IN THE MATTER OF THE DEATH OF A MALE WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP IN NEW AIYANSH, BRITISH COLUMBIA ON OCTOBER 13, 2020

DECISION OF THE CHIEF CIVILIAN DIRECTOR OF THE INDEPENDENT INVESTIGATIONS OFFICE

Chief Civilian Director:	Ronald J. MacDonald, Q.C.
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Introduction

On the night of October 13, 2020, RCMP officers were called to a stabbing in progress. Upon arrival, an officer (Subject Officer 1, 'SO1') encountered the Affected Person ('AP'). AP was in a state of mental distress and cut his own throat with garden shears and slashed his arms with a knife. An interaction occurred between AP and SO1 which resulted in SO1 deploying his Conducted Energy Weapon ('CEW'). AP was handcuffed and quickly transported to the medical centre, where he was later pronounced deceased.

Because the death occurred in connection with 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 from five civilian witnesses;
- statement from one witness police officer;
- Police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- Audio recordings of 911 calls and police radio transmissions;
- CEW examination and reports; and
- review of autopsy report.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, SO1 did not provide any evidence to the IIO.

Narrative

At 7:46 p.m. on October 13, 2020, Lisims/Nass Valley RCMP received a 911 call. The caller (Civilian Witness 1, 'CW1') stated that a neighbour had asked him to call the police, because the neighbor had just been stabbed by his son. Two police officers were immediately dispatched to a residence in New Aiyansh.

Subject Officer 1 ('SO1') was the first to arrive at the residence ten minutes later. Prior to arriving, SO1 was informed that AP had stabbed his father and was threatening to slit his wrists and throat with a knife. SO1 was also informed that AP was smashing beer bottles and screaming.

Civilian Witness 2 ('CW2') heard something was going on at the nearby residence and attended, along with several other individuals. As CW2 approached the porch of the residence, he heard AP yell out that he had just cut his own neck. CW2 interacted with AP from a distance, mindful that AP could have a weapon. AP was "out of it" and was not acknowledging or answering CW2, even though CW2 was calling out directly to him. CW2

saw SO1 arrive, and said he spent approximately five minutes speaking to the other individuals present at the scene to assess the situation. SO1 then approached AP.

As SO1 approached, AP put a pair of garden shears to his neck. After a brief interaction with SO1, AP started to squeeze the garden shears. SO1 announced over the radio that AP was "was bleeding quite a lot and was holding cutters to his neck". AP then took the garden shears away from his neck.

SO1 moved in and attempted to take the garden shears away from AP, but the rubber handle came off from the garden shears. AP remained holding the garden shears. CW2 said that SO1 had "run out of options" and took out his CEW and repeated commands to AP to put the garden shears down. AP ignored SO1, and put the garden shears towards his neck again, at which point SO1 deployed his CEW. AP fell to the ground and SO1 dragged AP off the porch and handcuffed him.

Paramedics were dispatched, but it was estimated that it would take them 90 minutes to arrive and transport AP to the nearby medical centre. As a result, officers made the decision to transfer AP to the medical centre themselves to get AP there sooner. During the transport, AP became unresponsive.

Three civilian witnesses raised concerns about the length of time it took SO1 to take action and then transport AP to hospital. The relevant timeline of events is as follows:

The initial call to 911 was received at 7:46 pm. SO1 received the call from the RCMP dispatcher at 7:47 pm. According to CAD records SO1 arrived on scene at 7:57 pm. WO1 arrived at 8:09 pm, and both officers transported AP to the health centre, arriving at 8:14 pm.

Medical staff attempted to revive AP once he arrived at the medical centre, but they were unsuccessful in their attempts. An autopsy was later conducted. The final autopsy report determined cause of death to be multiple slash wounds. There is no indication that the CEW contributed to the death of AP.

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 SO1 may have used unauthorized, unnecessary or excessive force in his dealings with AP. If the officer was 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.

In these circumstances, SO1 was acting lawfully, in execution of his duty, when he attempted to arrest AP. In addition to holding a weapon, SO1 was aware that AP had just stabbed his father and was arrestable for aggravated assault. The lawful authority for SO1 to arrest AP is not at issue in this case.

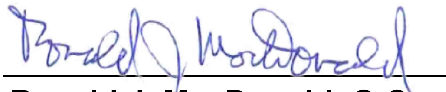
An officer is allowed to use force, provided that they are acting in the lawful execution of their duties and the amount of force used by an officer is necessary. The law requires that the use of force not be excessive, but instead be reasonable, proportionate, and necessary.

According to a civilian witness, AP was not listening or responsive to anyone, including SO1's commands to drop the garden shears. It was unsafe for SO1 to attempt to arrest AP with a weapon in his hands. SO1 had failed in his first attempt to physically remove the garden shears from AP's grasp. Once AP had the garden shears to his throat again, SO1 appropriately took action by deploying his CEW in an attempt to prevent AP from causing further harm to himself.

Due to the safety concerns, it would not have been appropriate for SO1 to get closer to AP in an attempt to get the garden shears away from him. It was both necessary and reasonable, in these circumstances, for his compliance to be obtained by the use of the CEW to reduce the risk of bodily harm that would otherwise have been faced by the SO1, AP, and potentially to the public if AP escaped. It cannot be said that this use of force by the SO1 was unreasonable in the circumstances. Once SO1 could move in safely, the officer did along with others who assisted in providing medical care. Tragically, despite all attempts to save his life, AP died of his own self-inflicted wounds.

There may be questions raised regarding the length of time SO1 took to approach AP in the first instance. It was reasonable for SO1 to take some time to assess the situation prior to interacting with AP. Officers are trained to assess whether their presence will escalate a person undergoing a mental health crisis, and it is reasonable that an officer would have taken time to evaluate that in this case. In this case the total time between the arrival of SO1 and his departure with AP was 15 minutes. During this time he assessed the situation, attempted to disarm and then arrest AP, and then awaited the arrival of WO1 to allow for transport of AP given Emergency Health Services (EHS) was taking too long. Taking into account all the circumstances, it can not be said this was an excessive amount of time. In order to constitute the level of negligence required for a criminal offence, any delays by SO1 would have to amount to a wanton and reckless disregard for human life. Even if it could be said SO1 did not act as quickly as he might have, his actions fall far short of meeting the criminal negligence standard.

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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