



**IN THE MATTER OF THE SERIOUS INJURY OF A FEMALE  
WHILE BEING APPREHENDED BY  
MEMBERS OF THE RCMP IN  
THE CITY OF CHILLIWACK, BRITISH COLUMBIA  
ON MAY 6, 2018**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2018 – 052

Date of Release:

March 25, 2019

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## Facts

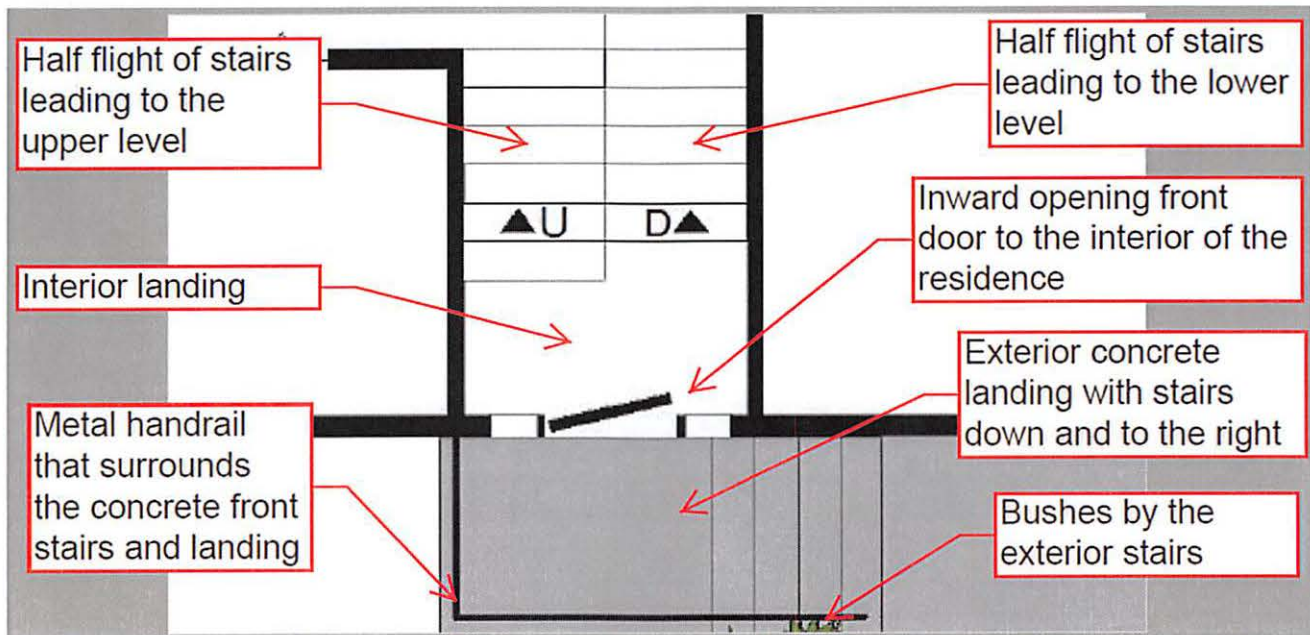
On May 6, 2018, at approximately 2:13 p.m., Officer 1 opened the front door of a residence. The Affected Person (AP) was on a flight of stairs coming from the lower level of the residence and brandishing two knives at Officer 1. Officer 1 unholstered and pointed his firearm at AP. Officer 2 arrived and Tasered AP who fell backwards and down some of the stairs. AP suffered a clavicle fracture and a head injury as a result of the fall.

The Independent Investigations Office (IIO) was notified by the RCMP at 3:55 p.m. when the severity of the injury became apparent. The IIO commenced an investigation as the injury to AP was within the definition of “*serious harm*” as defined in *the Police Act* and an officer was involved.

Evidence collected during the investigation included the following:

- 1) Statements of AP and three civilian witnesses;
- 2) Statements of two police officers;
- 3) Recordings of Police Radio transmissions;
- 4) Scene Photographs and Measurements;
- 5) Taser data download;
- 6) Emergency Health Services (EHS) records; and
- 7) Medical records.

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 and Freedoms*, officers who are the subject of an investigation are not compelled to provide a statement, submit their notes, reports or data. In this case, the Subject Officer (Officer 2) declined to provide a statement, notes, reports or data to the IIO.



Front entrance of the residence where the interaction between AP and Officers 1 and 2 occurred (Diagram near to scale)

AP was visiting CW 1 at his house that day. She told the IIO that she had been drinking. AP said she and CW 1 were friends, but CW 1 said something to AP that “*set something off in me*”. As a result, she drove away in CW 1’s vehicle. When she did, CW 1 called police and made a complaint about AP taking his vehicle. As it turned out, AP returned with the vehicle shortly after.

AP told the IIO:

*I can’t remember how the hell it happened because I kept blacking out but I went in [to CW 1’s house] after and I don’t know what happened from there; but all [sic] I remember is coming off the stairs...I remember seeing the cop [Officer 1] in the doorway...I remember things were hitting my chest and I was thinking it was a bullet and I am thinking I was dead and I don’t remember anything after that until I woke up in the hospital.*

AP said she did not remember what she said or whether she had anything in her hands but did remember “*the cop*” (Officer 1) was pointing a gun at her. She said that Officer 2 was to the side and “*peeking around*” the doorframe. AP said she was “*a couple steps down*” from the interior landing.

CW 1 spoke with the IIO and said that he called 911 when AP took his vehicle without his consent but by the time of police arrival AP had already returned. CW 1 said he told AP that he had called the police. AP went into the house through the garage at approximately the same time as Officer 1 arrived.

CW 1 advised Officer 1 that AP had gone into the residence. Officer 1 went to the front door. CW 1 said Officer 1 tried to open the door but could not because AP was holding

the door closed. CW 1 said he was standing a few feet from the bottom of the exterior stairs. He said Officer 1 was trying to calm AP down. CW 1 said the door swung open and Officer 1, who was on the landing outside the door, said "...*put down the knives.*" AP was screaming at Officer 1. CW 1 said Officer 1 was pointing his "*Taser*" downwards and toward the stairs leading to the lower level (Officer 1 was not equipped with a Taser and was in fact pointing his firearm at AP).

CW 1 said he believed Officer 2 arrived after a few minutes and also went to the door. Officer 2 "*pulled his Taser*" and shortly thereafter, CW 1 heard a "*zap sound*" followed by a scream from AP.

CW 2 saw Officer 1 arrive and speak to CW 1. Officer 1 went to the front door of the residence and CW 2 could see Officer 1's right hand moving up and down and CW 2 could hear him saying "...*get down, get down.*" CW 2 could see AP, who appeared to be on the flight of stairs leading to the lower level, and believed AP was sitting. CW 2 said AP was shouting and swearing at Officer 1 and said to him to "...*shoot me then, I don't care, shoot me.*"

CW 2 said that shortly after Officer 2 arrived and as he approached, CW 2 said Officer 1 told Officer 2 to "*hurry up.*" CW 2 said Officer 2 held his hands together in front of himself, but CW 2 could not see what was in his hands.

Officer 1 told the IIO that on his arrival CW 1 advised that it was a misunderstanding and he did not want AP to be charged but wanted Officer 1 to speak with AP. Officer 1 said CW 1 tried to unlock the front door and CW 1 yelled at AP to unlock the door. Officer 1 said AP told CW 1 that "...*if you come in here, you are going to get stabbed.*"

Officer 1 told the IIO he was concerned about AP and used CW 1's key to open the front door to the house. Officer 1 said that as the door opened, AP was coming up the stairs holding a knife in each of her hands with the blades held in his direction.

Officer 1 said he was concerned AP was going to stab him, so he drew his firearm. He said his finger was on the trigger, aimed at AP and he told her to get on the ground and drop the knives. Officer 1 said AP did not comply and told him to "*fuck off*" and to "*shoot me, I dare you.*" Officer 1 said he told AP that if she came closer, he would have to shoot her; AP did not advance further. Officer 1 estimated AP was six or seven feet away. That estimate is approximately consistent with measurements taken of the scene.

Officer 1 radioed that his firearm was drawn and heard Officer 2 respond and say that he was on his way. Officer 1 said he was aware Officer 2 carried a Taser.

Officer 1 said he was concerned about the railing and stairs behind him and believed that if AP came at him he would not have room to maneuver and AP could stab him. Officer 1 also expressed concern that if AP did come at him he could end up "*head over heels over the railing*" and decided to wait for Officer 2 to arrive. The external landing where he was standing measured only 1.4 metres by 2 metres.



Officer 1 said Officer 2 arrived shortly after with his Taser drawn. Officer 2 yelled "*Taser, Taser*" and deployed it at AP who fell backwards down the stairs. AP refused police attempts to provide first aid.

Officer 1 told other officers that he almost shot AP and told the IIO that he was "...so *happy to see [Officer 2].*"

Two knives were recovered from the area where AP fell. Officer 2's Taser data was downloaded and showed a single five second deployment.

### **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.

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.

More specifically, the issue to be considered in this case is whether Officer 2 may have used excessive force when he deployed his Taser at AP. Had he done so, he may have committed assault causing bodily harm.

Officer 1 attended what might be viewed as a routine police dispatch regarding the taking of a vehicle without consent. On arrival, the owner of the vehicle advised that it was a misunderstanding but asked Officer 1 to speak with AP. Officer 1 opened CW 1's residence with a key CW 1 provided and was confronted by AP brandishing two knives at him.

Officer 1 considered his options given the close quarters in which he found himself with AP who was holding two knives and telling Officer 1 to "*fuck off [and]...shoot me, I don't care.*" AP was yelling and acting in a way that was not rational. That Officer 1 would feel the very real risk of serious bodily harm or death was reasonable and his response of drawing his firearm and commanding AP to stop was appropriate in the circumstances. AP did stop but Officer 1, having unholstered his firearm, was concerned about the close proximity of AP and the possible threat if AP moved towards him or tried to stab or push him back over the handrail behind him. It would have been difficult and dangerous for him to try to move down the outdoor stairs given he could not be sure what AP's next action might be. His decision to maintain his position while waiting for Officer 2 to arrive with a Taser was a reasonable one.

Officer 1 radioed his predicament and Officer 2, who was known to carry a Taser, responded. Officer 2 arrived and was able to avert a potential officer involved shooting by using a less lethal intermediate weapon that de-escalated the situation.

Officer 2 had a duty to assist his fellow officer and was able to do so with the application of less lethal force. Had AP continued towards Officer 1 with the knives, a different and tragic outcome would have been likely.

Officer 2 used an appropriate level of force to remove the threat posed by AP.

The force used in this incident was not excessive. Officer 2 acted as required by his duties and in accordance with the law. The evidence collected does not provide grounds to consider any charges against any officer.

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.

  
Ronald J. MacDonald, Q.C.  
Chief Civilian Director

March 25, 2019  
**Date of Release**