



**PUBLIC REPORT OF THE  
CHIEF CIVILIAN DIRECTOR**

Regarding a fatal officer-involved shooting on  
April 9, 2015 involving the  
Vancouver Police Department

IIO 2015-00061

## INTRODUCTION

The Independent Investigations Office (IIO) is responsible for conducting investigations into all officer-related incidents which result in death or “serious harm” (as defined in Part 11 of the Police Act) within the province of British Columbia. The Chief Civilian Director (CCD) of the IIO is required to review all investigations upon their conclusion, in order to determine whether he considers “that an officer may have committed an offence under any enactment, including an enactment of Canada or another province” (see s.38.11 of *the Police Act*). If the CCD concludes that an officer may have committed an offence, he is required to report the matter to Crown counsel. If the CCD does not make a report to Crown counsel, he is permitted by s.38.121 of the *Police Act* to publicly report the reasoning underlying his decision.

In this public report, the CCD includes a summary of circumstances that led to the IIO sustaining jurisdiction and a summary of the findings of the investigation.

**This is a public report related to a fatal officer-involved shooting on April 9, 2015 in Vancouver, B.C. A 26 year-old male was shot by an on-duty officer of the Vancouver Police Department (VPD) and died at the scene of the shooting.**

Pursuant to s.38.11 of *the Police Act*, RSBC 1996 Chapter 367, the CCD has reviewed the concluded investigation. The CCD does not consider that any officer may have committed an offence under any enactment and will not be making a report to Crown Counsel.

In this public report, the CCD is only permitted to disclose personal information about an officer, an affected person, a witness, or any other person who may have been involved if the public interest in disclosure outweighs the privacy interests of the person. Prior to disclosing any personal information, the CCD is required, if practicable, to notify the person to whom the information relates, and further, to notify and consider any comments provided by the Information and Privacy Commissioner (s.38.121(5) of the *Police Act*). The CCD has considered the advice provided by the Information and Privacy Commissioner. In this report, the CCD will not be using the name of the affected person or the name of any other person involved in this matter.

## NOTIFICATION AND JURISDICTION DECISION

The Independent Investigations Office (IIO) asserted jurisdiction in this case after the affected person was shot by a member of the VPD in the late afternoon of April 9, 2015. The affected person died at the scene of the shooting.

The interaction with VPD occurred on the street and sidewalk of the 400 block of Gore Avenue in Vancouver’s Downtown East Side after several people had called police to report a stabbing in that area.

Three police officers arrived at the scene and confronted the affected person who was the suspect of the assault. Witnesses said the affected person was seen to be holding a knife in his right hand. The officers were heard yelling at the affected person to drop the knife and to get on the ground. The affected person was reported to be non-compliant and Witness Officer 2 (WO2) fired shots

from a less lethal beanbag shotgun at the affected person. After being struck by the beanbag rounds, the affected person then rushed toward the officers at which time the officers retreated and WO2 fired further beanbag rounds followed by the subject officer firing his service pistol toward the affected person.

The affected person went to the ground briefly and got up and ran away from police, towards the entrance of the parkade of the First United Church.

Moments prior, civilian witness 2 (CW2) had entered the area “to see what was going on.” She was told to leave the area by the responding officers and she moved toward a parkade entrance. Almost immediately, the affected person arrived at the parkade entrance where he began to stab CW2. Further shots were fired by the subject officer striking the affected person.

The IIO was notified of the incident by the VPD as the affected person’s death falls within the jurisdiction of the IIO. The purpose of the IIO investigation was to determine whether an officer may have committed any offence during the course of their contact with the affected person.

The IIO has concluded its investigation of this matter. As the Chief Civilian Director (CCD) of the IIO does not consider that any officer may have committed any offence under any enactment, the matter will not be referred to the Criminal Justice Branch for further review.

## **ISSUES**

At the conclusion of any IIO investigation, the CCD is required to consider whether an officer may have committed an offence. If the answer is in the affirmative, a report to Crown counsel must be made.

The legal issue to be resolved in this case was whether the subject officer reasonably fired his service pistol at the affected person which subsequently caused his death. If the death of the affected person was the result of an unreasonable or excessive use of force, the subject officer could be liable for the offences of murder, manslaughter or criminal negligence causing death.

## **TIMELINE**

All of the times in this section are on the afternoon of April 9, 2015. The timeline below was created using 911 dispatch recordings.

5:01:40: 911 call received requesting police at Gore and Hastings for a man with a knife.

5:01:46: 911 call received requesting ambulance at 320 East Hastings St. stating a man has been stabbed.

5:01:58: caller describes a man with a knife and says he is stabbing people.

5:02:00: 911 call received requesting police attend First United church for two people “*beating each other up.*” Caller did not see any weapons.

5:02:16: 911 call reporting a person at Main and Hastings trying to stab people with a knife.

5:02:21: continuation of a previous call – caller says two, three or four people have been stabbed. She describes the man and says he is walking on Hastings and turning south on Gore. She says the knife is about 10 inches long and that the man had the knife in his right hand and then put it in his pocket. One minute and two seconds into the audio file, a male voice says “*We got him on view.*” One minute and 19 seconds into the audio sirens can be heard in the background. At one minute and 29 seconds into the audio, two “*bang*” sounds can be heard in the background. At one minute and 38 seconds more of these sounds can be heard. At one minute and 53 seconds the caller says “*They got the right person, they told me they got him*”.

5:02:38: 911 caller says three people just got stabbed in front of 320 East Hastings St.

5:03:02: 911 caller says three people got stabbed at 320 East Hastings St. 911 Dispatch confirms police are already on the way.

5:03:12: 911 caller reports a stabbing at Gore and Hastings.

5:03:37: 911 caller reports a person at Gore and Hastings stabbing another person. At 26 seconds into the audio the caller says “*Is that a gun?*” The 911 dispatch asks about the gun, and the caller says she is hearing a lot of shots and everyone is running. The caller then says “*The cops are here.*” She says that the shots came from the alley behind First United Church and that police are on the scene.

5:03:39: 911 dispatch receives another call related to the incident. One second into this audio file there is a “*bang.*” Three seconds in there is at least one more “*bang*” sound. Six seconds in there is a voice saying “*Back up, back up, back up.*” Nine seconds in there is another “*bang.*” At 11 seconds there are four louder “*bangs*” then a brief pause then one more loud “*bang*” at 13 seconds. At 20 seconds in there are five more loud “*bangs,*” possibly with some quieter “*bangs*” interspersed. The 10 louder shots are believed to be shots from the subject officer. The quieter shots are believed to be from the beanbag shotgun. The unidentified caller can be heard yelling profanities as this occurs. The caller is asked about what is going on but does not respond.

## **RADIO TRANSMISSIONS**

All of the times in this section are on the afternoon of April 9, 2015. The timeline below was created using recordings of radio-to-radio communications from the VPD.

5:02:34 p.m.: dispatch Tone alert – stabbing in progress at First United Church, 320 East Hastings

5:02:42: (this dispatch audio segment is 16:50 minutes in length) Dispatch reports “a guy with a knife” is stabbing people inside First United church. The subject officer says he is a block away and is less lethal [equipped with a beanbag shotgun]. Witness Officer 3 (WO3) and two other officers say they are heading there. Dispatch says a male suspect wearing all black is walking

westbound. Dispatch says “*Southbound on Gore Street.*” At 38 seconds into this segment a voice says he has “*got him on view.*” Dispatch says “*Copy, (the subject officer) has the male in view.*” 53 seconds into this segment a voice says “*Challenging, he’s in the south lane, eastbound.*” At one minute 25 seconds into this segment Witness Officer 3 (WO3) says “*Shots fired, one male down, code 3 EHS.*” WO3 further reports that a male has been shot and a female victim has stab wounds. WO3 says the “*aggressor*” is in custody. WO3 reports that the stabbing victim may have a gunshot wound. WO3 reports that the female victim has suffered multiple stab wounds. WO3 reports that the suspect was apprehended at the entrance to the underground parkade for the First United Church. WO3 reports that when the affected person was taken into custody he was “*actively stabbing the female victim.*”

5:06:39: dispatch called (duty officer) and advised him that four<sup>1</sup> people have been stabbed at Gore and Hastings and that the suspect has been shot by police. Dispatcher reported a gunshot of unknown origin to a stabbing victim as well.

5:33:43: WO3 stated that the affected person was pronounced deceased by EHS at 5:11 p.m.

## **EVIDENCE CONSIDERED**

Evidence examined in this investigation included statements made by civilians, witness officers; medical evidence; firearms evidence; dispatch records; police radio-to-radio communications and other forensic evidence collected from the scene.

## **AFFECTED PERSON**

The affected person was a 26-year-old male who had recently arrived in Vancouver from Edmonton.

## **CIVILIAN WITNESSES**

### Civilian witness 1 (CW1)

CW1 was interviewed by the IIO on April 15, 2015. He stated that on the day of the incident he was hanging around the area of First United Church on East Hastings Street. The affected person was on a white bicycle and came up to two other males (civilian witness 14 and civilian witness 15). CW1 had the impression that the affected person was being robbed or “muscled” by the other two males, who were eventually stabbed by the affected person. CW1 did not see that the affected person had a knife until he pulled it out and could not remember who was stabbed first but said that he shouted at them and he thinks that allowed one of the males to avoid being stabbed.

CW1 said that after being stabbed, the two males kept trying to confront the affected person who ran off towards Gore Avenue and was chased by the male in the white t-shirt (civilian witness 14). CW1 followed the men into Gore Avenue and a police car arrived.

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<sup>1</sup> The IIO investigation concluded that the affected person stabbed three people, not four.

CW1 directed the police officer towards the affected person. The police officer, who CW1 believed to be holding a handgun, jumped out of the car and told the affected person to drop the weapon. CW1 said the affected person ran over to the alley on the other side of Gore (east side). CW1 said more police were now on scene but he did not remember them arriving or if they had sirens on. CW1 said there may have been about five or six officers who were telling the affected person to drop the weapon. CW1 said that the affected person was standing in the alley when the police shot him with bean bags rounds. CW1 said that the affected person “Did a flex off and like a war cry or something; it didn’t hurt him though.” CW1 said the bean bag rounds had no effect on the affected person; he said “a mosquito bite would have done more reaction.” CW1 said these shots were fired by the officer with the shotgun and he could not remember how many shots were fired.

CW1 said the affected person then went “on the move.” CW1 said there was a woman (civilian witness 2) standing at an entrance to a garage and was not reacting to anything going on around her. CW1 said he thought the affected person was going to go right past the woman and then the affected person gave a twitch and started stabbing her. CW1 said “I don’t know if the gunshots went off while he went for her or like, cos I was just like ‘no’ I screamed and they unloaded on him.”

CW1 said “I believe she got stabbed when they started unloading, that’s what I really truly believe, I may be wrong for some reason I don’t think they were shooting at him when he was on his way to her because they would have gone right through him to her. So when he was on the right hand side of her is when they started unloading on him and you know, I heard a bullet hit her, well that’s gonna happen chances are.”

CW1 said that if the police were shooting at the affected person while he was running it must have been bean bags. CW1 believed this because when the affected person was shot while near the woman, he dropped immediately. CW1 thought that the police were about 10 yards away when they shot the affected person.

CW1 said that from his perspective the police dealt with the situation very well and is not sure what else they could have done in the situation.

#### Civilian witness 2 (CW2)

CW2 was interviewed by the IIO on April 21, 2015.

CW2 stated that on April 9, she was walking with her friend (civilian witness 16). While walking along Hastings Street, CW2 noticed a lot of people running around in front of the First United Church. Specifically, CW2 saw two men that had been injured and were bleeding. The police had just arrived; she heard the sirens. She could also hear the police yelling, “Drop the weapon. Get on the ground.”

CW2 said she ran around the corner on to Gore Avenue, “to see what was going on.” CW2 observed police getting out of their cars and saw one officer with a rifle (or pellet gun or beanbag gun). At that time, there were two or three officers. The affected person was in the alley. The

officers were shooting at him, “pop, pop, like that, he would... every time it went pop he would be like just give them eye glare.”

At this point, the affected person was situated in the alley and police were shooting at him from Gore Avenue. CW2 told police, “You gotta get that guy” and one of the male officers replied, “Get over there, you can’t be standing there.” CW2 then moved over towards the parking entrance to the church. She dropped a \$20 bill and was in the process of picking it up when the affected person ran over to her with a knife and started slashing her. He stabbed her twice. She described the knife as having a six inch blade. CW2 said she was stabbed several times.

CW2 said when she looked at the man as he was attacking her, “He had no eye color, he was like a zombie. Like the devil. And then all of a sudden, bang, there was this big gunshot, bang. And he fell on me dead, and the blood and all that... it was just disgusting. I just started screaming. I was just so scared. And then they pulled me out from under him.”

Police queried CW2 to see if she had been shot – she replied that she didn’t know. CW2 was subsequently transported to hospital where she was treated for her injuries. CW2 had not previously met the man who attacked her.

CW2 said the police “were very nice to me.” She stated, “I’d like to thank that cop that killed him... Because without him getting that lucky shot I wouldn’t be here right now... When I’m up and able and more strength in me, buy a nice dozen roses and a box of chocolates and a card and give it to him. And give him a big hug. Because he saved my life right.”

### Civilian witness 3 (CW3)

CW3 was interviewed by the IIO on April 21, 2015.

CW3 told IIO investigators that on April 9, 2015 he walked over to the front of the First United Church on Hastings Street and observed the affected person chasing two other males with a knife. Most of the confrontation between these three males occurred in front of “Limelife,” a medical cannabis dispensary adjacent to the church on Hastings Street. CW3 indicated that he did not witness the actual stabbings but observed, after the fact, that the male with the hat (civilian witness 15) had been stabbed and the other male who was wearing a white t-shirt (civilian witness 14) had been stabbed in the back. CW3 was standing just a few feet away from the three men during a portion of this confrontation.

According to CW3, the police arrived in three police vehicles. CW3 estimated there were four or five officers. CW3 moved from the front of the church to the side along Gore Avenue where he witnessed the police chasing the affected person, who then ran over to a woman and began to attack her. One of the police officers then grabbed the woman to pull her away from the affected person, who was stabbing her; once the woman was pulled clear, the police shot the affected person. CW3 stated, “The officers didn’t do anything wrong. They did exactly what they were taught to do.”

CW3 initially could not recall the number of shots fired, then estimated hearing six shots. CW3 could not see the woman being stabbed because she was behind the wall leading down to the underground parkade, but he did observe an officer pulling the woman away from the affected person. CW3 recalled that the officer removed the female before any shots were fired. The officer(s) kept saying “stop, stop, stop, stop.” CW3 could not recall the affected person saying anything during the confrontation with police.

#### Civilian witness 4 (CW4)

CW4 was interviewed by the IIO on April 10, 2015.

CW4 was in the vicinity when she heard someone yelling “put it down, put it down;” she looked towards the Church and noticed a man with a knife in his hand. Five police officers surrounded and pointed their guns at the man. A bean bag gun was fired at the man and the police were telling him to: “drop the knife.” The man dropped the knife, then bent down to pick it up. He appeared to move towards the officers and then diverted to the side. The police then moved towards him and shot him five times, at close range. “While he was down on the ground,” at the parking entrance to the First United Church, on Gore Avenue.

CW4 took a video with a cell phone which was provided to the IIO.

#### Civilian witness 5 (CW5)

CW5 was interviewed by the IIO on April 10, 2015.

On April 9, CW5 was having a cigarette outside the First United Church on East Hastings Street when he witnessed an altercation taking place between a number of men. One of the males wore a black vest and dark pants and stabbed another male on the stairwell of the church with a knife held in his right hand. (The male in the black vest with the knife is since identified as the affected person). CW5 described the knife as having a blade six or seven inches long. The handle was black and the blade was silver with some sort of indent or design.

CW5 stated that the affected person then chased him with the knife. CW5 ran across East Hastings Street to the north side and called 911. CW5 saw two unmarked police cars turn off Hastings Street onto Gore Avenue. CW5 ran westbound on Hastings to the northwest corner of Hastings when he heard shots fired on Gore outside the women’s center area of the First United Church. More marked police vehicles arrived with lights and sirens. There were six or seven police cars in total. CW5 heard officers yelling at the affected person and heard a shotgun fire approximately 11 shots that sounded like hard plastic hitting the ground. CW5 did not see any shots fired or any officers’ firearms.

#### Civilian witness 6 (CW6)

CW6 was interviewed by the IIO on April 9, 2015.

On April 9, CW6 was working in the area and at approximately 5:15 p.m., she heard a radio transmission from another employee stating there had been a stabbing in front of the Hastings

entrance to the First United Church. A few moments later, CW6 heard gunshots on Gore. She moved to the window and observed the following:

CW6 saw a male, approximately five feet, eight inches tall, wearing a black jacket and holding a large knife in the alley. The blade of the knife was approximately eight to 10 inches long. CW6 recognized the male (the affected person) from the church.

There were approximately three uniformed police officers with their firearms drawn yelling at the affected person to put the knife down and get on the ground. More officers arrived and also drew their firearms and yelled at the affected person to get down and to put the knife down. CW6 estimated there were 10 police officers, and six police vehicles on Gore Avenue.

CW6 estimated a male uniformed officer shot six rubber bullets from a rifle at the affected person and she saw four of these shots fired. She stated the bullets appeared to “bounce off” and push the affected person further back into the alley out of her view. The affected person came back into her view moving towards the officers as the officers backed up, continually telling him to get down. CW6 said there were other shots fired but she could not tell if they came from handguns. CW6 stated she was aware which shots were fired from the rifle because she saw the officer reloading the rifle.

CW6 stated, “Officer 1 for me was the officer with the rubber bullet rifle. Like, they were all yelling at the suspect to get down. And he’s the one with the rubber bullets. And he shot, and the guy still was coming toward him, he shot again and still coming toward him and shot again. It seemed to me like he shot him probably six times with the rubber bullet and it was like they were bouncing off this guy.”

CW6 stated all the officers were in uniform and were yelling at the affected person but she could not hear if the affected person was saying anything. CW6 stated, “I couldn’t hear actually what he was saying because there was so many shots, right? And, so there was the gun going off, and there was police officers all yelling at him, get down on the ground, get down on the ground, you know, drop your weapon and so I couldn’t hear what the male was saying I could just hear what the police were saying.”

CW6 became concerned for the safety of bystanders on the street, so she began to bring people into the church. CW6 looked to her left and saw the affected person running north on the sidewalk towards her. This was her last view of the affected person. She stated, “At that point he looked like a wild man, just coming...his eyes were bulgey, and he was, you could tell he was running on adrenaline. You know, it was like, it was like he was running for his life type thing.” CW6 did not know what happened to the knife at this point.

As CW6 turned her back to the affected person to assist three individuals into the church and she heard shots being fired. As CW6 ran up three steps to the door she noticed a female lying on the sidewalk. CW6 ran inside and locked the door. She could later see the female lying on the ground bleeding. CW6 stated three or four officers were administering first aid to the female until the ambulance came.

CW6 stated the other officers were shaking and appeared to be supporting and consoling one another. CW6 described that one officer appeared to be very upset and was leaning against a police car being spoken to by another officer. CW6 expressed her opinion that the officers should be commended for their actions and stated that the affected person was not listening.

#### Civilian witness 7 (CW7)

CW7 was interviewed by the IIO on April 9, 2015.

On April 9, CW7 was walking on the southeast corner of Hastings Street and Gore Avenue in Vancouver between approximately 4:30 p.m. and 5 p.m. He had earlier seen a male (the affected person) stab two other males on Hastings Street in front of the First United Church. CW7 stated the “scuffle” continued and the three men turned onto the middle of Gore Avenue. CW7 stated the two men who had been stabbed were trying to get the knife away from the man who had stabbed them. CW7 stated he recognized the men because he had been previously introduced at the church to one of the men (the man who had been stabbed in the shoulder). CW7 stated he could not recall if he had seen the affected person at the church before.

CW7 stated that the affected person appeared distraught and scared and the other two men appeared to keep trying to wrestle the affected person and get the knife away from him.

CW7 described the knife blade as approximately six or seven inches long and not shiny. When the three men moved onto Gore, CW7 saw a west-bound police car on East Hastings to the west of Gore make a u-turn and turn right onto Gore. A large male officer, wearing a vest and duty belt got out of a police car and had his pistol drawn. CW7 stated, “he just pulled up, put it in park and he just got out and pulled his gun out right away and was pointing it. Just yelling, like walking forward and yelling at him to put the knife down.” The affected person waved his knife in the air and did not put it down. The two men who had been attacked by the affected person appeared to still be pursuing him.

CW7 moved his position at this point to the southwest corner of Gore at East Hastings and the affected person moved into the alley behind the church, which obstructing CW7’s view at this point. CW7 stated the officer with the pistol fired a shot towards the alley but he was not sure if the shot made contact with the affected person or if a real bullet had been fired. While the officer with the pistol moved towards the affected person, other police cars and officers arrived on Gore. CW7 saw a male officer with a shotgun fire towards the affected person in the alley. CW7 stated, “I remember hearing the shots being fired but in my mind the shots were, it didn’t sound like real bullets for some reason. The first few, it sounded it was like a fire cracker. I just thought right away it was those fake bullets, the plastic ones or bean bags or something.”

CW7 estimated there were three police cars on Gore Avenue. He could not recall how many other officers arrived. CW7 believed all the officers present had their firearms drawn but he could only say for certain he saw the pistol that was fired by the first officer and the shotgun that was fired by the second officer.

CW7 stated all of the officers were focused on the direction of the alley where the affected person was located. CW7 saw the affected person come out of the alley on the east side of Gore still waving the knife in his hand. The affected person moved north from the alley into an underground parking area at which point a police car blocked CW7's view. CW7 stated he heard two or three more shots. "And then the guy came out of the alley and then he went down towards the underground parking and that's when I heard two or three more shots. And I think the last two sounded like a real gun. And they were still yelling for him to put the knife down."

CW7 did not see a woman being attacked by the affected person nor did he see the affected person being shot.

#### Civilian witness 8 (CW8)

CW8 was interviewed by the IIO on April 9, 2015.

On April 9, at approximately 3 p.m. to 4 p.m., CW8 was walking near the southwest corner where Gore Avenue and the alley that runs parallel to the south of Hastings Street meet. CW8 saw a heavy-set male with a knife (the affected person) wearing a t-shirt underneath an unbuttoned plaid shirt and jeans.

The affected person pulled the knife out from the right side of his body and held what looked like a black leather sheath in his left hand. CW8 was approximately eight to ten feet away from the affected person and described his behavior as "aggressive," and that he was speaking unintelligible sounds. The affected person moved across Gore Avenue towards another man who CW8 described as "the target" of the affected person. CW8 stated a second man was backing away from the affected person who "was continually engaging and chasing the man down. At a fast paced walk, it wasn't really a run."

CW8 stated he did not see the handle of the knife. He stated, "the blade was a wide blade and fairly short and I think there was serration by the base of it. There was some sort of cut out on the back side of the blade." CW8 stated the blade was "disproportionately wide to its length. So I would say it was probably between six and nine inches long."

As the affected person and the second male moved east across Gore towards the alley on the west side of Gore, an officer (the subject officer) arrived on foot and yelled for the men to stop. The officer had his firearm, a 9 mm handgun, drawn and gave more verbal commands to "stop or stop moving or don't move." At this time a patrol car arrived from Hastings Street and another officer (witness officer 2) exited the passenger side and racked a shotgun.

The affected person continued to move towards the second male and the subject officer fired his pistol at the affected person. CW8 stated, "He was holding it in a shooting, shooter's position, extended. Looking down the barrel with both hands on the weapon...He fired one shot, and he hit the guy." CW8 believed the subject officer hit the affected person in the front upper shoulder but could not recall if it was the left or right side. After the subject officer shot the affected person, witness officer 2 fired the shotgun. CW8 stated, "At this point he was in the alley, there

became space between him and his target, ... And he pretty much, he stood there, the shot from the pistol opened him up and yeah, again that's when the officer with the shotgun got him."

The officers moved towards the affected person and continued to yell at the affected person to get down. Witness officer 2 shot the affected person a second time and then the subject officer fired additional shots. The affected person appeared not to be affected by the gun shots that came into contact with him. Two more patrol cars arrived and two more male officers and one female officer entered the area. The five officers formed a type of "firing circle" around the affected person. CW8 indicated there were four handguns and one shotgun aimed at the affected person and more shots were fired at the affected person who moved towards the officers. He did not know how many or from which weapons. CW8 stated, "I believe those shots were rubber bullets. They made very little impact on the man brandishing the knife. He then came after the patrolmen and they started opening fire again, at which point he moved back towards East Hastings on the east side of Gore." CW8 believed only less lethal force had been used to this point because "he was moving just fine." As the affected person moved along the east side of Gore to East Hastings the officers held their fire.

The affected person bumped into a woman (CW2) by a stairwell on the east side of Gore. CW8 stated the woman was a spectator and when the affected person realized she was there, he continued looking at the officers and began to stab the woman. CW8 stated, "I think it's probably pretty telling the fact that he wasn't really staring at her when he was stabbing her. He was staring at the cops looking for reaction. I'm assuming looking for reaction. I don't know why. I don't know behind it. But he was definitely not watching her when he was stabbing her. He was watching the cops...I couldn't see his left arm. I could see his right arm literally stabbing her... coming down with the knife with the blade pointed down."

A patrol car now partially blocked CW8's line of sight to the woman and the affected person. CW8 saw the affected person make three or four stabbing thrusts with the knife in his right hand but he could not see where the blade made contact with the woman. CW8 stated the officers continued to fire at the affected person with what seemed to be non-lethal force because "you could see ammunition hitting him but it wasn't really doing much." CW8 stated he did not witness any lethal force that took the affected person down and thought the woman may have dragged the affected person down when they both fell down behind the patrol car.

#### Civilian witness 9 (CW9)

CW9 was interviewed by the IIO on April 9, 2015.

CW9 was in the vicinity during the incident and heard "a commotion" and looked out the door to see the affected person at the end of an alley. He also saw two police officers with beanbag shotguns. CW9 said there were "a ton of officers on the scene right away."

CW9 later clarified that he initially saw three or four officers. He believed that two of the officers had beanbag shotguns. CW9 described the affected person coming toward the officers who then shot him with beanbags. CW9 later stated that the affected person was "rushing towards the police, like with a weapon." When asked about the weapon CW9 clarified that he

could see something in the affected person's hand but did not know what it was. Other people told him it was "a big knife." CW9 said that the affected person was hit by all the beanbags fired and that they did not seem to have any effect on him. He observed the affected person run past the police and around a corner.

CW9 also later described the affected person's movements as being like a "rhino...like an animal rushing past" and that "whatever those guys were going to do was not going to stop him from doing what he wanted to do." The next thing CW9 saw was the affected person "acting really crazy and then he was on the ground." CW9 did not hear gunshots, just a "loud mass of noise." He did state that music coming from the store he was in was contributing to the overall noise.

CW9 felt that the police did not have control of the situation when the affected person ran around the corner. When asked what made him say that, CW9 said because "he went around the corner and stabbed someone a bunch." CW9 clarified that he did not witness the stabbing but someone told him about it. CW9 did not recall hearing any of the officers saying anything during the incident nor did he hear the affected person say anything.

#### Civilian witness 10 (CW10)

CW10 was interviewed by the IIO on April 9, 2015.

CW10 told IIO investigators he saw the affected person backing into an alley. CW10 observed "a bunch of police vehicles and police officers kind of approaching him very quickly." CW10 referred to two cars, one arriving first and the other later. CW10 thought that there were two or three officers with shotguns and only one with a handgun. CW10 said that more officers arrived after the fact, resulting in eight or ten officers at the scene, maybe more.

The officers stopped in front of the alley which was across the street, adjacent to an empty lot that is directly in front of his store. The affected person was just past the sidewalk in the alley. CW10 noticed that the police had guns drawn. He specifically referred to the presence of shotguns which he said turned out to be beanbag guns. CW10 later said he knew that they were beanbag shotguns when the officers started shooting them. CW10 stated that the affected person and the police were yelling at each other but he could not hear what they were yelling. There were other people yelling from behind the police.

CW10 saw the affected person backing into the alley with his hand up, yelling. CW10 saw the police fire the beanbag guns and observed several of the beanbags hit the affected person but the affected person did not seem to be affected by them. CW10 later said he thought there were four or five shots from the beanbag shotgun. CW10 then observed the affected person pick up a knife from the ground. CW10 said that there wouldn't have been a knife on the ground in the alley so he assumed that the affected person had it in his hand and dropped it, then picked it up again. At that point, the affected person started yelling more and the police also yelled more.

CW10 described the affected person "going towards the police aggressively." CW10 further described that the affected person was stopping and starting, and that the police backed up. After

the police backed up, the affected person left the alley and turned toward the First United Church.

CW10 observed the affected person running with the knife in his hand with the blade pointing down. CW10 then said: "I mean I'm assuming it was a knife; it was, looked like a knife; it looked like how you hold a knife; it was shiny and silvery." He described the affected person as "running and gesturing with the knife at the police." CW10 said the police did not shoot at that point and that they backed away.

When the affected person ran toward the church, CW10 saw that he appeared to notice a woman lying in the opening of the parkade. CW10 had not noticed the woman prior to that time. CW10 said the woman did not seem to be aware of what was going on and that the affected person ran directly to the woman and started stabbing her. CW10 stated that the woman stood up as she was being stabbed and he believed she was stabbed five or six times.

CW10 said that the police did not shoot at that time, but when the woman started falling, the police started shooting. CW10 said the police were shooting bean bags (he again thought there were four or five shots from the beanbag gun) but he thought they were also shooting bullets because the man fell and was not moving. CW10 did not hear any gunshots that he could differentiate from the beanbag shotgun rounds.

CW10 initially estimated that 30 to 40 seconds had elapsed between the first series of shots and the second, and then said it could have been up to 1 minute. He estimated that the entire incident took about two minutes. CW10 observed police roll the man off of the woman and pull the woman away.

#### Civilian witness 11 (CW11)

CW11 was interviewed by the IIO on April 9, 2015.

CW11 is an employee in the vicinity and was walking in the area at the time of the incident. As he crossed Gore Avenue he saw a large number of people near the bus shelter in front of the church. As he approached the entrance to the church, CW11 saw people "starting to scramble." CW11 heard some screaming and shouting and saw that there was an altercation occurring involving three men.

CW11 saw blood and he heard people shouting things like: "He's been stabbed" and "He's got a knife." He saw the affected person with a knife in his hand and estimated the blade of the knife to be six to eight inches in length and 1.5 to two inches wide, later referring to the knife as a hunting knife.

CW11 said that people started yelling at the affected person who was walking down the street towards him. CW11 went into the street and the affected person went past him. Two other men followed the affected person who turned south on Gore Avenue, one of the men who was following the affected person yelled to him that he was going to jail.

CW11 said the police then arrived on scene. CW11 then described a series of events although he was uncertain as to the order in which everything occurred.

CW11 said one officer got out of a police car. He later described a second officer who was on the other side of the vehicle. CW11 was not sure if the second officer had been in the same vehicle. He said that officers drew their weapons; a beanbag gun was brought out and the affected person crossed to the other side of the street. CW11 later clarified that there were three officers, two of them with handguns and one with the beanbag gun. CW11 described all three officers as wearing police uniforms. When asked how he knew what the beanbag gun was, CW11 said he had seen it "lots of times."

CW11 described the officers continuing to yell at the affected person to get on the ground. In relation to the commands issued by police, CW11 said "Everything was very clear. His voice was absolutely clear, direct, loud, easily understandable." CW11 later said that the officers did identify themselves as police when giving commands to the affected person.

CW11 said that the officer with the beanbag gun approached the affected person. CW11 said it appeared to him that the affected person "knew what was coming and he was not surrendering that knife." CW11 stated that the officer with the beanbag gun fired three shots and later estimated that five to ten seconds elapsed between the first shot and the next two shots. CW11 said that the affected person "was not fazed by the first three shots." CW11 described the affected person moving forward and the officer firing several more shots with the beanbag gun (he estimated four). He later estimated that the gap between the second and third group of shots was shorter than the gap between the first shot and the next pair of shots.

CW11 estimated that about five minutes had passed from the time that police first arrived to the time the first shot was fired. He estimated the amount of time between the last shot from the beanbag gun to the first shot with a handgun to be about 30 seconds.

CW11 said the officer with the beanbag gun was in close proximity to the affected person, estimating the distance to be about 3 meters / 10 feet. CW11 later said that the affected person had initially been on the corner of a property at the southeast corner of the alley but had moved into the alley when the first shot from the beanbag gun was fired. When the affected person started moving forward, CW11 thought he was coming straight towards him. CW11 started to run away at which time a third police car arrived. CW11 turned and saw the affected person still coming forward. At that point, CW11 said the police started shooting. CW11 did not know how many shots were fired although he described two separate periods of gunfire. CW11 described initial gunfire as the affected person moved towards the police officers. CW11 saw the affected person get hit and thought there were one or two shots. CW11 said that at that point the affected person changed his path.

When the affected person changed the path of his movement, CW11 described him turning and moving towards the sidewalk. CW11 saw the affected person enter the driveway to a parkade and lost sight of the affected person as he went into the parkade entrance, but he said police were shooting again at that time. CW11 described several shots but was uncertain as to how many. He thought maybe four or five. CW11 thought that both officers with handguns drawn fired at that

time but he was not sure. He recalled that a woman who was bleeding then appeared, he was not sure where from, and sat on the sidewalk. He was then able to tell that the affected person was down.

CW11 felt that all of the people in close proximity to the incident were at risk from the affected person who he believed was not going to surrender his weapon. CW11 said he was scared when the affected person was moving toward him, saying, "I wanted to get the hell out of there because I thought man I don't want this guy anywhere near me."

#### Civilian witness 12 (CW12)

CW12 was interviewed by the IIO on April 10, 2015.

At the time of the incident CW12 was in her office in the vicinity and heard shouting from outside. She looked out the window and saw the affected person wielding a knife. CW12 estimated the blade of the knife to be about eight inches long with a wooden handle. CW12 observed the affected person holding the knife in his left hand and holding his left arm above his shoulder. She heard someone shouting "put down the knife, put down the knife."

CW12 said the affected person was stumbling or staggering then said she would describe his movement as "unconsciously walking backwards." He was moving east up the alley beside the building, lowering the position of the knife so that it was below his waist. She said that the affected person shielded the knife with his forearm so that it would not have been visible to someone in front of him.

CW12 heard more shouts of, "drop the knife, drop the knife." She could see three officers when she looked out the window. She estimated that the officers were about five to six feet away from the affected person. When the affected person stepped back, CW12 saw the officers step forward. She stated that the distance between the officers and the affected person did not change, the officers standing in a triangle with two in the front and one behind them. CW12 was not able to describe any of the officers except to say they were all male. She could not see if any of the officers were holding anything in their hands.

CW12 heard a gunshot, which someone later told her was a beanbag. At the time she heard the shot, CW12 thought it was a regular gunshot and did not know that it had come from police. CW12 heard two more shots at which point she told a co-worker to go downstairs and get everyone away from the windows.

CW12 later clarified that she heard at least four shots in total. She said she heard the second shot as she was leaving her office and the third and fourth shots as she was going downstairs. CW12 did not perceive the sound of any of the shots to be different from each other. She stated that she heard "tons of screaming." including a lot of "get back, get back" from police officers.

CW12 did not witness the affected person stab anyone nor did she see him being shot.

### Civilian witness 13 (CW13)

CW13 was interviewed by the IIO on April 9, 2015.

CW13 stated that on April 9, he was riding a motorcycle traveling south on Gore Avenue. He was crossing East Hastings Street when a marked police car turned into the southbound lane of Gore from East Hastings. The car then rapidly crossed into the northbound lane of Gore and stopped at the entrance to an alleyway. CW13 crossed East Hastings and stopped just south of the pedestrian crossing.

By the time CW13 stopped, two male police officers had gotten out of the police car. One of these officers had a shotgun and the other had his pistol drawn. Two other officers were also present with their pistols drawn. The officers went to the entrance of the alley way and their guns were “fixed on the loud gentleman in the alley.” CW13 saw man in the alley (the affected person). CW13 had a clear view of the affected person. The four police officers with their weapons drawn were facing the affected person at the entrance to the alley who was “a cop car and a half” away from the officers.

CW13 could hear yelling, but he could not hear what was being said. The affected person was “just yelling he was very, very confrontational, very like square on to the . . . police, and they were . . . yelling back.” The police moved toward the affected person, who held his ground. “It sounded like (the police) were trying to . . . get him to stop or . . . do something that wasn’t what he was doing.” CW13 said that the affected person had his hands clenched and CW13 thought there may have been something in the affected person’s right hand. This lasted for less than a minute and CW13 said that it was “fairly heated.”

CW13 then heard a shot from one of the police officers. CW13 could not say which police officer shot. The affected person was hit in one of his legs around the knee. CW13 said that the affected person “buckled a little bit,” but did not back down. The yelling between the police and the affected person continued. There were about four or five shots fired after the first one. CW13 did not see where these shots came from or whether they hit the affected person.

At this point, people in the area started to scatter and more police officers had arrived on scene. CW13 said that there were “quite a few people actually on the sidewalk in the area both at the edge of the parkade that was visible to me where the suspect eventually went to. There’s [sic] people also on the sidewalk on the other side of the van out of my field of vision and also sort of to the right slightly of the van in front of it.”

CW13 lost sight of the affected person, but then caught a glimpse of him as he quickly accosted a smaller woman and forced her into the entrance way to a parkade. CW13’s view of the parkade entrance was partially obstructed by a van and he could not see where the affected person and the woman ended up. CW13 said that they were behind one the walls that were on either side of the parkade entrance.

CW13 then saw the affected person’s “hand come up . . . and back down and there was like a glint of like a blade. Definitely, definitely had to have been . . . in a motion that’s you know, not

the motion you want to see . . . like a stabbing motion.” CW13 said, “it was so fast . . . it just came out from behind and then back down and there was like, sun, there was like, a glint and it’s like ‘oh my god it’s a knife’ and that person is probably getting stabbed . . .” And then that’s when the second kind of like big round of, of gunfire happened.”

There were around six shots fired at this point, but CW13 did not see who fired these shots.

CW13 commented that “this guy was like, just on a mission whatever that mission was, wasn’t good and there was definitely like, a lot of time for him to make another decision about what was going on and there were, you know, they shot him in the leg and were obviously, you know, telling him to stop what he was doing. You know there was a pause, stand-off, warning, the leg, stand-off. What I’m going to guess is warning shots and it just escalated from there and then when this happened it was like, it’s you know, time to finish the situation.” CW13 said he came back to the location and identified himself as a witness because he wanted to state that he did not see anything about the police conduct that upset him.

#### Civilian witness 14 (CW14)

CW14 was interviewed by the IIO on April 15, 2015.

CW14 told IIO investigators he encountered the affected person the day before the incident took place. According to CW14, on that date, the affected person had stabbed CW15. CW14 indicated that the affected person had a big knife. CW14 advised that he approached the affected person and asked what he was doing. CW15 then ran into the church and CW14 observed the affected person running away down an alley behind the church.

CW14 advised that on the day of the incident, April 9, he along with his friend (CW15) had gone to the First United Church at Gore and Hastings for some lunch. They were both outside the steps to the church when “a kid” (the affected person) came along. According to CW14, the affected person started to tell them both to “bow down” to him. CW14 told the affected person that “we only bow down to God” which appeared to have prompted the affected person to pull out his knife. The affected person then stabbed CW15.

CW14 was also stabbed by the affected person’s knife. During this altercation, there were lots of people watching along Hastings Street. At this point, the police arrived so the affected person started running down Gore Avenue towards the back alley. CW14 followed and told the affected person, “Where do you think you’re going? You’re not going anywhere. You stabbed me.” The affected person pointed the knife at CW14 and they moved along Gore, back and forth towards the alley on the west side of the street. CW14 pointed out the affected person to the police when they arrived in two police cars.

According to CW14, the affected person approached a woman on the street and began stabbing her. CW14 pushed the affected person away from the woman, then the police came over and shot the affected person twice with a shotgun, possibly using rubber bullets. The affected person fell down then got up. Police were saying “get down, get down” and “drop it” but he would not stay down.

CW14 said the police then shot several bullets at the affected person who then ran and collapsed after being shot. CW14 opined that the affected person was “not stable.”

When asked about the police response, CW14 said they did okay. “A guy can’t go around stabbing people.”

#### Civilian witness 15 (CW15)

CW15 was interviewed by the IIO on April 15, 2015.

CW15 advised that on April 9, he was standing in front of the First United Church along with his friend CW14. CW14 pointed out a guy across the street that had assaulted CW15 with a knife two days earlier. This person (the affected person) then approached CW14 and CW15 telling them “If you want to live, you have to bow down.” CW15 advised the affected person that he could help him get food, find housing or even drugs but he was not going to bow down to him. It was at this point that the affected person pulled out a knife and stabbed CW15. During the altercation, the affected person also stabbed CW14.

The affected person then ran around the corner of the church, heading south on Gore with CW14 chasing him. CW15 advised the police were called at that time. CW15 saw one police vehicle arrive, which turned right from Hastings on to Gore.

CW15 went into the church to get medical assistance and did not see the police interaction with the affected person although he could hear gunshots. CW15 did not know the affected person at that time and could not explain why he had assaulted him.

#### Civilian witness 16 (CW16)

CW16 was interviewed by the IIO on May 14, 2015.

CW16 advised that he was walking east on Hastings Street with CW2. They had just come to the corner of Gore Avenue when they noticed a disturbance in front of the First United Church with a crowd and a lot of screaming and yelling. Suddenly, a man ran away from the crowd and right past them, turning south onto Gore Avenue. According to CW16, the man (the affected person) looked terrified as he ran by.

CW2 took off running down Gore Avenue. CW16 stopped and yelled at CW2 to come back. CW2 yelled back that she wanted to see what was going on. She then disappeared from his sight behind a wall leading down into the church’s parking lot. At around this time, police arrived.

CW16 then witnessed a male officer in uniform shooting a pistol in the direction of the church from Gore Avenue. From CW16’s vantage point, he could not see what the officer was shooting at. CW16 recalled three or four shots. Several other police arrived and CW16 then saw CW2 sitting on the sidewalk in front of the church’s parking entrance.

Police almost immediately cordoned off the area and CW16 was unable to reach CW2, who was later taken to Vancouver General Hospital.

#### Civilian witness 17 (CW17)

CW17 was interviewed by the IIO on April 30, 2015.

CW17 advised that on April 9, a man approached CW14 and CW15 in front of the First United Church on East Hastings Street. The man (the affected person) who had met them two days earlier, told CW15 to “go down, go down” (kneel down). When CW15 refused, the affected person stabbed both men with a knife.

The affected person then ran around the church on to Gore Avenue and towards the back alley. Right away, two male police officers, in uniform, arrived in one vehicle and told the affected person to drop the knife. When he refused, an officer with a long gun (shotgun), shot him three times. The affected person went down on the ground, then got up and ran towards a woman near the parking entrance into the church and began stabbing her. CW17 described the woman as being there at the “wrong time, wrong place.” CW17 indicated that the affected person did not say anything when confronted by the police.

CW17 observed both the confrontation on East Hastings Street and on Gore Avenue. CW17 mentioned that the affected person had confronted CW15 two days earlier at the same location and had punched CW15 in the head. Police were called and according to CW17, picked up the affected person for questioning.

When asked how he perceived the police’s actions, CW17 questioned why the police did not use a Taser when the police first confronted the affected person.

#### Civilian witness 18 (CW18)

CW18 was interviewed by the IIO on April 30, 2015.

CW18 advised that on April 9, a man, dressed in black, stabbed CW14 and CW15 with a knife in front of the First United Church on Hastings Street. CW18 had been standing in front of the church with both men when the confrontation began. The affected person then ran away from the two men and turned left on to Gore Avenue; he was still carrying the knife.

Almost immediately, a police vehicle arrived from East Hastings Street, turning on to Gore. Two more police cars arrived moments later. Officers directed the affected person to drop the knife who did not comply. A male police officer, in uniform with a long gun, then shot the affected person while he was standing by the back of the church on Gore Avenue. CW18 recalled more than two shots.

After being shot behind the church, the affected person dropped the knife, then picked it up and moved towards a woman near the garage door entrance into the church. The affected person

began stabbing the woman with the knife. The woman was screaming. The police moved forward and shot the affected person again.

Asked how he perceived the police's actions, CW18 questioned as to why the police didn't shoot the man in the leg.

### **Witness Officers**

Witness officer 1(WO1)

On April 9, 2015, IIO investigators interviewed WO1. The interview was terminated when WO1 expressed fatigue and emotional distress after 35 minutes and her union representative stopped the interview. The interview was re-initiated on April 22, 2015.

### **First Interview on April 9**

During the first interview, WO1 told the IIO that she was partnered with witness officer 2 (WO2) and they were at Columbia and East Hastings when a call came across the radio reporting that a male with a black vest was actively stabbing people at First United Church at 320 East Hastings.

WO1 said she was driving and drove her police vehicle to the location of the First United Church using her police lights, but not the siren. She said she heard over the radio that another officer, witness officer 3 (WO3) was one block away. When they arrived at the location, the subject officer was already on scene and out of his vehicle with his gun drawn, and pointed in the direction of a male (the affected person).

She said that the affected person was in the middle of the street and estimated that the subject officer and the affected person were within 10 feet of each other, which she felt was too close for dealing with someone who had a knife. WO1 stated that she drew her gun and WO2 had a beanbag shotgun. A witness was yelling that the affected person had just stabbed somebody. WO1 said that she was trying to keep her eye on the affected person but was also trying to keep civilians out of the way.

WO1 said the affected person moved to the east side of the alley south of Hastings and east of Gore, away from the officers and was hopping from one foot to the other while standing by a dumpster that was in the alley. The affected person was yelling and screaming incoherently. His left arm was pressed against his left side and his right hand was parallel to the ground. He was slightly angled away from WO1, she could not see his right hand nor could she see a knife.

WO1 noted that there were no civilians in the alley so she was happy to let the affected person move further back from the officers who were about 15 feet away from him when he moved into the alley.

WO1 said WO2 was standing the farthest north of the three officers, the subject officer in the middle and herself standing to the south. She said the affected person moved out of the laneway towards the officers; which she described as charging at the officers (with a later clarification

that he was walking, not running). WO1 then saw a knife in his hand. She said that the affected person yelled before coming towards them but did not say any words; she could not recall whether the other officers said anything. WO1 spoke to some of the witnesses whom she was trying to keep out of the way but she did not say anything to the affected person.

WO1 stated that WO2 fired an unknown number of beanbag rounds at the affected person. She said she was still keeping an eye out for anyone who was trying to intervene. The affected person continued to move forward and WO1 believed that the subject officer also shot at the affected person. The affected person stopped moving towards the officers where the laneway met the sidewalk and then started to run north towards the front of the First United church.

At the entrance to the underground parking of the church, a female (CW2) was standing at the north end of the parkade and the affected person began stabbing her. WO1 said she believed the affected person stabbed CW2 three or four times and that she (WO1) did not shoot at the affected person because she did not have a clear shot and thought she would hit CW2. WO1 stated the affected person only let go of CW2 and fell to the ground after he was shot. She was uncertain how many times the affected person was shot.

She said she attempted to radio that shots had been fired but was unsure whether it came through on the radio. She said she kept yelling "He still has the knife, he still has the knife" as she could not see his hands and could not see the knife on the ground.

WO1 said WO3 arrived and assisted with handcuffing and then put the affected person in the recovery position. WO1 said she believed the affected person was already deceased. She said she returned to the sidewalk and assisted with helping the female stabbing victim.

The interview ended when WO1 and her union representative expressed concern regarding WO1's ability to accurately provide any further information due to her level of fatigue and her emotional state.

### Second Interview on April 22, 2015

WO1 was subsequently interviewed by the IIO on April 22, 2015 and was asked to begin by reading out her handwritten notes pertaining to the incident.

WO1 read her notes and elaborated on their content as she read. She described receiving the call, providing the same information that was provided in the previous interview. As she read through her notes she also provided some additional information. Her notes stated that when she arrived on scene there was a witness yelling that a guy had just stabbed people. Her notes described trying to get two male witnesses to "back off."

WO1 described the affected person moving eastbound down a lane then rapidly at the police. Her notes indicated that WO2 fired two or three times and that the suspect then ran toward police. Her notes further indicated that the subject officer fired "2/4 times."

As to when the affected person ran north towards the First United Church, WO1's notes indicated that he yelled and that he had a "demented look on his face." With regard to the stabbing of CW2, WO1's notes indicated that the affected person grabbed CW2 from behind and stabbed her three or four times in her back, the back of her neck and her head. WO1 had written that she was to the south and east of the affected person and that she did not have a clear shot at him without risking hitting CW2. WO1 said that the subject officer fired an unknown number of shots.

Her notes indicated that she holstered her weapon, approached and tried to call "shots fired" twice over the radio. After reading that portion of her notes, WO1 clarified that she made the call of shots fired at the time when the affected person came out of the alley towards police. At that time there were shots from the beanbag gun and, she believed, "real rounds" fired.

After she finished reading and clarifying her notes, WO1 was asked follow-up questions by IIO investigators.

WO1 said she was not aware of CW2 being present until she was grabbed by the affected person and did not know what CW2 was doing when the affected person grabbed her, other than that she was standing, facing northwest. WO1 did not know whether CW2 saw the affected person running towards her.

WO1 described the affected person as running towards the officers (in the initial interview she had described him as charging but also said he was walking, not running). Other than hearing the affected person yelling, she did not hear him say anything to the officers. She did not recall if she or either of the other officers said anything to the affected person. WO1 said she first saw the affected person holding a knife when he began "charging" at the officers and that when the affected person stopped at the mouth of the alley, after charging at the officers, she believed the threat had stopped.

WO1 made reference to the affected person picking a knife up off the ground and running after stopping at the mouth of the alley; however, she clarified that she saw this while watching video of the incident. She also indicated that she was having difficulty separating her recollection from what she had seen in the video.

When asked for more details regarding the affected person charging at the officers, WO1 described the affected person as running at the officers with the knife. She said she saw several beanbag rounds hit him but that did not stop or slow him down. She said when the affected person was a few feet away she heard shots fired and it was only then that the affected person stopped.

WO1 said the affected person was holding the knife upright in his right hand. She said at the time the affected person was stabbing CW2, she believed she was about 10 feet away from them and the subject officer was to the north of her. WO1 could not recall anything being said at that time and that she was moving towards the affected person and CW2, trying to get into a position where she could shoot the affected person without hitting CW2. WO1 stated that when she

watched the video of the incident, she could see civilians trying to come in and getting in her way, but she did not recall seeing that at the time of the incident.

With regards to the use-of-force options, WO1 said she had OC spray and a baton in addition to her firearm. She stated that she did not attempt to use either of those items because the affected person was “actively killing somebody” and she did not believe that the baton or OC spray would have been effective in stopping him. WO1 said her training is to use a firearm in that situation. WO1 said that the plan for going to a call with a knife was for WO2 to use less lethal and for her to be lethal cover if that was not already in place.

When asked about what video she had seen of the incident, she said she had seen “Everything that’s on the media” and commented that what she had seen on video “Seemed to be pretty accurate” compared to the notes she had written and her initial interview with the IIO.

WO1 observed a significant discrepancy between her memory and what she saw in the video in that she believed she had her firearm out throughout the incident but she saw in the video that she only drew her gun when the affected person was shot.

#### Witness officer 2 (WO2)

On May 8, 2015, the IIO interviewed WO2 following his re-designation from Subject to Witness officer.

WO2 advised that he made no notes or reports in relation to this incident as required by the policies of the Vancouver Police Department.<sup>2</sup>

On April 9, 2015, WO2 was on patrol in a marked police vehicle, wearing full uniform, with WO1. At approximately 5 p.m., WO2 and WO1 were at Columbia and Hastings Street when a call came over the radio reporting that someone was running around stabbing people at the church at or near Gore Avenue.

WO2 and WO1 immediately responded by driving eastbound on East Hastings Street and turned right on to Gore Avenue. WO2 observed a marked police vehicle parked in the middle of Gore Avenue. WO2 then saw one of his squad mates, the subject officer, out of his police car with his service pistol drawn, yelling commands at a male (the affected person). The subject officer was pointing his pistol at the affected person who was described as wearing all black clothing and was carrying a knife in his hand. According to WO2, the affected person was in a “bladed stance.” The knife was described as a big kitchen knife.

Before the vehicle in which he was riding had stopped, WO2 grabbed his beanbag shotgun (standard issue Remington 870), which was stored between the driver and passenger seats. WO2 ran out of the vehicle and began challenging the affected person. WO2 (referring to a video that he had watched on the news of the incident) ran to the middle of Gore Avenue and the affected person moved into the back alley of the First United Church. WO2 issued commands to “drop the knife, drop the knife” but the affected person did not comply.

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<sup>2</sup> Section 1.2.1 (Use of Force – Justification). Paragraph 13. “When members discharge a Beanbag Shotgun and/or a CEW (contact stun or probe discharge) at an incident they shall: (b) complete a VPD840 Use of Force Report.”

WO2 then deployed his beanbag shotgun, targeting the affected person's left thigh. WO2 fired one shot then assessed the situation. The beanbag bounced off the affected person's leg with little effect. According to WO2, the affected person had a "thousand yard stare." WO2 fired a second round and hit him in the same thigh again. The affected person flinched slightly but he did not go down. WO2 fired a third round, now into the affected person's abdomen. There was no compliance. At this point, the subject officer was positioned to WO2's right. At no point during the entire interaction did the affected person say or communicate anything.

After the third beanbag shot, WO2 indicated that the affected person charged directly at him, with an extremely angry expression, while still holding the knife. This action caused WO2 to back up and fire the remaining rounds at the affected person, now aiming at his head and torso. WO2 stated, "I thought he was going to stab me." At the same time, WO2 heard shots coming from another direction, which he assumed was coming from either the subject officer or WO1.

As WO2 was backing up and firing his shotgun, he ran out of rounds. WO2 then began an emergency re-load and while doing so, noticed that the affected person was momentarily doubled over. The affected person then stood up and ran north on Gore Avenue towards the parking entrance into the First United Church.

As soon as the affected person fled, the subject officer crossed in front of WO2 and ran after the affected person. WO2 followed in behind and chased after the affected person as well. When the affected person got to the parkade entrance into the church, WO2 saw him plunge his knife down into a female bystander, who was standing beside a wall near the church. The female began screaming. While running, WO2 also pulled out his pistol, while still holding the beanbag shotgun. WO2 heard more gun shots. As WO2 drew his pistol towards the affected person, he observed the affected person slump motionless to the ground.

WO2 recalled WO3 arriving and handcuffing the affected person. WO2 then radioed "shots fired, EHS Code 3." A sergeant showed up and the three officers (WO1, WO2 and the subject officer) were soon after separated and brought to the VPD Annex office.

### Witness Officer 3 (WO3)

On April 9, 2015 the IIO interviewed WO3.

According to WO3, he was out on mobile patrol, in full uniform, and was assisting another officer at a traffic stop along Cordova Street when the call came in. The dispatch call reported a male, actively stabbing people. WO3 was four blocks from the First United Church and proceeded immediately (Code 3 – lights and siren) in his marked police vehicle eastbound along Hastings to that location, taking approximately 40 – 50 seconds. Updates on the radio indicated the male suspect was in the vicinity of Gore and Hastings and in the laneway behind the Church.

WO3 turned right onto Gore from Hastings and observed the affected person, who was clearly agitated, as well as officers trying to deal with him. The affected person was running in a northeast direction along Gore, from the road across the sidewalk and towards the Church

parkade entrance. WO3 initially intended to use his police vehicle to corral or pin the suspect, but a member of the public came in the path of WO3's vehicle forcing him to stop. When the person had cleared, WO3 moved his vehicle forward fractionally and observed officers following the affected person from the laneway behind the Church towards the parkade entrance.

WO3 exited his vehicle and now observed the affected person "actively stabbing a ... female who was crouching down on the ground in a fetal position halfway down the parkade ramp on the north side. WO3 stated, "He's actively stabbing her repeatedly around her head and torso area. And as he's doing so, he's got his back turned mainly towards us. As I'm coming out of the vehicle, the subject officer is beginning to fire and fires several rounds. Within a second or two I'm immediately by the subject officer's side, I have my firearm also drawn. But in the very short matter of seconds, I can't tell you exactly how many seconds, I can't tell you exactly how many rounds, but very, very quickly the suspect stopped stabbing the female and slumped on to the ground, partly on top of her. At that point the firing stopped."

WO3 described the shots as being fired in rapid succession but he could not estimate the number of rounds. According to WO3, the subject officer was approximately 9 – 14 feet away from the male suspect when he was firing.

At that point, WO3 indicated that he was beside the subject officer, approximately 2 – 3 feet to his right and WO2, who was the shotgun operator, was to WO3's right and was set back "a little bit." WO1 was just a little bit behind WO2. There was a short pause to determine if anyone else was being hurt or stabbed, then WO3 directed the subject officer to keep lethal cover on the affected person. WO3 and the subject officer moved in and handcuffed the affected person behind his back. Other officers assisted with pulling the female out from under and away from the suspect; the female victim was bleeding and hurt. WO3 observed that the affected person was bleeding from the back of his head. WO3 indicated that the affected person's eyes were rolling and had been neutralized as a threat.

WO3 indicated that a knife, with a 5 – 6 inch blade that was bent or curved, was left in place at the scene up against the wall and near where the affected person was lying after being shot. WO3 provided radio updates following his arrival on scene and through the incident including requests for EHS. Other officers began arriving on scene and WO3 provided an update to them.

WO3 did not observe WO2 or WO1 firing their weapons.

### **Subject Officer**

The subject officer declined to be interviewed by or provide any report to the IIO, as is his right pursuant to Canadian law. As of the writing of this decision, it appears that the subject officer has not prepared any duty-to-account report as required by the policies of the Vancouver Police Department.<sup>3</sup>

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<sup>3</sup> Section 1.2.1 (Use of Force – Justification). Paragraph 5. "In every instance where a member discharges a firearm, the member shall: (c) submit a detailed written report through their Supervisor to the Chief Constable."

## EVIDENCE OBTAINED

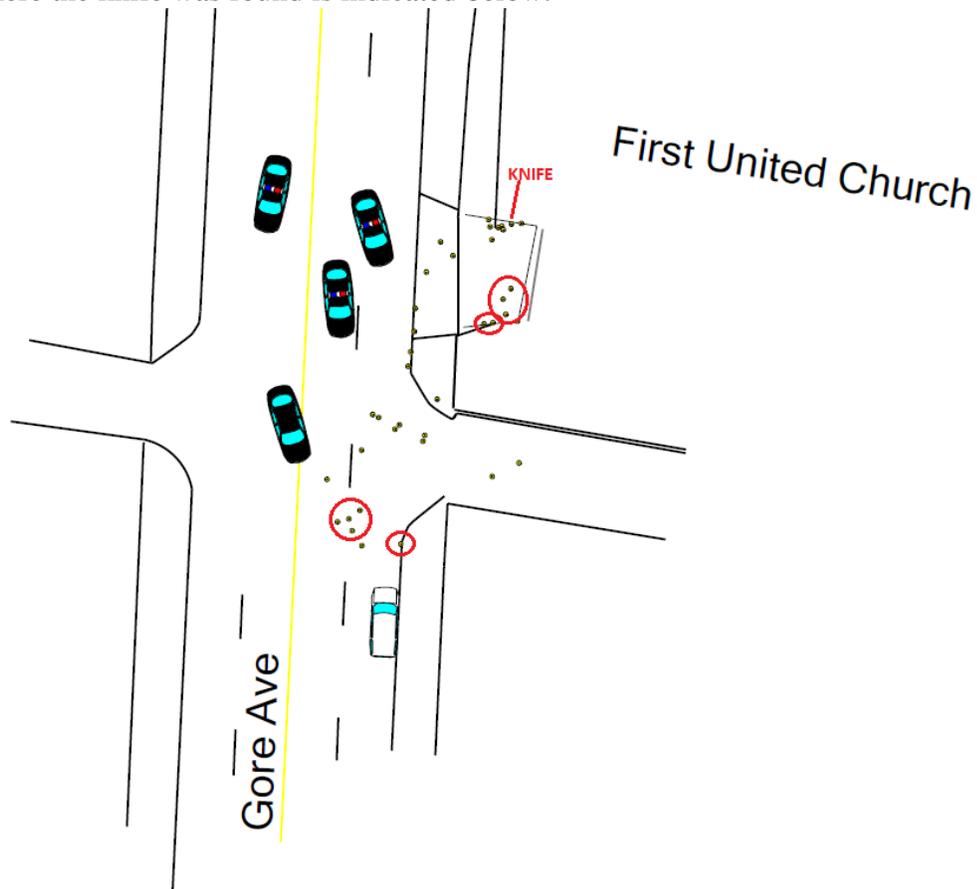
### Radio Transmissions

Audio of 9-1-1 calls as well as radio transmissions and telephone calls from Vancouver Police dispatch were obtained and reviewed. The audio includes several people calling 9-1-1 to report a man stabbing people. Gunshots can be heard on two of the 9-1-1 calls. The dispatch audio includes updates to officers regarding a man stabbing people as well as updates from the officers. Updates from involved officers included: they have the male in view; they are challenging him; shots were fired; the male was actively stabbing a female victim when he was taken into custody.

### Scene Evaluation

Ten expended cartridge casings (later identified to the subject officer's firearm) were located at the scene.

Scene Diagram: Scene diagram with expended .40 calibre cartridge casings circled in red and location of where the knife was found is indicated below.



## Photographic Evidence

A knife with a black handle and a 4-inch blade was recovered at the scene. The knife was photographed at the scene as described by WO3: up against the wall and near where the affected person was reportedly lying after being shot.



Photos of the knife in situ



Next to a scale ruler after being seized

## Video Evidence

A video canvass was conducted on April 10, 2015 of all premises surrounding the incident location, primarily along Gore Avenue in the immediate block south of Hastings. Video surveillance footage was obtained from a number of sources in the area. The video clips obtained each show a portion of the confrontation between the affected person and the three stabbing victims and/or the police's arrival and response. The video footage also helped identify several witnesses and/or their positioning relative to the incident.

Dash Camera video from a civilian vehicle and witness cell phone video was also obtained as part of the IIO investigation.

## Autopsy Report

The autopsy report described a shallow gunshot wound to the head, three gunshot wounds to the left upper torso, another gunshot wound to the chest and three gunshot wounds to the left forearm. The gunshot wounds caused damage to internal organs including the heart and lungs. The pathologist noted that none of the gunshot wounds showed features of close range discharge although he stated that this would have to be correlated with other evidence. The pathologist explained that although there were eight gunshot wounds, it is possible for multiple wounds to result from a single bullet therefore there may have been fewer than eight shots.

The autopsy report also identified injuries to the extremities consistent with injuries from beanbag rounds.

The pathologist noted the presence of a toxicology report but did not address the findings. The toxicology report itself indicated recent cannabis use but no other findings.

### **Firearm Analysis**

The 10 expended cartridge casings (.40 calibre) recovered from the scene were all matched to the pistol seized from subject officer. Two bullets recovered at autopsy were matched to the subject officer's pistol.

Additional bullet fragments recovered at autopsy did not contain sufficient detail for the examiner to match them to a specific firearm.

A round count from the subject officer's pistol revealed two rounds in the magazine and one in the chamber. The magazine has a 12 round capacity so if the subject officer had started with a full magazine plus one in the chamber then the number of rounds remaining would be consistent with all 10 shots having come from his firearm. The pistols of both WO1 and WO2 each contained 12 rounds in the magazine and one in the chamber. As such, each of their firearms had the maximum possible number of rounds, further confirming that neither officer fired shots during the course of the incident.

### **Firearm Functionality**

All of the firearms provided to the armourer, including the subject officer's pistol, were in proper working order and within the manufacturer's specifications. There were no unauthorized alterations. The ammunition was the currently issued and approved ammunition of the Vancouver Police Department.

### **Vancouver Police Department Report Regarding Prior Assault**

According to Vancouver Police Department records, an assault report was made on April 7, 2015 wherein it was alleged that CW15 was approached at 11:30 p.m. by "an unknown male (later identified as the affected person) at the front of the First United Church located at 320 E Hastings St. The male spoke to CW15 and then proceeded to punch CW15 in the face causing a laceration above his left eyebrow. PC's attended and spoke to CW15 and another witness. CW15 was uncooperative with police and unwilling to provide a detailed statement. EHS attended and CW15 refused treatment. Police conducted an area search but were unable to locate a suspect. File concluded at that time."

### **Law**

Culpability for an officer's use of force is governed by the following provisions set out in the *Criminal Code of Canada*:

1. A police officer acting as required or authorized by law "is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose." (section 25(1)).

2. A police officer “is not justified for the purposes of subsection (1) ... in using force that is intended or is likely to cause death or grievous bodily harm unless the [officer] believes on reasonable grounds that it is necessary for the self-preservation of the [officer] or the preservation of any one under that [officer’s] protection from death or grievous bodily harm” (section 25(3)).
3. Any police officer who uses force “is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.” (section 26).

In an evaluation of the reasonableness of an officer’s use of force, the following application of the law is required:

The Supreme Court of Canada in *R. v. Nasogaluak*, 2010 SCC 6 held that:

[32] ... police officers do not have an unlimited power to inflict harm on a person in the course of their duties. While, at times, the police may have to resort to force in order to complete an arrest or prevent an offender from escaping police custody, the allowable degree of force to be used remains constrained by the principles of proportionality, necessity and reasonableness. Courts must guard against the illegitimate use of power by the police against members of our society, given its grave consequences.

However, the Court went on to say that:

[35] Police actions should not be judged against a standard of perfection. It must be remembered that the police engage in dangerous and demanding work and often have to react quickly to emergencies. Their actions should be judged in light of these exigent circumstances. As Anderson J.A. explained in *R. v. Bottrell* (1981), 1981 CanLII 339 (BC CA), 60 C.C.C. (2d) 211 (B.C.C.A.):

In determining whether the amount of force used by the officer was necessary the jury must have regard to the circumstances as they existed at the time the force was used. They should have been directed that the appellant could not be expected to measure the force used with exactitude. [p. 218]

*R. v. Kandola*, 1993 CanLII 774 our Court of Appeal cited *Brown v. United States* (1921), 256 U.S. 335, where at p. 343, Holmes, J., noted:

Detached reflection cannot be demanded in the presence of an uplifted knife.

The caveat on the use of force set out above in s. 25(3) that applies where the force used is intended or is likely to cause death or grievous bodily harm requires that there must be a reasonable belief by that officer that the force is necessary for the self-preservation of herself or the preservation of any one under her protection from death or grievous bodily harm. The allowable degree of force to be used remains constrained by the principles of ‘proportionality, necessity and reasonableness’ (*Nasogaluak*).

## Analysis

In terms of proportionality, the use of a less lethal bean bag shotgun against the affected person by WO2 appears to have been reasonable, proportionate and necessary given evidence which supports that the affected person had assaulted two persons with a knife and that the affected person ignored police orders to drop the knife and surrender himself.

According to WO2, he deployed his beanbag shotgun only after the affected person refused to drop his knife and surrender himself. Although the beanbag rounds appeared to hit the affected person, they did not have the effect of causing him to comply with the officers' orders. According to WO2, after the third beanbag shot, the affected person charged directly at him while still holding the knife. This caused WO2 to back up and fire the remaining rounds at the affected person in defense of himself and the other officers. It was only then that the subject officer fired his first volley of five shots. Five casings fired from the subject officer's gun were located in an area which can help identify where the subject officer was generally standing at the time he fired his first volley of shots.

Based on officer accounts, it was only after the affected person was shot by the subject officer that he "momentarily doubled over." However, he then stood up and ran north on Gore Avenue where he subsequently attacked CW2, an innocent victim.

The final volley of five shots was subsequently fired by the subject officer, which had the effect of ending the affected person's violent attack on CW2 and which were lawfully fired in defense of her life. Another five casings fired from the subject officer's gun assist in identifying where the subject officer was standing at the time he fired his second volley of shots.

Civilian witnesses provide a variety of descriptions of what was happening when the affected person was fatally wounded:

- Per CW2, the affected person was shot while he was on top of her stabbing her.
- Per CW1, the affected person was shot when he was on the right hand side of CW2.
- Per CW3, the affected person was shot after an officer pulled him off CW2.
- Per CW4, the officers shot the affected person at close range, while he was down on the ground.
- Per CW10, the police started shooting as CW2 fell to the ground.
- Per CW11, the first volley of police shots took place as the affected person came towards them; he did not see the second volley of shots.
- Per CW13, the final volley of shots were fired as the affected person was stabbing CW2.
- Per CW14, police shot the affected person with rubber bullets after he pushed him off CW2 and then fatally shot the affected person when he would not comply with orders to stay down.

Although some of the witness statements suggest that the affected person may have been shot while he was no longer a threat to CW2, the evidence in its totality, when comparing all witness statements (to include officer and civilian statements) provides sufficient evidence to conclude that the subject officer shot the affected person first in defence of himself and the other officers

and subsequently in defense of CW2. CW2's statement that the affected person was shot while he was on top of her stabbing her is particularly compelling and corroborative of the officers' statements justifying the shooting.

The affected person was hit by up to eight bullets; it is unknown how many bullets hit him from the first volley of shots and how many hit him from the second volley of shots. Clearly, however, the first five shots did not disable him enough to stop him from attacking CW2; the next five shots were fired in rapid succession during the course of an extraordinary stressful and dynamic situation and, thus, cannot be considered to be an excessive use of lethal force.

The autopsy showed two entrance gunshot wounds to the affected person's upper left back. An officer is permitted to shoot someone in the back in defense of another person. Given the dynamics of the situation, it is impossible to conclude at what point in time the affected person may have been facing away from the subject officer; regardless, the officer had both the right and responsibility to protect CW2 from further harm and possible death at the hands of the affected person. As such, his decision to shoot in both circumstances was reasonable and appropriate and not unlawful.

At least two witnesses expressed concern about factors relating to the police use of deadly force in this instance. One witness inquired why officers did not use a Taser; another witness questioned why officers did not shoot the affected person in the leg, purportedly to disable him as opposed to kill him. The responding officers in this case were not equipped with Tasers, but did have possession of a beanbag shotgun, which was a lawful and appropriate tool to use given the circumstances. Officers are not trained to "shoot to kill," but are trained to "shoot to stop the threat" by aiming at a suspect's "center mass." Officers are trained that it is more likely that an officer can stop an immediate, deadly threat by aiming at center mass than by trying to hit a limb or a weapon in a dynamic situation.

Finally, although witness statements vary as to the number of officers present at the time of the use of less lethal and deadly force, the officers' descriptions in that regard are confirmed by video evidence and radio traffic. As such, three witness officers were identified and interviewed. All other officers appear to have arrived at the scene after the affected person was shot.

### **Concerns Regarding Witness Officer Interviews**

Given the limits of the video evidence in this case and inconsistencies in the recollections and observations of various civilian witnesses, the statements of the involved officers in this incident were of significant importance. Unfortunately, the subject officer declined to provide a voluntary statement to the IIO, which is his right under the Charter. Evidence provided by the subject officer would have helped to further inform this decision and an early statement may have helped ensure a more timely investigation. Even more significant, however, is that the subject officer did not prepare any notes or a duty-to-account relating to his involvement in the incident. Such a report is required by Vancouver Police Department policy and would normally be expected to be available to the Chief Civilian Director of the IIO, and the Criminal Justice Branch for review after the completion of the investigation.

Issues and concerns regarding the statements of WO1 and WO2 impacted the investigation as well. It took IIO investigators almost one month to re-designate WO2 as a witness officer and then conduct an interview with him. WO2 was originally designated as a subject officer with the right to remain silent accorded to him under the Charter. As such, the interview with WO2 was untimely. Compounding this problem was the fact that WO2 failed to write a duty-to-account statement of his actions and observations as required by VPD policy. As a result, he had no means by which to refresh his recollection with a timely recording of his memory of the events, nor were investigators provided with a report or notes which could have been used to ensure a thorough and robust interview.

With respect to WO1, although her original interview was timely (having been conducted within hours of the incident), after 35 minutes her union representative interrupted the interview and insisted that it be concluded as she was too fatigued and emotional to continue. Instead of completing this interview in a timely fashion (within one or two days of the incident), there were delays in scheduling her interview which resulted in a delay of 12 days.

In both cases, WO1 and WO2 contaminated their memories by watching news accounts and/or viewing online video accounts of the incident. As such, the statements of these officers were impacted by evidence separate and apart from their own recollections and memories of the events. In fact, WO1 specifically represented at her second interview that she was confused about what she had personally seen and what she could personally recollect independent of any video she had seen during the period between her interviews.

IIO investigative processes have been revised to ensure more timely witness officer interviews are conducted in the future and to work to ensure that witness officers' receive appropriate orders to avoid memory contamination through the review of incident video prior to IIO interviews.

### **Decision of the Chief Civilian Director**

Based on a review of all of the evidence collected during the course of the investigation and the law as it applies, I do not consider that any police officer may have committed an offence under any enactment and therefore the matter will not be referred to Crown counsel for a possible criminal prosecution.

Further administrative review of the incident (to include a review of officer conduct, tactics and training opportunities) is part of a mandatory administrative investigation and review process required by section 89 of the *Police Act*. Such administrative investigation falls under the jurisdiction of the Office of the Police Complaint Commissioner (OPCC), not the IIO.

A complaint regarding the failure of involved officers to write any duty-to-account report relating to this incident will be forwarded to the OPCC.

However, it should be noted that VPD policy does not specify *when* an officer is required to prepare their "detailed written report" of an incident. The importance of timely and comprehensive written reports, completed by both subject and witness officers, cannot be

overstated. In fact, the Supreme Court of Canada has specifically noted that “police officers do have a duty to prepare accurate, detailed and comprehensive notes as soon as practicable after an investigation,” *Wood v. Schaeffer*, 2013 SCC 71 [2013] at paragraph 67 (in this context, the word “investigation” is referring to the police incident).

Any police report written days, weeks or months after the fact would be subject to legitimate criticism and vigorous cross-examination in court and would likely be less accurate than a report prepared shortly after an event. In IIO investigations, reports prepared by witness and subject officers are often submitted to the Criminal Justice Branch (CJB) as evidence in support of any lawful defences to potential offences committed by officers. In addition, the CCD reviews such reports, at the conclusion of IIO investigations, in order to ensure no offences have been committed with respect to the reporting of the incident. Finally, police administrators would be expected to review such reports to ensure that officers are acting in accord with their policies, practices and expectations, which would inform appropriate administrative action in that regard. If reports are not prepared in a timely fashion, they become subject to legitimate challenge and become less reliable for these important purposes.

As such, VPD policy needs to be amended to ensure both timely and detailed written reports are prepared by all involved police officers.

The IIO has become aware of a pattern of problems with respect to subject officers involved in critical incidents in British Columbia failing to prepare timely duty to accounts or notes of their involvement in incidents. These problems have been identified with respect to multiple files involving not just the Vancouver Police Department, but also the Royal Canadian Mounted Police and two other municipal police agencies. The IIO is following up with the Association of B.C. Chiefs of Police and the Director of Police Services to ensure that all subject officers in British Columbia are required to complete timely and comprehensive duty-to-account reports. Such reports are essential to ensure the integrity of criminal and administrative investigations and reviews of officer decisions to use deadly force or force likely to cause significant injury.

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**Clint Sadlemyer, Q.C.**  
**Legal Counsel**

August 31, 2016  
**Date of Release**

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**Richard Rosenthal,**  
**Chief Civilian Director**

August 31, 2016  
**Date of Release**