



**IN THE MATTER OF THE DEATH OF A MALE  
DURING AN INVESTIGATION BY MEMBERS OF THE RCMP  
IN OPITSAHT, BRITISH COLUMBIA  
ON FEBRUARY 27, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2021-046

Date of Release:

July 14, 2023

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**The release of this public report was delayed pending the conclusion of concurrent criminal court proceedings. The decision in this matter was initially reported on [November 16, 2022](#).**

**The report of Indigenous Civilian Monitor Thomas George can be found on the [publication page of the IIO's website](#).**

## **INTRODUCTION**

On the evening of February 27, 2021, two RCMP members responded to an address in Opitsaht on Meares Island to investigate a complaint that a female had been sexually assaulted and was being held in the home against her will. The officers arrested one male at the front door of the residence, and were then confronted by the Affected Person ('AP') brandishing two metal files as weapons. One of the officers deployed a Conducted Energy Weapon ('CEW' or 'Taser') at AP, who fell to the floor. AP then got back to his feet, still in possession of the weapons, and advanced towards the officers. The Subject Officer ('SO') fired three rounds from his service pistol, two of which struck AP. AP died from his wounds.

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 18 civilian witnesses and five witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of a 911 call and police radio transmissions;
- video recordings from RCMP cells;
- scene photographs, seized exhibits and forensic examinations;
- records from B.C. Emergency Health Services; and
- autopsy and toxicology reports.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, SO has not provided any evidence to the IIO.

## NARRATIVE

At 8:54 p.m. on February 27, 2021, Civilian Witness 1 ('CW1') called 911 from a home on Meares Island, B.C. She told the call-taker that she had been "taken advantage of sexually" (as quoted in CAD) by two males, AP and CW2, and said they were physically preventing her from leaving. CW1 said that she and the two males had been drinking. Two RCMP members were dispatched by boat from Tofino for a "check wellbeing" call. PRIME records show that background checks were conducted for the two males, with the file for AP coming back with a caution for violence. A radio call at 9:25 p.m. announced that the officers were "on scene", and a second call at 9:30 p.m. indicated that they were "at the door" of the residence.

### Civilian Witness 1

Interviewed later by IIO investigators, CW1 confirmed that she had been sexually assaulted on the evening in question and called 911, pretending to be on the phone with her grandmother, when AP and CW2 prevented her from leaving. She said that when police came to the door, the two males did not want to answer the door and were saying things like "It's the fucking cops" and "You can't come in". CW1 said she ran into AP's bedroom. She said the police kicked in the front door, and then she heard "pew, pew, pew". She said she ran back into the living room and saw AP's body on the floor, with CW3 beside him. CW2 was sitting on the couch, handcuffed, screaming at the officers.

At the time police came to the door, CW1 said, she believed CW3 was on the couch in the living room, "blacked out drunk". CW1 told investigators that she had heard a rumour that AP had a knife when he was shot, but was "pretty sure" he did not. She also said that he may have had a butter knife from "hot knifing [cannabis]".

At a later time, another civilian witness said, CW1 said she wondered if

*the cops might of thought he had a weapon and they were actually just hot knifing weed ... she figures when they come busting in they thought he had knives in his hand, and that was why they drew their guns ... she figured that's why they drew their guns, cause they thought he had knives in his hand, and they were actually just butter knives used to hot knife.*

Asked about the lighting in the living room at the time of the incident, CW1 said that it was dark, other than some light from a corner light that may have been on.

CW1 gave statements to police interviewers at the scene, and was inconsistent in where she said she was when the shooting occurred. At one point she said she was uncertain where she had been, then said she was in the bedroom, but she also said she was "sitting

right fucking there, I was sitting on that couch". She said she did not know what AP was doing when police arrived.

## **Civilian Witness 2**

CW2 told the IIO that he and AP were in AP's room "hot knifing" marijuana when, at about 9:00 p.m., they heard CW1 asking CW3, who he said was "passed out" on the living room couch, for beer. He said he told CW1 she could not have any more beer as CW3 was sleeping, and said he asked CW1 to leave, but she did not, so he and AP returned to their activities in the bedroom.

He said that at about 9:30 p.m., he heard a knock at the front door. He heard the voice of a police officer with whom he was familiar shouting, "Open up the door or we're kicking it in. We got a call from here". CW2 said that CW1 got up from a lawn chair where she had been sitting near the front door and moved to a reclining chair in the living room.

CW2 said that when he opened the front door he was pulled out onto the porch and was tackled onto a wood pile, with police saying, "Stop resisting". As he was handcuffed and stood up in the porch, he said, he saw AP in the living room and heard him say, "Hey, that's my little brother". CW2 added,

*And I think at that point [AP] wasn't showing any sign of aggression or behaviour of any sign of aggression that he's coming towards them, because he was actually on the other side of our coffee table.*

CW2 recalled seeing the "younger officer" (SO) unholster his firearm and the other draw a "Taser", and "all I seen is pop, pop, pop, zzzt, zzzt, 'On the ground, on the ground'". CW2 said he believed AP was shot in the arm then went down and was shot again in the side. He said he believed he heard three shots, and then the other officer went around the couch and "Tasered" AP as he lay on the floor.

At that point, said CW2, CW3 woke up and ran to AP, as police held CW2 on the couch. He said they did nothing to help AP, and said that when he was shot, AP was not being aggressive, his hands were empty and were not clenched or in the air, and he was not coming towards the officers. CW2 said he did not believe that AP was being threatening, other than possibly raising his voice.

CW2 said he heard WO1 say to CW3, "he had a weapon".

Regarding lighting, CW2's evidence was that all the lights were on except the porch light. With respect to intoxication, CW2 said he was not "that drunk", as he could walk and speak. He said that AP had drunk only "a couple" of shots and "a couple" of beers.

### **Civilian Witness 3**

CW3 initially said that she was asleep on the couch when police “barged” into the house. She said she heard two gunshots with “a minute” between them. When she woke, she said, the first thing she saw was AP lying on the floor. She also stated, though, that it was AP who had answered the door, and that CW2 ran out of his bedroom after the shooting. Subsequently, though, CW3 recalled waking to the sound of banging at the door, and heard, “It’s RCMP, open the door or we’ll kick it in”. She said CW2 came from AP’s room to open the front door, and heard one of the officers say something about “domestic violence”. She said CW2 was wrestled over the couch by an officer trying to handcuff him, and CW2 was saying “he didn’t do anything”.

CW3 said that AP came out of his room and the other officer shot at him: “He was just coming out of his room and they started shooting at him”. She said that after AP was shot, police “tased” him.

### **Civilian Witness 4**

Also present in the home was CW4, who said he was asleep in a bedroom when he heard two loud bangs in quick succession, followed by yelling. He said he went to the living room and found two police officers, and CW2 screaming that AP was dead and that police had shot him. CW4 said that when he came out into the living room, CW1 was not in the room.

### **Witness Officer 1**

WO1 was also interviewed by IIO investigators. He was the second involved officer, and recalled arriving at the residence in the company of SO. He said that when the two officers came to the house it was completely dark, which he said struck them as not typical for the time of day. He said they went into the porch and knocked two or three times on the front door, calling words to the effect of “Police, open the door”. He said there was movement and hushed voices from inside, and the sound of things being moved around. Then CW2 said something like “She won’t leave, we’ve been trying to get her to leave, she’s too drunk”, and a female voice, sounding “frantic”, said, “Please, they won’t let me go”. WO1 said that CW2 continued to say that they had been “trying to get rid of her and she won’t leave”.

WO1 said that when he shouted, “Open this door or I’m kicking it in”, CW2 opened the door. The house, said WO1, was “pitch black”, and he shone his flashlight inside. He said he told CW2 that he was under arrest for forcible confinement and sexual assault, pulled him out onto the porch and handcuffed him with SO’s assistance.

WO1 described seeing CW3 “stumbling” near the couch, appearing to be intoxicated and saying that CW2 had not done anything wrong. CW1, he said, was sitting on a chair in the corner of the room.

WO1 said he then saw a figure he believed to be AP in a doorway at the back of the living room, his face obscured by a sheet hanging partway across the opening. He said AP was holding two dark, rectangular objects in his hands. From their shape and the way AP was holding them, WO1 believed they were knives, but could not be sure due to it being so dark: “It looked like how someone would hold two knives”. WO1 said that CW2 was complaining about the handcuffs, saying something like “Ow, watch it”, and

*All of a sudden, [AP] he just burst out from underneath this sheet and ... smashes these two things in his hands together and sparks light up the room.*

At that point, WO1 said, he was convinced that AP was holding knives, as they were clearly metal. He said AP was screaming, “Don’t hurt my brother, I will fucking kill you, I’m gonna kill you”, and started pacing near the far wall, staring at WO1. WO1 said he felt he could not disengage and retreat, as CW1 was in the room only about six feet from AP, who was clearly angry and apparently armed with knives. He said he let go of CW2, drew his pistol and shouted to AP to “drop the knives”. AP, he said, continued to pace, shouting and crashing the metal objects together again, drawing sparks. WO1 told CW2 to tell his brother that police were not hurting him, and to calm down.

AP then moved around the back of the couch towards the officers, WO1 said, and WO1 gave CW3 “a bit of a shove”, and believed she fell to the floor. WO1 was shining his flashlight in AP’s eyes, telling him to stop and not come any closer. He said AP went back to the other side of the couch, but then came around to the front, “tensed up”, with what WO1 believed were knives held out towards the officers.

As AP advanced on the officers, WO1 said, he saw SO’s arm come out with a Conducted Energy Weapon (‘CEW’ or ‘Taser’), heard the weapon discharge and saw the wires dangling from AP’s chest. He said AP stumbled backwards and partly sat down in the space between the couch and a coffee table, momentarily out of WO1’s view. WO1 holstered his pistol and stepped forward, intending to take control of AP while he was temporarily incapacitated.

As he did so, though, he said, AP started getting up again, the “knives” held in a “death grip”. WO1 said he was “startled” and “terrified”, and scrambled to get away from AP, who was now only two to three feet from him. AP was attempting to swipe the CEW wires

away from his body. CW2 was shouting, “You shot my brother”, and attempting to push past the officers, with SO holding him back.

WO1 said that he re-drew his pistol as AP initially moved away and then turned back. WO1 told investigators that AP “fixated” on him, and said, “He’s already come at us. I know what he’s intending now”. He said he told AP, “Don’t do this”, and raised his pistol as AP advanced towards the two officers again. He said he pointed the pistol directly at AP and “I know I pulled the trigger”. He recalled hearing and seeing his gunshot, but said he did not feel the gun fire. He said he saw AP flinch, but still keep coming forward in the same stance, around the front of the couch. WO1 then saw SO’s firearm discharge in his peripheral vision, and heard the shot. He said he believed there was then a third shot, and saw AP stop, drop to his knees and fall onto the floor with his hands out beside him. He said that about five seconds had elapsed between the time he shouted, “Don’t do this” to the time AP fell to the floor.

WO1 told investigators that he went to AP, removed what he discovered were metal files from his hands and threw them aside, in the direction of the kitchen fridge. The officers called for paramedics to attend by boat. WO1 attempted to find a pulse, but there was none. He said he was hampered in looking for wounds by CW3, who lay over top of AP, crying, and remained there for approximately an hour. He continued trying to find a pulse, but was unable to.

### **Scene and Physical Evidence**

Between 10:04 and 10:08 p.m., Witness Officer 2 (‘WO2’) took a series of scene photographs, that were subsequently passed to IIO investigators. WO2 told the IIO that upon arrival he found AP evidently deceased on the living room floor. The couch appeared to have been moved, he said, and he noticed CEW wires and a spent pistol cartridge case on the floor. WO2 said that WO1 had told him to get photographs of “the two knives as they were involved”, so he photographed what he described as “sharpening chisels” about a foot long, located a few feet from AP’s body near the fridge.

When the photographs were taken, CW3 was still with AP, where she had been since the shooting. The metal files can be seen between AP’s body and the kitchen fridge, as described by the officers, and consistent with where WO1 said he threw them.

Forensic investigators conducted a thorough search and examination of the scene. Approximately three feet inside the front door they located one spent 9 mm pistol cartridge case, and a second was found just outside the door. A hollow-point bullet was found in clothing on a plastic shelving unit in an alcove almost directly opposite the front door. A fragment of the metal jacket from a bullet was found slightly to the left. There were CEW



wires on the living room floor in front of the couch. Two CEW probes were found, one attached to the upper right chest of AP and the other located under AP's abdomen, attached to a towel that had become stuck to AP's clothing. Blast doors from a CEW were found on the living room floor, as well as identification tags from a CEW that matched the empty cartridge from a CEW seized after the incident from SO.

The two metal files were found on the floor near the fridge, approximately 150 cm from AP's body. They were consistent in style with other files found in the utility room.

The service pistols of both SO and WO1 were seized and examined:

- WO1's firearm was found to have a live round in the chamber and 14 rounds in the magazine. WO1 was carrying two additional loaded magazines with 15 rounds in each. This firearm did not appear to have been fired since it was previously cleaned. WO1 was not CEW-trained and was not carrying a CEW at the time of the incident.
- SO's pistol was found to have a live round in the chamber and 11 rounds in the magazine. Like WO1, SO was carrying two additional loaded magazines on his belt, with 15 rounds in each. The two cartridge cases, the expended bullet and the bullet fragment found were determined to have been fired from SO's pistol. SO was also equipped with a CEW, which when examined was found to contain an expended cartridge. He had a further two live CEW cartridges in holders. SO is a trained CEW operator. Data from SO's CEW showed that at 9:32:49 p.m. on February 27, 2021, the device was activated by trigger for nine seconds. For approximately four seconds there was a completed electrical circuit which could have caused neuromuscular incapacitation, followed by five seconds where there was no completed electrical circuit.

The two metal files found near AP's body were seized and examined:

- The first was found to be 12 ¾" long including the handle, and rectangular in shape. Red staining was noted on it. Areas along the edge were noted to be bright, with an appearance of having been recently damaged. An opaque, waxy substance was found on one edge. Blood matching that of AP was found at two locations on this file.
- The second file was also rectangular in shape, and 14 ½" long including the tapered end designed to fit within a handle. Like the first file, the edge of the second featured areas of apparent recent damage, brighter in colour than the rest of the steel.

## **Autopsy**

The postmortem examination of AP was conducted on March 4, 2021. The report indicates cause of death as “gun shot wounds of chest”. One bullet path was located through the left upper arm and the left front of the chest. A second was located directly through the left front of the chest. Three small bullet fragments were retrieved from AP’s left arm.

Two injuries were observed from CEW probes, one to the front right side of the chest and the other to the front right side of the upper abdomen. There was bruising on AP’s left shin and abrasions to the right shin, right forearm and right side of his face. There was also a superficial laceration to the back of AP’s right forearm.

## **LEGAL ISSUES AND CONCLUSION**

The Independent Investigations Office of British Columbia has been given the task of investigating any incident that occurs in the province in which an Affected Person has died or suffered serious physical harm and there appears to be a connection to the actions (or sometimes inaction) of police. The aim is to provide assurance to the public that when the investigation is complete, they can trust the IIO’s conclusions, because the investigation was conducted by an independent, unbiased, civilian-led agency.

In the majority of cases, those conclusions are presented in a public report such as this one, which completes the IIO’s mandate by explaining to the public what happened in the incident and how the Affected Person came to suffer harm. Such reports are generally intended to enhance public confidence in the police and in the justice system as a whole through a transparent and impartial evaluation of the incident and the police role in it.

In a smaller number of cases, the evidence gathered may give the Chief Civilian Director (‘CCD’) reasonable grounds to believe that an officer has committed an offence in connection with the incident. In such a case, the *Police Act* gives the CCD authority to refer the file to Crown counsel for consideration of charges.

In a case such as this one, involving the use of lethal force by an officer, one of the threads of the IIO investigation will be the gathering of evidence about potential justifications for that use of force. The CCD will then apply legal tests such as necessity, proportionality and reasonableness to reach conclusions as to whether the officer’s actions were lawful. The specific focus will be on the degree of threat posed by the Affected Person and whether, in the words of the *Criminal Code*, it gave reasonable grounds for the officer to believe lethal force was “necessary for the self-preservation of [the officer] or the

preservation of any one under [the officer's] protection from death or grievous bodily harm”.

There is no issue that the officers were acting in lawful execution of their duty in responding to the 911 call from CW1 saying she had been assaulted and was being held against her will by AP and CW2. Likewise, they were authorized to demand, and, if necessary, force entrance into the home to investigate and to ensure CW1's safety. Based on CW1's allegation, they were further justified in arresting both suspects, and in using necessary and reasonable force in doing so. The need to protect CW1, who had said she was being unlawfully confined, justified these actions without a warrant that would usually be required for an arrest in a residence.

As summarized above, the civilian witnesses provide a somewhat inconsistent and incomplete narrative of what happened when AP came out of the bedroom and confronted the officers, who were in the process of placing CW2 under arrest. It is difficult to determine to what extent environmental and personal factors contributed to the inconsistencies in their accounts, but the result is that it is difficult to rely confidently on them.

- As noted, CW1 seemed unsure if she was in the bedroom or the living room at the time of the shooting.
- CW2's version of events appears to be inconsistent with the physical evidence. For example, he said AP had nothing in his hands. However, the two files were found in AP's proximity, had AP's blood on them, and had marks consistent with having been struck together, as WO1 had stated. This is not entirely surprising as he was in the process of resisting being arrested when AP came out of the bedroom and was, by his own account, sober only in the sense that he could still walk and speak.
- CW3, according to CW1, was “blacked out drunk” when police arrived, and seemed uncertain in her evidence whether she was asleep or awake when the shooting happened (according to CW2, she woke up after AP was shot).
- CW4, as set out above, did not witness the confrontation, but did say that CW1 was not in the living room when he came there from his bedroom.

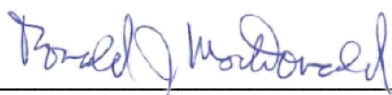
WO1's account is consistent with the physical evidence, although it is noteworthy that he believed initially that he had fired his weapon when he apparently had not. His subjective recollection, even though mistaken, is significant in that it indicates his risk assessment was at a sufficient elevated level that he felt it would justify using lethal force against AP. In particular, the position of AP's body, and the location of the two long metal files, which

contained AP's blood and had fresh marks as if they had been struck together to cause sparks, is entirely consistent with WO1's statements.

While it will never be clearly known what motivated AP in the critical moments, it appears from the evidence that he was angry to see officers arresting and struggling with CW2. It has to be concluded that he was holding the two steel files as weapons, as described by WO1, and was clashing them together threateningly. The forensic examination of the items supports that conclusion, and it appears that the laceration on AP's forearm and his blood on one of the files was a result of these actions. The fact that the files were seen and photographed in the location where WO1 said he threw them after taking them from AP's hands is also strong confirmation of the veracity of WO1's account. It might be noted that it is standard procedure for an officer to clear potential weapons away from an assailant, even if that person appears to be incapacitated. It is significant that CW3 was present from the time of the shooting until the time the photographs were taken, not long after, so one can be confident that the files were not placed there deliberately by an officer or anyone else after the incident.

On the preponderance of the evidence, both officers found themselves in a situation where they reasonably believed they were at risk of grievous bodily harm, at least, from someone advancing upon them with weapons that, while not knives, might reasonably be perceived to be knives, and in any event were certainly capable of doing significant damage if used to strike. They were in a dark, cluttered room, already dealing with one resistant individual, unable reasonably to retreat because of the need to protect the complainant, CW1. They made an initial attempt to de-escalate, followed by deployment of the CEW, which was unfortunately only effective for a few seconds. There was no second CEW available, and no time to reload SO's device in the circumstances. When AP got up off the floor still wielding the files, he was close upon WO1, and immediate defensive action against him using lethal force was justified, from either officer.

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.



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Ronald J. MacDonald, KC  
Chief Civilian Director

July 14, 2023

Date of Release