



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
VICTORIA POLICE DEPARTMENT IN
VICTORIA, BRITISH COLUMBIA
ON MARCH 15, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, K.C.

IIO File Number:

2021-060

Date of Release:

November 10, 2022

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The release of this Public Report was delayed pending the completion of concurrent criminal court proceedings. The decision in this matter was initially made on June 15, 2021.

Introduction

In the early morning hours of March 15, 2021, Victoria Police Department ('VicPD') officers were called to the Emergency Department of the Royal Jubilee Hospital after a report that someone had a knife. Officers arrived and arrested the Affected Person ('AP'), who was shot by the Subject Officer (SO) during the arrest.

Because the injury occurred as a result of the actions of police officers, 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 AP and six civilian witnesses;
- statement of one witness police officer;
- statements of two responding paramedics;
- police Computer-Aided Dispatch ('CAD');
- Police Records Information Management Environment ('PRIME') records;
- police radio to radio transmissions;
- CCTV of incident; and
- medical records.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, SO provided their PRIME police duty report to the IIO.

Narrative

On March 15, 2021 at approximately 5:00 a.m., Witness Officer 1 ('WO1') and the Subject Officer ('SO') were at Royal Jubilee Hospital dealing with an unrelated matter. As they were dealing with this unrelated matter in a different section of the hospital, a security guard (Civilian Witness 1 ('CW1')) approached them and advised there was a male with a knife in the Emergency Department. WO1 went to investigate.

Earlier that day, AP had been taken to the hospital by ambulance after he reported that he had ingested plutonium. Approximately a half hour after being admitted to hospital, Civilian Witness 2 ('CW2') saw AP with a knife in his hand, heard him say "*I want to kill somebody or someone*" and noted that he had a vacant look on his face. CW2 commanded AP to drop the knife, alongside CW1, but AP refused.

CW1 said that he gave AP multiple commands to drop the weapon, but that AP *“just stared at me, blank state, didn’t say anything, really no reaction.”* This led to CW1 engaging the police that were already at the hospital for assistance.

After receiving the report from CW1, WO1 went to investigate. WO1 observed the AP in the Emergency Department holding a knife. WO1 had her Conducted Energy Weapon (‘CEW’, also known as a Taser) out and called SO over the radio to assist.

SO approached the Emergency Department area where AP was and drew her firearm. WO1 gave commands to AP to drop the knife six or seven times. AP continued to advance toward WO1 with the knife held upright and extended toward WO1. WO1 deployed the CEW, which was not effective in stopping AP’s advance. WO1 reported that they believed that AP was going to kill her. SO then discharged her firearm once at the AP’s abdomen.

CCTV captured the events as they unfolded. In the CCTV footage, AP can be seen standing in the emergency department with a knife in his hand. He then walked toward the camera with the knife in his hand, and a red dot can be seen on his body (the laser sight of the CEW). He then flinched and continued to move forward and out of the frame of the camera.

Civilian witnesses also confirmed that AP kept advancing towards police with knife in hand, including after the deployment of the CEW. WO1 stated that even after AP was shot and on the ground, WO1 had to *“rip”* the knife out of AP’s hand as he was clutching it so tightly.

When AP was interviewed by IIO investigators, he said that he wanted to die and that this incident was his suicide attempt. Civilian Witness 3 (‘CW3’) confirmed this, stating she overheard AP say *“I wanted assisted suicide.”*

AP was handcuffed, and received immediate medical attention at the hospital following the shooting. AP underwent surgery to repair the damage from the bullet.

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.

The issue to be considered in this case is whether the officer may have used excessive force by shooting AP.

Officers were acting lawfully, in execution of their duties, when they responded to the information that AP had a knife inside the hospital. This situation was potentially dangerous, as there were many people around the hospital at the time. Once AP was

found with the knife and refusing commands to drop it, SO needed to arrest AP and do so quickly.

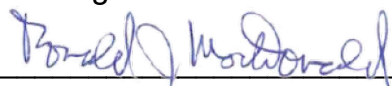
It was unsafe for any officer to attempt to arrest AP until he dropped the knife. After issuing commands to which AP did not respond, WO1 appropriately took action by deploying her CEW. When that did not work, and the situation escalated as AP moved towards WO1, the threat escalated and SO used her firearm to prevent AP from harming SO, WO1 and/or others.

An officer is allowed to use force, provided that they are acting in the lawful execution of their duties and the amount of force used by an officer is necessary. The law requires that the use of force not be excessive, and the use of force is constrained by the principles of proportionality, necessity and reasonableness. In this case, AP was holding a knife and was moving towards the officers. After attempts to de-escalate, it was necessary and appropriate for SO to use force in an effort to get AP to drop the knife. It was clear on the CCTV, and from the civilian witnesses who tried to get him to drop the knife earlier, that AP was not complying. This is an unfortunate example of a situation where both health care professionals and police attempted to convince AP to drop the knife, but without success. In the end, he deliberately took steps to make those around him believe he was intent on causing grievous bodily harm or death to one or more of them.

It would not have been appropriate for officers to approach AP and attempt to simply lay hands on him in order for him to drop the knife. It was both necessary and reasonable, in these circumstances, for his compliance to be obtained by the use of the CEW in the first instance. When the CEW failed, and officers were faced with the threat of an armed man approaching them and other civilians, using lethal force was necessary to prevent anyone from being harmed.

There was a significant risk faced by the arresting officers, and potentially to the public if AP escaped. As a result, this use of force by SO was justified at law. Once shot, AP went down and lowered the knife, allowing the officers to move in. They did so and AP received medical assistance. Fortunately, AP has significantly recovered from his injuries.

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, K.C.
Chief Civilian Director

November 10, 2022

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