



PUBLIC REPORT OF THE
CHIEF CIVILIAN DIRECTOR

Regarding a fatal officer involved shooting
on January 17, 2014, involving a member of
the RCMP in Surrey

IIO 2014-000013

INTRODUCTION

The Independent Investigations Office (IIO) is responsible for conducting investigations into all officer-related incidents which result in death or “serious harm” (as defined in Part 11 of the *Police Act*) within the province of British Columbia. As the Chief Civilian Director of the IIO (CCD), I am required to review all investigations upon their conclusion, in order to determine whether I “consider that an officer may have committed an offence under any enactment, including an enactment of Canada or another province.” (See s.38.11 of the *Police Act*). If I conclude that an officer may have committed an offence, I am required to report the matter to Crown Counsel. If I do not make a report to Crown Counsel, I am permitted by s.38.121 of the *Police Act* to publicly report the reasoning underlying my decision.

In my public report, I may include a summary of circumstances that led to the IIO asserting jurisdiction; a description of the resources that the IIO deployed; a statement indicating that the IIO, after concluding the investigation, has reported the matter to Crown Counsel; or a summary of the results of the investigation if the matter has not been reported to Crown.

This is a public report related to an investigation into the death of an adult male that occurred on January 17, 2014, in the city of Surrey. The male affected person sustained a fatal gunshot wound to the chest after being shot by an RCMP officer.

Pursuant to s.38.11 of the *Police Act*, RSBC 1996 Chapter 367, I have reviewed the concluded investigation. I do not consider that any officer may have committed an offence under any enactment and will not be making a report to Crown Counsel.

In my public report, I am only permitted to disclose personal information about an officer, an affected person, a witness, or any other person who may have been involved if the public interest in disclosure outweighs the privacy interests of the person. Prior to disclosing any personal information, I am required, if practicable, to notify the person to whom the information relates, and further, to notify and consider any comments provided by the Information and Privacy Commissioner (s.38.121(5) of the *Police Act*).

In this case, I have considered the advice provided by the Information and Privacy Commissioner. In this report, I will not be using the name of the affected person or of any other person involved in this matter.

NOTIFICATION AND JURISDICTION DECISION

At 9:09 p.m. on January 17, 2014, the Surrey RCMP received a call of a possible suicidal male. Officers attended the residence and made contact with the landlords. The subject officer, assigned to the Lower Mainland Police Dog Section also responded to the scene and deployed his police service dog in an attempt to locate the affected person. Less than five minutes after beginning his search, the subject officer shot and killed the affected person.

The IIO was notified immediately. Jurisdiction was immediately sustained as the death was clearly caused by an officer.

Investigative Evidence Considered

While there were no witnesses who saw the incident, there were several witnesses who provided evidence about what they heard. Forensic evidence was also obtained at the scene and from the affected person's suite. Analysis was completed on the firearms. Radio communications were reviewed as well as video from the residence.

There were several witness officers who provided information about what they heard as well as details about spontaneous comments made by the subject officer after the shooting.

Witness Officers

Witness Officer 1 (WO1) was interviewed by IIO investigators in the early morning hours of January 18, 2014. He was the first officer to arrive at the affected person's suite in response to a call to conduct a welfare check.

He entered the affected person's suite and while the affected person was not there, WO1 found what he believed was a suicide note. In order to try to locate the affected person, WO1 spoke with the landlords and asked to view the video from the surveillance system hoping to determine when the affected person left and what he was wearing.

While WO1 and the landlords were watching the video, WO1 stated he heard "one large bang" which he described as sounding like a shotgun blast coming from the end of a cul-de-sac and towards a ravine.

As WO1 was exiting the residence, he heard a radio transmission come through stating there were shots fired. WO1 could see Witness Officer 2 (WO2) and Witness Officer 3 (WO3) crouching down taking cover behind his police vehicle. He ran over to them and took cover with them, having his firearm un-holstered in his hands.

According to WO1, he could hear the subject officer screaming, "help, help, I am over here" and something like "I got him, I got him, I am right here." WO1 stated he did not run straight away as it was dark and the visibility was poor with fog everywhere.

WO1 stated he took out his flashlight and could see the subject officer on top of someone; at this point he ran over to assist. When he went over to the subject officer, he could see that the subject officer was on top of the affected person, holding him down and with a hold on one of his arms. WO1 took control of the affected person's arm from the subject officer and was able to handcuff the affected person with the assistance of WO2.

WO1 stated he stood up and noticed a non-police issue shotgun with a red shotgun shell lying on the ground near the affected person. WO1 then made a radio transmission request for an

emergency ambulance to attend. WO1 checked the subject officer for injuries. At that time, the subject officer made comments like “it went right by my head; I felt it go right by.” According to WO1, the subject officer appeared upset.

Witness Officer 2 (WO2) was interviewed by the IIO in the early morning hours of January 18, 2014. WO2 confirmed that he arrived at the affected person’s suite with his police recruit, Witness Officer 3.

As the affected person was not located, WO2 was waiting in front of the residence when the subject officer arrived with his police service dog. WO2 noted that while in the affected person’s suite, he saw shotgun shells in a bedroom bedside table and shotgun and rifle rounds above the gun safe. He was also aware that a suicide note had been found inside the suite.

When the subject officer arrived, WO2 briefed him on the situation. WO2 saw the subject officer deploy his police dog on a lead and walk down the street towards the end of the cul-de-sac into the heavy fog.

WO2 heard WO1 on the radio saying he was coming out to talk to him, then immediately heard a single loud shot. This was followed by one or two more gunshots that sounded different than the first.

WO2 drew his handgun, took cover behind a police car and radioed that shots had been fired. WO2 indicated that it was his impression that the first loud shot had been fired from a larger weapon than the following shots.

WO2 heard the subject officer call out in a panicked voice, but could not make out what was said. WO 2 called out into the fog to the subject officer asking: “Are you hit?” The subject officer responded that he did not know.

WO2 left his position and moved toward the direction he had last seen the subject officer going. Using his flashlight, he was able to see the affected person lying prone on the ground. The subject officer was low to the ground possibly kneeling beside the affected person trying to gain control of him.

According to WO2, the police service dog appeared to be tugging on the affected person’s ankle. WO2 told the subject officer to check himself for injuries. He said that the subject officer had a look of shock on his face and was saying something like “he shot at my head” or “he just missed my head.”

WO2 handcuffed the affected person behind his back. WO2 did not hear any noise or encounter any resistance from him. After rolling the affected person over, he saw a large amount of blood visible on his chest. He radioed for emergency medical service to attend without delay.

At this time, Witness Officer 4 (WO4) arrived. WO4 was well known for his first aid abilities. WO2 removed the handcuffs and WO4 began CPR on the affected person. As he and WO3 stepped back to give WO4 room to work, WO2 stepped on a pump action shotgun lying on the ground parallel to, and touching the affected person.

WO2 took control of the shotgun. Not seeing a safety, he removed one live shotgun round from the magazine tube and a second live shotgun round from the barrel. During his interview with the IIO, WO2 stated that he is a Basic Firearms Instructor for the RCMP and it was his opinion that the shotgun was loaded and ready to be fired when he took control of it. WO2 stated he used his handcuffs on the shotgun to lock the action open, rendering it safe, and later placed the shotgun in the trunk of his police car. Upon returning to the scene, WO2 stated that he saw multiple dry cigarettes, a red handled barbecue lighter, a cigarette pack, a set of handcuffs and a spent shotgun shell casing on the ground.

Witness Officer 3 (WO3) was interviewed by the IIO in the early morning hours of January 18, 2014. WO3 was a police recruit with approximately 2.5 months of field experience and was working with WO2 as his training supervisor.

WO3 stated that he and WO2 arrived at the affected person's suite approximately 10 minutes after WO1. After searching through the suite for any information that might assist in identifying the affected person's whereabouts, WO2 and WO3 searched the back yard of the residence. They moved to the front of the house and were waiting for a member of the affected person's family to arrive.

While waiting, the subject officer arrived with his police service dog. WO2 and WO3 briefed the subject officer on the situation. The subject officer advised that he would attempt to locate a track at the end of the driveway, but declined to have either WO2 or WO3 accompany him.

After the subject officer and his dog left, WO3 heard a loud "bang" that sounded like a gunshot. He clarified that he only heard the one loud bang. He ran to take cover behind his patrol car and drew his firearm. With WO2 in front of him and WO1 to his right, he heard a voice which he believed was the subject officer. WO3 was unsure as to what he said, but then WO2 called out "Are you okay? Have you been shot?"

According to WO3, the subject officer responded something like "I don't think so." WO1, WO2 and WO3 moved towards the end of the cul-de-sac. WO3 stated that he noticed a body at the corner of the street. He also observed a "hunting rifle" next to the affected person. WO3 stated that he asked the subject officer if he was okay. The subject officer responded by saying: "I think I am. It went right past my head."

Witness Officer 4 (WO4) was interviewed by the IIO on January 31, 2014. WO4 confirmed that he provided first aid assistance to the affected person upon his arrival on the scene. He also stated that when he arrived, he saw a long gun lying parallel and two to three feet from the affected person's body, at leg level.

Witness Officer 5 (WO5) was interviewed by the IIO on February 6, 2014. WO5 noted that when he arrived at the scene, he could smell gun-fire and could hear the police service dog barking, describing him as “going nuts.” WO5 described the weather conditions as “super foggy.”

WO5 stated that he went to check on the welfare of the subject officer; he could not get close to the handler because the dog was acting aggressively. He stated “I stood a couple of feet back from him...he had his hand on his head...I can’t remember what I asked him, I wanted to make sure he was safe, and he said he wasn’t hit, and he said something to the effect that I felt it go past my head.”

WO5 went to check on the affected person and saw blood on his chest. He observed a pump action 12-gauge shotgun with a tan, brown wooden stock beside the affected person, lying parallel to his right. He also saw what he believed to be a shotgun shell casing. He heard one of the officers (he was not sure who) say that the shotgun should be moved from the scene for officer safety reasons. He subsequently assisted WO4 with CPR until the ambulance arrived.

Witness Officer 6 (WO6) was interviewed by the IIO on December 1, 2014. WO6 noted that the conditions were “really, really foggy.” When he arrived at the scene, he saw the subject officer in his headlights. The subject officer was standing near his police SUV. WO 6 stopped nearby and went to him. WO6 stated that the subject officer appeared upset and seemed to be in some sort of shock. He was breathing fast and he was pacing back and forward. WO6 was concerned for the subject officer’s welfare and checked both him and his dog for injuries. The subject officer stated that he was not injured and said words similar to “I felt it go by my face.” With that comment he raised his hand to his own face and WO6 understood him to be saying that a gunshot just missed his face.

Witness Officer 7 (WO7) was interviewed by the IIO on November 5, 2014. He stated that he attended the scene and was assigned to take a public safety statement from the subject officer. As such a statement is compelled by RCMP policy and inadmissible in a criminal court, WO7 was not asked to provide the content of that statement to the IIO investigators. WO7 did state that when he first saw the subject officer, he was sitting in a marked patrol car, being watched over by WO6. WO7 stated the subject officer was “extremely shook up.” He observed the subject officer was shaking and making comments like “I don’t know how I’m still alive” and “I don’t know how I’m still here.” From those comments, WO7 understood the subject officer to be referring to an exchange of gunfire and that the subject officer was “surprised he hadn’t been shot.”

Civilian Witnesses

Civilian Witness 1 (CW1) was interviewed by the IIO on January 18, 2014. CW1 (a landlord of the affected person) confirmed that officers attended the residence to conduct a welfare check on the affected person. CW1 described one of the officers (WO 1) coming into the residence to

review the video from the surveillance system. CW1 did not hear any shots fired prior to seeing WO 1 run down the stairs and out the door. CW1 could see the officers hiding behind a truck and a police car and then heard shots fired. CW1 recalled hearing four to six shots; CW1 was sure there were at least four. CW1 described initially hearing two shots, then two more shots.

Civilian Witness 2 (CW2) was interviewed by the IIO on January 18, 2014. According to CW2 (a landlord of the affected person), he was reviewing the video with WO 1 when WO 1 spoke on his radio and then ran down the stairs. CW2 stated that as he ran down the stairs with WO 1, the shots were fired. He described the shots as a “pop, pop.”

It should be noted that the radio communications and video contradict the descriptions of the sequence of the events as provided by CW1 and CW2. The evidence is conclusive that WO1 called on his radio that he was coming outside to talk to the other officers and that within 10 seconds of that call, officers reacted to shots being fired.

Neighbourhood Canvass

A neighborhood canvass was conducted and numerous witnesses who heard the gunshots were interviewed.

Civilian Witness 3 (CW3) described hearing “a loud bang, like a shotgun. Then two more that weren’t as loud.” CW3 described a two to three second delay between the first shot and the second shot.

Civilian Witness 4 (CW 4) described hearing what he thought were fireworks. CW 4 heard one louder bang, followed by a short pause and then two other shots. He described that he “sort of felt the concussion of the loud bang.”

Other neighbors, who were in residences further away from the cul-de-sac, gave differing descriptions of the shots.

Civilian Witness 5 heard two or three pops. He heard two shots quickly and one a few seconds after that.

Civilian Witness 6 described hearing three gunshots and after, overheard conversations between the subject officer and another officer – (he) “sounded like he was pretty shook up.”

Civilian Witness 7 described hearing “three noises of the shotgun occurring in quick succession (in less) than two seconds.”

Civilian Witness 8 heard three or possibly four shots. One shot was louder than the others, but he was not sure which one it was. He heard a few that were quick, that sounded like a handgun, because they were faster.

Civilian Witness 9 described hearing two bangs, one after the other in quick succession.

Civilian Witness 10 heard three or four gunshots and noted that there was a definite pause between some of the shots; a couple seemed like rapid fire and then a pause and another one.

Autopsy Report

A forensic autopsy was performed on the affected person on January 20, 2014. The report was received by the IIO on May 12, 2014. Two bullets were recovered; one of the two bullets caused a fatal wound.

The fatal wound was identified as a “perforating gunshot wound of [the] chest.” An entrance wound was located over the lateral upper chest on the left side of his chest. An exit wound was located on the right side of the body, slightly under the armpit. The trajectory of the fatal wound was described as “from left to right, slightly downward and slightly front to back.”

A second entry wound was located in the upper right arm and the bullet was subsequently recovered from the right arm. The pathologist documented that the gunshot wound to the arm “may represent the terminal trajectory of the perforating gunshot wound to the chest (i.e. re-entry (into) the right arm after exiting the right chest.”

The trajectory of the wound would be consistent with the affected person’s body having been bladed towards the subject officer at the time he was shot, with his left side slightly facing the subject officer.

A second bullet was recovered from the affected person’s body. The entrance wound was located in the left thigh and the bullet was located near the anus. The direction of fire was described as “upward and left to right with minimal front to back deviation.”

The pathologist noted “No soot or stippling was associated with any of the wounds,” which would be expected if the officer’s firearm had been discharged in close proximity to the affected person’s body.

A serious wound, consistent with a dog bite, was found on the affected person’s left lower leg. Multiple injuries included a significant laceration exposing the tibia bone, and the associated musculature and tendon of the leg.

The pathologist determined that death would have resulted from major blood loss within seconds to minutes. The gunshot wounds to the right arm and the left leg were not considered to have made a significant contribution towards causing death. Although the dog bite was described as “a large, deep and destructive injury, involving muscle tissue and exposing bone,” death was associated to the perforating gunshot wound of the chest and not attributed to the dog bite injury.

A toxicology test determined that at the time of death, the affected person would have been impaired.

Evidence Recovered at the Scene

An expended shotgun cartridge was recovered from the scene, near the location where the affected person was shot.

Even though multiple extensive searches were conducted, none of the cartridges expended from the subject officer's firearm were located at the scene. The scene was near a ravine and it is believed that the cartridges were likely lost in the ravine area. Nor were any of the pellets associated with the shotgun cartridge found at the scene. It is noted that each shotgun shell contained nine metal projectiles with a diameter of approximately 5/16 inches. If the shotgun were fired at an upward angle, the likelihood of locating any of these small pellets would be remote.

WO2 reported that he recovered a shotgun which was lying next to the affected person. According to WO2, he placed the shotgun in his patrol car trunk, after making it safe by removing two shotgun shells from the shotgun. WO2 stated that the shotgun was ready to shoot, with a shotgun shell loaded in the barrel.

Recovered at the scene was the affected person's cell phone, a pair of eyeglasses, two cigarette packages, some unused cigarettes, a fleece jacket and hoodie and a BBQ lighter.

Forensic Analysis

The subject officer's RCMP-issued handgun was recovered. An examination of the firearm confirmed that there were 13 rounds loaded in the magazine. The magazine was determined to hold a maximum of 15 rounds. The firearm did however have a maximum capacity to hold 16 rounds if the user were to elect to load the gun with an extra round in the chamber.

Forensic evaluation determined that the two bullets recovered from the affected person's body during the autopsy were fired from the subject officer's firearm.

Forensic evaluation also determined that the expended shotgun cartridge found at the scene, near where the affected person was shot, was fired from the shotgun seized by WO2. The firearm was examined and determined to be a Mossberg 12 gauge pump action shotgun.

Both firearms were examined and determined to be working according to manufacturer specifications and neither firearm was prone to an accidental discharge.

A forensic examination of the affected person's clothing determined that there was no evidence of any firearm discharge residue. Testing of the subject officer's firearm clarified and confirmed that no firearm discharge residue would be observed on the affected person if the muzzle to target distance exceeded six feet.

The shotgun was examined for latent prints prior to functionality testing. No latent fingerprints were developed. It should be noted that it is not uncommon for latent prints to be unable to

be recovered from firearms and that the failure to recover such prints cannot be considered conclusive evidence that the firearm was not touched by any particular person.

The IIO investigation determined that the shotgun at issue was, in fact, owned by the affected person. DNA analysis of the shotgun was determined to be unnecessary as it would not establish whether or not the affected person possessed the shotgun at the time of the incident. Further, there is independent evidence that the shotgun was handled by an officer at the scene.

Evidence Recovered from the Affected Person's Residence

WO1 reported that he located a note in the affected person's suite. This was provided to the IIO. The note indicated the affected person's intent to take his life.

A box of shotgun cartridges was reportedly located by an RCMP officer in a bedside cabinet in the affected person's bedroom. The box was designed to hold five shells and contained only two. These were of the same make and type as those recovered from the scene and shotgun. As previously indicated, one expended cartridge was located at the scene and two additional cartridges were reportedly extracted from the shotgun by WO2.

Firearm History

The shotgun obtained by the IIO from WO2's trunk was determined to have been sold to a member of the affected person's family in 1971. The family member confirmed he subsequently gave the shotgun to the affected person.

ISSUES

The general issue after any IIO investigation is whether a person suffered serious harm or death as a result of the actions of an officer and, if so, how and why. If I consider that an officer may have committed an offence, then I must forward a report to Crown Counsel. There are a number of legal issues to be considered in this case in order to determine whether a report to Crown Counsel must be made.

I must consider whether there may be culpability for an officer's use of force or deadly force, pursuant to the following *Criminal Code* provisions:

- (1) Any police officer who uses force "is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess" (section 26).
- (2) A police officer acting as required or authorized by law, "is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose" (section 25(1)).
- (3) A police officer "is not justified for the purposes of subsection (1) ... in using force that is intended or is likely to cause death or grievous bodily harm unless the [officer]

believes on reasonable grounds that it is necessary for the self-preservation of the [officer] or the preservation of any one under that [officer's] protection from death or grievous bodily harm" (section 25(3)).

In this case, the issue at hand is whether the subject officer's use of deadly force against the affected person would constitute an offence. A second issue to consider is whether the serious nature of the injuries inflicted by the subject officer's police service dog would support the contention that excessive force was used, namely by failing to have the police service dog disengage in a timely manner.

Additional Issues Related to Investigative Evidence

Only the subject officer, the affected person (deceased) and the police dog were present at the time of the shooting. No other officer or civilian were in a position to see the interaction between the affected person and the subject officer.

The subject officer declined to provide a voluntary statement to the IIO as was his right pursuant to *the Charter of Rights and Freedoms*.

The IIO investigation was impacted by the decision of one of the witness officers to remove the shotgun (that was attributed to the affected person) from the scene and "make it safe." That act made it impossible for IIO investigators to independently verify that the shotgun was in a "ready to fire" condition after the first shotgun shell was fired. If in fact, the affected person had racked a second shell into the shotgun's chamber after the initial firing, this would have supported the officer's need to use deadly force.

ANALYSIS

The strength of the evidence suggests that the affected person, likely impaired, wrote a suicide note to his family and said his good-byes.¹ He left his suite while armed with a shotgun and he sat in the cul-de-sac until approached by the subject officer and his police service dog.

At some point in the interaction with the subject officer, the affected person discharged his firearm. He was subsequently shot and killed by the subject officer who fired two shots from his police issued firearm. The subject officer deployed his police service dog, which subsequently caused serious injury to the affected person's left lower leg.

The interaction took place in a dimly lit cul-de-sac with limited visibility due to foggy conditions. The affected person and the subject officer were more than six feet apart at the time of the interaction. There is no reason to believe that either the shots fired by the affected person or the subject officer were accidental.

¹ Members of the affected person's family reported that they received text messages from the affected person that caused them concern regarding his welfare.

The shotgun was purchased by a member of the affected person's family and was provided to him years before. Video evidence is consistent with the affected person leaving his residence while armed with the shotgun.² There was a 53 minute period between which the affected person left his suite and his contact with the subject officer. The circumstantial evidence suggests that the affected person did not take any action until the arrival of the subject officer. The affected person, an experienced hunter,³ then discharged his shotgun in the subject officer's direction which resulted in a return of fire by the officer.⁴

Per the bullet trajectories, it appears that the affected person's body was bladed with his left side towards the subject officer, which would be consistent with him aiming his firearm in the subject officer's direction.⁵ Per the trajectory of the non-fatal bullet, the affected person's left leg was likely raised with the thigh parallel to the ground. Such trajectory would be consistent with the theory that the affected person discharged his shotgun and the subject officer reacted by releasing his police service dog. If the affected person used his left foot to kick out defensively at the dog, both turning his body and raising his left leg to do so, the observed trajectories would have occurred. Unfortunately, the state of the evidence makes it impossible to conclusively determine why the affected person was in the position he was at the time that he was shot.

The affected person and the subject officer were more than six feet from one another at the time of the shooting. The subject officer fired two shots at the affected person, one of which resulted in a fatal wound. The police service dog was deployed and was permitted to bite the affected person's left lower leg such as to cause serious injury.

The statement of WO2, an experienced firearm's instructor, that he heard a shotgun blast followed by two pistol shots, suggest that the subject officer returned fire only after the affected person fired an initial shot from the shotgun. WO2's statement to that effect is corroborated by the two civilian witnesses who were the closest to the incident. The other officers present only reported hearing a single blast. This suggests that the foggy conditions and the acoustics of the area may have made it difficult to hear all of the shots. Neighborhood witnesses who were further away provided a variety of inconsistent observations.

WO2 is also an essential witness to the condition of the affected person's firearm after the shooting. According to WO2, the shotgun was in a ready to fire position at the time that he "made it safe" by clearing a shotgun shell from the weapon's chamber. The implication is that

² The quality of the video was such that it could not be conclusively determined whether the affected person was carrying a shotgun or not. The nature of his position and bearing, however, could be considered consistent with him being in possession of a shotgun and hiding it under his left arm.

³ The affected person's family noted that he was an avid collector of firearms and an experienced hunter.

⁴ Multiple contemporaneous statements made by the subject officer to other officers that the shot almost hit him provide support for the conclusion that the shot was fired in the subject officer's direction.

⁵ However, it was reported by the affected person's family, that he was left handed with a long gun. Blading left side forward would be more consistent with a person who was holding a long gun in a right handed manner.

the affected person would have had to reload his shotgun (“rack the chamber”) after having fired his first shot. As such, this would likely have occurred before he was hit by the fatal round fired by the subject officer. Such action would likely have been audible and would have given the subject officer further justification in using deadly force, particularly in light of his multiple statements to other officers that the first shot went right by his head.

It is understandable why officers would want to secure the shotgun. It was lying in a street where there was minimal visibility (at night, in heavy fog) and numerous emergency responders in the area. It is equally understandable why officers would not want to place the shotgun in a car trunk in an unsafe condition (potentially loaded and ready to fire). He or she would want to know whether or not there was the risk of an accidental discharge. That said, that act made it impossible for the IIO to independently confirm the condition of the affected person’s shotgun immediately after the shooting.

I considered the following in determining that the subject officer did not commit an offence when he used deadly force against the affected person:

- forensic analysis of the firearms;
- forensic evidence at the scene and in the affected person’s suite;
- surveillance video from the residence;
- radio communications which clearly establish the timeline of the events;
- the subject officer’s spontaneous statements to multiple responding officers;
- witness officer 2’s auditory observations corroborated by the two closest neighbors;
- witness officer 2’s observation of the condition of the shotgun;
- a neighbour’s observations of the subject officer’s condition after the shooting;
- post mortem results.

The evidence does suggest, however, that while it would have been reasonable for the subject officer to deploy his police service dog against the affected person, the police service dog was not disengaged in a timely fashion. The use of police service dogs is a tactic officers use to protect themselves and to facilitate taking a person into custody. That said, the evidence related to the injury (and its severity) is indicative of a deployment that may have been too lengthy.

According to both responding officers and an observant neighbour, it appears clear that the subject officer was in a state of shock and it is understandable that he may not have been in a condition to order his police service dog to disengage as one would expect given more benign circumstances. Given the totality of the circumstances, I cannot conclude that the subject officer’s failure to order his dog to disengage in a timely fashion was a criminal assault. The criminal intent that would be necessary to support an assault charge cannot be inferred from the totality of the circumstances.

The subject officer’s decision to decline any assistance in conducting his search for the affected person (which was offered by WO2 and WO3) is of some concern. Had he had one or more

cover officers present, the circumstances of his contact with the affected person may have been different. The subject officer's ability to have the police service dog disengage in a timely manner could have been impacted. Even if this was a poor tactical decision, it is not relevant to what I must consider in determining if an officer committed an offence.

An appropriate review of the subject officer's tactics in that regard falls within the domain of the RCMP as the employing agency and the Commission for Public Complaints Against the RCMP (CPC) as the oversight agency for the RCMP.

CONCLUSION AND DECISION

Based on the evidence obtained as a result of the investigation, I cannot conclude that the subject officer may have committed any offence in this case. As such, no further action will be taken by the IIO and I will not be making a Report to Crown Counsel for consideration of possible charges.

The IIO file, in its entirety has been forwarded to the RCMP's Professional Standards Unit and will be forwarded to the CPC for their review of the incident to determine if there are any conduct, policy, training or tactical issues that need to be evaluated and resolved.

Prepared for Public Release this 5th day of January 2015

Richard Rosenthal
Chief Civilian Director
Independent Investigations Office