



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
VANCOUVER, BRITISH COLUMBIA
ON JULY 16, 2022**

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

Chief Civilian Director: Ronald J. MacDonald, KC

IIO File Number: 2022-180

Date of Release: June 14, 2023

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INTRODUCTION

On the evening of July 16, 2022, shortly after a 911 call to police about a break-in at industrial premises in Vancouver's East End, police attempted to stop a van leaving the area at high speed. The van's driver, the Affected Person ('AP'), drove dangerously and collided with several parked cars in the course of evading police. When the van was subsequently stopped and boxed in, AP fired a gun at a Police Service Dog ('PSD') and was shot by the dog handler, the Subject Officer ('SO') in this case. AP was seriously injured but survived his wounds. 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, nine other civilian witnesses, two paramedics and four witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- civilian cell phone video clips;
- security video from residential properties;
- audio recordings of a 911 call and police radio communications; and
- medical evidence.

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 any evidence to the IIO.

NARRATIVE

AP told IIO investigators that he had borrowed his friend's van to go and buy cigarettes. After visiting a friend downtown, he said, he stopped at a traffic light and a black car came "right up on my bumper". Then a larger white vehicle came right in front of him. He said there were no police markings or emergency lights. He said that just before the traffic light turned green, there were flashing blue and red lights from the vehicle behind him. He then

...turned left and went around the vehicle in front of me... and another white vehicle smashed in the front of me and was pushing, and I had my foot off the gas, and I was just like 'What the hell?' foot on the brake, and just pushing the vehicle backwards and backwards and bouncing off cars... and next thing you know, my door is ripped open, and I'm being shot, and I'm trying to protect my dog...

In the course of his IIO interview, AP repeated the same account with some variations. The essence of the account was that he had been driving normally when he was rammed from the front by a white SUV that pushed him back down the street “so fast and so hard” that he collided with parked cars. He was then rammed from behind, forcing him into a parked car, and was then shot.

Fortunately, the incident was captured on video from multiple perspectives, and witnessed by a number of civilians.

The van AP was driving was captured on residential video in the 1700 block of East 2nd Avenue after failing to stop for police who first saw it driving away at high speed from the area of a break-in on Alexander Street in the East End. Officers’ suspicions were heightened when they determined that the van’s registered owner had PRIME entries for “a bunch of B&E’s” and other criminal offences. The video recordings show the van reversing down the street at high speed after its path was blocked by police vehicles with their emergency lights flashing. As AP drove at about 60 km/h in reverse, he collided with several parked vehicles. He then stopped, drove quickly forward and rammed SO’s unmarked police SUV before swerving, still at high speed, into a back lane and colliding with a civilian car parked at the side of the lane and with a retaining wall. The owner of the parked car was sitting in the driver’s seat at the time, but was uninjured.

Video from multiple angles in the lane shows that AP tried to reverse away from the final collision, but was blocked from behind by a marked police vehicle. The van’s tires were screeching and smoking as he tried to force it backwards. As SO approached, holding his PSD by its harness, AP opened the driver’s door. With SO and the PSD directly outside the van’s door, AP produced a large revolver and fired one shot downwards towards the dog. Apparently in response to seeing the firearm, SO took a step to his right away from the door and drew his service pistol. He then quickly stepped back to his right, bringing his weapon up and firing six rounds in quick succession at AP.

AP then put his empty hands out through the door and SO pulled the PSD back while another officer moved in and extracted AP from the van and onto the ground, where he was given medical attention and placed under arrest.

Several civilian eyewitnesses as well as police witnesses gave accounts of the incident that were essentially consistent with the video evidence.

A Python .357 calibre revolver was found on the ground directly outside the driver’s door of the van. The gun was loaded with a mix of 9mm, .38 and .357 Magnum cartridges (all have similar diameters). The 9mm cartridge that had been fired was actually a blank round. The firearm had previously been reported stolen in Surrey.

AP was transported to hospital and treated for bullet wounds to the abdomen, right arm and left leg, and dog bite injuries.

The PSD was examined at a veterinary hospital and was found to have singed/burnt hair next to its right ear, apparently caused by the muzzle flash from AP's 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.

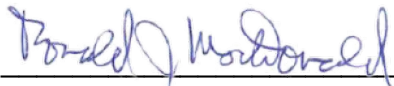
In a smaller number of cases, the evidence gathered may give the Chief Civilian Director reasonable grounds to believe that an officer has committed an offence in connection with the incident. In such a case, the *Police Act* gives the CCD authority to refer the file to Crown counsel for consideration of charges.

In a case such as this one, involving the use of potentially 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".

If AP's account of the incident were credible, it would give rise to concerns about unauthorized and excessive force on SO's part. AP, however—at the very least—appears to be confused about the events in question.

All the other available evidence leads to the conclusion that AP drove with reckless abandon, intent for whatever reason on avoiding apprehension by police. He then tried desperately to extricate his vehicle from where he had crashed it, and where it was now blocked in from behind by a police car. As SO approached holding the police dog, AP opened the driver's door and produced a handgun. SO reacted swiftly in stepping aside as AP's gun discharged, narrowly missing the PSD's head. SO then stepped back, presenting his own firearm. While subsequent forensic analysis disclosed that the round fired by AP was actually a blank, which discharged a large flame but no actual projectile, it was perfectly natural and reasonable for SO to conclude that AP had directed lethal force against SO. Based on that reasonable belief, SO was clearly justified in deploying lethal force in self defence, which he did fairly quickly. He then very properly re-assessed the situation when AP put his hands forward not holding the gun. Seeing that, SO stopped firing and proceeded to arrest AP. SO's actions throughout were entirely appropriate.

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, KC
Chief Civilian Director

June 14, 2023

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