



**IN THE MATTER OF THE INJURY OF A MAN
WHILE BEING APPREHENDED BY A MEMBER OF THE RCMP
IN KITIMAT, BRITISH COLUMBIA
ON DECEMBER 11, 2023**

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

Chief Civilian Director:

Jessica Berglund

IIO File Number:

2023-354

Date of Release:

September 22, 2025

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

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

INTRODUCTION

On the morning of December 11, 2023, a pickup truck was reported stolen in Terrace. The stolen truck was subsequently located in Kitimat. During the arrest of the Affected Person (“AP”) by the Subject Officer (“SO”), the AP discharged pepper spray in the direction of the SO. The SO fired a round from his duty pistol and the AP was injured. The SO was the only police officer present at the time of the incident (witness officers arrived on scene shortly afterwards). 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, six civilian witnesses, one paramedic and four witness police officers;
- police Computer-Aided Dispatch (“CAD”) and Police Records Information Management Environment (“PRIME”) records;
- audio recordings of police radio transmissions;
- video recordings from residential security cameras;
- scene and firearm examination; and
- medical evidence.

The IIO does not require officers who are the subject of an investigation to provide an account of their actions. In this case, the SO has not provided any evidence.

NARRATIVE

At 7:00 a.m. on December 11, 2023, a pickup truck was reported stolen from a residence in Terrace. The stolen vehicle was later observed driving towards Kitimat and an RCMP officer attempted unsuccessfully to pull it over, using his police vehicle's emergency lights and siren. When the pickup was then seen to enter a neighbourhood with a single entrance/exit, police again tried to stop it using a spike belt, but the truck drove around the spike belt and continued into Kitimat. Shortly after 9:00 a.m., a civilian witness called 911 to report that a vehicle (the stolen pickup) had driven along a sidewalk, forcing a mother with a child in a stroller to leave the sidewalk to avoid it.

The Affected Person ("AP"), interviewed later by the IIO, said that he had been a passenger in the vehicle with three other individuals that he declined to identify. He said he was "high" on crack cocaine, marijuana and alcohol at the time, and was wearing a balaclava. He said that he thought he was being hunted by other people and had accepted a ride out of Terrace to escape them.

The AP said the pickup parked in Kitimat. After all four occupants had exited the vehicle, the AP saw another vehicle, with no markings, stop behind it. He said the other occupants of the pickup ran away past the second vehicle, and he ran away in the other direction. The AP said a man ran up behind him and grabbed him by the left shoulder, turning him backwards. The AP had a canister of bear spray in his right hand and sprayed it back over his left shoulder at the person.

As soon as he did that, the AP said, he realized that the man was a police officer (the officer was in uniform). The AP said he then ran another four or five feet and was shot in the right rear shoulder. When IIO investigators informed the AP that his bear spray can was found to have a bullet hole through it, the AP acknowledged that it was possible he was still spraying backwards at the time he was shot.

Police radio traffic recordings show that the Subject Officer ("SO") notified Dispatch at 9:12 a.m. that he was "with" the stolen pickup, and about 25 seconds later he can be heard on the recording telling the AP to "get on the ground." The initial part of that second transmission is distorted and unintelligible, but it appears that the officer was announcing, "Shots fired" because he asks, about two minutes later, whether his "Shots fired" call was heard.

Responding officers found the SO holding the AP down on the ground and provided first aid to the AP, who was bleeding from a bullet wound to the back of his right shoulder. The SO stated that he had been “bear maced” and was showing symptoms consistent with that, such as red face and eyes, tearing and coughing. Both the SO and the AP appeared to have been heavily contaminated with bear spray. The spray canister was found on the ground nearby, and had apparently been completely penetrated by a bullet. Video recordings from the RCMP detachment show the SO arriving after the incident in evident distress, covering his eyes and with his hands outstretched as he is assisted into and through the building by another officer.

The AP’s clothing and backpack were found to contain a black airsoft pistol, another can of bear spray, a collapsible baton, and an open “Karambit”-style knife. He was subject, at the time, to a court-ordered weapons prohibition. The AP was found to have suffered a bullet entry wound in the back of his right shoulder. The bullet had fragmented, and the fragments had followed a track generally downward and from right to left towards his lower spine.

Scene and firearm examinations, as well as accounts from civilian witnesses who did not see the encounter but heard a single gunshot, establishes that the SO fired only one round. CCTV from a nearby residence showed that two people who were in the stolen vehicle with the AP likely witnessed the incident, however, they were not identified. One person who was in the stolen vehicle had already left the area and was out of sight at the time of the incident.

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 potentially 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.”

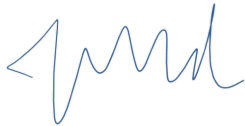
Without an account from the Subject Officer, the sequence of events leading to his deployment of potentially lethal force can only be reconstructed by reference to the physical evidence, as well as admissions made by the AP.

As set out above, the AP acknowledged discharging the bear spray at the SO, initially over his left shoulder, and added that he may have been spraying as he continued running and was shot. The medical and physical evidence, including the fact that the SO’s bullet appears to have passed through the bear spray canister before striking the AP, assists further. That only one bullet was fired by the SO and that the bullet passed fully through the bear spray canister before entering the AP’s rear shoulder indicates that the canister was positioned between the SO and the AP’s right rear shoulder at the time the AP was shot.

It appears likely that, after his initial use of the spray, the AP turned away from the SO to continue his attempted flight. At the same time, the AP extended his right arm and hand behind him and pointed the bear spray canister toward the SO. As noted above, the AP acknowledged that he may have continued to spray the SO at this time. If the AP was continuing to spray the SO while attempting to run away, the SO was encountering a continuing assault with a weapon capable of rendering him effectively unable to defend himself. If on the other hand the AP was simply pointing the canister at the SO while attempting to flee, the SO, having already been sprayed by the AP, could reasonably believe himself under threat of being sprayed a second time. The short distance of four or five feet between the AP and SO at the time of the shooting would place the AP and the SO within arm’s reach of each other and would place the SO well within the bear spray manufacturer’s stated effective range of the bear spray.

In either scenario, the SO was facing an assault with a weapon that could leave him unable to defend himself and therefore vulnerable to further assault. The person he was trying to apprehend had shown himself willing to use a weapon (the bear spray) in order to escape, and it would have been reasonable for the SO to fear that the AP may continue to pose a threat of grievous bodily harm or death. If that was the SO's subjective belief, he was justified in using potentially lethal force in self-defence.

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

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