



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
VANCOUVER, BRITISH COLUMBIA
ON JANUARY 26, 2022**

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

Interim Chief Civilian Director:

Sandra J. Hentzen

IIO File Number:

2022-010

Date of Release:

September 10, 2024

THIS PAGE INTENTIONALLY LEFT BLANK

INTRODUCTION

On the morning of January 26, 2022, Vancouver Police Department ('VPD') officers responded to information from Canada Border Services Agency ('CBSA') officers at the Peace Arch border crossing that the Affected Person ('AP') had fled into Canada from an attempted inspection at the border. The AP, who had a child in the vehicle with him, was subsequently apprehended by VPD officers at the Port of Vancouver. He was injured in the course of his arrest, so 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 two civilian witnesses, three CBSA officers and eight witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of police radio transmissions;
- security camera and traffic camera video recordings;
- scene photographs; and
- photographs of the AP's injuries.

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 provided any account. The PRIME report of one Subject Officer was accessed by the IIO but based on a decision that they would remain designated as a Subject Officer, the investigative team did not use or review that report during their investigation.

NARRATIVE

At 7:26 a.m. on January 26, 2022, CBSA officers at the Peace Arch border crossing on Highway 99 called police to report that the Affected Person ('AP') had fled after being directed to 'secondary inspection'. It was reported that a young child was riding as a front seat passenger in the AP's vehicle. Further, officers noted that the AP had attempted to cross the border on previous occasions and was known to possess firearms and knives. On this occasion, according to the CBSA officer who engaged with him and was later

interviewed by the IIO, the AP said that police would “need to shoot him to get him out of the vehicle”.

Within half an hour, the AP’s vehicle was seen by police driving erratically on Clark Drive in Vancouver. The AP was speeding and swerving into oncoming traffic. He had been observed earlier, fuelling his vehicle in the street from a jerry can.

The AP drove to a Port of Vancouver facility, where he was stopped at the security gate. Acting on police instructions, staff directed him to an open parking area, where police vehicles were used to box him in. As officers approached his vehicle, the AP exited and then attempted to re-enter it. A police service dog (‘PSD’) was deployed by Subject Officer 1 (‘SO1’) and pulled the AP out onto the ground by his left leg. The AP was then subdued and arrested by a group of officers, including SO2, who was seen on the video recording of the incident apparently directing punches in the direction of the AP’s head (SO2 was heard by witness officers to remark afterwards that he thought his hand might be broken).

The AP’s ten-year-old son was sitting in the passenger seat of the AP’s vehicle, together with a jerry can partially filled with gasoline. A chainsaw, a crossbow, a two-foot-long machete and a rifle scope were located in the trunk.

The AP was transported to hospital by police, where he was treated for dog bite injuries before discharging himself and being taken by CBSA officers back to the border, to be returned to the U.S. The AP’s son was physically unharmed, and also returned to Washington state.

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 force by officers, 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 officers' actions were lawful, or whether an officer may have committed the offence of assault.

This was clearly a situation with high-risk elements, including an emotionally unstable individual, a vulnerable child and the potential for harm from weapons and flammable material. Police had quickly taken steps to ensure that the AP could not drive from the scene, but if he were able to re-enter his vehicle there was the danger that the incident could degenerate into one involving a barricaded suspect in control of a hostage. It was reasonable for all involved officers to recognize those risks and to use an appropriate level of force to prevent them from materializing. In the circumstances, the force used, including deployment of the PSD, was necessary and proportionate to the potential harms the officers were seeking to avoid.

Accordingly, as Interim 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.



Sandra J. Hentzen
Interim Chief Civilian Director

September 10, 2024
Date of Release