

FINAL REPORT: IIU concludes investigation into fatal motor vehicle collision following attempted traffic stop by Winnipeg Police

On October 4, 2021, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit (IIU) of a fatal motor vehicle accident that occurred shortly after noon in St. Boniface.

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

“On October 4th, 2021, at approximately 12:05 p.m., uniformed General Patrol members conducted at traffic stop on a 2007 BMW on Provencher Boulevard. The vehicle accelerated away at a high rate of speed. Officers immediately voiced that the vehicle had fled. This vehicle, operated by Affected Person 1 (AP1), lost control within moments of fleeing, crossing the median and striking a westbound vehicle, killing that driver (Affected Person 2 (AP2)). AP1 crawled out of his vehicle and attempted to flee the scene. He was arrested within moments by the original crew who conducted the traffic stop”

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 the Manitoba Police Commission to appoint a civilian monitor.

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

- WPS radio transmissions
- Audio recording of a 911 call reporting the collision
- WPS call history and CAD report
- WPS Forensic Identification Services (FIS) reports and photographs
- GPS records related to WPS cruiser involved in the attempted traffic stop
- Video statement given by AP1 to WPS officers
- Statements of various civilian witnesses
- Notes and narrative reports from witness officers
- Autopsy report relative to AP2
- Collision Reconstruction Report
- Video footage taken from various locations on Provencher Blvd.

- Dash cam footage from civilian witness showing the collision
- WPS pursuit policy

Due to the dearth of information at the outset of this investigation as to whether any actions by any WPS officer contributed to the collision, it was decided that no subject officer designation would be made at this stage, pending receipt of more facts and evidence. The two WPS officers who were attempting to conduct a traffic stop of the BMW were identified as potential witness officers (WO1-2).

AP1 refused to be interviewed by IIU investigators. However, IIU investigators did receive and reviewed a video recording of an interview of AP1 conducted by WPS officers in relation to this incident.

Additionally, IIU investigators met with and interviewed 11 civilian witnesses (CW1- CW11).

IIU investigators obtained several video recordings from nearby businesses on Provencher Boulevard, a transit bus, traffic cameras and a dash cam recording from a civilian witness. All of the various video footage provided sufficient information to create a timeline from the original contact between WPS officers and AP1, through the collision with AP2's vehicle. The various video footage proved invaluable, as the manner of driving of the AP1's and WPS vehicles was recorded just prior to the collision. Further, various video footage was also useful in determining the speed of AP1's vehicle prior to the collision. Finally, the various video recordings provided corroboration or refutation of eyewitness recollections.

Facts and Circumstances

Affected Persons:

As noted, IIU investigators were supplied a video recorded interview of AP1 conducted by WPS officers, under charge and caution, while he was in their custody. It was reviewed in full by IIU investigators.

In that interview, AP1 acknowledged that he was a Methamphetamine user and in fact had used that drug approximately 20 to 45 minutes prior to the collision. AP1 stated that he used this drug for health reasons and that it did not affect his judgment at the time. AP1 stated that he was initially pulled over by police and that he came to a complete stop, putting his vehicle into park. AP1 stated that he was prohibited from driving, did not possess a valid driver's licence and knew that he should not have been operating a motor vehicle. Furthermore, AP1 stated that he was also on probation for other matters. AP1 stated that he decided that he should "...*just take off*" from the police because he did not want to be taken to jail, having just completed a lengthy incarceration in Brandon. AP1 stated that he "...*just wanted to get out of the situation as fast*" as he could. AP1 stated that he recalled losing control of his vehicle but did not remember hitting any other vehicle. AP1 stated that he recalls being upside down when his car came to a rest. AP1 stated that he exited his car, took five steps and then got on his knees. AP1 did not sustain any serious injuries as a result of the collision.

As noted, AP1 declined to be interviewed by IIU investigators. IIU investigators did confirm that AP1 was subject to a lifetime suspension of his driving privileges on the date of this incident.

AP2 was lawfully travelling westbound in her vehicle on Provencher Boulevard when AP1's vehicle collided with her. Tragically AP2 died instantaneously as a result of injuries sustained in

the collision, with the cause of death noted as *'cranial cerebral trauma due to motor vehicle collision'*.

Civilian Witnesses:

At around lunch hour, CW1 was driving his car eastbound over Provencher Bridge when he saw, in the distance, the flashing red and blue lights of a police vehicle. As he approached and was within 200 feet away, CW1 saw that a marked WPS SUV had *"pulled over"* a car near the park on Provencher Boulevard. CW1 stated that at first, the car was stopped and parked against a curb. The WPS SUV was behind it. CW1 stated that he did not see any police officers outside of their vehicle. CW1 stated that suddenly, the car drove away from the scene at an extremely high rate of speed. CW1 stated that he thought the driver *"was making a run for it"*. CW1 stated that at that point, the WPS SUV's emergency lights were turned off and it proceeded to follow the car, in the same direction but at a much slower speed, estimated at regular traffic speed. The WPS SUV did not accelerate and there was *"quite a distance between the two vehicles"*. CW1 stated that he did not hear sirens coming from the police vehicle. CW1 stated that in his opinion, it did not appear that the WPS SUV was chasing the speeding car. CW1 stated that as he approached the intersection with Des Meurons Street, he saw a cloud of dust and debris flying in the air. CW1 stated that he saw that a white car had been struck and was rolling westbound on Provencher Boulevard. CW1 stated that it was a matter of seconds from the time the car sped off to the time of the collision. CW1 stated that he never saw that WPS SUV collide with the speeding car. CW1 stated that he saw that a police officer had a male in custody.

CW2 was driving eastbound on Provencher Boulevard when he noticed that ahead was a WPS vehicle, with its emergency lights activated, and that a silver car was stopped in front of it. CW2 stated that as he passed these vehicles, the silver car suddenly drove off eastbound, at a high rate of speed and passed his own vehicle. CW2 stated that within three to five seconds, the police vehicle began to travel eastbound. CW2 stated that the police vehicle pull away as if *"it was pulling out of a parking spot"*. CW2 stated that the police vehicle was not speeding and did not have its emergency lights or sirens activated. CW2 stated that the silver car was weaving in and out of traffic. CW2 stated that the silver car lost control near the Belgian Club on Provencher Boulevard. CW2 stated that he saw it flip and collide with a white vehicle that was travelling westbound. CW2 stated that he stopped his own vehicle and saw a male climb out of the silver car and start to run. CW2 stated that the police vehicle arrived a short time later. CW2 stated that he saw police officers chase after the male and apprehend him.

CW3 stated that just after noon hour, he was driving eastbound, in the center lane, on Provencher Boulevard. CW3 stated that he saw a marked WPS SUV pull over a grey vehicle over to the right side of Provencher Boulevard near the intersection with St. Jean Baptiste Street. CW3 stated that he could not recall whether the WPS SUV had its emergency lights or sirens activated at that time. CW3 stated that he drove past the WPS SUV and grey vehicle, when, within seconds, he heard the sound of an accelerating vehicle from behind. CW3 stated that he saw the grey vehicle *"zoom"* pass his own vehicle at a high rate of speed. CW3 stated that he looked in his rear view mirror and saw that the WPS SUV had not left its position. CW3 stated that he estimated the grey vehicle was travelling at double the posted speed limit of 50 kph. CW3 stated that the grey vehicle was swerving and *"zigzagging"* through traffic, repeatedly changing lanes. CW3 stated that he saw the grey vehicle hit the median boulevard, fly in the air and landed on top of another car on the opposite side of the road. CW3 stated that he pulled his vehicle over to stop and

intended to help the occupants of the car that had been struck. CW3 stated that he then saw that same WPS SUV arrive at the collision and two WPS officers exited. CW3 stated that the driver of the grey car got out of his car and tried to run but he was quickly detained by police.

CW4 stated that around noon, she was driving on Provencher Boulevard when she noticed that ahead of her was a marked police vehicle following behind a light coloured car. CW4 stated that as they as they were passing Provencher Park, the police vehicle's siren turned on and the light coloured car was pulled over on the right hand side. CW4 stated that within moments of her passing the scene of this stop, the light coloured car passed by her on the left hand side at a high speed, estimated by her to be approximately 70 kph, and was weaving through the traffic ahead of her. CW4 stated that she looked behind and saw that the police vehicle began to chase after the light coloured car. CW4 stated that as she drove through the intersection with Des Meurons Street, she noticed that a westbound vehicle was damaged and the driver appeared injured. CW4 stated that the WPS vehicle pulled up, stopped and police officers jumped out to apprehend the driver of the light-coloured car.

CW5 was sitting outside of a restaurant on Provencher Boulevard at around noon when his attention was drawn to a light-coloured vehicle, with a damaged windshield, travelling eastbound at a high rate of speed and swerving through traffic. CW5 stated that within seconds, he saw a marked WPS SUV travelling eastbound, at or about the same speed as the light coloured vehicle. CW5 stated that the WPS SUV did not have its emergency lights or sirens activated. CW5 stated that both of these vehicles were travelling faster than other traffic. CW5 stated that he became aware of a "*commotion*" further to the east and he saw that the WPS SUV now had its emergency lights activated and it had appeared to have stopped. CW5 stated that he made his way to the scene of the "*commotion*" and saw another vehicle with no roof and that police officers were escorting a male to the WPS SUV.

CW6 was stopped at a drive-through restaurant on Provencher Boulevard, when he heard the sound of a "*long squeal*" followed by further sounds of two distinct crashes or impacts. CW6 stated that when he left the drive-through and drove on Provencher Boulevard, he saw a police vehicle with its lights activated driving towards the collision area.

CW7 was inside a business premise on Provencher Boulevard and had witnessed the motor vehicle collision. CW7 stated that the police vehicle arrived almost immediately after the collision.

CW8 was a witness to the collision and stated that the police vehicle arrived around three to four seconds after the collision.

CW9 and CW10 were standing close to the collision scene and each stated that a police vehicle arrived shortly after the collision occurred.

CW11 was working at a business premise on Provencher Boulevard and had observed the collision. CW11 stated that she saw a police vehicle arrive almost immediately after the collision.

Witness Officers:

WO1 was the driver of a marked WPS SUV and was partnered with WO2. WO1 stated they were driving eastbound on Provencher Boulevard, which has a speed limit of 50 kph. At

approximately 12:03 p.m., WO1 stated that he observed an eastbound BMW, with a damaged rear window, bearing a Manitoba license plate. WO2 conducted computer checks on this license plate which revealed it was in a “cancelled” status (no insurance) since September 2021. WO1 stated that based on this information, he decided to conduct a traffic stop on the BMW and activated his vehicle’s emergency lights. WO1 stated that he could not recall if the siren was also activated. WO1 stated that the BMW came to a stop at the intersection with St. Jean Baptiste Street. WO1 stated that as they were preparing to deal with the driver, the BMW suddenly accelerated away from the traffic stop and drove eastbound at a high rate of speed. WO1 stated that the turned off the vehicle’s emergency lights and drove eastbound to observe the BMW. WO1 stated that the BMW was swerving in and out of traffic at that high rate of speed and was distancing itself from the police vehicle. WO1 stated that he saw the BMW lose control, strike the centre median and land on top of a westbound vehicle. WO1 stated that he reactivated the emergency lights and rushed to the scene. WO1 stated that AP1 was running from the BMW but he apprehended him a short distance from the scene.

WO2 stated that he was the “jumper” (passenger) in a marked WPS vehicle driven by WO1. He observed the BMW travelling eastbound on Provencher Boulevard and computer checks revealed the insurance on that vehicle had been cancelled. At that point, it was determined that there were grounds to initiate a traffic stop. WO2 stated that the traffic stop of the BMW occurred at the intersection of Provencher Boulevard and St. Jean Baptiste Street, near Provencher Park. WO2 stated that neither police officer exited their vehicle when the stop occurred. WO2 stated that the emergency lights on the police vehicle were activated to get the drivers attention and for the BMW to pull over. WO2 stated that the intermittent siren was also used but it was turned off once the BMW pulled over. WO2 stated that as he was preparing to voice over the police radio details about the stop, the BMW suddenly drove off eastbound and accelerated at a high rate of speed. WO2 stated that he then radioed what was happening once the BMW sped off. WO2 stated that their vehicle followed in the same direction of the BMW but no sirens were used. The BMW was swerving through traffic, when it struck the centre median and collided with a white coloured vehicle travelling westbound. The white coloured vehicle sustained significant damage. WO2 stated that their police vehicle was approximately a city block away from the collision scene at that time.

Video Recordings:

Video footage was obtained during the IIU investigation via the canvass process and from the WPS. A timeline video was compiled using the most useful footage which does not appear to show a pursuit or any physical contact between the police vehicle and AP1’s BMW. Footage was obtained which captured the police vehicle and the BMW vehicle pre-traffic stop, post-traffic stop and of the collision. Dash Cam footage was supplied by a civilian witness who had been travelling behind AP2’s vehicle. That footage was considered to be the clearest video of the collision. A review of this footage determined that approximately 13 seconds had elapsed from the time the BMW lost control and collided with AP2’s vehicle to the time the police vehicle arrived at the collision scene.

GPS data:

GPS records relating to police vehicle D404 were reviewed and showed:

- At 12:04:33 p.m., the police vehicle was travelling eastbound on Provencher Boulevard at a speed of 14 kph;
- Between 12:04:45 p.m. and 12:05:05 p.m., the police vehicle was shown at zero kph (or stopped) on Provencher Boulevard just west of the intersection with St. Jean Baptiste Street, by Provencher Park. The police vehicle was stopped for approximately 20 seconds before moving eastbound;
- At 12:05:13 p.m., the police vehicle was travelling eastbound on Provencher Boulevard at a recorded speed of 23 kph, with its speed steadily increasing;
- At 12:05:29 p.m., the police vehicle was in the vicinity of 380 Provencher Boulevard, continuing to travel eastbound, at a recorded speed of 54 kph. Within two seconds, the police vehicle's speed decreases;
- At 12:05:49 p.m., the police vehicle was in the vicinity of 450 Provencher Boulevard (collision vicinity) with a recorded speed of zero kph (or stopped);
- The highest recorded speed of the police vehicle was recorded at 54 km/h for approximately two seconds, attained at a distance 330 metres after the BMW had driven off from the traffic stop;
- Approximately one minute elapsed from the time of the traffic stop to the time the police vehicle arrived at the collision scene;
- The distance from the traffic stop to the collision scene was approximately 600 metres.

Traffic Collision Analysis Report:

The traffic collision analyst, in his report, made a number of conclusions following the examination of the scene, review of vehicle data and witness accounts:

- AP1 was operating a BMW bearing a cancelled Manitoba licence plate;
- WPS officers conducted a traffic stop on the BMW resulting in AP1 fleeing from police in the BMW;
- AP1 drove eastbound on Provencher Boulevard and through the intersection with Des Meurons Street;
- AP1 drove the BMW in the median lane, crossed the middle lane, and then went into the curb lane, overtaking multiple vehicles at a high rate of speed;
- While driving over the Seine River Bridge, the BMW veered to the right and almost collided with the metal guard rail;
- AP1 over-steered to the left, causing him to lose control of the BMW as it went into a counter-clockwise rotation on the vertical axis (yaw). The BMW crossed the median lane, ramped off a concrete median, and became airborne;
- AP2 was operating a white Kia Optima EX westbound in the median lane on Provencher Boulevard, approaching the Seine River Bridge;
- The BMW landed on the Kia's roof, instantly killing AP2;

- The main contributing factor that led to this collision was speed. The posted speed limit for Provencher Boulevard was 50 kph. AP1 fled from a traffic stop conducted by WPS officers and lost control of the BMW due to his excessive speed prior to the collision;
- Analysis of video footage taken at 396 Provencher, determined that the BMW was travelling at an average speed of 96 kph prior to the collision;
- Analysis of video footage at 450 Provencher, determined that the BMW was travelling at an average speed between 98 and 105 kph just prior to the collision;
- There was no damage found on the police vehicle involved in the traffic stop and emergency warning lights and sirens were in full working order upon inspection.

WPS Pursuit Policy

IIU investigators received and reviewed the WPS Pursuit Policy that was in effect on October 4, 2021. In that policy, it is stated that WPS officers will not initiate a vehicle pursuit in respect to any offense other than a known Criminal Code or Controlled Drug and Substances Act (CDSA) offence, taking into consideration the seriousness of the offense. In these circumstances, it was determined that the WPS officers' actions were in accordance with the existing WPS Pursuit Policy.

Conclusion

This investigation must consider whether the actions of any or all of the police officers who were involved in AP1's traffic stop caused, or in any way contributed, to the deaths of AP2.

Based on the various witness accounts, the various video footages recovered, vehicular data and the collision analysis report, the following determinations can be made:

- At all material times, the police officers were in the lawful execution of their duties;
- The encounter between the police officers and AP1 had its genesis as a result of an license plate query that determined the BMW was bearing a cancelled Manitoba license plate;
- The WPS officers had sufficient grounds to conduct a traffic stop of the BMW;
- The WPS officers activated their vehicle's emergency lights and siren to pull the BMW over;
- AP1 slowed the BMW and came to a stop as a result of the police actions;
- AP1 was subject to a lifetime suspension of his driving privileges on the date of this incident;
- AP1 admitted that he was aware he was prohibited from driving, that he did not possess a valid driver's licence and that he should not have been operating a motor vehicle;
- AP1 did not want to be taken into custody and returned to jail;
- Provencher Boulevard is a heavily trafficked area marked with businesses, residences, vehicular traffic and pedestrians;
- The speed limit on Provencher Boulevard is 50 kph;

- AP1 accelerated away from the traffic stop and drove eastbound on Provencher Boulevard at significantly high rates of speed to avoid contact with the police;
- AP2 was lawfully operating her vehicle westbound on Provencher Boulevard at the time of the collision;
- AP1's BMW reached speeds in excess of 100 kph just prior to the collision;
- I am satisfied that that the WPS officers were not in a pursuit of the BMW, particularly when the available video footage is reviewed, the eyewitness reports are considered and in particular, the fact that the emergency equipment of the WPS vehicle is disengaged after the BMW drives away from the traffic stop. Furthermore, the speed of the WPS vehicle never exceeds 54 kph (just over the posted speed limit) as it travels eastbound to observe the BMW;
- The decision to evade police by accelerating and driving at significantly high rates of speed was the sole decision of AP1;
- AP1 is solely responsible for death that resulted.

In conclusion, there is no evidence to support a finding that there is any level of contribution by any police officer to the cause of the collision and death that resulted. Furthermore, there is no evidence in this matter that would justify the designation of any of the police officers as a subject officer. As a result, there is no further requirement or need by IIU 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
January 18, 2022

Ref 2021-048