



**IN THE MATTER OF THE INJURY OF A MAN
IN AN INCIDENT INVOLVING MEMBERS OF
THE VANCOUVER POLICE DEPARTMENT
IN VANCOUVER, BRITISH COLUMBIA
ON AUGUST 20, 2022**

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

Chief Civilian Director:

Jessica Berglund

IIO File Number:

2022-226

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This report details situations that may be distressing to some readers. If you are in crisis, help is available:

- (1) Call 310-6789 to be connected to the crisis centre nearest you (no area code required)
- (2) Crisis Services Canada: crisisservicescanada.ca
- (3) British Columbia: crisislines.bc.ca
- (4) Vancouver and surrounding areas: crisiscentre.bc.ca
- (5) Vancouver Island: vicrisis.ca
- (6) VictimLinkBC: 1-800-563-0808

INTRODUCTION

On August 20, 2022, the Affected Person (“AP”) called 911 and expressed a desire to harm himself with a knife. The call-taker talked to the AP and calmed him, persuading him to put the knife down. While she was doing this, she also arranged for police to go to the AP’s apartment to apprehend him under the *Mental Health Act*. Attending officers called for the AP to come out into the hallway, where a group of officers were staged with lethal and less-lethal weapons and a ballistic shield. The AP entered the hallway holding a knife, and did not immediately drop it. The Subject Officer (“SO”) discharged three rounds from a beanbag shotgun, seriously injuring the AP, and he was taken into custody.

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 the AP and five witness police officers;
- police Computer-Aided Dispatch (“CAD”) and Police Records Information Management Environment (“PRIME”) records;
- audio recordings of the AP’s 911 call and police radio transmissions; and
- medical evidence.

NARRATIVE

At 1:24 p.m. on August 20, 2022, the AP called 911, asking for an ambulance to come to his home. He told the Emergency Health Services (“EHS”) call-taker that he could not

“...take it any more” and that he was holding a knife against his wrist. EHS personnel passed information to a police dispatcher that they were in contact with a male who was threatening to cut his wrists with a knife, and that an ambulance would be dispatched but told to wait nearby.

The AP’s 911 call lasted more than 21 minutes. During it, the call-taker engaged in conversation with the AP and was able to calm him. The call-taker persuaded the AP to put the knife down and wait for paramedics to come to his apartment. The AP suggested going down to the main door of the building to let the medical personnel in, but was told that they would have a master key and that he should continue to wait in his suite. In the final few seconds of the call, a muffled voice can be heard (a call-out from police in the hallway). The AP tells the call-taker that he thinks the paramedics have arrived, and shouts, “Right here!” The call then disconnects.

Interviewed later by IIO investigators, the AP said he called 911 to ask for an ambulance to take him to hospital. He said he was depressed, with suicidal thoughts, and thought he needed a few days in hospital to get better. He said he heard a knock at his apartment door and thought it was the paramedics. While putting some things in a bag to take with him, he said, there was another knock at the door. He said he shouted that he was coming, and told the person at the door to come in. When they did not, he said, he went out into the hallway with the knife to give it to the paramedics, and to show he was coming voluntarily.

The AP said that in the hall, he saw four police officers about 17 feet away with rifles pointed at him from behind a riot shield. He said that when he was told to drop the knife he immediately did so, but was shot three times with beanbag rounds as he stood facing the officers. The AP said that the first round struck him near his navel, causing him to turn to his right, and the second round glanced off his abdomen. The third round lodged in his right forearm. He said he fell to the floor and was handcuffed without any further use of force against him.

Witness Officer 1 (“WO1”) was the officer in charge of the police team that responded to the AP’s call. He told the IIO that he did not want the AP to leave his suite, out of concern for the safety of other people in the building. WO1 said he directed other officers to set up containment, including covering fire escape routes. He gathered “force options,” including a “less lethal” beanbag shotgun, a conducted energy weapon (“CEW” or “Taser”) and breaching equipment.

The SO prepared a beanbag shotgun. WO2 was assigned to act as “lethal overwatch” with her pistol drawn and WO3 took cover behind a ballistic shield, his pistol also at the ready. The three officers took up positions, shoulder to shoulder, in a narrow hallway about 20 to 25 feet away from the AP’s apartment door. From the officers’ perspective,

the door was to the left, and there was an angle in the lefthand wall between them and the door, which impeded their view to some extent. WO2 was against the righthand wall, giving her the clearest view of the area outside the AP's door, and WO3 was against the lefthand wall. The SO stood between WO2 and WO3, holding the beanbag shotgun.

According to WO1, setting up his team took about 30 minutes (apparently an over-estimate, based on the recorded length of the AP's 911 call). Meanwhile, WO4 was in a nearby suite with a partial view into the AP's home through a window. WO4 reported that the AP appeared to be talking on the phone. At another point, WO4 radioed that the AP was holding a knife with a six-inch (15 cm) silver blade. WO1 told the IIO that WO4's report about the knife led him to conclude that the AP was "arrestable" under the *Mental Health Act*:

I thought he was definitely a risk to himself but if [we] were to just walk away at that point he can also be a risk to the public as well as common law duty is to preserve life, um protect life, so with someone potentially gonna harm themselves, kill themselves and they have a knife in their hand, they meet that threshold.

WO1 told investigators that he called out to the AP to "come on out with nothing in your hands, we're here to help." Hearing a "rummaging" sound from inside the suite, WO1 concluded that the AP was barricading himself inside, so WO1 requested the Emergency Response Team to attend.

WO3 said that the officers could hear, from inside the apartment, "some muffled talking on the phone," and were aware that, as they were setting up, the AP was on the telephone "calling the ambulance for help."

According to WO3, the AP then opened his door and shouted, "What do you want?" before slamming the door closed again. WO3 said this happened three times before the AP stepped out into the hallway and "squared up" to the officers, yelling angrily, "What do you want?" with something "shiny and sharp" in his hand. WO3 said he shouted, "He's got a knife in his hand." WO3 said that, when asked what he had in his hand, the AP said, "It's a knife," and held it up in front of him.

Re-interviewed in April 2024, WO3 said that initially, he could hear a male voice from inside the suite, and understood the AP was on the phone. WO3 said that after callouts were made, telling the AP to come out, the muffled voice "was kind of responding to us ... something along the lines of 'what do you want', I think." WO3 said there was continuing "dialogue," with the AP's door opening and closing about three times. The AP, WO3 said at this re-interview, had something in his hand, but WO3 could not tell what it was, though he thought it might have been a knife, while another officer thought it was a bunch of keys. WO3 said that when the AP was asked what he had in his hand, he said,

“What, this? It’s a knife” and brought the knife up in front of him with the blade pointed towards the officers. At another point in the interview, WO3 said, “from what I recall, the blade was out.”

WO3 said there was then further “dialogue,” with police “telling him to drop whatever was in his hand.” “We were hoping nothing was in his hand,” WO3 continued, “because I do remember one of the commands that were given to him ... was ‘come out with nothing in your hands.’”

WO1’s account of this part of the incident was somewhat different. He said he called out to the AP for five minutes, after which the AP “peered” out from the doorway and stared at the officers without saying anything. WO1 said the AP was leaning out of the door and only the left side of his body was visible, the right side being hidden behind the wall.

WO2’s account was similar to WO1’s: she said she saw the light in the hall change as the AP opened his door, and then saw him emerge in “a bladed stance” (turned sideways). WO2 said the AP was “hiding” something in his right hand. She said she could not see what the object was, and did not know it was a knife until she saw it on the floor, later. She said he had no recollection of the AP raising a hand in front of himself before he was hit by the bean bags.

WO1 said he asked the AP to step out fully into the hallway. The AP did so, and WO1 said he could see the AP had something “in his left hand.” WO1 said he could not see what the object was, so asked the AP what he had in his hand. He said the AP replied, “It’s a knife.” WO1 said he later found that the knife was a folding “pocketknife,” and told the IIO he could not remember if the knife was open or closed when the AP was holding it.

WO2 said that either WO1 or the SO told the AP to drop the knife, and the AP said, “No,” and something to the effect of “come here, you come here to get me.” She said the AP’s demeanour was casual and calm.

WO2 said that the SO then said, “I’m going to beanbag him,” and discharged three rounds in rapid succession from his beanbag shotgun. The first two rounds struck the AP in the torso and abdomen, and he folded forward. The third round struck him in the right hand and he dropped the knife he was holding onto the floor, and fell to his knees. WO5 described hearing “several” commands to “drop the knife” as the beanbags were fired.

The three officers advanced on the AP and WO3 used the shield to pin the AP to the floor. The AP was handcuffed, and WO2 noticed that there was blood flowing from his right wrist, which saturated her uniform pants.

The knife the AP had been holding was a folding knife with a blade approximately eight centimetres long. WO2 told IIO investigators that she never saw it in the AP's hands. The first time she saw it, she said, it was on the floor after the AP was arrested and handcuffed. She said she did not remember if the knife was open or closed, but added that it would still be considered a threat even if closed, because it is not uncommon for folding knives to be modified to make them easy to open with one hand.

The knife was initially left on the floor at the scene, but police did not photograph it there. After going down to her police vehicle, WO2 said, she directed WO5 to bring the knife to her, out of concern that a tenant in the building might pick it up, despite the fact that officers were containing the scene. WO5 told the investigators that he picked up the knife and put it in his pants pocket. He was not asked whether it was open or closed when he did that. WO2 did have a clear recollection that the knife was open when it was subsequently presented to her, and it was open when it was photographed:



The AP was given first aid at the scene by WO1, and then taken to hospital by ambulance. He was treated for a serious injury to his right wrist and also underwent a psychiatric evaluation. The psychiatrist's notes indicate that the AP reported dropping the knife before being hit. The notes continue, "He then told me the knife was in his hand but not open, but also wasn't sure if it was the remote control".

LEGAL ISSUES AND CONCLUSION

The Independent Investigations Office of British Columbia is mandated to investigate 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 an officer, the IIO investigators collect evidence with respect to potential justifications for that use of force. The IIO then analyzes this evidence using legal tests such as necessity, proportionality and reasonableness to reach conclusions as to whether the officer's actions were lawful, or whether the officer may have committed the offence of assault.

The recording of the AP's 911 call demonstrates that, by the time police arrived, the AP was calm, simply expecting to be transported by paramedics to hospital for his own safety. From that perspective, it is unfortunate that instead, he was met by police officers aiming firearms at him. However, it was not unreasonable for initial contact with the AP in this case to be undertaken by police. The information they had was that there was a potential for unpredictable behaviour from the AP, and that he was in possession of an edged weapon.

There are inconsistencies between the accounts of the witness officers, and between the AP's account and that of the police. In weighing the significance of those inconsistencies, it is important to bear in mind that the most relevant consideration is the SO's perception of risk at the time he discharged his weapon.

It is also important to appreciate the role of a "less-lethal" operator in a situation such as the one faced by officers in this case. The SO was effectively the first line of defence against any threat of harm from the AP. The motivation for his deployment of beanbag projectiles would be to avoid the need to use lethal force, which would likely become necessary if the AP were to approach aggressively and if the beanbags failed. From that perspective, it must be considered whether the SO's discharge of his beanbag shotgun

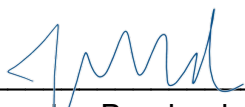
was reasonably justified as a pre-emptive act to disarm or disable the AP before a higher level of force might become necessary.

Based on the evidence, there is uncertainty about whether the folding knife in the AP's hand was open or closed. The AP said it was closed, which is consistent with his account that he was bringing it out to give to the paramedics. Other than WO3, the witness officers were uncertain on the issue. Even WO3 gave somewhat variable evidence about it, and his account of the incident is inconsistent in several respects with the evidence of other officers. It may be significant that when WO5 picked the knife up, he put it in his pants pocket. That is not something a person would usually do with an exposed blade: if the blade is pointed down, there is the likelihood of damage to the pocket; if, on the other hand, the knife is in the pocket with the blade up, there is a risk of injury when reaching into the pocket to retrieve the knife. On balance, the evidence tends to lead to a conclusion that the knife may well have been closed, which was why the officers had to ask what it was that the AP was holding in his hand.

Although the SO did not provide any evidence, evidence from other witnesses supports a finding that the SO was facing a person who had threatened to use a knife to harm himself, who had acknowledged that he was still holding it as he exited his apartment, and who did not immediately drop it when directed to do so. The officers were facing this person in a narrow hallway and would have little alternative to the deployment of lethal force if the AP were to run at them and beanbag rounds were not deployed quickly and effectively. In those circumstances, the SO's decision to fire his weapon was not an unreasonable or excessive use of force.

No other significant force was used against the AP in the course of the incident, and the evidence is that police immediately provided first aid for the AP's injuries.

Accordingly, as 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 the matter will not be referred to Crown counsel for consideration of charges.



Jessica Berglund
Chief Civilian Director

January 28, 2025
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