



**IN THE MATTER OF THE DEATH OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN CAMPBELL RIVER, BRITISH COLUMBIA
ON APRIL 2, 2022**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2022-060

Date of Release:

October 5, 2023

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INTRODUCTION

On the morning of April 2, 2022, Campbell River police responded to a 911 call from a sporting goods store. A male was said to have stolen knives and a realistic-looking pellet pistol, and to have made a death threat to a store employee. A short time later, the male was located by police and pointed the stolen pistol at an officer from close range. Shots were fired by the officer and the male sustained a fatal gunshot wound.

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 nine civilian witnesses, four first responders and two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of a 911 call, other phone calls and police radio transmissions;
- dash camera video recordings from police vehicles;
- scene and exhibit photographs and examination;
- security camera video recordings;
- forensic firearms report;
- vehicle collision reconstruction report;
- medical records; and
- autopsy and toxicology reports.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, the Subject Officer has not provided any account to the IIO.

NARRATIVE

At 11:33 a.m. on April 2, 2022, there was a 911 call from a Campbell River sporting goods store. The caller said that a male was robbing the store, stealing knives and a pellet gun, and had told the manager, "You are going to die". Responding police officers were given the description of the suspect as well as his direction of travel. They were told that the pellet gun was a very realistic looking pistol, but also that it was still in its packaging, so that if police got there quickly, the suspect might not be able to remove it in time.

The Subject Officer ('SO') located the Affected Person ('AP'), who matched the description of the robbery suspect, in a motel parking lot. The interactions between AP and police that followed were captured from several perspectives, by motel security video cameras and from police vehicle dash camera systems.

AP ran at SO, pointing the pellet pistol directly at him. SO fired his service pistol as AP passed him and turned away, running along the side of the motel building. The bullet from SO's firearm lodged in AP's backpack. A few seconds later, AP turned, again pointing his pistol at SO, and SO discharged a second round at him.

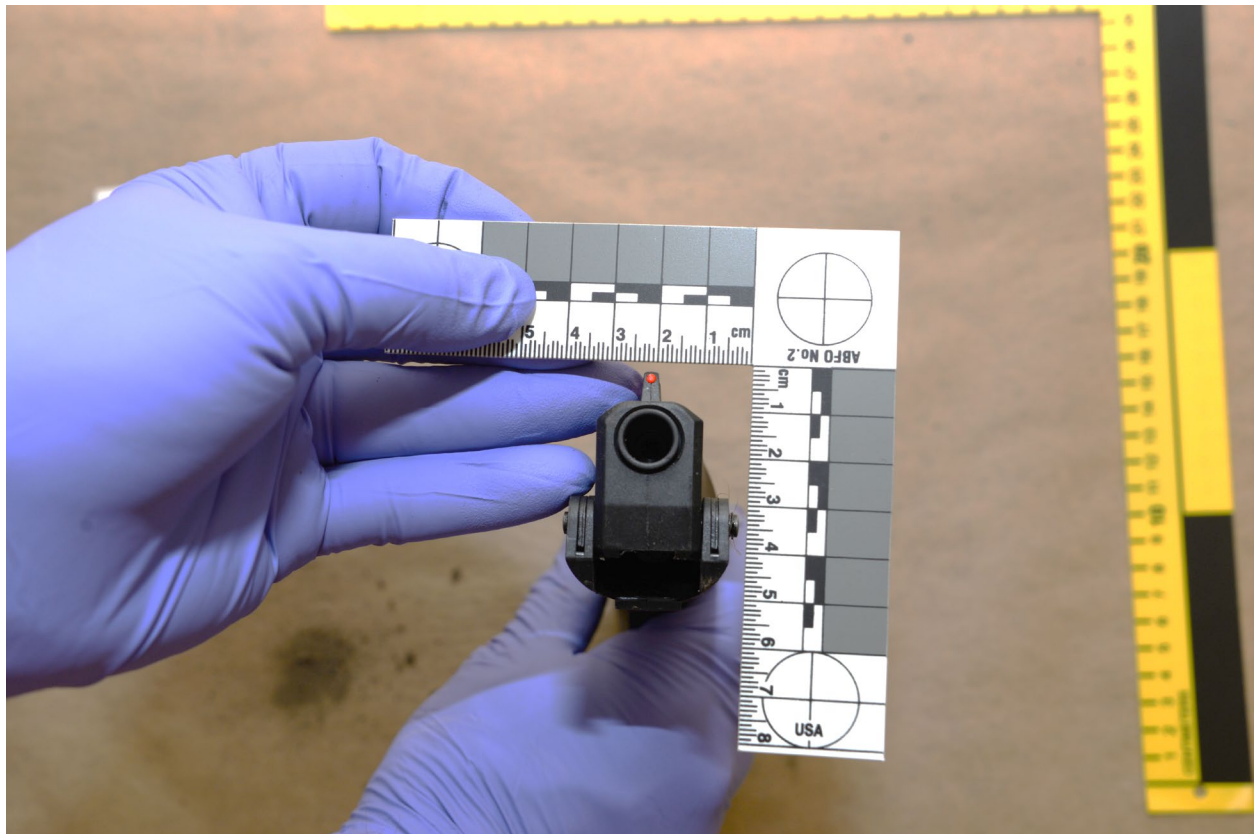
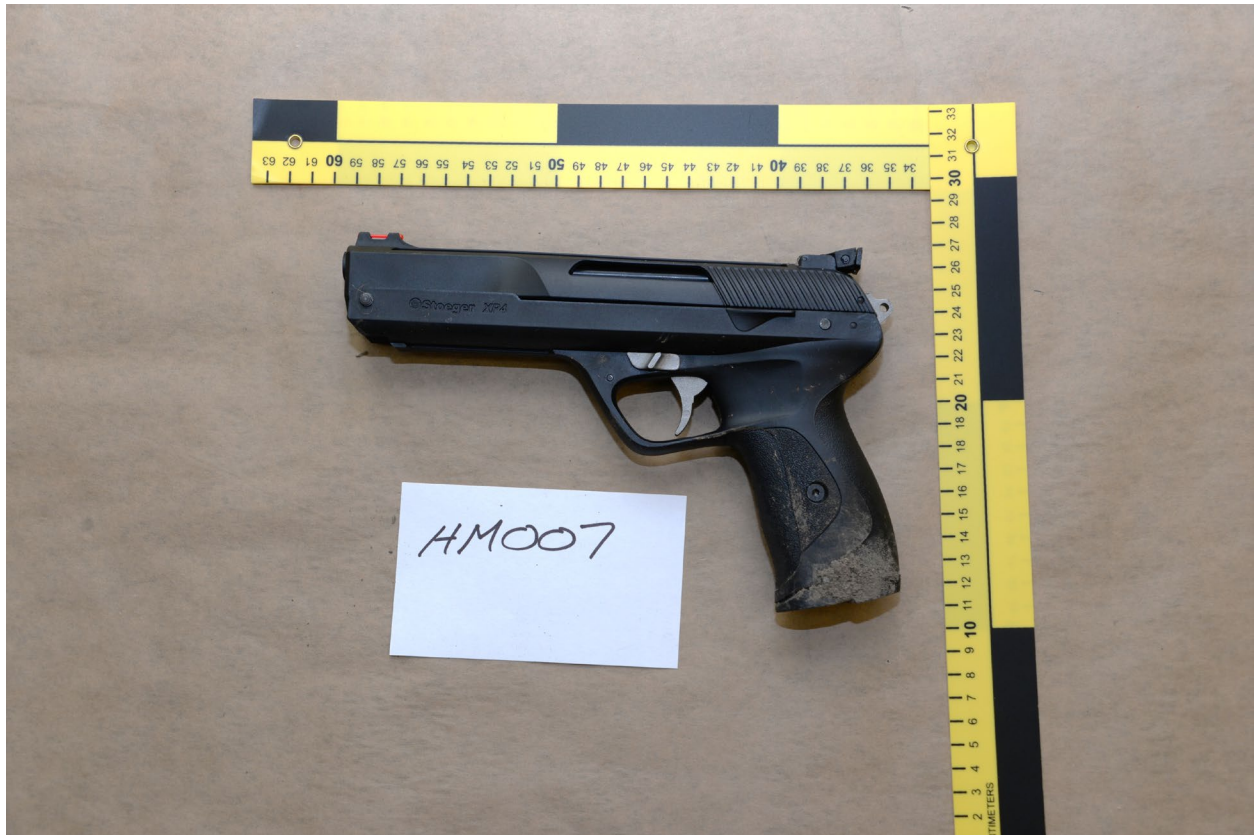
As AP then ran along the outside of a fence and hedge bordering the motel property, Witness Officer 1 ('WO1') drove at him in her police vehicle, but did not make contact with him. She later told IIO investigators that as she exited the vehicle she heard the sound of a gunshot and could smell gunpowder.

A few seconds later, WO2 also directed his police vehicle at AP, who was still running away, and there was glancing contact between AP and the front left quarter of the vehicle. WO2 said that he heard a shot as he stopped the vehicle. At this time, WO1 said, she saw AP on the ground against the fence with what appeared to be a semi-automatic pistol in his hand, pointed at the approaching officers. She heard SO yelling for AP to drop the gun, and heard a gunshot.

The officers moved in on AP, took the pellet gun from him and checked him for wounds or blood, finding none. Arriving paramedics also checked AP for bullet wounds, but did not find any, and cleared him for police custody, so officers placed him into the rear of a police vehicle.

Shortly afterwards, though, when WO1 went to the vehicle to formally arrest AP, she found him unresponsive. He was removed from the vehicle and officers began CPR, calling for the EHS paramedics to return. AP was loaded into an ambulance and transported to hospital, but was declared deceased. It was discovered that he had been wounded by a bullet that had passed through his leather belt and the waistband of his pants, which had closed and concealed the wound and limited bleeding from it. No blood was found in the police vehicle in which AP had been seated.

The following photographs show the replica pistol AP was carrying, and which he pointed at SO. It is significant that the muzzle diameter is very much greater than the bore of a typical pellet gun, giving the impression that it is a full-calibre firearm:



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 lethal force by an officer, 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 the officer's actions were lawful. The specific focus will be on the degree of threat posed by the Affected Person and whether, in the words of the *Criminal Code*, it gave reasonable grounds for the officer to believe lethal force was "necessary for the self-preservation of [the officer] or the preservation of any one under [the officer's] protection from death or grievous bodily harm".

The Subject Officer was acting in lawful execution of his duty, attempting to locate a suspect in an alleged robbery involving a death threat. He had been told that the suspect had taken weapons including a realistic-looking pellet pistol. He was also given information suggesting that the pistol might still be enclosed in its packaging. When AP ran at him pointing what would have appeared exactly like a full-power firearm, SO was entitled to respond as if to a lethal threat. Parenthetically, it should be noted that a pellet gun of the sort in AP's possession is quite capable of causing very serious bodily harm if fired the way AP was pointing it – at close range and more or less directly at SO's face.

In these circumstances, SO was justified in deploying lethal force against AP, and in fact he exercised considerable restraint. At the time of his first shot, AP was within a very short distance. SO then pursued on foot without firing his weapon, until AP turned back and

again pointed his pistol. At the time of SO's third shot, AP was on the ground, but was still pointing his gun at police, and it was reasonable for SO to judge that he still posed a credible risk of grievous bodily harm or death.

The video evidence shows that officers made all reasonable efforts to check AP for bullet wounds before placing him in a vehicle, and it is significant that AP did not complain of pain from the wound in his abdomen. Officers cannot be faulted for not locating that wound, given that responding paramedics also failed to find it. There is no credible evidence that officers in any way mistreated AP once he had been apprehended.

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.



Martin Allen, General Counsel for
Ronald J. MacDonald, KC
Chief Civilian Director

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