

FINAL REPORT: IIU concludes investigation into arrest and subsequent death in custody in Winnipeg

On August 16, 2017 at 12:07 p.m., the Winnipeg Police Service (WPS) notified the Independent Investigation Unit of Manitoba (IIU) that on August 13, 2017 a male adult, later identified as the affected person (AP), was pronounced deceased at Health Sciences Center (HSC). AP was originally arrested by members of WPS on August 9. According to the notification, that arrest was made following a foot pursuit and use of force was utilized in completing the arrest. It is alleged that AP had assaulted WPS officers during his processing in division 13. Subsequently, AP complained of sore ribs and was transported to Seven Oaks General Hospital (SOGH) where he was x-rayed and was medically cleared by physicians. AP was then detained at the Winnipeg Remand Centre (WRC) on charges of assaulting a peace officer, carrying a concealed weapon, possessing a weapon dangerous to the public peace and two counts of unauthorized possession of a prohibited weapon. On August 13 at approximately 9:16 p.m., WPS was contacted and advised that while at WRC, AP had been transported to HSC where he was pronounced deceased. An autopsy was conducted on August 16 and found that blunt force trauma to AP's torso was a contributing factor to his death.

As this matter involved a fatality, IIU assumed responsibility for the investigation in accordance with subsection 65 (1) of *The Police Services Act (PSA)*. A team of IIU investigators was assigned.

The WPS notification to the IIU did not disclose an incident location nor provide any description about who or what may have caused injuries to AP. During the initial stages of the IIU investigation, very little was known as to the extent of police officer involvement. WPS would not supply police officer notes or reports to IIU until designations of officer status had been made by the civilian director. On August 17, all police officers referenced on the notification were designated as witness officers. Between August 22 and September 9, notes and reports of the various designated witness officers were forwarded to IIU by WPS. By September 9, two WPS officers had been re-designated as Subject Officers (SO1-2) and nine WPS officers remained designated as Witness Officers (WO1-9).

Under the provisions of *The Police Services Act*, a subject officer is not required to provide a statement or notes regarding an incident. In this case, SO1 did not respond to requests by IIU investigators for an interview nor to queries as to whether he would supply his notes and reports. SO2 declined to be interviewed by IIU investigators but did supply them with a copy of his narrative report, notes and a use-of-force report.

IIU investigators did interview 11 civilian witnesses (CW1-11) who were staff members of WRC (a combination of onsite nursing staff and correction officers). IIU investigators also interviewed the attending physician, triage nurse and an assistant at SOGH (CW 12-14). As well, IIU investigators interviewed legal counsel who spoke with AP while at Division 13 (CW15).

IIU investigators identified two WPS cadets who may have material information regarding this matter and contacted each to arrange dates and times for interviews. However, a representative of the Winnipeg Police Association (WPA) contacted IIU investigators on behalf of the two cadets advising that neither would attend at IIU for an interview.

IIU investigators conducted a canvass of the area in the vicinity of the first interaction between police and AP but did not locate any eye witnesses or video surveillance footage.

IIU investigators received and reviewed, among other items:

- video from Division 13 (Video was confined to exterior views only. No video footage existed of the interior where AP and police later had confrontations);
- video from WRC;
- toxicology report;
- forensic report;
- medical report from SOGH;
- autopsy report;
- WPS use-of-force training records;
- WPS use-of-force policy

Upon completion of the IIU investigation file, the civilian director decided to obtain an independent expert opinion on use of force by police. An out-of-province expert was retained by IIU and provided his opinions and a report.

Summary of events

On August 9 at approximately 4:30 p.m., WO1 and WO2, in a marked WPS cruiser car, observed a male, later identified as AP, who matched the description of a person of interest believed to be carrying a firearm inside a black duffle bag. SO1 and SO2, in an unmarked WPS cruiser car, were in the same vicinity when they observed AP drop the bag and run away.

All officers gave chase on foot. As AP ran, he slipped and fell on the front lawn of a residence. As AP attempted to get back on his feet, he moved his right hand towards his waistband. According to his use-of force-report, SO2 feared AP may have been armed and so delivered a single kick to the left side of AP's mid-section, followed by a single closed fist punch to the face. AP was handcuffed and placed under arrest. A semi-automatic rifle with an attached scope was found in the duffle bag that AP had dropped.

AP was conveyed by SO1 and SO2 to WPS Division 13 on Hartford Avenue, arriving at 4:45 p.m. AP complained to the acting sergeant about having sore ribs, stating "You guys did this to me." SO1 and SO2 took AP to a holding room at Division 13. No other persons or police officers were present in the room at that time. According to the use-of-force report provided by SO2, the handcuffs were removed from AP. AP then swore at officers and kicked SO2 in the shins. AP then lifted his right fist in an attempt to punch SO2. SO1 intervened and delivered a closed fist punch to AP's abdomen, causing him to fall to his knees. AP was subsequently taken to SOGH due to his complaint of sore ribs.

Medical records obtained from SOGH document that AP complained of soreness to his ribs, and possible broken ribs, after being kicked by the police in his left rib area. There were no visible signs of injury to AP's body when he was examined. AP was sent for an x-ray and, according to the attending physician, no breaks or fractures to the ribs were noted and he was cleared to be

discharged from the hospital. AP was taken from SOGH and ultimately arrived at WRC on August 10 at 1:15 a.m. where he was detained in custody.

It should be noted that subsequent to AP's discharge from SOGH, the medical records detail a note entry, dated and timed August 10 at 7:22 a.m., which referenced that AP had sustained a 'Left tenth rib fracture'. That information was entered after AP left SOGH with police officers and no information gathered by the IIU during this investigation suggested police knew about that injury when they left SOGH with AP.

During the admission process at WRC, video surveillance recorded AP saying "cops beat the s*** out of me, broke my ribs." AP was observed on video holding his ribs on his left side and he was also heard making comments about not wanting people to touch his ribs when WRC officers went to search him. Once he had been processed, AP was placed on a medical wing due to his injury complaints and he was segregated in his own cell room.

During the afternoon of August 11, AP went into medical distress and complained of sore ribs. He was initially dealt with by WRC medical staff but, as his condition worsened, paramedics were called and AP was conveyed to HSC for medical treatment, including a splenectomy. He remained at HSC until he was pronounced deceased on August 13 at 8:25 p.m.

IIU investigators reviewed WRC video that tracked the time from when AP was first brought to WRC by police until 3:18 p.m. on August 11, when he left the WRC on a stretcher. No altercations involving AP were seen to occur and no WRC witness were aware of any altercations involving AP.

An autopsy was performed on August 16. The autopsy report noted the cause of death was **complications of hypovolemic shock due to or a consequence of a laceration of the spleen due to or as a consequence of blunt trauma of the torso** (my emphasis). In his findings, the pathologist noted fractures of AP's 9th and 10th left ribs, with hemorrhaging in the surrounding soft tissues. Also, a large, deep bruise (12 x 4 cm area) was noted over the left lower flank with the rib fractures underneath. Three lacerations were also noted on AP's spleen. AP's injuries were consistent with a powerful blow to his left flank.

Conclusion

Following receipt of the expert's report on police use of force, the full and completed IIU investigation file was referred to Manitoba Prosecution Service to seek an opinion on whether any *Criminal Code* charges would be authorized in this matter.

On October 4, 2018, Manitoba Prosecution Service advised IIU that this matter did not meet the prosecution charging standard in that there would be no reasonable likelihood of conviction and, accordingly, no charges would be authorized against either SO1 or SO2.

The IIU investigation is now complete and this file is closed.

Final report prepared by:

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