



**IN THE MATTER OF A MEDICAL EVENT SUFFERED BY A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
ABBOTSFORD POLICE DEPARTMENT IN
ABBOTSFORD, BRITISH COLUMBIA
ON SEPTEMBER 8, 2022**

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

Interim Chief Civilian Director:

Sandra J. Hentzen

IIO File Number:

2022-253

Date of Release:

June 25, 2024

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INTRODUCTION

In the early morning hours of September 8, 2022, Abbotsford Police Department officers responded to a call from a convenience store about an individual who was said to have committed theft, and to be causing a disturbance outside after having been locked out of the store. Upon arrival, they found the Affected Person ('AP') in the parking lot and attempted to arrest him. AP tried to flee, and fought with officers before being taken to the ground by them. AP then continued struggling, and an officer deployed a Conducted Energy Weapon ('CEW' or 'Taser').

Several minutes later, AP lost consciousness and stopped breathing, so officers began emergency CPR until paramedics arrived and took over AP's care. AP was transported to hospital, where he experienced a number of medical complications before leaving hospital against medical advice on September 21.

Because AP had suffered serious harm in an incident involving police, 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, two other civilian witnesses, three paramedics and four witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of police radio transmissions;
- security video recordings from commercial premises near the scene;
- cellular video recorded by two officers;
- data download from a CEW; and
- medical evidence.

NARRATIVE

On September 8, 2022, Civilian Witness 1 ('CW1') was working the overnight shift, alone, at an Abbotsford convenience store. CW1 told the IIO that a male (AP) entered the store, took some energy drinks and protein bars, and left without paying. CW1 called 911 for police, but then hung up. When a dispatcher called him back, he described what AP had done, but said that police were no longer needed.

Shortly after this, CW2, responsible for security at commercial locations including the convenience store, saw AP standing in front of the store. CW2 said that AP was sweating profusely, and was holding his fists up like a boxer, challenging someone to fight, even though no one else was present. CW2 said that AP had a four-pack of large energy drink cans, and consumed three of them while CW2 watched.

AP then went back into the store, yelling, and stole more cans from the fridge. At this point, CW1 locked the store's front door and called 911 again. He said that he had locked the door to protect customers inside, and AP was now pulling at the door, yelling and throwing a wooden pallet around. Before police arrived, according to CW2, AP consumed four more energy drinks. He had removed his jacket and was not wearing any other clothing above the waist.

At about 6:11 a.m., several police officers arrived. CW2 said that one or two officers approached AP in an unaggressive manner, saying hello and attempting to talk with him. AP, though, fled. He ran up a grassy incline onto another parking area and when officers caught up to him, he began struggling with them and punching at them. AP is a large man, and even with two officers on each arm, he was proving difficult to control, and was screaming and yelling incoherently. One officer delivered knee strikes to AP's thigh, but this had no effect.

A CEW was then deployed against AP. Data from the device shows that it was activated three times, making a good connection each time, but it was not significantly effective in changing AP's behaviour. Concerned about AP's condition, police radioed for advanced life support paramedics to attend urgently so that AP could be sedated.

Officers were able to get AP into handcuffs, using two linked sets, and then continued to struggle to restrain him on the ground. Cell phone video taken by police shows AP still attempting to wriggle free as an officer tells him that an ambulance is on its way, and to relax and stop fighting. There is no evidence that any officer used any weapon against AP after the CEW deployment.

As one officer brought a blanket to put under AP's face and protect it from injury, she noticed that he had stopped breathing. He was turned onto his back and chest compressions were started, as he was found to have no pulse. Paramedics then arrived and took over life-saving measures before transporting AP to hospital.

AP required sedation in hospital until September 13. Toxicology tests indicated the presence of amphetamines. He remained in hospital until September 21, when he left against medical advice with an IV still attached. He returned later that day to have the line removed, and then left again.

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.

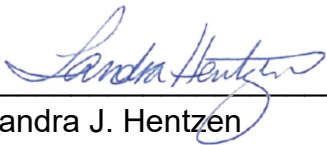
In a smaller number of cases, the evidence gathered may give the Chief Civilian Director ('CCD') reasonable grounds to believe that an officer has committed an offence in connection with the incident. In such a case, the *Police Act* gives the CCD authority to refer the file to Crown counsel for consideration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

In a case such as this one, involving the use of force by officers, 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 officers' actions were lawful, or whether an officer may have committed the offence of assault.

The responding officers were acting in lawful execution of their duty in arresting AP, and in using a reasonable degree of force to do so. He was reported as having committed theft from the convenience store, and was found causing a disturbance in public after being locked out of the store.

Independent civilian evidence indicates that police approached AP in a calm and non-confrontational manner, attempting to speak with him, but he immediately ran from them, necessitating a foot chase. Likewise, reliable evidence from a number of sources, including video, demonstrates that AP continued to struggle vigorously even after being taken to the ground and held by several officers. The use of the CEW in these circumstances was reasonable, and there is no evidence that any unnecessary or excessive force was applied to AP. His medical distress, in fact, was discovered by an officer who had brought a blanket to protect his face and head while he was restrained on the ground. At that point, police responded promptly to provide emergency first aid, likely saving AP's life.

Accordingly, as 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

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