



**IN THE MATTER OF THE SERIOUS HARM OF A MALE  
WHILE BEING APPREHENDED BY MEMBERS OF THE  
ABBOTSFORD POLICE DEPARTMENT IN  
THE CITY OF ABBOTSFORD, BRITISH COLUMBIA  
ON JUNE 28, 2020**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2020-147

Date of Release:

December 10, 2020

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## **Introduction**

On June 28, 2020 at approximately 7:30 p.m., the Abbotsford Police Department ('APD') responded to a report of a man [Affected Person or 'AP'] believed to have a gun in his hand on a public street. Officers contained the area and engaged with AP, who was non-compliant to the police commands to drop the weapon. During these interactions, a bean bag shotgun and police service dog were deployed, and AP was taken into custody with injuries to his elbow and lacerations on his arms and legs.

Because the injury occurred in connection with the actions of police officers, 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 four civilian witnesses;
- statements of seven witness police officers;
- statement of one subject officer;
- statement of AP;
- statement of attending paramedic
- video of the incident;
- recordings of the police radio transmissions; and
- medical records of AP.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, one subject officer did provide evidence to the IIO.

## **Narrative**

On June 28, 2020 at approximately 7:30 p.m, the Abbotsford Police Department ('APD') responded to a report of a man [Affected Person or 'AP'] believed to be in possession of a gun on a public street.

The report came in to APD from Civilian Witness 1 ('CW1') via a message that said they had seen a male possibly holding a gun. CW1 had been in the area with Civilian Witness 2 ('CW2'), who had witnessed AP trying to conceal the handgun, and described the gun as a "black glock" to dispatch.

Three minutes later, Witness Officer 1 ('WO1') arrived to the area of the call. As she was driving, she saw AP sitting in a lawn chair in front of a building on the street tossing a gun in the air from hand to hand. Witness Officer 2 ('WO') arrived shortly after and began

coordination of a high-risk arrest, due to the danger that AP presented to both public and police because he was armed.

The incident was captured by Closed-Circuit Television (CCTV) video. WO1 and WO2 positioned themselves behind a building pillar (for cover) at about a 10 to 15 meter distance away from AP. WO2 had his rifle pointed at AP and WO1 had her pistol out. WO2 gave commands to AP to drop the weapon. AP put the gun on the ground, but it remained within his reach. WO2 requested 'less lethal' to the scene while continuously giving AP commands to show his hands and advised him he was under arrest. AP did not comply with the commands and stayed next to the gun yelling at the officers that he was "*not under arrest*" and to "*fuck off*".

More officers arrived, including Subject Officer 1 ('SO1') who had a bean bag gun. AP stood up and turned his back to the officers, still in direct reach of his own gun. The distance between AP and the gun was estimated by the involved officers to be a few feet, described as an "*arms reach*". The video evidence confirmed a likely distance of one or two feet between AP and gun.

SO1 deployed one bean bag round, hitting AP's back with no reported effect. SO1 then deployed three more rounds hitting AP's right arm. WO2 stated the second round hit AP's forearm, the third round hit his elbow causing it to bleed, and the fourth round hit his bicep.

WO2 stated that after these three rounds hit AP, AP lay down on the ground. His arm was bleeding heavily, but AP stayed within arm's reach of the gun. A review of the video evidence indicates that the gun was now located almost against the AP's right leg, and approximately one or two feet from his right hand. WO2 requested paramedics to attend.

Subject Officer 2 ('SO2') and his police service dog arrived at the scene. In his statement provided to the IIO, SO2 said that he considered it was still a very high-risk situation, with AP still in reach of the gun and not following orders from members to crawl away from the gun. SO2 deployed his police service dog, which pulled AP backwards. The police service dog temporarily lost grip on AP, then reengaged AP pulling him 15-20 meters backwards and away from AP's gun. AP was then handcuffed and taken into custody.

AP said that he did not have a weapon and that he was not aggressive at the time the police service dog bit him. Civilian Witness 3 ('CW3') said that officers "warned him, like, just like get down please, get down". CW3 said that the only time AP complied was when CW3 yelled out at him when the dog was biting him and he "just gave up". It was later discovered that the AP's gun was, in fact, a BB gun.

Immediately after the arrest, WO2, who is a certified high level first aid attendant, applied a tourniquet to AP's arm to stop the bleeding. WO2's quick actions may have

saved AP's life. He was taken to hospital for treatment. He had injuries to his elbow and lacerations on his arms and legs.

### **Legal Issues and Conclusion**

The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death.

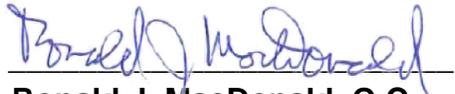
More specifically, the issue to be considered in this case is whether either officer may have committed an offence, either by discharging bean bag rounds or by deploying a police service dog on AP that caused injury. If an officer is acting as required or authorized by law, on reasonable grounds, he/she is justified in using as much force as necessary. Use of unauthorized or excessive force, on the other hand, could result in criminal liability.

In these circumstances, all officers were acting lawfully, in execution of their duties when they responded to a complaint that AP had a gun on a public street. There was a danger to the public, which was evidenced by WO1 seeing AP toss a gun from hand to hand in the middle of the street. By many accounts, the gun that AP possessed looked real and the officers had to treat it as such. There were members of the public around, and it was necessary that officers ensured everyone's safety, including AP himself.

Officers engaged with AP and gave commands for AP to move away from the gun, but he did not comply. All that was required of AP was to move away from the gun and to lie on the ground to be taken into custody. The video evidence demonstrates that AP did not do that. AP remained in close proximity to his gun, and from the accounts of both police and civilian witnesses, he was not listening to commands.

It would not have been appropriate for members to approach AP and attempt to simply lay hands on him when a weapon was so close. It was both necessary and reasonable, in those circumstances, for AP's compliance to be obtained initially by the use of the bean bag gun and then by a police service dog to physically move him. This reduced the risk of bodily harm that would otherwise have been faced by the arresting officers and the public if AP accessed his gun. Although AP may have not believed there was a danger posed by his weapon, the officers could not take that chance. The force used was necessary and reasonable in the circumstances.

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, Q.C.**  
**Chief Civilian Director**

December 10, 2020

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