



**IN THE MATTER OF AN INVESTIGATION INTO A DEATH IN POLICE PRESENCE
DURING AN INCIDENT ON AUGUST 4, 2021, INVOLVING THE MANITOBA FIRST
NATION POLICE SERVICE (MFNPS)**

FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT

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| Civilian Director: | Roxanne M. Gagné |
| IIU File Number: | 2021-0035 |
| Date of Release: | August 9, 2023 |

Introduction:

On August 4, 2021, the Manitoba First Nation Police Service (MFNPS) notified the Independent Investigation Unit (IIU) of a matter that occurred that same day in Sandy Bay First Nation.

The written notification disclosed the following information (excerpt):

On August 4, 2021 MFNPS responded to a report of a male brandishing a firearm while lighting grass fires. The male was known to police regarding numerous calls relating to methamphetamine use. Police attended and located the subject on the north side of the community just off Lake Road North near the beach. The male was seen to have a gun in his possession. Police started giving the male direction to get down on the ground. The male went to his knees and turned the gun he was holding on himself shooting himself in the chest. Police moved in and provided first aid to the male. EMS was dispatched to the location. The grass fire was getting extremely close to the officers and the male so the officers moved the male to a police unit 833 where they continued first aid. EMS arrived and took over the medical attention. At 2:32 p.m. the male was pronounced deceased. The initial scene was evacuated due to fire and smoke and police are unable to tell if the scene has been destroyed at this time.

As this matter concerned a serious injury as defined under the IIU regulations, the IIU assumed responsibility for this mandatory investigation under section 65(4) of the *Police Services Act* (PSA). IIU investigators were assigned to this investigation.

IIU investigators obtained the following information, among other items:

- General Report
- Supplementary Occurrence Reports
- RCMP Forensic Identification Occurrence Report #20211145729
- Notes WO1 and WO2 and
- MFNPS Use of Force Reports WO1, WO2 and WO3
- Bell CAD Incident
- MFNPS RCMP Advance Report
- MFNPS Preliminary Report of Death
- Report form Medical Examiner
- Firearm Expert Laboratory Report
- Autopsy Report
- Toxicology Report

The Civilian Director designated three witness officers (WO1, WO2 and WO3). IIU investigators interviewed WO1 and WO2, as well as one civilian witness.

IIU investigators attended and conducted a scene examination with the RCMP – FIS Dauphin. IIU investigators attended the area surrounding the scene. There were no residences in the immediate area or witnesses present.

Facts and Circumstances

On August 5, 2021, IIU investigators conducted an interview with CW1 at Sandy Bay First Nation. CW1 was the Fire Chief of Sandy Bay First Nation on the date of the incident. He stated that at about 1:15 p.m., he noticed a good-sized fire burning in the marsh about halfway down Lake Road North. He could see another smaller fire right beside it. He kept driving and saw a half dozen more fires, and then he saw an individual standing in the marsh. He assumed that it was the same person making the fires. He could see him bend over and start a fire, and then he walked again, bent over, and started another fire. CW1 pulled up to him, about ten yards away, to tell him to stop making fires. CW1 did not recognize him (AP) yet, as he was too far into the marsh. CW1 said, "Hey," the male turned around quickly, returned toward the road, and said, "You better get back to that side or stay on that side."

CW1 observed the AP with a duffle bag and a firearm. He described it as a long gun that appeared to be a shotgun, with the wooden butt missing, as he noticed the metal. He stated that he only saw it for a moment. When CW1 saw a serious look on the AP's face, he backed away from him to the road, as he had a gun. CW1 stated the AP did not threaten him, as he did not point the gun at him or put his hands on it. As soon as the AP turned around, CW1 recognized him. He added that the AP always smiled and talked whenever they ran into each other, but he did not have a smile for him that day. He stated that the AP's eyes were not lined up and were a little cross-eyed. The AP continued walking toward the beach and lit several more fires. CW1 thought the AP wouldn't stop making fires, therefore, he called the police. He advised them that there was an individual making fires, who had a gun, but he did not threaten him or point the gun at him.

CW1 stated that as the fire got bigger and the smoke thickened, it clouded everything, and he could no longer see the beach or the AP. When the police arrived, he directed them to where the AP was located. CW1 saw the trucks drive into the smoke and disappear.

CW1 was set up at the road to keep people from going to the beach area. A few minutes later, he heard a "pop." He stated that it sounded like a gunshot, but it was a gunshot sound he had never heard before. Nothing happened for another couple of minutes, and then suddenly, an ambulance came down the road with lights and sirens, asking where the police were. He told them they were somewhere on the other side of the fire and smoke. The ambulance attendants told CW1 that they wanted to get to where the police were, as there was a patient. CW1 thought the police were going to have to bring him (AP) out, as the ambulance attendants could not go through the fire.

As CW1 talked with the ambulance attendants, the police truck came out of the smoke toward them. CW1 stated that one member was driving the vehicle, and another member was in the back doing CPR on the AP. He noted that the police and the paramedics took turns doing CPR on the AP for a few cycles, and that was when he thought they finally "called it."

Witness Officers

On October 19, 2021, IIU investigators took a statement from WO1. He stated that on August 4, 2021, he was on general patrol in Sandy Bay with WO2. At 1:24 p.m., he received a call from Sandy Bay Fire Chief (CW1) regarding an arson incident. CW1 advised him that the AP was lighting fires along the beach and observed a firearm under the AP's left arm that looked like a shotgun. CW1 also mentioned that the AP had told him to get away while continuing to light fires in the marsh west of Sandy Bay Beach.

WO1 stated they requested backup from Long Plain and assistance from the Amaranth RCMP. He stated that he could see a significant amount of smoke. He knew there was a beach and a marsh in the area, that people from the community frequented. His main concern was that the AP had possession of a firearm. WO1 went down to Sandy Bay Beach road and observed smoke and flames for 300 yards. He observed someone setting fires down the trail adjacent to the beach. WO2 parked his truck and got into WO1's truck. He could hear someone yelling down the trail and believed it was the AP. WO1 noted that WO2 was driving his vehicle and had a patrol carbine rifle. They proceeded south down the adjacent trail at the beach and attempted to make contact with the AP as fast as possible while keeping in mind that flames were coming against the truck. WO1 could see through the smoke a male in dark clothing, 30 yards away, and

observed that he had something in his hands, but he could not tell if it was a rifle. WO1 stated that he *"was worried if he saw us, he would shoot back at us."* He engaged the AP, who put his hands up and lifted whatever was in his left hand up. WO1 stated the officers were screaming at the AP, giving him commands, *"Let's see your hands, want to see your hands, put your hands up."* That was when the AP stopped and dropped down to his knees. Once WO1 was about 20-25 yards away from the male, he recognized him. He continued giving the AP commands for a few minutes. He could see the AP had something wedged under his left arm and had it pointed to the ground. He stated that the AP did not comply with their commands. At one point, he lifted up his hands and complied for a brief second. He stated, *"When he did lift his hands up, (WO1) did see a barrel, so knew at that point that the firearm was pointed at himself."* WO1 stated, *"He did put his hands up, and then he actually put his hands back down and grabbed, bared down, back on the firearm."*

WO1 stated that the AP was speaking, but he could not understand what the AP was saying and thought he was talking to himself. He heard the AP say, *"he missed his dad; he wanted to go see his dad."* WO1 knew the AP's dad passed away a couple of years ago and thought this was a mental health indicator, which led him to believe that the AP wanted to end his life. WO1 stated that the AP, with both of his arms, slid the barrel towards his chest, and he looked up at the police one last time and then he bent over. WO1 stated, *"You could tell he was trying to put all of his weight because he was on his knees, he tried to put all of his weight on the barrel, then probably two seconds later you could hear a pop."* WO1 stated that the AP discharged one gunshot. When he heard it, he thought it was a .22 calibre. He noted that the AP then fell onto his right flank, and he and WO2 walked up to the AP with the mindset to go in as slowly and carefully as possible. WO1 stated he could not see the firearm then, *"As we got close enough, (we) could see the firearm that ended up being a .22, was a couple of feet away from him."* WO2 handcuffed the AP and placed the firearm in the vehicle, and an empty magazine was found in the AP's left pocket. WO1 put pressure and conducted CPR, and a couple of minutes later, the AP went into cardiac arrest. WO1 stated that EMS could not reach their location as it was too dangerous. He put the AP into the back of the truck and brought him to where EMS was on Lake Road North. The AP was pronounced deceased shortly after 2:00 p.m. WO1 stated that the AP had never threatened to shoot him.

On October 20, 2021, IIU investigators obtained a statement from WO2, who stated that on August 4, 2021, he was working general patrol with WO1 on Sandy Bay First Nation. He said that they received a call just after 12:00 p.m. from the Fire Chief, who advised that the AP was setting fires in the marsh and that the AP had what appeared to be a firearm concealed in his jacket.

WO2 stated that upon arrival, he received information over the radio that the AP might be down the trail. WO2 parked his vehicle at the trail's end and jumped in with WO1. WO1 had his carbine rifle out of the rack in the ready position. As WO1 got into the truck, he heard someone yelling down the trail. WO2 stated they were concerned about officer safety if the individual had a firearm, so they used the truck as cover/concealment.

WO2 could see an individual walking down the trail amongst the fire and smoke and thought it was the AP. As they got closer, they identified it was the AP. When he was about 50 metres away, WO2 noticed the AP had something in his hands that appeared to be wrapped in a sweater. When he was 20 meters from the AP, WO2 confirmed it was a firearm. WO2 stated that he drew his firearm, WO1 jumped out of the other side with his carbine, and they made contact with the AP. He added that they both used different techniques, as he could tell the AP was in another state of mind. He noted that the AP yelled, refused to listen to commands, and dropped what was in his hands. WO2 stated, *"I remember having my firearm pointed at (the AP) in defence of my officer safety."* He added that he continued to yell verbal demands, *"Drop the gun, drop the gun, put your hands up, step away."* He stated the AP was talking incoherently and that the AP was talking to himself. He recalled the AP saying, *"I wanna see my dad, I don't care, whatever, shoot me."* He thought the AP wanted to go out by police, *"essentially saying that he wanted to die."* He noted that his father had passed away several years ago. He added that they tried de-escalating techniques like, *"Let's go get a sandwich, come on, talk it out, you don't have to do this."* He stated that they continued to command the AP to drop the firearm in his hands. At one point, the AP dropped to his knees and raised his hands. Immediately after, the AP grabbed the firearm again, and at that point, he was unsure which direction the barrel was facing, into the ground or at his (AP's) person. He noted the AP dropped down and grabbed the gun again and saw him *"position the firearm more into his chest cavity area and then shortly after that there was a short bang and (the AP) keeled over and dropped to the side kind of."* He added, *"which gave me the sense he just shot himself in the chest."*

WO1 called EMS. They walked in closely together, still in the ready position, in case the AP returned with the firearm. He noted that as they got closer, he approached the AP, holstered his firearm and placed the AP in handcuffs. The AP was coughing; his eyes looked foggy and lifeless. He stated that WO1 secured the firearm; they did a quick search and located a magazine in the AP's pockets. He noted the firearm to be a sawed-off 22-long rifle. Once the firearm was secured, they attempted CPR on the AP. They exposed the wound, and WO1 had a medical pack on him and provided some gauze to cover and hold pressure on the AP's wound. At that point,

the AP was unconscious and not responsive. WO1 continued to do CPR. WO2 grabbed the firearm, magazine, and other contents from the AP's pockets and placed them in the vehicle.

WO2 noted that the fire continued to blow toward them with lots of smoke. There was no possible way for the ambulance to come down the trail. He stated that WO1 laid in the back of the vehicle with the AP while he drove the truck out of the trail to get to Lake Road North. Once on the access trail from the beach road to Lake Road North, he saw the RCMP and Sandy Bay Fire Department and drove the truck directly beside the ambulance. The paramedics were there immediately. He assisted the paramedics with CPR in the truck's box then the paramedics took over. He stated that after a short time, supervisors came for the paramedics and deemed the AP deceased. He said that two officers from Long Plain, four from Amaranth RCMP, and a Portage RCMP member had all arrived on-scene.

On November 19, 2021, IIU investigators received WO3's notes, however, she did not provide an interview. WO3 stated that she attended the scene but did not witness the incident. She indicates that on August 4, 2021, she was contacted by WO2 of the Sandy Bay MFNP, who told her that someone was on the beach with a shotgun. She attended the location and waited by Beach Road, and EMS arrived. She first asked for backup and could not see MNFPS because of the heavy smoke. She observed WO2 driving while WO1 was in the truck's box doing CPR on the AP. WO3 stated that EMS took over, and she looked after WO1 as he was out of breath and his nose was bleeding. She stated that EMS asked her and WO2 to take over CPR while talking to the doctor.

Summary of Other Evidence

WO1 and WO2 provided a copy of their Use of Force Reports to IIU investigators. The reports indicate that two officers were involved in this matter, and there was a use of force; a firearm was pointed with no rounds discharged. The reports also indicate that the use of force was to protect oneself, protect the public and effect an arrest. The alternative strategies used were verbal interaction and cover. The reports also indicate that the AP carried a rifle, one round was fired, medical attention was required, and the injury was fatal. The reports also states that the subject's condition was that he had been emotionally disturbed.

IIU investigators obtained the CAD report, which indicates the timeline of the events. The report revealed that: the 911 call was made at 1:24 p.m.; WO1 and WO2 were dispatched at 1:26 p.m.; at 1:32 p.m., Amaranth police were contacted to assist; at 1:38 p.m. police were with the suspect;

at 1:41 p.m. EMS arrived; at 1:43 p.m. the AP shot himself; at 1:51 p.m. suspect not breathing; at 1:53 p.m. the AP was in the back of the vehicle; and at 1:53 p.m. police met EMS.

A Firearms Expert Report, dated January 17, 2022, was received by IIU investigators. The report concludes that the bullet (exhibit 1) was fired from a rifle (exhibit 2). It also concludes that the expended cartridge case (exhibit 4) was fired in the firearm (exhibit 2).

IIU investigators also obtained the Medical Examiners' report, which concludes that the cause of death was a gunshot wound to the chest.

IIU investigators attended the autopsy of the AP. The autopsy revealed that the AP had a small calibre bullet wound in the upper chest, burn patterns and contusion surrounding the wound. No other significant injuries were visible on the body. The bullet round was recovered, consistent in size with a .22 calibre round.

IIU investigators also obtained an Autopsy Report, which indicates that the immediate cause of death was a gunshot wound to the chest, and the post-mortem findings were a contact range gunshot wound to the chest. The toxicology analysis of the post-mortem blood indicates that the AP had 649 ng/ml of methamphetamine and 114 ng/ml of amphetamine.

In June 2022, IIU investigators contacted Chief Medical Examiner Dr. Younes to obtain his opinion regarding the level of intoxication of the AP concerning the amount of drugs identified in the autopsy report. Dr. Younes provided the following response:

Unfortunately, there is no way to assess degree of intoxication based on a blood drug level. Cocaine and methamphetamine are stimulant drugs whose effects are variable and unpredictable. A very low blood level can cause sudden death by cardiac arrhythmia, while extremely high levels might not be associated with any measurable intoxication or impairment. There is no safe level for these drugs. I will also point out that amphetamine is a metabolite of methamphetamine; the fact that amphetamine is found in the toxicology just indicates that some of the meth the subject consumed had been metabolized to amphetamine.

Conclusion

On August 4, 2021, Sandy Bay First Nation Fire Chief observed the AP starting fires and carrying a duffle bag with what appeared to be a shotgun. He called the police to advise them that there was an individual making fires, who had a firearm that appeared to be a shotgun.

WO1 and WO2 responded to the call and called for backup. Upon arrival, they observed a significant amount of smoke. They knew there was a beach and marsh, which people from the community frequented. As they approached the AP, they noticed something in his hand and commanded him to lift his hands. Once the officers got closer to the AP, they confirmed the object he had was a rifle. The AP did not comply with their commands. Five minutes passed from when police arrived on-scene until the AP shot himself. The officers noted that the AP had been speaking to himself and was saying that he wanted to see his father, whom they knew was deceased. The police performed life-saving measures until EMS arrived.

This is a tragic set of circumstances where the AP took his own life in front of the police. The police drew their firearms upon arriving at the scene, as they had been advised that the AP was carrying a firearm, and they feared for their safety as well as the safety of the public. Once the officers noticed the AP was in distress, they tried to de-escalate the situation by communicating with him.

Based on the circumstances, I am satisfied the police actions were reasonable and necessary. There is nothing in the evidence to support a finding that there was any level of contribution by the police officers to cause the AP's death, by either action or inaction. There are no grounds that would justify the designation of police officers as subject officers. Therefore, the investigation into this tragic matter is now completed, and the matter is now closed.