

# ***FINAL REPORT: IIU concludes investigation into man's death in officer-involved shooting in Municipality of WestLake-Gladstone***

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On December 15, 2021, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit (IIU) of a fatal officer-involved shooting that occurred near in the Municipality of WestLake Gladstone, in Manitoba. This notification disclosed the following information (edited for clarity):

*“On December 15th, 2021 at 08:50 am, members of the R.C.M.P. received a call of a stabbing on Highway 16.*

*A 27-year-old male advised that he was stabbed in the eye and face by an unknown male hitchhiker. He advised that male was wearing all black and fled from the vehicle.*

*Members responded immediately to the scene, conducted patrols of the area and encountered the suspect (later identified as the affected person (AP)). There was a confrontation resulting in AP being shot. He was pronounced deceased a short time later”*

As this matter concerned the death of a person that may have resulted from the actions of a police officer(s), IIU assumed responsibility for this mandatory investigation in accordance with section 65(4) of The Police Services Act (PSA). IIU Investigators were 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 a civilian monitor be appointed by the Manitoba Police Commission.

Among the agency information obtained by IIU Investigators included:

- RCMP occurrence summary
- RCMP members' notes and narratives
- RCMP members' supplementary reports
- Audio of 911 telephone call to RCMP
- Audio recordings of RCMP radio communications
- Forensic Identification Service reports
- photographs of scene, individuals and exhibits
- video recording of shooting scene
- pathology and toxicology reports concerning AP
- Firearm report concerning SO's service firearm
- Firearm training summary and qualification test results of SO
- Expert opinion report on use of lethal force

The civilian director designated the RCMP member who discharged his firearm as the subject officer (SO). The IIU investigators identified 27 potential witness officers following which the

civilian director designated 9 as witness officers (W01-9). IIU Investigators met with and interviewed or reviewed interviews conducted with six civilian witnesses (CW1-6), although none of these civilians witnessed the shooting.

IIU Investigators received and reviewed a video recording captured by a civilian witness of the officer involved shooting. The video recording was sent to a video production facility in Winnipeg for enhancement. While the video recording quality was limited due to poor resolution, it did provide important corroborating details and evidence of the circumstances leading up to the officer involved shooting, proved to be an invaluable source of information in this investigation.

Both the final toxicology and firearm reports were not received by IIU investigators until January 31, 2023 and March 6, 2023 respectively, which resulted in a delay in finalizing this investigation.

Finally, following the completion of the investigation, the civilian director requested an expert opinion use of force report (focused on the discharge of the service firearm) from a recognized Canadian expert in this field.

## **Facts and Circumstances**

### **Scene examination and AP**

The shooting scene was on a busy stretch of PTH 16. The east lane was closed to traffic, which was being diverted. Two police vehicles were contained within the scene, one being a black Police Service Dog unmarked Suburban, operated by SO, with emergency lights activated. The other was a marked Ford Explorer positioned facing east but angled slightly toward the south ditch and approximately a car length in front of the Suburban, with its emergency lights were activated. Areas on the front of the Suburban had been touched recently and the windshield was broken near the location of the rear view mirror. Hand, footprints and blood were located on the hood and front bumper of the Suburban. The blood was analyzed and found to be a match to AP. DNA analysis on samples from the machete were also found to be a match to AP. Three spent cartridge casings were located near the Suburban.

AP was located laying in a ditch approximately 8.8 meters from the Suburban. AP was handcuffed and had visible abrasions to his knees and blood around his mouth. A sword/machete was located on the shoulder of the roadway in close proximity to the front of the suburban. AP was declared deceased at the scene of the officer involved shooting. The total length of the sword/machete was 70 cm. The length of the sharp edge was 45.5 cm. The total length of the blade was 46 cm. The handle was 20 cm. The blade was black. The blade and handle were one solid piece of metal. The back of the blade opposite the sharpened side had a toothed area extending up the back to approximately half way up the blade. The handle had a homemade grip consisting of wood, shoe lace type red rope and red tape. There was a small red stain on the base of the blade near the edge of the toothed area.



Photo of sword/machete seized at the scene of the officer involved shooting

According to the pathology report, the cause of death was listed as “*gunshot wound of neck.*” According to the report, one round fired by SO impacted the left side of AP’s neck and travelled in a downward trajectory into the chest cavity. Damage was caused to the thyroid cartilage, thyroid gland, trachea, right clavicle, right lung and right seventh rib. AP also suffered a graze gunshot wound to the right lateral chest causing a superficial laceration to the skin and soft tissue. In addition, AP had many scattered abrasions and lacerations to his face, torso and extremities and superficial incised wounds to both palms. A spent firearm round was located in and seized from AP’s body.

The toxicology report indicated that AP’s blood analysis revealed the presence of significantly high levels of Methamphetamine and Amphetamine in his system. Analysis of the urine also revealed the presence of methamphetamine, amphetamine, cocaine and related compounds, pseudoephedrine/ephedrine, oxycodone and a related compound and acetone.

The firearm report indicated that the firearm seized from SO was the weapon that fired the three expended cartridge cases seized from the scene and the spent round that was seized from the body of AP. As well all of the fired components are consistent with RCMP ammunition.

### **RCMP Radio Transmissions:**

IIU Investigators reviewed RCMP radio transmissions during the salient moments of the officer involved shooting, which detailed the following information:

- “...[SO], someone's running across the roadway”
- “...keep an eye on him”

- *“...we will go behind him and call him out”*
- *“...he's on something”*
- *“Look out [SO]”*
- *“...(sound of a dog barking), he attacked me with (inaudible)”*
- *“... he's on [SO]’s car, he's on something guys”*
- *“shots fired, shots fired”*
- *“...he still has a knife - get away from the knife - he's been hit - get away from the knife - (sound of yelling in the distance) - he's not complying with commands (inaudible)...”*
- *“...he's refusing - don't take him - get on the ground - we can't take him he's still got the knife - he's not complying - he's been shot multiple times”*
- *“...we still can't get in there, he's just sitting by the knife”*
- *“...shots have been fired by [SO] - suspect hit multiple times - just got him in handcuffs now”*
- *“...suspect attacked us with a large machete - he has been hit multiple times - just assessing him now - we were unable to get to him immediately because he was refusing to comply with demands - he had the knife on him - we have him secured now - just checking him - we are on the side of the road”*
- *“...one in the leg - one skinned his back - can't find any other ones - definitely in medical distress - more from whatever drugs he is on...”*

**Civilian Witnesses:**

CW1 was in the back seat of a vehicle being driven by CW2. They were driving back to Portage la Prairie from the Sandy Bay First Nation area. CW1 was sleeping in the back of the vehicle when he heard voices. CW1 stated that he awoke to find a male he knows as AP, now seated in the front passenger seat of the vehicle. CW1 does not recall how AP came to be in the vehicle. CW1 stated that he fell asleep again but was awakened to see AP, with a machete in his hand. CW1 stated that the machete was a foot to a foot and half long. CW1 stated he was stabbed in the face by AP. CW1 stated that AP did not say anything but just started stabbing him. CW1 believed that AP wanted to kill him. CW1 stated that the vehicle came to a stop and he got out of it. AP also exited the vehicle and started chasing him. CW1 stated that AP caught up to him and he was stabbed again. CW1 stated that he had been stabbed three times: once on the bridge of the nose next to his left eye, one on his right bicep and a third time on his middle upper chest. CW1 stated that he managed to get back inside the vehicle and they drove off, leaving AP standing on the roadway, near the intersection of PTH #16 and PTH #50. CW1 stated that he recalled that AP was still in possession of the machete when they left him on the highway. CW1 stated that they drove to Westbourne and waited for the police and ambulance to arrive. CW1 stated that he did not see the shooting of AP but he heard over the police radio that police were approaching someone.

CW2 is the girlfriend of CW1 and on this date was operating her father’s car. CW1 was a passenger in the back seat of the vehicle. CW2 stated that she stopped the vehicle just outside of Sandy Bay First Nation and offered AP a ride. AP was dressed in black clothing, wearing a black

mask, and had two bags with him. CW2 stated that she was trying to do something nice by picking someone up and offering them a ride. CW2 stated that AP sat in the front passenger seat of the vehicle. When the vehicle was in the vicinity of Highway 16 and 50, AP suddenly produced a machete and began stabbing CW1, who was still in the back seat. She said the machete was extremely long and AP just kept stabbing CW1. CW2 stated that there was no argument between the two and this attack came out of nowhere. CW2 stated that AP's face appeared "...blank - he just flipped out". CW2 stated that they were begging AP to stop the attack. CW2 stated that she stopped the vehicle at the side of the road. CW1 ran from the vehicle with AP chasing after him. CW2 stated that AP never tried to attack her but was fixated on CW1. CW2 stated that CW1 was stabbed in the face a few times right below the eye and his face was swollen. CW2 stated that she and CW1 were able to drive away in the vehicle. She last saw AP in the middle of the highway in the area where they turned off from the Sandy Bay highway. As she drove away, she called 911. The operator advised her to pull over and wait for police and an ambulance to arrive.

CW3 is a truck driver and on December 15, 2021 was travelling in his truck from Neepawa to Winnipeg. At approximately 9:00 am, he was westbound on PTH 16, approaching the intersection with PTH 50, when eastbound traffic stopped moving. There were police cars blocking this lane of the highway and CW3 assumed there had been an accident. There were two vehicles in front of him and when the oncoming traffic cleared, they moved into the opposing lane and went around the cars. There were no officers directing traffic at this time. As he went through, he looked to his right and observed a male laying on the ground in a ditch and there were two police officers on either side of him. CW3 stated that the police officer on the right side appeared to be doing chest compressions on the male on the ground. There was a third police officer standing at the edge of the road by the police cruisers. He stated that there were three police vehicles involved. He described two as marked cars and the third was an SUV but he could not recall for certain if it was marked.

CW4 stated that in the early morning hours of December 15, was in the Westroc elevator yard in the R.M. of Westbourne, sitting in his truck doing paperwork. At approximately 9:00 a.m., he saw a male walking toward his vehicle. The male was wearing a black jacket, dark clothes and wore a rag-like mask over his face, with only his eyes were visible. The male went to the passenger side of his truck as CW4 was able to lock the door. The male knocked on the truck door and tried to get it open. CW4 told the male to come around to the driver side but he did not comply. CW4 stated that he started to slowly drive away when he observed the male remove something from his coat pocket and look at it. CW4 stated that he did not know what the object was. The male did not say anything during the entirety of this encounter. CW4 stated that he drove to the entrance with PTH 16 and turned to travel eastbound. The male started running toward the elevator, stopped and started walking. CW4 stated that this entire episode left him feeling uneasy, so he called to the elevator offices. CW4 stated that he asked if anyone could see the male in the yard. CW4 stated that he was asked if he dropped this male off to which he advised that he did not and did not know where he came from. CW4 was advised that the male was approaching the south side of the elevator. As CW4 continued to drive, he observed a smaller SUV on the north side of the highway and there was a police car stopped trying to help, at which time an ambulance arrived. As CW4 continued to drive along the highway, he saw a number of police vehicles travelling from the east.



CW5 is the manager of the Westroc Grain Elevator, situated at the intersection of PTH16 and PTH50, in the R. M. of Westbourne. CW5 had just finished unloading a truck at the elevator when he noticed that the truck was stopped on the approach road leading out to PTH50. The truck did leave the yard and CW5 returned to his business. Shortly afterwards, CW6, his co-worker, advised him that she saw a male standing on the approach road. CW5 stated that he looked out the office window and saw a man dressed all in black. According to CW5, the male looked confused and was staggering back and forth. The male had followed the truck, then stopped, turned around and walked back towards the elevator. CW5 stated that he received a telephone call from the truck driver who had been unloaded and was advised that this male had tried to unsuccessfully enter the passenger side door of his truck. Based on this information, CW6 called the RCMP to report the incident. CW5 stated that the male turned and walked westbound along the approach road and eventually, entered the bush to the west, while stopping every few steps to reach down, pick up stuff and then toss it away. CW5 stated that an unmarked police vehicle (described as a black unmarked SUV) arrived at the elevator at which point he went outside to speak with the lone police officer, who had a dog in his vehicle, as to where he last saw the male. The male then appeared on the north shoulder of PTH16. The police officer drove his unmarked police vehicle toward the male who crossed the highway to the south. At this time, two additional police vehicles attended and surrounded the male. According to CW5, the male attempted to walk back across PTH16 but was prevented by traffic flow. The male then walked down into the south ditch of PTH16. He did not see any police officers get out of their police vehicles, but CW5 heard the sounds of several gunshots. The male and the police officers were a distance from CW5 which obscured his view of the interaction. The incident occurred at approximately 9:20 a.m. CW5 estimated the distance from where he was to the scene of the shooting to be approximately 1/3 of a mile. He was watching the incident from a window in his office that faces west and the coffee room, that window also faces west. He advised that he had a clear view of what was happening and the weather was okay.

CW6 works at the Westroc Grain Elevator. On December 15, a truck had made a drop off at the elevator and was in the process of leaving. As the truck was part way out of the driveway, she saw a male attempt to enter it through the passenger door. The truck driver was able to lock his door and drove away. Moments later, the truck driver called to warn them that this had happened. CW6 stated that she then observed the male following the truck out of the lane way and then entered the ditch. The male then turned and started walking towards the elevator. CW6 stated that she felt uneasy and unsure what his intentions were, given that their vehicles parked outside. CW6 stated that the male was staggering as he walked. CW6 stated that she called the local RCMP detachment to report the matter. Shortly after the call, CW6 stated that a black unmarked police SUV pulled into the elevator yard and CW5 went out to speak with the police officer. It was at this time that CW6 began to record the incident on her cellphone. CW6 then noticed the male walking out of the north ditch and onto PTH16. The police officer drove to the male, with another marked police vehicle joining in. Both of the police vehicles attempted to block the male, who was now on the south side of PTH16, in an effort to keep him from crossing the highway to the north. The male was going in and out of the south ditch on PTH16 and appeared to fall or stumble backwards into it. CW6 stated that she then saw the male "...fly back" and heard the sounds of three gunshots. More police vehicles then showed up. CW6 estimated that the shooting took place between 400 yards to half a mile from where she was watching.

**Analysis of Cell Phone Video Footage:**

The video was taken to a local video production studio in Winnipeg for enhancement. The video was blown up but the quality remained limited, due to the poor resolution. However, the video footage, 60 seconds in duration, does record some important details. The video footage shows two police vehicles, in the vicinity, with their respective emergency lights on. One vehicle is dark in color, the other is lighter and appears to be a marked unit. The darker vehicle is ahead of the lighter one and they are both moving east on the highway. At 1 second into the video, CW6 zooms in on the police vehicles. A dark figure is seen moving in front of the headlights of the dark vehicle. This person then mounts the hood of the dark vehicle. The dark vehicle begins to accelerate forward and stops abruptly, causing the dark figure to fall off and roll into the ditch. Both police vehicles stop and the dark figure is getting out of the ditch. The dark figure approaches the dark vehicle again, moving to the front and appears to mount the hood again. Both of the vehicles accelerate forward and the dark vehicle appears to brake twice then stop. The lighter coloured police vehicle appears to mimic the movements of the dark vehicle. The dark figure again moves in front of the headlights of the vehicles as they begin backing up. The dark vehicle moves forward and the dark figure goes into the ditch. Someone exits the driver's side of the lighter vehicle. The dark figure is seen coming from the ditch then immediately falls back down. A person moves to the front of the lighter police vehicle.

**Witness Officers (WO):**

WO1 is a three-year member of the RCMP. On December 15, he was responding to a call regarding a stabbing incident in the R.M. of Westbourne, between Portage La Prairie and Amaranth. According to a radio broadcast, a hitchhiker had stabbed someone in the eye. While en route, he heard a radio broadcast asking for a dog handler to assist and that SO advised that he was responding to the call. WO1 stated that he met up with SO in the area of the Trans Canada Highway and PTH16. From there, they made their way to the stabbing victim's location. A third police officer also arrived on scene to assist. As the police officers were attending to the victim and following arrival of an ambulance, another radio broadcast was received reporting that a suspicious male, near the intersection of PTH16 and PTH50, was trying to enter vehicles and may have stashed something near a hydro pole. A description of the male was provided, including that he was dressed in black or dark clothing. WO1 stated that he and SO would attend that location, an approximate five minute drive from this location. Each were in their own respective vehicles. WO1 was operating a marked RCMP police vehicle while SO was in an unmarked dark SUV. On arrival at the location, WO1 observed several parking lots and a grain elevator. A male matching the broadcasted description was noted on the other side of PTH16. The male crossed the highway and made his way to a hydro pole where it appeared to WO1 that he may have picked something up. WO1 stated that he advised SO that he believed he has spotted the suspect. WO1 stated that they agreed to approach the male in their vehicles and use the loud speaker to advise him he was under arrest. It was also agreed that if the male failed to surrender, they would deploy SO's police service dog (PSD). As they turned their police vehicles on to PTH16, the male was heading southbound. SO approached the male first in his unmarked SUV. WO1, who was travelling beside and slightly behind SO, then saw the male jump on to the hood of SO's vehicle. The male (later identified as AP) was observed holding a large sword or machete in his right hand. Based on the way AP had, "...a wild look on his face", WO1 believed that he was under the influence of some substance. WO1 stated that he and SO

could not have disengaged from AP and allow him to leave. There was a grain elevator nearby, with people on site. WO1 was aware that AP had just stabbed somebody, was armed with a weapon and posed a significant lethal threat to people. The PSD was not a viable option as AP was armed with a long, edged weapon and could easily kill the dog. Further, WO1 noted that he and SO could not exit their vehicles at this point and deal with someone armed with a machete. WO1 stated that in his opinion, he and SO were safe if they stayed in their vehicle and deal with AP by trying to pin him down. WO1 stated that he immediately radioed to SO, “...*hey watch out*”. WO1 stated that he observed SO’s reverse lights come on and had started to back up. WO1 stated that he decided to mimic SO’s vehicle’s movements and backed up as well. WO1 stated that AP fell off of the hood of SO’s vehicle. WO1 stated that the police officers approached him again resulting in AP jumping on the hood a second time. WO1 stated that both police officers backed their respective vehicles causing AP to fall off again. As the police officers approached AP a third time, he jumped on the hood again. SO was able to knock AP off of the unmarked SUV. WO1 stated that he believed that AP dropped his weapon when he fell this time. WO1 stated that he took advantage of this situation and exited his vehicle with the intent to arrest AP. SO also exited his vehicle. WO1 went to the rear of his vehicle to meet up with SO, when he heard the sounds of three gunshots. WO1 stated that both he and SO yelled at AP to stay away from the sword/machete as it was beside him. SO radioed that shots had been fired. WO1 stated that SO kept his microphone open so that dispatch and others would hear the instructions given to AP. WO1 stated that he and SO kept watch over AP waiting for backup to arrive. After a senior police officer arrived, WO1 and SO moved in, handcuffed AP and checked him for injuries. WO1 was advised that no pulse was detected from AP. WO1 stated that he went to his police vehicle and broke down. As more police officers arrived on scene, WO1 was advised to return to his detachment and drove himself there.

WO2 is a 13 year member of the RCMP. On December 15, he was working day shift and had just arrived at the detachment when he was made aware of a call for service that had just come in from the Westbourne gas station. According to that call, a hitchhiker had stabbed someone in the eye. WO2 stated that he radioed WO3, who was in the vicinity, and asked him to head to the stabbing scene. WO2 stated that he also made calls to a nearby detachment requesting additional resources. WO2 stated that he decided to personally attend the scene and while he was driving there, he heard a radio broadcast concerning another call received that concerned a suspicious male at the grain elevator who had tried to enter a vehicle. The driver had locked the doors and when the male eventually took off. As this second call was in close proximity to the stabbing call, WO2 stated that he requested some RCMP members attend to the elevator to determine if these two matters were related. WO2 stated that WO1 and SO radioed that they would attend to the second call. WO2 stated that another call was received from a retired RCMP member, WO4, who reported that he saw someone in a ditch near the grain elevator trying to bury something. WO2 stated that following receipt of this information, WO1 had broadcast that he saw a male crossing the highway. WO2 stated that he then heard SO say “...*drop the knife*” and “...*he wasn't putting the knife down*”, eventually followed by someone saying, “...*shots fired*”. WO2 arrived on scene and observed the PSD SUV and a marked RCMP police vehicle stopped in the east bound lane. WO2 stated that he stopped his vehicle and got out to assist. WO1 and SO were both out of their respective vehicles, standing on the roadway with their service pistols drawn. There was a male (later identified as AP) laying in the ditch approximately 15 to 20 meters away.



Based on his assessment of the scene, WO2 drew out his conductive energy weapon (CEW), which he would deploy if AP got up. WO2 stated that AP was rolling on the ground, making groaning sounds and had his hands underneath his body. It was decided that they would move in on AP and handcuff him. Police officer repeatedly yelled, “...*you are under arrest, stop moving*”. Once AP was handcuffed, WO2 held his CEW against AP’s back in case he tried to stand. WO2 stated that at no time did he ever deploy his CEW on AP. Once AP was secured, he was examined for injuries. WO2 stated that he checked AP’s pulse several times and after the third check, he could not locate one, at which time WO2 believed AP had died. WO2 went to his car retrieve an emergency blanket to cover AP while they waited for EMS which he knew was on the way. As he walked to his car, WO2 stated that he observed a large sword or machete, with a red handle, in the ditch. WO2 stated that SO advised him that he had discharged his firearm three times and he pointed to shells in front of his SUV. They were positioned at the front bumper, driver’s side. WO2 stated that he also observed a large crack in the SUV’s windshield. Additional RCMP members arrived on scene to assist.

WO3 is a five-year member of the RCMP. WO3 stated that on December 15, he was dispatched to attend “*the old gas station*” and deal with a male that had been stabbed. An ambulance also arrived and he assisted the stabbing victim into it for treatment. WO3 stated that he then heard a broadcast over his radio, “...*he is acting crazy, don't get out of your car*”. A few moments later, WO3 stated that he then heard, “...*shots fired*”. WO3 stated that he was directed to remain where he was. WO3 stated that he spoke to the female driver to obtain more information concerning the stabbing.

WO4 had recently retired from the RCMP and had moved out east. He had returned to Manitoba on December 12 to finish packing and moving his belongings. On December 15, he was at his old detachment to retrieve some property and was driving on PTH16. While he was driving, he observed a male lying in the south ditch, located east and across the road from the Westroc grain elevator. As he got closer it appeared to WO4 that the male was covering something with snow. WO4 stated that the male then stood up and started to walk toward the highway. WO4 stated that the male was wearing a toque, a winter jacket, and his clothing was dark in color. The male appeared to be walking normally. As he passed, he looked in the rear-view mirror and saw that the male had run back to a hydro pole and it appeared that he was trying to hide or cover up something. WO4 stated that as he turned onto PTH50, a marked police vehicle passed him travelling in the opposite direction. He recognized the driver as WO3. WO4 stated that he decided to call the local RCMP detachment to report the unusual observations, in the event it may be important.

WO5 has been a member of the RCMP for 26 years. He is currently the program manager for police dog services in Manitoba and was SO’s supervisor. WO5 stated that he spoke with SO at 9:28 a.m. on December 15, by telephone, and shortly after the shooting occurred. WO5 stated that when force is used by one of his members, they are required to notify him. When SO called him, he was straight to the point, saying, “...*I had to shoot and kill a suspect this morning and the suspect is dead*”. SO further advised that the psd was not deployed and no one else was injured. SO also said he was called out to assist in locating an individual that had committed a stabbing. While he was responding, information was received of sighting of a male matching the suspect description observed nearby. SO and another police officer attended to that area and located the male suspect, who was armed with an edged weapon. When they approached the

male, he jumped on to SO's vehicle's hood. The male was attempting to smash the window with his fists and the edged weapon. SO advised that he tried to get the male off his vehicle by driving a short distance and applying the brakes. The male did fall off but immediately got up and jumped on the vehicle again. SO stated that he repeated this action and got the male off. SO stated that when the male did not immediately stand, he exited his vehicle. Suddenly, the male stood, holding the edged weapon. SO stated that his options were limited as he believed the male was trying to smash through his vehicle's windshield and attempt to stab him with the weapon. After the conversation ended, WO5 stated that he made his way to the scene of the shooting. On arrival, he examined SO's vehicle. It had a cracked windshield on the upper passenger side and the hood appeared to have been trampled. WO5 stated that he also observed a large sword, with the handle covered in red tape, on the road by the passenger front corner of SO's vehicle. The sword appeared to be 2.5 to 3 feet in length.

WO6 has been a member of the RCMP for 22 years and was the senior officer at the scene of the shooting. WO6 became aware of a stabbing incident by way of a police radio broadcast. The stabbing victim was at the old gas station and it was reported that he had been stabbed in the face and the eye. WO6 stated that WO1 would attend to this location and meet with the victim. Further information was received that indicated the male suspect may have fled the area on foot. WO6 stated that he then requested the assistance of police dog services which was SO's role. WO6 stated that a call was received advising that a male matching the suspect description was in the vicinity of PTH16 and PTH50, approximately 5 km from the old gas station. Through radio broadcasts, WO6 stated that he was aware that WO1 and SO were going to attend that area to investigate the male suspect. Another radio broadcast was heard by WO6 that sounded like, "*shots fired*". When it was confirmed that shots had been fired, WO6 left the detachment and drove to the vicinity of PTH16 and PTH50. En route, WO6 stated that he was listening to the police radio and heard someone yell, "*201*" and "*drop the knife, drop the knife*". Prior to his arrival, WO6 stated that he heard a radio broadcast that the male suspect was deceased. On arrival, WO6 stated that he checked on the well-being of both WO1 and SO. WO6 stated that WO1 remarked, "*...we had no options, we couldn't have done anything differently*". At the scene, WO6 stated that he observed a machete laying on the ground, a few feet in front of SO's SUV. WO6 also observed shell casings on the ground near the front driver's side of SO's SUV. WO6 advised that SO's SUV was examined. It appeared that it had been struck with something. There were two or three areas of damage, but mostly near the area of the rear view mirror and there were a series of small dents on the hood.

WO7 has been with the RCMP for six years. On December 15, WO7 was at home when he received a telephone call that morning advising of the officer involved shooting and that a male suspect had been shot after some type of incident. He was told that the shooting occurred near the vicinity of PTH16 and PTH50 and that a number of RCMP members were already on scene. He was requested to attend, pick up SO and his psd and transport them to the detachment. On arrival, SO and his psd were brought to WO7's vehicle and placed in the rear seat. There was no discussion concerning the incident. Shortly after their arrival at the detachment, WO7 took possession of SO's uniform, boots and vest. WO7 was subsequently assigned as the lead investigator into the stabbing incident.

WO8 has been a member of the RCMP for five years. On December 15, he was working the day shift when he was advised of a possible stabbing in the area of Portage La Prairie. WO8 decided

to attend that area and offer his assistance to that investigation. While en route, he heard a broadcast over the police radio voicing, “shots fired”. He arrived at the shooting scene, near the intersection of PTH16 and PTH50 at approximately 9:30 am. While he was at the scene he made a few observations. He noted that there was a sword, approximately 24 inches in length, with red tape around one of the ends, on the shoulder of the highway, closer to a police SUV. He also saw three shell casings in front of the police SUV. The casings were close together and near the vehicle’s front bumper. He also saw SO sitting in this vehicle at the scene. SO is usually friendly and outgoing but on this date, he was just sitting quietly in his truck.

WO9 is a three-year member of the RCMP. On December 15, he was responding to an incident where a victim had been stabbed in the face by a hitchhiker. While en route, he was advised that WO2 was on scene so he chose not to attend. However, WO9 advised that he heard a radio broadcast report that there was a male at the grain elevator and he was pulling on a semi truck’s door handles. The male was then observed running around and digging in the ground. WO9 stated that he heard SO radio, “shots fired”. WO9 attended to this scene to provide medical assistance, due being a trained member of the RCMP Emergency Medical Response Team, which attends critical incidents. Upon arrival, he was briefed by other police officers of the situation and then waited to determine if he could assist with the injured male. He was subsequently advised that the male suspect was deceased. No one at the scene told him who had discharged their firearm. While he was near the deceased male, he observed a machete, which he described as “almost a samurai sword”. WO9 stated that it was black with red detailing, with a rope handle. The machete was located on the concrete and close to the deceased male.

### **Subject Officer (SO):**

Pursuant to the provisions of the PSA, a subject officer cannot be compelled to provide his or her notes regarding an incident nor to participate in any interview with IIU Investigators. In this case, SO provided IIU Investigators with a copy of his notes and a prepared narrative, but declined an opportunity to meet with and be interviewed by IIU Investigators.

From a review of his prepared statement, SO has been a member of the RCMP since 2009 and a dog handler since 2018. As a member of the K9 unit, he operates a black Chevy Suburban SUV, and although it is unmarked, it is equipped with full emergency lights and a large bumper. On December 15, at 8:50 a.m., SO wrote that he was dispatched to a stabbing call. On arrival, he met with the victim and noted numerous and serious stab wounds to his face. WO1 had also attended the scene. A radio broadcast voiced that a suspicious male was at the Westroc Grain Elevator, approximately 4 to 5 kms north of their location. WO1 and SO determined they would go to Westroc together and locate the suspicious male. They located the male (later identified as AP) in the vicinity of PTH16 and PTH50. SO wrote that they decided they would give AP verbal directions over the loudhailer. However, AP male walked away from them as it appeared he was talking to himself. AP’s behaviour appeared erratic with SO believing that he might be having a mental health episode. SO through the loudhailer stated, “stop police, you are under arrest”. SO wrote that AP then opened his coat and produced a machete. AP ran towards SO’s vehicle. SO reversed the SUV but AP jumped onto the hood and raised the machete above his head. SO wrote that he feared for his safety as he was trapped in the cab of his vehicle and was concerned that AP may break the windshield. AP wrote that he drew his firearm and pointed it at AP through the windshield. In response, AP struck the windshield where the firearm was pointed.

SO wrote that he accelerated his vehicle then slammed on the brakes causing AP to slide off the hood. AP stood up, with the machete still in his hand. SO reversed his SUV away from him and AP ran towards the vehicle. SO wrote that he drove forward towards AP in an effort to stop him or dislodge the weapon from his hand. SO wrote that he struck AP with his SUV and knocked him back. However, AP grabbed hold of the SUV's front bumper and was able to get back on to the hood. AP continued to hold the machete in his hand and was screaming. AP stated several times "I am going to kill you" then he repeatedly struck the windshield with the machete. SO wrote that he could see cracks in the windshield and was afraid for his life. SO however wrote that he was not in a position to disengage from AP due of the lethal threat posed to others in the vicinity. SO accelerated and braked his SUV to dislodge AP who braced his feet against the push bar on the front bumper. AP eventually slid down with his lower legs dragging on the ground. SO wrote that he stopped his vehicle so that he would not run over AP. However, AP, who was still armed with the machete, climbed back on to the hood and began striking the windshield again. Once again, SO accelerated then braked his SUV throwing AP from the hood and into the ditch, approximately 4 to 5 feet from the shoulder of the road. AP rolled several times, was face down but got up on his hands and knees and faced SO. The machete out of AP's hand and was approximately half a foot away. SO wrote that he exited his SUV, using the front bumper as cover. He was approximately 15 feet from AP. SO wrote that he told AP he was under arrest, to get on the ground and not touch the weapon. AP, however, crawled forward and grabbed the machete. He stood up and quickly moved forward towards SO. SO wrote that he had no room to retreat but could not allow AP to advance further. SO wrote that he believed his only option was to discharge his firearm at AP. SO wrote that he discharged a round at AP who kept advancing. SO wrote that he continued to fire his service pistol until AP stopped advancing. AP fell back into the ditch, dropping the machete in front of him. AP was still conscious and the machete was in front of him on the ground. WO1 was yelling at AP to get away from the weapon. AP was ordered to get away from the weapon and lay on his stomach but he refused to comply. AP was putting his hand into his coat pocket and appeared to be reaching for something that SO wrote that he believed may be another weapon. WO2 had now arrived on scene. AP moved away from the machete but was not complying with verbal commands. SO wrote that he holstered his firearm, while WO1 continued to point his firearm as he covered AP. WO2 had drawn his CEW. SO wrote that he grabbed the machete from in front of AP and tossed it onto the road in front of his vehicle. WO2 took physical control of AP and placed him face down. SO was able to handcuff AP. SO wrote that they began providing medical assistance to AP. Within 2 to 4 minutes, AP stopped breathing and efforts to revive him were unsuccessful.

### **Expert Report on Use of Lethal Force**

The Use of Lethal Force and Opinion report was received from a recognized Canadian expert (PW1). PW1 reviewed all of the information gathered and compiled by IIU investigators. He also examined the actions of SO from the perspective of the Incident Management Intervention Model. At the conclusion of his report he indicated the following:

*"...the overall actions including the use of lethal force by SO were reasonable, necessary and proportionate to the level of violence constantly displayed by AP ...I am satisfied upon my review and analysis of the materials provided that the actions, decision making, and behaviours in applying force by SO were sound, well founded, reasonable,*

*necessary, consistent with training and proportionate with similarly trained law enforcement officers”*

### **Conclusion**

This investigation must consider whether the actions of SO to shoot AP were justified by law. In this incident, SO was responding to a call concerning a suspicious male who may have been involved in an earlier serious stabbing of another male. When SO attempted to arrest AP, AP, armed with a long sword/machete, ran at SO’s vehicle, mounted the hood and began to strike at the windshield. This caused SO to fear for his personal safety and he used his SUV to accelerate then brake to have AP fall from the hood. This scenario repeated itself a couple of times, with an armed AP mounting the hood of SO’s vehicle, strike at the windshield and threatened to kill SO. SO responded by accelerating then braking his vehicle in order to knock AP off and fall to the ground. It was SO’s intent that a falling AP would disarm himself allowing for an arrest to occur. That was not possible as AP, despite SO’s verbal direction not to retake possession of the machete, grabbed it and moved forward to continue to challenge SO. SO, who had exited his vehicle to attempt to arrest AP, was now confronted with an armed and advancing AP. SO had few options available to him in response to AP’s actions. SO determined that his only course of action was to discharge his firearm at AP and eliminate the threat he posed to himself and others in the vicinity. AP eventually succumbed to the injuries he sustained in the shooting.

### **Applicable Law:**

Sections 25 (1), (3), (4) and Section 26 of the Criminal Code of Canada are applicable to this analysis:

*25 (1) Everyone who is required or authorized by law to do anything in the administration or enforcement of the law*

*(a) as a private person*

*(b) as a peace officer or public officer*

*(c) in aid of a peace officer or public officer*

*(d) by virtue of his office, is,*

*if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.*

*(3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self preservation of the person or the preservation of any one under that person’s protection from death or grievous bodily harm.*

*(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if*

*(a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested*



*(b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant*

*(c) the person to be arrested takes flight to avoid arrest*

*(d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm*

*(e) the flight cannot be prevented by reasonable means in a less violent manner*

*26. Everyone who is authorized by law to use force is criminally responsible for any excess thereof, according to the nature and quality of the act that constitutes the excess.*

In addition, police officers are entitled to rely on the self-defence provisions of the Criminal Code under section 34:

*34. (1) A person is not guilty of an offence if*

*(a) they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person*

*(b) the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force*

*(c) the act committed is reasonable in the circumstances*

It is an extremely difficult task to discern a rational explanation for AP's actions on December 15. We know that he was under the influence of drugs. We know that he had attacked CW1, who was in a vehicle in which AP was offered a lift as he was a hitchhiker. CW1 was seriously injured by AP. When he was located by police, AP targeted the attending police officers while he maintained possession and control of the sword/machete. SO ordered AP to surrender his weapon to no avail. AP jumped on to the hood of SO's vehicle and struck the windshield several times trying to attack SO. SO used his vehicle's movements and brakes to remove AP from the hood. This occurred three times until AP fell and was no longer armed with the sword/machete. SO exited his vehicle to arrest AP and ordered him to stay away from the sword/machete. Despite that, AP retrieved the sword/machete, stood and advanced on SO. SO had little options remaining to respond to the threat posed by AP. Toxicology results show that AP was under the influence of significant amounts of hard drugs which may explain the aberrant and violent nature of his actions.

The critical question in this investigation is whether SO's decision to discharge his firearm at AP was reasonable and necessary in all of the circumstances. The reasonableness of an officer's use of potential lethal force (force that is intended or likely to cause death or grievous bodily harm) must be assessed in regards to the circumstances, as they existed at the time the force was used and in light of the constraints that were present. The use of lethal force is authorized by law if SO has reasonable grounds to believe that his life or the lives of others may be in peril by the actions of AP and that the lethal threat posed by AP must be eliminated.

Therefore, where potential lethal force is used, there must be a reasonable belief, held by a subject officer, that the use of potential lethal force was necessary for his or her own self-preservation or the preservation of any one under their protection, from death or grievous bodily harm. The allowable degree of force to be used remains constrained by the principles of *proportionality, necessity and reasonableness* (*R. v. Nasogaluak*, [2010] 1 S.C.R. 206).

In that decision, the Supreme Court noted, (at para. 35):

*“Police actions should not be judged against a standard of perfection. It must be remembered that the police engage in dangerous and demanding work and often have to react quickly to emergencies. Their actions should be judged in light of these exigent circumstances.”*

Also see *R. v. Power*, 476 Sask. R. 91 (CA), where (at para. 35), the court notes:

*“On the basis of the foregoing, a determination of whether force is reasonable in all the circumstances involves consideration of three factors. First, a court must focus on an accused’s subjective perception of the degree of violence of the assault or the threatened assault against him or her. Second, a court must assess whether the accused’s belief is reasonable on the basis of the situation as he or she perceives it. Third, the accused’s response of force must be no more than necessary in the circumstances. This needs to be assessed using an objective test only, i.e. was the force reasonable given the nature and quality of the threat, the force used in response to it, and the characteristics of the parties involved in terms of size, strength, gender, age and other immutable characteristics.”*

Therefore, was it reasonable, in these circumstances, for SO to fire his service pistol at AP to prevent the injury or death to himself or other persons in the vicinity?

From a review of all of the available evidence:

- AP was in possession of a large edged weapon, akin to a sword or machete, capable of causing grievous bodily harm or death.
- AP had earlier used his weapon to attack and seriously injure a male
- SO was on duty and in the process of taking AP into custody.
- AP approached SO, without cause or provocation and in defiance of the officer’s directions, jumped on the hood of the SUV, while armed with the edged weapon and struck the windshield several times.
- SO attempted to repel the attack by accelerating and braking his vehicle hoping to knock AP from the hood.
- AP was under the influence of a significant quantity of hard drugs.
- There were other police and civilians in the vicinity of the confrontation between SO and AP
- When AP finally fell to the ground and dropped his edged weapon, SO seized the opportunity to exit his police vehicle, draw his service pistol and attempt to have AP disarm himself and surrender.
- SO would not disengage from AP due to the lethal threat posed to others.

- AP's attention became focused on SO as he armed himself with the edged weapon, stood and advanced on the police officer.
- AP refused to comply with all demands and commands to drop his weapon.
- AP's actions had become a potential lethal event in which SO had an instant to respond.
- AP posed a real threat to the safety of anyone in the vicinity.
- The options left to SO were few and he made the decision to discharge his firearm at AP to stop the advancement and eliminate the lethal threat posed by AP.
- SO discharged his service pistol three times, striking AP, causing him to fall, to drop his edged weapon and effectively eliminated the lethal threat that he posed.
- As noted by the expert in use of force, SO's actions:

*...were sound, well founded, reasonable, necessary, consistent with training and proportionate with similarly trained law enforcement officers*

I am satisfied that the extensive evidence gathered from all of the referenced sources provides substantial support for the conclusion that the decision by SO to shoot AP was necessary to prevent the injury or death to himself and others in the vicinity.

The circumstances of this incident are tragic. The potential for more serious injuries and loss of life to others, including SO and civilians in the vicinity, was high.

It is my view that, in the full consideration of the circumstances of this incident, the use of lethal force by the subject officer was authorized and justified by law.

There are no reasonable grounds to support any charges against the subject officer.

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

**Final report prepared by:**

Zane Tessler, civilian director  
Independent Investigation Unit  
April 12, 2023

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