



**IN THE MATTER OF THE DEATH OF A MALE
IN AN INCIDENT INVOLVING MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
THE CITY OF VANCOUVER, BRITISH COLUMBIA
ON JANUARY 5, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2021-006

Date of Release:

August 24, 2021

THIS PAGE INTENTIONALLY LEFT BLANK

INTRODUCTION

In the early morning hours of January 5, 2021, Vancouver police responded to a complaint that the Affected Person ('AP') was apparently intoxicated on alcohol or drugs and was punching the front door of a Salvation Army assisted-living building in the Downtown Eastside. Police subsequently received further calls to say that AP was now naked and was in the street with a sword that was several feet in length. When Subject Officers 1 and 2 ('SO1' and 'SO2') arrived on scene and exited their police vehicle, AP advanced rapidly on SO1 with the sword raised. As the officer backed up, both subject officers fired their service firearms and AP was struck by five bullets. Later, at hospital, he was declared deceased.

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 fifteen civilian witnesses, two paramedics and three witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- video recordings from Closed-Circuit Television ('CCTV') and cell phones; and
- scene and exhibit photographs and examinations.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, SO1 and SO2 declined interview by the IIO, but both officers permitted access to their written PRIME reports.

NARRATIVE

At 4:39 a.m. on January 5, 2021, an employee at a Salvation Army facility in downtown Vancouver known as 'Grace Mansion' called 911 to report that AP, who was a resident at the facility, appeared to be highly intoxicated and was outside banging on windows. Shortly afterwards, though, police were told that AP had gone back to his room. Because of a very high volume of urgent calls, police were not immediately able to respond to the call about AP, and based upon the most recent report, the urgency of the situation involving AP appeared to have lessened.

Later, though, at about 6:00 a.m., it was reported the AP had thrown a piece of furniture from his room window and was shouting through the broken window "I fucking want to

die!" He was then observed inside the building, naked, carrying a large sword, and was seen smashing the sword against another resident's room door.

AP was subsequently reported to be outside, naked, still carrying the sword. He was seen smashing through a glass door at a neighbouring building and going inside (video footage shows him walking in the hallways of that building, carrying the sword). A couple of minutes later, AP was outside on the street again, still carrying/dragging the sword and passersby were seen to be backing away or running from him.

AP then went back to Grace Mansion. He ran headlong at the front door, apparently intending to smash through, but bounced off, fell back onto the sidewalk and sat rocking his body and crying out "I want to die". All these events were described to IIO investigators by civilian eyewitnesses and also recorded on CCTV and cell phone video obtained by the IIO.

At 6:08 a.m., shortly after AP's attempt to break through the front door of Grace Mansion, SO1 and SO2 arrived on the scene and exited their police vehicle. Events continued to be captured on several video recordings and described by civilian eyewitnesses. AP quickly got to his feet, picked up the sword, swung it, and then advanced upon SO1 with the sword raised in his right hand, the blade held back over his shoulder. Officers shouted repeated commands for AP to stop, drop the sword and get down on the ground but AP, swearing and shouting "What you gonna do?", continued to come rapidly and aggressively towards and to gain on SO1, who was backing away with her firearm pointed at AP.

SO1's duty report indicates that SO1 feared AP "would either stab or slice [SO1] with the sword and cause grievous bodily harm or death". SO2's report notes that as AP advanced towards SO1, he was also striding in the direction of a group of civilian bystanders across the street. The report states that the officer feared AP "would seriously injure or kill someone", and believed that "the only way to stop [AP] was to use lethal force". The officer also records that, at the time, no officer equipped with a "less lethal" weapon (such as a beanbag shotgun) was available in the immediate area. The IIO has also established that neither subject officer was equipped with a Conducted Energy Weapon ('CEW', also known as a 'Taser').

At a point where AP was only about ten feet from SO1, the two subject officers fired a total of five rounds from their service firearms and AP fell to the ground in the middle of the street. The entire confrontation, from the time the subject officers exited their police vehicle to the shooting, took no more than five to six seconds. Both subject officers

acknowledged having discharged their pistols at AP, at approximately the same time, and both stated that they fired no further shots once it was apparent that the threat from AP had ceased. The investigation has established that SO1 fired one round and SO2 fired four.

As other officers arrived, they and the subject officers initially kept their distance and gave repeated commands to AP to keep his hands away from the sword, which was lying beside him, and told him an ambulance was coming for him. An officer then stepped in and dragged the sword off to one side, and AP was handcuffed and turned into the recovery position. While waiting for an ambulance, an officer started first aid for AP by applying pressure to his wounds.

Paramedics attended and AP was taken to hospital, where he was declared deceased.

The sword was found to be approximately five feet in length. The handle was damaged from AP's earlier aggressive use of it against inanimate objects such as doors and walls. Significant physical damage found to have been inflicted on a door and door jamb after being attacked by AP with the sword during his rampage demonstrated that the weapon was quite capable of inflicting grievous bodily harm or death if swung against a person.

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 either or both of the subject officers may have committed an offence of culpable homicide by using a degree of force against AP that was unjustified or excessive.

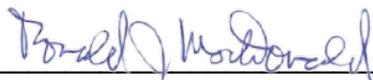
The evidence in this case from civilian eyewitnesses, video recordings and both subject officers is consistent throughout, and can be considered reliable. The officers were responding appropriately to an urgent call about AP's seriously concerning behaviour, and were acting in execution of their duty in approaching AP. It is clear that, upon arrival at the scene, the two officers had very little time to react to AP's almost immediate charge, a deadly weapon raised in his hand.

Police officers have a duty to protect life. In some circumstances, this duty may require them to attempt to de-escalate a situation before attempting to arrest a person. That is particularly so where a failure to de-escalate risks creating a life-threatening situation that

could otherwise be avoided. As a result an IIO investigation will always consider whether efforts at de-escalation could have been made, and whether they were. In this case, however, video evidence shows that AP moved immediately and rapidly toward SO1. That evidence makes it clear that had either officer waited any longer, SO1 may have been grievously injured or killed. AP gave them no opportunity to attempt de-escalation.

The officers' clear and immediate duty in those moments was to stop the threat posed by AP, to themselves and to civilians in the area. It would have been entirely inappropriate for the officers to attempt to flee, leaving a number of bystanders in great danger. Indeed the evidence suggests that successfully fleeing was not possible given SO's advance. As a result the only realistic course of action was to use deadly force themselves. That use of force was justified on SO1's part in self defence, and on SO2's in defence of SO1. The only other force options available to them—pepper spray, police baton or bare hands—would almost certainly have been ineffective against the charging, sword-wielding AP. Both officers' statements to the effect that they feared AP would imminently cause grievous bodily harm or death are fully supported by the objective evidence, and lead to a conclusion that the actions of both subject officers were justified, necessary and proportionate. Simply put, they had no choice.

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

August 24, 2021

Date of Release