



**IN THE MATTER OF THE INJURY OF A MALE  
WHILE BEING APPREHENDED BY MEMBERS OF THE  
VANCOUVER POLICE DEPARTMENT IN  
VANCOUVER, BRITISH COLUMBIA  
ON APRIL 1, 2022**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2022-059

Date of Release:

November 27, 2023

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## **INTRODUCTION**

On the evening of April 1, 2022, Vancouver police officers responded to 911 calls about a man waving a knife on a downtown street. They encountered the Affected Person ('AP'), who did not drop a knife he was holding when directed to do so. A beanbag shotgun was deployed, and AP was struck by three projectiles. He then dropped or threw the knife in the direction of officers and fled. A fourth beanbag was fired at him, and he was then tackled to the ground and subdued after a brief struggle. AP suffered injuries during the 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 AP, two other civilian witnesses and six 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;
- scene examination;
- video recordings from the incident scene and from the jail;
- medical evidence, including photographs of 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, Subject Officer 1 ('SO1') permitted investigators to use his written report in PRIME, but SO2 has not provided any evidence to the IIO. Neither Subject Officer consented to being interviewed by IIO investigators.

## **NARRATIVE**

At 4:41 p.m. on April 1, 2022, Vancouver police received the first of two 911 calls about the Affected Person in this case ('AP'), who was said to be acting erratically on a downtown street, making stabbing or slashing motions with a knife. The caller said that AP had not threatened anyone directly. Shortly after this, there was a second 911 call with a similar report. Responding to these complaints, the two Subject Officers located AP standing on a sidewalk in the Downtown East Side.

AP later told IIO investigators that he remembered walking around waving a knife and seeing police drive up. He said he saw an officer get a beanbag gun from the back of the police vehicle and heard commands, "six or seven times", to put the knife down. He said

he was not “really paying attention ... I was somewhere, I wasn’t here”. He recalled being shot three times with beanbags and taking off running after dropping the knife on the ground.

The interaction was observed by Civilian Witness 1 (‘CW1’), who heard officers shouting at AP before he was shot with the beanbag shotgun. CW1 told investigators that he also saw a Conducted Energy Weapon (‘CEW’, or ‘Taser’) deployed against AP, but investigators did not discover any physical evidence suggesting that a CEW was used at any point.

In his written PRIME statement, Subject Officer 1 (‘SO1’) states that he considered AP to pose “an immediate risk to the safety of the general public”, and feared that AP “would use the knife on me should I approach him to effect his arrest”. He fired one round from his beanbag shotgun, aiming at the lower torso. AP doubled over as he was struck, and SO1 said he then adopted a “fighting stance”. SO1 fired two more beanbag rounds, the second one aimed at AP’s arm, and AP either dropped or threw the knife, which landed on the ground between him and the officers.

AP then ran away along the street, off the sidewalk, and SO1 fired a fourth beanbag at his back. Video of the incident shows customers at outdoor restaurant tables nearby picking up their children and moving inside as AP runs closer. SO1 chased after AP, followed by SO2 and several other responding officers.

SO1 used the muzzle of the beanbag gun to push AP in his back, and both AP and SO1 fell to the pavement. AP landed with his right arm under him and against the curb. He immediately started to get up, and SO1 grabbed him in a ‘bear hug’ and took him back down onto the ground, with AP struggling against him. As other officers came to assist, video shows SO2 apparently delivering several strikes with his right arm to the upper body area of AP. Officers pulled AP’s arms behind his back and applied handcuffs.

A knife was subsequently located and photographed in the area where officers first encountered AP:



AP was taken to hospital, and was treated for a broken right forearm (potentially caused either by the fall against the curb or by a beanbag impact) and injuries to the left side of his face. Medical reports indicate he acknowledged five days of crystal methamphetamine use.

## **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.

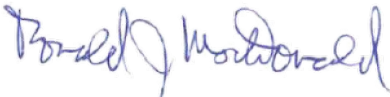
Officers were clearly acting in lawful execution of their duty when they responded to 911 calls about a man acting strangely and waving a knife on the street. When AP failed to drop the knife as he had been ordered, it was not unreasonable for SO1 to consider it prudent to use a non-lethal force option (the beanbags) rather than take the risk of going 'hands on'. The deployment of that option was justifiable in the circumstances.

When AP then led police on a chase down the street, with uninvolved members of the public present, it was clear that officers had to apprehend him, and SO1 was also justified in using the beanbag shotgun in the manner he did to bring the chase to a stop.

As mentioned above, video evidence indicates that blows to AP were struck during the struggle to overpower and handcuff him. He fell onto his right side, so it does not seem likely that his facial injuries were caused by the fall, since they were on the left side of his face. During the struggle, he was held down on his right side with the left side of his face exposed, so it is very likely that the facial injuries were caused by blows struck by SO2. Generally, it is not justifiable for an officer to deliver punches or kicks to the face or head because of the high risk of serious or even fatal injury. In this case, however, the blows caused relatively minor injury and the circumstances involved an individual who was out of control and clearly prepared to threaten or fight with police with a deadly weapon. In those circumstances, SO2's use of force cannot be said to be so unreasonable or excessive as to amount to an offence.

There is no evidence that any other officer used significant force against AP during the incident or after he was subdued and restrained.

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.



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Ronald J. MacDonald, KC  
Chief Civilian Director

November 27, 2023

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