



**IN THE MATTER OF THE DEATH OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
TERRACE RCMP IN
THE CITY OF TERRACE, BRITISH COLUMBIA
ON AUGUST 18, 2016**

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

Chief Civilian Director:	Ronald J. MacDonald, Q.C.
General Counsel:	Clinton J. Sadlemyer, Q.C.
IIO File Number:	2016 - 164
Date of Release:	May 18, 2018

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Facts

On August 18, 2016, at 1:32 p.m., a 911 call was received by Terrace RCMP reporting that the Affected Person (AP) was outside the hospital and had a "hunter's axe." AP was threatening suicide. Officers arrived at the hospital and tried to get AP to drop the axe. Officers 1 and 2 each deployed a Taser (a type of Conducted Energy Weapon) and AP was tased twice during the officers' efforts to apprehend him. AP then used the axe to cut his own neck and died shortly thereafter.

The Independent Investigations Office (IIO) was notified by the RCMP at 2:25 p.m. that afternoon. The IIO commenced its investigation as AP died from injuries which occurred while interacting with the Police.

Evidence collected during the investigation included the following:

- 1) Statements of 12 Civilian Witnesses including AP's girlfriend (CW 1), witnesses to the incident or parts of the incident, first responders and a pathologist;
- 2) Statements of Officers 3, 4, and 5;
- 3) Recordings of police radio transmissions;
- 4) Computer Assisted Dispatch (CAD) printouts;
- 5) Photographs of the scene; and
- 6) Autopsy report.

Pursuant to section 17.4 of the Memorandum of Understanding between the IIO and BC Police Agencies, and consistent with the *Canadian Charter of Rights*, officers who are the subject of an investigation are not compelled to provide a statement, nor submit their notes, reports and data. In this case, the Subject Officers (Officers 1 and 2) declined to provide their statements, notes, reports or data to the IIO.

CW 1 told the IIO that at approximately 11:30 a.m. on August 18, 2016, AP took his axe, threatened suicide and walked away towards the forest. CW 1 got into her car and AP returned and got in with her. CW 1 noticed AP had cut himself on his arm and AP agreed to CW 1 taking him to the hospital (some distance away). When they arrived at the hospital in Terrace, AP got out of the vehicle and sat under a tree near the parking lot with the axe.

CW 1 called 911. During the call, CW 1 related where they were and that AP had a "hunter's axe," with which he had already cut himself. CW 1 was concerned he was going to hurt himself further. She related that AP was approaching her with the axe.

A police radio call went out that was broadcast as a "priority file" and included the information that AP was approaching CW 1 with an axe. Officers arrived within minutes and while CW 1 was still on the line with 911. CW 1 was removed to a police vehicle but where she could still see AP. She saw the AP pacing and holding the axe to his neck.

CW 2 captured much of the interaction between AP and police with his cellular telephone video camera. The video shows police arriving and keeping their distance from AP. There is no audio of the interaction between police and AP on CW 2's video. The resolution of the video recording is too low to discern the axe; however, the video does capture the interaction.

A police officer transmitted:

He's got an axe to his throat and he's threatening suicide...We're keeping our distance and we're just going to -- keeping the lines of communication open.

The video shows AP walk towards a large tree and police paralleling him. AP is seen to walk past the large tree and continue in the direction of the hospital helipad. Police officers can be seen keeping their distance. AP is shown as he approached the low (approximately four feet high) chain-link fence surrounding the helipad.

Officer 3 continued to tell AP to drop the axe as AP moved towards the fence while he held the axe to his neck. Officer 3 said AP put the axe against his neck and that he "could see that he had pressure, pressure on it." Officer 3 holstered his gun and pleaded with AP to drop the axe. AP said he was thirsty and Officer 3 threw him a bottle of water.

AP moved closer to the fenced area around the helipad and said:

If you tase me...this is -- this axe is driven steel and it's been sharpened. It's extremely sharp...If any of you tase me I will kill myself.

Witnesses said that the police were asking AP to put down the axe. Officer 3 told the IIO that AP ran, holding the axe up, and jumped over the fence into the helipad area and repeated a number of times:

Anybody comes across this fence, I'm going to slice my fuckin' neck and by the time you get up to me, I'll be fuckin' bled out.

Officer 4 said AP hopped over the fence and told the officers to stay where they were. Officer 4 said that the entire time:

...you could even see, like, the, the amount of pressure...that he was pushing up on his neck, you could tell that he was pushing on his neck with that blade.

The video shows AP tossing the bottle of water over the fence and jumping over himself.

Officers 1, 2, 3 and 4 followed AP but stayed outside the fenced helipad area. Officers 1 and 4 were near the gate and officers 2 and 3 stood next to the fence several metres from the gate.

Officer 5 approached the helipad from the far side and told the IIO that he could hear Officer 2 talking to AP loudly in a "*classic training de-escalation voice*" telling him to calm down. AP saw Officer 5 and recognised him.

AP told Officer 1 that if he came inside he would kill himself to which Officer 1 said:

Hey man. It's cool. You know, I'm not going to step inside. That's it. I'm not going inside.

AP reached into his pocket with one hand while still holding the axe to his neck and pulled out a chain from his pocket. AP walked towards the gate saying he was going to give the officers the chain. AP was told to leave the chain on the fence.

The video shows AP move towards the gate, turn and start to walk away. AP took a few steps and Officer 1 deployed his Taser at AP. AP can be seen to drop to the ground face first and away from the camera and officers.

Officer 4 saw AP visibly bleeding as he was falling. Officer 4 jumped over the fence and ran towards AP who was a few feet away. He said it appeared to him that AP made a motion pushing the blade deeper inside his neck.

Officer 3 told the IIO he felt he had to get to AP. He said AP looked:

...so determined. And then he had the axe in his right hand at his neck and he just grabbed it with his other hand and he did, like, two super fucking deep cuts in his neck.

The video shows Officer 4 struggle briefly with AP and then AP stood up and ran away from the camera. CW 3 said she saw AP get up and "*...grab the mini-axe from the ground with his right hand and walk off at a quick pace away from the officers.*" She said AP walked a few more steps before falling to the ground on his stomach and rolling over onto his left hand side. The other officers then surrounded AP on the ground.

In the video, Officers 3 and 4 can be seen chasing AP and then Officer 2 can be seen deploying his Taser from outside the fence. AP is seen falling down and Officers 1, 3, 4 and 5 surround him and begin to attempt first aid. AP resisted for a few moments longer and then stopped resisting.

First responders were on scene and rushed in to treat AP and he was taken off the helipad on a gurney within minutes. He died in the hospital shortly thereafter.

An autopsy report obtained by the IIO indicates that the:

...appearance of the right neck wound could be consistent with a self-inflicted injury. Specifically, both ends of the wound showed superficial continuation into

the adjacent skin, at least suggesting that the wound occurred by dragging a sharp weapon (in this case, presumably the axe blade) along the neck.

The report allows that in theory, when AP fell forward the first time he was tased, the neck injury could have occurred as AP fell or as he hit the ground and before he got back up and continued walking. While it is possible that the axe blade could have penetrated into the neck in this manner, the nature of the wound suggests a movement of the blade along the wound, as opposed to simply pushing the blade into the neck as might occur if falling on the blade. This is corroborated by the account of Officer 4 who saw AP bleeding prior to hitting the ground.

With respect to the Taser, it was the opinion of the Pathologist that:

It is unlikely...that the wound identified at autopsy would have occurred in such a manner [as the result of involuntary movements while being tased.] It's directionality along the skin suggests more purposeful movement.

Relevant Legal Issues and Conclusion

The purpose of any IIO investigation is to determine whether an officer, through an action or inaction, may have committed any offence in relation to the incident that led to the injury to AP.

More specifically, the issue to be considered in this case is whether any of the officers may have used inappropriate force during the apprehension of AP. Had they done so, they may have committed criminal negligence causing death.

In this case, police were summoned regarding the actions and stated intentions of AP with respect to killing himself with an axe.

The *Mental Health Act*, in effect, places police officers as society's front line mental health workers. Section 28 of the *Act* provides for police apprehension of a person who is, "*acting in a manner likely to endanger that person's own safety or the safety of others*" and is, "*apparently a person with a mental disorder.*"

A police officer who is 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. If a police officer uses unreasonable or excessive force, those actions may constitute a criminal offence.

In this case, AP clearly intended to injure himself. The first deployment of the Taser did not have the desired effect of completely disabling AP long enough for the officer to disarm him. The use of a Taser, however, was appropriate in the circumstances. The police could not stand idly by while AP, in the words of Officer 4, "*...was pushing on his neck with that blade.*" Police officers have a duty to save life. It may have been

criminally negligent for the Officers not to make an attempt to save AP from hurting himself. In this case they had few options and used the Taser in an effort to disarm AP safely before he could hurt himself. There is no evidence that either Officer 1 or 2 acted with reckless disregard for the life of AP.

The evidence collected does not provide grounds to consider any charges against any officer. Indeed, the evidence shows that the officers acted as required by their duties and in accordance with the law.

Accordingly, as the Chief Civilian Director of the IIO, I do not consider that an officer may have committed an offence under any enactment and therefore the matter will not be referred to Crown counsel for consideration of charges.



Clinton J. Sadlemyer, Q.C.
General Counsel

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