started to kick and punch me and I was afraid they were going to pull out their guns and shoot me. So I let go of the dog. And they made me turn over and they just let dog chew on me. They just like loosed him again and let him go to town. And I feared for my life and so I let the dog go.*

In his PRIME statement, SO gave a different account:

*[The PSD] immediately lunged into the closet, making contact with a person that was hiding inside of the closet underneath a large amount of clothing. [The PSD] made contact with the suspect's right leg. The suspect who was later identified as [AP] immediately began punching and kicking [The PSD]. [SO] gave [AP] commands to stop fighting the police dog and to show his hands. [AP] continued to fight with the dog. [SO] extracted [AP] from the closet into the open floor area in which he could be safely arrested. [AP] put his legs around [The PSD's] neck and began to choke him with his legs in a triangle choke. [The PSD] appeared to lose his ability to breathe as a result of the choke hold and released [AP's] right leg. [AP] continued to hit*

*and punch [The PSD] on the ground. [SO] observed that [AP] was continuing to actively fight with police in an attempt to evade arrest. [The PSD] re-engaged with [AP] making contact with his left tricep area. Once [The PSD] was on [AP's] arm other police members were able to gain control of [AP] and place him into custody. [SO] removed [The PSD] from [AP].*

WO1 told the IIO that, upon hearing the commotion in the bedroom, he entered the room and saw AP sitting with his legs around the PSD, which was biting him in the lower body area. He said that AP punched, pushed and choked the PSD until it released its bite, but that it then re-engaged and bit AP on the arm. WO1 said he was telling AP he was under arrest and to stop fighting, but could not remember if SO was giving commands. He said he gave "one or two" knee strikes to AP's shoulder and grabbed AP's arm to stop him punching the PSD. At one point, WO1 said he heard AP say, "I'm done", and felt him stop fighting. At this point, he said, the dog was taken off by SO. Three other officers, who had heard the noise from outside, came upstairs and assisted in completing the arrest.

Meanwhile, downstairs, CW1 heard AP screaming in pain for "three or four minutes", and heard an officer saying, "Stop resisting". CW1 told IIO investigators that he considered trying to escape at this point, but was frozen with fear. He had hidden himself in the back of a crawl space accessed via a small door under the stairs, and he had locked the door from the inside.

At 5:09 a.m., WO2 radioed, "The guy out front here, that we have in custody, says there is possibly one more in the basement". SO replied that he and WO1 were going to start the search again, from the basement.

CW1 heard the officers coming for him:

*I was petrified. I was in a little ball in that crawl space, trying not to like breathe or move or anything. But I know I was sweating my ass off. I figured it was going to find me. They said to themselves they knew there was one more and they came downstairs. It turned out one of the officers had keys to the house, not sure why. But he opened up the utility door with the key and didn't say anything about the dog. And as the dog came in I said, "I'm here, I'm here, I'm here. I'm surrendering". They didn't acknowledge that and the dog it just came at me. It bit me on my shoulder first. I managed to push it away after I got it off my shoulder and push it against the wall of the staircase. And I got him into a submissive mode. He wasn't laying down or anything, but just the way I had his neck pinched against the wall, and not even in a way that was hurting him. He stopped and the officer stuck his head in the crawl space and basically made me let go of the dog before he would call the dog off. As soon as I let go of him, he was yelling for the dog to attack, essentially pushing the dog ass end, pushing him further on top of me so he could get a better angle or something, I don't know. Maybe*

*because I was able to hold of him, and the dog bit me so hard in the leg where I received most of the damage. Like the look on that officer's face of such satisfaction and enjoyment from watching—like knowing what was happening to me ... was absolutely disgusting and terrifying ... I am screaming and begging to have him take the dog off me, and he won't do it and is just continuing to conflict damage on me. Eventually, he did pull the dog away and I proceeded to crawl out from out of there ... I was quite clear in surrendering and there was nowhere for me to go.*

SO's PRIME statement described the interaction in this way:

*[SO] observed [the PSD] indicate by barking on the threshold of a door that lead underneath the stairs. The door appeared to be locked and was very small. It appeared that if someone had climbed over the water heater they could potentially get into the area in which [the PSD] had indicated. [SO] visually cleared the area to see if he could see anyone inside, and was very loud in letting anyone in the area know that it was the police. [SO] could not see anyone in the area but could not clear the entire space due to the confined space. [SO] sent [the PSD] in through the small door. [the PSD] engaged with a male who was hiding in a very small confined area under the stairs. [SO] was able to use his leash to assist [the PSD] in bringing the male to an area that [SO] could actually fit into safely. [SO] crawled under the stairs and observed that [the PSD] had engaged with a suspect who was later identified as [CW1]. [The PSD] had engaged with [CW1's] right leg. CW1 was punching [the PSD] in the head, and gouging at his eyes. [SO] got CW1 to an area in which other police officers could safely assist with taking CW1 into custody, at which point [the PSD] was removed from the bite.*

WO1 told IIO investigators that when the PSD marked at a "small trap door" in the basement, the officers proceeded "properly this time" (WO1 said he felt the arrest of AP had not been as controlled as it should have been, and that the officers had allowed themselves to be "ambushed" by a hidden suspect). WO1 said that he heard nothing from the crawl space before the PSD was sent in to search. The dog, he said, went into an area at the rear of the space, into which the officers could not see. He said he heard the PSD engage with someone and saw SO crawl cautiously through the door on his hands and knees. Both officers, he said, were giving commands to the suspect not to fight the dog.

WO1 said that he then saw SO come out of the crawl space with the PSD, followed by CW1 who came out unaided. SO, said WO1, was keeping the dog far enough away from CW1 that it would not re-engage. WO1 said that CW1 was then handcuffed without further significant use of force.

AP suffered a large dog bite to his left tricep, as well as dog bites to his head, both forearms and left calf. CW1 was found to have bites on his right shoulder and on his lower left leg, as well as minor wounds to his hands.

## **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 against either AP or CW1 (through the use of the PSD) in the course of their arrests.

The involved officers were acting in lawful execution of their duty in responding to a call about a residential break-in. The use of a PSD to assist, in these circumstances, is consistent with policing standards and was a reasonable approach to searching a darkened home for unknown suspects.

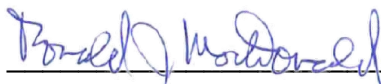
The manner in which AP and CW1 were apprehended by the dog when found, though, was either reasonable or unreasonable, depending whether one accepts their accounts or the accounts of the officers.

AP's account, set out above, seems implausible. The initial interaction with the PSD that he describes is more consistent with a friendly meeting on the street than with an apprehension by a police dog in a dark closet. In this jurisdiction, Police Service Dogs are trained to bite when coming upon a hidden suspect, not to sniff at his fingers. SO's description of the dog's immediate lunge and bite is far more consistent with the manner in which PSDs are trained and behave, and so is the more credible version of the event. AP and SO agree, in their statements, that AP was fighting the PSD as it dragged him from the closet, his legs locked around its neck, and it appears that the multiple bites he suffered were inflicted in the course of a significant struggle against apprehension by the dog. The knee strikes that WO1 described using to gain control over the struggling AP were not an unreasonable use of force in the circumstances, and did not cause any harm to AP.

With respect to AP's injuries, then, there are insufficient grounds to conclude that either SO or WO1 committed an offence by using unnecessary or excessive force during the arrest. If AP had not "surrendered" by hiding in a closet, but rather had given himself up openly as soon as police entered the house it is highly unlikely he would have suffered any injury at all. Given AP's acknowledgement that he resisted apprehension by the dog through assaultive actions, his injuries could have been exacerbated by this effort, which makes it impossible to say the force used by SO through the PSD was excessive in the circumstances.

The allegations of AP and of CW1 are essentially similar, and the two did acknowledge that they had discussed their accounts before attending for IIO interview. Like AP, CW1 asserts that he “surrendered” as soon as he was discovered, and that the dog was intentionally set on him to bite repeatedly despite that. The description of the incident provided in the accounts of SO and WO1 appear to be more consistent with police practice, and are more credible. CW1’s injuries appear to be consistent with the dog having discovered him and bitten, and then having dragged him from his hiding place by his leg as he fought it. There was no other significant use of force 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.

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

January 28, 2021  
Date of Release