



**IN THE MATTER OF THE DEATH OF A PERSON
WHILE BEING ARRESTED BY MEMBERS OF THE
RCMP IN NORTH VANCOUVER, BRITISH COLUMBIA
ON NOVEMBER 12, 2022**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2022-297

Date of Release:

August 3, 2023

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Introduction

On the evening of November 12, 2022, RCMP received a 9-1-1 call from Civilian Witness 1 ('CW1') who reported that the Affected Person ('AP') had tried to attack them with a knife. Two other witnesses also called 9-1-1, requesting urgent police assistance following interactions with AP. Officers arrived and attempted to arrest AP, who approached the officers with a knife and was shot by the Subject Officer (SO) during the arrest.

Because the death occurred as a result of the actions of police officers, 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 eight civilian witnesses;
- statements of six witness police officers;
- police Computer-Aided Dispatch ('CAD');
- Police Records Information Management Environment ('PRIME') records;
- police radio to radio transmissions;
- 9-1-1 calls;
- Forensic scene examination;
- BC Emergency Health Services records;
- Conducted Energy Weapon ('CEW') examination; and
- Autopsy and toxicology reports.

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 did not provide any evidence to the IIO.

Narrative

On November 12, 2022 at 7:32 p.m., Civilian Witness 1 ('CW1') called 9-1-1 to report the Affected Person ('AP') had tried to attack CW1 with a knife within their shared residence.

CW1 told the 9-1-1 call taker that AP was psychotic and was suffering from mental health and substance abuse issues. CW1 said she was able to wrestle a knife from AP and fended off AP by kicking her legs and protecting herself as AP tried to stab her in the neck.

Although CW1 was able to get one knife away, AP walked into the kitchen and grabbed a second knife. CW1 fled the residence, sought shelter at a nearby unit, and called 9-1-1. CW1 reported to the 9-1-1 call taker that AP had grabbed a second knife.

The unit that CW1 shared with AP was located in a complex with a number of other residential units. The doors to each unit faced outside into open air, it was winter and the exterior of the building was dark.



Picture of the darkened exterior of the building near the incident location, November 12, 2022

Shortly following this first interaction with CW1, AP entered a neighbor's nearby unit without knocking or asking permission to enter. AP walked into the bedroom of Civilian Witness 2 ('CW2') and Civilian Witness 3 ('CW3'), and AP stated they were looking for their mother. CW2 described AP's behaviour as strange. CW3 told AP *"this isn't your house, you shouldn't be in here"* and followed AP out of the bedroom. There were two children present inside the unit, and CW2 and CW3 had safety concerns for them.

CW3 continued to follow AP towards the external door of CW3's unit. AP walked outside CW3's unit and up a few stairs. AP then turned back, pulled a knife out of their coat pocket and walked back down the stairs towards CW3 with the knife pointed towards CW3. CW3

quickly went inside her unit, shut and locked the door with AP close behind. CW3 believed AP was attempting to stab her. CW3 called 9-1-1 and said:

“There’s a teen breaking into people’s houses with a knife. [They’ve] already come at me with a knife...and I’ve seen [them] come at two other people..[They] broke into my house”.

CW4 was outside watching and saw AP pull a knife on CW3 and follow CW3 to her door. CW3 described AP’s eyes as looking “*really blank*” and CW4 described them as looking like a “*deer in headlights*”. CW4 described the situation as being very unusual, noting that AP was calm and seemed “*confused or scared*” when they pulled the knife out. AP casually walked towards CW3 with the knife pointed towards CW3. CW4 ran away from AP once he witnessed AP brandish a knife. CW4 told IIO investigators that if he stayed there, he believed AP would have stabbed him.

AP then entered a third unit in the complex, also uninvited. One adult and three children were present. Civilian Witness 5 (‘CW5’) saw AP at the bottom of the unit’s interior stairs with a knife in hand and said that AP was asking where their mother was. As AP moved slowly up the stairs, CW5 told AP to leave and pushed AP out of the unit and down the stairs with a large umbrella as he feared for his and his children’s safety. CW5 then called 9-1-1, stating “*my neighbor just came into my house and [they] had a knife... I was able to push [them] out and lock the door*”.

Following the interaction with CW5, AP then returned to CW2 and CW3’s unit, this time proceeding towards the fenced patio area of the unit. AP jumped the fence and attempted to re-enter the unit through the glazed patio door. AP kicked the glazed patio door of CW3’s unit and attempted to pull it open while holding a knife. CW3 was still on the phone with 9-1-1. Sounds consistent with kicks could be heard over the 9-1-1 call as CW3 continued to provide updates to the 9-1-1 call taker while watching AP through the glazed patio door.

After AP stopped kicking the patio door, CW3 saw AP stab themselves multiple times in the abdomen.

At approximately 7:44 p.m., Witness Officer 1 (‘WO1’) and Subject Officer (SO) arrived and proceeded to the grass area outside the patio where AP was located. WO1 and SO remained outside of the patio area with a fence separating them from AP. CW5 heard the officers tell AP to drop the knife and come out of the fenced patio area and threaten to ‘taser’ them if AP was not compliant. CW3 also heard officers providing instructions for AP to drop the knife.

WO1 described that SO was providing commands to AP to drop the knife, but that it was not registering with AP. WO1 stated AP saw her, *“but it almost felt like [they were] just kind of looking through me, like not really registering anything that was going on”*. WO1 placed the Conducted Energy Weapon (‘CEW’) dot on AP, but AP continued not to respond to the commands. WO1 discharged her CEW (taser), but because AP was wearing a thick jacket, the CEW did not have any effect. An independent analysis of the CEW performed as part of the investigation confirmed the deployment was not successful.

Witness Officer 2 (‘WO2’) arrived after the CEW deployment and attempted to de-escalate the situation. WO2 said that he told AP that they were police, and they were there to help. WO2 spoke calmly to AP but noted that AP did not appear to register what WO2 was saying. WO2 saw a knife in AP’s hand, pointed upwards and faced towards the officers. AP made brief eye contact with WO2 and said they did not believe WO2 and told the officers *“You’re going to kill me”*. AP then walked towards the officers from inside the fenced patio area.

Witness Officer 3 (‘WO3’) and Witness Officer 4 (‘WO4’) arrived after WO2 while AP was still in the fenced patio area.

CW3 remained on the phone with the 9-1-1 call taker during this period, but did not have visual sight of the interaction between the officers and AP. As officers were dealing with AP, CW3 said that there had been a second CEW deployment and after the deployment officers began *“really yelling”*, stating *“something is really wrong.”* The CEW deployment can be heard on the 9-1-1 call.

WO1 described that AP walked towards the police officers and began to climb over the fence separating AP from the police officers. AP had a knife in their hand.

As AP climbed the fence, WO1 deployed the CEW, but it did not have any effect. An analysis of the CEW showed this second deployment was also not successful. AP then began to walk directly toward SO as the police officers walked backwards. WO2, WO3, WO4 stated AP was walking directly towards the SO. WO3 stated when AP walked toward the police:

“[they weren’t] running, [they] didn’t run. [They] didn’t even walk briskly or quickly. [They] almost, I would say it was almost like a shuffle, a sort of shambling shuffle, a small step. Almost as though [they] were -- I don’t know how to describe it. [They were] taking small steps forward, but coming towards us, coming towards [SO]... [They were] not stopping, [they were] continuing to move forward at a, at a consistent and steady rate.”

WO1 said that: *“Once [they] came over and on to our side... [my] risk assessment went from high to higher...we’re face to face with [them] now and [they] have a knife and [they’re] coming at us”*. WO1 said that she believed AP was going to stab SO or one of the four other Witness Officers present.

Ten seconds following the CEW deployment, SO shot AP twice and AP fell to the ground. Two shots were also heard over the 9-1-1 call and by numerous witnesses.

According to the officers present, AP was advancing towards them, and SO in particular, with a knife in hand and pointed up towards the officers. SO shouted repeatedly for AP to *“drop the knife”* but there was no change in AP’s movements.

Officers backed away in a further attempt to make space but could not back any further due to the treeline directly behind them. As WO1 described, *“We had no more escape routes...[they] are coming towards us...we are kind of pinned there”*.



Picture of treeline, November 12, 2022

Civilian Witness 6 ('CW6') was outside his nearby unit and turned to watch the police interaction with AP. CW6 saw AP walking slowly toward five to six police officers and the police officers backing up in a semi-circle and into the treeline. CW6 heard the officers' loud commands to AP to "*drop the knife*" just before he heard two gun shots. Due to the lighting, distance, and trees, CW6 was not able to clearly see a weapon in the hands of AP or the police officers, or determine which police officer shot AP. CW6 estimated AP was approximately six feet from the closest police officer.

CW6 stated AP was not moving quickly towards the police officers but that "*it seemed like every time [the police] said something, that person took a step forward, took a step forward, took at step forward.*" CW6 saw AP fall to the ground after being shot.

Civilian Witness 7 ('CW7'), who was positioned in an upper floor unit above the incident, saw a police officer move a knife from near where AP fell during lifesaving attempts and move it to the place where it was later recovered by the IIO.

AP was provided with medical attention from the officers and paramedics who arrived, then later transported to hospital where AP was pronounced deceased. The autopsy performed indicated that AP had been shot twice and died from those injuries. One bullet travelled through the hand of AP before entering AP's chest. Two non-lethal sharp force injuries consistent with a knife cut were located in AP's abdomen. Six slits consistent with knife cuts were located in the abdomen area of AP's clothing. A toxicology report indicated that AP had a variety of opioids in their blood stream, including methadone, fentanyl, hydromorphone and norfentanyl. AP was approximately 5 feet 2 inches tall and weighed 110 pounds.

Forensic examination of the scene was consistent with SO firing two shots at AP. A four-inch knife believed to be held by AP was recovered, along with a second folding knife that was found on AP's person during lifesaving attempts. The distance from the patio fence to the treeline was 20 feet (6.1 metres). AP likely walked between 5.5 feet (1.7 metres) and 8 (2.4 metres) feet toward police before they were shot. Based on position of casings from SO's pistol, AP was estimated to be between 9 and 13 feet (2.7 and 4 metres) from SO when AP was shot. The height of the patio fence from the ground was 4.88 feet (1.49 metres). There were buckets and a sink stacked against the inside of the patio fence that likely provided "steps" allowing AP to climb over the patio fence.

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 lethal force by an officer, one of the avenues of the IIO investigation will be 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 officer actions were lawful or not.

The specific focus will be on the degree of threat posed by AP and whether, in the words of the *Criminal Code*, it gave reasonable grounds for the officers 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*". In other words, whether the SO's decision to shoot AP was necessary or whether they used excessive force. An SO is required to not only believe such action was justified, but there must be objectively reasonable grounds to support that belief.

Officers were acting lawfully, in execution of their duties, when they responded to the information that AP had a knife and had tried to attack or threaten multiple people with it. This situation was dangerous, as AP had actually made physical contact with CW1 in their attempt to stab CW1. There were many residents in the surrounding units, and AP had shown no hesitation in entering those units and displaying the knife towards those residents in a way that made them fear they could be stabbed as well.

Once AP was located with the knife in their hand in the enclosed fenced patio, officers kept their distance and engaged AP in attempts to get them to drop the knife. However, AP refused commands to drop the knife. When AP left the enclosed area of the patio by climbing the fence and began walking towards the police officers, the officers no longer had the benefit of a fence between them and AP to act as a barrier, nor time to

communicate and try to de-escalate the situation with AP. They needed to arrest AP and do so quickly.

It was unsafe for any officer to attempt to arrest AP until AP dropped the knife. After issuing commands to which AP did not respond, WO1 appropriately took action by deploying her CEW. When that did not work, and the situation escalated further as AP moved towards the officers, SO used his firearm to prevent AP from stabbing him or other officers.

It was not possible for the officers to back away further from AP, as they approached the tree line. In the dark, as shown in the photo, it would be reasonable for the officers to believe that they could not retreat any further without jeopardizing their safety. That perception factored into their decision making and given this incident occurred during the night, their perception is reasonable under the circumstances. Likewise, it would not have been safe for officers to simply disengage from the incident as AP had already attempted to stab someone and presented a knife at other residents in the building. The officers had to ensure that others were not at risk from being stabbed by AP.

An officer is allowed to use force, provided that they are acting in the lawful execution of their duties and the amount of force used by an officer is necessary. The law requires that the use of force not be excessive, and the use of force is constrained by the principles of proportionality, necessity and reasonableness. In this case, AP was holding a knife and was moving towards SO and other officers. After attempts to de-escalate, it was necessary and appropriate for SO to use force in an effort to get AP to drop the knife. Auditory evidence from civilian witnesses confirmed that police were trying to get AP to drop the knife, and that AP was not complying.

It would not have been appropriate for officers to approach AP and attempt to simply lay hands on AP in order to make them drop the knife. It was both necessary and reasonable, in these circumstances, for AP's compliance to be obtained by the use of the CEW in the first instance. When the CEW failed, and officers were faced with the threat of an armed person approaching them, using lethal force was necessary to prevent the SO or anyone else from being harmed.

AP was clearly experiencing a mental health crisis. However, the officers did not personally know AP, and could only assess AP based on the information that they had been provided in this case, which was that AP had attempted to stab someone and threatened two others with a knife. Following this information, AP approached SO with a knife and did not respond to commands to drop it. It cannot be said that the use of force by SO was unreasonable in the circumstances. Once AP dropped the knife and officers could move in safely, they did so and provided medical assistance. Unfortunately, AP died of their injuries.

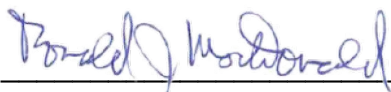
Some might point to the relatively small stature of AP to suggest this reduced the threat facing police. While size of the person holding a knife is a factor for consideration, my experience investigating these types of cases has shown that lethal or near lethal wounds can be caused by any able person, no matter the size, and regardless of the protective vest being worn by an officer.

In addition, the size of AP was but one factor for SO to consider. As noted, in this case, AP was motivated, had tried to stab other persons, and showed a real intent to stab an officer. Given the failure of attempts to de-escalate AP and the inability for the CEW to be effective because of AP's layers of clothing, the only other option available was to approach AP in close range and use hands or perhaps a baton to apprehend AP. This action would have brought them within the range of a person who clearly was intending to stab them. It was certainly reasonable for them not to exercise that option, given their safety concerns.

It is also important to discuss the nature of this call. Media reports have often referred to this case as a "wellness call" where AP was shot. The term "wellness call" suggests a call for police to attend to assist a person who is suffering from a mental health crisis, but not necessarily a danger to anyone.

This call, while it involved a person clearly suffering from a mental health crisis, was not a "wellness call", but in fact several calls for help to police for protection from a person who was threatening to stab them.

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

August 3, 2023
Date of Release