



**IN THE MATTER OF THE DEATH OF A MALE
IN AN INCIDENT INVOLVING MEMBERS OF THE RCMP
NEAR PRINCE GEORGE, BRITISH COLUMBIA
ON MARCH 16, 2023**

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

Chief Civilian Director:	Ronald J. MacDonald, KC
IIO File Number:	2023-074
<u>Date of Release:</u>	January 18, 2024

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INTRODUCTION

On the afternoon of March 16, 2023, police received information that the Affected Person in this case ('AP') was intending to commit 'suicide by cop', by taking action that would force a police officer to shoot him. When RCMP members located AP, parked in his vehicle on the side of Highway 97 south of Prince George, he ran at the Subject Officer ('SO') with a knife. SO fired five rounds from his service pistol and AP was struck three times. He was subsequently declared deceased at the scene.

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 six civilian witnesses and seven witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of 911 calls and police radio transmissions;
- forensic scene and exhibit examinations, including firearms examinations;
- BC Emergency Health Services records; 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, SO has not provided any account to the IIO.

NARRATIVE

At 4:44 p.m. on March 16, 2023, police received a 911 call from a family member of AP, Civilian Witness 1 ('CW1'), saying that AP was suicidal, and that he "wants a cop to shoot him". AP was in a vehicle and would not provide his location to family members who contacted him by phone and by text. A location 'ping' of AP's cell phone indicated, with a wide margin of error, that he was about forty kilometres south of Prince George. Several officers started heading in that direction, including members of the Emergency Response Team (ERT). Police planned to locate AP and utilize a negotiator to speak with him.

Police monitored vehicle traffic north and south of AP's approximate location and spoke to motorists. Motorists told police AP was parked on the side of Highway 97 near Willowdale Road. Emergency Health Services, including an Advanced Life Support Unit, were staged at a nearby fire hall. An unmarked police vehicle drove by AP without making contact to confirm AP's location.

Responding officers were aware that AP had a history of mental illness and suicidal ideation. There had been an incident in 2018 in which he had threatened police officers with a knife, apparently attempting to have them shoot him. That incident had been resolved without harm, either to the officers or to AP, but AP informed the officers afterwards that he regretted failing to bring the confrontation to a fatal conclusion.

CW1 told police that CW1 would go to meet with AP and take him to hospital, but was told to stay away and let police deal with the situation. CW1 was travelling north along Highway 97 at the time, as a passenger in a vehicle driven by CW1's spouse, CW2. They came upon AP's vehicle at the side of the road, and stopped on the shoulder behind it. CW1 called police dispatch and stated that CW1 and CW2 had AP in their vehicle and were going to take him to the hospital. CW1 then said that AP was "just sitting in his vehicle", and that further police involvement was unnecessary. The dispatcher told CW1 that because police had been called, "you're going to have to let the police deal with it". CW1 and CW2 were told to stay in their vehicle.

Following this exchange, the dispatcher told responding officers that CW1 had said CW1 had AP "with [CW1] in [CW1's] vehicle", and that AP was "just sitting in [CW1's] vehicle". A miscommunication between CW1 and police dispatch also occurred. As a result, police dispatch believed AP had driven further south and was stopped at the Mama Yeh RV Park. The new (incorrect) location was dispatched to responding officers.

Witness Officer 1 ('WO1'), commanding the police response, stated in his written account that he feared a hostage situation would arise:

...my fear was that he was armed/suicidal and obviously in crisis. I would have believed [CW1], whether [CW1] felt at risk or not, was at risk based on [AP] being armed, and unpredictability due to his mental health crisis.

Officers who were staged to the north and south along the highway decided they could not let CW1 take AP to the hospital, as they needed to make sure he was not in possession of weapons. They were under the impression, based on the incorrect dispatch update, that AP was in CW2's vehicle with CW1 and that AP had stopped at a new location. The 'priorities of life' principle, they felt, dictated placing the safety of CW1 and

CW2 above that of AP or of the responding officers. They formed a plan to approach “low and slow”, not immediately approaching AP but getting within sight of him, and to apprehend AP under the *Mental Health Act*.

Driving towards the Mama Yeh RV Park, WO2 told IIO investigators, he came upon the vehicles of AP and CW2 by surprise, parked on the side of the highway. WO2 was also surprised to see that AP was in the driver’s seat of his own car, not with CW1 and CW2 in CW2’s pickup truck, which was parked a short distance back along the shoulder. WO2 was driving a marked police vehicle and believed that AP was now aware of police presence. Because of this, he concluded that the “low and slow” approach was no longer a practical option. This resulted in the police initiating an “unanticipated immediate response”.

WO2 stopped his police vehicle angled across the southbound lane towards the front of AP’s car. SO pulled across the northbound lane to the left of WO2, and stopped about twenty metres north of AP’s car. WO2 opened his driver’s door and stood on the sill, showing his empty hands above the door, signalling for AP to do the same. WO2 later told the IIO that he was trying to keep the situation calm, telling AP to “show his hands” but without shouting at him. AP, he said, got out of the car, initially appearing as if he was going to surrender:

But that, that didn't last. Where he got out, he looked calm, he stepped out. He, he turned back towards -- like he stepped out of the open door and then turned back so that he was square to the door. And he reached, on his right-hand side, it was in a pocket, but I don't know if it was his jacket or his pants or what have you, but he reached something on his right side. Slammed the car door and just immediately started charging, like just running or sprinting straight at [SO]...Within a second or two of him stepping out he reached into his right side as he slammed the door, and he started running.

And as he started running, I could see that he had a knife in his hand. He didn't -- or I didn't hear him say anything, but it was an all out run. And his body mechanics were, like anybody running fast, his arms were pumping forward and back, he was holding the knife, but it wasn't like he was -- he didn't motion anything specific with it, he didn't raise it, he was just, he was running with his arms pumping just like any other, it'd be, be a -- you'd look at it and think it's just a sprint.

So, as he did that I yelled, "Knife, knife, knife" and I dropped back onto my driver's seat and put the truck in gear with the intention of hitting -- well, blocking him or hitting him with my truck as a less lethal option. At

the time I didn't have any less lethal options at my disposal that would have been an appropriate intervention.

I don't know if I need to list them off for you, but there was nothing that would have worked in time or been a suitable response, other than my truck. So I dropped back into the driver's seat, put it in gear and was going to try and hit him. But he was too fast, and he was past me. After yelling, "knife, knife, knife," I didn't see him change pace, veer off, stop, slow down, say anything, his body mechanics didn't change, it was a sprint straight at [SO]. And I heard gunshots or what I, what I -- I heard a noise that I knew were gunshots and [AP] went out of sight...

WO3 described what he saw, from a position farther back along the highway, where he was tasked with holding vehicle traffic:

I saw a male sprinting towards where the other, the other two vehicles were with the police members. I was shocked at how fast he was moving with the incredible sense of purpose. There was no, no hesitation in that movement, it was -- he was full out sprint. [I] then lost sight of the male as [I] stopped an approaching semi truck and heard "shots fired" on the radio shortly thereafter.

WO4 also told the IIO that he saw a male "running very fast towards the first police car that was there", before hearing what he recalled as approximately three gunshots. WO5 described hearing the shots, but noting that AP still had "forward motion", and that SO was "backpedalling", only "maybe one or two steps" from AP as AP fell to the ground just past the front corner of SO's police vehicle.

CW1, who was in the vehicle parked directly behind AP's vehicle, recalled AP closing his car door and then "charging" at police with a knife in his hand. CW1 estimated that this happened only about ten seconds after officers arrived and exited their vehicles. CW1 said AP only ran a few feet before being shot and falling to the ground. CW2, who was also in the vehicle parked directly behind AP's vehicle, told the IIO that police officers exited their vehicles but kept their distance and did not approach AP. CW2 said the police stepped back when AP exited his car. CW2 said that AP then ran straight at one of the police vehicles (SO's), and there were three or four gunshots. Both CW1 and CW2 recalled seeing WO2's attempt to communicate with AP with his empty hands raised. CW1 did not hear any verbal communications from police, and said that it would have been difficult for AP to hear any verbal instructions while he was inside his car.

Officers immediately realized that AP was seriously wounded, and commenced first aid attempts very quickly. As AP had fallen into a puddle in the shoulder of the highway, he

was pulled to a drier area on the highway for first aid. An Emergency Response Team medic arrived on scene and took over, and paramedics then attended. AP was pronounced deceased at 6:42 p.m.

A fixed-blade knife was located on the shoulder of the highway (a matching sheath was found on the front passenger seat of AP's car):



AP's autopsy report notes three gunshot entry wounds, two in the chest and one in the back, angled from AP's left towards the right. Examination of the leather jacket AP was wearing at the time showed that the entry wound in his back was caused by a bullet that travelled sideways through folds of the jacket's material.

Forensic scene and exhibit examination indicates that SO was the only officer who discharged a firearm during the incident, and that he fired a total of five rounds, one of which was not recovered by investigators. One bullet was found to have penetrated the passenger side of the windshield of AP's car, and to have lodged in trim on the passenger side interior. AP fell near the front of SO's police vehicle. The distance from AP's front driver's side tire to where blood from AP was located (his likely initial fall location) was approximately 22 metres. The location of the blood was on the side of the road adjacent to the front driver's door of SO's vehicle, indicating AP was within a few metres of SO when he went down due to the shots.

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".

It is clear from the physical and eyewitness evidence set out above that at the time SO discharged lethal rounds at AP, he had reasonable grounds to believe he was threatened with death or grievous bodily harm. AP was running directly at him, over a distance of about twenty metres, brandishing a knife.

One of SO's rounds evidently missed AP and the bullet was not found. Another also missed AP, and struck his vehicle, parked on the shoulder. The trajectory of that bullet is consistent with having been fired from a position close to the front of SO's police vehicle, which was stopped at an angle across the northbound lane. The evidence is consistent with SO having started retreating from that position, and with his fifth shot having struck AP at an angle across his back as he fell past SO onto the highway shoulder. In the circumstances, it cannot be said that SO's use of force was unreasonable or unjustified.

It can also be asked, though, whether any liability arises from police actions before the shooting itself. CW1 had told the police dispatcher that police attendance was no longer

necessary, and it seems clear that it was police attendance that prompted AP to react as he did.

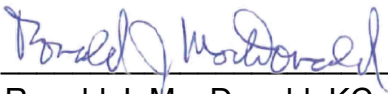
Police air support had been requested, but the incident ended before the air support took flight. A negotiator was contacted and was preparing to intervene, however, the incident ended before the negotiator attempted contact with AP.

It is important to note that there had been some unfortunate miscommunications. As mentioned above, the recording of CW1's telephone call demonstrates that she initially told the dispatcher that AP was in the vehicle with her and CW2, and it was this version of the information about AP's whereabouts that was passed on to responding police. The erroneous information caused the officers to believe, not unreasonably, that they needed to intervene to apprehend AP and to safeguard the lives of CW1 and CW2. They quite properly planned to approach slowly, from a distance, using a negotiator to de-escalate the situation and bring it to a safe conclusion. They would have a wider range of force options available, so the use of lethal force would be unlikely.

Sadly, a second miscommunication prevented them from following that plan. The dispatcher had mis-heard the location provided by CW1, causing officers approaching from the north to come upon AP completely unexpectedly, and in close proximity.

Once observed by AP, the police had to proceed in the best way possible in the circumstances, without the benefit of the negotiator or a slow approach. WO2 did what he could to begin a conversation with AP through his hand signals, but AP's almost immediate action to run at SO with the knife created a situation where SO had to focus on the protection of his own life. In these circumstances SO and the other officers cannot be faulted for AP's decision to charge at SO with the knife, or for the tragic consequence of that decision.

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

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