



**IN THE MATTER OF THE DEATH OF A MALE
IN AN INCIDENT INVOLVING MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
VANCOUVER, BRITISH COLUMBIA
ON FEBRUARY 9, 2023**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2023-033

Date of Release:

September 25, 2023

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INTRODUCTION

On the evening of February 9, 2023, Vancouver police responded to a 911 call about a male who was reported as acting erratically on the Granville Street Bridge. When officers arrived, there was a confrontation involving the discharge of a Conducted Energy Weapon ('CEW' or 'Taser'), and the male was shot and killed by 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 ten civilian witnesses and three witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of a 911 call and police radio transmissions;
- a video recording from a transit bus;
- scene examination and photographs;
- ballistics report;
- Emergency Health Services patient care report; and
- autopsy report.

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.

NARRATIVE

At 6:45 p.m. on February 9, 2023, Civilian Witness 1 ('CW1') called 911 to report that someone was on the Granville Street Bridge, looking over the edge in a way that made the caller concerned about intended suicide. CW1 said that the person was draped in some sort of sheet "like someone dressing up as a ghost". CW1 told the call taker that she did not see any weapon.

Witness Officer 1 ('WO1') was riding as passenger in a police vehicle driven by the Subject Officer ('SO'). The officers, who were in plain clothes, received a broadcast about the person on the bridge, and shortly afterwards saw an individual on the west side of the bridge, about three quarters of the way across, closer to the north (downtown) end. Interviewed subsequently by the IIO, WO1 said the person was wrapped in a light-

coloured blanket and was facing the water. SO turned the police vehicle and drove back southbound towards the person, later identified as the Affected Person ('AP') in this case. SO parked the police vehicle about forty to fifty feet away with only its rear emergency lights activated, so as not to "trigger" AP.

Another police vehicle driven by WO2, with WO3 as passenger, also crossed the bridge northbound, then turned around and pulled up behind SO's vehicle. WO2 told the IIO that as he was making the turn, he heard WO1 on the radio saying something similar to "He's out talking to the male and challenging him because he has a knife".

Another civilian witness, CW2, was walking up onto the west side of the bridge from the north when she saw AP standing looking out over the rail. She told IIO investigators that he had a white sheet wrapped around his shoulders, and it looked to her as if he was going to jump. Suddenly, she said, AP turned and walked towards her in a "shuffling, kind of weird way", then opened his arms and started flapping the sheet.

A second or two later, CW2 said, a police car with lights and siren activated arrived, and two officers jumped out. She said AP dropped the sheet, jumped into the roadway and came towards the officers. She did not recall seeing any weapon in his hands, which she said were down by his sides. She said both officers drew guns, and at this point were approximately five metres from AP. She said she thought one of the officers was aiming a Taser, as she could see a red dot on AP's chest.

CW3 was driving southbound at the time, and said that as he came up onto the bridge he saw a police car with its lights activated in the right lane, and stopped a short distance behind it. He said he saw two officers on the sidewalk ahead of the police car. CW3 described seeing AP facing the officers as WO1 aimed the CEW at him, and said he heard an officer ordering AP to do something in a "commanding" voice. CW3 said he saw AP flailing his arms in the air, hands open and empty, and said that AP appeared to be arguing with police, though not in an aggressive manner. CW3 then drove past.

Continuing his narrative, WO1 said that he and SO slowly approached AP, and WO1 called out to introduce himself, and to ask what was "going on". WO1 said that AP's demeanour changed, and AP put his hands either into a pocket or into his front waistband, and drew out a knife in his right hand and another object in his left. WO1 said the knife had a red handle and a black blade with shiny edges. WO1 could see three pedestrians approaching along the sidewalk from the north, about 100 feet away, so he yelled at them to get back.

WO1 deployed the CEW, which appeared to have no significant effect, so he quickly reloaded and fired again. He said this discharge too appeared to be ineffective, as the barbs struck loose clothing. At that time, he said, he heard two bangs that he believed to

be from a firearm. He said those shots occurred almost simultaneously with his second discharge of the CEW, and said that AP was about ten to twelve feet from the officers when SO fired.

WO3 told the IIO that he saw AP “flinch” when the CEW was fired, but he did not fall down. WO3 said he felt that the CEW had failed. He ran up to join WO1 and SO, with his pistol drawn. He described AP holding his arms out to the sides, fists clenched, with something in his hand. He said that AP then ran towards the officers with his hands out. WO3 said he “pointed my gun at him and squeezed the trigger”, but said that the pistol apparently jammed. By the time WO3 had cleared the stoppage, AP was already on the ground.

WO2 had gone to the rear of his police vehicle to get a beanbag shotgun. He told the IIO that he heard the sound of the CEW being deployed, for what he judged to be a standard five-second period. Within three seconds after that, he said, he heard two or three gunshots.

WO1 said that a knife and a yellow-handled tool dropped from AP’s hands as he fell forward, and the officers kicked them away. The items shown below were recovered from the scene and photographed as exhibits:





Video from a transit bus that stopped beside and slightly behind the lead police car shows AP moving around on the road in front of WO1 and SO. There is a pile of light coloured material on the sidewalk. The two officers' arms are extended in front of them towards AP. It is not possible to make out the CEW deployment, but at one point, as WO3 is approaching, AP starts to run at the officers and there is the sound of two gunshots. AP takes a few more steps and fall forward onto the ground, almost at the officers' feet. Civilians can be seen running away southbound on the west sidewalk.

AP appears to be wearing a loose, dark jacket and light-coloured pants. The video has limited resolution, and despite efforts by an IIO-retained specialist to improve it, it is not possible to see if there is anything in AP's hands. However, in two frames of the video there is a bright spot consistent with a reflection of headlights from something shiny in his right hand. His arms are moving in a normal running motion initially, but as he comes close to the officers, he brings his right arm up, and then down and forward as he falls.

AP was declared deceased at the scene. Two CEW probes were found in his clothing. They did not appear to have contacted the skin.

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 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".

The evidence in this case leaves no doubt that when SO fired his pistol at AP, there was an imminent threat from AP to assault the officers. In particular, the video shows that he ran at them in a clearly assaultive manner. Evidence from civilian witnesses is either equivocal, or to the effect that AP appeared to have empty hands. Police evidence, and the items found at the scene in the aftermath of the incident, tell a different story. On balance, it has to be concluded that AP was holding a double-edged knife and a screwdriver when he came towards the officers.

It is not insignificant, in this respect, that as noted above the video appears to show a bright flash from something in AP's right hand. Further, civilian eyewitness evidence in this case suffers from reliability issues – from a witness saying that the arriving officers were driving marked police vehicles with lights and sirens activated, to describing the

plain clothes officers as wearing 'SWAT' clothing with bullet-proof vests. While it is understandable that civilians seeing police officers in a confrontation over a period of mere seconds might 'project' typical police clothing or equipment onto them in memory, those memory glitches tend to undermine specific memories about whether, for example, a hand of a running man in the dark was empty or gripping the handle of a weapon.

WO1 and SO reacted to the approach of AP in the appropriate sequence: WO1 firing his CEW with the aim of disabling AP, and SO acting as 'lethal overwatch' in case the CEW failed and AP continued his assault. In this case, unfortunately, that is what happened, apparently because of AP's thick or loose clothing. When the CEW did not stop AP, who was by now only a very few steps from the two officers, it was justifiable for SO to respond to the threat he posed, of grievous bodily harm or death to an officer, by the use of lethal force.

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.



Martin Allen, General Counsel
For Ronald J. MacDonald, KC
Chief Civilian Director

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