



**IN THE MATTER OF THE INJURY OF A MALE  
IN AN INCIDENT INVOLVING MEMBERS OF THE  
SAANICH POLICE DEPARTMENT IN  
SAANICH, BRITISH COLUMBIA  
ON APRIL 28, 2023**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2023-116

Date of Release:

March 20, 2024

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## **INTRODUCTION**

On the evening of April 28, 2023, police conducted a traffic stop on Highway 17 in Saanich. An interaction escalated between officers and the Affected Person ('AP'), until AP exited the vehicle holding a handgun. AP was wounded by a single shot fired by a Subject Officer ('SO1') and was taken into custody with the assistance of a Police Service Dog ('PSD') under the control of a second Subject Officer ('SO2'). 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, three paramedics and thirteen witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of police radio transmissions;
- firearms evidence, including photographs and forensic analysis;
- 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, neither Subject Officer has provided any account to the IIO.

## **NARRATIVE**

### **Affected Person**

Interviewed by IIO investigators, AP said that he only had partial memories from the day of the incident. He said that, at the time, he had been subject to court-ordered conditions including a curfew and the wearing of an electronic monitoring device. On April 28, 2023, he said, he was in "a dark place". He had a medical appointment scheduled for the evening that required the temporary removal of the monitoring device. After having it removed at the probation office in the early afternoon, he returned home.

With electronic monitoring suspended, AP was required to respond at his home to regular phone contacts from the central monitoring facility. He said that on his way home he stopped at a friend's house and picked up a recently purchased 9mm pistol, and also went to a liquor store for a 750 ml bottle of vodka. He said he could not remember whether

or not he loaded the gun. He said he did remember sitting in his car in the driveway and putting the gun to his head.

AP acknowledged drinking at home, and said he did not answer calls monitoring his curfew. He told investigators that he did not remember leaving the house, or anything that happened afterwards, until he woke up in hospital three days later.

AP's medical records indicate that he was admitted with a single gunshot wound to his right-side lower abdomen and significant dog bite wounds.

## **Police Evidence**

When AP failed to answer calls from the probation office, police went to his residence to check if he was there as required by his curfew. They saw a BMW SUV leaving the area, and noted that it was registered to one of AP's family members. They followed the SUV and conducted a traffic stop to check the driver's identity. The SUV stopped at the side of Highway 17, known as the Patricia Bay Highway.

When an officer approached the SUV, he saw that AP was the driver, and directed him to get out of the vehicle. AP declined to do so, and was advised that he was under arrest. As AP continued to refuse to exit the SUV, other officers arrived to assist. AP then produced a semi-automatic pistol (presumably the one he had earlier picked up from his friend's house), and pointed it at his own head. The officers backed away from the SUV and took cover behind police vehicles stopped behind it.

Police blocked traffic in both directions on the highway, and evacuated civilians from their cars. Emergency Response Team ('ERT') members were asked to attend and take over the scene. Officers reported hearing AP, still inside the SUV, "racking" his firearm (moving the slide back and forth as if loading the weapon). AP was seen turning the SUV's interior lights on and off, and was seen apparently preparing to drive away. He was given repeated commands to get out of the SUV with nothing in his hands.

AP then exited the SUV and started to move towards the rear of the vehicle with the pistol in his right hand. One witness officer with a clear view described AP "brandishing" the pistol as he stepped towards the officers, who were sheltering behind police vehicles and stopped civilian vehicles.

Subject Officer 1 ('SO1') fired a single rifle shot from a position across the highway, and AP fell to the pavement. He was seen by officers to be moving around on the ground, trying to get up, and the pistol was still within his reach. SO2 gave AP commands to move away from the gun, and then deployed his PSD, which bit AP and dragged him away from the weapon, which was found to be unloaded.

Officers immediately provided first aid to AP, and he was then transported to hospital by paramedics. An empty vodka bottle was found in the SUV he had been driving.

## 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.

Further, with respect to SO1, this case involved the use of lethal force. Necessarily, the specific focus regarding that aspect is 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".

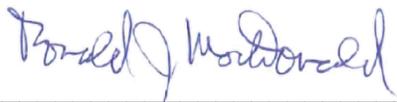
As noted above, AP was not able to provide the IIO with any account of the incident, and there were no civilian eyewitnesses. However, the evidence from police witnesses is consistent with recorded police radio traffic, with forensic analysis of physical evidence and with the nature of AP's injuries, and appears reliable.

While there is no way to know what AP intended when he exited his vehicle and walked towards police with a pistol in his hand, disobeying their commands, it was not unreasonable for SO1 to consider those actions as posing an immediate and critical threat to officers and to deploy lethal force in their defence.

The use of the PSD by SO2 was also appropriate in the circumstances. Given AP's previous behaviour, it was reasonable to view him as a continuing threat to officers' safety while still within reach of the firearm (the officers, of course, had no way to know it was not loaded). The limited use of the dog to move him away from the gun was justifiable, and was certainly preferable to further use of lethal force.

The evidence is that there was no further use of force against AP, and he received immediate medical assistance from police as soon as it was safe to do so.

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

March 20, 2024

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