

# ***FINAL REPORT: IIU concludes investigation into fatal MFNP officer-involved shooting on Long Plain First Nation***

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On April 3, 2019, the Manitoba First Nations Police (MFNP) notified the IIU of an incident that occurred on Long Plain First Nation. The notification (edited for clarity) read in part:

*“MFNP Police Members were called to a house on Long Plain First Nation in response to a report of the 23 year old male subject (later identified as the affected person (AP)) shooting windows out of this residence. Police Member attending was met with gunfire from the [AP] shooting at the Police Unit and just missing striking a MFNP officer. It was at this time [AP] turned towards two other MFNP members and fired his weapon at them. The MFNP members returned gunfire and struck [AP]. Ambulance was contacted and attended where [AP] was reported deceased.”*

According to this notification, AP sustained gunshot wounds and was deceased. IIU assumed responsibility for this matter in accordance with section 65(1) of The Police Services Act (PSA) as this was a fatality following an interaction with police. A team of IIU investigators was assigned to this investigation.

Information obtained by IIU investigators included:

- witness and subject officers’ notes and reports
- occurrence supplementary report
- audio of 911 telephone call
- MFNP radio communications
- Forensic Identification Unit report
- scene photographs
- autopsy report
- toxicology report

The civilian director designated the two police officers who discharged their service weapons as subject officers (SO1-SO2). IIU investigators interviewed three designated witness officers (WO1-WO3). They also interviewed two civilian witnesses (CW1- CW2) and two EMS attendants (PW1-PW2).

## **Facts and Circumstances**

### **Scene and Canvass:**

IIU Investigators attended the scene of the shooting. The residence is a single detached house with a front and rear entrance. The house is set back from the main front roadway and there is a long gravel and dirt driveway leading from the front roadway along the east side of the residence into the rear yard. An MFNP truck was located parked at the end of the driveway near the main road. The rear passenger window of the truck was shattered. A wooden stair with a deck was located off the front entry door. Six bullet holes were located in the glass window off the front deck. The bullet holes appeared smaller on the inside and greater on the outside, indicating that the shots had been fired from inside the residence.

There were two additional vehicles parked in the rear yard belonging to the homeowners. A dark blue Chevy Blazer had significant bullet damage to the front windshield and front passenger window, and both front and rear passenger tires were flat. The bullet damage is consistent with having been fired from outside the vehicle. There were 10 spent .223 caliber shell casings located on the ground next to the driver's side of the Blazer. A blue Ford Escape was also located. All windows and tires on the Ford Escape were intact.

There was a set of wooden steps leading up to the rear entrance of the residence. AP was lying with his feet near the edge of the step, his shoulders on the top of the doorjamb and his head just inside the doorway. AP was found handcuffed in the front. Various .22 caliber shell casings and live rounds were present on the steps underneath where AP had been lying. The glass on the exterior door was shattered with several bullet holes noted in and through this door. Blood spatter was noted on the door and frame. A .22 caliber, bolt-action rifle was lying in the grass near the back steps. The rifle contained one spent casing in the chamber and three live hollow point rounds in the attached magazine. There were four, spent .223 caliber shell casings located in the grass near the southwest corner of the house. There were four bullet holes in the window at the back of the house to the right of the back steps. These bullet holes were noted to be coming from inside the residence. Several bullet holes were in the siding, at various places, in the back wall of the house.

The rear entry entered into the kitchen area. Twenty spent .22 shell casings and two live rounds were located all over the kitchen floor. Four bullet holes were found in the kitchen wall separating the kitchen from the back yard. Empty beer cans were located on a kitchen table. Drug paraphernalia were located on the stove and kitchen counters.

The living room was located to the front of the house, directly behind the kitchen. A large picture window in the living room had six bullet holes in it. Thirteen spent .22 shell casings and two live rounds were located throughout the living room. Three long and unsecured rifles were located leaning up against walls and furniture.

Seven spent .22 shell casings and one live round were observed on the floor in the hallway.

There are four bedrooms located in the residence. The bedroom at the end of the hall had nine spent .22 shell casings and 61 live rounds were located on the floor.

In total, at least 59 spent .22 shell casings and 77 live .22 rounds were located in and around the residence.

### **Civilian Witnesses**

CW1 is a relation of AP and is the occupant of the residence. The morning of the shooting, CW1 states that AP did not appear to be acting like himself. CW1 stated that she had seen AP warming up knives on the stove and believed that he was smoking “weed,” with suspicions that he was doing other drugs. The previous week, CW1 stated that police were contacted and asked to take AP to the hospital for an assessment, as he had been acting “...all weird and strange as of late.” According to CW1, police did attend and spoke with AP, but did not take him for an assessment, as they felt that he was not a danger to himself or others.

On the morning of the shooting, CW1 states that AP began punching holes in the walls and later was seen holding a rifle. CW1 stated that AP repeatedly said, “Why don’t you get out of here.” AP began to shoot the rifle into the hallway, around the residence and out the backdoor, into an empty field. CW1 told AP to put the rifle away before police may arrive. CW1 was concerned about AP’s well-being. CW1 stated that a message was sent to CW2 for assistance. CW2 arrived at the residence a short time later and picked up CW1, who stated she felt scared and did not want to leave AP alone. As they drove out of the driveway, CW1 stated she saw two police officers, running towards the residence. They had their guns out, with one of the police officers holding a long rifle. She was uncertain about the other police officer’s firearm. CW1 also observed a police truck pull quickly into the driveway. CW1 stated she heard several gunshots, but was uncertain as to the number heard.

CW2 stated that she received a telephone call and was asked to attend the residence to pick up CW1, as AP was angry, upset and shooting his gun into the ceiling of the residence. According to CW2, AP has been depressed for several months because of a friend’s sudden passing. AP had a very close relationship with this relation.

CW2 stated that she rushed to the residence and saw bullet holes in the windows at the back of it. CW2 stated that she observed the rear screen door had been shattered and broken glass was all over the rear staircase. CW2 stated she heard a couple of gunshots and retreated to her vehicle for safety, while calling out for CW1. CW2 contacted MFNP and related that AP was inside the residence and was shooting a firearm.

CW2 stated that she was able to make contact with CW1 and got her into the vehicle. CW2 stated that CW1 appeared very upset and was crying. As CW2 drove out of the driveway, she observed two police officers, one male and one female, running towards the residence. The female officer was armed with an assault rifle, while the male officer appeared to have his handgun out. CW2 saw another police officer drive down the driveway towards the residence. CW2 states she heard gunshots from the residence. CW2 sat with CW1 in the car and could see three police officers standing in the back yard.

### **EMS Personnel:**

PW1 indicated that she, along with PW2, attended to Long Plains First Nation in response to a call of an injured male suffering from a gunshot wound. On arrival, PW1 stated that police directed them to the rear of the residence. PW1 noted that several outer windows of the residence had bullet holes. PW1 then attended to an injured male lying on his back at the top of the staircase at the rear of the residence. There was a large pool of blood and a visible gunshot wound to his head. The injured male had no pulse and PW1 pronounced the male deceased.

PW2 provided a similar account of the events to that by PW1. PW2 stated that PW1 was the lead EMS attendant, who ultimately pronounced the injured male deceased.

### **Witness Officers**

WO1 stated that she, SO1 and SO2, responded to a call to attend the residence, as AP was being violent. CW2 had called the MNFP office and advised WO1 that AP had a gun and was shooting up the house. Based on the information received, a plan was developed where SO1 and SO2 would approach the residence from the east and WO1, in a marked MFNP vehicle, would approach it from the west side. WO1 drove to the driveway and observed SO1 and SO2, each armed with a carbine, standing on the east side of the residence. WO1 turned onto the driveway, in a move contrary to the plan developed earlier by police, and drove towards the residence. SO1 radioed that AP was shooting. As WO1 drove, she noted that the north side door of the residence was open and a male was standing there, pointing a firearm directly in her direction. WO1 accelerated to move out of the line of fire. However, the male (later identified as AP) started firing his weapon, striking and smashing out the rear passenger window of WO1's vehicle.

WO1 quickly drove into the rear yard of the residence. WO1 states that she exited her vehicle and crouched down as she drew her service revolver. WO1 stated that AP was now at the rear door of the residence and was pointing the firearm in her direction. WO1 heard the sounds of several rifle shots being fired. WO1 stated she heard the sounds of three carbine shots, but did not know who had fired them. WO1 stated that SO1 radioed that AP was down. All three police officers approached the rear of the residence, observing that AP was motionless and lying on his back. WO1 was concerned that CW1 and others may still be in the residence. The three police officers entered the residence via the rear door. Prior to entry, SO2 handcuffed AP in accordance with training and policy. No one else was located within the residence.

Once outside, WO1 saw CW1 and CW2 exit a vehicle. WO1 informed them that AP had been shot and EMS were on their way. EMS personnel arrived a short time later and pronounced the male deceased on scene.

WO2 was travelling west on the Trans Canada Highway when he heard a radio broadcast of an officer-involved shooting on Long Plains First Nation. WO2 attended to the scene to assist the MFNP members. On arrival at the residence, WO2 observed several people congregating about an injured male at the residence. WO2 also noted that WO1 was standing next to a marked MFNP vehicle, which had visible damage to a window, and that SO1 and SO2 were at the rear of the residence. WO2 also observed a firearm laying on the ground approximately six to eight feet away from the rear staircase.

WO3 was off duty when informed of the officer-involved shooting incident on Long Plains First Nation. WO3 made her way to the scene and while en route, arranged for additional police resources from Portage RCMP and neighbouring MFNP detachments to attend and assist.

On arrival, WO3 assigned various MFNP members to secure the scene.

## **Subject Officers**

Pursuant to the provisions of the PSA, a subject officer cannot be compelled to provide his or her notes regarding an incident, nor participate in any interview with IIU investigators. In this case, both SO1 and SO2 provided copies of their notes, report and prepared statements, but each declined to be interviewed by IIU investigators.

SO1 wrote that, with SO2 and WO1, they responded to a call of a male shooting a firearm from the windows of his residence on Long Plains First Nation. Prior to attending, the three police officers reviewed the area map of the properties surrounding the residence and devised a safe plan of action. SO1 and SO2 would each be armed with police issued carbine rifles and approach the residence on foot from a neighboring property from the east, while WO1 would approach from the west.

On arrival at the vicinity of the residence, SO1 and SO2 approached on foot. SO1 wrote that he heard the sound of the discharge of a firearm coming from inside the residence. While covering the rear of the residence, SO1 wrote that he observed three bullet holes in a rear window, heard more gunfire from inside the residence and the sound of a shattering rear glass door. SO1 wrote that he then observed a marked MFNP truck driving across the front of the residence. SO1 asked SO2 to inform WO1 to keep driving past the residence as the male (later identified as AP) was actively shooting from inside the residence. When the marked MFNP vehicle turned into the driveway, SO1 wrote that he signaled WO1 to keep driving towards the rear yard, as AP appeared to be shooting out of the front of the residence. As WO1 was driving down the driveway, SO1 wrote that he heard the sounds of striking metal. SO1 wrote that he feared for the life and safety of WO1. AP appeared to be shooting directly at the marked MFNP vehicle.

SO1 wrote that he was stationed at the rear corner of the residence, while SO2 was behind a parked vehicle. At this time, SO1 wrote that he saw a barrel of a firearm breaching the rear door. Immediately, AP was observed to exit the residence. AP was armed with a rifle (with an attached scope) and pointed it in the direction of WO1. When AP was at the top of the stairs, he fired a shot in the direction of WO1. SO1 wrote that he feared grievous bodily harm or death to WO1 and, immediately engaged AP by discharging a number of rounds from his carbine until he deemed that the lethal threat was negated. SO1 wrote that no other less lethal force options were considered, nor would have been appropriate in these circumstances. AP, believed armed with a semi-automatic style rifle, was actively shooting at police. SO1 wrote that he shouted that the male subject was down and then moved quickly removing the firearm from AP. He placed AP's firearm on the ground and away from AP's reach. AP was handcuffed.

SO1 wrote that he also feared for the safety of other persons who may be inside and may be injured. SO1 wrote that the three police officers entered the residence via the rear door. As the residence was cleared, SO1 wrote that he observed a number of firearms in plain view in the living room area.

SO2 wrote that he was nearing the end of his shift when a number of calls were received by MFNP, advising that AP was aggressive and violent at the residence. They were also advised that AP was armed with a firearm, was inside the residence and was shooting out windows.

SO2 wrote that he, SO1 and WO1 viewed the area map of the residence and formalized a response plan. There were houses to the east, west and north of the residence and there was an

open field to its south. It was decided that SO1 and SO2 would approach the residence from the east and WO1 would approach from the west.

SO2 wrote that he and SO1 drove to the vicinity, parked their police vehicle in the driveway of a neighbouring property, and proceeded to approach the residence on foot. SO2 wrote that as they approached, he heard the sound of a single gunshot coming from the south side of the residence immediately followed by at least two more gunshots coming from the north side of the residence.

SO2 wrote that he observed a marked MFNP vehicle, operated by WO1, driving from the west. SO2 wrote that he radioed WO1 not to stop anywhere at the front of the residence. Nevertheless, WO1 proceeded to turn onto the driveway and drove towards the rear of the residence. SO2 wrote that he immediately heard the sounds of three or four gunshots striking WO1's vehicle. SO1 and SO2 repositioned themselves at the rear of the residence, with SO2 taking cover at the front of a parked black SUV.

As WO1 drove into the rear driveway of the residence, a male (later identified as AP) and armed with a long-barreled firearm, stepped out of the rear door of the residence and fired one shot in the direction of both WO1 and SO2. SO2 wrote that he feared death or grievous bodily harm to WO1 and accordingly engaged AP by discharging his carbine until the threat was eliminated. SO2 wrote that he confirmed that AP was down.

All three police officers approached, at which time, SO1 removed a rifle with a brown wood stock, grey barrel and scope away from AP, while SO2 proceeded to apply handcuffs. The residence was cleared for any additional threats or injured persons. Three additional firearms were observed inside the residence.

### **911 Telephone Call and MFNP Radio Communications**

At approximately 6 p.m., MFNP Communication Centre (dispatch) received a call advising that AP was "*drunk, flipping out by being violent and aggressive.*" The dispatcher advised that police would be on their way shortly to deal with the situation. Within three minutes, MFNP members in Long Plains First Nations were advised of the details of the call. WO1, SO1 and SO2 would be attending.

Approximately eight minutes later, WO1 contacted dispatch and advised that through another telephone call, it was learned that AP was armed with a firearm and that bullet holes were observed in the windows of the residence.

Approximately 16 minutes into the call, SO1 and SO2 arrived on scene, followed a short time later by WO1.

Approximately 17 minutes into the call, a male voice advised dispatch that they heard shots from inside the residence. Twenty-seven seconds later, a male voice is heard yelling, "*...shots fired, shots fired, keep driving.*"

Approximately 17:54 minutes into the call, WO1 radios, "*Shots fired, he is down.*"

Approximately 18:05 minutes into the call, male voice requested EMS and said "*...suspect is down.*"

### **Autopsy and Toxicology Reports and Findings:**

IIU investigators received an autopsy report from the Chief Medical Examiner's Office (CME).

The cause of death was gunshot wounds. Five gunshot wounds were noted during the autopsy:

1. gunshot wound to the head
2. gunshot wound of the right arm into the left shoulder
3. gunshot wound of the right arm into the chest
4. tangential gunshot wound of the left arm
5. gunshot wound of the abdomen

Any of the gunshot wounds to the head, right arm into the left shoulder or right arm into the chest could be independently fatal. The gunshot wound of the abdomen could be fatal in the absence of medical care. The tangential gunshot wound of the left arm would not be fatal.

### **Forensic Science and Identification Service Laboratory Report: Toxicology Results**

IIU investigators received a toxicology laboratory report respecting the analysis of AP's blood, urine and vitreous liquid for presence and concentration of ethanol alcohol and other intoxicants.

The following results were as follows:

- Blood - Ethanol 166mg%, THC Detected
- Urine - Ethanol 212%, THC-COOH Detected
- Vitreous - Ethanol 171 Mg%

In summary, the key findings stated that AP had ethanol alcohol (Ethanol) and Delta-9-Tetrahydrocannabinol (THC – presence of cannabis) in his blood system.

The report stated that the effects of the combination of ethanol alcohol and THC would have on a person are dependent upon the individual's tolerance to these drugs, the dose of each drug, and the timing of their administration in relation to each other. It can be expected that the combined use of multiple drugs that affect the central nervous system (CNS), as these do, would result in greater impairment of mental and physical processes that would be expected following their individual use.

### **Firearms Analysis**

The carbine rifles, pistols and magazines of SO1, SO2 and WO1 were seized and turned over to IIU investigators. Only the carbines possessed by SO1 and SO2 were discharged during the incident. No pistol, in particular WO1's, was fired during the incident.

SO1's carbine was found to have a magazine capacity of 28 rounds of .223 caliber ammunition. IIU investigators were advised that SO1 had conducted a tactical reload<sup>1</sup> of his carbine during and after this incident. Because of a tactical reload, the magazine in the carbine was found to be fully loaded, while one of the magazines in SO1's magazine pouches was found to be less than full (this magazine was used during the incident). For SO1, it was determined that this magazine contained 22 live rounds, suggesting that six rounds were fired from it. Four spent carbine casings were located near SO1's location.

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<sup>1</sup> That is where a partially used magazine is removed from a rifle and replaced with a fresh (full) magazine from the officer's magazine pouch, ensuring the rifle has a full magazine in the event the weapon is still required.

SO2's carbine was found to have a magazine capacity of 28 rounds of .223 caliber ammunition. IIU investigators were advised that SO2 had conducted a tactical reload of his carbine during/after this incident. Because of a tactical reload, the magazine in the carbine was found to be fully loaded, while one of the magazines in SO2's magazine pouches was found to be less than full (this magazine was used during the incident). For SO2, it was determined that this magazine contained 17 live rounds, suggesting that 11 rounds were fired from it. Ten spent carbine casings were located near SO2's location.

Neither carbine was submitted for analysis during this investigation, as subject and witness officer accounts, round counts performed, and physical evidence located at the shooting scene, all support the conclusion that SO1 and SO2 were the only police officers who discharged their firearms.

### **Conclusion**

#### **Issues and Conclusion**

This investigation must consider whether the actions of either or both of the subject officers to fire upon and cause the death of AP were justified at law.

In this incident, MFNP police officers responded to a call for service concerning an aggressive and violent male armed with a firearm, who was firing it inside a residence and shooting out windows. There was also information that others may also be within the residence and may be at significant risk. Police officers attended the residence, but AP began to fire his rifle at them. AP posed a significant risk to police lives and safety. SO1 and SO2 had no choice but to discharge their carbines, hitting AP five times, which ultimately led to his death.

#### **Applicable Law:**

Sections 25 (1), (3), (4) and Section 26 of the Criminal Code of Canada are applicable to this analysis:

*25 (1) Every one 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, or*

*(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; and*

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

*26. Every one who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.*

In addition, police officers are entitled to rely on the self-defence provisions of the Criminal Code under section 34:

**34 (1)** *A person is not guilty of an offence if*

*(a) they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person;*

*(b) the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force; and*

*(c) the act committed is reasonable in the circumstances.*

**(2)** *In determining whether the act committed is reasonable in the circumstances, the court shall consider the relevant circumstances of the person, the other parties and the act, including, but not limited to, the following factors:*

*(a) the nature of the force or threat;*

*(b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;*

*(c) the person's role in the incident;*

*(d) whether any party to the incident used or threatened to use a weapon;*

*(e) the size, age, gender and physical capabilities of the parties to the incident;*

*(f) the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat;*

**(f.1)** *any history of interaction or communication between the parties to the incident;*

*(g) the nature and proportionality of the person's response to the use or threat of force; and*

*(h) whether the act committed was in response to a use or threat of force that the person knew was lawful.*

Effectively, the question is whether the decision of the subject officers to discharge their firearms at AP was reasonable and necessary for the self-preservation of those police officers, or the preservation of any one under their protection from death or grievous bodily harm in the given circumstances. Reasonableness of a police officer's use of force will be assessed in regards to the circumstances as they existed at the time the force was used, particularly when it is considered in light of the dangerous and demanding work engaged in by police, and the expectation that they react quickly to all emergencies. These actions must be assessed in light of these pressures. Where lethal force is used (intended or likely to cause death or grievous bodily harm), there must be a reasonable belief by the subject officers that the use of lethal force was necessary for their own self-preservation or the preservation of any one under their protection from death or grievous bodily harm. The allowable degree of force to be used remains constrained by the principles of 'proportionality, necessity and reasonableness' (see *R. v. Nasogaluak*, [2010] 1 S.C.R. 206).

In that decision, the Supreme Court noted, at para. 35:

*"Police actions should not be judged against a standard of perfection. It must be react quickly to emergencies. Their actions should be judged in light of these exigent circumstances."*

That is to say, officers caught up in violent encounters are not expected to measure their responding force with precision. What is required is a reasonable response, not an exacting one.

Also, see *R. v. Power* 476 Sask. R. 91 (CA), where at para. 35, the court notes:

*"On the basis of the foregoing, a determination of whether force is reasonable in all the circumstances involves consideration of three factors. First, a court must focus on an accused's subjective perception of the degree of violence of the assault or the threatened assault against him or her. Second, a court must assess whether the accused's belief is reasonable on the basis of the situation as he or she perceives it. Third, the accused's response of force must be no more than necessary in the circumstances. This needs to be assessed using an objective test only, i.e. was the force reasonable given the nature and quality of the threat, the force used in response to it, and the characteristics of the parties involved in terms of size, strength, gender, age and other immutable characteristics."*

On this occasion, police responded to a call for service that specifically referenced a male in possession and use of a rifle. On arrival, AP was aiming and firing at the attending police officers. There was a real possibility other people may be within the premises and in dire positions due to the actions of AP. AP was using real and potentially lethal violence at police officers. There existed a real likelihood that AP could have delivered a potentially lethal injury with his rifle. AP's loaded rifle was located on the ground near where AP fell after being shot.

Therefore, was it reasonable, in these circumstances, for the subject officers to fire at AP to prevent the injury or death to either of them, or any other police officer in the vicinity?

Importantly, the eyewitness evidence and statements are consistent in that:

1. SO1 and SO2 were lawfully placed and acting within their lawful authority as police officers.
2. AP was in possession of a rifle.
3. The rifle was discharged dozens of times.
4. Dozen of live rounds of ammunition were found throughout the residence;
5. AP aimed and fired at the police officers.
6. The loaded rifle was located in close proximity to where AP fell after he was shot.
7. SO1 and SO2 were the only police officers to discharge a firearm.

This objective evidence materially corroborates the evidence of all the witnesses.

The subject officers did not participate in an interview with IIU investigators, but did individually provide their notes and reports. I am satisfied that the evidence gathered from all sources provides sufficient support for the conclusion that the decision by SO1 and SO2 to shoot AP was necessary in order to prevent the injury or death to either of them, or any other police officers in the vicinity.

I am satisfied that:

1. this belief was genuinely and reasonably held by both SO1 and SO2
2. that shooting AP was necessary to protect the loss of life or grievous bodily harm to anyone.

An individual threatening with and actually using a dangerous weapon at close range confronted these subject officers. AP's actions of shooting at police, left SO1 and SO2 with no other options for a less lethal use of force. SO1 and SO2 had a difficult decision to make and split seconds in which to make it. In the circumstances, I am satisfied on reasonable grounds that the SO1 and SO2 acted within their rights and authorities in choosing to fire their carbines at AP.

In this investigation, the IIU mandate was to determine whether consequences should flow from the actions of either or both of the subject officers, in light of all the circumstances and information known to them at that time. Following a detailed review of this investigation, it is my view that the use of lethal force by the subject officers was reasonable, necessary and justified.

One further matter that must be commented upon is WO1's response to the original police plan to attend the residence. That plan, as developed in advance by the three police officers acting in concert, required WO1 to approach the residence from the west. WO1 was aware that AP was armed with a firearm and that he was actively shooting out of the residence. For reasons known only to WO1, who was operating a marked police vehicle, she made an ill-advised turn into the driveway, placing her in direct view and line of AP's fire. WO1 was told not to drive towards the residence. AP's gunshots smashed the glass out of WO1's rear passenger window. AP was now

fully aware that police were present outside of the residence. AP proceeds out the rear door and now continues to fire his rifle at all of the police officers, who are present in the rear yard.

WO1's actions left the police officers with no opportunity or time to contain and negotiate with AP. However, I am satisfied that WO1's conduct or actions did not render the decisions by SO1 and/or SO2 contrary to provisions of the Criminal Code of Canada.

The IIU investigation is complete and this file is closed.

**Final report prepared by:**

Zane Tessler, civilian director  
Independent Investigation Unit  
May 11, 2020

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