



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
VANCOUVER, BRITISH COLUMBIA
ON NOVEMBER 5, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, K.C.

IIO File Number:

2021-304

Date of Release:

November 23, 2022

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INTRODUCTION

Just before midnight on the night of November 5, 2021, police responded to a 911 call about an attempted break-in at an apartment building in East Vancouver. Within a few minutes, a suspect, the Affected Person ('AP') in this case, was found acting suspiciously in the area of the reported break-in. AP was challenged by officers, but started to walk quickly away. The Subject Officer ('SO') released his Police Service Dog ('PSD'), which bit AP in the lower leg and brought him to the ground, where he was handcuffed and arrested by other officers. AP suffered a serious dog bite injury, 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 two civilian witnesses, two first responders and six witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of 911 call and police radio transmissions;
- civilian witness video recordings taken shortly after AP's apprehension;
- medical evidence, including photographs of AP's injuries taken at the scene.

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 account to the IIO, and neither has AP.

NARRATIVE

At 11:42 p.m. on November 5, 2021, Vancouver police received a 911 call from the resident of an apartment building on East Pender Street, saying that he had been the victim of an attempted residential break-in. The caller said he had been able to repel the intruder, and gave a description of the male.

Several officers responded to the area, and at 11:51 p.m. there was a police radio transmission to the effect that the "dog guy" (SO) was challenging a suspect (AP). Radio reports indicated "multiple call outs" to AP, but he was "not getting on the ground". In less than a minute, the report "Dog's on" was recorded, and AP was said to be fighting the PSD. 23 seconds later, there was a call of "Dog's off", and paramedics were requested. Shortly after this, an officer is recorded saying that AP had been challenged, but had "continued to walk away".

IIO investigators interviewed all the involved officers, other than SO, and were given a substantially consistent account of AP's apprehension by those who witnessed the interaction between the PSD and AP.

The evidence is that AP was found walking around a mixed residential/commercial area near the scene of the reported attempted break-in, going into the rear of buildings, climbing over a fence and trying to force entry through a doorway. Told by officers to stop, he responded "Fuck off" and walked away. SO approached him with the PSD on a leash and warned him that if he did not stop he would be apprehended/bitten by the dog. AP was described variously as walking away "quickly", "in a haste", "with purpose" and "not running but certainly walking faster and faster".

SO deployed the PSD, still on a long leash, and the dog ran after AP, bit him in the lower leg and took him down onto the ground. AP was struggling, but was restrained and handcuffed by police, who began first aid and summoned paramedics. Officers' estimates for the length of time before the dog was taken off varied from "five to ten seconds" to "ten to fifteen seconds, possibly less".

A fire truck arrived before paramedics, so AP received care first from police officers on scene and then firefighters, before being transported to hospital by ambulance. He had suffered very serious wounds to his lower left leg that had caused the loss of over a litre of blood. His wounds were closed with multiple staples.

Unfortunately, there were no civilian witnesses to the deployment of the PSD, but witnesses who observed the aftermath of the incident expressed concern about the delay in response by Emergency Health Services.

LEGAL ISSUES AND CONCLUSION

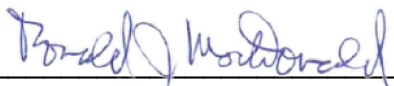
The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death. More specifically, the issue to be considered in this case is whether SO may have committed an assault by using unauthorized, unnecessary or excessive force against AP. Unjustified deployment of a PSD would amount to an assault with a weapon, and because of the serious injury, SO's act, if unjustified in law, would also be an assault with a weapon and an assault causing bodily harm or an aggravated assault.

Deployment of a Police Service Dog against a suspect is considered an intermediate level of force, and is only justified in limited circumstances. That limitation is appropriate, given the very real potential for serious injury from a dog bite, well illustrated in this case. B.C.'s

Provincial Policing Standards note that “the potential for a dog bite is inherent in every deployment” and also that injuries from such bites “can be substantial and serious”. Because of those concerns, the *Standards* require that police dog bites “must be minimized as much as reasonably possible”, and that the dog must be removed from the bite “as soon as possible”. The *Standards* contemplate permissible uses of police dogs as including apprehending suspects who are fleeing or hiding, where there are “reasonable grounds for their immediate apprehension by a police dog bite”.

In this case, police had reasonable grounds to believe that AP had just been foiled in an attempt to break into occupied residential premises in the middle of the night, and their observations of him gave reason to believe he was intent on continuing with such serious criminal activity. It was not unreasonable in these circumstances for officers to be cautious about the possibility that he might be armed, and his behaviour when challenged indicated that he was likely to be uncooperative or physically resistant. His actions in moving hastily away from police amounted to flight, or at least the precursor to flight. While it could be argued that officers may well have been able to chase down and take AP into custody without the use of the PSD, it was not unreasonable for SO to take the decision to deploy the dog to prevent AP, who was suspected of serious criminality, from escaping into the darkness. The evidence is that AP was given multiple warnings to stop or be bitten, and he chose to refuse. The resulting injury was unfortunate, but cannot be said to be the result of an unreasonable or excessive use of force 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, K.C.
Chief Civilian Director

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