



PUBLIC REPORT OF THE

CHIEF CIVILIAN DIRECTOR

Regarding the Officer Involved Shooting on
April 25, 2013 by an officer of the
Vancouver Police Department in the city of
Vancouver, British Columbia

IIO 2013-000015

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.

This is a public report related to the investigation into the injury of an adult female that occurred on April 25, 2013, in the city of Vancouver. The affected person sustained serious leg injuries after being shot by an officer of the Vancouver Police Department (VPD).

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 both the advice provided by the Information and Privacy Commissioner as well as the views of the affected person. In this report, I will not be using the name of the affected person or of any other person involved in this matter.

Further, as a concurrent matter related to this incident remains before the court, some specific information has not been included in this report.

At the time of the incident, the affected person was 27 years old.

NOTIFICATION AND JURISDICTION DECISION

The Vancouver Police Department (VPD) notified the IIO of the incident immediately after it occurred on April 25, 2013. The IIO asserted jurisdiction because the affected person sustained gunshot wounds as a direct result of an action by a member of the Vancouver Police Department in British Columbia.

INVESTIGATIVE EVIDENCE CONSIDERED

IIO investigators obtained information from VPD dispatch records and other radio transmissions; a review of forensic and medical records; interviews with the subject officer and civilian witnesses.

VPD 911 Calls

During this incident, 911 dispatchers recorded calls from three individuals who lived with the affected person.

At 10:21 a.m., one of the individuals called concerned that the affected person had been acting manic, that she was crying and choking and hitting herself. The caller was directed by the 911 operator to exit the residence and to keep the phone line open.

At 10:26 a.m., a second individual called 911 and reported that the affected person had just tried to attack her with a knife. She confirmed she was safe and locked in her suite while the affected person was downstairs.

A third individual called 911 and reported that the affected person was running around with a knife, yelling and screaming.

At 10:31 a.m., the second individual reported seeing the affected person running after a letter carrier and armed with a knife. Within seconds, two shots were heard – they were recorded on the 911 line. The second individual confirmed that shots had been fired and the affected person was on the ground. At the same time, the first individual called 911 to report the affected person had been shot and that she had witnessed the incident.

Civilian Witnesses

The **first 911 caller** was interviewed by an IIO investigator several hours after the incident. She acknowledged leaving the residence as directed by the 911 operator. While standing in the yard, she could see the affected person holding an eight inch knife. The affected person started tapping the knife against the window and was yelling in a threatening manner. The witness turned and walked away from the house. She observed a Canada Post letter carrier walking toward the residence and cautioned him: “don’t.” Shortly after, she saw the affected person chasing the letter carrier threatening him with the knife. She stated: “She was running. I didn’t

know she could run that fast. I couldn't have believed the mailman could run that fast."

The witness saw the letter carrier and also observed a man yelling at the affected person to stop. At first, she thought it was a civilian but then saw the man pull out a gun. The affected person changed direction and started to run toward the man with the gun. She stated "He had a gun pointed at her and she was running straight towards him (because) I'm pretty sure she thought she was invincible at the time. And he yelled at her to stop twice and she got pretty close and then he shot her below the waist, twice."

According to the witness, the incident happened quickly – about 30 seconds from the time the affected person left the residence until she was shot by the officer.

The **Canada Post letter carrier** was interviewed shortly after the incident. He advised that while he was attempting to deliver mail, he observed a woman outside talking on the phone and that she appeared upset. The woman saw him and walked across the yard saying "no, no." The letter carrier observed a second woman, the affected person, inside the residence in front of the window. He recalled she was banging on the window and that he saw a flash of metal in her hand. He reached to place the mail in the box and the door suddenly opened. He stated he darted back and saw the affected person standing there with a knife in her hand.

The letter carrier stated he bolted as he saw the affected person coming towards him. He ran down the sidewalk to "find some open space." He recalled "she was still chasing me and by that point she had the knife turned and was running like slasher movies...just screaming and chasing after me." He observed a man about half a block down the street and yelled at him "hey this girl's got a knife, call 911." The man started jogging towards the letter carrier and it was then he noticed the man (the subject officer) was wearing a police vest/jacket. The letter carrier observed the subject officer reach for his gun and asked him if he should call 911. The subject officer advised they were coming or that they were already there and directed the letter carrier to get behind him.

The letter carrier advised he was about two feet behind the subject officer who was telling the affected person repeatedly to "stop, put the knife down, quit moving forward." The affected person continued to advance on the subject officer and letter carrier. The letter carrier heard two shots and estimated the distance between the officer and the affected person was 10-12 feet when the shots were fired. He recalled the subject officer moved forward to the affected person saying "stay down, stay down."

Subject Officer

The subject officer voluntarily submitted to an IIO interview. He stated he was working plainclothes the day of the incident although was wearing a jacket that identified himself as a police officer. He was armed with a VPD issued service firearm and a baton.

He advised that while he was driving to the residence in response to the complaint, he heard via the police radio that the affected person was armed with a knife. He parked one block away and started to walk towards the residence. The subject officer was the first to arrive at the scene. He observed a woman who he assumed was the complainant, talking on the phone and looking back towards the residence.

He then observed the affected person. The subject officer recalled he broadcast "Vancouver police, or get on the ground or something like that." (At 10:31 a.m., dispatch recorded the subject officer's broadcast "get on the ground.") According to the subject officer, the affected person ran at him. He drew his sidearm and raised it. He recalled "she was just slashing out with the knife like trying to stab or cut whatever was in her path." He estimated she was about 20 feet away when he gave her the command to drop the knife. The affected person continued towards him and at about 10 feet, she was still screaming. The subject officer stated "she was flailing with the knife in a circular stabbing motion...after the last command, I gave her all the time that I could and I fired my gun and I shot until she began to fall. There were two shots that went off."

The affected person fell to the ground about five –six feet from the subject officer. He recalled he kicked the knife away, called on his radio that shots had been fired and requested that emergency health services be dispatched.

Forensic/Medical Evidence

Medical records relating to the affected person were obtained and reviewed with her consent. She was shot twice, once in each leg. Both shots were through and through wounds. The medical records confirmed the presence of cocaine in the affected person's system.

Two bullet casings fired from the subject officer's firearm were recovered. A round count from the subject officer's firearm corroborated that two shots had been fired. Although an extensive search was conducted at the scene, the bullets could not be located. Analysis determined that his firearm had not been altered and was operating as per manufacturer's specification.

A seven inch knife with a black handle was recovered at the scene.

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. There are a number of legal issues to be considered in this 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 shooting of the affected person would constitute a criminal offence to include different theories of assault or the unlawful discharge of a firearm.

ANALYSIS

The statements of the subject officer, the affected person and independent witnesses are basically consistent. The affected person, while armed with a knife, chased a letter carrier down the street in a manner in which any reasonable person would conclude that his life was in danger. The subject officer intervened and shot the affected person in self-defence and in defence of another. At the time she was shot, the affected person was armed with a knife, 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.

DECISION

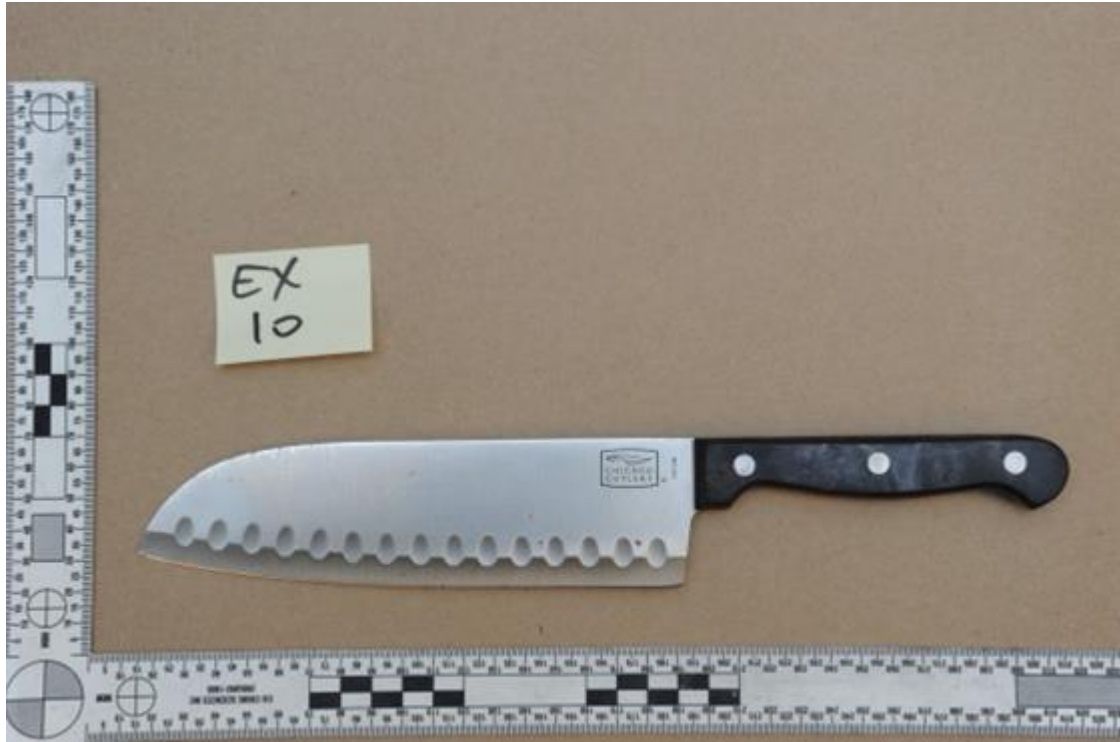
Based on the evidence obtained as a result of this investigation, I cannot conclude that the subject officer may have committed any offence in this case. As such, no further action will be taken by the IIO.

Prepared for Public Release this 8th day of September, 2013

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

Attachments:

#1: Photograph of knife



#1: Photograph of knife