



**IN THE MATTER OF THE INJURY OF A MAN
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN PENTICTON, BRITISH COLUMBIA
ON AUGUST 12, 2024**

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

Chief Civilian Director: Jessica Berglund

IIO File Number: 2024-191

Date of Release: March 7, 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 early morning of August 12, 2024, the Affected Person (“AP”) went to a park in Penticton, intending to force police officers to shoot him by making threats with a knife. When the AP was found by officers, he refused instructions to drop the knife he was holding and surrender to police. The Subject Officer (“SO”) discharged two foam projectiles from a “less lethal” 40mm launcher, and the AP was struck in the eye and seriously injured. 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, three civilian witnesses, two paramedics and four 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;
- dash camera recordings from police vehicles;
- scene examination and photographs;
- police training records;
- results of 40mm launcher testing; and
- medical evidence.

NARRATIVE

Affected Person

The Affected Person (“AP”) told IIO investigators that on the morning of August 12, 2024, he “decided to commit suicide” by provoking police to shoot him. He said he left a note on the family computer, drank some alcohol, “snuck” out of the house and went to a park by the beach.

The AP said he called 911, pretended that he was being chased by a person he had seen stabbing someone, and then disconnected the call. He said he saw police driving around the park, but felt they were taking too long, so he called again and said the suspect was at the washrooms, which is where the AP was waiting to be discovered.

As officers approached, the AP said, he put his hand up against a pillar and put a knife against the wrist. His intention had been to cut his own wrist and then run at the police, hoping they would shoot him. He said he wore a balaclava to “de-humanize” himself, thinking it would make the officer who killed him feel less guilty.

The AP said that the first officers on scene were “professional” and did not escalate the situation. He said he found he did not know what to do, and if he had been given a little more time, would probably have put down the knife.

The situation escalated quickly, though, when the Subject Officer (“SO”) arrived with a 40mm projectile launcher. The AP said that he told police, “If you run towards me, I’ll run towards you.” He recalled that he may also have said, “What are you going to do, shoot me?” but added that he had not moved at the time he was shot in the face with a projectile by the SO (a civilian witness with whom the AP spoke after the incident reported that the AP acknowledged to them that he had taken about three steps away from his position and back just before he was shot).

Police Evidence

Four police officers had gone to the park in response to the AP’s original 911 call. They patrolled the area in separate vehicles, but were unable to locate either a stabbing victim or a suspect. When Dispatch reported that the 911 call had come from a cell phone registered to the AP, the SO went to the AP’s home address to see if he had returned there. Civilian Witness 1 (“CW1”) told the SO that the AP was not there and that he did not know where the AP was.

At about the same time, the AP’s second 911 call was received, sending police to the area of the park washrooms. Witness Officer 1 (“WO1”) told the IIO that as he approached

the area, he was told by a city worker, Civilian Witness 2 (“CW2”) that there was a suspicious-looking man on the other side of the washroom building, wearing a balaclava. WO1 radioed that information to the other searching officers and waited for backup to arrive. When Witness Officer 2 (“WO2”) joined him, WO1 told WO2 that he believed it to be a “suicide by cop” situation. Witness Officer 3 (“WO3”) had gone to another nearby beach area to search and was on his way back.

WO1 told investigators that, based on the 911 calls, he believed the suspect had a knife. He said he decided that a Conducted Energy Weapon (“CEW” or “Taser”) would not be a safe force option to use: if it were not effective, there might not be time for the officer to draw and fire his pistol before being seriously injured in a knife attack. Because of this, WO1 approached the washrooms with his pistol drawn, and WO2 carried a police carbine. WO1 said that he considered that a “less lethal” 40mm launcher would have been an effective option, but the only involved officer who had one with him was the SO, who was occupied at the AP’s home.

When the two officers came around the corner of the washroom building, they saw a man (the AP) dressed in dark clothing and a balaclava, standing in the vestibule. WO1 said the AP appeared to be trying to hide behind a post, and appeared to be rocking back and forth, a hunting knife in his right hand. The officers told the AP to come out showing empty hands, but the AP did not comply, becoming increasingly agitated and saying he wanted to die. The AP was not responsive to the officers’ attempts to calm him or to their offers of help, telling them that he would charge at them if they came any closer. WO1 said he saw the AP step forward and then back as the attempts at de-escalation continued.

Alerted by radio calls from the other officers to the developing situation at the park, the SO left the AP’s residence and drove towards the scene. A data download from his police vehicle indicates that while *en route*, he drove at speeds up to 147 km/h.

Early morning walkers were starting to appear on the boardwalk close to the washroom area. CW2 assisted WO3, who had arrived back at the scene, in redirecting bystanders away from the area.

The SO then arrived, and retrieved his 40mm launcher from his vehicle, loading it with a projectile. He then walked out in front of his vehicle and his actions at that point were recorded on the Watchguard dash camera system of the vehicle. He tried for several seconds to get the red dot sight on the launcher to operate, but then flipped up the open “iron” sights (subsequent testing found that the red dot sight was non-functional). He can then be seen on the video recording taking a few steps towards the AP and saying something three times while aiming the weapon.

The SO's voice is not audible on the Watchguard video, but WO1 told the IIO that the SO was warning the AP that if he did not comply he would be struck with an impact round. WO1 said that the AP replied, "Go ahead and do it."

The SO was approximately 20 metres from the AP's position when he fired a round at the AP (the distance was measured during subsequent scene examination). The SO then moved closer, reloading the weapon, and fired a second shot from a position approximately 12 metres from the AP. The video evidence shows that the second shot was fired about 12 seconds after the first.

The first projectile struck the AP in the face, and WO1 said the AP threw up his hands in pain, dropping the knife, which landed on the ground three to five feet from him. WO1 said the AP remained on his feet, but appeared "stunned". There was then a second shot, WO1 said, and the AP immediately fell to the ground. WO1 did not provide an estimate of the time interval between the shots. WO1 said he could not see exactly where the second round struck, but thought it also struck the AP in the face. He told the IIO that he thought the SO probably fired the second round because he could not see where the knife was.

WO2 told the IIO that he was aiming his police carbine at the AP when he heard the SO fire the first round. He said he did not see where the projectile struck the AP, but saw the AP sway backwards and then fall to the ground, with his back to the police. Running forward, WO2 said, he could see the knife lying beside the AP, who was face down on the ground. WO2 said that, as he advanced, he could see that the AP's hands were tucked under him, and WO2 was unsure if there was another weapon. He said there was then a second shot from the SO, approximately two to three seconds after the first, which he thought struck the AP in the back of his thigh.

The AP's arrest and subsequent events

Civilian Witness 3 ("CW3"), who was on the boardwalk and watched the events from a distance, told the IIO that the AP fell to the ground after the first shot, and two seconds later there was a second shot. He said he saw the officers hitting the AP as they were putting him into handcuffs, but added that the punches were "not that hard".

The officers moved in and attempted to get control of the AP's arms to get him into handcuffs, but had difficulty doing so, and both the SO and WO2 delivered what WO2 referred to as "distractionary" blows to the AP to gain compliance. The AP told IIO investigators that the officers had trouble controlling his arms because they were covered in blood and difficult to grip. He recalled being struck on the back of the head and said he later found small superficial cuts in the area where he was struck.

WO3 said he approached after hearing the shots, and asked the SO what had happened. He said the SO told him that he had been aiming at the AP's chest area, so did not know how the projectile struck the AP in the face.

An attending paramedic told the IIO that he found the AP on the ground in handcuffs, shouting and thrashing around, saying, "I just wanted to die." The paramedic said that he was told by one of the officers that the AP had ducked his head when the first shot was fired, which caused him to be hit in the eye.

The AP was found to have suffered "extensive fractures to the left orbital area" and catastrophic damage to his left eyeball, which had to be removed. He told the IIO that he also found he had a large bruise on his buttock, with a corresponding hole in his underwear.

The SO's 40mm launcher was tested, and was found in that test to strike a target several inches below the aim point at a distance from the target of 10 metres, using the "iron" sights. The red dot sight was found to be inoperative, apparently because of a dead battery.

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 officers, 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 officers' actions were lawful, or whether an officer may have committed the offence of assault.

The AP placed WO1 and WO2 in a difficult situation. He told them he would charge at them with a knife, the clear implication being that he was threatening them with grievous bodily harm or death. Their efforts to negotiate and de-escalate were appropriate, and it is unfortunate that they were unsuccessful because de-escalation was not the AP's goal.

When the SO arrived on scene with a 40mm projectile launcher, which has a significantly longer effective range than WO1's CEW, that became the safest and most effective force option to use, and its deployment was justified in the circumstances. The evidence is that, before firing, the SO gave the AP multiple verbal warnings about what would happen if the AP did not comply with police instructions to drop the knife and surrender peacefully.

Unfortunately, the first projectile struck the AP in his head, which is an area of the body that operators of the launcher are specifically trained to avoid. It is not clear why this happened. As detailed above, while the weapon's red dot sight was not functional, the "iron" sights were found to be serviceable when tested, and projectiles were found to hit a target 10 metres from the shooter slightly below the aim point, using the "iron" sights. There is no obvious explanation why the SO's first shot, fired from the greater distance of 20 metres, would have struck higher than the point aimed at.

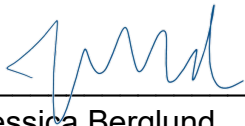
There are additional discrepancies in the evidence. As set out above, there are inconsistencies in witnesses' accounts about the sequence of the critical events. WO1 told the IIO that the AP remained standing until the second shot. WO2, on the other hand, said that the AP fell to the ground after the first shot, and that a second projectile then struck him in the back of his thigh, two or three seconds later. CW3's recollection was similar to WO2's: that the AP fell immediately and that there was then a second shot two seconds later. The AP's evidence that after the incident he found he had a large bruise on his buttock would seem to corroborate WO2's account. The timing provided by both WO2 and CW3, though, is not at all consistent with objective video evidence showing that there was a pause of about 12 seconds—not two or three—between SO's shots.

The most plausible account to draw from the evidence is that the SO's first shot struck the AP in the face, severely damaging his left eye. In reaction, the AP threw up his hands, causing the knife to fall to the ground, and he immediately fell face down, turning away from the officers. As WO2 advanced on the AP, the SO also advanced, saw that the AP was down but had his hands out of sight under him, and fired a second shot at the back of the AP's upper leg to prevent him getting back on his feet, possibly still wielding a weapon. The reason the first projectile struck the AP in the face may have been the

manner in which the 40mm launcher had been sighted in, a malfunction of the weapon, a sudden ducking motion by the AP, or simply poor aim by the SO. There is no evidence that the SO intentionally aimed at the AP's head rather than his body.

The evidence, including the AP's own statement, shows that it was not easy for the officers to subdue and control the AP and apply handcuffs. Both the SO and WO2 struck the AP during that process in an effort to distract him from his efforts to resist, but it does not appear that the force used by either officer was excessive in the circumstances, and no significant injury resulted.

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

March 7, 2025
Date of Release