

FINAL REPORT: IIU concludes investigation into death following arrest by WPS officers

On June 26, 2019, Winnipeg Police Service (WPS) notified the IIU that a male subject (later identified as the Affected Person (AP)) was transported to St. Boniface General Hospital (St. B) following an interaction with WPS officers near an address on Burrows Avenue. AP was pronounced deceased at St. B.

The salient portion of this notification read, in part:

At approximately 2:32 a.m., officers were dispatched to an address on Alfred Avenue regarding an unknown male who had broken into the residence. The male fled through a window and was located across the lane at an address on Burrows Avenue, taken into custody and handcuffed. He appeared in distress and an ambulance was called. He was transported to St. Boniface hospital and pronounced deceased.

The male is unknown at time of reporting

As this matter now concerned the death of a person, which may have resulted from the actions of a police officer(s), IIU assumed responsibility for this mandatory investigation in accordance with section 65 of The Police Services Act (PSA). A team of IIU investigators was assigned to this investigation.

Further, in accordance with section 70(1) of the PSA, the IIU was required to seek the appointment of a civilian monitor as this matter involved the death of a person. IIU requested the Manitoba Police Commission to appoint a civilian monitor.

WPS and other information obtained by IIU investigators, included:

- WPS officers' notes and narrative reports
- WPS call history
- WPS forensic identification reports and photographs
- 911 call audio recordings
- WPS radio transmissions recordings
- Air1 video; Conductive Energy Weapon download report
- Autopsy report respecting AP

Following the review of the agency information, it was determined that five WPS officers would be designated as witness officers (WO1-WO5). Due to the lack of information as to the cause of death at the outset of this investigation, it was decided that no subject officer designation would be made, pending the receipt of more detailed forensic pathology reports respecting this issue.

IIU investigators conducted a canvass for witnesses and possible video surveillance evidence. No video recordings or surveillance footage was identified in this canvass. However, IIU investigators were able to identify and interview two civilian witnesses (CW1-2).

Facts and Circumstances

Civilian and Other Witnesses:

CW1 was at his home, sleeping in a basement bedroom, when, between 2:30 and 3:00 a.m., he heard the sounds of smashing and felt glass hit his face. CW1 awoke and saw an arm and leg sticking through a window as if someone was trying to get through. This person was yelling, “*help.*” CW1 then yelled back at this person. CW1’s brother, also sleeping at this residence, awoke. CW1 and his brother made their way outside and to the front of the house to confront this male (later identified as AP). AP was lying on the grass and rolling around at the front of the house. AP continued to yell, “*help.*” AP crawled from the lawn, up the front steps, and sat with his shoulder against a storm door, as he continued to yell, “*help.*” CW1 believed AP was on drugs.

CW1 states that two uniformed police officers (a male and female) arrived within five minutes. CW1 states that the police told AP to calm down. The police had produced a Taser (conductive energy weapon (CEW)), but did not use it. The police guided AP off the steps and walked him down, where he was taken to the ground, told to lay on his chest and was handcuffed. CW1 states that the police did not strike or use the CEW on AP. An ambulance arrived within 15 to 30 minutes after the police arrived. CW1 states that the police were doing CPR on AP.

At approximately 3:15 a.m., CW2 was sleeping when he was awoken by the sound of two loud bangs, the second of which broke the glass in his bedroom window. CW2 could see a foot coming through the window and heard a man saying, “*help me.*” CW2 thought this was a robbery and he started yelling at the man. CW2 also told his parents to call the police. CW2 and his brother, CW1, then went outside. The male (later identified as AP) was coming around the west corner of the house, as CW2 came around the east corner. AP looked like he was under the influence of drugs. CW2 states he told AP that the police were on their way. CW2 states that AP walked to the front steps, tripped and struck the front door. AP then grabbed a chair that was on the porch and used it like a shield. AP was not saying anything, but was moaning and yelling. CW2 saw blood on AP’s legs and right hand. Within a minute or two, two police officers arrived. AP was on his knees, and both police officers told the man to get on the ground. The male police officer had his CEW and flashlight out. The female police officer grabbed AP and pulled him down to the ground. He rolled down the steps and eventually onto his stomach. The female police officer handcuffed AP. The male police officer put the CEW away after AP was in handcuffs. The police officers turned AP over and asked him questions. CW2 heard AP say his name and that he had used “*coke.*” Then, AP stopped talking. The police officers shook him,

took the handcuffs off, turned him over and started CPR. They continued with CPR until the paramedics arrived.

Witness Officers

WO1 was working with WO2 when they were dispatched in response to a 911 call concerning a male who had entered a home through a broken window. As they were traveling to the location, they received updates over the police radio. WO1 heard that children were in the home, an altercation had occurred, and a male had fled. The male was now on stairs outside a different location and was holding a chair. There was also a report stating that the male had assaulted a baby. The WPS police helicopter, Air1, had described the male as an armed person acting erratically. There was also information that the male was under the influence of some substance. At 2:42 a.m., WO1 states that they arrived at the location. The residents of this home were outside. WO1 could see a male (later identified as AP) at the top of the steps at the home. WO1 drew out his CEW, as a least invasive, least painful way of taking AP into custody. WO1 yelled, "WPS" and "get on your stomach." AP tried to be compliant, but he was not in full control of himself. AP did not speak to the police officers. WO1 states that he saw blood on AP, but did not know where it had come from. WO1 put his CEW away as the two police officers could physically gain control of AP. WO1 states that when WO2 grabbed the chair AP was holding, he rolled down three stairs to the ground. AP could not stand up as, WO1 stated, he was "out of it." After AP was handcuffed, he could tell police officers his first name, but could not articulate his last name. AP said he had taken "two bumps¹ of coke," that his mouth was injured, and his leg was broken. WO1 states that he could only find a cut to AP's right arm. WO1 states that although AP was laying relatively still, he was rocking back and forth. WO1 states that AP became calm, said in a faint voice that he could not breathe, lost consciousness, as he appeared to be breathing ineffectively. WO1 radioed that AP was unconscious though breathing. As WO1 was satisfied that drugs were ingested, he provided Narcan² to WO2 who administered it to AP. AP's breathing then worsened and a rush for an ambulance was radioed. The police officers commenced chest compressions and continued until the ambulance crew took over.

WO2 was partnered with WO1, when a high priority call was received. According to WO2, the following information was received as they were on route to the location: a male was actively in a house, children were involved, and the male was possibly under the influence of something or in a state of mental distress. The risk somebody could be seriously injured was significant. When they arrived at the residence on Burrows Avenue, WO2 saw the male (later identified as AP) acting extremely erratically. AP was lying on the front porch and was tangled up with a folding chair. WO2 saw the blood on the front door and porch, but she did not know where it had come from. AP was screaming, twitching, rolling around, breathing heavily, and sweating. WO2 assumed AP was intoxicated or on some illicit substance. WO2 and WO1 announced, "Winnipeg Police." WO2 grabbed the chair and threw it away. WO2 took hold of AP by his waistband and pulled. AP rolled down the steps. Once on the ground, AP was rolled on his stomach and both WO2 and WO1 shin pinned him. AP was handcuffed. AP was not listening or responding to

¹ According to the Winnipeg Police drug unit a "bump" refers to a nonspecific dosage of cocaine

² A Manitoba Justice Fact sheet on NARCAN states that "Naloxone [is] the active ingredient in NARCAN® Nasal Spray". Health Canada states "Naloxone is safe for all ages. It only works if you have opioids in your system. You cannot use naloxone improperly and does not create dependence. It is safe to keep a naloxone kit on hand."

verbal command, nor was he moving away or trying to fight. It was not difficult to get AP into handcuffs. When AP was placed in handcuffs, WO2 saw a large laceration to AP's right wrist – it was bleeding and appeared to be a fresh injury. AP told WO2 that he had taken two bumps of cocaine, and told her his first name. WO2 states that it was hard to hear AP because of his erratic, heavy breathing. As time passed, AP's breathing was slowing and he became unresponsive. AP was no longer answering questions, his eyes closed, he was still and it appeared that he had passed out. WO2 believed that this was a medical issue. WO2 administered Narcan to AP. She heard it spray, AP appeared to breathe in, and then he became unresponsive. They began CPR, and continued until the ambulance arrived to take over.

WO3 arrived at the scene, saw a handcuffed male lying on the ground, and heard WO1 and WO2 saying, "*Stay with me. Stay with me here.*" WO3 asked for an ambulance on rush because the male was not breathing.

WO4 was partnered with WO5, when he heard a radio broadcast about a break and enter in the north end and said that they would attend. On arrival, WO4 noted that WO1, WO2 and WO3 were already at the location. A male (later identified as AP) was unconscious on the front yard. AP had a laceration on his arm. WO4 states that WO1 and WO2 administered Narcan and then started CPR. While this was occurring, WO4 walked to the side of the house to "*clear it.*" He saw a broken basement window, broken glass, a Ziploc bag of a white powdery substance, and some cash. When he returned, WO1 and WO2 were still performing CPR.

WO5 was partnered with WO4, when he heard a police radio broadcast of a break and enter call, at a residence on Burrows Avenue. WO5 described this call as a high risk and urgent matter, as a break and enter in progress means the individual could still be present. On arrival to Burrows Avenue, WO5 saw two WPS vehicles, and WO1, WO2 and WO3 present. A male was noted in handcuffs and he appeared to be unconscious. WO1 and WO2 were performing CPR on the male. Shortly afterwards, the ambulance and fire personnel were taking control of the medical situation.

Air1 Video

Video was collected from Air1. Air1 uses a thermal imaging camera. The video image captured AP prior to police contact, his arrest, subsequent CPR administration, and concluding with his placement in the ambulance. AP is seen on the ground by the front steps at the residence on Burrows Avenue. AP is observed crawling up the stairs of the home and taking a chair off the porch. Two WPS officers approach AP. One police officer grabs the chair and tosses it across the yard. The police officer then uses one arm to grab AP and pull him to the ground level. The police officers handcuff AP. Shortly afterwards, the police officers appear to be performing CPR.

Pathology and autopsy report

An autopsy of AP was conducted on June 27 at St. B. The cause of death listed on the autopsy report was "*Mixed Drug Intoxication (cocaine, methamphetamine, and ethanol).*"

Conductive Energy Weapon Download

IIU investigators requested downloads of the CEW'S assigned to WO1 and WO2. The report provided confirms that WO1's CEW was armed for a total time of 22 seconds and then disarmed. WO1's CEW was never discharged.

Conclusion

This investigation must consider whether the actions of any or all of the police officers who responded to the call for service caused, or in any way contributed, to the death of AP. In this matter, a forensic pathologist examined AP post mortem and determined that AP's death was a result of mixed drug intoxication, through a combination of cocaine, methamphetamine and ethanol. Based on all of the interviews conducted, I am satisfied that no actions by any police officer caused or contributed to the cause of AP's death in any degree. At all times, the police officers dealt with AP with restraint, caution and without the resort to the application of any significant degree of force. The use of Narcan was solely for the purposes of dealing with effects of the multiple substances within AP's system and as a lifesaving act. It or the decision to administer it were not a factor in the cause of AP's death.

In conclusion, there is no evidence that would justify the designation of any of the police officers as subject officers and there is no further requirement to continue with this investigation.

Manitoba's chief medical examiner has called for an inquest with respect to this death pursuant to The Fatality Inquiries Act.

Accordingly, this matter is now closed.

Final report prepared by:

Zane Tessler, civilian director
Independent Investigation Unit
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