



**IN THE MATTER OF THE INJURY OF A FEMALE  
WHILE BEING APPREHENDED BY MEMBERS OF THE  
VICTORIA POLICE DEPARTMENT IN  
VICTORIA, BRITISH COLUMBIA  
ON SEPTEMBER 9, 2022**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2022-241

Date of Release:

March 18, 2024

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## **INTRODUCTION**

On the evening of September 9, 2022, Victoria police received a complaint about the Affected Person ('AP'), who was said to have been at the edge of Beacon Hill Park, across from residences, yelling and apparently under the influence of drugs. When officers arrived, they observed that AP was in possession of knives, and was behaving in a manner that was non-compliant and possibly suicidal. Lengthy attempts were made to de-escalate the situation using a crisis negotiator, but after almost three hours, Emergency Response Team ('ERT') members were called to the scene. A plan was developed to use gradually-increasing force options to disarm AP and apprehend her while minimizing risk of bodily harm to AP or police. As part of the plan, beanbag rounds were deployed against AP by the Subject Officer ('SO'), and AP suffered a broken right arm.

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, four other civilian witnesses and thirteen witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- 911 call and police dispatch audio recordings;
- data downloads from a Conducted Energy Weapon ('CEW' or 'Taser'); and
- photographs of AP's injuries and other 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, the Subject Officer has not provided any account to the IIO.

## **NARRATIVE**

Civilian witnesses told the IIO about events leading up to the incident on September 9, 2022. They said the Affected Person ('AP') had been sitting at the corner of Beacon Hill Park, across the street from residential buildings, apparently consuming drugs. IIO investigators were told that AP had been there, yelling and screaming, for an extended period, and had moved closer to the residences during the day.

By 7:28 p.m., a neighbour had called 911, and officers were dispatched. The notification was for a female who appeared to be “high on drugs”, yelling and causing a disturbance. The first officer to arrive, at 7:38 p.m., was Witness Officer 1 (“WO1”). WO1 found AP sitting on the ground with belongings around her. He later told the IIO that he heard AP yelling even before he exited his police vehicle.

WO1 introduced himself to AP and asked her to stop yelling and to leave the area. It quickly became apparent to him, though, that he could not communicate with her or gain her cooperation. Based on a report of AP’s behaviour in the area over the previous three days, WO1 concluded that AP was arrestable for causing a disturbance. He witnessed AP talking about wanting to be killed, and picking up a knife and holding it to her own throat. In response, other officers were called to assist, including WO2, a trained police crisis negotiator. He was later joined by a second negotiator, WO3, but their efforts to de-escalate AP proved fruitless.

WO4 told IIO investigators that, with suggestions from WO3, WO2 talked calmly to AP for hours, trying unsuccessfully to get her to focus on him. In response, WO4 said, AP hurled slurs at the police and stabbed at the ground with her knife. WO4 described AP as appearing to be “in full psychosis”. Another officer interviewed by the IIO, WO5, said AP went through “waves of agitation”, alternating between relative calm and periods of shouting at imaginary people around her. At one point, AP took a second knife from her bag and held one of the blades in each hand, at some times stabbing the ground and at others swinging a knife as if trying to ward off attackers.

Attempts to negotiate with AP continued until 10:15 p.m., when control of the scene was handed off to Emergency Response Team members, whose assessment was that the incident could only be resolved “tactically”. The goal was to apprehend AP under the *Mental Health Act* and transport her to hospital. The action plan initiated was to involve a gradual escalation from negotiation through increasing levels of force aimed at separating AP from her weapons. There was to be an assessment period between each stage.

The first stage involved moving police vehicles into containment positions around the area where AP was sitting. The vehicles included an Armoured Rescue Vehicle (“ARV”) from which non-lethal force options could be deployed. The first of these was a Noise Flash Diversionary Device (“NFDD”), designed to stun or disorient, deployed by the Subject Officer (“SO”) from the ARV. The NFDD was detonated on the ground close to AP, but to the surprise of the officers she showed little reaction, saying, “Is that all you got?”

After a short assessment pause, the next option used against AP was Oleoresin Capsicum (“OC”) spray applied through a fogger by SO from 10 to 15 feet away. Despite

the spray thoroughly soaking AP's back and hair (her back was turned to the officers), her only noticeable reaction after a five-minute wait time was some minor coughing, and her eyes remained open. She continued to make stabbing motions with the knives, at the ground and at her own body, and also continued to wave them at police. WO5, one of the ERT members observing AP, told the IIO that he saw her pull a lighter from her pocket and attempt unsuccessfully to set fire to a yoga mat beside her.

Ten minutes after the OC spray deployment, WO6 fired probes from a Conducted Energy Weapon ('CEW' or 'Taser') at AP's back. WO6 told the IIO that he thought the CEW achieved a good contact with AP (although it was subsequently confirmed by a data download from the device that it was not successful), but the AP's only apparent reaction was to tighten her stance slightly while the CEW was cycling, and then relax again.

Shortly after this, SO fired five beanbag rounds from an elevated position on the ARV. WO5 told IIO investigators that he saw two rounds hit each of AP's arms, but did not see where the fifth round went. In response, AP hunched over forwards, and started to cut at her left forearm with the larger of her two knives.

This triggered the police team's 'immediate action plan for self-harm'. More impact rounds were fired: WO5 fired impact rounds from an ARWEN launcher at AP's buttocks area, and WO7 fired pepperball rounds, also at AP's buttocks. In the course of these volleys, AP lurched forwards and threw the knife from her right hand onto the ground.

A group of officers with a ballistic shield then moved towards AP, at the same time as a CEW deployment by WO5. WO8 placed the shield on AP's back and held her to the ground with the weight of his body. WO9 took hold of AP's right arm to place a handcuff, and, as he did so, felt "bone on bone grinding" near her shoulder. He advised the other officers that AP's arm was broken, and the handcuffs were not applied. WO7 took control of AP's legs and WO8 moved the shield to the side, taking hold of AP's left arm.

By now, AP was reportedly not combative, not yelling or screaming, almost "catatonic" according to WO5. She was given first aid by an ERT medic, WO10. He found a large laceration on AP's left arm, apparently caused when she started cutting herself, and an obvious fracture on her upper right arm, consistent with an impact from a beanbag round, which had penetrated the skin. AP was transported to hospital.

## **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.

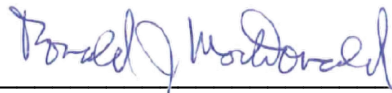
Certainly, the 'optics' of this incident, which involved 14 police officers including the Emergency Response Team and an armoured vehicle to apprehend a woman in the throes of drug psychosis, are not the best. The final resolution, an approach by an officer with a shield with two others to hold her while she was handcuffed, certainly leaves the impression that deployment of a wide array of 'less lethal' weapons might have been more than what was necessary in the circumstances.

On the other hand, AP was in possession of two bladed weapons with which she had made vaguely threatening gestures, both against the officers and against herself. For an officer to go 'hands-on' would certainly have involved at least some risk of bodily harm or perhaps worse.

That risk, it must also be acknowledged, had been created solely by AP. It left the officers in a difficult predicament, and they must be given credit for attempting over a very lengthy period to de-escalate. In some circumstances just leaving AP on her own might have been an option. However, in this case, given that AP appeared to be a threat to others and herself, failing to take action may have led to more significant consequences.

Therefore, taking steps to apprehend was appropriate. When it became apparent that some level of force would be necessary to get AP to drop her weapons, that force was applied incrementally. It is unfortunate that one of SO's projectiles caused a serious injury to AP, but all the involved officers were clearly trying to apprehend her without harm. It cannot be said, in the circumstances, that the force used by any officer was outside the reasonable range.

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.



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Ronald J. MacDonald, KC  
Chief Civilian Director

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