



**IN THE MATTER OF THE DEATH OF A MAN
WHILE BEING APPREHENDED BY MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
VANCOUVER, BRITISH COLUMBIA
ON AUGUST 22, 2022**

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

Chief Civilian Director:

Jessica Berglund

IIO File Number:

2022-227

Date of Release:

December 5, 2025

THIS PAGE INTENTIONALLY LEFT BLANK

INTRODUCTION

On August 22, 2022, the Affected Person (“AP”) was seen running naked on a street in Vancouver’s Downtown Eastside, and bystanders called 911. Witnesses believed that the AP may have been pepper-sprayed, as he was pouring milk over his face and head. Responding officers concluded that the AP needed to be taken into custody for his own safety and that of the public. The AP did not initially comply with police instructions to get down on the ground, and the Subject Officer (“SO”) discharged seven rounds from a beanbag shotgun, striking the AP in the back and buttocks area. Several officers then restrained the AP for handcuffing on the ground. Shortly afterwards, the AP went into medical distress and, despite life-saving attempts, was subsequently declared deceased.

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 17 civilian witnesses, three paramedics and 16 witness police officers;
- police Computer-Aided Dispatch (“CAD”) and Police Records Information Management Environment (“PRIME”) records;
- audio recording of a 911 call and police radio transmissions;
- security camera, cell phone and BC Transit video recordings;
- scene photographs;
- Vancouver Police Department policies and training records;
- medical records; and
- autopsy and toxicology reports.

The IIO does not require officers whose actions are the subject of an investigation to provide any evidence. In this case, the SO, although he declined to be interviewed, gave permission to investigators to access his written PRIME report.

NARRATIVE

Civilian witness evidence leading up to police use of force

Civilian Witness 1 (“CW1”) told IIO investigators that on the morning of August 22, 2022, he was walking along East Hastings Street in Vancouver in the company of two co-workers, Civilian Witness 2 (“CW2”) and Civilian Witness 3 (“CW3”). CW1 said he saw a naked man (the AP) running on the sidewalk and “rubbing himself”. CW1 said he thought the AP’s behaviour was consistent with his having been pepper-sprayed, so he called 911, explained this to the operator and asked for a police officer to come and talk with the AP. While he was on the phone, CW1 noticed two officers in a police vehicle nearby, and asked for their assistance. The officers told CW1 that they intended to wait for more police to arrive. CW1 said he did not understand this, as the AP was clearly not in possession of any weapon, and was not acting aggressively. As he was watching, CW1 saw the AP go into a convenience store and come out with a jug of milk. He said the AP sat on a chair on the sidewalk and started to pour the milk over himself.

CW2 described the AP as appearing disoriented and distressed. She said she and her colleagues asked the AP if they could help him, but it appeared that he could not hear them, and he walked away without responding. CW2 said they discussed whether they should call “Car 87,” a Vancouver Police Department vehicle that provides an emergency response to people with mental health difficulties, but they thought that Car 87 would not come quickly enough. Instead, they flagged down two officers in an approaching police vehicle. They pointed out the AP to the officers, she said, and they appeared to be aware of the situation, but remained in the police vehicle. CW2 said she then saw the AP pour milk over himself and “express relief”, which led her to conclude he had probably been pepper-sprayed. CW2 said the AP then sat down on a chair on the sidewalk and continued to pour milk on himself. She said the AP was not acting aggressively against anyone or running into traffic, and she did not feel threatened by his behaviour.

CW3 gave investigators a similar account, and added that her colleagues and other civilians were gathering around, calling for the police to help the AP and not to hurt him, as he was clearly in distress:

I could tell that he was in pain, he wasn't lashing out or anything, he was literally in his own bubble ... when we spoke with him he sort of came to, like [he] heard [CW1] ... he heard him, but you could tell he was just in a lot of pain ... he was swatting at himself, his hands were kind of going at his face and his body, he was moving ... our concern was that he did not go into traffic ... he wasn't walking in a straight line, he was clearly in pain and distressed ... he was making sounds, but not making clear words.

Civilian Witness 4 (“CW4”) told investigators that he saw the AP enter a convenience store, “clearly [having] been bear-sprayed” and asking for milk. He said the AP then went into a second store, took some milk and was chased out. CW4 said he called a nearby shelter asking for baby shampoo to try to assist the AP and told police when they arrived that the AP had been pepper-sprayed.

Civilian Witness 5 (“CW5”) described seeing the AP, apparently in distress, take off his clothes before exiting a convenience store with a jug of milk and pouring it over himself.

Civilian Witness 6 (“CW6”), a convenience store staff member, told police, in an interview after the incident, that he saw the AP come into the store naked, take a jug of milk without paying for it and begin pouring it over himself.

In the recording of CW1’s 911 call, he can be heard telling the call taker that the AP was not “doing anything to anyone,” and appeared to have been pepper-sprayed as he was pouring milk on himself. The call-taker informs CW1 that police are on scene but are waiting for more officers to arrive.

Civilian Witness 7 (“CW7”) saw the AP from a window in a building across the street. She told the IIO that she saw the AP take off clothing, rub at his eyes and then pour milk over himself. She said this was consistent with his having been pepper-sprayed, which was not an uncommon occurrence in the area. At one point, she said, the AP moved towards a nearby pedestrian, who appeared scared, but CW7 said it did not seem to her that the AP was being aggressive or deliberately intimidating. CW7 recorded a cell phone video of part of the incident, which generally corroborates civilian eyewitness evidence about the AP’s actions.

Police evidence leading up to use of force

Witness Officer 1 (“WO1”) told IIO investigators that at the time of the incident he was working in plain clothes with Witness Officer 2 (“WO2”), responding to an unrelated call. He said they were flagged down on East Hastings Street by people who were pointing towards a convenience store. WO1 said he saw a naked man (the AP) come running out of the store, flailing, shouting and appearing panicked. The AP was described as about six feet two inches tall and over 250 pounds. WO1 concluded that the AP was suffering from drug psychosis or “excited delirium.” He said pedestrians were moving out of the AP’s path as he went from the first store to a second one, coming out a short time later with a jug of milk. WO1 said he believed the AP had stolen the milk and was about to “flee the scene.” He also said that, based on his belief that the AP was in a state of “excited delirium,” he was concerned the AP might die if not immediately apprehended. He radioed for more officers to attend, including one with a “less-lethal” force option. WO1 said that

after pouring the milk over himself, the AP threw away the empty plastic jug, in the direction of nearby pedestrians, which WO1 described as “almost a completed assault,” further justifying the AP’s arrest.

WO2 also described seeing the AP go into a store and come out with a jug of milk, which the officer believed the AP had stolen. He said the AP poured the entirety of the milk over himself and then tossed the empty container in the air. WO2 said he believed the AP was arrestable for theft, and that he might walk out into traffic, assault someone or harm himself. WO2 also noted that it was a criminal offence to appear naked in public.

Witness Officer 3 (“WO3”), a supervisor, told the IIO that he heard the radio reports about the AP’s behaviour and it sounded as if the AP was probably “suffering from some sort of emotional crisis or mental illness crisis,” so he gave directions by radio for four officers to attend and check on the AP.

Our normal practice in that case would be to move in with enough members so the members aren't at risk and also if they have to detain or arrest him, they'd have the resources to do it but also safely assess the individual, that would be their primary goal, to determine, what have we got here, is it a mentally ill male, or is it something else?

...

[Police officers] are taught to approach, assess, communicate, make your determination on what the risk is of that individual to themselves and others ... if there's an immediate risk you may have to take action to physically restrain the individual, which involves a variety of tools ... if it's a situation where you can de-escalate the person through dialogue and presence and containing him, in this case, certainly if I was on scene I would have been saying let's find a way to contain this individual so they don't run in front [of] a car and get run over.

WO3 added that if the individual “were completely non-verbal or acting in a way that made me believe he was suffering some kind of mental crisis or mental illness,” there would probably be grounds to arrest him.

Witness Officer 4 (“WO4”) and Witness Officer 5 (“WO5”) were next to arrive, in uniform and in a marked police vehicle. Based on the initial dispatch reports, both officers understood that the AP appeared to be under the influence of drugs and that he had just committed a theft from a convenience store. WO5 told the IIO he was concerned that the AP might run out into traffic or harm members of the public. WO4 said he judged that it was necessary to apprehend the AP for his own safety, since he appeared to be in a state of “excited delirium.”

Witness Officer 6 ("WO6"), driving a marked police vehicle with the SO as a passenger, heard the initial broadcast by WO1 and WO2. WO6 was equipped with a Conducted Energy Weapon ("CEW" or "Taser"), and the SO had a "less-lethal" beanbag shotgun. These were the "less-lethal" weapons that had been requested.

Civilian witness evidence about police use of force

Civilian Witness 8 ("CW8") told the IIO that the AP was moving slowly along the sidewalk, flailing his arms and pouring milk on himself, which indicated to CW8 that the AP had been "bear-sprayed." CW8 said he saw police arrive and gather behind their vehicles, and behind the AP. He said they shouted commands for the AP to "get on the ground," but it appeared the AP was distracted by pain and either did not hear or did not pay attention. CW8 said the officers, all positioned behind the AP, almost immediately drew their weapons. CW8 said that he and other bystanders were yelling at police that the AP had been pepper-sprayed and needed assistance, but the officers made no attempt to approach the AP or to determine what had happened to him. The AP, he said, was not engaging with anyone on the street or behaving in an aggressive manner.

CW1 told IIO investigators that he saw approximately eight officers form up in a V-shape and start to approach the AP. CW1 saw an officer load his shotgun, and CW1, who was still on the phone with the 911 operator, yelled at the AP to get down. The 911 operator, he said, told CW1 to stop talking to the AP, so he hung up the phone and continued trying to warn the AP to get down on the ground. "There were eight police officers," said CW1, "and none of them took the time to say, 'Hey buddy, what's going on, why are you naked?'" CW1 said that the AP did partially get down, kneeling with one hand on the ground, but then got up again and started walking. CW1 said the officer with the shotgun (the SO) was screaming at the AP to get on the ground, but there was no other communication with the AP. CW1 said that none of the other officers had their weapons drawn, though some civilian witnesses told the IIO that officers were shouting at the AP that he would be shot if he did not get down.

CW2 gave the IIO a similar account and described seeing the formation of officers following the AP along the sidewalk before she heard a shot.

CW3 said that the SO "got out of the car and basically just yelled 'Hey' quite loudly [and] proceeded to shoot the beanbag gun." CW3 said she did not believe the officers identified themselves to the AP and did not hear any police warning to the AP that he was about to be shot with beanbags.

Both CW4 and CW5 heard officers yell at the AP to get on the ground or he would be shot.

Police evidence about use of force

WO5 told the IIO that he walked towards the AP, identified himself as a police officer and instructed the AP “multiple times” to walk towards police and get down on the ground. The AP, he said was not displaying assaultive cues, but was not responsive and did not “provide proper eye contact.” He said he viewed the AP, when he started to walk away, as “actively fleeing from police”.

The other witness officers also reported shouting “repeated” verbal commands for the AP to get on the ground, but the AP did not comply. The officers followed the AP along the sidewalk in a loose semi-circle. None of the witness officers acknowledged having been told by civilian witnesses that the AP was suffering from the effects of pepper spray.

In his written police report, the SO stated that the call was for a “naked male that was running into traffic.” Upon arrival at the scene, the SO said, his observations led him to believe he had grounds to arrest the AP:

I believed the male was arrestable for Indecent Act, Causing a Disturbance and being intoxicated in a Public Place, on top of suspecting him of having just committed a Theft. Furthermore, given the male's state of intoxication by drugs and his apparent state of psychosis, I believed the male to be a danger to himself and others and believed it was in the interest of public safety to take him into custody as soon as possible.

The SO went towards the AP, shouting at him that he was under arrest, and then fired two rounds from his beanbag shotgun at the AP’s buttocks. In his police statement, the SO said that this was intended as:

...an attempt to de-escalate a dangerous situation as the male was clearly intoxicated by drugs, was much bigger in stature than myself or other officers present, and was purposely ignoring my commands, and, as I needed to control and arrest this resistive male, and needed to do so immediately, before he again walked into traffic and posed a safety risk to other bystanders or himself.

In the use-of-force report, the SO described the AP as “violent at the scene or with a history of violence.”

Despite continued commands yelled by the officers for the AP to get on the ground, he walked away from them. The SO then continued firing beanbags at the AP as he continued to walk away, until he went down onto the sidewalk. Six witness officers brought him under control on the ground, applying pressure to various parts of his body as he

struggled against them, and placed him in handcuffs. None of the witness officers struck the AP during the arrest.

Very soon afterwards, the AP experienced medical distress and became unresponsive. Police administered Narcan spray, which was ineffective, and then commenced other life-saving attempts. Officers who attended to the AP later told the IIO that they did not recall detecting the presence of pepper spray and said his eyes did not appear red or watery.

Asked about whether deployment of a beanbag shotgun would be appropriate in a situation where a person failed to comply with a command and started walking away, WO3 said:

Situational, but if there were no other risk factors present I wouldn't want it for me, I would say let's try go hands on first, unless there's a significant risk of the person having a concealed weapon ... or we know some history about them that they carry handguns or other information you have that would suggest, or they've just been in an encounter with somebody where they've stabbed somebody ... if they're walking away, they're now a risk to the general public and if they get away a risk to other officers as well.

Multiple witness officers told the IIO that they did not consider it feasible to go “hands-on” with the AP because of his size and considered the situation not suitable for the use of either a CEW or baton.

Video evidence

Video recordings of the incident, including from a transit bus, show the AP, arms in the air, running or jogging away from police, including the SO holding a shotgun. The video also shows a pedestrian running away from the AP. On the audio track of the bus recording, multiple bystanders can be heard yelling at police that the AP had been pepper-sprayed. At one point he can be seen to throw away an empty plastic milk jug.

Medical evidence

Responding paramedics reported that they found the AP in cardiac arrest. After approximately 30 minutes during which they attempted to resuscitate him, CPR was discontinued and the AP was declared deceased.

The AP's autopsy report stated the cause of death as:

Combined effects of bear spray (capsaicin) exposure, methamphetamine and fentanyl use, cardiomegaly, obesity, and physical restraint ... There were no signs of asphyxia caused by restraint and there were no

significant injuries. The non-lethal rounds fired by police caused skin and soft tissue injuries, but no injuries that would have caused or contributed to his death.

These autopsy results were consistent with evidence obtained by IIO investigators from CW9 and CW10. Both CWs described the AP earlier on the morning of the incident as taking illicit substances, complaining of chest pain, and behaving as if he was having a bad drug reaction.

Vancouver Police Department (“VPD”) policy

By VPD policy and training standards, officers are permitted to use less-lethal weapons on resistant individuals to de-escalate dangerous situations, or to detain or arrest a resistant subject when lower levels of force are deemed ineffective or inappropriate. Beanbag rounds are authorized for use to create temporary motor dysfunction through displacement of tissue and pain association and to assist in taking control of a resistant person by causing distraction, mental stunning, and balance displacement.

ANALYSIS

The Independent Investigations Office of British Columbia is mandated to investigate 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 goal 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 most 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, the IIO investigators collect evidence with respect to potential justifications for that use of force. The CCD then analyzes this evidence using 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.

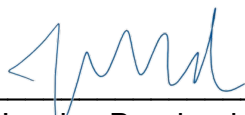
The contrast between the responses of civilian bystanders and attending police officers to the AP in this case is noteworthy. Several civilians immediately recognized that the AP appeared to be a victim in distress and attempted to communicate with him and offer assistance. Police officers, on the other hand, seemed to see him as both a risk to himself as well as a threat to public safety that needed to be taken down and overpowered as quickly as possible.

The evidence supports that the officers believed the AP was arrestable on several grounds, as set out above. It is important to note the opinion expressed by WO3 above, that a different approach to dealing with the AP may have been to contain him from all sides, try to determine what help he needed, and only take control of him physically if he insisted on trying to push past them. It is an approach that would have offered the possibility of defusing the situation and ending the incident with an outcome where the AP did not die.

Courts have held, however, that police use of force cannot be judged, in hindsight, against a standard of perfection, and police actions are not criminal simply because one permissible option was chosen over another. The officers in this case came to the conclusions and reached the decisions they did as they were confronted by a scene they assessed as requiring an urgent response. In most cases, the use of beanbags against the back or buttocks of a subject, and a brief struggle by officers to restrain and handcuff the person on the ground, would not be expected to cause either serious injury or death.

Considering these factors, and on the evidence as a whole, it cannot be said that the officers used force against the AP that was unnecessary, excessive or unreasonable to an extent that would amount to a criminal assault or manslaughter.

Accordingly, as 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 the matter will not be referred to Crown counsel for consideration of charges.



Jessica Berglund
Chief Civilian Director

December 5, 2025
Date of Release