

FINAL REPORT: IIU concludes investigation into officer-involved shooting on Gertrude Avenue in Winnipeg

On July 13, 2022, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit (IIU) of an officer-involved shooting that occurred on Gertrude Avenue in Winnipeg. This notification disclosed the following information (edited for clarity):

“On Wednesday, July 13th, 2022, at approximately 3:03 p.m., West District General Patrol officers and East District General Patrol officers were dispatched to the apartment building located on Gertrude Avenue in response to a report of a male subject armed with a firearm standing in front of that location.

Uniformed officers attended the scene and located the male sitting on the front steps of the Gertrude Avenue apartment building (“the block”) armed with a rifle. The officers attempted to de-escalate the situation by undertaking negotiation efforts.

During the course of crisis negotiations, the male indicated he was suicidal and asked officers to shoot him. Officers attempted to disarm the male utilizing a taser deployment which proved unsuccessful. The male subsequently pointed the firearm at officers at which time a use of force encounter ensued resulting in one officer discharging his service pistol. Officers were able to restrain the subject at which time emergency first aid measures were initiated.

The male was subsequently conveyed to Health Science Centre (HSC) in unstable condition where he was later upgraded to stable.

A dog was subsequently located deceased in the subject male’s suite, suffering from a gunshot wound.”

Any injury resulting from the use of firearm constitutes a serious injury pursuant to IIU regulation 99/2015. Accordingly, an investigation by the IIU into the conduct of the WPS member who discharged the firearm is mandated. A team of IIU investigators was assigned to this matter.

The agency information obtained by IIU investigators included:

- WPS Investigative Summary Report
- WPS Officers’ Notes and Narratives
- officers’ supplementary reports
- audio recordings of 911 telephone call
- audio recordings of WPS radio communications
- Forensic Identification Service reports
- photographs of exhibits

- multiple video recordings
- conductive energy weapon (CEW) (taser) analysis reports
- subject officer prepared statement
- medical reports concerning the affected person (AP)

The civilian director designated the WPS officer who discharged the firearm as the subject officer (SO). IIU investigators interviewed 10 WPS officers who had been designated as witness officers (WO1 – 10). IIU investigators met with and interviewed AP. IIU investigators met with and interviewed nine civilian witnesses (CW1-9).

IIU investigators received and reviewed a number of video surveillance recordings that captured the officer-involved shooting and surrounding circumstances from diverse angles and perspectives. With subsequent enhancements, all of these video recordings proved to be invaluable sources of information in this investigation.

Facts and Circumstances

AP

AP started his interview by saying, *“I wanted to end my life and I phoned the police. I wanted them to do it.”* AP stated that he had experienced several personal challenges and had decided to end his life. However, he was unwilling to do it himself and decided to get the police to do it for him. AP stated that he called 911 and said that there was a man with a gun at the block, then sat on the steps with a .22 calibre rifle and waited for police to arrive. AP stated that he never pointed his firearm at police, his finger was never on the trigger and in fact, it remained behind the trigger at all times. AP stated that when the first police officers arrived, they had their guns drawn and repeatedly told him to *“put the f***in’ gun down”* but he refused to do so. AP stated that he never moved his rifle around. AP stated that he used his other hand to remove his wallet and take a drink of water, and that he told the police officers he was doing that beforehand. AP stated that he remembered being subjected to a Conductive Energy Weapon (CEW) deployment by a police officer to the side and that one probe entered into his right eye and the other probe went into the butt of the rifle. AP stated that he was not affected by the CEW, and that a second officer discharged another CEW at him. AP stated that he was shot at the same time by another officer but could not recall how many times that happened. AP stated he was drinking liquor (amaretto, vodka and beer) in the morning and at the time of the shooting incident was moderately intoxicated.

According to the HSC medical report received by IIU investigators, AP sustained a single gunshot wound to his abdomen, with the bullet coming to rest near his left hip.

The firearm held by AP was a semi-automatic .22 calibre long rifle, model Squires Bingham, manufactured by Arms Corporation of the Philippines, with a magazine attached. There was no live round in the chamber but the attached magazine contained nine live rounds.



Photograph of AP's firearm – the loaded magazine has been removed and is seen at the upper left of the weapon

911 Telephone Call:

Audio of the telephone call to 911 was reviewed by IIU investigators. In the 911 recording, made at 3:02 p.m. on July 13, a male caller identified the location of the emergency as the block and then told the operator, “*There’s a man with a gun out front.*” The caller went on to say that no shots had been fired and then the call was disconnected. Efforts by the operator to re-establish contact with the person who reported the matter were unsuccessful. As noted above, AP was the caller to 911.

Civilian Witnesses:

CW1 stated that between 3:15 and 3:30 p.m. that day, she was driving to work along Gertrude Avenue, but could not proceed down the street as it was blocked by police vehicles. CW1 stated that she could see two or three police officers with their guns pointed at something, facing the door of the block. CW1 stated that she drove around the blocked area using other roads. When she parked her car and walked to her place of employment, she saw more police officers with guns out and more arriving at the scene. CW1 stated that police officers in front of the block were moving towards something in front and she could hear police yelling, “*Put it down*” repeatedly, at least six or nine times. CW1 stated that she heard a CEW being deployed, followed by someone swearing in response. She could not see that person from where she was positioned. CW1 stated that the police again said, “*Put it down! Put it down*”, then she heard the sound of a single gunshot.

CW2 was in her bedroom, in an apartment in the block, when she noticed several police officers outside. CW2 stated that the police officers had their guns or CEWs pointed at someone, and their attention was towards the front steps of the block. CW2 stated that she moved to another room and was able to partially see AP on the steps. CW2 stated that AP had something with him but she could not see what it was. CW2 stated that the police were standing by the stairs in a semi circle, approximately seven yards from AP. CW2 stated that when AP stood up, she heard the sounds of two bangs close together. Within moments, CW2 stated that the police were surrounding AP.

CW3 was the resident manager for the block. CW3 stated that he was at work when he received a telephone call advising him that there were police officers outside the block. CW3 stated that he accessed the block's security cameras via his cellular phone and saw AP, outside the front doors, with a black pipe object by his leg. CW3 stated that he could see police officers, and as they approached, AP became agitated and stood up. CW3 stated that he realized that the pipe was actually a rifle in AP's hands, with the muzzle out to the side, to his left and parallel to the block. CW3 stated that he saw AP fall on to the landing of the steps, where police moved in and handcuffed him.

CW4 and CW5 are tenants in the block. On the morning of July 13, CW4 stated that AP had left some personal effects outside his door. The effects were divided into two boxes, with letters addressed to each of CW4 and CW5. CW4 stated that he read his letter in which AP wrote that he was thankful for him being a friend and he could have the items in the box. CW5 stated that he did not open his letter. Both CW4 and CW5 went to work and neither were present nor witnessed the shooting.

CW6 was walking on the sidewalk on the south side of Gertrude Avenue at about 3:00 p.m., when a marked police vehicle pulled up beside him, two police officers exited and started shouting. The police officers appeared to be focusing their attention toward the block. CW6 stated that he heard the police officers shout, "*Drop the weapon, drop the weapon! Put the gun down!*" The police officers had their guns and CEWs drawn. CW6 stated that he looked at the block and saw a male leaning on a shotgun, "*...like he was leaning on a cane*". CW6 stated that the male was not complying with the police officers' commands, and was "*...mouthing off*" at the police. CW6 stated that he left the area but returned five to ten minutes later. CW6 stated that the police were still speaking with the male, and "*...things had calmed down a bit*". CW6 stated that the male was still on the block's steps with the gun and more officers were present with their guns out, but "*... the conversation seemed a little more civil*". CW6 did not see or hear how the matter concluded nor did he hear any gunshots.

CW7 was walking across Gertrude Avenue around 2:30 p.m. when two WPS officers, with rifles, ran past him. CW7 stated that he followed them where police had surrounded the block. CW7 stated that he pulled out his cellular phone and started to record the incident. CW7 stated that his view was partially obstructed by foliage but he observed a man exit the front doors of the block. The man appeared to have something in his left hand and down along the side of his body. CW7 stated that the object was a wood-stained item. CW7 stated that he could not tell if the item was pointed at police because of the trees in the way. CW7 stated that he watched the police, who were in a semi-circle around the steps where the man was now located, yelling, "*Put it down*" repeatedly, for thirty seconds to a minute. CW7 stated that he heard the sound of a Taser being deployed for eight to ten seconds, followed by more yelling then the sound of a loud

shot. CW7 stated that after the sound of the shot, he observed a police officer pick up a small rifle from the steps of the block and throw it to the ground. CW7 stated that three other police officers rushed up to the steps and appeared to assist the male who was shot. CW7's cellphone video was 43 seconds in duration, with the shooting occurring in the first ten seconds of the recording. IIU investigators reviewed this video, taken from a position southwest of the AP. Several police officers are seen standing in position and focused on something that cannot be seen on the video. Voices can be heard on the video recording, saying to someone, "*Put it down!*" twice, and "*Finger on the trigger!*" once before the sound of a gunshot is heard. AP is not seen in the video.

CW8 was sitting at his desk at work when between 3:00 and 3:15 p.m. he observed police officers running down the street. CW8 stated that some of the police officers had guns drawn while others were carrying rifles. CW8 saw a group of police officers congregated around the block, located down the road from his work. CW8 stated that he heard police officers yelling, "*Stay there! Stay there!*" and "*Put it down! Put it down!*" repeatedly. CW8 stated that he then heard the sounds of a CEW deployment and saw wires flying across his field of view. CW8 stated that he could not see what the target of the CEW deployment was nor could he see who the police officers were yelling at as his view was obstructed by foliage in front of the block. CW8 stated that he then heard, "*Put it down, put it down, don't come any closer!*" followed by the sound of a single gunshot. He did not know who was shot.

CW9 was at his business on Gertrude Avenue, when between 2:30 and 3:15 p.m., he stated that a customer notified him that something was going on outside. CW9 stated that he went outside and saw a number of police officers, with guns drawn, near the front of the block. CW9 stated that he heard police officers yelling, "*Drop the gun! Drop the gun!*" at someone, but he could not see who it was. CW9 stated that he then heard the sounds of one or two CEW deployments, followed by a police officer saying, "*Drop the gun!*" CW9 stated that within a minute, he observed a male police officer discharge his pistol one time, in the direction of the block.

Witness Officers

WO1 and WO2 were working together on the WPS Tactical Support Team (TST) on July 13. WO1 stated that at 3:10 p.m., they became aware of a gun call at the block. Information received was that a male was armed with a gun and was making suicidal comments. WO1 stated that they attended the scene in an unmarked police vehicle, with lights and sirens activated, arriving at 3:18 p.m. WO1 stated that he observed at least four general duty police officers arrayed in a semi circle around a male who was standing on the steps of the block. The male was holding a rifle in his left hand and there was a magazine in the rifle. WO1 stated that he was unable to say where the male's left hand was in relation to the trigger of the gun and he could not comment on the location of the male's right hand. The rifle barrel was pointing upwards and towards the sky. WO1 stated that he heard police officers giving a command to the male to drop the gun at least once and then heard a police officer say that the male had his finger on the trigger. WO1 heard the sound of CEW being deployed, after which the male's rifle was now pointed towards the police officers arrayed around him. WO1 stated that he then heard the sounds of a single gunshot and another CEW deployment almost simultaneously. WO1 stated that the male fell to the ground and police officers moved in to secure him and start first aid.

WO2 was working with WO1 as a member of the WPS TST. WO2 stated that they were dispatched to a gun call on Gertrude Avenue at 3:10 p.m. WO2 stated that they arrived on scene within 5 to 10 minutes. WO2 stated that he observed a number of police officers positioned in a semi-circle outside the block. They had both firearms and CEWs drawn and pointed at the block. WO2 stated that he heard multiple police officers commanding someone to drop the weapon and drop the gun. WO2 stated that he then heard the sound of a CEW deployment. WO2 stated that he moved closer and observed a male on the steps of the block. The male was holding a rifle in his left hand. WO2 stated that the male's left hand was holding the rifle by the stock and "... inches" from the trigger. The barrel of the rifle was pointing up towards the sky. WO2 stated that he heard a second CEW deployment when the male moved the firearm barrel and was pointing it at some of the police officers surrounding him. WO2 stated that he heard a police officer say that his finger was on the trigger, followed by the sound of a single gunshot. The gunshot and the CEW deployment were almost simultaneous.

WO3 and WO4 were partnered on July 13, when they were dispatched to the block in response to a gun call. On arrival, they found SO and WO5 already present and speaking with AP, who had a rifle on his lap. WO3 stated that he could not recall how AP was holding the rifle. WO3 stated that he took up a position next to SO. SO was negotiating with AP, asking him what police could do for him. WO3 stated that he spoke with AP asking him what could be done for him. WO3 stated that AP was told four or five times to drop the rifle by different officers but he did not comply. WO3 stated that he asked if AP requested the police shoot him to which he was making comments about center of mass and had tapped between his eyes making WO3 think he was asking to be shot there. WO3 stated that a police officer took up a position behind AP and tried to use a CEW on him but it was not successful. AP then stood up in an attempt to remove the CEW wires from himself. WO3 stated that this police officer asked for WO3's CEW which he handed over. The other police officer deployed the second CEW, and WO3 was unable to say if it worked or not. WO3 stated that he heard the sounds of another CEW deployment and what he believed to be a gunshot, but he was not sure if police or AP had fired. WO3 stated that he saw that AP had fallen off the step of the block, with the rifle underneath him. WO3 stated that he advanced and grabbed the rifle, moving it away from AP, while other officers started first aid. WO3 handed the rifle to a TST officer to make it safe (by clearing the chamber of any live rounds and removing the magazine) and handed the rifle back to him. WO3 stated that he "*guarded*" AP at the hospital, during which time AP said he had wanted the police to take his life because he was unable to do that himself.

WO4 stated he and WO3 were on a general patrol when they heard a call for service involving a male with a gun on Gertrude Avenue. WO4 stated that they drove to the scene to find SO and WO5 were already there and engaged with a male (later identified as AP) who was seated on a ledge next to the front steps of the block. WO4 stated that SO and WO5 both had their pistols drawn and were pointing them at AP, who was holding a rifle in his right hand, near the trigger. WO4 stated that he positioned himself near WO5 and could hear SO repeatedly telling AP to put the gun down but he did not comply. WO4 stated that he believed SO and WO5 were "...*trying to talk him down*". This went on for ten to fifteen minutes. WO4 stated that AP said the police could not help him, that the rifle was loaded and had 15 rounds in it. WO4 stated that WO6 and WO7 arrived on scene, taking positions to the west and east of AP respectively. WO6 attempted to deploy a CEW on AP from behind but it was not successful. WO4 stated that AP stood up after the failed CEW deployment and was holding the rifle in his right hand near the

grip area. WO4 stated that he did not know where AP's finger was in relation to the trigger at that time but the rifle barrel was pointed towards police. WO4 stated that he heard the sounds of another CEW deployment and a gunshot at the same time. WO4 stated that the gunshot came from a position to the west of where he was standing, and he did not know who had shot until later in the day. As a result, AP slowly collapsed to the ground and officers moved in, handcuffing him and doing first aid. WO4 accompanied AP to Health Sciences Centre in the ambulance, during which time AP complained about the potholes on the road and asked why the officers did not shoot him "*centre of mass*".

WO5 was partnered with SO on July 13, and they were the first unit to arrive at a call regarding a male with a gun at the block. WO5 stated that he observed a large male seated on a chair on the front step of the block (later identified as AP), and AP was holding a rifle in his right hand. AP's hand was on the stock of the rifle, and was not near the trigger. WO5 stated that he and SO approached AP and took up positions in the open in front of him. SO was talking to AP, asking how he could help him. AP replied there was nothing the police could do for him; he had been evicted and his dog had died. WO5 estimated that AP was instructed by police to drop the rifle approximately twenty times throughout their interaction, but he did not comply. Other officers arrived on scene and all had their pistols out and pointed at AP. with the exception of WO10, who had his carbine out. WO5 stated that he recalled a police officer attempted to deploy a CEW on AP but it did not work. In response, AP got to his feet and attempted to extricate himself from the CEW wires. As AP stood and moved, the rifle he was holding also moved. WO5 stated that he observed AP's finger within the trigger guard of the rifle and called out to the other officers present that the finger was on the trigger. WO5 stated that AP was also raising the rifle at the same time. WO5 stated that was when he heard the sound of a gunshot coming from his left. AP fell to the ground and officers then moved in to provide first aid. It was at this time that WO5 stated that he heard SO say that he had discharged his pistol. WO5 stated that he was getting ready to shoot AP himself, if the barrel of the rifle was raised any higher.

WO6 and his partner WO7, assigned themselves to a service call respecting a male armed with a rifle on Gertrude Avenue. WO6 stated that they heard the call at 3:10 p.m. and arrived on scene at 3:16 p.m. On arrival, WO6 stated that he recalls seeing all police officers present had pistols drawn, with the exception of WO10, who was in possession of a carbine rifle. Police officers had formed a semi circle around the male with a rifle. WO6 stated that he observed the male with the rifle (later identified as AP) seated on a half wall at the front doors of the block. AP was holding the rifle with both hands, with his right hand on the stock near the trigger and the left hand on the barrel. The rifle was pointing downwards, towards the lower part of the door of the apartment block. WO6 stated that he heard AP saying he had nothing left to live for. WO6 stated that WO10 was the acting supervisor on scene and following a conversation, WO6 asked if he should attempt a CEW deployment. WO10 directed WO6 to attempt a deployment. WO6 moved into a position where he attempted two CEW deployments on AP, but neither was successful. Instead, AP got to his feet and appeared to be looking back and forth over his shoulders to see what had hit him. WO6 stated that he asked WO3 for his CEW in order to attempt another deployment. Once it was handed over, WO6 stated that he deployed the CEW at AP. WO6 stated that he heard a number of police officers yelling, "*Drop the rifle*" as he deployed the CEW. WO6 stated that at the same moment, he heard the sound of a single gunshot coming from the east. AP went down to the ground and police officers moved in to secure the

rifle and provide first aid. WO6 stated that he then learned that WO7 had also deployed her CEW at AP.

WO7 stated that she and WO6 had assigned themselves to attend a gun call on Gertrude Avenue. WO7 stated that it took them approximately five to six minutes to arrive on scene. On arrival, there were six to seven police officers already present, arrayed in a semi-circle in front of an armed male, holding a rifle in both hands. This male's (later identified as AP) right hand was on the butt of the gun and his left hand was on the barrel, though she could not recall seeing if his finger was on the trigger. All police officers had their service pistols out, except for WO10, who had a rifle, and were at AP. WO7 stated that SO and WO5 were trying to speak with AP. WO7 stated that AP was asking why they were pointing a rifle at him to which SO replied that it was for everyone's safety. WO7 stated that she believed AP was told between thirty to forty times to put down his rifle. WO6 positioned herself to the east of the police semi circle while WO6, with his CEW drawn, had positioned himself to the west and in close proximity to AP. WO7 had also drawn her CEW. WO7 stated that WO6 twice deployed his CEW at AP without effect. WO7 stated that she stepped closer to AP, shouted "*taser, taser, taser!*" and deployed her CEW. WO7 stated that she believes that one of the CEW probes struck AP near his eye and the other struck his abdomen. WO7 stated that AP reacted by pointed his rifle's barrel at her and other police officers. WO6 then deployed a CEW at AP for a third time. WO7 stated that she saw AP fall to the ground and police officers moved in to secure the rifle and provide first aid. WO7 stated that it was at this point that she heard another police officer state that AP had been shot.

WO8 was partnered with WO9 on July 13. WO8 stated that she heard a radio broadcast concerning a man armed with a gun on Gertrude Avenue. WO8 stated that they arrived on scene within five minutes, noting that other WPS units were already present. WO8 stated that police officers were arrayed in an arc surrounding a male (later identified as AP), armed with a rifle and sitting on the steps of the block. WO8 stated that police officers had pistols drawn and pointed at AP. WO8 stated that SO was talking with AP, about what was going on and that AP should put down his rifle however AP said he was not going to put it down. WO8 stated that WO6 arrived on scene and took a position beside the steps where AP was seated. WO6 deployed his CEW at AP but it was ineffective. WO6 then asked WO3 for his CEW, and deployed that on AP. WO8 stated that AP stood up and yelled something when she heard the sound of a gunshot.

WO9 stated that on July 13, he and WO8 were travelling back to the West District station when he heard a radio broadcast that police were on scene on Gertrude Avenue where a male was armed with a firearm. WO9 stated that they drove to the scene and arrived within five to seven minutes. Upon arrival, WO9 stated that he observed that police officers had formed a semi-circle in front of a large male seated on a ledge to the west of the door to the block. This male (later identified as AP) was holding a rifle on the right side of his body and his finger was not on the trigger. WO9 stated that SO was speaking with AP, repeatedly asking him to drop the rifle (at least 20 times) but he did not comply. WO9 stated that AP had responded several times that he wanted to die. WO9 stated that a police officer had positioned himself behind AP and had deployed a CEW three times. WO9 stated that following the third deployment, AP stood up and started to raise his hands. WO9 stated that he believes that the rifle barrel was pointed at police officers. WO9 stated that he heard the sound of a gunshot coming from the east and AP dropped to the ground as police officers moved in to secure him and administer first aid.

WO10 was an acting Patrol Sergeant on July 13 when he heard a radio broadcast of a gun call on Gertrude Avenue in Winnipeg, in which a male was in possession of a rifle. At 3:06 p.m., WO10 made his way to the scene. On arrival, he attended to other police officers and was in possession of a carbine rifle. WO10 stated that he heard police officers yelling, “Drop the gun!” and “We are here to help you” to a male seated on a ledge, facing east, on the stairs of the block. The male had a rifle in his right hand and it was pointed downward. WO10 stated that he took a position behind a tree, roughly twenty five to thirty feet from the male (later identified as AP). AP was told to drop his rifle several times by different police officers but he did not comply. WO10 stated that he heard AP say that his life was over and he was getting kicked out of his residence. WO10 stated that he was approached by WO6. It was agreed that WO6 would move behind AP and deploy a CEW in an effort to end this situation. WO6 did so and deployed his CEW but it was not effective. WO7 had also deployed her CEW and it was ineffective as well. Following these unsuccessful CEW deployments, AP stood up, raised his rifle and moved his left hand on the rifle to form a two-handed grip. WO10 stated he was feared that AP was going to shoot someone and he aimed his carbine preparing to fire, when he heard the sound of a single gunshot coming from an area where SO was positioned. AP fell to the ground and police officers moved in to perform first aid.

Subject Officer

Pursuant to the provisions of the Police Services Act (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 declined to be interviewed, but provided IIU investigators with a copy of his notes and a prepared narrative.

SO’s narrative contained the following notations:

“I immediately exited the cruiser car with my firearm drawn out and extended toward the male while shouting clear commands to drop the gun repeatedly. The male looked at both my partner and I and he did not move. I informed the male if he pointed the rifle in our direction he would be shot. I closed distance from the boulevard near our cruiser car to the centre walkway of [the block] to about 6-7 metres from the male as we had no cover and were required to confront the man armed with a long gun. Verbal commands to drop the gun were repeated by myself and my partner, to which the male shook his head and said calmly, “No. I’m not putting it down. This is it, I’m done.” The male still had his right index finger extended at the trigger but he remained seated on the ledge in the same position. The barrel was pointed towards the bricks of the building towards the east at this time. My partner and I recognized the male was suicidal and I began speaking with him while we maintained lethal force coverage with our firearms. My partner voiced an update for other units and as I interacted with the male, engaging in conversationThroughout speaking with the male (later identified as AP), he rested the barrel of the rifle down into the paved concrete where he remained seated and reached for his water bottle next to him on few occasions with his left hand to take sips. He would landmark back to holding the rifle with two hands in a position as to which he could quickly raise it and fire. As he landmarked both hands back to the rifle, I had advised him that I wanted to continue talking, and requested he move his right hand back from the trigger. The male denied this request and said, “My hand is good right where it is, I’m not moving it.”...An attempt was made from the west side to disarm the male with a CEW by

WO6, but the deployment was unsuccessful. I saw one of the probes lodge into the rear stock of the rifle, deeming the charge ineffective. AP then stood up, yelled something inaudible, became angry and escalated. AP attempted to pluck the probe out of the rifle's rear stock with his right hand while holding the front stock in his left hand, but he was unable to dislodge it. I shouted commands to drop the gun and sit back down but AP had escalated out of control beyond verbal direction or communication. He then placed his right hand back on the rifle at the trigger and the barrel was no longer pointed into the concrete step and was lifted parallel to the ground in both his hands above his waist. A second CEW deployment was attempted... I observed the CEW deployment to again be unsuccessful as neuromuscular incapacitation was not achieved. AP turned himself and the rifle's barrel towards the south-east group of officers where the recent CEW deployment came from...At that point there was immanent [sic] risk of grievous bodily harm or death to officers and potentially other civilians in the area. At this time, the dynamic had changed and I feared for the life of those in the aim of the rifle, being operated by an angered, unpredictable and emotionally escalated male. I fired a single round which struck AP. He slumped down and forward atop the steps on to his stomach and multiple officers moved in to assist in securing the rifle, handcuffing the male and providing first aid.”

SO’s Duty Firearm:

SO’s duty pistol and two spare magazines was seized following the shooting and was found to contain fourteen live rounds (one round chambered, thirteen rounds in the magazine). SO’s two spare magazines each contained fifteen live rounds.

Analysis of The Block’s Video Surveillance Footage:

A canvass for video surveillance footage and witnesses was conducted by IIU investigators following the shooting. Cameras were located within the block where AP resided. There is no audio to the video. A review of the video footage from July 13 showed AP walking the hallways with a rifle and also showed a portion of the interaction between himself and police at the front steps. AP is observed seated on the west side of the entrance of the block in possession of a rifle. Analysis of the video footage, which included professional enhancements to slow the video down, shows AP waving the rifle in the air, likely in reaction to the attempted CEW deployments by WPS officers, before collapsing to the ground and dropping the weapon. Due to the angle of the camera, the positioning of AP’s hands on the rifle during the majority of his interaction with police cannot be discerned. However, shadows on the ground do show his hands on or near the trigger of the rifle on at least two occasions (3:17:03 p.m. and 3:17:21 p.m. when he is shot by SO).

A summary of the video footage is as follows (the times are in accordance with times on video):

Time on Video	Observations
3:00:45 p.m.	AP appears in video
3:01:02 p.m.	AP is seated on half wall on west side of step; takes out cell phone

3:01:08 p.m.	AP removes rifle from green bag, holding it by stock, barrel pointed upward
3:01:50 p.m.	Rifle pointed down at step, then out of view
3:06:23 p.m.	Rifle barrel pointed to east
3:06:25 p.m.	Rifle barrel pointed upwards; AP's hand immediately behind trigger guard
3:06:34 p.m.	Rifle is pointed down at step
3:06:42 p.m.	Police officer's legs seen on video
3:07:03 p.m.	Rifle barrel moves upward then down to step
3:08:25 p.m.	Rifle barrel moves upward then down to step
3:13:55 p.m.	AP taps his forehead with left hand
3:13:58 p.m.	AP taps his forehead with left hand
3:14:04 p.m.	AP taps his forehead with left hand
3:14:59 p.m.	AP standing, rifle in left hand, barrel sitting on ground
3:15:03 p.m.	Rifle out of sight
3:15:08 p.m.	AP partially raises rifle, his hands are not visible.
3:16:58 p.m.	AP quickly gets up and raises rifle. His hands are not visible.
3:17:01 p.m.	AP is standing up, the rifle is in his left hand, being held above the inserted magazine
3:17:03 p.m.	AP moves barrel of rifle, pointed east; rifle then moved down. Shadow shows AP is extending his finger to trigger.
3:17:04 p.m.	AP transfers rifle to his right hand
3:17:06 p.m.	AP pointing rifle barrel to the east, then back down
3:17:09 p.m.	AP spins rifle in his left hand; his hand is on the rifle barrel
3:17:15 p.m.	AP appears to be holding rifle with both his hands
3:17:20 p.m.	Shadows indicates that the rifle is raised. Unable to see AP's hands.
3:17:21 p.m.	AP flinches (appears as if he was shot at this time); gun raises as a result. Shadows indicate AP's hand situated at or near the trigger of the rifle.
3:17:22 p.m.	AP falls to ground
3:17:25 p.m.	Officer moves in and grabs gun off step

3:17:31 p.m.

Multiple officers approach AP and handcuff him

CEW Analysis:

IIU investigators received and reviewed a WPS master taser instructor's review of CEW usage on July 13, which noted the following:

Following the analysis of these CEWs during incident, all three CEWs were used in this event.

WO7's CEW was armed and activated once by trigger pull deploying cartridge #1, followed with two ARC switch presses to re-energize the deployed cartridge. Although some intermittent connection may have been achieved after the trigger pull, there was no successful connection into conductive material completed by this CEW.

WO3's CEW was armed and activated once by trigger pull deploying cartridge #1. There was no successful connection into conductive material completed by this CEW.

WO6's CEW was armed and activated three times by trigger pull, first deploying cartridge #1, followed by cartridge #2 being deployed and then cartridge #2 re-energized. Although some intermittent connection may have been achieved after the first two trigger pulls, there was no successful connection into conductive material completed by this CEW.

No information is provided by the Logs to indicate what any of the potential intermittent circuits were completed through, only that they were briefly completed. No information is provided by the Logs to indicate whether the subject in this incident was hit by any or all probes of any deployed cartridge, or affected by any of the CEWs in any way, including whether or not Neuromuscular Incapacitation (NMI) was achieved.

Conclusion

This investigation must consider whether the actions of the subject officer to shoot AP were justified by law. In this incident, police were responding to a call for service regarding a male armed with a rifle at the block on Gertrude Avenue. On arrival, AP was outside the block, seated on a stairway ledge, and in possession of a rifle (with a magazine inserted). Despite multiple requests by police, AP refused to drop the rifle. AP was suicidal and several times made references and comments asking police to shoot him. Police attempted to negotiate with AP to have him drop his rifle and surrender. CEW deployments were used four times in an effort to incapacitate AP and end this standoff. These CEW deployments proved to be ineffective. AP posed a significant risk to both public and police safety. It was a reasonable conclusion to assume that the rifle was loaded and capable of being fired. AP did not respond to any and all verbal commands to surrender his weapon. When AP was struck by the final CEW deployment, he stood and raised the rifle. It was now pointed at police officers and AP's finger was at or near the trigger. A police officer called out that the finger was on the trigger. It was at this time that AP was shot a single time by SO, resulting in his falling to the ground, dropping the rifle (which was secured by police) and the lethal risk was negated.

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

The facts and circumstances of this incident is a classic example of the psychological phenomenon known colloquially as “*suicide by cop*”, a method in which people, who are already contemplating suicide, decide that provoking a lethal response from police is the best way to act on their desires. The idea of suicide in this manner takes advantage of the training and response by police to use lethal force to eliminate a potentially lethal situation. In essence, the person contemplating suicide takes advantage of an expected police response by provoking the use of lethal force. A review of applicable literature on this phenomenon shows that the most common scenario is the pointing a firearm at a police officer or an innocent person, with the expectation that it will provoke a police officer to fire in response. The vast majority of people with this propensity are male, a significant number of those are unemployed, subject to existing or probable mental illness, having made suicidal ideations known prior to or during the incident and are armed at the time with a firearm or other weapon.

Effectively, the question is whether the decision of the subject officer, in these circumstances, to discharge his firearm at AP was reasonable and necessary. 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.

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* (see *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.”

Was it reasonable, in these circumstances, for the subject officer to fire at AP to prevent the injury or death of other police officers or persons in the vicinity?

From a review of all of the available evidence:

- All police officers who responded including all subject officers were lawfully placed and in the lawful execution of their duties at all relevant times in this matter.
- AP was in possession of a rifle with a magazine clip inserted – from all objective appearances it was reasonable to assume that the rifle was loaded, capable of being fired and had the potential to cause grievous bodily harm or death.
- A call for service was made to advise that an armed male was at the block.
- AP made the 911 call advising of the armed male with a view to elicit a police response and for the potential use of lethal force on him.
- AP acknowledged his suicidal ideations and his wish for police to end his life.
- Multiple police officers responded to this serious situation and formed a semi-circle around AP.
- SO attempted to negotiate and communicate with AP to get him to relinquish the rifle and safely surrender.
- AP refused to comply with all demands and commands to drop his weapon.
- Police attempted to use multiple CEW deployments to get AP to comply without effect.
- AP remained in possession of the rifle.
- Following the ineffective CEW deployments, AP stood and raised the rifle. The rifle barrel was now pointed at police officers. AP's hands and fingers moved to or on the trigger.
- This was announced by an observing police officer.
- AP's actions had become a significantly potential lethal event in which police had an instant to respond.
- AP posed a real threat to the safety of anyone in the vicinity.
- SO discharged his service pistol a single time, striking AP, causing him to fall, to drop his rifle and effectively eliminate the lethal threat that he posed.
- Video footage scenes that were captured assisted the IIU in understanding and appreciating the interaction between police officers and AP.

I am satisfied that the extensive evidence gathered from all of the referenced sources, in particular the video surveillance footage, provides substantial support for the conclusion that the decision by SO to shoot AP was necessary to prevent the injury or death of others in the vicinity when the actions of AP accelerated and amplified the lethal threat that he posed.

It is my view that the use of potential lethal force by the subject officer was authorized and justified by law and in the circumstances of this incident. There are no reasonable grounds to support any charges against the subject officer.

It is hoped that the circumstances of this matter will be reviewed and studied to determine if other non-lethal responses could be considered in similar situations when dealing with

individuals demonstrating such ideations and propensities and perhaps minimizing the need to resort to the use of potential lethal force. This is by no means meant to second guess or criticize SO for his response in this matter, which in all considerations, was determined as necessary and justified in law.

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

Final report prepared by:

Zane Tessler, civilian director
Independent Investigation Unit
November 01, 2022

Ref 2022-0036