



**IN THE MATTER OF AN INVESTIGATION INTO THE DEATH OF AN ADULT
MALE FOLLOWING AN OFFICER-INVOLVED SHOOTING IN PORTAGE LA
PRAIRIE**

FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT

Acting Civilian Director:	Bruce M. Sychuk
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Introduction

On May 24, 2023, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit of Manitoba (IIU) of an incident.

The written notification disclosed the following information:

Excerpt from the Part 7 notification received from the RCMP on May 24, 2023:

On May 24th, 2023, Portage La Prairie RCMP received a call from an apartment in Portage La Prairie for a domestic situation. The complainant indicated that an unknown female later identified as CW1 was banging on the door saying that her boyfriend was trying to kill her. Members attended to the location and were confronted by AP with a weapon. WO4 and SO1 unsuccessfully deployed their CEWs. SO1 then discharged his firearm striking AP. Resuscitation efforts were made by members however he was pronounced deceased. SO1 and WO4 were separated and taken from the scene, all intervention options were seized from both members and photos obtained. WO1 obtained statements from the victim CW1, and two witnesses CW2 and CW3.

As this matter concerned the death of a person that may have resulted from the actions of a police officer(s), the IIU assumed responsibility for this investigation in accordance with Section 65(4) of The Police Services Act. IIU investigators were assigned to this investigation.

IIU investigators obtained the following information from the RCMP, among other items:

- audio recordings of 911 calls and police radio transmissions
- RCMP Forensic Identification Services (FIS) notes, reports and photographs relating to scene examination
- autopsy report of affected person
- narrative reports
- notebook entries
- canvass sheets and task forms completed by RCMP Major Crimes investigators
- video surveillance obtained by RCMP Major Crime investigators (peripheral to shooting)
- audio-recorded statements
- conducted energy weapon (CEW) downloads

The civilian director designated the RCMP officer who discharged his firearm as the subject officer (SO1). Further, four RCMP officers were designated witness officers (WO1 to WO4). The investigation produced eleven civilian witnesses (CW1 to CW11) and two professional witnesses (PW1 to PW2).

Facts and Circumstances

Scene Examination

RCMP forensic identification services (FIS) personnel attended the scene and conducted a forensic analysis. IIU investigators also attended the scene and obtained photographs. As the incident occurred inside the apartment, no video surveillance was obtained.

RCMP FIS reports indicated that the firearms and magazines of WO4 and SO1 were examined following the shooting incident. FIS officers located five spent bullet casings inside the scene, along with one loose live round.

The CEWs of both involved officers were downloaded.

SO1's device was fired once during the interaction with AP for five seconds. It is believed one of the probes missed AP and impacted the door frame.

WO4's device was discharged twice, with the first deployment for nine seconds and the second for five seconds. The maker of the CEW stated the first usage by WO4 appeared to make good contact with lean muscle tissue. However, if the unit was not used at least two metres from the target, it would not achieve muscular incapacitation, and instead, would only act as a pain compliance tool. The CEW maker stated the second deployment did not make good contact as it appeared that a wire broke or a probe dislodged.

Summary of Witness Interviews

Civilian Witnesses

Civilian Witness 1 (CW1)

CW1 was interviewed by IIU investigators on May 24, 2023 and provided the following information:

CW1 was in a relationship with AP. Prior to the incident, they were smoking marijuana in the residence. AP became ill and then stated he was going to kill CW1 and himself. AP tried to choke CW1, but she was able to defend herself and leave the residence. CW1 requested assistance from other residents in the building. One residence allowed CW1 to enter at which time she advised the resident what had happened and requested that they call police.

CW1 remained in this residence and did not witness anything further.

Civilian Witness 2 (CW2)

CW2 was interviewed by IIU investigators on May 24, 2023 and provided the following information:

CW2 heard a female in the hallway yell for help. CW2 observed CW1 in the hallway and allowed her into the residence. CW1 advised CW2 what had occurred with AP.

CW2 heard some noises coming from AP's residence but did not witness anything further.

Civilian Witness 3 (CW3)

CW3 was interviewed by IIU investigators on May 26, 2023 and provided the following information:

CW3 and CW2 were about to go to bed when they heard a female voice in the hallway yelling for help. CW3 allowed CW1 into the residence. CW1 advised CW3 of what AP had done and CW3 called 911 as a result. CW3 could hear banging in CW1's residence while waiting for police to arrive.

RCMP arrived and they attended CW3's residence to speak with CW1. CW3 could hear more noises coming from CW1's residence; however, CW3 did not witness anything.

Civilian Witness 4 (CW4)

CW4 was interviewed on May 24, 2023 and provided the following information:

CW4 heard banging at her residence and a female voice yelling for help. CW4 went to her door but no one was in the hallway. CW4 could hear a female talking to the occupants of another residence. CW4 called 911 and did not witness anything.

Civilian Witness 5 (CW5)

CW5 was interviewed on May 24, 2023 and provided a similar account to his partner, CW4. CW5 stated in the interview that he heard gunshots but did not witness anything.

Civilian Witness 6 (CW6)

CW6 was interviewed May 24, 2023 and advised investigators that he heard gunshots, but did not witness anything.

Civilian Witness 7 (CW7)

CW7 was interviewed on two occasions and provided the following information:

CW7 heard a male voice threaten to kill someone. CW7 heard two males arguing with one stating, "put the thing down now or I will shoot you." Soon after, CW7 heard gunshots. CW7 did not witness anything further.

Civilian Witness 8 (CW8)

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CW8 was interviewed on May 24, 2023 and stated that they heard noises and arguing the day of the incident. CW8 could not provide further details as they were frightened during the incident.

Civilian Witnesses 9, 10, 11 and 12 (CW9, CW10, CW 11 and CW12)

CW9, CW10, CW11 and CW12 were interviewed in relation to the incident. These witnesses were not present during the incident and could only provide information in relation to AP prior to the event. None of them observed any concerns with respect to AP prior to the incident.

Professional Witness 1 and 2 (PW1 – PW2)

PW1 and PW2 were part of the paramedic crew that arrived on scene after the event. They advised investigators they were not informed by the RCMP as to what had occurred and only provided medical assistance to AP.

Witness Officers

Witness Officer 1 (WO1)

WO1 arrived on the scene post-incident and assisted in directing PW1 and PW2 into the residence to assist AP. WO1 also directed WO4 and SO1 to return to the detachment.

Witness Officer 2 (WO2)

WO2 was interviewed by investigators on June 26, 2023 and provided the following information:

WO2 and WO3 were performing a traffic stop in the west end of Portage la Prairie when an emergency call came over the police radio from SO1. SO1 was asking for a supervisor as there had been shots fired. WO2 and WO3 attended.

Officers went up the stairs to CW1's apartment with WO3 assisting in CPR upon arrival. WO2 was informed by SO1 that AP had a knife. While in the residence, WO2 observed some spent shell casings and a live round on the floor of the apartment. He took photographs of the scene, as he wanted to ensure it was documented prior to EMS attending and disturbing it.

Witness Officer 3 (WO3)

WO3 was interviewed by investigators on June 13, 2023 and provided the following information:

WO3 confirmed the comments of WO2 adding that he took over CPR from WO4 until paramedics arrived.

Witness Officer 4 (WO4)

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WO4 was interviewed by investigators on July 4, 2023 and provided the following information:

WO4 and SO1 were dispatched to a domestic violence call where a female subject stated her boyfriend was trying to kill her. Enroute to the call, they received an update via radio that the alleged victim was in a neighbour's house. There was no mention of weapons.

As they approached the scene on foot, they could see a lone male, later identified as AP, on the deck upstairs. AP was talking to someone in gibberish. SO1 called out to AP "to come down to them." AP did not comply at this point.

SO1 and WO4 started up the stairs to the deck when AP threw a garbage can at SO1's head. WO4 observed the garbage can hit SO1 in the head and then fall to the ground below.

SO1 yelled that AP was under arrest and both officers ran up the remaining stairs. SO1 deployed his conducted energy weapon (CEW) and a probe struck AP in the chest. The deployment was ineffective and AP ran into the apartment.

WO4 and SO1 followed AP into the apartment. SO1 tackled AP in the living room area. AP landed on his back and was kicking WO4 and striking SO1 with his hands.

WO4 and SO1 were punching and kicking AP without effect. WO4 stated he believed they were losing the fight with AP.

WO4 moved to the upper part of AP's body and went to the right side as SO1 was on the left side holding AP in a headlock. At that time, WO4 observed that AP had a shard of glass in his right hand and called out "knife." SO1 pushed off AP and drew his pistol, yelling at AP to drop the weapon or he would be shot.

WO4 moved away from AP and discharged his CEW at AP. He observed one probe strike AP in the upper back. He did not see where the second probe went but AP did not change his behaviour. WO4 then moved away from AP, discarding the expended CEW cartridge and reloading it with a fresh cartridge.

By this time, AP was standing upright and still holding the shard of glass in his right hand, approximately five feet away from WO4. WO4 pointed his CEW at AP and discharged it into his chest, but the deployment was again ineffective. AP started to move towards WO4 who turned and tried to retreat down the hallway, falling in the process. WO4 heard two or three popping sounds believed to be SO1 shooting.

WO4 managed to stand up and noted that AP was now lying on the floor, still holding the piece of glass. AP was displaying an obvious gunshot wound to his chest. WO4 went into the bathroom and looked in the mirror to see if he was injured. SO1 activated his radio and said that someone had been shot, and emergency medical services (EMS) and a supervisor were required.

Subject Officer

Subject Officer 1 (SO1)

SO1 declined to be interviewed by IIU investigators as of right. SO1 supplied a prepared statement and a copy of his notebook entries providing the following information:

SO1 attended the domestic call. AP appeared to be on drugs due to his erratic behaviour. WO4 and SO1 made verbal contact with AP. SO1 called AP down the stairs to take him into custody as safely as possible. The last known information was that AP was still at his apartment after threatening to kill CW1. SO1 stated that he did not know if anyone else was present in the apartment at the time.

SO1 asked the suspect to come down the stairs and AP declined. SO1 began climbing the stairs and AP threw a large kitchen sized garbage bin that hit SO1 on the top of the head and forearm. SO1 yelled that AP was under arrest and ran up the remaining stairs.

SO1 intended to get AP in handcuffs before he could reach a weapon. At this time, AP did not possess a weapon and it was safe to try to use less-lethal means to secure him.

SO1 drew his CEW and fired at AP. AP turned and ran into the residence where the door was already open. The CEW did not have any effect, and SO1 was unsure if the probes made contact.

As SO1 ran into the residence after AP, SO1 caught up to AP and wrapped his arms around his midsection in a body lock and attempted to use his weight to get AP to the ground. SO1 yelled out to AP to get on the ground. AP's strength caught SO1 off guard.

SO1 tried to use the CEW again in contact mode by pressing it against AP's body; however the device was knocked out of his hand.

SO1 and WO4 were able to get AP on the ground struggling to gain control of him. AP pulled into a guard position, raised his legs and began kicking SO1.

SO1 punched AP in an attempt to gain control of AP without success. AP was able to free himself briefly and get back to his feet, but was taken down again just a few feet away. SO1 was positioned at AP's head and tried putting him in a headlock; however, AP tucked his chin. SO1 used the weight of his upper body to push down on AP's head and upper back to flatten AP out.

WO4 yelled out that AP had a knife. SO1 jumped off AP and drew his firearm while backing away. SO1 yelled simultaneously for WO4 to get off AP.

AP was between SO1 and WO4. AP still had his weapon in hand and began advancing towards WO4. SO1 yelled, "drop it, or I'll shoot you." AP advanced toward WO4 with the edged weapon

in his hand. SO1 fired one round into AP. AP continued towards WO4 with the edged weapon still in his hand. SO1 fired several more shots as AP fell forward and rolled onto his back.

Other evidence

Experts were contracted by the IIU to review bullet trajectory and conduct an analysis of blood splatter located at the shooting scene. The respective experts stated that nothing was found that would contradict the accounts of the two officers involved in the incident.

A use-of-force expert was contracted by the IIU on the matter. The expert determined that SO1's applications of force against AP were reasonable, proportionate and in accordance with training as well as the principles of the RCMP incident management intervention model (IMIM) within a Canadian policing context.

Applicable Law

Criminal Code of Canada

All relevant sections of the Criminal Code of Canada were considered with respect to this incident. Sections 25(1), 25(3) and 25(4) of the Criminal Code of Canada have been emphasized here for consideration:

25 (1) Everyone who is required or authorized by law to do anything in the administration or enforcement of the law

(a) as a private person

(b) as a peace officer or public officer

(c) in aid of a peace officer or public officer

(d) by virtue of his office,

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.

(3) Subject to subsections (4) and (5), a person 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 person believes on reasonable grounds that it is necessary for the self preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm.

(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if

(a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested

(b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant

(c) the person to be arrested takes flight to avoid arrest

(d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm

(e) the flight cannot be prevented by reasonable means in a less violent manner

Conclusion

It is my view that, in the full consideration of the circumstances of this tragic incident, the use of lethal force by the subject officer was authorized and justified by law.

There are no reasonable grounds to support any charges against the subject officer.

Accordingly, IIU has completed its investigation, and this matter is now closed.

ADDENDUM

The Independent Investigation Unit notes that certain, relevant information was inadvertently omitted from its final report on case 23-0029, involving an officer-involved shooting in Portage la Prairie. The following information has now been added to the final report.

- The autopsy report confirmed the cause of death as multiple gunshot wounds.
- The toxicology report confirmed AP had THC in his system at the time of the shooting. No other intoxicant was noted in AP's system.
- DNA testing confirmed the presence of AP's DNA on the shard of glass located beside AP's body after the incident.

The civilian director's complete report is available at www.iiumanitoba.ca.

The details of the investigation were first announced on May 24, 2023.