



**IN THE MATTER OF THE DEATH OF A MALE
IN AN INCIDENT INVOLVING MEMBERS OF THE RCMP
IN SURREY, BRITISH COLUMBIA
ON APRIL 8, 2022**

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

Chief Civilian Director:

Sandra J. Hentzen

IIO File Number:

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INTRODUCTION

On April 8, 2022, Surrey RCMP received information that the Affected Person in this case ('AP') had threatened to go to City Hall and shoot himself. Officers went to AP's home, where AP moved towards them in a threatening manner with a large knife. AP was shot, and was later declared deceased at hospital. 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 and five witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of a 911 call and police radio transmissions;
- scene and forensic firearm examinations;
- BC Emergency Health Services reports; 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

Shortly after 10:00 a.m. on April 8, 2022, RCMP officers were dispatched to a rooming house in Surrey to "check on" the Affected Person ('AP'). This followed a call to police made by AP's probation officer in which AP was reported as having said he was planning to go to City Hall and shoot himself. The officers were also told that AP had been convicted of assaulting a peace officer after "sideswiping" a police vehicle at a routine roadblock.

The Subject Officer ('SO') and Witness Officer 1 ('WO1') initially went to the front of the residence where AP was staying. This was on the south side of the building. Shortly afterwards, two officers from the Surrey RCMP Mental Health Outreach Team (WO2 and WO3) also arrived. There were two doorways on the front of the building. WO1 stated

police knocked on the left door first but received no reply. They then went to door to the right, where they spoke with Civilian Witness 1 ('CW1'), a resident in the home, who offered to give police access into the building. A supervisor, WO4, took a position at the rear of the property with a Police Service Dog handler, WO5.

CW1 told the IIO that she unlocked an exterior door at the front of the house, went inside and stood on the lower landing of a stairwell leading to the second floor. She said that two officers came to the stairs behind her where they were "all like bunched together". She could see AP along the hallway on the second floor, and said that the officers yelled something about them being the police. AP, she said, "started charging" with a knife, saying, "No" or "Hell no". CW1 said, "and then they [the officers] ran, and I ran". As she ran out the front door, CW1 said, she saw officers in front of the house and heard shooting, so realized she should move away.

WO1 told IIO investigators that after unlocking the front door, CW1 walked over to the stairs and pointed up towards the second floor. WO1 said he went to the stairs, and from the small landing at the bottom he looked up and saw AP poking his head out of one of the upstairs rooms. WO1 said he asked AP to "come talk to us" and AP said "No". WO1 said that AP came along the upstairs hall with his arm swinging, and WO1 then saw a long, silver "machete" in AP's hand. WO1 described AP's demeanour as "mad, walking somewhere with a purpose", and said he turned to the others shouting, "Go, go", and pushed them out.

WO2 had entered the entrance hall behind WO1 and SO, and drew his Conducted Energy Weapon ('CEW' or 'Taser') as he did so. He said that, hearing "panic" from the other officers, he ran out through the front door and ran to the east along the front of the house. He explained that given the speed at which AP was moving toward them at the bottom of the stairs he simply did not have the option of attempting to use the CEW. In addition, the CEW might not be effective in stopping him. WO2 felt that leaving quickly was the best option given the danger they faced. He told the IIO that as he reached the corner of the house and was turning round, he heard three shots. He said he then saw a male (AP) fall to the ground. WO2 said that SO was by the walkway in front of the house, and AP's position on the ground was about three or four feet from SO, his head towards where SO was standing. WO2 said he saw a large hunting-style knife on the ground beside AP.

WO3 said he was at the front door behind the other three officers, becoming concerned that they were in a very confined space, when he heard WO1 say, "Let's get out of here, go, go". WO3 said he did not see CW1 at that time. As the other officers ran out of the house, WO3 moved a short distance sideways, to the west. He was impeded in that direction by a fence and potted plants, so turned round and started to move to his right,

away from the house. He said he drew his firearm, and saw AP come running out through the front door with a large Bowie knife in his hand.

WO3 said that AP ran at SO, telling him, "I'm gonna kill you". SO had retreated roughly southward, directly away from the house, and was now against a gate, behind which were steps leading up to the sidewalk. WO3 said that SO ordered AP to stop, but AP did not. WO3 then saw and heard SO discharge his pistol at AP, and AP fell to the ground about three feet from SO.

Witnesses, both police and civilian, told the IIO that officers immediately started providing first aid to AP in an attempt to save his life. When Emergency Response Team medics arrived, they took over until B.C. Health Services paramedics were on scene.

A review of audio recordings of police radio transmissions determined that the interval between an officer's announcement that police would be "making entry" into the house and a report by WO4 that shots had been fired was 23 seconds.

A civilian witness in the street near the house ('CW2') told IIO investigators what he observed. He said he heard police officers

Yelling and screaming, "Get on the ground", and [I] turned around and saw a gentleman waving a huge machete as he came barrelling out the front door swinging and turning and seconds later he was shot.

A number of other civilian witnesses provided fragmentary accounts of their observations, but CW2 was the only non-police witness with a relatively unobstructed perspective.

The results of the scene examination were consistent with SO having fired his weapon from a position close to the front gate of the property, five to six metres from the front of the house, and with AP having fallen to the ground within about a metre of SO's position. A large Bowie-style knife was located on the ground nearby:



Examination of the scene and of SO's police firearm indicated that SO fired five rounds in total. Three bullets struck the entranceway of the residence, which was fitted with double doors. One struck the fixed, lefthand door and was located within the metal casing. Two struck the partly open, righthand door and penetrated it. A fourth bullet was located in the entrance hall, having apparently passed through the open doorway. As noted below, the fifth round was found in AP's body at autopsy.

After the incident, IIO scene examination of AP's room did not find any firearm.

At AP's autopsy, gunshot wounds identified as entrance wounds were located in the mid-chest, upper bicep, the side above the hip and the upper right thigh. Exit wounds associated to three of the entries were also located. One bullet was found below the skin on AP's lower back. The sole cause of death was established as multiple gunshot wounds. The toxicology report indicated the presence in AP's blood of medications typically prescribed for schizophrenia and bipolar disorders and for the treatment of depression.

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".

As summarized above, detailed evidence obtained by the IIO establishes that officers, including members of the Police Mental Health Outreach Team, went to check on AP, and were let into the house by a civilian resident. They called out to AP, and his immediate response was to charge down the stairs wielding a large knife, causing both the officers and the civilian to flee into the front yard.

WO2 had drawn his CEW in the entrance hall, but it would not have been possible for it to be deployed against AP in those moments: WO2 was standing behind CW1, WO1 and SO, all "bunched together" (in the words of CW1) at the foot of the stairs. Any attempt to use the CEW would have caused the other officers and the civilian to be effectively trapped in the path of AP, who was coming down the stairs a few metres from them, swinging a large blade. Additionally, our experience has shown that a CEW is often ineffective. Using it in these circumstances, where several people were at significant risk from AP rushing toward them, was quite reasonably not a safe option. Fleeing and hoping AP did not pursue was the correct decision.

Unfortunately, after the police and CW had exited the residence, AP continued the pursuit of SO, who would have been the most immediately visible in his position, a short distance away, directly across from the front door. The evidence is that AP was commanded to

stop, but did not. SO would have had no more than a second or two to react. Behind him was a gate and a set of steps, and in the circumstances, further retreat was not feasible. We do not have an account from SO to tell us what his subjective evaluation of his situation was. AP's actions and words, however, made it reasonable for a person in SO's position to believe that he faced an imminent threat of death or grievous bodily harm. SO's use of lethal force against AP, therefore, in the circumstances, was justified.

In every case of this nature, my consideration of the facts includes an assessment of the actions taken by police to de-escalate the situation and attempt to deal with AP without a use of force. In the right case, a failure to utilize appropriate de-escalation, in my view, can result in a finding that the actions of police were not reasonable. Those considerations were applied to this case.

In this situation it was therefore important for police to consider that AP was in his home, and an approach in those circumstances should account for the fact that people use their home for both physical and psychological security. Challenging a person in their home has the potential to increase the stress of the situation for an AP. The better police can shape their approach to an AP to take into account the stress of being confronted in their home, the more likely their actions will be deemed to be reasonable. Indeed, it is recommended that all police agencies should develop training to ensure, as much as possible in the circumstances of each case, that any approach to an AP in their home takes this factor into account.

In this case, consistent with their duty to protect life, police had a lawful obligation to make contact with AP without delay, given the threat he made to his own life. This created exigent circumstances that lawfully permitted entry into his home. Their original attempt to make contact by knocking on the door failed, and thus it was not unreasonable to take advantage of the assistance provided by CW1 to be able to enter into the lower level of the building.

From that position they were able to call out to AP with some assurance he was able to hear them. They did so, indicating that they were there to help. Overall, this approach was reasonable in the circumstances.

Some might argue that there may have been other approaches, which may have been less stressful for AP. While it is important to always consider such options, as I have noted, in this case it cannot be said that the approach taken by police was unreasonable. To be a criminal failure, it would have to be seen as a marked and substantial departure from the appropriate standard of care, showing a wanton and reckless disregard for

human life. The nature of the approach to AP's home in this case falls far short of that test.

As noted, the first action by police once they entered the building, was to call out to AP in an attempt to speak with him. AP's immediate reaction was to move rapidly toward police and CW1 with a large knife raised in a threatening manner. Police and CW1 retreated from AP, and he continued toward them, quickly, without stopping, coming within a metre or so from SO before shots were fired. Simply put, there was no time for SO to react in any other manner without risking being hurt or killed by AP. Indeed, it would appear he waited until the last possible moment before firing. Unfortunately, AP's actions did not permit SO another option at that point in time.

Accordingly, as the 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

August 1, 2024
Date of Release