



**PUBLIC REPORT OF THE
CHIEF CIVILIAN DIRECTOR**

Regarding an officer-involved shooting of a male in Burnaby on
May 13, 2015 involving the
Burnaby RCMP

IIO 2015-000077

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 investigating and a summary of the findings of the investigation.

This is a public report related to an investigation into the shooting of an adult male while being apprehended by the RCMP in Burnaby on May 13, 2015. The male affected person was shot in the abdomen and sustained serious injuries.

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

On May 13, 2015 at 1:26 a.m., RCMP officers were called to the scene of an unwanted male at a residence. Two officers, a male and female, arrived on the scene in separate vehicles. They located the subject of the complaint, who was brandishing a knife and non-complaint. The male officer deployed his CEW (Taser) but there was no contact. The female officer, whose actions are the subject of this investigation, fired her pistol striking the affected person in the abdomen.

The Independent Investigations Office was notified on May 13, 2015 at 1:55 a.m. This incident falls within the jurisdiction of the IIO as described in the *Police Act*. The affected person was shot in the abdomen by an officer and his injury fell within the definition of “serious harm” as defined in the *Police Act*.

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 for consideration of charges.

The legal issue to be considered in this case was whether the subject officer reasonably fired her pistol at the affected person, thereby causing injury to him. If the injury to the affected person was the result of an unreasonable use of force, the subject officer could be liable for the offences of assault, assault with a weapon, assault causing bodily harm or aggravated assault.

AFFECTED PERSON

The affected person was interviewed by IIO investigators on May 16, 2015 at Vancouver General Hospital. He told IIO investigators that in the early hours of May 13, 2015, he was on the balcony of a house in Burnaby and he saw police were out front. The affected person said he thought the police were going to try to resolve the issue for which they were called, but once he saw they had their guns, he formed the belief that wasn't going to happen.

The affected person said he went inside the house and: "I grabbed the knife and I grabbed the pillow and I made the sign of the cross, and I just went outside and I put the knife over my chest and I showed them [the knife] ... I ran down the balcony which took another, about, four seconds maybe, four, five seconds...they couldn't really Tase me, because at that point I was pretty much ready to die."

The affected person estimated the distance from the stairs to the street where the police were standing, was at least 12 to 15 metres. The affected person said the police were yelling, "Drop the knife. Drop the knife" as he "steadily walked" towards them and they (the police) were backing up. The affected person said the whole time he was yelling at them, "Shoot me" or, "I want to die". Although the affected person could not recall exactly what he was saying he was sure that he did say, "f*** you... You're gonna kill me tonight".

The affected person said that once he got to the street, one of the officers was about six to eight feet away and deployed a Taser which failed to hit him. He heard the "zapping" and saw the two prongs and two wires lying on the ground.

The affected person told IIO investigators he started "circling around", and as he was walking across the street he was "ready for suicide by cop". He said one officer went behind him, another went to his left and the third officer went to the left of the subject officer who was "at least 15 – 20 feet away" and facing him. The affected person told IIO investigators that he was saying at the time of the incident, "Shoot me, shoot me, shoot me" at which time he, "...was completely across the street." He went on to say: "I remember looking in her eyes and she looked in her radio and she says, "shots fired, shots fired, shots fired." And I think -- she said it twice for sure. And then, and then she shot me in the abdomen."

The affected person also told IIO investigators that when he was on the ground he said, "I can't believe you bastards shot me."

The affected person said that he was not within "striking distance" of the subject officer when she shot him, and that he felt she could have shot him five times by the time he would have gotten close enough to stab her. The affected person also said he was flanked on each side by other officers and that while he was facing the subject officer the other officers had enough time to deploy their Tasers before he was shot.

The affected person said the police could have easily avoided shooting him as he wasn't making any quick movements. "I was making very deliberate strides, you could say, walking. Very deliberate steps. Slow, slow deliberate stance, steps towards the officers the whole time from when I was at the bottom of the stairs...that's how I was moving the whole entire time. Right up until I got shot."

The affected person told IIO investigators he felt bad that he had put himself through the situation, and that he caused this.

The affected person was also interviewed by police on May 28, 2015 and said: "I had pillow 'cause I knew they were gonna Taser me. And I wanted that to fail. So then their only recourse would be to shoot me."

"I put an individual in that place where they were in a situation where they could have, where they had to take my life. And that like I'm so thankful that that lady who shot me did what she did and didn't shoot me in the chest and didn't kill me. ...Just like she like, 'cause she even radioed it before. And I could kinda tell when I looked at her like she didn't wanna do it. So I kind of, I felt bad."

The affected person told police he was about "three of my body lengths, at least two or three" away from the officer, "and I'm six feet (inaudible)..."

EVIDENCE CONSIDERED

Evidence examined in this investigation includes statements made by civilians; statements made by witness officers; medical evidence; firearms evidence; dispatch records and police radio-to-radio communications.

CIVILIAN WITNESSES

A witness canvass was conducted after the incident and resulted in statements from 10 civilian witnesses who heard parts of the interaction between police and the affected person. Some of these witnesses described hearing a male shouting. They also described hearing commands from police such as “put down the knife.” This was followed by what many described as “a loud bang” which was described as sounding like a gunshot.

One civilian witness (CW) was present for the entire incident and highlights of his interview with the IIO are below.

Civilian Witness (CW)

CW was interviewed by IIO investigators approximately five and a half hours after the incident. CW said he is a friend of the affected person’s family and has known the affected person since he was a child. He said the affected person had been staying with him for the last five or six weeks and that the affected person was usually an “excellent kid.”

CW said at approximately 1 a.m. on May 13, 2015 the affected person began to raise his voice and asked the CW to hit him. CW told the affected person that if he did not behave better he would call the police and ask them to remove him from the house.

CW said he called the police, and when the affected person saw he had done so, the affected person became angry and started screaming. CW said he went outside with the telephone and talked to the 911 operator until the police arrived. CW told IIO investigators that the affected person became angrier when he saw the police had arrived and threw a patio chair down from the balcony. CW said he heard the affected person say to the police, “I’m not going down, you have to shoot me before you arrest me.”

CW told IIO investigators that he told police not to shoot the affected person, and that the affected person did not have any guns but, “maybe he got a kitchen knife, but that’s not dangerous.” CW said that because the affected person was upset, he told the police that it is, “better leave him in the house and come next day.”

CW said that the affected person was watching from the balcony of the house when police were talking to CW. He said the affected person came from the balcony and ran down the stairs with a pillow and was carrying a knife close beside the pillow. CW told IIO investigators that the affected person’s speed as he moved towards the police was between a walk and a run.

CW said one male officer and one female officer had arrived in separate cars from opposite directions.

CW said the male officer told the affected person to, “calm down” and “don’t do it”. CW told IIO investigators that the affected person ran down the stairs and walked towards the street, and that the same male officer told the affected person to, “throw the knife”. CW said the male officer was about four yards away from the affected person and deployed a Taser but missed.

CW said the affected person moved towards the female officer in a circular motion and that he (CW) told the female officer not to shoot the affected person. CW told IIO investigators the female officer had her gun out and didn't say anything or give any command, and she shot the affected person when he was about four yards (12 feet) away from her. CW expressed concern with the officer's actions and suggested that the officer should have tried to deescalate the situation by another means.

CW did say, however, that the affected person was "going toward them fast" and that the female officer was standing in the middle of the street.

As for the sequence of events, CW did not hear the female officer say shots fired either before or after she shot the affected person.

CW said the officers pulled the affected person's hands out from underneath him and placed him in handcuffs. CW said the knife was under the affected person and one of the officers took it and threw it away.

OFFICERS

The IIO uses the term witness officers and subject officers to distinguish between officers who merely witnessed the incident, as opposed to officers who are the subject of the IIO investigation over their direct involvement which may have caused the serious harm or death.

Witness Officer

Witness Officer 1 (WO1)

WO1 was originally designated as a subject officer but was re-designated as a witness officer and interviewed by the IIO on May 26, 2015. WO1 told IIO investigators that on May 12, 2015, he was working at Burnaby RCMP and was wearing a full issue RCMP police uniform and carrying a pistol, a Taser, pepper spray, handcuffs, baton and portable radio.

WO1 told IIO investigators he became aware via dispatch that there was a complaint of an unwanted male at a residence in Burnaby and he was hearing updates that the subject of complaint (the affected person) was becoming violent and that the caller was outside his residence, away from the affected person. He said updates indicated the affected person may have said, "If the police come, somebody is going to die or somebody is going to get shot, something to that effect." WO1 understood that alcohol or drugs may have been involved. He indicated this information raised his level of risk assessment in responding to the call.

WO1 said that on the way to the call, he directed two other officers to go to the back of the residence. WO1 told IIO investigators that as he pulled up to the residence and noted the subject officer was parked in front of the residence and that they both exited their vehicles at the same time.

WO1 told IIO investigators that as he arrived, he heard the sounds of someone yelling and screaming from the upper balcony area of the residence. He said he spoke with the CW who was standing in the driveway in front of the residence and talking on a phone, was pointing towards the affected person and said, "he's going crazy...I want him out before he hurts anybody."

WO1 said the affected person was pacing back and forth on the balcony, screaming profanities and WO1 believed the affected person was under the influence. WO1 told IIO investigators he said to the affected person: "talk to me, bud. What's going on?" He picked up a chair that was on the deck and threw it towards me. Again, saying, "F*** you, I'm going to kill you."

WO1 told IIO investigators he believed the threat to police, the complainant and to the affected person himself was heightened because the affected person was not someone who was willing to listen to anything said to him. WO1 told IIO investigators, the chair wasn't too close to hitting him and he just stepped back thinking, "Okay, what else is he going to throw?"

WO1 told IIO investigators he saw the affected person walk into the house and then reappear on the balcony with a knife in his hand the blade of which he could see from where he was standing (on the road at the edge of the driveway). WO1 said he heard the SO updating dispatch that the affected person had a knife.

WO1 said he told the affected person to drop the knife but he did not. The affected person then ran down stairs from the balcony screaming, "I'm coming down to f***** kill you. I'm going to f***** kill you. I'm going to cut you up. I'm going to f***** kill you." The affected person came onto the driveway and was facing WO1.

WO1 told IIO investigators he drew his Taser and continued to challenge the affected person to drop the knife and that he was under arrest. WO1 said: "when I saw him face to face I knew I had to continue challenging, giving him the police challenge which is, "Police. You are under arrest. Drop the knife. Drop the knife." And I kept yelling, "Drop the knife," even louder. And I didn't know his name I just kept saying, "drop the knife" out loud.

WO1 said that the affected person continued toward him screaming, "I'm going to f***** kill you." WO1 told IIO investigators he knew the subject officer had her pistol out and was providing lethal force over-watch for him as he had his Taser out and had already turned it on and was yelling at the affected person: "you're under arrest. Drop the knife, drop the knife or you will be Tasered."

WO1 said he had discussed roles with the subject officer for her to provide lethal force over-watch and he would be less lethal using the Taser. "I said 'I got the Taser,' and she said, 'Got it.' And because we've worked together before, she knew exactly where, what I was doing, I knew exactly what she was going to be doing. There was no need to sit and plan."

WO1 told IIO investigators that the affected person closed the distance towards him and that the affected person had a pillow. WO1 said: "I don't know where it came from but I know it was

there. And right away put it on his body with one hand, while the other hand had the knife still pointing.”

WO1 said he was backing out of the driveway. He deployed the Taser and observed one of the Taser darts hit the pillow, making the Taser deployment ineffective.

WO1 told IIO investigators the ineffective Taser deployment made the affected person angrier and the affected person kept repeating his threat: “I’m going to kill you with this knife, you f***** a*****.”

WO1 said he was standing in the wide open and he did not have any cover as the affected person was coming his way. “I had no doubt in my mind that he, his intention was to kill or harm myself, the other police officer...or the complainant, who was also standing nearby, or even himself. There (were) a lot of people that I was concerned would be harmed as a result of the (affected person’s) actions,” WO1 said.

WO1 told IIO investigators he saw that the affected person had shifted his attention towards the subject officer and was moving towards her and was still in possession of the knife. WO1 said that the affected person was saying: “I’m going to kill...I’m going to f***** kill you both.”

WO1 said he considered and decided not to use his own pistol due to concerns over the background and decided to tackle the affected person but as he was about to do so he heard the subject officer state something like, "I have to do this," or "he's coming." While WO1 wasn’t certain of her exact words he was sure she did say something and: “the next thing I know, pop. One shot. And after she discharged, fired the one round I thought that the affected person would stop or go down, but it didn’t work...So the one shot that I heard, I didn’t see where it went. But I know he reacted to it. But he didn’t go down to the ground. So that’s when I lunged straight at him and took him down to the ground. The knife was still in his hand, he didn’t let go of the knife when he was down. And even though I was on top of him with my knees and elbow trying to control him, he still had the knife and was trying to get up.”

WO1 estimated that the affected person was five to six feet away from the subject officer when he heard the pop. The affected person did not go down but continued to stand and was still swearing and screaming. He said the subject officer holstered her pistol and was assisting to control the affected person who was still screaming to get off him and saying that he was going to kill him (WO1).

WO1 told IIO investigators he was able to get the knife away from the affected person and throw it across the roadway away from the affected person. He said he got handcuffs on the affected person and rolled him over to assess where he had been shot.

WO1 told IIO investigators he checked to see if the subject officer was okay. He ensured that Emergency Health Services had been called in and updated dispatch that shots had been fired. He also directed the subject officer to move her police vehicle to block traffic from coming down the street. EHS and Burnaby Fire Department arrived to deal with the affected person and then took the affected person away in an ambulance.

WO1 told IIO investigators he then turned the scene over to other police officers and he and the subject officer were taken back to the Burnaby Detachment.

Witness Officer 2 (WO2)

WO2 was interviewed by the IIO on May 18, 2015. He said he was attending to the scene as back up for other officers and was directed to cover the rear of the building. He heard the subject officer on the radio say the subject of complaint (SOC) had a knife. As he was making his way to the back fence from a neighbouring yard he heard the “crackling sound” of a Taser. Shortly after he was in the process of climbing over the fence to the back yard and he heard the sound of a gunshot. WO2 told IIO investigators he then heard the subject officer update over the radio of "shots fired". He attended to the front and noticed there was a pillow with a Taser prong laying in the road to the west of the male.

Witness Officer 3 (WO3)

WO3 was interviewed by the IIO on May 18, 2015. Once in the back of the residence he described hearing a sound he believed was a Taser. WO3 told IIO investigators that shortly after that he was in the backyard of the house and heard a bang which sounded like a pistol discharging. He told IIO investigators he then heard over the police radio that shots had been fired.

WO3 also told IIO investigators that he was near the back of the ambulance and heard the affected person telling the paramedics that the Taser did not latch on.

Witness Officer 4 (WO4)

WO4 was interviewed by the IIO on May 18, 2015. He said he attended and saw the affected person already in custody. He noted a pillow on the street with an attached Taser probe. He told IIO investigators he was directed to stay with the subject officer and to make sure she didn't say anything or discuss what happened, and to make sure nobody starts talking to her.

Subject Officers

Subject Officer

There was one subject officer in this investigation, who is the female officer that shot the affected person with her firearm. The officer declined to be interviewed by the IIO or to provide any report to the IIO, as is her right pursuant to *The Charter of Rights and Freedoms*.

As of the time this decision is being issued, it does not appear that the subject officer has completed any reports or notes of her recollection of the incident.

British Columbia Ambulance Service (BCAS)

First Responder Witnesses

IIO investigators interviewed four paramedics and four fire fighters as part of this investigation. None were present at the time of the shooting, but did provide relevant material to the investigation. Below is a summary of the relevant statements.

One paramedic noted that the affected person was breathing, alert and was engaging with him. The same paramedic said the affected person denied any drug use but said that he had consumed “a fair amount” of alcohol, and he appeared to be intoxicated.

The first responders discovered one gunshot hole a few inches below the bellybutton. There were no other injuries discovered. The affected person told the first responders that it was the female officer who shot him.

According to one of the paramedics, the affected person said, “she shot me from five feet away. She should have shot me again.” The affected person also told the first responder that he was shot with a nine millimetre. The paramedic entered that information in his report, in the ordinary course of his work: “...according to (affected person) weapon was 9 mm. fired. At 5 feet away.”

Use of Force Report

A Use of Force Report was completed by an IIO investigator who is a use of force expert.

The investigator stated that the use of the Conducted Energy Weapon (Taser) to attempt to stop the threat posed by the affected person was reasonable given the totality of the situation. Below are excerpts from the report.

“There was evidence that both (officers) did move back as (the affected person) was approaching, which is a trained de-escalation as well as re-positioning tactic. Officers are trained when multiple officers are involved in dealing with a suspect in extremely high risk situations, it is better to have only one officer providing verbal commands to a suspect.”

“A Conducted Energy Weapon is often utilized by trained officers when dealing with a subject with an edged weapon. This would be done with another officer providing lethal force over-watch for the CEW operator.”

“In this instance, (the witness officer) did deploy the CEW at (the affected person) but it was not a successful deployment, in part due to the fact that (the affected person) appeared to protect himself by blocking the CEW deployed probes with a pillow.”

“There is no way to confirm if (the subject officer) stated “shots fired” prior to deploying her firearm (as the affected person stated). There is no record of this in radio transmissions.”

“Officers are trained that when facing a suspect with an edged weapon, a safe reactionary gap is necessary to assure the officer’s safety. A reactionary gap is the distance between the suspect, armed with an edged weapon, and the police officer, which would allow the officer time to react to the threat. Officers are trained that if a suspect is moving toward the officer at the time, the reactionary gap needs to be greater as the suspect could close the distance faster than the officer can react to the threat.”

“Tactical training would dictate that the appropriate option in this instance would be lethal force or potentially the CEW if lethal force over-watch was present, which was the initial option attempted by (the witness officer).”

“It is my assessment (the witness officer’s) use of the CEW to attempt to stop the threat posed by (the affected person) was reasonable given the totality of the situation.”

“In this instance, given the threat of grievous bodily harm or death posed by (the affected person), it is my assessment that (the subject officer’s) deployment of her firearm to stop (the affected person) was reasonable and in compliance with her tactical and firearms training.”

Photographic Evidence



Knife recovered from the scene



Taser probe in pillow recovered from the scene



The subject officer’s RCMP issued 9mm Smith and Wesson



Bullet from subject officer’s clip

Law

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) of the *Criminal Code*).
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)) of the *Criminal Code*).
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 of the *Criminal Code*).

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]

In *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

The use of a firearm by anyone against another person can in virtually all cases, and in this case specifically, be reasonably viewed as force that “is intended or likely to cause death or grievous bodily harm.”

The exception to this is that when a firearm is used by an officer against another person, the officer using the firearm must, “have a reasonable belief that the use of that firearm is necessary for the self-preservation of herself or the preservation of any one under her protection from death or grievous bodily harm” if the use of that firearm is to be justified.

In his statement to the IIO, the affected person complained that he was not within “striking distance” of the SO when she shot him because the SO was about 15 to 20 feet away. This implicitly suggests that a peace officer ought not use lethal force unless they are within “striking distance” of an uplifted knife.

The affected person told IIO investigators that he: “steadily walked towards them and they (the police) were backing up...wasn’t going forward at her when she shot me. I was standing still. I wasn’t moving...was making very deliberate strides, you could say, walking. Very deliberate steps. Slow, slow deliberate stance, steps towards the officers the whole time from when I was at the bottom of the stairs...Right up until I got shot.”

The affected person also said: “because if she had stepped back, I wouldn’t have went after her. If she had stepped back, and said, ‘Stop or I’ll shoot,’ I definitely wouldn’t have kept going after her.”

These comments by the affected person show inconsistencies in his statement to the IIO. On the one hand the affected person said he was standing still when he was shot and that “if she had stepped back, I wouldn’t have went after her” and on the other that he “steadily walked towards them and they (the police) were backing up”, that he “kept going after her” and that he was “making very deliberate strides...[r]ight up until I got shot.”

Inconsistencies also exist between the affected person’s statement to the IIO and to the police and to the paramedic.

In contrast to his criticism expressed to the IIO that he wasn’t within “striking distance” when the SO shot him, the affected person told the police he had the “pillow ‘cause I knew they were gonna Taser me. And I wanted that to fail. So then their only recourse would be to shoot me...”

He further added, "...I put an individual in that place where they were in a situation where they could have, where they had to take my life. And that like I'm so thankful that that lady who shot me did what she did and didn't shoot me in the chest and didn't kill me."

Another inconsistency is that the affected person told IIO investigators there were four police officers present at the time he was Tasered and shot; however, both the civilian witness and WO1 say there were only the witness officer and the subject officer present. Both other witness officers told IIO investigators that when they approached the front of the residence, the affected person had already been shot and was on the ground. There is no evidence of other officers who witnessed the incident.

Finally, there is yet a further example of an inconsistency with respect to the affected person's statement to the IIO. While he told IIO investigators the SO was up to 20 feet away when she shot him, this is in contrast to what he told the paramedic. In his statement to the paramedic, the affected person was very precise that it was a nine-millimetre and that it was from five feet away. The paramedic charted this distance on his BCAS crew report.

The paramedic's statement noted that the affected person said he was shot by a 9mm gun and that it was from five feet away.

The civilian witness stated the subject officer shot the affected person from four yards away. Even applying the longest distance of 20 feet as reported by the affected person to the IIO (although all the other evidence is that it was 12 feet or less, and even the affected person himself told the paramedic within minutes of the shooting that it was five feet) as the distance the affected person was from the subject officer when he was shot, if one considers:

- the increase in the affected person's rage following the unsuccessful Taser deployment;
- that the SO was tasked as lethal over-watch of that deployment;
- that the SO was facing an enraged man brandishing a knife;
- the affected person was moving towards her;
- the affected person was threatening to kill her and WO1; and
- that detached reflection cannot be demanded in the presence of an uplifted knife,

The subject officer's actions do not appear to be based upon anything other than 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."

This is further supported by the above analysis from the use of force expert.

Decision of the Interim Chief Civilian Director

Based on all of the evidence collected during the course of this IIO 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 nor will the IIO take any further action in relation to this case.

Clint Sadlemyer, Q.C.
Legal Counsel

January 17, 2017
Date of Release

A.O. (Bert) Phipps,
Interim Chief Civilian Director

January 17, 2017
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