



**IN THE MATTER OF THE SERIOUS HARM OF A MALE  
WHILE BEING APPREHENDED BY MEMBERS OF THE VANCOUVER  
POLICE DEPARTMENT IN  
VANCOUVER, BRITISH COLUMBIA  
ON JANUARY 27, 2022**

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

Chief Civilian Director:	Ronald J. MacDonald, K.C.
IIO File Number:	2022-012
Date of Release:	November 30, 2022

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## **Introduction**

On the afternoon of January 27, 2022, a Vancouver Police Department ('VPD') officer was called to arrest the Affected Person ('AP') who was in violation of his parole conditions. The AP ran away from the officer and a search for him started, which led to a police service dog being deployed. AP was taken into custody with lacerations to his arm from the use of the police service dog.

Because the injury occurred in connection with the actions of police officers, 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 four witness police officers;
- statement of AP;
- Police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- PRIME duty report of Subject Officer ('SO');
- recordings of police radio transmissions; and
- medical records of AP.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, the Subject Officer provided his PRIME duty report to IIO investigators.

## **Narrative**

On January 27, 2022 at 1:39 p.m., staff from a residential facility contacted the Vancouver Police Department ('VPD') and advised that the Affected Person ('AP') had a warrant out for his arrest, and he was located at the facility. It was alleged that he had violated one of his parole conditions.

Witness Officer 1 ('WO1') was first to arrive to the residential facility. He spoke to AP and told him that he was under arrest. AP was smoking at the time, so WO1 told him that he would be going to jail and allowed him to finish his cigarette. WO1 said that during this initial conversation with AP, he had no concerns regarding AP's compliance. WO1 told AP the police van was on its way and then he would be handcuffed and taken to jail.

AP told IIO investigators that he got scared because of his prior history with police and "*took off*" from WO1. He fled on foot down the street, and WO1 lost sight of him. Other

members attended the area including the Subject Officer ('SO') and his police service dog.

AP said that he ran a few blocks, and then jumped over a four-foot-high fence into a backyard. He then laid down in an area for about half an hour. AP said he was talking to a friend on his phone. AP stated he was just going to lie there and see how things worked out because he was "gassed".

WO1 chased AP down the street and transmitted his location over the radio to other officers. Witness Officer 2 ('WO2') called in the police dog unit to assist with locating AP.

The Subject Officer ('SO') arrived with his police service dog (PSD) and began tracking from where WO1 last saw AP. He followed the PSD into the pathway of a backyard of the residence where he saw AP.

AP said that he was lying on his back when he heard the PSD go by. He said he made the decision to call out, and that he raised his arms. He said that before SO was fully past him, he called out "*I'm here, I'm good*". AP said he was lying on his back with his arms straight above his head. AP stated that SO looked over the fence, met eyes with AP, pulled back on the PSD's leash and then helped the PSD over the fence.

AP said that the PSD started ripping at his arm and AP shouted for the officer to get the PSD off because he was already on the ground. AP said that other officers arrived, and AP was squirming, trying to move around and get the PSD off him. As the other officers were getting over the fence, they were shouting at him to get on his stomach.

SO's account differed in some ways from AP. SO said that he was on patrol when he heard a dispatch that police assistance was needed to arrest a person at a residence who was wanted for a Canada wide warrant. SO went to the location to assist after AP had fled. SO believed that AP was hiding in the area to avoid being taken into custody and believed him to be motivated not to be arrested. SO viewed AP as a safety risk to the public and believed him to be a dangerous offender in need of immediate apprehension.

SO said that he moved his PSD to track AP and located AP in a tight space between two houses. When PSD bit AP's arm, SO said that AP was concealed from SO's view by a wooden fence. As PSD was biting AP's arm, SO adjusted his position and observed AP lying down on the ground, hiding behind a four-foot wooden fence on the property. SO said that he told AP that he was under arrest, and to get on the ground and lie on his stomach.

SO said AP began fighting with the PSD and hitting its face. He said that AP also attempted to flee again, running into the fence and climbing on top of it. He said that the PSD had grabbed AP's arm, which prevented AP from fleeing any further.

Several officers arrived and saw AP struggling with the PSD. Witness Officer 3 ('WO3') said that when she arrived, she overheard SO tell AP "*don't pull, that can make it worse*", referring to the struggle between AP and the PSD. WO3 said that several officers assisted in handcuffing AP. AP was then stood up by the officers and moved towards the police vehicles.

WO3 said that she overheard AP remark; "*that wasn't fair you put the dog on me. If it had been just you and me it would have been a fair fight and I would have out run all of you*".

Paramedics were called and AP was taken to hospital for his injuries. On the way to the hospital, Witness Officer 4 ('WO4') said that AP "*called us cheaters, for having used the dog and he could have out run any of us*". AP was treated for lacerations to his arm with muscle and tendon damage. A plastic surgeon was consulted on the damage to AP's arm, but no surgery was required.

IIO investigators canvassed the neighborhood but were not able to locate any additional witnesses to the incident that were willing to provide statements.

### **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 offence by deploying the PSD on AP that caused injury. If an officer is acting as required or authorized by law, on reasonable grounds, they are justified in using as much force as necessary. Use of unauthorized or excessive force, on the other hand, could result in criminal liability.

In these circumstances, the officers were acting lawfully, in execution of their duties when they arrested AP for being in breach of his parole conditions. AP was wanted on a Canada-wide warrant. AP ran from WO1 in an attempt to evade police and ended up hiding in the back yard of a residential neighborhood. This escalated the risk that AP posed.

AP and SO were consistent in their accounts that AP was laying on the ground in the back yard and they were unable to see each other when the PSD tracked him there. It

was reasonable for the SO not to see AP in the first instance, as he was lying on the ground in a small narrow space and there was a fence in between them.

Although AP said that he had given himself up at that point, this account does not accord with the other evidence from witness officers who saw him fighting with the PSD once they arrived. It also does not accord with the later evidence from officers who heard AP say in two separate instances that he would have “out run” officers, but for the dog deployment.

The BC Provincial Policing Standards set out the framework for the use of PSDs by police officers in British Columbia. PSDs are permitted to be used when an individual is fleeing or hiding and there are reasonable grounds for their immediate apprehension by a police dog bite.

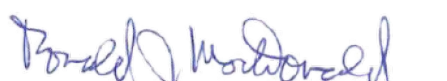
PSDs are considered “intermediate weapons” in the context of police use of force. BC Policing Standards permit the use of PSDs for apprehending suspects, but state that *“police dog bites must be minimized as much as reasonably possible and must be proportional to the risk posed to the handler and others”*.

In this case, AP was both fleeing and hiding from police. The SO knew that he was wanted for breaching his parole and had fled from police during his initial arrest. It is reasonable for SO to believe that AP needed to be found, and quickly controlled, given the risk that he potentially presented to others in his attempt to escape.

There was a fence between the narrow space where SO was and where the AP was located. It would have been difficult for the SO to call out and move around the fence to try to lay hands on AP to arrest him by himself. The SO was the only officer present at the point of initial contact and a PSD was used so AP could not continue his escape.

It was both necessary and reasonable, in those circumstances, for AP’s compliance to be obtained by using a PSD to physically hold on to him until he could be handcuffed safely. Once AP was under control and in handcuffs, the PSD was removed from AP.

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, K.C.**  
**Chief Civilian Director**

November 30, 2022  
**Date of Release**