



**IN THE MATTER OF THE DEATH OF A MALE
DURING AN INCIDENT INVOLVING MEMBERS OF THE
NEW WESTMINSTER POLICE DEPARTMENT AND THE RCMP
IN THE CITY OF NEW WESTMINSTER, BRITISH COLUMBIA
ON FEBRUARY 24, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019-041

Date of Release:

May 9, 2019

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Introduction

On the evening of February 24, 2019, the Affected Person (“AP”) called the New Westminster Police (“NWPD”) non-emergency line. He gave his location and told the call taker that he was about to commit suicide with a firearm. When police approached him, at the edge of a shopping centre parking lot, AP fired the gun and two officers also fired their weapons. AP was not struck by police bullets, but died from a self-inflicted wound.

The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- statements of one civilian witness and eight witness police officers;
- police radio and telephone call audio recordings;
- police Computer-Aided Dispatch (CAD) and Police Records Information Management Environment (PRIME) records;
- first responder records from Emergency Health Services (EHS) and Fire Rescue services;
- forensic scene examination and photographs;
- video from neighbouring business premises;
- dashcam video from a nearby parked vehicle; and
- the autopsy report.

Pursuant to section 17.4 of the Memorandum of Understanding between the IIO and BC Police Agencies, officers who are the subject of an investigation are not compelled to submit their notes, reports and data. In this case, Subject Officers 1 and 2 declined to provide access to any of their notes or reports, or to participate in an IIO interview.

Narrative

On February 24, 2019, at 9:39 p.m., AP called the NWPD to say he was “*about to kill*” himself. He said he was calling the police because he did not want “*anybody else*” to find his body, or “*to steal the firearm that I’m going to be using, so I just need somebody to come and retrieve it.*”

While AP was intent on taking his own life, it was clear that he did not wish to endanger any members of the public or have his firearm left unsafely available to another person. Police also found information within AP’s truck indicating the person he wanted to manage his affairs after his death.

The preliminary police response was to deploy officers to contain the scene by closing all exits from the parking lot where they understood AP was located. By 10:19 p.m. this had been achieved, and two officers then entered the parking lot in an unmarked police SUV.

WO1, an RCMP member, was driving the police SUV. He told IIO investigators that Subject Officer 1 (“SO1”), a NRPD officer, was riding in the front passenger seat of the SUV. The plan, WO1 said, was to “*attempt dialogue*” with AP.

WO1 described seeing a male (AP) on a grassy area about twenty feet behind and slightly to the side of a parked pick-up truck, subsequently determined to be AP’s vehicle. AP was standing still, facing the parking lot. WO1 said he activated his emergency lights and turned to approach AP’s vehicle. SO1 opened the passenger door of the SUV as it rolled forward, and “*produced his firearm*” out through the open door. SO1 “*started giving commands to this male,*” said WO1, “*the commands were ‘show me your hands.’*” These commands, he said, were repeated several times with no response from AP.

WO1 stopped the SUV about forty feet in front of AP’s vehicle and exited through the driver’s side door, drawing his sidearm and taking cover behind the door. He saw AP take a step forward and hunch down into a kneeling position. At this point, said WO1, he saw that AP had something in his hands and was putting it under his chin. He then heard a gun shot and saw AP fall forward, face-down. Immediately after this, said WO1, he heard two more gunshots, both from his right. He heard SO1 on the radio, calling “*shots fired.*”

At the same time as WO1’s approach in the SUV, two other police officers, SO2 and WO2 were moving on foot to a position beside a parked transport truck at the corner of the parking lot, to the east of AP. WO2 stated that there was a bright “*muzzle flash*” in front of AP and a gun shot, AP started falling to his knees, and then SO2 shot twice. There were “*other shots in the distance,*” but WO2 could not determine where they were coming from.

WO3 was one of several officers moving in from containment points at the time shots were fired, and deployed ARWEN rounds (non-lethal rubber bullets) at AP as he lay unresponsive on the grass. When there was no reaction from AP, a team of police officers moved in to secure him, and EHS paramedics were called in from a staging position outside the parking lot. AP was found to be deceased at the scene.

Forensic processing of the scene demonstrated that SO1 had fired once, and SO2 had fired three times. None of the lethal police projectiles had struck AP. Three non-lethal ARWEN rounds had been fired. One had struck AP’s shoulder as he lay on the ground.

The autopsy report gave the cause of death as “self-inflicted, contact-range, shotgun wound of chin,” with no other factor contributing to death. The wound path was “oriented from front to back and upward.” and the shotgun pellets had caused fatal damage throughout the head and brain.

Video from nearby business CCTV and dashcams, while not clearly depicting all aspects of the incident, corroborated the accounts of the police witnesses significantly. Similarly, while the civilian witness who was nearby did not see the event, his evidence of what shots he heard was also consistent with the police witnesses' accounts.

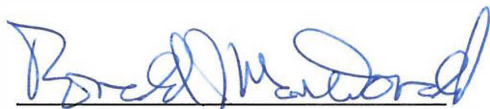
Legal Issues and Conclusion

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 either subject officer may have committed an offence by firing at AP. If the officers were acting as required or authorized by law, on reasonable grounds, they were justified in using as much force as was necessary. Use of unauthorized or excessive force, on the other hand, could result in criminal liability.

On the evidence, officers were confronted with a situation involving a suicidal individual in possession of a deadly weapon in a public place. Their duty was to bring that situation under control using the minimum force necessary, and that was what they attempted to do. They had information that a firearm was involved, and seeing a muzzle flash and hearing a gun shot from the direction of the person they were approaching, it was very reasonable for them to fire their own weapons in response. While their desire was to help AP, they have a duty to protect themselves and their fellow officers. Awareness that AP's gunshot was not directed at them only came later. Responding with deadly force in those circumstances is not blameworthy.

In the end, it was the action of AP that resulted in his death, not the police.

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

May 9, 2019

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