

FINAL REPORT: IIU investigation into WPS officer-involved shooting in River Heights concludes

On November 11, 2019, at 6:44 p.m., Winnipeg Police Service (WPS) notified the Independent Investigation Unit of Manitoba (IIU) of an officer-involved shooting that occurred in North River Heights a short time earlier.

An excerpt of the written version of this notification read, in part:

“On 2019-11-11, at approximately 18:07 hrs, the subject officer (SO) was a one officer unit in an unmarked vehicle voicing he was following a stolen vehicle...At approximately 6:12 p.m., whilst on Academy nearing Oak St, SO attempted a rolling stop with another police vehicle. The stolen vehicle rammed both police vehicles, maneuvered out of the containment and drove directly at SO, who discharged his firearm at the vehicle, which fled the area.

At some point a male passenger who was in the vehicle got out and fled on foot making good his escape. He was last observed running northbound on Oak Street.

Shortly thereafter, the stolen vehicle was found abandoned in the rear back lane of Queenston Street, just south of Corydon Avenue. A trace amount of blood was observed in driver's seat of the vehicle.

A subsequent track by the Winnipeg Police Service K9 Unit resulted in negative results for both the driver and passenger. Both are still outstanding at the time of reporting...”

As this matter concerned the possible injury to a person resulting from a discharge of a firearm by a police officer, the IIU assumed responsibility for this mandatory investigation in accordance with section 65(1) of *The Police Services Act* (PSA). A team of IIU investigators was assigned to this investigation.

Based on the notification by WPS and information received by the IIU, it was determined that the discharge of the firearm and shooting incident had occurred at approximately 6:07 p.m. on November 11, 2019 in the vicinity of Academy Road and Oak Street, in Winnipeg. It was alleged that the subject officer, attempting to conduct a containment stop of a stolen Jeep, discharged his service firearm at it, as it drove towards him. A male subject was observed by police to exit the passenger side of the Jeep and run away down Oak Street. The stolen Jeep drove off and was located a short time later, abandoned in a back lane behind Queenston Street, south of Corydon Avenue. A trace amount of blood was found on both the driver's seat and steering wheel of the vehicle. Neither the driver nor the fleeing passenger were located or identified on November 11. It was uncertain at this time whether the blood found was the result

of an injury arising from the discharge of the police officer's service firearm. The blood sample was sent for DNA analysis to ascertain if an individual could be identified.

There was a considerable delay encountered in proceeding with this investigation due to the time passing for the DNA analysis on the blood found in the stolen vehicle to be completed. It was not until September 2020, that the blood sample analysis was completed and an individual was identified. The individual was finally located at the Calgary Correctional Center in November 2020. It was determined that this individual was the operator of the stolen Jeep and had been injured as a result of the discharge of the firearm. In the circumstances, this person was deemed to be the affected person (AP).

Among the information obtained and reviewed by IIU investigators, included:

- WPS radio transmissions
- GPS records for police vehicles
- NICHE report list
- Notes and prepared statement of SO
- Forensic Identification reports
- Narrative report
- WPS policy on use of service firearms

As indicated, the civilian director designated the WPS officer who discharged his service firearm as the subject officer (SO) and one other WPS officer was designated as a witness officers (WO). IIU investigators also met with and interviewed AP. The individual who fled the stolen Jeep out of the passenger side on November 11 was never identified or located.

AP

AP stated that on November 11, 2019, between 7:00 and 10:00 p.m., he had borrowed a Jeep from a friend and was driving towards on Academy Road towards Maryland Street when he pulled over to either respond to a telephone call or read a text message on his mobile phone. AP stated that the Jeep he was driving was struck by another vehicle and his head slammed back into the headrest. AP stated that he believed he was being attacked so he instinctively drove off. AP stated that he heard a loud popping sounding and then the driver's side window of the Jeep blew out. Some of the glass from the breaking window cut his hand. AP stated that he was in the Jeep with a couple that he knew and only knew them by their first names. AP stated that the couple were in the in the rear seat of the vehicle. AP stated that one of the couple told him that his window had been shot out although he did not see where the shot came from, nor did he see any pedestrians or police cars in the area. AP stated that he drove two or three blocks then lost control of the Jeep and collided with a fence in a back lane. AP stated that he exited the Jeep and walked away. AP did not seek medical attention for an injured hand. AP stated that the couple had already exited the Jeep by the time he collided with the fence. AP denied being under the influence of any intoxicants at the time of the incident, stating he had ingested cocaine and liquor a couple of days prior. AP stated he would provide the full names of the passengers (the couple) who were present in the vehicle with him at the time of the shooting, but to date, he has not done so.

Witness Officer

WO was on duty and driving a marked WPS SUV, when he heard SO broadcast of the police radio that he was following a stolen vehicle that had been involved in a theft of gasoline. SO broadcasted that he was westbound on Academy Road. WO stated that he drove his vehicle to Academy Road parking on a cross street so he could observe traffic and wait for the stolen vehicle to pass his location. Within moments, the Jeep, passed his location westbound in the curb lane of Academy Road. The Jeep then stopped at a traffic light at Oak Street and Academy Road. WO stated that he pulled in behind the Jeep. When the traffic light turned green, WO stated that he observed SO, in his vehicle, drive in front of the Jeep in an effort to do a containment stop¹. WO stated that he observed that the Jeep collided with the rear of SO's vehicle. WO stated that he drove behind the Jeep and contacted its rear end in an effort to pin it. WO stated that he did not have his emergency lights on when he drove into the Jeep but activated them afterwards. WO stated that a person exited from the passenger side of the Jeep and ran off to the north. WO stated that the Jeep began to back up, pushing his vehicle backwards. WO stated that he saw SO out of his police vehicle standing next to the driver's side of the Jeep. WO stated that he did not believe that SO had his service firearm drawn at that time. WO stated that the Jeep started to drive forward and SO now had his service firearm in his hand. WO stated that he believed the SO's life was in danger. WO stated that SO discharged his service firearm once towards the driver's window of the Jeep. WO stated that SO was between two and four feet from the driver's side of the Jeep when he discharged his firearm. WO stated that he did not see whether the discharge struck the Jeep but it drove around SO's vehicle and continued westbound on Academy Road, where it eventually turned off. WO stated that he remained on scene to make sure SO was okay.

Subject Officer

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, the subject officer declined to attend for an interview, however did provide his notes and a prepared statement to IIU investigators.

The prepared statement included the following information:

The stolen vehicle struck the rear bumper of my cruiser car with a hard jolt, I used both hands to control the cruiser car. My cruiser car came to a complete stop on the west side of Academy and Oak. I don't believe the emergency lights activated as my hands went to steady the cruiser.

The stolen vehicle then made contact with my cruiser car a second time and the rear bumper of my cruiser car was against the front bumper of the stolen vehicle.

Believing the stolen vehicle was pinned I exited the drivers side door of my cruiser car and the #1 lane of Academy westbound had stopped. I was in full uniform.

¹ a tactic employed by police whereby police vehicles are positioned in front and back, and in some cases the side, of a suspect vehicle, in an effort pin it in place and safely stop it

I proceeded along the drivers [sic] side of my cruiser car to the rear bumper. Once there I observe a Caucasian male fleeing out the front passenger side of the stolen vehicle. The passenger fled north bound.

The open passenger side door caused the interior light of the stolen vehicle to be illuminated.

Moving towards the stolen vehicle I expected to see the driver flee. The driver was still seated in the drivers [sic] seat.

The driver was a Caucasian male, approximately 30 years of age with brown hair.

I realize that [WO] 's cruiser car has been pushed back and is approximately 3 feet in front of me and I am past the bumper of my cruiser car.

I attempted to stop my forward momentum all the while the driver is staring at me through the windshield of the stolen vehicle.

When I stop my forward momentum I realize that I am in one of the stolen vehicles [sic] escape routes.

I drew my service issued pistol, recognizing this is a lethal force encounter with the driver in a position to cause me death or grievous bodily harm.

I point my service issued pistol at the hood of the vehicle. I pointed it at the hood because I didn't believe the threat assessment was complete. The stolen vehicle was static and appeared to be in reverse. I yelled stop.

Without taking my eyes off the stolen vehicle I attempted to locate an escape route for myself. The number 1 lane of west bound Academy appeared safe but there was the unknown if traffic directly behind me had stopped or was still traveling east bound in the #1 lane.

I began to back step to create distance between myself and the threat. The driver was still looking at me. Despite the open and unobstructed route to the North, the driver then accelerated the stolen vehicle towards me rapidly. I had made a couple of steps back from the stolen vehicle before it started moving towards me, that being a total of 6 feet.

I believe the driver of the stolen vehicle intended to run me down.

While still moving backwards I took aim at the driver and discharged one round from my service issued pistol.

The round entered the vehicle through the drivers [sic] side front window towards the passenger side of the vehicle.

The stolen vehicle passed within inches of me as I stepped back, I could feel the vehicle pass me.

Conclusion

The entire investigative file was referred to Manitoba Prosecution Service (MPS) with a request that it be reviewed and that a crown opinion be prepared to advise whether or not criminal charges, if any, would be authorized in the circumstances.

MPS provided the IIU with a detailed crown opinion, with the following conclusion:

“Manitoba Prosecution Service (MPS) has reviewed the IIU investigation of [SO]. While it is always in the public interest to hold police officers accountable, there must also be a reasonable likelihood of conviction for MPS to prosecute a matter. In this case, after considering all of the evidence, we have concluded that there is no reasonable likelihood of conviction. When MPS is consulted for charge authorization in any criminal matter, we employ the same standard for proceeding with criminal charges”

MPS has advised that there are no reasonable likelihood of a conviction in relation to any criminal code charge arising from SO’s use and discharge of his service firearm. Accordingly, IIU has completed its investigation and this file is closed.

Final report prepared by:

Zane Tessler, civilian director
Independent Investigation Unit
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