

FINAL REPORT: IIU concludes investigation into death of male during WPS custody

On November 4, 2020, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit (IIU) of the death of a male prisoner following his arrest and detention by police.

The notification, provided to IIU (and edited for clarity), read in part:

“On the 2020-11-04 at approximately 1:00 a.m., a male suspect (later identified as the affected person (AP)) was arrested by members of the WPS during a traffic stop in the lane of Talbot Avenue, in Winnipeg, in relation to drug offences. During his arrest AP informed officers that prior to being taken into custody he swallowed some drugs believed to methamphetamine and cocaine. AP was transported to the Central Processing Unit (CPU) and cleared by the on-scene paramedic. AP was placed in a holding room under observation.

At approximately 3:11 a.m., AP was observed to be in medical distress and unresponsive. First aid was administered including chest compressions. AP was transported to St. Boniface Hospital (SBH) by ambulance and was pronounced deceased by an attending physician...”

As the notification concerned the death of an individual while in police custody, this matter is a mandatory investigation for which IIU was statutorily required to assume responsibility. A team of IIU investigators was assigned to this investigation. Furthermore, the appointment of a civilian monitor was also mandated by statute and a request was made to the chair of the Manitoba Police Commission for this purpose.

WPS file material and other information obtained by IIU investigators, included:

- WPS call summary
- WPS officers’ general reports, supplementary reports, narratives and notes
- Prisoner Log Sheets and Activity Logs
- Surveillance video footage
- Autopsy and toxicology reports

As there was, initially, a dearth of information whether any WPS member was directly or indirectly involved in AP’s death, the civilian director deferred the designation of a subject officer pending further investigation into this matter. The civilian director did designate eight WPS officers as witness officers (WO1 – WO8). IIU investigators also met with and interviewed three civilian witnesses (CW1 – CW3) and two staff members of the CPU (CP1-2). IIU investigators also consulted with the province’s chief medical examiner.

IU investigators also requested a copy of any WPS policy regarding actions with prisoners who may have ingested drugs. According to a response from WPS, no such policy existed at the time of this incident. However, on January 14, 2021, a WPS policy was instituted to address these situations going forward. IU investigators requested a copy of this new policy which request was denied by WPS on the basis that this current WPS policy was not in place as of the date of the incident under investigation, and would not be provided to IU.

Facts and Circumstances

Civilian Witnesses:

CW1 was a neighbour of AP. CW1 states that she was home during the early morning hours of November 4, watching movies, when she became aware that police cruisers were parked in that back lane but was not aware of the purpose for their presence. CW1 states that the following day, she received information that AP had been arrested by police in this vicinity. CW1 states that she retrieved and reviewed video footage from her surveillance camera. The video footage was provided to IU investigators.

Surveillance Video

The time on the video footage was off by one hour due to a time change for Daylight Saving Time that was not reset by CW1. The video footage displayed a recording time from 1:32 – 2:35 a.m., however the actual time was 12:32 – 1:35 a.m.

Summary of surveillance video footage:

- A pick up truck was followed into the lot behind an apartment building on Talbot Avenue by a marked WPS cruiser with its lights activated. Both vehicles stopped in the back lane and two police officers exited from their cruiser.
- AP is seen to exit from the truck and was walked to the police cruiser. AP had his hands behind his back. AP was placed in the rear of the police cruiser without incident.
- Officers are observed walking around the scene and AP's truck.
- An officer opened the cruiser door where AP was sitting, appears to speak to him then closes the door.
- AP is removed from the cruiser, is searched and then returned to the cruiser.
- Officers attend to the back to the truck, where one officer entered as another officer stood outside
- AP is driven away from the scene

CW2 was at his residence when he looked out his bedroom window and observed police officers place AP into a cruiser car. CW2 states that the police then searched AP's vehicle. CW2 states that he saw the police putting AP into their vehicle and that AP had hit his head. CW2 did not see any police officer hit or strike AP. CW2 states that he heard the driver of the police cruiser swear at AP and say, "...don't make me mad". CW2 states that as the police were driving away, he could hear AP screaming that he did not want to go and he cannot be taken.

CW3 was at home when he saw a police car pull over AP's vehicle. CW3 states that the police pulled AP out of his truck and placed him in the police car. CW3 states that a police officer said to AP, "*Watch your head*". CW3 states that the police then searched AP's truck. CW3 states that a short time later, an officer opened the door to the police car and told AP to stop banging his head.

Witness Officers:

WO1 and WO2 were partners and were tasked with assisting CPU with a hospital transport. WO1 states that the call for service indicated that a prisoner was going to the hospital. WO1 states that they were dispatched at 3:13 a.m. and arrived ten minutes later on scene at police headquarters. On arrival, WO1 states that he saw AP on a stretcher and paramedics were doing full chest compressions on him. WO1 states that they left for the hospital at 3:42 a.m. AP was taken into a resuscitation room but at 3:52 a.m., he was pronounced deceased by an attending physician.

WO2 confirms that he and WO1 were assigned to participate in a transport of a prisoner from CPU to hospital. WO2 states that on arrival at police headquarters, AP was on a stretcher and paramedics were performing chest compressions on him. WO2 states that AP was placed in an ambulance and he and WO1 followed it to the hospital. AP was pronounced deceased shortly after their arrival.

WO3 and WO4 were partners and on general patrol in a marked police cruiser. WO3 states that at approximately 12:34 a.m., they were in the vicinity of Washington Avenue and Watt Street when he noticed a small truck that was stopped in a back lane, with its engine running and the interior lights on. There was one occupant in the truck. WO3, who was the driver of the police cruiser, states that as he turned onto the back lane, the truck suddenly drove away and accelerated. WO3 states that he could not read the licence plate of the truck. WO3 states that the truck approached Watt Street and quickly turned southbound without signaling. WO3 states that he sped up to catch up to the truck and activated the emergency lights to initiate a traffic stop. The truck appeared to slow down but did not stop in response to the emergency lights. WO3 states that the actions of the driver caused him to believe that the truck may be stolen and called for backup assistance. WO3 states that they continued to follow the truck northbound on Watt Street when it made a quick turn into the back lane south of Talbot Avenue. The truck then turned westbound into the south back lane and pulled into the parking pad behind an apartment complex. WO3 states that he pulled his cruiser car in behind the truck. WO3 states that he made his way up to the driver's door. The door opened and the driver, later identified as AP, was exiting. WO3 yelled "*you are under arrest*" and took hold of AP's shoulder. AP stated, *it's not stolen, I have no licence*". AP was handcuffed without incident. WO3 states that he observed AP drop some items to the ground, including a pack of cigarettes, a set of keys, and a five dollar bill. WO3 states that with the truck door open, he noticed a wrapped tinfoil, consistent with holding a piece of crack cocaine, on the seat. WO3 states that he then advised AP that he was under arrest for possession of crack cocaine. WO3 states that as AP was placed into the rear of their cruiser car, WO5 and WO6 arrived on scene. WO3 states that he briefed them on the traffic stop and the arrest, and that they were going to search the truck. WO3 states that he located cellular phone on the truck seat and it was constantly ringing. WO3 states that he answered the phone and the caller ordered three pieces of crack cocaine. WO3 states that he now believed that AP was "*dial dealing*" drugs. WO3 states that he located a couple of syringes from the center console and crack cocaine from a cigarette package. Another cellular phone was also located in the center console. A vehicle search was conducted on the truck. It was confirmed that it was not stolen but in fact registered to AP, who was identified as a suspended driver. WO3 states that he then advised AP that he was also under arrest for possession of drugs for the purpose of trafficking, possession of proceeds of crime and driving while suspended. AP then advised that he did not

have anymore drugs in his possession as he swallowed them, which was why he did not pull over right away. AP stated that he had swallowed three to five pieces of tinfoil wrapped cracked cocaine. WO3 stated that he initially had doubts about AP's story as some of the orders being received were for quantities of 10 + pieces of crack cocaine and accordingly, there must be more drugs somewhere in the truck. AP was adamant that he had only swallowed three to five pieces but he felt fine and declined any medical attention, only wanting to return to his home. WO3 states that he consulted with senior officers and it was decided that AP would be transported to police headquarters and CPU as there was an on-duty paramedic who could examine him. WO3 states that when AP was told that he was going to CPU, he started to yell and bang his head on the "silent partner" (the shield that separates the front of the police cruiser from the rear). This banging caused a cut on AP's forehead that began bleeding. WO3 states that CPU was contacted and advised they were attending with AP because of his admission to swallowing drugs. WO3 states that they were cleared to attend CPU. WO3 states that they arrived at police headquarters at 1:36 a.m. On arrival, AP was noted to be unsteady on his feet though he appeared able to follow directions and answered all questions appropriately. AP was escorted to see the on-duty paramedic, CP1. CP1 asked AP about his drug intake to which AP admitted to using .4 grams of methamphetamine (by injection) and swallowing three to five pieces of crack cocaine. WO3 states that at no time did AP complain that he felt unwell but he was sweating. That ended WO3's direct involvement with AP.

WO4 states that he and WO3 were on general patrol when a truck was spotted stopped in a back lane off Washington Avenue. WO4 states that they decided to conduct a routine check on the truck and pulled up behind it. The truck began to move away at a fast pace, turning westbound down a back lane between Washington Avenue and Ottawa Avenue and then southbound onto Watt Street. WO4 states that WO3 activated the police cruiser's emergency lights and siren but the truck failed to stop. The truck crossed Talbot Avenue then made a westbound turn into a back lane and stopped in the rear parking lot of an apartment block. WO4 states that the driver, later identified as AP, opened the driver's door. WO4 states that he and WO3 took AP into custody. While WO4 was searching AP, WO3 noted that he observed drugs within the truck. AP was placed under arrest for the possession of crack cocaine. AP said he was a suspended driver and that was why he did not stop the truck. AP then said that he wanted to go home and he did not want to be bothered by the police. After a further search of the truck was conducted, AP was then advised that he was also under arrest for possession of crack cocaine for the purpose of trafficking, possession of proceeds of crime and driving while suspended. AP then informed the police officers that he had ingested three to five pieces of crack cocaine while he was driving and that he stopped his vehicle after he was done swallowing the drugs. AP was asked if he needed medical attention and he declined. WO4 states that AP did not appear to be in any medical distress. WO4 states that it was decided to take AP to CPU to have him medically cleared by the paramedic and then turn him over to the CPU staff. WO4 states that CPU was advised of this decision and specifically that AP may have swallowed three to five pieces of crack cocaine. On arrival at CPU, AP was noted as slightly unsteady on his feet and was taken to see the paramedic where he informed them that he ingested drugs, both methamphetamine and crack cocaine. AP was subsequently placed in cells.

WO5 and WO6 were partnered on November 4, 2020. WO5 states that a radio broadcast was received that WO3 and WO4 had stopped a vehicle in the vicinity of Talbot Avenue and Watt

Street. WO5 states that they attended that area and observed WO3 and WO4 in the process of placing a male, later identified as AP, in the back of their police cruiser. WO5 participated in the search of AP's truck. A cellular phone was ringing and WO6 answered it, indicating that someone was wanting to purchase crack cocaine. WO5 states that WO3 advised that AP may have swallowed an unknown quantity of crack cocaine. WO6 instructed WO3 and WO4 to transport AP to CPU because he may have swallowed an unknown quantity of drugs. WO5 states that AP became agitated and repeatedly banged his head against the silent partner. WO5 states that she did not have any direct contact with AP at any time.

WO6 states that while on general patrol, a radio broadcast was received that WO3 and WO4 were following a vehicle that was refusing to pull over. WO6 states that he assigned themselves to assist. On arrival in the vicinity of Talbot Avenue and Watt Street, a subsequent radio broadcast was received that WO3 and WO4 had stopped this vehicle in the south back lane. WO6 states that they made their way to this area and observed WO3 and WO4 placing a male, later identified as AP, into the rear of the police cruiser car. WO6 states that he and WO5 assisted with the search of AP's vehicle. WO6 states that there was a cellular phone in the truck that was ringing and that he answered numerous calls from people who were ordering quantities of crack cocaine. WO6 states that WO3 advised him that AP had disclosed that he may have swallowed an unknown quantity of crack cocaine. WO6 states that he observed AP becoming agitated, was yelling and hitting his head on the side bars and on the silent partner shield. WO6 states that he advised WO3 and WO4 to take AP to CPU as he disclosed he had swallowed drugs. WO6 states that he said CPU would tell the officers directly what to do. If it was determined at CPU that AP needed to go to the hospital then he would be transported there. WO6 states that prior to this incident, WPS did not have an operational or procedural policy that gave direction to officers dealing with a suspect who disclosed they may have swallowed drugs. WO6 states that a policy has since been created where it is mandatory to take suspects to a hospital if they disclose they swallowed drugs.

WO7 was a sergeant assigned to CPU on November 4, when a call was received from WO3 and WO4 requesting authorization to bring a male prisoner, later identified as AP, to CPU. WO7 states that WO3, WO4 and AP arrived at CPU at 1:53 a.m. WO7 states that he told WO3 and WO4 that AP be brought to a search area and that a strip search be conducted. WO7 stated that he conducted a risk assessment with AP. AP confirmed that he was a user of methamphetamine and crack cocaine. WO7 states he asked AP if he had consumed any drugs or alcohol in the last 24 hours but AP did not respond. AP did confirm that he had injured himself when he banged his head on the silent partner of the police cruiser. WO7 states that he directed that AP see the on-duty paramedic following which he was to be lodged in a cell. WO7 states that AP was monitored closely by CPU staff on a full screen monitor, particularly where there was a disclosure that a prisoner may have ingested drugs. WO7 states that at approximately 3:00 a.m., he was advised that AP was having issues and the paramedic was asking for help. He observed on the monitor the paramedic was attending to AP and other staff were conducting CPR. An ambulance soon arrived attended and AP was subsequently taken from CPU to hospital. WO7 states that the on-duty paramedic then advised him that AP had disclosed that he had ingested crack cocaine.

WO8 states that she was working at CPU on November 4 then as a civilian employee. WO8 states that she was advised by a co-worker that a male, later identified as AP, appeared to be

having a seizure. WO8 states that a call went out to the on-duty paramedic, CP1, for assistance. WO8 states that she and CP1 attended to the cell area to check on AP. WO8 states that CP1 directed a colleague to commence CPR on AP. WO8 states that she assisted her colleague in CPR on AP. WO8 states that AP was checked every 15 minutes that evening. WO8 states that AP's condition started to decline within an hour of his lodging in cells. WO8 states that she was unaware that AP had disclosed that he may have ingested drugs prior to his arrival at CPU.

CPU Staff:

CP1 is an advance care paramedic (ACP) who was on-duty at CPU on November 4. CP1 states that their purpose at CPU was to ensure that when prisoners arrive, they are assessed to determine if they are medically safe to stay. Prisoners are typically asked a few questions by the sergeant then they are brought to the ACP. In this matter, CP1 states that AP arrived between 2:00 – 2:15 a.m. CP1 states that she asked AP about any injuries and any drug use or medical problems, and then followed by taking a series of vital signs. CP1 states that AP told her that he was using drugs that night, including methamphetamine. AP admitted to swallowing three “rocks” of crack cocaine and that he was a frequent user. CP1 noted that AP had a small laceration on his forehead from hitting his own head against the plexi-glass barrier (silent partner) in the police cruiser. Other than that, AP appeared well, was walking on his own, aware of where he was and why he was there. CP1 states that she had no concerns concerning AP's level of mental activity. CP1 states that AP's vital signs were a bit on the upper end of normal but this was not concerning to her. CP1 states that detainees can remain at CPU as long as everything was within a normal range. In this instances, CP1 determined that AP was deemed safe to remain at CPU and he was lodged in a cell. CP1 states that as he may have swallowed crack cocaine, a note was made to have his vital signs checked again within 30 minutes to ensure nothing changed. At approximately 2:45 a.m., CP1 states as she was preparing to attend to AP's cell, she was advised that AP may be having a seizure. CP1 states that she immediately attended to AP's cell and found him on a mattress and unresponsive. CP1 states that several attempts were made to rouse AP without success. AP's vital signs were checked and were unchanged. However, AP's breathing began to slow and no pulse could be detected. CP1 states that AP was moved to the floor and CPR was commenced. Additional paramedics arrived at CPU and took control of AP. AP was subsequently transported to hospital and that ended CP1's involvement with him.

CP2 was a civilian employee working at CPU on November 4. CP2 states that she was on break when AP initially arrived at CPU. AP was in a cell when CP2 returned to her shift. Within minutes of her return, a co-worker remarked that AP was having a seizure. CP2 ran to AP's cell. CP1 was already present with other co-workers. AP was moved to the floor to prevent him from injuring himself. CP2 states that she was instructed by CP1 to commence CPR on AP. CP1 states that she and another co-worker took turns in performing CPR on AP. CP1 states that she continued doing compressions until another unit of paramedics arrived on scene and took over the treatment of AP. CP2 states that she continued CPR at the direction of the paramedics. AP was removed from cells on a stretcher and taken to an ambulance. That concluded her contact with AP.

Post Mortem Examination of AP

An autopsy was performed on AP on November 5, 2020. IIU investigators received and reviewed the autopsy and toxicology reports. AP's cause of death was determined to result from mixed drug toxicity (cocaine and methamphetamine). In other words, AP died as a result of a drug overdose. In the autopsy report, the attending pathologist noted that multiple small foil packets were located in AP's stomach. Many of the pieces of foil appeared to have fragmented and opened up. It was estimated that between 20-30 foil packets were located in AP's stomach.

According to the toxicology report, AP's blood contained:

Cocaine – 6278 ng/ml

Benzoylcegonine (inactive cocaine metabolite) - 5264 ng/ml

Methamphetamine - 4652 ng/ml¹

Amphetamine – 851 ng/ml

The chief medical examiner when asked to comment on the toxicology findings, he remarked that the drug levels were:

“...astonishingly high – among the higher results I've seen. They are certainly consistent with the ingestion of a large amount of drugs”.

Conclusion

This investigation must consider whether the actions of any or all of the police officers who were involved with AP on November 4, either at his detention and arrest, during his transport to CPU, his arrival at CPU or his detention in the cell, caused, or in any way contributed, through action or inaction, to his death, and if so, should criminal code consequences flow therefrom.

Based on the various witness accounts, the video footage recovered and reviewed, the autopsy report and the toxicology findings, AP's death was a result of an overdose caused by the ingestion of a significant quantity of crack cocaine and methamphetamine. AP was solely responsible for the use and ingestion of those drugs.

Based on all of the interviews conducted and information obtained and reviewed in this investigation, I am satisfied that no actions by any police officer caused or contributed to AP's death in any degree. There is nothing to indicate that any police officer showed wanton or reckless disregard for AP's condition or fail to provide the necessities for life in these circumstances.

¹ Following a 30 mg oral dose of methamphetamine, it is expected that the peak plasma concentration is between 62 – 291 ng/ml. The expected concentration of the metabolite, amphetamine, is expected to be approximately one tenth of the methamphetamine concentration. AP's ingestion of methamphetamine was substantially higher than 30 mg.

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

The IIU investigation is complete and this file is closed.

Final report prepared by:

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Independent Investigation Unit
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