



PUBLIC REPORT OF THE

CHIEF CIVILIAN DIRECTOR

Regarding the February 12, 2014 serious
injury of an adult male involving officers
from the Vancouver Police Department

IIO 2014-000028

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. As the Chief Civilian Director (CCD) of the IIO, I am required to review all investigations upon their conclusion, in order to determine whether I “consider 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 I conclude that an officer may have committed an offence, I am required to report the matter to Crown Counsel. If I do not make a report to Crown Counsel, I am permitted by s.38.121 of the *Police Act* to publicly report the reasoning underlying my decision.

In my public report, I may include a summary of circumstances that led to the IIO asserting jurisdiction; a description of the resources that the IIO deployed; a statement indicating that the IIO, after concluding the investigation, has reported the matter to Crown Counsel; or a summary of the results of the investigation if the matter has not been reported to Crown Counsel.

This is a public report related to the investigation into the serious harm of an adult male that occurred on February 12, 2014 in Vancouver. The affected person sustained serious injuries while, or immediately prior to, the time he was engaged with officers.

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

In my public report, I am 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, I am required, if practicable, to notify the person to whom the information relates, and further, notify and consider any comments provided by the Information and Privacy Commissioner (s.38.121(5) of the *Police Act*).

In this case, I have considered the advice provided by the Information and Privacy Commissioner. I will not be disclosing names of any persons involved.

The affected person was 27 years old at the time of his injury.

NOTIFICATION AND JURISDICTION DECISION

On February 12, 2014, at 10:00 a.m., the Vancouver Police Department (VPD) received a report that the affected person was actively cutting himself with a knife inside a residence. Several officers attended and over the course of the interaction, the affected person was shot with a “beanbag” shotgun multiple times. The BC Ambulance Service took him to hospital, where he was treated for approximately 40 self-inflicted stab wounds.

The IIO asserted jurisdiction after determining that the affected person’s injuries fell within the *Police Act* definition of “serious harm”.

INVESTIGATIVE EVIDENCE CONSIDERED

IIO investigators interviewed civilian witnesses who were at the scene, and took statements from professional witnesses including the Car 87 Nurse, and paramedics from BC Ambulance Service. In addition, five Subject Officers submitted to voluntary interviews with IIO investigators.

AFFECTED PERSON

The affected person met with IIO investigators and advised them that he would not provide a statement or consent for the IIO to access his medical records.

CIVILIAN WITNESSES

On February 12, 2014, **Civilian Witness 1 (CW 1)** was interviewed by IIO Investigators. He was in the building when the incident occurred. He stated that, at approximately 9:50 a.m. on February 12, a plumber told him that he had seen blood on a door of one of the suites and had spoken to the resident of the suite who subsequently went inside.

CW 1 saw blood on the door and heard yells and screams from inside the suite. He opened the door and saw CW 2, the owner of the suite, facing the affected person. The affected person was covered in blood and was holding a knife to his arm.

CW 2 asked CW 1 to call 911 and it appeared as though CW 2 was trying to restrain the affected person and take the knife away from him. CW 1 backed out of the door and called 911. He then looked inside again and observed that the affected person had moved closer to the kitchen area and that CW 2 had taken the knife from him.

Three or four police officers arrived and CW 1 opened the door for them. Seconds later he heard four shots. Two or three more police officers arrived and CW 1 ran to the other end of the hallway. He did not see any of the interaction between the police officers and the affected person. He stated that the ambulance arrived five to ten minutes after the police officers.

On February 12, 2014 and March 7, 2014, **Civilian Witness 2 (CW 2)** was interviewed by IIO Investigators. CW 2 stated that he left his apartment at approximately 9:30 a.m., at which time the affected person was on his couch. He returned approximately 30 minutes later and was informed by a plumber and CW 1 that there was a person covered in blood near his apartment. CW 2 went down the hallway and could see blood on the carpet and on the walls. He opened his apartment door and could see the affected person in the bathroom, to the immediate right of the front door. CW 2 stated that he thought the affected person must have been assaulted as he was covered in blood. CW 2 requested that CW 1, who was standing outside the door, call 911.

CW 2 saw that the affected person had a steak knife in his hand, holding it across his forearm. It was clear to him that the affected person was cutting himself. He grabbed the knife and wrestled it away from the affected person. He washed the blood off of the knife and placed it under the dirty dishes in

the sink. The affected person then got hold of a potato peeler. CW 2 removed it from him and placed it in the sink. The affected person subsequently got hold of a pair of scissors and was threatening to stab himself with them. CW 2 took the scissors away from the affected person, and at that moment police officers came in and tackled the affected person to the ground. The affected person landed in a face-down position and was struggling with police officers while on the floor.

CW 2 saw an officer with a shotgun standing in the living room at or near the edge of a kitchen counter. The officer was pointing the shotgun at the affected person, at a downward angle. A second officer was standing in the doorway of the bathroom with a handgun pointed at the affected person. The affected person was engaged in a physical struggle with other officers at this point, and was on the floor attempting to stand upright.

CW 2 heard four shots, a glass shattered, and he felt something hit his leg, though he was unclear as to what struck him. He saw that one officer had the affected person's left hand in a handcuff and he could see the right hand coming around, but he was ushered out at that point and taken to the lobby.

CW 2 did not recall seeing the affected person inflict any injuries upon himself after the officers arrived. He stated that the officers were physically restraining the affected person once they arrived, therefore his mobility was restricted.

SUBJECT OFFICERS

On April 24, 2014, **Subject Officer 1 (SO 1)** submitted to a voluntary interview by IIO investigators. According to SO 1, he responded to the incident involving the affected person along with Subject Office 2 (SO 2). They arrived after Subject Officer 3(SO 3) and Subject Officer 4 (SO 4). SO 2 retrieved a beanbag shotgun from their vehicle. They entered the building and saw SO 3 and SO 4 in the hallway intently dealing with something inside a suite. SO 1 could hear commotion coming from inside the suite. As SO 1 came up beside SO 3, SO 1 unholstered his Conducted Energy Weapon (CEW) and held it in his right hand by his side. He did not turn it on, point, or display the CEW.

SO 1 looked into the suite and observed a large amount of blood all over the floor. He observed the affected person standing approximately 5-10 feet inside the apartment, fully facing the doorway, staring directly the police officers. The affected person was covered in blood and had nothing in his hands.

SO 1 saw the affected person turn towards the kitchen sink, with his left hand extended as if he was reaching for something. Civilian Witness 2 was attempting to stop the affected person from grabbing anything by positioning himself between the sink and the affected person. At that time, SO 1 believed that the affected person had harmed himself with a knife. SO 1 believed that the affected person posed an immediate risk to himself and to CW 2, and that the affected person was in need of immediate apprehension.

SO 1 did not have time to communicate with SO 3 and SO 4. He made the decision that it would not be appropriate to deploy his CEW at that time, because the affected person appeared to be suffering from either drug use or mental illness, he was unarmed, and CW 2 was in the backdrop. Further, SO 1 had not communicated with SO 3 and 4 or created an action plan.

SO 1 decided to holster his CEW, enter the apartment, and physically restrain the affected person. As SO 1 entered the apartment, the affected person reached his left hand into the sink and retrieved a knife. SO 1 observed CW 2 disarm the affected person of the knife and pull back as if he had been cut. There was blood all over and SO 1 was unable to determine if CW 2 was injured.

SO 1 grabbed the affected person's left forearm and felt his fingers go into a deep laceration. He was immediately shocked at the amount of strength the affected person possessed. Due to the amount of blood on the floor and his strength, it was incredibly difficult to gain control of the affected person. SO 1 was holding onto the affected person's left arm; however he was able to pull a potato peeler from the sink. SO 1 gave commands to drop the knife and continued to hold on. The affected person was able to get the potato peeler to his right hand and began waving it around.

SO 1 heard SO 2 yell "beanbag" and observed the police officers to his right step back from the affected person's side. SO 1 was holding onto the affected person as SO 2 deployed the beanbag shotgun. SO 1 observed the first round hit the affected person and have no effect on his behaviour. Suddenly and very deliberately, the affected person began to repeatedly stab himself in his throat. SO 1 observed SO 2 deploy several other beanbag rounds at the affected person, all with no effect.

At this time SO 1 stated he became fearful for his safety and of everyone involved. As SO 1 heard SO 2's beanbag shotgun "click" indicating it was empty, he took the affected person to the ground. As the other officers had moved slightly to the right, SO 1 used a foot sweep and threw himself and the affected person to the ground as hard as he could. The fall caused the affected person to drop the potato peeler, which came to rest on the floor a few feet away.

SO 1 attempted to maintain control of the affected person's left hand, but due to his strength and the slipperiness of the blood, the affected person was able to put his hand underneath his body. Several other police officers piled on top of the affected person in attempt to control him. The affected person continued to fight and claw towards the potato peeler.

SO 1 observed SO 2 kick the peeler away and was able to regain control of the affected person's left arm. SO 1 gave commands to the affected person to give police his hands and to stop fighting. He held onto the affected person's left arm until other officers were able to gain control of his right arm. SO 1 assisted in placing the affected person into handcuffs.

SO 1 placed the affected person in the recovery position and updated via radio that they required BC Ambulance to respond Code 3. He then stayed with the affected person until the ambulance arrived.

SO 1 directed CW 2, who had been standing in the corner of the kitchen during the entire interaction, to step out into the hallway. SO 1 observed CW 2 to be holding his left hand and there appeared to be a cut along the back of the hand.

Subject Officer 2 submitted to a voluntary interview with IIO investigators on April 24, 2014. According to SO 2, he responded to the incident with SO 1. Information they received via radio indicated there was a male actively cutting himself inside the building.

On their arrival, SO 1 went ahead while SO 2 took his beanbag shotgun, loaded with six rounds, from the trunk of the vehicle. He then entered the building.

When SO 2 arrived at the apartment, he saw that SO 1, SO 2 and SO 3 were already at the doorway of the apartment. All three officers then rapidly entered the apartment and in anticipation of an emergency, SO 2 chambered a round into the shotgun.

Upon entering, SO 2 could see that it was a small suite, with a large amount of blood on the walls and floor. He saw the affected person heading towards the kitchen sink area. The affected person had blood all over his face and arms and was bleeding profusely. The affected person then began to grab for items in the sink and SO 1 and SO 4 moved in to try to take control of his arms.

SO 2 saw that CW 2 was in the corner of the kitchen area. SO 1 grabbed onto the affected person's left arm and SO 4 tried to grab his right arm. SO 2 could see that the affected person had what looked like a knife in his left hand. As the officers attempted to control him, the affected person failed to respond to verbal commands, had a vacant expression and was extremely strong.

SO 2 was concerned for the safety of CW 2 and the other officers. In an attempt to distract the affected person long enough for officers to subdue him, SO 2 shouted "beanbag" and shot a beanbag round at the affected person's right thigh from close range. SO 2 saw the round strike but it had no noticeable effect on the affected person.

SO 2 saw the affected person get his right arm free and take the knife from his left hand, which was still being held by SO 1. With the knife in his right hand, the affected person then began quickly stabbing himself in the throat. SO 2 then fired multiple beanbag rounds from the shotgun into the affected person's upper pelvic area. The shots did not appear to have any effect on the affected person, nor did they slow down his rapid stabbing motion to his throat. SO 2 believed all of the shots struck the affected person.

SO 2 was 3-5 feet from the affected person with the countertop between them, preventing SO 2 from hitting the affected person below the upper pelvic region. SO 2 was not sure how many rounds he fired, but he knew that he had emptied the shotgun without effect. He then saw SO 1, still holding the affected person's left arm, take the affected person to the ground in a twisting motion. SO 2 then saw that the affected person had lost his grip on the knife, which it was now on the floor close to his hand and directly in front of SO 2.

SO 2 placed the shotgun on the couch and saw the affected person with officers on top of him, trying to restrain him. SO 2 stated that the affected person was not focused on the officers, but raised himself slightly from the floor and tried to reach for the knife, which he described as a potato peeler with a sharpened end. SO 2 stepped in and kicked the peeler away. Both the affected person and the kitchen floor were covered in blood, making everything slippery.

SO 5 arrived on scene, and the officers were successful in taking the affected person into custody. A female nurse then entered the suite and started to administer first aid to the affected person. When paramedics arrived, the affected person was placed onto and handcuffed to a stretcher. He was then removed from the premises to hospital.

SO 2 noticed that CW 2 had a severe cut to his hand. CW 2 was removed from the suite and treated for his injury.

Subject Officer 3 also submitted to a voluntary interview by IIO investigators on April 24, 2014. He stated that he responded to the incident with SO 4. When they arrived, CW 2 led them down the hallway to the suite. CW 2 used a key to open the door and SO 3 noticed a significant amount of blood on the door, floor and surrounding walls of the doorway. He described the entire entry way and kitchen as covered in blood. SO 3 called for an ambulance and he could see the affected person kneeling on the floor about 10-15 feet away, with his eyes open. The affected person had nothing in his hands at the time.

From outside the room, SO 3 verbally engaged the affected person. He stated that the affected person had a blank look in his eyes, showed no sign of understanding, and that his movements were rough and jerky. CW 2 was also trying to engage by speaking calmly to the affected person. CW 2 was allowed to enter the apartment and moved around into the kitchen area. SO 3 was speaking to the affected person, encouraging him to listen and step outside for help. SO 3 saw that SO 1 was now next to him with a CEW in his hand. SO 3 was aware that SO 1 was working with SO 2, who had a beanbag shotgun with him.

The affected person suddenly got up from his knees and lurched towards the kitchen area. SO 3 heard CW 2 screaming and SO 1 quickly entered the room. He could see that SO 1 had his CEW drawn, so he drew his pistol as lethal cover, given the previous information had indicated a knife. SO 3 saw the affected person with a bladed object in his hand. The affected person then began plunging the blade into his own throat rapidly.

SO 1 grabbed the affected person in an attempt to stop him. SO 2 was now also in the room with the beanbag shotgun. SO 3 stated he heard the shotgun fire once, heard SO 2 shout, "beanbag", and saw him fire several more times with no apparent effect. The angle of the shotgun indicated the line of the shot to be low on the affected person's body, but SO 3 stated that he did not see where any round struck.

SO 3 stated that as the struggle continued, the affected person was taken to the ground. The affected person continued to fight, trying to pull himself toward, and reaching for the knife, which was loose on the floor. When SO 3 saw SO 2 kick the blade away, he decided it was safe to holster his firearm and stepped forward to assist.

SO 3 stated that he could feel the affected person tensing and he seemed to have super-human strength, pushing and flexing against the restraints. SO 3 saw that a mental health nurse who works with police had entered and initiated first aid.

The officers then pulled the affected person out into the hallway and when paramedics arrived, he was loaded onto a stretcher, to which the handcuffs were fixed. During this process the affected person again tensed himself and was still extremely strong despite his injuries.

The nurse and SO 3 accompanied paramedics to Vancouver General Hospital. During the journey, the affected person continued to fight against his restraints as medical staff struggled to administer treatment. SO 3 stated that it was not until the affected person was sedated that medical staff could actually treat his injuries.

Subject Officer 4 also submitted to a voluntary interview with IIO investigators on April 24, 2014. According to SO 4, he attended the incident with SO 3. When they arrived, CW 2 was waiting at the front door of the premise waving at them to hurry. CW 2 stated that a male in a suite was actively cutting his wrists with a knife.

SO 3 and SO 4 walked toward the suite. SO 4 noticed the carpet was wet with blood and the walls near the suite were smeared with blood. The suite door was open. SO 4 looked in and saw the affected person standing at the edge of the counter, in the opening to the living room. SO 4 walked toward the door, at which point CW 2 ran past him and entered the kitchen.

The affected person's head and face were covered with blood. The affected person's breathing was heavy and SO 4 described him as spitting from his mouth in a state of rage. He was standing at the edge of the counter, in the opening to the living room. SO 4 verbally commanded the affected person to walk toward the hallway.

SO 1 and SO 2 then entered the suite. SO 4 attempted to speak to the affected person requesting him to walk into the hallway. The affected person seemed focused as he stared at the kitchen sink. SO 4 requested the affected person to walk towards the hallway again, at which point the affected person lunged towards the kitchen sink, reached in, and obtained a knife with his left hand.

Both SO 1 and CW 2 immediately grabbed the affected person's left arm and hand. The affected person dropped the knife. The affected person then grabbed another knife from the sink with his right hand and turned towards SO 4 and SO 2. SO 1 and SO 4 were now struggling to control the affected person's right hand. The affected person began to stab himself in the neck and throat.

SO 4 heard SO 2 yell "beanbag" and heard 4-6 shots, though he did not see any beanbags hit the affected person. It was evident that the shots were ineffective as the affected person became more agitated and angry. SO 4 applied knee strikes to the affected person's right thigh, as he feared that he or other officers may be stabbed. The knee strikes were also ineffective. SO 5 arrived and assisted the affected person to the blood-covered floor.

In this process, the affected person let go of the knife and it fell to the floor. While on the floor with three officers on top of him, the affected person pushed himself up and crawled toward the knife. SO 1, SO 4 and SO 5 were able handcuff the affected person. SO 4 stated that the affected person displayed "supernatural" strength throughout the ordeal.

After the handcuffs were placed on the affected person, paramedics were requested to attend immediately. While being placed on the gurney, the affected person was struggling and attempting to get out of the handcuffs. He was eventually placed in the ambulance.

Subject Officer 5 (SO 5) also voluntarily submitted to an interview with IIO Investigators on April 24, 2014. According to SO 5, he attended the incident in the company of a Mental Health nurse. When they arrived, there were other officers on scene and SO 5 could hear screaming coming from inside. As he arrived, SO 5 saw the affected person standing inside, with his back to him.

SO 1 was inside, holding onto the affected person's left arm. CW 2 was also inside, holding one of his hands with blood streaming down his arm, saying he had been cut. SO 5 stated that the affected person failed to comply with demands to drop the knife and continued to stab himself. He then heard someone

yell, “beanbag” and multiple rounds were fired. SO 5 described the object that the affected person was stabbing himself with as having a pointed end which protruded from the affected person’s hand by about six inches, but he did not know what the object was.

SO 5 believed that he was alone in grabbing the affected person’s right arm. He knew that SO 2 was on the other side of the kitchen counter and there were at least one, possibly two officers on his right as he entered.

SO 5 took the affected person’s arm by placing one hand on his wrist and the other further up the arm. This restricted the affected person’s movement and prevented him from stabbing himself further. While gaining control of the affected person’s right arm, SO 5 slipped on the bloody surface of the floor and both he and the affected person fell to the floor, with the affected person face down and SO 5 down on one knee. The affected person managed to free his arm, but lost the weapon in the fall.

The affected person tried to retrieve the weapon, but another officer was able to kick it away and SO 5 was able to take control of the affected person’s right arm again. SO 1 still had hold of the affected person’s left arm and the officers then tried to apply handcuffs. SO 5 stated that although he had hold of the affected person’s arm, he was unable to gain compliance from the affected person and therefore he delivered one knee strike to the right arm, at which point the affected person temporarily loosened his right arm enough for SO 5 to place his right hand behind his back. Handcuffs were applied and the affected person was placed in a recovery position.

SO 5 was handed gauze pads by the nurse and he applied them to the affected person’s wounds in an attempt to limit blood loss. Paramedics attended shortly after and the affected person was treated and transported to Vancouver General Hospital. SO 5 described the enormous strength the affected person displayed throughout the incident.

CIVILIAN WITNESSES (Professional)

Car 87 Psychiatric Nurse

The Nurse was interviewed by IIO Investigators on February 26, 2014. She identified herself as a registered psychiatric nurse assigned to the “Car 87” program where she is partnered up with a Vancouver Police officer in order to respond to calls involving mental health issues.

On February 12, 2014, she was assigned to work with SO 5 and responded with him to the call involving the affected person. She and SO 5 arrived at the same time as the “less lethal” unit. When she entered the lobby of the building, she could hear two uniformed officers, who were at the door of the ground level suite, trying to make verbal contact with the affected person. “Right away when we got there it was police at the door yelling ‘drop it, drop the knife.’” Although the Nurse was in the lobby, she had looked down the hall towards the door of the apartment and could see “horrific amounts of blood” on the exterior door of the apartment, the surrounding framework of the door, and the carpet that led into the suite.

While in the lobby, the Nurse continued to hear police “*begging and yelling for this*”

guy, drop the knife, drop the knife." She stated these commands were loud and clear, but that she couldn't tell whether it was one voice shouting the commands or multiple voices. The Nurse then heard "them yell, 'beanbag,'" and then six shots.

Through those shots she could hear the affected person fighting and screaming. The Nurse proceeded to the apartment door, where she saw the affected person lying on the kitchen floor and saw another male in the suite with wounds to one of his forearms. At this time, the officers were still trying to get the affected person under control – he was "still very difficult [] to restrain, quite combative." She entered the apartment after the affected person was handcuffed and provided first aid pending the arrival of an Advanced Life Support ambulance crew.

BC Ambulance Service

On February 12, 2014, **Paramedic 1** was interviewed by the IIO. He stated that on the day of the incident, he was dispatched to the call involving the affected person. When he and his partner arrived, police officers told them they were going to bring the patient out as there wasn't much space in the apartment and there was a significant amount of blood. The affected person was brought out and Paramedic 1 observed that he had approximately 20 stab wounds to the face and neck. The affected person was placed onto the stretcher in a prone position. Paramedic 1 asked for the handcuffs to be removed in order to facilitate treatment. The handcuffs were removed and the affected person immediately became combative. He was held down until the handcuffs could be put back on and affixed to the stretcher.

Paramedic 1 applied pressure to the affected person's neck with gauze. A second ambulance unit arrived to assist. He and his partner wheeled the affected person to the other ambulance and placed him inside. He saw no interaction between the affected person and police.

On February 12, 2014, **Paramedic 2** was interviewed by the IIO. According to Paramedic 2, on the day of the incident, he was dispatched to the call involving the affected person. When he entered the suite, he saw the affected person prone on the ground, handcuffed with restraints around his feet. There was a substantial amount of blood on the floor. A police officer advised him that the affected person had stabbed himself in the neck. The affected person was breathing and had a pulse.

The affected person was brought out, and Paramedic 2 asked police to remove the restraints briefly so they could get him on the stretcher. As soon as the handcuffs were removed, the affected person became quite combative. The paramedics did their assessment, tried to control the bleeding and transported the affected person to Vancouver General Hospital with two police officers in attendance.

Paramedic 2 observed that the affected person had 15 to 20 puncture wounds to the right side of his face, at the jaw line and cheek. He noted there were also numerous puncture wounds to the left side. Police officers also advised him that the affected person had been shot with a beanbag approximately six times.

On February 12, 2014, **Paramedic 3** was interviewed by the IIO. According to Paramedic 3, on the day of the incident, he was dispatched to the call involving the affected person. When he and his partner arrived, the affected person was already on the stretcher in the hallway. He described the affected person as very strong and stated that it was an ongoing effort to keep him restrained. The affected

person was placed in his ambulance and transported to Vancouver General Hospital on an emergency basis.

Paramedic 3 did not recall any of the officers saying anything about the incident. He observed multiple puncture wounds to the affected person's neck. He stated that the affected person was non-communicative and would not make eye contact. He described a female officer struggling to keep the affected person under control.

MEDICAL RECORDS

The Patient Care Report from the BC Ambulance Service indicated that the affected person sustained more than 20 stab wounds to each side of his neck, and that he suffered from blood loss. There was no indication of any injuries associated with the deployment of the less-lethal shotgun or any other use-of-force applications by the involved police officers.

The affected person denied the IIO access to his hospital records. A VPD police report documented the following injuries as reported by hospital staff: left forearm laceration (x3), right forearm laceration (x1), multiple neck lacerations (superficial but swollen), multiple lacerations to scalp, fractured left cheek, superficial injury to left inner thigh from less-than-lethal beanbag round, bruising to left and right eye, possible blown left ear drum, and "old bruise" to left knee.

SCENE EXAMINATION

Significant amounts of blood were present at the scene, consistent with the descriptions provided by civilian and officer witnesses. A vegetable peeler (which appeared to be stained with blood) was found in the garbage under the kitchen sink. It was bent 90 degrees, the vertex being the point where the handle and the blade were joined. A second vegetable peeler (which also appeared to be stained with blood) was found on the living room floor.

Six expended shotgun shells were located in the living room area of the residence; five beanbag rounds were located at the scene as well.

ISSUE

The general issue in any IIO investigation is whether a person suffered serious harm or death as a result of the actions of an officer and, if so, how and why. If I consider an officer may have committed an offence, I must forward a report to Crown Counsel. There are a number of legal issues to be considered to determine whether a report to Crown Counsel must be made.

Pursuant to the *Criminal Code*, police officers are permitted to use reasonable force against members of the public. Relevant *Criminal Code* provisions state that:

- 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)).

- 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).

ANALYSIS

Based on all available evidence, there is no reason to believe that any officer caused any serious injury to the affected person. To the contrary, it is clear that any serious injuries he sustained to his neck and throat were self-inflicted. All other injuries appear to be consistent with the described force options used by the attending police officers.

The involved police officers used the following force options: (1) SO 1 and SO 3 described going “hands on” with the affected person and taking him to the ground, (2) SO 2 deployed a “beanbag shotgun” and fired six rounds at the affected person, and (3) SO 4 and SO 5 both describe using “knee strikes” while assisting the other officers in attempting to control the affected person.

Peace officers have a duty protect life and property. The involved officers had clear cause to believe that the affected person was harming himself and had an obligation to intervene.

Section 28 of the *Mental Health Act* provides:

- (1) A police officer or constable may apprehend and immediately take a person to a physician for examination if satisfied from personal observations, or information received, that the person
 - (a) is acting in a manner likely to endanger that person's own safety or the safety of others, and
 - (b) is apparently a person with a mental disorder.

Section 25 of the *Criminal Code* permits police to use as much force as necessary to do what the law authorizes or requires them to do. Section 26 holds them accountable if they use unnecessary force. However, the law does not require that police actions 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.” *R. Nasogaluak*, 2010 SCC 6 (Lebel J.)

The use of the beanbag shotgun was specifically appropriate given that the affected person was resisting the officers’ attempts to control him and, according to the officers, attempting to continue to engage in self-harm.

Although CW 2 did not recall the affected person as having engaged in active self-harm after the officers arrived in the apartment, the officers would still have been required to take him into custody and would have been justified in using as much force as necessary to accomplish that objective.

The officers were faced with an emergent situation which required them to quickly and safely take the affected person into custody to ensure necessary and immediate medical treatment. The deployment of the beanbag shotgun and other force options used appear to have been a reasonable response to the situation at hand.

CW 2’s statement also differed from the officers’ statements in that he believed that the beanbag shotgun was deployed after the affected person was already taken to the ground. Even under such

circumstances, as long as the shotgun was deployed in an attempt to control the affected person, who was continuing to resist attempts to handcuff him, such a deployment would not appear unreasonable. There is no reason to believe that any of the involved officers had motivation to unnecessarily or unreasonably harm the affected person – in fact, all the evidence supports that their actions were solely an attempt to save his life.

DECISION

Because the officers had ample reason to apply force, and because all the evidence supports the conclusion that the officers used reasonable force under the circumstances and inflicted no unreasonable injury, I find no reason to believe that they committed any offence. As such, this file will not be forwarded to Crown Counsel for charge assessment.

Prepared for release this 23th day of July, 2014 by

Richard A. Rosenthal
Chief Civilian Director
Independent Investigations Office of BC