



**IN THE MATTER OF THE DEATH OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP IN
SURREY, BRITISH COLUMBIA
ON APRIL 1, 2022**

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

Chief Civilian Director:	Ronald J. MacDonald, K.C.
IIO File Number:	2022-057
<u>Date of Release:</u>	<u>October 27, 2022</u>

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INTRODUCTION

Through the early morning hours of April 1, 2022, police in Surrey received several complaints of criminal activity by a male armed with a handgun. At about 7:00 a.m., the Subject Officer ('SO') encountered the Affected Person ('AP') on a residential street, and reported that he was acting strangely and talking about a gun. SO followed AP and back-up officers attended. In the course of an interaction between AP, SO and a second officer, SO discharged one round from her service pistol at AP, injuring him fatally. 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 three civilian witnesses and five witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of 911 calls and police radio transmissions;
- residential security camera video/audio recordings from multiple locations;
- scene photographs; and
- 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, SO has not provided an account to the IIO.

NARRATIVE

In the morning hours of April 1, police in Surrey received a number of reports of criminal activity by a male suspect armed with a handgun:

- Shortly after 5:00 a.m., there was a report of an attempted armed robbery of an Uber driver in the 14900 block of 107A Avenue.
- At 5:39 a.m., there was a complaint of another armed robbery attempt, this time outside a 7/11 store in the 14400 block of 108 Avenue.
- At 5:42 a.m., police were called about a carjacking by an armed suspect close to the 7/11 store. The stolen vehicle sped away west on 108 Avenue.
- The stolen vehicle was subsequently seen by police at 132 Street and 106A Avenue, and then at 144 Street and 108A Avenue, but it failed to stop.

- At 6:15 a.m., a break and enter occurred in the 9000 block of 144 Street.
- Just before 7:00 a.m., an armed male suspect was reported as having left the scene of an attempted home invasion in the 14200 block of 89A Avenue.
- At 7:02 a.m., police were advised by a GPS monitoring service that the stolen vehicle had been located, stationary in the 9100 block of 144 Street.

At 7:01 a.m., in the 8900 block of 142A Street, roughly a block from the location of the alleged attempted home invasion, the Subject Officer ('SO') saw a male matching the description of the suspect walking southbound on the sidewalk. Her initial interaction with the male (AP) was captured on a residential video system. Much of the exchange is not discernible on the audio track, but SO can be heard to say, "I don't want to shoot you", and she asks, "Hey, what's going on? Do you have a gun or something?" to which a male voice—presumably AP's—responds, "Yes".

SO radioed for backup, describing AP as "appears MHA [*Mental Health Act*] and wanting a gun or something". Witness Officers 1 and 2 ('WO1' and 'WO2') responded to SO's call as she drove after AP, who was now jogging away southbound. WO1 later told IIO investigators that as the two backup officers drove their police vehicles into a construction parking lot on the south side of 88 Avenue, he could see AP walking away from SO into a residential area with SO following quickly on foot.

WO2 returned to his car, and drove off, seeking unsuccessfully to find a route that would permit him to quickly get ahead of AP. Finding his path down a back alley blocked, he returned to the parking lot and followed WO1 foot, arriving a few seconds too late to witness the conclusion of the incident.

WO1 described seeing AP turn into a cul-de-sac, and stop close to the intersection, in the middle of the road. SO, he said, was telling AP to take his right hand out of his pocket. He said AP told the officers, "I have a gun", so drew his pistol in response. Meanwhile, SO was repeating, "Get your hand out of your pocket", but AP was not complying. WO1 said his risk assessment was very high, and he kept his distance from AP, 10-15 feet away. He said he told AP "firmly" to take his hand out. When AP did so, WO1 could "clearly see the gun, but he's pointing it up to the sky, and he's holding it with his right hand". WO1 called to SO, "Take cover", and moved backwards, but there was no cover immediately available. He said he feared for his life, and feared that AP might run into someone's home. He told AP two or three times, "loud and clear", to drop the gun. WO1 said he had his gun pointed at AP when he heard the sound of SO's gunshot, and AP dropped to the ground:

It was just that, maybe a second or two, I was... she just beat me to it. But I was, I was going to pull the trigger. He wasn't complying, and when

he pulled out the gun, and I say this is why I almost pulled the trigger, is because he turned, and he looked in my direction, and he said, "No" ... It's almost like he had his mind set on what he wanted to do ... When he focussed on me, that's when the shot was fired.

WO1 said he could see that while on the ground, AP was looking at the gun, and his hand was inches from it, moving. WO2 arrived, kicked the gun aside and handcuffed AP. Officers then began first aid, transitioning to CPR for an extended period until firefighters and paramedics attended and took over.

A number of civilian witnesses saw or heard parts of the incident from inside their homes, and parts were also captured on residential security cameras.

Civilian Witness 1 ('CW1') told IIO investigators that her eyesight was imperfect, but she had seen some of the interaction. She said that at one point AP's hands were up "behind his head", and two police officers were about 15 to 20 feet away from him, "shouting ... 'drop it, drop it', something like that". He was walking away from them, and then she heard a shot. She did not see what was happening at the time of the shot.

CW2 told investigators that she heard a female voice (SO) shouting several times, "something along the lines of 'stay back' and 'put the gun down'". CW1 saw a male with his hands up over his head, holding a gun in both hands. At the time of the shot, she said, "It looked like he was just standing there". CW2 said that she saw AP, after he fell to the ground, reaching for the gun, and saw an officer (WO2) kick the weapon aside.

Video from a number of different perspectives confirmed that AP, wearing a black hoodie, moved quickly into the subdivision through a residential yard, and turned up a small cul-de-sac. SO drove her police vehicle, emergency lights flashing, into a construction parking lot beside the houses, and ran after AP on foot. WO1 can then be seen following at a run, a few seconds behind SO.

Another video recording shows AP running into and along the short cul-de-sac, pausing and turning when he apparently realizes that there is no exit. He then walks back the way he had come, and there appears to be something black in his right hand. Unclearly through foliage, SO can be seen arriving at the entrance into the cul-de-sac, and she crosses it from left to right (towards the east corner), moving out of view. WO1 can be seen arriving at the west corner at about this time. AP, who had been out of sight behind foliage for several seconds, is now seen backing up into the cul-de-sac, with WO1 following along at the western edge of the pavement, tracking AP's movement but keeping a distance of several metres. At a point where he is out of the camera's view again, behind a tree trunk, AP evidently pauses, and WO1 can then be seen backing away. AP follows, walking steadily forward towards the two officers, who are now at or

close to the entry into the cul-de-sac. As AP is lost to view again behind foliage, WO1 moves several paces to the west, and this appears to be the point at which AP is shot. After a pause of a few seconds, the video shows WO1 moving back out into the street, and WO2 is seen arriving behind him, from the west.

As further officers arrived, they found AP on the ground with a single bullet wound close to the centre of his chest, and a small firearm nearby on the ground. SO acknowledged that it had been she who fired the single shot. Police gave AP first aid and began CPR. He was transported to hospital, where he was declared deceased.

The firearm found at the scene was a 9mm semi-automatic pistol with four rounds in the magazine and one in the chamber. The pistol's barrel was shorter than the legal limit set out in Canadian regulations, making it a prohibited firearm that could not, in normal circumstances, have been legally purchased or possessed by AP. The serial number had been erased.

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 SO committed culpable homicide or other criminal offence(s) by using unjustified or excessive force against AP when she discharged her firearm at him and caused his death.

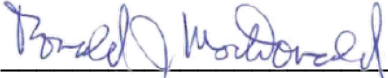
In evaluating the risk assessment in the minds of both SO and WO1 when they were confronted by AP on the street, it must be borne in mind that they both had information about the criminal acts AP was alleged to have committed over the previous two hours. It was believed that since 5:00 a.m., he had committed a number of attempted armed robberies, a carjacking and a break and enter and attempted home invasion. Now, shortly after 7:00 a.m., he was presenting as irrational, confrontational and non-compliant while armed with a deadly weapon. In the face of two armed officers with their firearms aimed at him, the evidence is that he failed to comply with police commands and continued to brandish the weapon. The officers were clearly at risk from second to second that he would fire it at them.

The fact that that AP may have had the gun above his head at the time he was shot does not minimize the lethal risk he posed to officers. It would only take a moment for him to lower the gun and fire at either officer. His ongoing refusal to drop the weapon only made that risk greater. Simply put, in circumstances such as these, the law does not require the

officer to wait until a gun is pointed directly at them before they can take a shot. It may well be too late if they were to do so.

As noted above, WO1 stated that he would very soon have shot AP himself if SO had not, and that statement is very credible, given the circumstances. Her decision to deploy lethal force against AP, in the face of a very real risk of grievous bodily harm or death to one or both officers, was proportional, reasonable and legally justified.

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

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