



PUBLIC REPORT OF THE
CHIEF CIVILIAN DIRECTOR

Investigation into the October 29, 2012
fatal shooting of Christopher Ray by the
Vancouver Police Department in the city
of Vancouver, British Columbia

IIO 2012-10-0172

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 of the IIO (CCD), 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.

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, the family of Mr. Ray consented to his identity being disclosed in this public report. In addition, his identity was previously disclosed by the British Columbia Coroners Service (BCCS) and extensively reported on in the days following the incident.

At the time of his death, Mr. Ray was 52 years old. He is survived by family and friends including a daughter, grandson and sister.

On the evening of October 29, 2012, officers from the Vancouver Police Department (VPD) responded to a disturbance complaint related to Mr. Ray. Shortly after the first VPD officer arrived at the scene and made visual contact with Mr. Ray, he shot Mr. Ray, who was running towards him while armed with a knife.

NOTIFICATION AND IIO JURISDICTION

The incident occurred at 8:35 p.m. on October 29, 2012. The IIO was initially notified of the shooting at 9:05 p.m. At 9:24 p.m., the VPD confirmed that Mr. Ray had not survived his injuries. The IIO asserted jurisdiction immediately and deployed investigative staff to the scene.

INVESTIGATIVE FACTS

On October 29, 2012, at 8:15 p.m., the VPD non-emergency line received a call about a male causing a disturbance near Skeena and Hastings Street in Vancouver by going around a residential building and kicking doors, railings and benches. At 8:28 p.m., a call was made to 911 reporting the male was “smashing our [lobby] windows ... he’s going at them with all he’s got right now, with a rock.”

At 8:29 p.m., the VPD dog handler was dispatched to the call along with two other VPD officers. The subject officer, driving a marked VPD van and in uniform, heard the call and was first on the scene.

Specific radio broadcast information was obtained during the course of the investigation.

At 8:34:59 p.m., the subject officer broadcast: “have a male on view at the back of the building ... pounding on vehicle window.”

At 8:35:26 p.m., he reported: “has something in his hand and asking me to come over.” The officer requested additional units attend saying: “make it a hurry up.”

At 8:35:51 p.m., the VPD dog handler broadcast: “shots fired.” At 8:36:02 p.m., he requested emergency health services: “code 3 EHS...shots fired, man down.” Other witness officers arrived at the scene at approximately 8:38 p.m.

CPR was administered by officers at the scene. Emergency medical personnel arrived at 8:40 p.m. and transported Mr. Ray to Vancouver General Hospital. He did not survive his injuries and was pronounced deceased at 9:14 p.m.

The Subject Officer’s Statement

IIO investigators received a voluntary written statement from the subject officer. He described arriving at the scene and hearing someone call out to him. At that time, he saw Mr. Ray standing under an alcove about 30 feet away. He noted that Mr. Ray was calling out to him in a manner that was “loud, direct, commanding and (that he) sounded excited.” Mr. Ray appeared to have something in his fist and was striking two parked vehicles yelling “come here, let’s do this.”

The subject officer stated that as Mr. Ray began to move toward him in a “determined and purposeful walking pace,” he decided to put distance between himself and Mr. Ray by repositioning himself behind the police van.

The subject officer reported Mr. Ray returned to the alcove and continued to strike other vehicles while still yelling at him to “come here.” Mr. Ray was observed striking the back of a moving vehicle that was attempting to park in the alcove. The subject officer motioned for the driver of that vehicle to leave the area.

After broadcasting a request for assistance, the subject officer observed Mr. Ray running toward him from a distance of about 50 feet. Mr. Ray’s arm was “outstretched” toward the officer “and his hand was making a fist” around what appeared to be a metallic object. The subject officer issued the command to “stop” and “stay back” however Mr. Ray advanced in “what seemed to be a sprint” closing the distance to about 25-30 feet.

The subject officer drew his firearm, continued to back away from the advance and repeated the commands to “stop” and “get back.” Mr. Ray did not comply and by the time he was 10 feet away, the subject officer could see what he believed to be a knife blade in Mr. Ray’s fist.

The subject officer fired two shots in quick succession. After Mr. Ray fell to the ground, the subject officer observed a “Leatherman style multi-tool with the folding knife open” on the ground next to Mr. Ray.

Witness Officer Observations

IIO investigators interviewed the VPD dog handler who had been dispatched to the call. He stated that shortly after parking the police vehicle, he heard the subject officer report that he had located someone at the back of the building. The dog handler put his police service dog on a short leash and proceeded down the alleyway towards the subject officer’s location. He heard the subject officer broadcast that the suspect had something in his hands. Before the dog handler reached the back of the building, he heard shots. He broadcast “shots fired” and subsequently observed the subject officer “with his pistol out, two hands on the pistol pointing at the low ready position” towards Mr. Ray who was on the ground. The dog handler recalled observing the subject officer within 10 feet of Mr. Ray. He also observed a “Leatherman tool with the blade sticking out on the ground” close to Mr. Ray.

Civilian Witness Observations

IIO investigators identified and located 11 civilian witnesses (CW) who saw the interaction between the subject officer and Mr. Ray. Nine of these witnesses provided statements that were generally consistent with the statement provided by the subject officer. Six of the witnesses were at a nearby bus shelter at the time of the shooting and were in close proximity to the incident.

CW 1 and her friends were at the bus shelter when she saw a “big police truck” drive by. She saw Mr. Ray standing about 20 metres from the bus shelter. The police officer was talking loudly to Mr. Ray. She saw Mr. Ray with “a knife in his hand and he was running towards the policeman.” She recalled the police officer stepping away and telling the male to stop. The police officer pulled out his gun when the male started moving towards him. The police officer asked the man to stop many times. She stated the police officer had both of his arms extended with the gun in his hand and shot twice from “maybe two metres away.”

CW 2 was at the bus shelter when he saw a police officer with his hand on his gun. He heard the officer shout at Mr. Ray to stay where he was. About 15-20 seconds later, he saw Mr. Ray run towards the officer “like an attack.” CW 2 indicated Mr. Ray may have had a knife in his hand but was not certain. He stated it happened quickly describing the time span as one minute between the verbal commands and the actual shooting.

CW 3 was at the bus shelter when she saw the officer with his hand on his gun. She also observed Mr. Ray in the garage area across the street but was unable to see what he was doing. She heard the officer issue the command “stay there; don’t move.” She saw Mr. Ray banging on a car in the garage area. She also saw the same car drive away and leave that area. Mr. Ray then began to walk towards the police officer. She heard the police officer say “stay back” and then he began to move backwards. Mr. Ray started running towards the police officer. She saw Mr. Ray pull a knife from his waistband and hold it out in front of himself. He continued to run toward the officer who subsequently fired two shots.

CW 4 was at the bus shelter when he saw the police van pull into the parking lot. He heard Mr. Ray yelling at the officer. Mr. Ray threw a shoe at the officer who then backed away. He saw a vehicle come into the parking alcove. Mr. Ray knocked on the window of the vehicle and told the driver to leave. The officer issued several commands for Mr. Ray to stay where he was. The officer repeated himself at least “over five times.” Mr. Ray came toward the officer and pulled out what looked like a knife, proceeding to “run at the cop.” He stated: “I just remember him running with his hand stretched out ... like the guy was going to go and try to stab the cop.” At about 20 feet away, CW 4 lost sight of the officer and Mr. Ray but subsequently heard two gunshots.

CW 5 was at the bus shelter when he saw the police van in the parking lot. He saw the exchange between Mr. Ray and the vehicle which was attempting to park and heard him shout at the officer. He heard the officer issue warnings to “stay back and keep away.” He observed the officer walk backwards and heard him radio “hurry up.” Mr. Ray then ran towards the officer with his arm outstretched and holding a knife. CW 5 observed the officer running backwards and described Mr. Ray as “running faster than a jog...very close to a run or a sprint.” He stated the officer gave a final warning before he fired his gun.

CW 6 was at the bus shelter and observed the police van in the parking lot. He heard an officer say “stay there.” He saw Mr. Ray interact with the driver of the moving vehicle and his advance toward the officer. The officer was backing away and told Mr. Ray to stay where he was. The officer continued to back away as Mr. Ray started to walk faster with something in his hand. He believed there was approximately 15 feet between Mr. Ray and the officer when the shots were fired.

Three other civilian witnesses were interviewed and provided statements similar to those who had been at the bus shelter.

CW 7 stated the he was attempting to park under some alcove parking when he was confronted by Mr. Ray who apparently did not want him to park and who began “smacking” the trunk of his vehicle. He saw that a police officer was directing him away from the covered parking area. He moved his vehicle and parked approximately 20-25 yards away. After he parked he saw the officer backing up saying “stay there” and saw Mr. Ray advancing towards the officer. He saw something “silvery and shiny” in Mr. Ray’s hand: “I don’t know what it was, a knife or something.” CW 7 said: “he kept coming, he kept coming, I mean he was racing ... he was running. He was at a sprint.” CW 7 heard two successive shots one after the other.

CW 8 was parked in the parking lot when he saw a marked police van pull over beside him. After a few seconds, he could see a police officer pointing at something, but could not see what it was. He could also hear the officer yelling something. He got out of his van and walked over to the bus shelter where he had an unobstructed view. He heard the officer saying “stay right there, stay right there.” He then saw Mr. Ray run past the bus shelter with something short and sharp in his hands. Mr. Ray ran towards the officer who was backing up and yelling “Hold it right there, hold it right there.” As Mr. Ray got closer to the officer, the officer shot twice.

CW 9 was sitting in her vehicle when her attention was drawn to someone yelling. She saw a police wagon and a police officer standing on the other side of the parking lot. She saw a vehicle attempting to back up into a parking spot in a carport area at the end of the parking lot. A male was telling the driver of the vehicle to go and the vehicle left. She heard the police officer yelling: “just stay there and don’t move.” The male (Mr. Ray) came out of the carport and was advancing towards the officer who was continuously yelling “just stop and stay there.” Mr. Ray continued to advance, “it looked like he had a knife in his hand and he was running towards the officer and the officer was running backwards yelling “stop, don’t.” Both the officer and Mr. Ray went out of her sight because there were cars obstructing her view. She then heard two shots.

Two civilian witnesses provided statements that were substantially different than the other civilian witnesses. One witness was interviewed 18 days after the incident after she identified herself as a witness through the IIO tip line. She recalled seeing Mr. Ray running and moving fast toward the sidewalk. She observed the police officer appear from the other direction. “He came up and I saw he was holding a gun with two hands. The two men approached each other and I’m not sure – I’ve never been able to remember – if the man who was running stopped like fully, or kinda stopped...but it looked like he was running towards the cop, who I didn’t know was a cop.” She recalled seeing the officer shoot twice. She recalled them being not closer than 10 feet; she did not recall hearing anything. She noted: “Maybe I do remember him stopping, I don’t know. He looked like he wasn’t doing anything. And then the cop shot him.”

The other witness was driving by the scene at the time of the incident. He heard what he thought were firecrackers and “saw two gentlemen sort of struggling together ... one of them was a police officer and one of them was the gentleman who got shot ... the officer sort of stepped back, he drew his pistol and it sounded like a couple of shots.” He recalled the struggle as “it didn’t look like they were fighting too much, they were sort of had their arms on each other.” He thought he had heard three shots and he observed Mr. Ray fall to the ground. He recalled hearing something hit the ground when Mr. Ray fell, like a “gun or knife or something like that.”

Forensic Evidence

An autopsy was conducted on Mr. Ray and the report provided to the IIO. The cause of death was determined to be “gunshot wounds of chest and right inguinal region.” Two bullet wounds were identified. The gunshot wound to the chest “travel[ed] downwards, from the decedent's right to left and front to back.” A bullet fired from the subject officer’s firearm was recovered from Mr. Ray’s body. The gunshot wound to the “right inguinal region”¹ was a through and through wound, which “travel[ed] from the decedent's front to back, right to left, and downwards.” The bullet that caused this wound was not recovered even after a comprehensive search of the scene was conducted.

A search at the scene located two bullet casings and a round count of the officer’s firearm was consistent with two shots having been fired from his firearm.

Forensic testing to Mr. Ray’s clothing established that the evidence was consistent with “a shot fired from a muzzle to target distance greater than one meter.”

¹ Defined as “the lower lateral region of the abdomen on either side of the pubic region.”

ISSUES

The general issue in any IIO investigation is whether or not there is evidence that a police officer may have committed an offence under any enactment. In this specific case, I must consider whether there may be culpability for an officer's use of force or deadly force pursuant to the following Criminal Code provisions:

- (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).
- (2) 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)).
- (3) 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)).

In this case, the issue at hand is whether the fatal shooting of Mr. Ray constituted a culpable or non-culpable homicide.² Homicide that is not culpable is not an offence. Culpable homicide may take the form of murder, manslaughter, unlawful act manslaughter, or criminal negligence. Criminal negligence is defined by section 219 of the *Criminal Code*: "Everyone is criminally negligent who (a) in doing anything, or (b) in omitting to do anything that it is his duty to do, shows a wanton or reckless disregard for the lives or safety of other persons."

ANALYSIS OF THE EVIDENCE

The subject officer provided a voluntary written statement to the IIO wherein he stated that he shot Mr. Ray in self-defence. At the time he fired the fatal shots, he believed that Mr. Ray was intent on causing him death or serious injury while rushing at him with a knife.

The majority of the civilian witnesses provided information consistent with that provided by the subject officer, namely that Mr. Ray advanced on the officer while armed with a knife while the officer was attempting to maintain some distance and ordering Mr. Ray to "stop" and "stay back."

² "A person commits a homicide when, directly or indirectly, by any means, he causes the death of a human being." *Criminal Code*, section 222(1).

Two witnesses provided contrary evidence:

One of these witnesses was interviewed 18 days after the incident and observed the incident from across the street. She appeared to suggest that she did not see a reason for Mr. Ray to have been shot. She also made comments, however, which suggested that she was not certain of her own observations.

The second witness was the only person who suggested that there was a physical struggle between the subject officer and Mr. Ray. He was, however, driving while observing the incident and stated that he was surprised by the gunshot “flash” from the corner of his eye. His statement seems to indicate that he had less of an opportunity to observe the incident than did other witnesses, likely, due in part to the distraction of operating a motor vehicle.

At the time he was shot, Mr. Ray was armed with a knife (see Attachment #1 – photograph of knife located at the scene), a potentially lethal weapon. The subject officer could not be expected or required to sustain wounds from an edged weapon in lieu of using deadly force to defend himself from an imminent attack. According to multiple credible and independent witnesses, Mr. Ray was advancing on the officer and not complying with commands to “just stay there and don’t move.” Under the circumstances, the officer was in harm’s way and lawfully used deadly force to defend himself.

The subject officer would not be criminally liable for shooting Mr. Ray in the chest area as opposed to attempting to disarm him or stop him by shooting at another part of the body (such as his legs, arms or hands). Officers are trained that when deadly force is a necessary option to aim for “center mass.” Even the most highly trained marksman would have difficulty striking a limb, hand or foot of an assailant during the course of a fast moving, emotionally charged critical incident.

In his statement to the IIO, the subject officer acknowledged that he had a less lethal (beanbag) shotgun in the police van when he arrived at the scene. He explained that he was not in a position to obtain the shotgun from the vehicle due to how quickly the confrontation with Mr. Ray escalated. In addition, he explained that VPD officers are only permitted to use less lethal weaponry, when facing a potentially lethal threat, when there is another officer present who can provide “lethal cover.” I am aware that this requirement exists to ensure that if the less lethal option is not successful, an officer does not place him or herself in jeopardy of death or serious injury by no longer having the option to use a firearm.

CONCLUSION AND THE DECISION OF THE CCD

Since I cannot conclude that the subject officer may have committed any offence in this case, the IIO file will be closed with no report to Crown counsel.

I have directed that notice of my public report be provided to the Vancouver Police Department, the BC Coroners Service and the Office of the Police Complaint Commissioner as each may have an interest in this investigation and my findings in that regard. The IIO has provided a copy of my report to the family and has ensured that they understand my findings. I have further directed that my report be posted to the Independent Investigations Office public website in order to ensure transparency through public reporting.

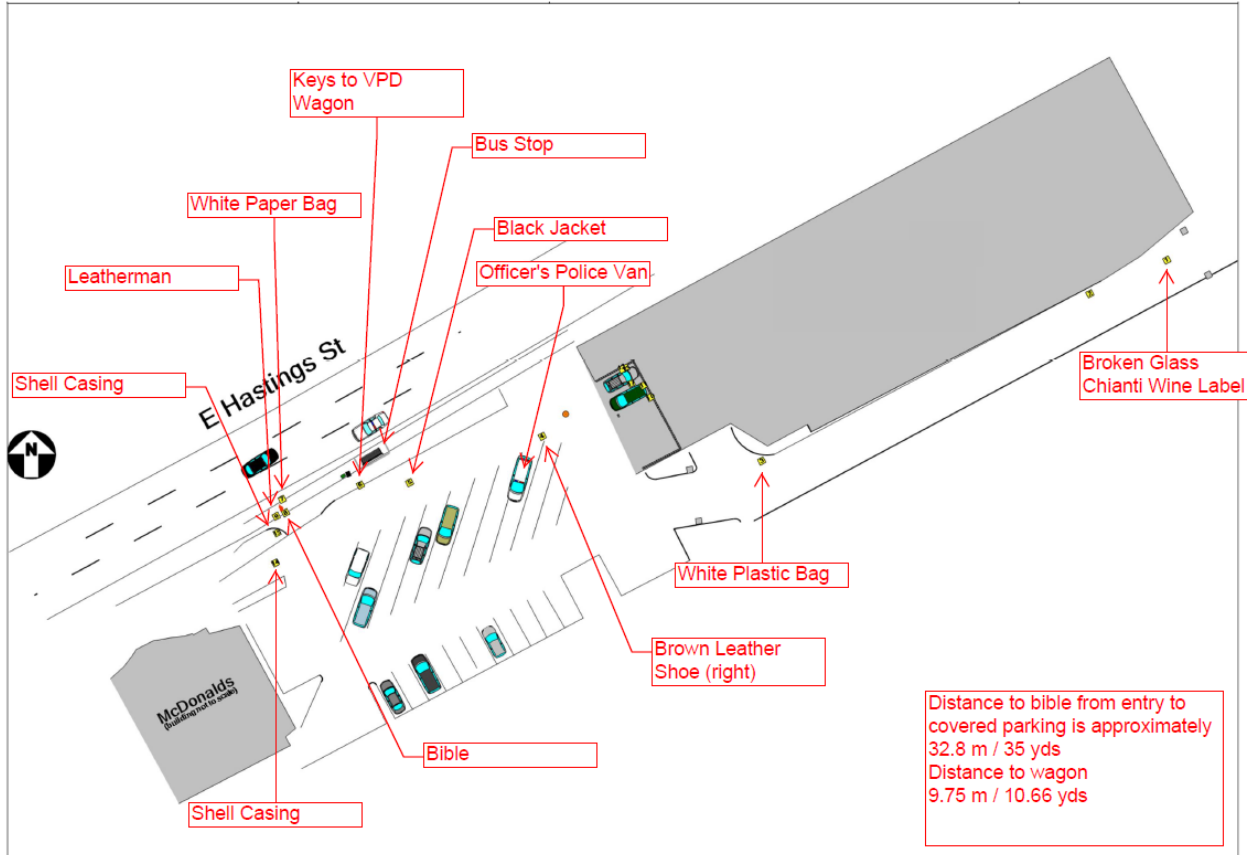
Submitted this 15th day of May, 2013 by

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

Attachment #1 – photograph of knife located at the scene
Attachment #2 – diagram of scene



Attachment #1 – photograph of knife located at the scene



Attachment #2 – diagram of scene