



**IN THE MATTER OF THE INJURY OF A MALE
IN AN INCIDENT INVOLVING MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
VANCOUVER, BRITISH COLUMBIA
ON JULY 30, 2022**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2022-201

Date of Release:

March 31, 2023

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INTRODUCTION

On the morning of July 30, 2022, the Affected Person ('AP'), for an unknown reason, assaulted the Subject Officer ('SO'), who was on duty and riding in the front passenger seat of a police vehicle. The police vehicle was stopped at a red light in the Downtown East Side, and the windows were down. AP approached the vehicle and struck SO in the head with a metal bar. SO was able to exit the vehicle and, in the face of a continuing attack from AP, discharged his firearm, seriously injuring AP. 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 four civilian witnesses and four witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- data download from a Conducted Energy Weapon ('CEW' or 'Taser');
- audio recordings of police radio transmissions;
- video recordings from transit buses and commercial premises;
- forensic scene and exhibit examinations; and
- B.C. Emergency Health Services patient care 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, once he had sufficiently recovered from his injuries, provided the IIO with his written account of the incident. AP has not provided any evidence to the IIO.

NARRATIVE

At about 8:30 a.m. on July 30, 2022, the Subject Officer ('SO') and Witness Officer 1 ('WO1') were on a routine patrol in the Downtown East Side of Vancouver. They were in full police uniform and driving a marked police vehicle. WO1 was driving and SO was in the front passenger seat. It was a pleasant morning, and the officers had the vehicle's windows open. As they drove slowly eastbound along East Hastings Street, the traffic light at Columbia Street turned red, and WO1 stopped at the light.

There is a consistent and reliable body of evidence about what happened next, from the involved officers, from civilian eyewitnesses and from video showing several different perspectives of the incident.

The Affected Person ('AP') approached the intersection walking along the sidewalk on Columbia. He was carrying a shiny metal bar, about two and a half feet long (the bar was later recovered from the scene). AP turned onto Hastings Street and walked westward along the sidewalk.

Very shortly afterwards, the police vehicle driven by WO1 drove slowly towards the Columbia Street and stopped at the light. It is not known what drew AP's attention to the police vehicle, but within a few seconds, he approached it from behind, now walking eastwards, out in the street. Coming up beside the open passenger window, he struck at SO's head two or three times with the metal bar, causing serious injuries.

WO1 reacted by driving the vehicle forward into the intersection, through the red light, to put distance between the officers and AP. Both officers then quickly got out of the vehicle. As AP rapidly advanced towards SO, swinging the metal bar at him, SO took four long steps backwards, drew his pistol and fired three shots. When he took the first shot, AP appears on video to be less than five metres from SO and closing the distance quickly. He continued moving forward, and when the 3rd shot was fired, he was very close to SO.

Struck by two of the rounds, AP turned away and moved off a short distance, south on Columbia. SO stopped firing but continued to point his pistol at AP. AP dropped the metal bar but remained standing. After a brief pause, AP raised his right fist and began to move again towards SO. At that moment, WO1 came around the police vehicle from the driver's side and deployed a Conducted Energy Weapon ('CEW' or 'Taser') at AP, who fell to the ground. SO, blood running down his face and arm, holstered his pistol and moved in to handcuff AP, assisted by WO1, who was radioing for assistance.

AP had been shot in his left shoulder and upper abdomen. He was transported by ambulance to hospital and recovered from his wounds after surgery.

SO suffered a head wound and concussion, and was not medically cleared to return to work for several months. He subsequently provided a written account of the incident to the IIO, which included a description of the circumstances at the moment he discharged his firearm at AP:

I saw a male with an approximately 3-foot metal pole in his hand running at me, I don't remember how the pole was positioned, I just remember feeling like I was about to die. I was terrified for my life and stepped back to create more distance and get off the male's line of attack hoping I could get around the police vehicle, to create artificial distance by using the car as a barrier between me and the male. The male continued to run at me and I was certain his intent was to continue to bludgeon me in the head with the metal pole until I was dead. I could already feel a coldness on the right side of my head. I punched my pistol out, pointing

it at the male's chest and discharged an unknown number of shots from my pistol at the male's chest to save my life.

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.

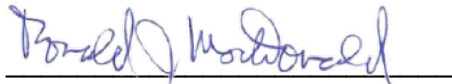
In a smaller number of cases, the evidence gathered may give the Chief Civilian Director ('CCD') reasonable grounds to believe that an officer has committed an offence in connection with the incident. In such a case, the *Police Act* gives the CCD authority to refer the file to Crown counsel for consideration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

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

This case is one of the clearest examples of such a justification. The threat to SO of grievous bodily harm or death was close and imminent, from an assailant armed with a potentially lethal weapon who had already launched an unprovoked attack with it and was continuing that attack. During the critical few seconds, SO's partner was on the other side of the police vehicle, still moving from the driver's door to the rear and unable to assist. SO discharged his firearm while AP was coming at him, and immediately stopped firing when AP turned away. When AP began again to advance towards SO without a weapon,

SO appropriately held his fire and permitted WO1, who was equipped with a CEW, to subdue AP without further harm.

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

March 31, 2023

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