



**IN THE MATTER OF THE INJURY OF A WOMAN
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN UCLUELET, BRITISH COLUMBIA
ON MAY 8, 2021**

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

Chief Civilian Director:

Jessica Berglund

IIO File Number:

2021-119

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The release of this public report was suspended pending the conclusion of concurrent court proceedings. The decision in this matter was initially reported on [February 8, 2023](#).

INTRODUCTION

The notification to the IIO in this case indicated that on the afternoon of May 8, 2021, the two Subject Officers responded to a 911 call about a domestic incident at a residence in Ucluelet. Upon entering the home, they encountered the Affected Person (“AP”) in the bathroom behind a partially obstructed door. She was holding a realistic-looking replica handgun. The officers ordered the AP to drop the weapon, but she failed to do so. Both officers discharged their firearms, and the AP was struck and seriously injured by several bullets. She was rushed to hospital and survived. 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 the AP, five other civilian witnesses, two paramedics and one witness police officer;
- police Computer-Aided Dispatch (“CAD”) and Police Records Information Management Environment (‘PRIME’) records;
- audio recordings of 911 call and police radio transmissions;
- audio recording of the incident from a police digital recorder;
- scene photographs and plans;
- forensic analysis and reports; and
- medical reports and other medical evidence.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, neither Subject Officer initially provided any account to the IIO. Following the conclusion of the concurrent court proceedings, and after being advised that the IIO had completed its investigation and that no charges were to be forwarded to Crown counsel, Subject Officer 1 (“SO1”) permitted the IIO access to the transcript of an interview about the incident that he gave to RCMP investigators on December 7, 2022.

NARRATIVE

At the time of the incident that led to her injury, the AP was in the home of Civilian Witness 1 (“CW1”) on First Nations land in Ucluelet, despite being bound by a conditional release

from police custody that included a condition that she not be in that community. Police had been called to the residence on a frequent basis over the previous few weeks, dealing with complaints about violent incidents there. RCMP members were also aware that there was suspicion about the AP's possible involvement in a recent apparent murder.

In a 911 call received by police on May 8, 2021, they were told by the complainant that CW1 had visited the complainant asking for duct tape or needles and thread to treat a wound on CW1's neck. They were also told that the AP was in CW1's home and had a broken jaw "over what was going on." Another caller told the dispatcher that it was "really noisy" at CW1's address, and that "something very big" had been thrown out of a window. The caller added, "They're fighting now too."

When the 911 calls were received, SO1 was already on his way to CW1's home to serve him with a warning letter about alleged prior incidents of violence while intoxicated. It was alleged that CW1 had previously threatened an RCMP member and the member's family. Because of this history, officers would always go to CW1's residence in pairs, for safety. Also, SO1 would always audio-record his attendances at the home.

Since neither Subject Officer initially offered any evidence to the IIO, until recently the best evidence of what happened in the incident was found in SO1's audio recording of it, and in a forensic examination of the scene. The most significant segments of the audio recording are as follows:

- Shortly after the start of the recording, the two officers are heard knocking on a door at CW1's home and trying to have him cooperate by permitting their entry to "make sure everyone's okay". CW1 refuses them entry and is eventually arrested for obstruction and placed into the rear of one of the police vehicles.
- After the officers gain access to the home, where loud music is playing, SO1 can be heard calling to the AP, telling her she is "under arrest for breach" and to "come on out."
- Half a minute later, Subject Officer 2 ("SO2") says, "She's got a gun ... she's got a gun. She's right there."
- The AP twice shouts, "Get the f**k out of the house!"
- SO2 yells, "Get the f**k down!" and SO1 says, "Drop the gun."
- A gunshot is then heard, and the AP says, "Oh!"
- Both officers are yelling, "Drop the gun!"
- There are the sounds of three shots in quick succession, followed by two more, then a further two and a thumping sound.

- SO2 can be heard calling on the radio for an ambulance, and the AP moans, “I’m dying.”
- SO2 says, “Ok, she doesn’t have the gun”, and SO1 is asking the AP, “Where are you hit?”
- For an extended period, it is clear that the officers are providing urgent care, and SO2 can be heard telling the AP, “Stay with me, stay with me ... Stay breathing. Can you hear me? Can you hear me? Stay with me, please, please, stay with me...”

Interviewed by the IIO, the AP had only a limited memory of the incident:

I opened the door. The police officer yelled at me to get on the ground. I didn’t get on the ground, and I backed up to close the door. And I was shot. I remember the first three shots and those ones were the ones that hit my tummy. And I went like, and I woke at the hospital...

In the AP’s account, she, not CW1, opened the door to the police. She said the officers were claiming she had a weapon, but she had no weapon and there were none in the house. The AP acknowledged that she had been drinking before the incident and was intoxicated. When asked how much she had drunk, she responded that she did not know.

A BB gun made as a replica of a Walther PPK/S compact pistol was located in the vicinity of where the AP was found and treated by arriving paramedics:



The gun was tested for the possible presence of biological material. A DNA typing profile was obtained, and the profile was found to be of mixed origin consistent with having

originated from at least two individuals, including at least one male. The profile of the major component matches that of the AP.

Forensic examinations of police firearms, together with scene evidence, resulted in conclusions that SO1 had most probably fired five shots from his 9 mm service pistol, and SO2 most likely four.

A comprehensive and detailed examination of the scene was conducted. An estimated reconstruction of the incident, based on all the available evidence, is as follows:

- After removing CW1 from the residence, SO1 and SO2 entered, and located an obstructed bathroom door. Upon forcing it open, they confronted the AP, who had in her possession a black imitation handgun.
- The officers retreated into the living room, SO1 to his right (south) and SO2 to his left (west).
- The AP exited the bathroom and moved through the kitchen area to the north side of the living room. Two bullets from SO2's pistol passed through the living room sofa, one on a slightly upward trajectory, strongly suggesting that SO2 was crouching to use the sofa as cover/concealment.
- The officers' rounds were fired generally in the direction of the north wall, which is where the AP was struck and wounded. One bullet penetrated the glass door in that wall and was later found to have struck the police vehicle parked outside.
- The AP fell to the floor close to the north wall, and the officers approached and threw the gun, which they found to be a replica, aside.
- It is not possible to determine, regarding the bullets that struck the AP, which officer(s) fired them. That is, it is not possible to exclude either officer from having injured the AP.

In SO1's RCMP interview, he described entering the "very dim" house with SO2 and going into the bedroom, calling for the AP. He said he then saw SO2 backing out of the bathroom with his gun drawn, saying, "She's got a gun". SO1 said the AP came out of the bathroom, moving towards SO2 with what appeared to be a gun in her hand, and both officers discharged their firearms:

She's like yelling, which she is, you know, "get out of my house" and yelling and, and her hands are on it, the next time I see the gun like on her left side going towards where [SO2] is and, uh, and then she gets to the end of the counter, goes towards the living room and then the gun is up and that's when, you know, I think [SO2] started firing and then, then I started firing.

SO1 added that he saw the AP's gun "fully extended" towards SO2 before the officers fired their weapons.

When the AP fell to the floor, SO1 said, the officers immediately called for assistance from paramedics and started emergency first aid. He said the AP's gun had fallen from her hand and was lying several feet from her on the floor.

Asked by the RCMP investigator if he had believed initially that the gun in the AP's hand when she came out of the bathroom was a "fully operational handgun", SO1 responded, "Yes, of course. I had no reason to think otherwise".

ANALYSIS

The Independent Investigations Office of British Columbia investigates 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 most 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 force by officers, evidence is gathered 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 officers' actions were lawful, or whether an officer may have committed the offence of assault.

The officers were acting in lawful execution of their duty when they responded to the 911 call and went to CW1's house. They were aware of allegations that there had been some sort of violent incident there and were justified in demanding entry. They were also justified in arresting CW1 for obstruction when he refused them entry. The officers had grounds to be concerned for the safety of any occupants and, due to those exigent

circumstances, their duty was to ensure that no one inside the house was injured or otherwise in need of help.

The officers were aware that if the AP was present, she was in breach of legal conditions and was arrestable, and they called out for her to tell her that. It appears that the AP was intoxicated, and she reacted by confronting the officers while pointing what appeared to be a real firearm at them. In those circumstances, it is not surprising that both officers drew their pistols, shouting for the AP to drop the gun. As set out above, the AP did not drop the gun, and instead ran into the living room still holding it.

At that point, it was objectively reasonable for the officers to conclude that they faced a significant risk of imminent grievous bodily harm or death, which justified their deployment of lethal force. It is worth noting, additionally, that the officers were aware of a history of alleged violence with respect to the AP. On the evidence, both officers ceased firing as soon as the AP was disabled and immediately turned to providing care and medical assistance to her.

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.



Jessica Berglund
Chief Civilian Director

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