



**IN THE MATTER OF THE DEATH OF A MALE
DURING AN INCIDENT INVOLVING MEMBERS OF THE RCMP
NEAR THE VILLAGE OF LYTTON, BRITISH COLUMBIA
ON JANUARY 13, 2020**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

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Introduction

On January 13, 2020, police responded to a report of a suicidal male, and a shot was fired from a residence over their heads. Emergency Response Team ('ERT') members were called in, and an ERT officer subsequently shot and killed the Affected Person ('AP') when he came out of the residence with a shotgun in his hands. The Independent Investigations Office ('IIO') was notified and commenced an investigation. The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- statements of seven civilian witnesses and eleven witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of 911 calls and police radio transmissions;
- ballistic firearms examinations and reports;
- physical and photographic scene and exhibit examinations, including 3D scans;
- autopsy and toxicology reports;
- RCMP policies;
- RCMP training records; and
- BC Emergency Health Services ('EHS') records.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, the Subject Officer ('SO') did not provide any evidence to the IIO.

Narrative

Civilian witnesses told IIO investigators that in late 2019, AP was smoking marijuana heavily, and that both his health and his behaviour were deteriorating noticeably. On January 13, 2020, AP was in his residence with Civilian Witnesses 1 and 2 ('CW1' and 'CW2'). At about 7:00 a.m. that morning, AP told CW1 "call 911, I'm finished". CW2 told IIO investigators that she had not been comfortable around AP for some time, saying that "something was wrong with his mental stability". CW2 said that AP had talked of waiting for one hundred police officers before he died, and that he had acquired a shotgun, which he kept in his bedroom.

CW2 said that in response to AP's behaviour on January 13, she and CW1 went downstairs and locked themselves in the basement. At 7:45 a.m., CW1 called 911, saying that AP had "kinda lost his mind and he's got a gun ... I wanna cop here". She went on to tell the dispatcher that she had heard AP "playing with the gun in the bedroom". Asked if

AP was a danger to others, CW1 said “He’s never hurt a soul ... he’s just losing it up there and I’m scared right now”.

At 8:12 a.m., Witness Officers 1 and 2 (‘WO1’ and ‘WO2’) arrived outside the home. AP shouted at them from an upstairs window and then fired a shotgun in their general direction, but upwards and to one side over their heads. The two officers took cover and called for immediate assistance from the ERT. At 8:16 a.m., WO1 advised Dispatch that WO2 had heard AP shouting that he would only come out “when there’s one hundred cops”. ERT members were informed, as they arrived from throughout the district, that CW1 and CW2 were locked in the basement of the residence, that AP had made “suicide by cop” remarks, and that a shot had been fired.

At 8:53 a.m., CW1, still on the phone with the 911 call-taker, went upstairs to check on AP. AP told CW1 “It’s a standoff ... you need to go, baby”.

Meanwhile, ERT members were formulating detailed plans for a range of potential scenarios, including extraction of CW1 and CW2 and safely taking AP into custody if he were to come out of the house and surrender.

At 10:25 a.m., CW2 exited the house, followed by CW1 about five minutes later. Shortly after their departure, AP called 911 and stated:

At six minutes after two o’clock I am walking out the front door. I want six shots in my body please. I am going to walk toward the armed officers with my shotgun so I have to get really close to do anything. So I prefer some really nice precision shooting here today. Can you pass that on please? Thank you.

With potential hostages CW1 and CW2 clear of the residence, ERT members transitioned from ‘active shooter’ plans towards the objectives of de-escalation and taking AP into custody without the use of force.

As part of standard protocols, ERT snipers WO3 and SO were also deployed in strategic locations, for the protection of the officers surrounding the house. WO3 told IIO investigators that his risk assessment was still extremely high, given AP’s statements and the earlier firing of a shotgun from the residence. It was determined by ERT coordinators that if AP exited at the front of the house with the firearm, he could not be permitted to move very far from the building because of the terrain and the number of physical obstacles—including several small structures and a trailer—clustered nearby, which could be used by him as cover should he intend to engage officers with his weapon. Officers were told that if AP came out with the shotgun, unless clearly surrendering, the use of lethal force was authorized.

Police crisis negotiators were able to talk to AP, who confirmed his earlier threat to come out at six minutes after 2:00 p.m. and walk towards officers with his shotgun, as well as his request for “six shots in my body”. The negotiation team continued their conversations with AP, though without success, until they were interrupted by an incoming call to AP from CW3. CW3 told IIO investigators that AP had sounded “distraught and distressed”, and said he could not go to jail as he would not be able to smoke marijuana there. The police crisis negotiation team relayed to ERT members the information that AP had reiterated his statements that he intended to come out at 2:06 p.m. and be shot by a sniper.

As the time neared 2:06 p.m., WO3 told investigators, his evaluation was one of “super, super high risk”, as AP would have the ability to shoot an officer—some of whom were of necessity quite close to the house—very quickly if he came out of the house with his firearm. WO3 said he started “combat breathing” and disengaged the safety on his rifle.

At a few seconds before 2:05 p.m., AP walked out through the front door. WO3 saw him turn and grab something, and realized it was the shotgun. WO3 said he saw AP close the door and then bring the shotgun up in both hands:

It was in an athletic, ready position where he could quickly take aim and shoot. It was away from his body and he took a couple of steps, and started moving away from the house towards where the other members were up the road, and exactly what he said he was going to do. I feared for their lives ... I squeezed the trigger. And the gun went 'click'.

As WO3 cycled the action of his rifle to eject the apparently defective round, he heard the sound of a shot from SO, and saw AP fall backwards.

A team of officers with shields quickly approached AP, followed by paramedics, and deployed a noise/flash diversionary device to determine if there would be a response from AP, but there was none. Paramedics moved AP to a location where they could care for him, but efforts at resuscitation were unsuccessful, and AP was declared deceased at 2:21 p.m.

The 12-gauge shotgun that had been in AP’s hands when he was shot was found to have been loaded, with a live shell in the chamber and two more in the magazine, and the safety was in the ‘off’ position.

The round ejected from WO3’s rifle was collected and examined, and it was determined that the primer had been struck by the weapon’s firing pin, but had failed to ignite.

The toxicology report stated, with respect to AP's blood analysis, that alcohol was not detected, but tetrahydrocannabinol (the principle psychoactive ingredient in cannabis) was present at a level of 35 nmol/L, or 0.011 mg/L.

Legal Issues and Conclusion

The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death. More specifically, the issue to be considered in this case is whether an officer may have committed an offence by the use or attempted use of lethal force against AP.

If officers use force while acting as required or authorized by law, on reasonable grounds, they are legally justified in using as much force as is necessary. The *Criminal Code* provides, further, that force used by a peace officer against a person is justified even where it is intended or likely to cause death or grievous bodily harm, if the officer believes on reasonable grounds that the force is necessary to protect any other person from death or grievous bodily harm. Use of unauthorized, unnecessary or excessive force, on the other hand, could result in criminal liability.

The ERT members, including SO, were clearly acting in lawful execution of their duty, as they were dealing with a situation involving an armed, barricaded individual who had already fired a shot in the direction of officers, and potential hostages. The authorization they received to use lethal force if necessary was justified by the very explicit threats AP had made and the corresponding danger to officers maintaining containment, who of necessity were relatively close to the residence because of the large number of physical and observational obstructions in the immediate area: officers needed to ensure that AP could not leave the house unobserved with a weapon because of the potential risks that would pose to the community.

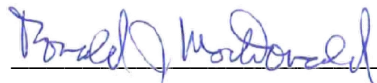
While it would not be appropriate to report publicly on the details of ERT tactical planning for the range of potential scenarios in this case, it is clear from the evidence that the responsible officers were fully prepared to take all necessary steps for a safe and peaceful resolution of the situation, as long as AP was prepared to back away from his announced plan to force an officer to shoot and kill him. Lethal force was a last resort.

Crisis negotiators and family members had talked with AP and he had remained adamant that he wanted to force a police officer to shoot him by threatening the officers around the house with his firearm. When he came out, he was evidently carrying through with that threat almost to the minute, and there was every reason to take it seriously. There was nothing to suggest that AP was surrendering. It was not necessary to wait until he actually pointed the shotgun at someone or pulled the trigger—it would only have taken moments

for him to do so—and it would not have been reasonable to allow him to conceal himself behind one of the obstacles dotting the yard.

In those circumstances, given the risk to officers of grievous bodily harm or death, it was not unreasonable for either WO3 or SO to decide that the use of lethal force was necessary and proportionate to the risk. In fact, both officers reached the same decision at almost exactly the same moment, and both were legally justified in their actions.

Accordingly, as the Chief Civilian Director of the IIO, I do not consider that there are reasonable grounds to believe 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

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