



**IN THE MATTER OF THE DEATHS OF A MALE AND FEMALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN THE VILLAGE OF GRANISLE, BRITISH COLUMBIA
ON APRIL 21, 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:	2016-073
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Facts

On April 21, 2016 at 12:32 p.m., the RCMP received a call from the remote village of Granisle. The caller alleged that the male Affected Person (male AP) had committed an assault using a firearm, including pointing it at Civilian Witness 1 (CW 1) and then pulled the trigger. RCMP members from surrounding areas came to Granisle and set up a perimeter around male AP's residence.

Officer 1 was at the rear of the residence and radioed that he saw a man with a gun and a knife. He was then heard to give directions to "*drop the Molotov Cocktail.*" Witnesses heard gunshots and Officer 1 radioed "*shots fired...He's throwing a Molotov cocktail...Man down.*" Within two minutes another shot was heard and Officer 1 radioed that the female Affected Person (female AP) was in the backyard, had a gun and that he (Officer 1) had shot her. Officer 1 later radioed that each AP in turn had pointed a firearm at him.

Both APs died at the scene.

The Independent Investigations Office (IIO) was notified by the RCMP at 3:42 p.m. The IIO commenced its investigation pursuant to the *Police Act* as two people were shot and killed by a police officer.

Evidence collected during the investigation included the following:

- 1) Statements of 12 Civilian Witnesses (CW 1 through 12); including eight neighbours, a long-time acquaintance of female AP and three paramedics;
- 2) Statements and reports of Officers 2, 3, 4, 5, 6, 7 and 8;
- 3) Recordings of police radio transmissions;
- 4) Photographs of the scene;
- 5) Forensic Scene Examination;
- 6) Fingerprint reports;
- 7) Ballistics reports;
- 8) DNA reports; and
- 9) Autopsy reports.

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.

The IIO was advised that the subject officer in this case, Officer 1, did not wish to make a statement and did not make any notes or reports related to the shooting of the APs. Radio transmissions are not subject to this limitation and were obtained by the IIO.

Chronology of Events

About three months prior to the incident under investigation a dispute had taken place between the APs and CWs 1 and 2. Police were informed about this at the time. There were allegations that CW 1 had assaulted the male AP, and CWs 1 and 2 had vandalized the APs' property.

One week prior to the incident the female AP was at a place of business in Granisle and ran into CW 1 and CW 3. CW 1 reportedly said to the female AP that *"I'd like to know if I have a problem with you, how we can work it out."*

The female AP reportedly repeatedly swore at CW 1, who said nothing further and left. CW 3 reported that the female AP's last statement was:

...if [CW 1] comes back in my yard, I'm going to kill [CW 1]. And then she turned around and left.

CW 1 had previously begun making notes of his interactions with AP. The IIO obtained CW 1's notes of this interaction which were similar to CW 3's report of the event. CW 1 further noted that about an hour later the male AP telephoned and warned CW 1 to *"...stay away from [the female AP] or he will 'fix' me."* CW 1 noted that he saw the male AP shortly after that and the male AP put something up to his shoulder and pointed it towards CW 1 as *"...you would a gun."* CW 1 also noted that yet later that same day the male AP rode a bicycle onto and off CW 1's property and waved at CW 1 to come outside. CW 1 did not go out.

CW 1 told RCMP that on the day of the shooting while walking home from picking up the mail, the male AP approached and told CW 1 not to talk to the female AP. CW1 said he was not speaking with her. CW 1 said the male AP pushed CW1 with two hands, apparently attempting to push CW 1 down.

CW 1 said the male AP also displayed some nylon tie straps and indicated that they were for CW 1. CW 1 walked towards home. CW 1 spoke with CW 4 (in a vehicle) and CW 5 who approached on foot. During the conversation, the male AP again approached and advised CW 1 not to speak with the female AP.

CW 1, CW 4 and CW 5 reported that the male AP produced a handgun and pointed it at CW 1. CW 1 and CW 4 both related that the male AP pulled the trigger while the handgun was pointed at CW 1. All three witnesses agreed the gun didn't go off and that the male AP physically took CW 1 to the ground and struck CW 1's back with the butt of the handgun.

The male AP said that he was going to take CW 1 into his (the male AP's) house for questioning to which CW 1 resisted. CW 5 called the police at 12:32 p.m. and the male AP went into his residence. Minutes later, CW 6 arrived in a car and stopped and asked whether CW 1 was injured. The female AP came out of her's and the male AP's

residence, got into her car and pulled out of her driveway. CW 6's vehicle was blocking the road and the female AP collided with CW 6's vehicle two times and pushed it aside. The female AP drove away and returned about five minutes later, parking her car near her house.

Police Response

As a result of the report of a handgun being used in the course of an assault, police were dispatched to attend as soon as possible. The Canadian Firearms Registry confirmed for police the male AP owned a semi-automatic .22 calibre handgun. Officers were aware of the history between the APs and CW 1 and CW 2.

Officers 2 and 3 were the first to arrive at 1:16 p.m. For safety reasons, the officers remained at the end of the block and awaited the arrival of other officers.

At 1:25 p.m., CW 1 approached the officers and advised Officer 2 about what had happened. Officer 4 arrived at approximately 1:50 p.m., followed by Officers 5, 6, and 7. Officer 1, an Emergency Response Team member, was the last to arrive. Officer 2, who was the supervisor, advised the team that the level of risk was "very high" because the male AP had tried to discharge the handgun at CW 1.

A plan was developed to safely engage with the male AP by having the officers cover all sides of APs' residence while Officer 2 telephoned the male AP to seek his surrender.

Officer 1 was assigned to approach the residence from the neighbouring backyards and treed area to the back and left of APs' property.

Officer 2 went to a nearby residence with CWs 1, 2, 4, and 5 and telephoned the APs' landline at their residence. The female AP answered the telephone and spoke with Officer 2; however, she would not put the male AP on the line or say if he was home. Within seconds of the call ending Officer 2 said Officer 1 radioed that, "There's a man exiting the back."

Officer 2 told the IIO that:

Then there were a couple of more transmissions about him with the gun or having a gun, and a Molotov cocktail of some sort. And then it was broadcast that he lit and threw the Molotov cocktail, and within seconds there was several gunshots. Yeah, I -- I'd say two to four, but it was quick succession...

Officer 2 related there were further transmissions and then the sound of a single shot. Officer 2 said he then left the CWs' residence to assist the other officers.

Officer 2 also told the IIO that Officer 1 later told him that the male AP came out with a Molotov cocktail, threw it and leveled his gun at Officer 1. Officer 1 also told Officer 2

that when the female AP came out, she went to the male AP first and then leveled her gun at him (Officer 1.)

Officer 6 related to the IIO that, following the incident, Officer 1 told him that, as he was moving towards the APs' residence, he saw the male AP. Officer 1 told Officer 6 that the male AP also saw him and then threw a Molotov cocktail into the forest.

An unbroken, charred bottle with a piece of cloth hanging out of it was located in the woods behind the male AP's residence. It was approximately 27 metres from where Officer 1 was located. Other unused Molotov cocktails were located near the residence and the male AP's fingerprints were found on them.

All of the civilian witnesses present with Officer 2 described a similar pattern of gunshots. Most heard an initial set of shots followed a minute or two later by another shot.

CW 8, who was not with Officer 2 during the incident, heard, but did not see, Officer 1 directing the male AP to "*put down your weapon*" three times and then recalled hearing two shots and a few seconds later a third shot.

Both APs were found deceased at the rear of their residence. The male AP was wearing an army helmet with a camouflage-patterned cover over a green balaclava. He was also wearing a black jacket with green army webbing that held eight ammunition clips loaded with 10 rounds of each. Those rounds were useable in the rifle found with him. He was also wearing a black fanny pack with nylon zip ties. The female AP was wearing ballistic body armour which was strapped to her chest. Over the body armour she was wearing a camouflage jacket and blue camouflage-pattern pants.

The rifle and shotgun in the photos below were found next to the APs following the incident. Both firearms were loaded and both had a shell in the chamber.



Scene and Other Evidence

A forensic examination as well as an extensive search of the scene and surrounding area was performed. A black semi-automatic handgun was found in the APs' house.

Autopsies were performed and the reported cause of death for the male AP was two gunshot wounds to the chest. One bullet was found in the male AP, while the other passed through. No other contributing factors were identified. The cause of death for the female AP was a single gunshot wound to the upper body. That bullet was found within her body. Again, there were no other contributing factors identified. The bullets were examined and were confirmed to have been fired from Officer 1's rifle.

Four shell casings were found behind the APs' property near where Officer 1 had been standing. Three were found close together, about 23 metres from where the deceased were located. The fourth shell casing was located about 7 metres farther back from the others. The shell casings were examined and all four were found to have been fired in Officer 1's rifle.

Toxicological analysis for both APs identified the presence of some components of gasoline. Neither showed a presence of alcohol or drugs.

Officer 1's Radio Transmissions

The IIO obtained recordings of police radio transmissions, including Officer 1's transmissions, starting at 2:49:40 p.m. They disclose the following:

[Officer 1 identified himself using his call number], *I've got a male in the backyard. He's wearing camo. He has a firearm and a knife. Stick your hands up. Put your hands up. Stand up. Drop the Molotov cocktail!* [seven seconds of no transmission follow]

At 2:49:57 p.m., Officer 1 radioed:

Shots fired. Shots fired. He's throwing a Molotov cocktail. He has a .303 British with a bayonet. Man down in the back yard.

Other officers made transmissions related to repositioning to where they may be of assistance and none of which indicate any officer being able to see either the male AP or Officer 1. Officer 1 radioed that caution was required as "...*there may be another party involved.*"

At 2:50:30 p.m., Officer 1 radioed:

Male is out of view. He's fallen down in the back yard, I've lost him behind a fence.

There were further transmissions regarding cautionary measures as other officers repositioned themselves and at 2:50:54 p.m., Officer 1 radioed:

I've taken a step back here, just to get a better hiding spot here. I'm going to keep the best eye I can.

Discussions regarding how the officers would be able to see the male AP without danger to themselves occurred and at 2:51:20 p.m., Officer 1 radioed:

*...yeah, that was him in the back.
He's all camoed up.
I got the female out in the back yard now.
She's looking after him.
Dispatch, can we get EHS staging?
DISPATCHER: 10-4.
[Officer 1] Ma'am, drop your --*

That transmission ended at 2:51:32 p.m.

Five seconds later at 2:51:37 p.m., Officer 1 transmitted:

Female is in the back yard. She has a firearm as well. I've shot her as well. She is down.

At 2:51:52 p.m., Officer 1 transmitted:

Go slow, go slow, I got her but I don't know if she's down, I can't see them anymore they're both lost.

At 2:52:34 p.m., Officer 1 transmitted:

They both pointed their firearms at me so once you get a visual you have to be ready.

At 2:54:10 p.m., Officer 1 transmitted:

Members be advised when I first made a contact with him, he was lying in wait so if he's still alive that's what they're going to be doing.

At 2:54:50 p.m., Officer 1 transmitted:

I just want to update my position, I'm in the back yard of a house, it's to the left of the [male AP's residence] so that is going to be the green side, there is a...[Officer 1 described the vehicles at the residence.]

At 2:55:31 p.m., Officer 1 transmitted:

What I'm saying is I've lost visual and we're going to have to expose ourselves to see them.

At 2:56:33 p.m., Officer 1 transmitted:

I need a member to come to me, back yard, two houses to the left...

At 3:02:22 p.m., Officer 1 transmitted:

Well here's the thing, if they managed to sneak back in the house, I highly doubt it but we have to consider that so in my opinion the back yard is priority number one but we cannot turn our back on that house and obviously we've got to clear it as well, right?

At 3:04:03 p.m., Officer 1 transmitted:

Be advised, I can see where rounds have struck. Some of my rounds on a concrete decorative thing. So, as much as he went down, I cannot confirm that they are down and out.

At 3:05:07 p.m., another officer transmitted:

I can see one firearm to the left.

At 3:05:24 p.m., Officer 1 transmitted:

We have a visual. It looks like [deceased], male and female...They are on top of each other. We can see one firearm for sure at this time.

EHS was then requested to move from their staging position to come and treat the APs.

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 or death to AP(s).

More specifically, the issue to be considered in this case is whether Officer 1 may have used excessive force when he shot and killed the APs. If he used excessive force he may have either committed manslaughter (excessive force in self-defence) or murder (the intentional killing of another person.)

However, 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. In addition, if he faces a threat of death or grievous bodily harm he is entitled to take reasonable steps to protect himself.

The goal of an IIO investigation is to first uncover all relevant facts and then determine whether those facts show an officer committed an offence. Sometimes IIO investigations cannot “prove what happened”, but only determine whether charges are justified. Cases where there is no independent visual evidence are challenging, and as a result the evidence must be fully and carefully examined. The available objective evidence must be closely scrutinized to determine whether it corroborates or refutes the available evidence of the officer’s actions.

In this case, police were called because the male AP had pointed a firearm at CW 1, pulled the trigger, struck CW 1 with the gun, and then attempted to forcibly take him to the male AP’s residence. As a result of this complaint police had valid grounds to attempt to arrest the male AP for serious offences.

To prepare for the arrest, police intended to surround the APs’ property and ask the male AP by phone to surrender. This was an appropriate approach designed to achieve a peaceful resolution to the incident. Officer 1 was stationed at the rear of the APs’ property in accordance with the plan.

Although there are no eye-witnesses to the interaction between Officer 1 and the APs, the investigation has the benefit of Officer 1’s radio transmissions, made as the incident was ongoing, evidence from a civilian witness about comments that witness heard Officer 1 make to the male AP, and evidence from other officers about what Officer 1 said to them shortly after the event. This is in addition to the scene and other objective physical evidence, as well as civilian evidence about what they heard during the incident, and background evidence in relation to the two APs.

The real time radio transmissions are particularly important, as those are comments being made by Officer 1 as matters unfold, without significant time for reflection or fabrication.

This investigation has examined all this evidence to determine whether or not it corroborates or refutes the available evidence from Officer 1 about why he shot both APs. In sum, his explanation would seem to be that as he was standing behind their yard each AP pointed a firearm at him, and in addition the male AP was in possession of a Molotov cocktail and threw it from the yard.

That examination of the evidence demonstrates the following:

- 1) The Male AP left the house, armed with a gun, Molotov cocktails, and ammunition, immediately after the call police made to the home ended. It is a

very reasonable conclusion that the male AP left the home in response to that call, expecting to see a police presence.

- 2) Officer 1 was overheard telling AP to drop a Molotov cocktail, and a burnt out bottle and rag was found, consistent with one having been thrown. While it was not thrown directly at Officer 1, it fell about 27 metres from him, and it was an action taken by the male AP to resist the efforts by police to arrest him. In addition, it would have been reasonably seen by Officer 1 to be a dangerously aggressive action.
- 3) Officer 1's transmissions and comments suggest shots were first taken at the Male AP, that he then moved back somewhat, and then shot one more round at the female AP. The physical evidence regarding the location of shell casings is completely consistent with those statements.
- 4) Officer 1's transmissions and comments regarding the male AP being in possession of a firearm and pointing it at him, which he described as a rifle, are corroborated by the presence of a loaded rifle found beside the male AP. Similarly, he made a truncated radio transmission telling the female AP to "drop your...", and made later comments about her pointing a gun at him. Those remarks are corroborated by the presence of the loaded shotgun near the female AP.
- 5) The timing of the shots overheard by police and civilian witnesses are consistent with Officer 1's radio transmissions and later explanations.
- 6) Transmissions made by Officer 1 after the shots were fired make it clear he was highly fearful of the potential threat each AP may still represent. This is consistent with his prior statements about having two guns pointed at him.
- 7) Both AP's had guns that were loaded. The male AP was armed with other ammunition, and the female AP was wearing a bullet proof vest. These facts are consistent with persons who seemed prepared to take drastic actions.
- 8) Background evidence corroborates that both APs had been acting quite violently toward others:
 - a. Both AP's were in a significant dispute with CW1 for some time.
 - b. That day the male AP had been acting violently toward CW1 and threatened him with a gun.
 - c. That day the female AP threatened to kill CW1, and the male AP suggested he would "fix him".

- d. Shortly prior to the arrival of police, the female AP had deliberately used her vehicle to strike CW6's car.

In the end, this investigation must attempt to answer one paramount legal question: is there sufficient evidence to show that Officer 1 was not justified in using lethal force to protect himself? His transmissions suggest that he fired at the AP's only after they pointed guns at him. If that is the case, he would be justified at law to protect himself by firing at them before they could fire at him.

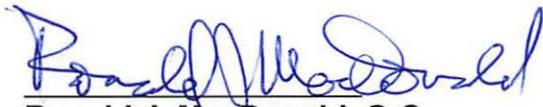
While no one else was visually present, Officer 1's account is known because of what he said on the radio and to others. Given the consistency of all the objective evidence with Officer 1's account, it is not possible to say that Officer 1 was not justified in his actions. Indeed, the balance of the evidence supports the conclusion he fired his rifle to protect himself from potential lethal force from guns being pointed at him.

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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