

# ***FINAL REPORT: IIU concludes investigation into fatal shooting by RCMP officers***

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On November 15, 2017 at 12:44 a.m., the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit of Manitoba (IIU) that a male adult had succumbed to injuries sustained after being shot by RCMP members near Lake Manitoba First Nation (LMFN).

According to the RCMP notification:

On 2017-11-14 at 8:25 p.m., an RCMP member--later identified as subject officer 1 (SO1)--was escorting a remanded prisoner--later identified as the affected person (AP)--from Lundar detachment to Winnipeg. When they arrived near the intersection of Hwy 6 and Road 90N near Woodlands, Manitoba, AP indicated that he needed to use a bathroom.

During the removal of the prisoner from the vehicle, AP attacked SO1 and acquired his police baton - striking him in the head area with it. During the altercation, SO1 fired what he believed were four shots at AP and believed that he may have shot him in the shoulder. AP continued to hit SO1 with the baton and was able gain control of SO1's service firearm. Shortly after that, AP departed the area in the police vehicle, with SO1's firearm.

The police vehicle was an unmarked 2011 Ford Econoline Van equipped with police lights and a siren.

At approximately 11:50 p.m., the stolen police vehicle was located on Hwy 417 in a rural area near Lake Manitoba First Nation. The driver would not stop and a pursuit was initiated. The pursuit lasted for approximately 11 minutes at speeds of 100-120 km/hr.

The vehicle driven by AP ended up entering a ditch off Hwy 417 and got stuck. AP made several attempts to exit the ditch but was unable to.

Observation of the vehicle was maintained until Emergency Response Team (ERT) members arrived and approached the vehicle. AP was visible in the vehicle with SO1's firearm in close proximity. Two ERT members--Subject Officers 2 and 3 (SO2-3)--shot AP. First aid was provided to AP who subsequently succumbed to his injuries at the scene.

As this matter involved gunshot wounds and 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 deployed.

As indicated above, the RCMP member who initially transported AP and was involved in a struggle with him, shot him and had his service firearm and police vehicle stolen from him was designated as a subject officer (SO1). The two ERT members who encountered AP near Lake Manitoba First Nation and shot him were also designated as subject officers (SO2-SO3). The

civilian director designated seven RCMP members as witness officers (WO1-WO7). IIU investigators also interviewed four civilian witnesses (CW1 – CW4).

Under 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, IIU investigators received the notebooks of each of the subject officers. SO1, SO2 and SO3 all declined to be interviewed by IIU investigators but each did supply a prepared written statement.

IIU investigators also received and reviewed:

- file package from RCMP including witness officers' notes, reports, forensic identification reports, call histories, and interviews;
- physical evidence and seizures from the scene and AP;
- audio CD of RCMP radio transmissions;
- video from RCMP vehicles;
- seized firearms from the three subject officers;
- autopsy report concerning AP;
- forensic DNA analysis reports;
- toxicology report.

The weather at the time of the IIU deployment included freezing rain and high winds, making highway travel dangerous. As such, the decision was made to not immediately send IIU resources to the scene of the second shooting. Instead, RCMP Major Crime Service (MCS) officers, who were already on PR 417 near LMFN, were tasked with securing the scene pending improvement of weather and road conditions later in the day.

The IIU investigation was conducted into two separate shooting incidents (separated by participants, location and timing) and, therefore, will be documented in two separate sections of this report.

The following facts and circumstances were determined:

### **First Shooting**

On November 14, at 7:18 p.m., SO1, a member of the RCMP Court Liaison Unit (CLU), began a transport of a prisoner from the Lundar RCMP detachment to the Remand Centre in Winnipeg. The prisoner, AP, had been charged with a number of offences stemming from an incident on LMFN on November 12. AP had been remanded into custody for a Provincial Court appearance scheduled for November 17. As part of SO1's duties with CLU, he was tasked with moving remanded prisoners between rural RCMP detachments in eastern Manitoba and Winnipeg. SO1 operated a police vehicle: a white, full-size Ford Econoline van with no police markings. The interior of the van contained three separate cells for prisoners, each monitored by a camera system. The monitor for this system was located in the front seat area so the driver could observe activities in the three cells while the van was in motion.

During the transport, AP requested that SO1 stop the van so that he could urinate. SO1 complied with this request and stopped the police vehicle on the side of Provincial Trunk Highway #6, south of St. Laurent, and allowed AP to exit. Suddenly, an altercation between the two ensued, during which time AP gained control of SO1's expandable baton and struck him in the head. SO1 stated that he discharged his service pistol and believed he shot AP in the left

shoulder. However, AP gained control of the service pistol and stole the police vehicle, driving north on the highway.

SO1 was left on the side of the road. A passing vehicle stopped and provided assistance to him. With his portable radio, SO1 was able to call the RCMP Operational Communications Centre (OCC) twice to notify them of the incident.

The first radio transmission from SO1 took place at 8:13 p.m. In that transmission, AP stated:

*“201, I got jumped, I’m on highway 6 with a pedestrian, they stole 8E9, I was with a prisoner, he went northbound and I’m kind of disoriented. I discharged my firearm and I think I shot him in the shoulder...The prisoner I took was [AP] out of Lundar. Please advise Lundar and Ashern they got my white van ....”*

At 8:15 p.m., SO1 radioed:

*“Suspect has been shot, I’m not sure where. We had a big battle. I shot, I thought I hit him in the shoulder...He’s got my nine millimetre, that’s it.”*

CW1 is a correctional officer and was the first person to have contact with SO1 after his struggle with AP. CW1 was driving north on PTH 6, south of St. Laurent, at approximately 8:00 p.m. when he observed a police officer stagger out of the east ditch of the highway. The officer was bleeding from his head and had blood on his hands. CW1 noted the officer’s holster was empty. CW1 called 911 and relayed what he had been told by SO1.

CW2 was at a Petro Canada gas station situated approximately 5.4 kilometres northwest from the scene of the altercation between AP and SO1. At approximately 8:20 p.m., CW2 observed a male enter the gas station. The male was covered in blood and had a black jacket hung over his left shoulder. He was described as dragging his feet and *“...completely out of breath.”* According to CW2, the male was driving a white van with a surveillance camera inside. The male drove off to the north on PTH 6.

SO1 suffered head lacerations and was subsequently taken by ambulance to the hospital in Selkirk, Manitoba where he was treated and released later in the night.

WO1 said he learned of the circumstances of the first shooting and went to Selkirk Hospital to check on SO1’s well being. WO1 spoke with SO1 in a treatment room and was advised that SO1 had stopped on the side of the highway to let a prisoner urinate when the prisoner attacked him. He said the prisoner was choking him and struck him in the head with his baton twice. SO1 said he shot the prisoner in the shoulder, then the person gained control of the firearm and took it, along with the police van. WO1 seized SO1’s uniform and duty belt, which were ultimately turned over to IIU investigators.

SO1 wrote that he arrived at the Lundar RCMP detachment at approximately 6:30 p.m. to transport AP to the Remand Centre in Winnipeg. AP was handcuffed, shackled at his ankles, and then loaded into the unmarked police van for transport, driving south on PTH 6. As they passed St. Laurent, Manitoba, AP asked to go to the washroom. SO1 stopped the police vehicle on the shoulder of the highway at either a mile road or driveway. The officer wrote:

*“8E9 has a small red button on the dash and if the driver depresses this button, while simultaneously turning off the van and removing the keys, the van will continue to run and video and cell lights will remain on. I tried this technique twice prior to exiting the*

*van and on both occasions the van shut off which shuts down the video system and lights. This van periodical [sic] does this so after starting the van for the last time I kept the keys in the ignition to keep the video running and lights on.”*

SO1 removed AP’s handcuffs and allowed him out of the van. AP’s ankles remained shackled. At this time, SO1 stated AP attacked him from behind and tried to choke him. A lengthy struggle ensued in the ditch alongside the van, with SO1 and AP exchanging punches and eye gouges. SO1 held his expandable baton and struck AP with his fist, but lost control of that weapon and it opened. AP picked up the baton and struck SO1 a number of times in the head and then again started to choke the officer from behind.

SO1 stated he drew his service pistol and fired over his right shoulder at AP, then both individuals fell to the ground beside each other and began to struggle for possession of the gun. The officer wrote:

*“[AP] was very strong and kept forcing my pistol away from his center of mass as I continuously kept forcing my pistol with all my might toward his center of mass and pulling the trigger. I do not know how many times I fired my pistol from this position but believe I fired it more than once.”*

SO1 stated that AP stopped fighting, causing him to conclude that his bullets had hit AP.

SO1 tried to move towards his police radio, which was lying on the ground nearby. At that time, AP attacked him again:

*“... and quickly got on top of me and immediately grabbed hold of my pistol with both of his hands as I held my pistol with both of my hands in front of me ... I do not remember how many times I shot my pistol from this location but during this struggle [AP] was able to use a finger or thumb from his left hand to depress the trigger of my pistol against my right forefinger that was depressed on the trigger. This move stopped me from firing my pistol again. As [AP] was on top of me I remember trying to pull the trigger and got frustrated because my pistol wouldn’t fire.”*

SO1 stated that AP gained control of the gun and got up with it, moved approximately 15 feet away in the ditch, then eventually moved towards the van. AP asked about the keys and SO1 replied they were in the van. AP got in the van and drove off to the north.

As indicated earlier, the police van contained video cameras, and footage from those cameras was examined by IIU investigators. The video recordings contained two time stamps: one at the top of the screen was not accurate, while the time stamp at the bottom of the screen was determined to be one hour fast. There was also an 80-second gap in the footage believed to have occurred when SO1 stopped the police van on the side of the highway, as indicated in his prepared statement.

Relevant times from the video footage of camera one (all stamped one hour fast) are as follows:

- 08:15:03 p.m. – AP enters into the back of the van via the side door. He is handcuffed in front of his body and shackled around his ankles.
- 08:48:43 p.m. – Camera footage skips to 08:50:03. AP can be seen seated in the rear of the van at time video skips.

- 08:50:03 p.m. – Camera footage back on; side door is open on van, AP is not in view; SO1 is observed standing outside the van.
- 08:50:48 p.m. – SO1 is pulled back from door of van by hands to his right.
- 08:59:46 p.m. – Glimpse of AP standing to the left side to van, holding a shiny object in his left hand (believed to be SO1’s pistol).
- 08:59:58 PM – AP is out of view.
- 09:00:04 PM – AP is in view and observed getting his jacket. The shiny object is no longer in his hand.
- 09:00:12 PM – AP shuts van side door.

Due to the severe weather encountered on the night of November 14 (which included freezing rain, high winds and blowing snow), gathering of physical evidence from the struggle between AP and SO1 was limited. Scene examination continued over the next two days.

On November 15, two spent nine millimeter bullet casings were located in the west ditch of PTH #6, together with a pair of glasses, an RCMP expandable baton and a handcuff key. Red staining was noted in the snow near the baton. On November 16, six more spent bullet casings were located under the snow.

The expandable baton found in the snow was submitted to the RCMP Forensic Laboratory for analysis, along with a DNA sample taken from AP during the autopsy examination. An examination was done on the baton and AP’s DNA was found on two locations along the shaft of the weapon.

SO1’s duty pistol was found between the driver and passenger seat of the police van following the fatal shooting of AP near LMFN. The gun contained one live round jammed in the slide action. Five live rounds were located in the magazine inside the pistol.

It should be noted that the two magazines found on SO1’s duty belt each contained 15 live rounds. If the pistol’s magazine was loaded the same way as the others, this would suggest that SO1 fired nine rounds from his pistol during the struggle in the ditch.

The firearm was not submitted for analysis in this investigation as SO1’s prepared statement, the round counts performed and physical evidence located at the scene support the conclusion that SO1 was the only person who discharged his pistol at that location. No expended bullets suitable for ballistic analysis were located in AP’s body during the autopsy.

### **Second Shooting**

Following SO1’s radio broadcasts, OCC began to contact additional resources in an effort to locate the stolen police van and service pistol. At 8:34 p.m., OCC transmitted the following radio message (wrongly believing that a third individual was involved):

*“This is XJL 201 with a special broadcast. This is XJL 201 with a special broadcast. Please be on the lookout for 8E9, the CLU vehicle. We believe it is a white 2011 Ford E-150, possible marker of GCA 617. [SO1] was in the vehicle, he got jumped and then the vehicle was stolen. The SOC has [SO1’s] firearm and there is a prisoner in the vehicle with the SOC as well. The vehicle was last seen at MTT gas bar in St. Laurent going northbound on Highway Six.”*

However, following further conversation with SO1, it was determined that AP had attacked the officer and was the sole occupant of the van. A further radio broadcast was made at 8:46 p.m.:

*“Be advised the SOC is [AP], no shotgun or carbine in the vehicle, but he does have the member’s firearm. CLU member stopped to let him go to the bathroom, there was a struggle, he hit him over the head with his baton, took his firearm and headed northbound.”*

Over the next three hours, police resources were deployed into the Lundar RCMP detachment area in an effort to locate the police van. This included members of ERT, a police dog and handler (PDS) and police officers from a number of RCMP detachments surrounding the Lundar area. Police set up roadblocks on the major highways in the region surrounding the incident, attended and searched AP’s residence near Eriksdale, Manitoba and conducted vehicular patrols along gravel roads.

At approximately 11:50 p.m. on November 14, WO2 encountered the police van being operated by AP on PTH 68 near LMFN. WO2 attempted to stop the vehicle by activating his emergency lights but AP did not stop. This resulted in a high-speed pursuit that moved south through LMFN and onto Provincial Road 417, where AP lost control of the van and entered the south ditch of the roadway. WO2 stopped his police vehicle near the ditch where AP was situated. WO2, who was armed with a shotgun, stated he intended to shoot out the rear tire of the van in order to disable it, but was ordered over the radio by the ERT commander to remain at his police truck and await the arrival of ERT officers and the police dog. WO2 took a position beside his vehicle door with the shotgun pointed at the van and waited for backup.

Five ERT members (SO2, SO3, WO3, WO4 and WO5), a general duty constable (WO6) and a police dog service officer (WO7) attended the location. According to WO2, four or five ERT officers, all holding carbine rifles, immediately began to move in a group directly towards the driver’s side of the van. According to WO2, the police dog was walking ahead of the ERT members, who were calling out to AP to get out of the van as they advanced, but he did not see what response, if any, AP made to those commands. WO2 said the ERT members covered the distance quickly and when they were approximately 10 yards from the van, a number of gunshots rang out. WO2 estimated he heard six to eight shots from multiple firearms and could hear bullets hitting the vehicle and glass breaking. WO2 believed approximately 30 seconds elapsed from the time ERT members arrived on scene to the time shots were fired.

WO3, an ERT member, arrived at the van’s location in an unmarked vehicle, parking 100 to 150 metres away. There were five ERT members present, including himself. They had formed a line and started to advance towards AP, each with their carbine rifle drawn. WO3 stated the van was going forward and reversing in the snow as they arrived.

WO3 said they were calling out to AP to stop and show his hands. WO3 said he could not see AP’s hands and was concerned because of SO1’s service pistol reportedly taken earlier in the evening. WO3 said that when the line of ERT members got to within 10 to 15 metres from the van, the back and forth movement of the vehicle stopped. WO3 raised his carbine rifle to point it at AP when he heard a shot coming from his left. This was where SO2 was situated. This was followed by more gunshots, and WO3 saw AP slump to the right. AP was removed from the van and first aid was commenced.

WO3 stated he was fearful AP would get the van out of the ditch and escape containment. WO3 was ready to shoot at AP as there was no other way to stop him from trying to get the van mobile again. When asked about other use of force options that may have been available to police that night, WO3 said he discounted the use of a police vehicle to go into the ditch to block the van as officers would be coming into range of the pistol believed to be in the van. WO3 also said it was too dangerous to smash the window of the van and use a Conducted Energy Weapon on the driver.

WO4 is an ERT member and was with SO3 and WO3 as they attended the area where AP drove into the ditch. Upon arrival, WO4 said he could hear the engine of the van revving as it moved back and forth in an attempt to exit the ditch. There were five ERT members present as they formed into a line and advanced on the van. They separated into two groups as they were close to the van. The first group--consisting of SO2, SO3 and WO3--moved to the driver's side, while WO4 and WO5 were in position at the front of the vehicle. WO4 stated they were calling out to the driver to surrender, but he could not see any reaction by AP to the commands. WO4 was not able to see AP's right arm or hand.

WO4 was concerned that if AP could free the van, he was going to run them over. WO4 made the decision to shoot, but before he could do so he heard a number of shots coming from where the first group was situated. AP was taken to the ground and first aid was started. WO4 stated that the ERT members moved towards the van as quickly as they could to prevent it from getting out of the ditch and to gain control over the situation.

WO5 was an ERT member and was with WO6 in a marked police SUV on the night of the shooting and traveled to the location where the van was stuck in the ditch. Upon arrival at the scene, WO5 positioned his vehicle so that the headlights were shining on the van. All ERT members formed up and advanced on the van with their carbine rifles drawn. WO5 said the driver of the van was driving the van back and forth in the ditch in an effort to get it back on the roadway.

As the ERT members moved closer to the van, they divided into two groups, with three of them on the driver's side of the vehicle and WO4 and WO5 in front towards the right side. WO5 was unable to see AP's right hand. WO5 stated that as all ERT members advanced on the van, they were calling out to AP to stop actions and show his hands. There was no response to these commands.

WO5 stated he heard several gunshots from carbine rifles on the driver's side of the van. When asked why he had not shot at AP, WO5 stated:

*“He, at that point, from where I was, he didn't give me any indication that he was going for a gun ... From where I was standing there was no, you know, threat queue at that point for me to engage and, yeah, there just, for me personally there wasn't. What happened on the driver's side of the vehicle I have no idea ....”*

WO5's vehicle was equipped with a video camera that captured the shooting. The video footage began as WO5's vehicle was travelling westbound on PR 417 on November 15. There was no time stamp on the video and initially there was no audio. After the emergency lights were activated, the microphone in the vehicle became live.

At the 02:08 minute mark of the video, police vehicles are seen arriving at the scene, and a vehicle is observed in the left ditch moving back and forth.

At the 02:23 mark, WO5's vehicle came to a stop on the road with its headlights pointed at the vehicle in the ditch. Five ERT members, followed by a police dog handler and another officer, approached the vehicle which could be observed driving back and forth in the ditch. At that time the vehicle could be made out as a white van.

At the 02:56 mark, an ERT member is seen moving in front of the van, and at the 02:58 minute mark, several shots rang out. Unfortunately, freezing rain on the windshield of WO5's police vehicle obstructed view of the van, although it could be seen moving forward at the time of the shooting.

WO6, a general duty member of the RCMP, was a passenger in WO5's police vehicle as they drove to the van's location. Upon arrival at the scene, he could see that the van was moving back and forth in the ditch in an effort to get back out on the roadway. WO6 stated ERT members came around the van and approached it from the driver's side door. WO6 said he could hear the ERT members giving commands to AP, such as "*Turn the vehicle off,*" "*Stop moving the vehicle,*" and "*Let me see your hands.*" AP did not react to the commands at all. Seconds later, WO6 heard five to eight gunshots. He did not see who shot, but believed the shooters were to his right. ERT members opened the van door, pulled AP out, and started first aid. WO6 saw an RCMP pistol in the center console seat area of the van.

WO7 is an RCMP police dog handler. WO7 stated he was called out at approximately 8:20 p.m. on November 14 to assist in locating and apprehending AP following the altercation with SO1. WO7 was aware that a firearm and vehicle had been stolen. He subsequently learned of the pursuit involving AP and WO2. WO7 made his way west along PR 417. SO2, an ERT member, was with him in his police dog vehicle. It was determined that WO7's role would be to track the AP if he fled, or use his police dog to remove AP from the van.

Upon arrival at the scene, WO7 observed the van moving forward and backward in the ditch, in an effort to get out. As WO7 exited his vehicle, he got his police dog out of the back seat and drew his sidearm. WO7 positioned himself behind the ERT members, SO2 and SO3, as they approached the van. WO7 stated he could see the driver of the van, who appeared anxious and desperate. WO7 stated the ERT members were calling out to AP, telling him to stop, show his hands and that he was under arrest. There was no response from AP. WO7 stated:

*"The suspect, from what I recall, looked, looked, looked around, looked down, I saw a shoulder move, and then the cover man, the ERT members engaged him with their, with their long weapons."*

WO7 stated he heard approximately six gunshots, which were fired through the window of the van. He believed the shooting took place within three minutes after the ERT members arrived at the location where the van was stuck in the ditch.

Video from the van was reviewed for anything of interest around the time of the shooting. No images of the actual shooting were located, given the positioning of cameras inside the vehicle. However, video cameras situated in the rear cells of the van suggest the vehicle was placed in reverse on approximately 10 occasions between midnight and 12:02 a.m. on November 15.

CW3 and CW4, relations of AP, were interviewed in the course of the investigation. Both stated that AP had come to their residence near Eriksdale at approximately 10:00 p.m. on November 14. He was covered in blood on his left side and told them he had been shot in his left shoulder. According to CW3, AP did not disclose who did the shooting, but according to CW4, AP said the police had shot him. Also, according to CW3, AP said the RCMP "... had him for 20 years for manslaughter." During his time at the residence, AP gathered some personal effects in a duffle bag prior to departing.

As referenced earlier, both SO2 and SO3 declined to attend the IIU for the purposes of subject officer interviews. Instead, both provided prepared statements through legal counsel.

SO2 wrote that he was called out to an incident where it was reported AP had attacked an RCMP officer on PTH 6 and stolen the officer's gun and vehicle. He was part of a team that searched AP's residence prior to the shooting incident, during which time CW3 relayed to him AP's comment that he was going to jail for 20 years.

*"The statement from [AP] to [CW3] saying he was going to jail for 20 years made me believe that [AP] thought he killed [SO1] on the side of the road and thought he would be going to jail for a very long time. I thought that due to the high amount of firearms safes and ammunition I observed in the residence and the history of [AP] committing violent offences and robberies that it was likely that [AP] armed himself with more weapons and ammunition."*

After hearing that WO2 was in pursuit of AP, SO2 traveled west on PR 417 towards the area with the dog handler, WO7. Upon arrival at the eventual shooting scene, SO2 stated he could see the van driving back and forth in the ditch, in an effort to get out. SO2 exited the police vehicle, drew his carbine rifle and began to advance on the vehicle. As he moved towards it, SO2 wrote:

*"I could clearly see that [AP] had his driver's window rolled down about five inches. I called for [AP] to show me his hands. I could not see [AP's] right hand. From my experience, in training and calls with ERT and General Duty, that the majority of the population is right handed and that [AP's] actions, if he chose to shoot at me, will beat my reaction time if I was fired upon. This means that if [AP] had the pistol in his right hand, that if [AP] turned to fire at me, that he would be able to shoot me first before I was able to return fire. I heard multiple officers calling for [AP] to show his hands. I called for [AP] to show me his hands. [AP] did not comply and did not show his right hand."*

SO2 continued his advance on the van, getting to within 10 feet of AP. He wrote:

*"I observed [WO4] and [WO5] cross the front of the suspect vehicle. At this time, [AP] accelerated the suspect vehicle, spinning the tires and lunging forward at [WO4] and [WO5] who were crossing in front of [AP's] vehicle still. I still could not see [AP's] right hand. I feared that [AP] was going to run over [WO4] and [WO5] and that [AP] was also in possession of the RCMP service pistol, as [AP] would not show me his right hand after being told to on multiple occasions. I believed that [AP] was going to kill [SO3], [WO3], [WO4], [WO5] or myself in this situation by running over [WO4] and [WO5] with the suspect vehicle or shooting [SO3], [WO3] or myself with the RCMP service pistol. I knew that [AP] had attempted to kill [SO1] by hitting him over the head with the*

*extendable Police baton multiple times and stole the RCMP service pistol of [SO1]. I knew that a bullet from [SO1's] gun wounded [AP]. I knew that for [AP] to continue his actions while injured and without giving up, that he was a goal-oriented individual who was going to continue fighting with Police until arrested. I knew [AP] was not complying with Police commands given to him while having multiple Carbine rifles being pointed at him by ERT Officers and the presence of ERT Police Officers was not intimidating [AP] as he had not surrendered or complied with Officers' commands. I knew [AP] had a recent history of weapons offences and recent violent offences. I was also aware that [AP] had bear maced/pepper sprayed a pregnant woman and had no boundaries for his level of violence that he obviously was willing to inflict on anyone at any time. I believe [AP's] intentions at this point was to attempt to kill another Police Officer.*

*I turned the safety off on my Carbine and began firing rounds at [AP's] torso to prevent [AP] from killing a Police Officer and to stop [AP's] actions ... I believe I fired approximately 6-7 rounds from Carbine but did not count as I was reacting to the actions of [AP] rather than counting rounds from my firearm."*

SO3 wrote that he was called out as part of RCMP ERT to an incident where AP had assaulted a police officer and stolen both the officer's vehicle and service pistol. Upon arrival in the Lundar area, he assisted in searching for AP, including the search of his residence near Eriksdale with SO2 and other police personnel. Following the search, SO3 became aware of the pursuit of the van by WO2. He drove an ERT vehicle west on PR 417 in an effort to assist in the pursuit. En route, he heard that the van had driven off the road and into the ditch. Once he arrived at the location of the van, he noted the vehicle driving back and forth in the snow in an effort to get back on the road.

SO3 wrote that he and the other ERT members exited their vehicles and began to approach the van on foot, adding there were no other options available to immobilize the van. He believed it was necessary to prevent the vehicle from getting back on the roadway, otherwise:

*"... public and police lives would continue to be at risk."*

The officers approached in a line and, as they did so, the van reversed further into the ditch. SO3 stated that he *"... gave loud and clear commands to AP for him to show his hands and get out of the vehicle."*

SO3 further stated:

*"Then as writer was still approaching writer observed to his left, [WO3] and [WO5] attempt to cross in front of the vehicle and as they did, writer observed [AP] place the vehicle in drive and his right hand immediately go back down to his side. [AP] stepped on the gas with [WO3] and [WO5] in front of the vehicle and at the same time writer heard a carbine shot go off from the writer's right side and writer observed the shot shatter the driver's side window. Writer feared imminent death or grievous bodily harm for [WO3] and [WO5], and immediately shot at [AP] and continued to shoot at [AP's] center mass until he moved away from the steering wheel of the vehicle and writer heard the van's engine slow down. Stopping the immediate threat of [AP] attempting to run over and kill [WO3] and [WO5]. Writer recalls firing approximately four to six rounds at [AP] ...."*

The carbine rifles and magazines of the involved officers were seized and turned over to IIU investigators. SO2's rifle was found to contain a live round in the chamber and 19 live rounds in the magazine. SO2's two additional magazines were found to contain 28 live rounds in each. SO3's carbine rifle was found to contain a total of 23 live rounds following the shooting. Three additional magazines were found on SO3's body armour vest, and two contained 28 live rounds. The third magazine held 26 live rounds.

Neither firearm was submitted for analysis during this investigation, as no expended rounds suitable for ballistic comparison were located in AP during the post mortem examination. Subject and witness officer accounts, round counts performed, and physical evidence located at the shooting scene support the conclusion that SO2 and SO3 were the only officers who discharged their firearms.

An RCMP service pistol was located between the front seats of the van and contained a total of six live rounds. One of the six rounds was jammed in the slide action of the pistol.

A post mortem examination was conducted on AP at the Health Sciences Center in Winnipeg on November 16, where cause of death was determined to be "*multiple gunshot wounds.*" The attending pathologist offered the following conclusions at the end of the autopsy:

*"Autopsy revealed a superficial perforating gunshot wound to the left shoulder consistent with a lower velocity handgun ammunition. Extremely numerous (hundreds) of penetrating skin injuries were concentrated in the left abdominal and right buttock regions, with massive associated internal injuries and a classic "lead snowstorm" appearance on x-ray. It is the author's opinion that two primary projectiles struck the left upper arm of the deceased, with at least five more striking the torso in the left abdominal and right buttock regions. The extensive fragmentation of the bullets prior to striking the deceased indicate they likely passed through an intermediate target before striking the deceased."*

No whole or intact bullets were recovered from AP during the procedure.

Blood samples were obtained from AP during the post mortem examination and were submitted for toxicology examination. On June 29, 2018, a report from the laboratory was received at the IIU offices, which stated that inactive metabolites of cocaine were located in the sample submitted, along with a low level of tetrahydrocannabinol, the major psychoactive component of cannabis products.

Following completion of the IIU investigation, an expert in police use of force was engaged and requested to provide an opinion on the actions and tactics employed in both shooting situations.

### **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 respect to either or both shootings. On January 14, 2019, Manitoba Prosecution Service advised IIU that neither shooting scenario met the prosecution charging standard in that there would be no reasonable likelihood of conviction in either case. Accordingly, IIU was advised by Manitoba Prosecution Services that no charges would be authorized against SO1, SO2 or SO3.

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

**Final report prepared by:**

Zane Tessler, civilian director  
Independent Investigation Unit  
January 15, 2019

*Ref #2017-0067*