

# ***FINAL REPORT: IIU concludes investigation into discharge of firearm by RCMP officer***

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On March 3, 2020, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit of Manitoba (IIU) of an incident occurring the previous day where an RCMP member discharged his service firearm at a male suspect.

According to an excerpt of this notification:

*“On March 2, 2020 at approximately 12:45 p.m., East St Paul RCMP were dispatched to a disturbance with a weapon complaint. [A caller] reported that a male (the affected person (AP)) was “going crazy”, has depression, is known to use marihuana and has a rifle in the vehicle with him. Police were provided with AP’s description and license plate for the vehicle...It was further reported that if police attended that [AP] would shoot everyone.*

*Police were updated that [AP] had left the property in the vehicle and was located by police on the Perimeter Highway near Pipeline Road. Selkirk RCMP members...became involved in a pursuit with the suspect vehicle. The suspect vehicle turned off the Perimeter onto a service road, at which point [a member] (the subject officer (SO)) discharged one round from his service pistol into the tire of the suspect vehicle to stop the vehicle. The suspect vehicle tire became flat.*

*[AP] continued driving in the direction of his residence and pulled over when he was near his residence. Once stopped he exited the vehicle with his hands in the air. [AP] was subsequently taken into police custody and has been transported to the Selkirk RCMP detachment to be held in custody.*

*No injuries occurred, all parties unharmed...”*

As this allegation of a discharge of a firearm, without injury to anyone, is a discretionary matter pursuant to the provisions of The Police Services Act (PSA), the civilian director determined that it was in the public interest for an independent investigation to be conducted by IIU, pursuant to s. 75 of the PSA. IIU investigators were assigned to this investigation.

Information obtained by IIU investigators included:

- various witness officers’ notes and general, arrest and narrative reports
- GPS reports for RCMP vehicles
- civilian witness statements (written and audio recordings)
- audio recording of 911 call
- audio recording of RCMP radio transmissions
- In car video recordings
- RCMP Major Crimes Unit (MCU) investigative summary

- Forensic Identification Services (FIS) report, scene video and photographs
- RCMP policies on intervention options and on discharge of firearms
- RCMP training records for SO

As indicated above, the civilian director designated the RCMP officer who discharged his service firearm as SO. Additionally, the civilian director designated another RCMP member as a witness officer (WO). IIU investigators interviewed AP. IIU investigators interviewed or reviewed RCMP recorded interviews of seven civilian witnesses (CW1-7).

The following facts and circumstances have been determined:

### **Scene Examination**

The scene was examined by FIS. Two spent 9mm casings were recovered on the ground. The RCMP, pursuant to judicially authorized search warrant, searched the vehicle driven by AP. Two bullet holes and ballistic fragments were recovered from the rear driver's side tire. *(Note: firearms and ammunition were also recovered from this vehicle during the search).*

### **Affected Person (AP):**

IIU investigators met with AP at the Provincial Remand Centre (PRC). AP was reluctant to speak about the incident, but did provide some information. AP stated that he was not out of his vehicle when the police arrived. AP stated that he was on the phone at the time. AP stated that he saw a police car with flashing lights approaching. AP stated that the police car drove in front of his vehicle and two police officers exited with their weapons drawn. AP stated that one officer had a long gun. AP stated that he felt threatened and that his life was endangered. AP stated that he drove home, arriving within 30 seconds and that he surrendered to police.

IIU investigators were aware that on the day after the incident, RCMP members conducted a video-recorded interview with AP. Though this interview was primarily in relation to the investigation into his suspected criminal offences, AP gave a vague and reluctant account of the whole incident. In respect of the matter investigated by IIU, AP stated that his hands were up when he saw the police lights. AP stated that he believed his vehicle was shot with a .22 firearm due to the “*quiet sound - as if rocks were hitting*” his vehicle. AP stated that he was not stressed during the incident. AP stated that he thought the police were going to shoot, but he could not explain why. AP acknowledged he had firearms in his vehicle.

### **Civilian Witnesses (CW):**

CW1, the 911 caller, stated that AP was in possession of guns, was suicidal and had threatened to kill someone if they came for him. CW1 was worried he might kill himself or someone else. CW1 stated that AP had mental health issues, was acting paranoid and had guns in his vehicle.

CW2 provided background information regarding AP’s mental health. CW2 stated he had been in a confrontation with AP at their residence. CW2 did not witness the shooting incident, but did see AP’s vehicle pursued by police vehicles, with emergency lights on, on Pipeline Road following the shooting.

CW3 worked at a business near the location of the shooting. CW3 was sitting in his office and heard two gunshots, followed by the sound of a car revving its engine.

CW4 worked with CW3 at the business. She advised that while at work she heard two “pop” sounds. She looked out and observed two RCMP officers; one male and one female. CW4 stated that the female officer had what appeared to be a gun in her hand. The officers were looking down the road and then sped off in their marked vehicle.

CW5 worked with both CW3 and CW4. CW5 stated she heard “pow, pow” sounds, which she believed were gunshots, followed by the sound of a revving engine. CW5 stated that she looked out of a window and saw a marked RCMP vehicle. The passenger door of this vehicle was just closing and it then drove off, with its emergency lights activated. CW5 stated she also saw another RCMP vehicle, in a ditch, facing the wrong way.

CW6 worked at another nearby business. CW6 states she heard sirens, then some “bang” sounds. CW6 states she looked out of a window and saw a vehicle speeding off eastbound towards Pipeline Road. CW6 states she then saw a police vehicle travelling eastbound as well.

CW7 is an acquaintance of AP. On March 2, CW7 was at home when he received an audio call from AP. According to CW7, AP said the RCMP were after him and made references to dying at the hands of the police. AP further said the government had sent the RCMP after him and believed the government was tracking him. AP said he was driving around at the time. AP told CW7 that he had firearms “ready and loaded” and said he would kill the RCMP before they kill him. CW7 stated that AP was calm at first but soon turned hysterical, saying the RCMP were going to kill him, that he would be taken to hospital and he would be intentionally infected with Covid-19. AP then told CW7 that he was being pulled over by the RCMP. AP said that the police officers were approaching his vehicle and had their guns out. CW7 stated that he believed he heard knocking on glass and a female voice announcing, “Police, don't move, put your hands up, get out of the vehicle”. CW7 stated that he heard AP yelling something and then saying “what do you want me to do, are you guys going to kill me and I didn't do anything”. CW7 stated that he heard the sound of squealing tires followed by the sounds of “pop, pop, pop”, which he believed were gunshots. AP said he did not know what to do and that the RCMP were chasing him. The whole conversation lasted about five minutes.

### **Witness Officer (WO):**

WO and SO were assigned to a call for service respecting AP. The caller advised that AP was “freaking out” and would shoot if police attended the family home. A further update was received that AP had left the family home in vehicle and that he was in possession of firearms. WO stated that AP’s vehicle was spotted on a gravel road, which paralleled the Perimeter Highway. SO pulled the police vehicle off to the front passenger side of AP’s vehicle. WO stated that SO approached the driver's side with his pistol drawn and that she stayed on the front passenger side of the police vehicle. WO stated that she was armed with a C8 Carbine rifle. WO stated that the situation was treated as a “high risk” as they had been made aware that AP might be in possession of firearms. WO stated she heard SO say, “show us your hands”. SO was squatting, with his knees bent and his pistol pointed downwards, towards waist level. WO stated that AP appeared to step partially out of his vehicle only to quickly return to the driver’s seat. WO stated she heard the engine rev, and saw the wheels kick up dirt from the road and the vehicle suddenly move forward. WO stated that SO was within two metres of AP. WO stated that she did not know what SO was aiming at, but then heard two gunshots. WO stated that she radioed, “Shots fired, shots fired”. The WO stated that AP’s vehicle took off in an easterly

direction prompting a pursuit to initiate, and that AP was arrested near his home, without further incident. SO did not say why he shot at AP. WO stated that there were no people or vehicle traffic on the gravel road at the time SO shot at AP. There was a medium level of traffic on the Perimeter Highway at the time. WO stated that it was a clear day and visibility was good.

### **Subject Officer**

Pursuant to the provisions of the PSA, a subject officer cannot be compelled to provide his or her notes regarding an incident, nor participate in any interview with IIU investigators. In this case, SO provided his notes and a prepared statement to IIU investigators. SO declined to participate in an interview.

In SO's notes, he wrote that he was aware of the information that AP was

*"...going crazy, has depression, is known to use marijuana, report that he has a rifle in his vehicle, currently...trying to get his vehicle going, and said if police attend he will shoot everyone".*

SO also wrote that he was advised that AP might be in possession of two rifles with ammunition.

SO wrote that he and WO made their way to the vicinity of the Perimeter Highway and Pipeline Road. They noticed AP's vehicle parked on a gravel road north of the Perimeter Highway and facing eastbound. SO wrote that he exited the police vehicle and saw that AP was on a cellphone. SO wrote that he had his issued sidearm drawn and had it pointed at AP. SO wrote that he commanded AP to exit his vehicle. SO wrote that AP had his hands up. SO wrote that he approached AP's vehicle as AP opened his door and stepped out. SO wrote that he saw a butcher or hunting knife on AP's waist. AP then suddenly jumped back into the driver's seat. AP's vehicle began to accelerate quickly. SO wrote that he was approximately one metre away from this vehicle. SO wrote that he discharged two shots towards the rear tire of AP's vehicle. SO wrote that the threat to the public and to the police was imminent and lethal. AP's vehicle drove off eastbound. SO wrote that he voiced over the police radio that he had discharged his service pistol.

In his prepared statement, SO wrote that he approached AP's vehicle in order to get a better situational awareness, to try to end this ongoing incident and to arrest AP. SO wrote that he did not position himself in front of the vehicle so he could move out of the way immediately. SO wrote that he believed AP posed an imminent and lethal threat based on both the information received and his own observations. SO wrote that when he discharged his service pistol, he was aware that there were no pedestrians or motorists nearby.

### **911 Calls and RCMP Radio Transmissions**

911 calls and radio transmissions confirmed the background to the original complaint whereby CW1 had called police to advise that AP was in possession of two firearms and ammunition and that he had made threats that he would shoot police if they attended to the house. A vehicle description was circulating over the police radio.

WO is heard on the RCMP radio voicing, *"shots fired"*. Another radio transmission is heard, believed to be SO, who mentioned he was responsible for the shots and then said, *"I did not see a firearm"*.

### **Video Footage Review:**

#### **RCMP Police Vehicle Footage**

Video footage from SO and WO's vehicle is 3 minutes 24 seconds in duration and ended before the firearm discharge. An examination concluded that this vehicle had run out of hard drive space and that no footage could be recorded.

#### **Business premise Surveillance Video**

Captured video shows AP's vehicle speeding eastbound towards a police truck, with its emergency lights activated. This short footage is believed to be post shooting and the camera did not show the shooting scene.

#### **SO Service Pistol - Round Count:**

SO was issued with a Sig Sauer pistol. The RCMP conducted a round count of that pistol on the incident date and found 13 live 9 mm rounds in the magazine. SO's two spare magazines were also inspected and each were found to contain 15 live 9mm rounds of ammunition.

#### **SO Training Records:**

SO had last passed his Semi-Automatic Pistol Course on June 11, 2019 and that pass was valid until June 11, 2020. SO is a member of the RCMP Emergency Response Team.

#### **RCMP Policy:**

##### **Discharge of Firearms**

Subject to 2.1.1.1. RCMP members are advised not to discharge a firearm at a motor vehicle or its occupants unless the officer has reasonable grounds to believe it necessary to protect any person, including the officer, from grievous bodily harm or death.

Section 2.1.1.1: when there are reasonable grounds to believe it necessary to protect any person, including yourself, from death or grievous bodily harm.

#### **Conclusion:**

Following the completion of this investigation, the civilian director forwarded the I IU investigative file to Manitoba Prosecution Service (MPS) and requested a review and opinion on whether any Criminal Code charges should be authorized against the subject officer.

Following the review of the I IU investigative file, MPS provided a written opinion, in which it was stated:

*Manitoba Prosecution Service (MPS) has reviewed the I IU investigation of SO. While it is always in the public interest to hold police officers accountable, there must also be a reasonable likelihood of conviction for MPS to prosecute a matter. In this case, after considering all of the evidence we have concluded that there was a justifiable use of force by SO. Consequently, there should be no basis to lay any charge against him.*

Accordingly, MPS will not authorize any criminal code charges against SO as there is no reasonable likelihood of conviction in this matter.

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

**Final report prepared by:**

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