



**IN THE MATTER OF AN INVESTIGATION INTO A DEATH WHILE IN POLICE  
CUSTODY IN SELKIRK**

**FINAL REPORT OF THE CIVILIAN DIRECTOR**  
**OF THE INDEPENDENT INVESTIGATION UNIT**

Civilian Director:	Roxanne M. Gagné
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## **Introduction**

On October 24, 2022, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit of Manitoba (IIU) of an incident.

The written notification disclosed the following information:

*“On October 23, 2022, at 1:47 a.m. Selkirk RCMP responded to a complaint of an assault reported by (adult male) at \* Bracken Road in the RM of St. Andrews. The (adult male) advised his girlfriend, (female victim) was assaulted after stopping to assist two persons whose Cadillac sedan was in the ditch north of Cloverdale Road on Bracken Road near \* Bracken Road located in the RM of St. Andrews.*

*WO1 attended the scene locating an unoccupied brown, 2010 Cadillac CTS observing blood on the interior and exterior of the vehicle.*

*(An adult male) was located in the area heavily intoxicated and arrested under the Intoxicated Persons Detention Act. He had visible injuries to his hands.*

*At 2:10 a.m., police were contacted by (a female witness) to advise an unknown male had attended her residence located at \* Bracken Road knocking on her door. The male fled on foot northbound from her residence.*

*At 3:15 a.m., WO1 while still on scene heard a male later identified as the affected person (AP) screaming and observed him running north on Bracken Road south of the collision scene. AP was heavily intoxicated, behaving erratic and was observed to have injuries to his face and blood on his mouth. AP was taken into custody by WO1 under the Intoxicated Persons Detention Act and admitted to police that he was involved in the collision. It was discovered AP was wanted on a Canada wide for a parole violation. He was subsequently arrested under the strength of the warrant and assault cause bodily harm. AP was searched on scene however nothing had been located.*

*AP was transported to Selkirk RCMP Detachment, during this time his behaviour escalated and he made comments about his intentions to fight with police. AP was lodged in cells.*

*At 5:55 p.m., AP was being prepared to be transported to Stony Mountain Institution. During the process, WO2 identified and seized approximately 90 grams of white powder/crystals concealed in cavities carved out in the soles of AP’s shoes. AP was subsequently arrested at 6:30 p.m. for possession for the purpose of trafficking a controlled substance.*

*At 7:35 p.m. WO2 was notified by the cell guard on duty that AP had mounted the toilet backwards while in the cell concealing himself with a blanket. WO2 tended to the cell and appeared to him that AP appeared to be having a bowel movement. WO2 subsequently reviewed the cell footage and it appeared that AP may have completed a bowel movement, where he retained something in toilet paper.*

*At 10:00 p.m., AP was moved from cell 4 to cell 2 and a search of his person was completed, no additional contraband was located.*

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*On October 24, 2022, at approximately 7:10 p.m. members responded to an alarm in the cell area where AP was located unresponsive. He was transported to the Selkirk Regional Health Center by EMS and declared deceased.*

*IIU attended Selkirk Detachment on October 24, 2022, taking carriage of the in custody death investigation.*

*The cells relating to this matter have been secured by Selkirk Detachment. Arrangements have been made with RCMP FIS to have the scene processed later today, October 25, 2022.*

*Video from the cell area and transport vehicle have been secured.*

*An autopsy has been scheduled to occur at the Winnipeg Health Sciences Center at 10:00 a.m. on October 25, 2022. RCMP FIS and IIU investigators will be in attendance.*

*Member audio/dispatch recordings will be obtained and secured.*

*There is no indication that any use of force had been used by members.”*

As this matter concerned the death of a person that may have resulted from the actions of a police officer IIU assumed responsibility for this investigation in accordance with Sec. 65(4) of The Police Services Act (PSA). IIU investigators were assigned to this investigation.

IIU investigators obtained the following information from the RCMP, among other items:

- Notes/Supplementary Reports – WO6, WO8, WO4, WO2 and WO5
- Officer Notes X5, WO1, W02
- Prisoner Logbooks, Prisoner Report, Remand Warrant, Fingerprints
- Advance Report – Human Deaths
- Bail Brief, Court Cover Sheet, Criminal Record, Information, Occurrence Summary, Offence Record Report, WPS Warrant, C13, C163 – AP
- General Report – WO1
- Parole Warrant, Warrant of apprehension and Suspension
- Prosecutor’s Information Sheet
- Occurrence Details, Occurrence General Reports – WO1, WO2
- Occurrence Supplementary Report – ACBH (collision investigation team)
- Occurrence Supplementary Report x 7
- Arrest photo, Photos
- Preliminary Death Report
- Property reports, Property seizure report x3
- FIS Disclosure report
- Autopsy photographs, Photographs Pathologist – Scene photos, Scene photographs
- Ambulance Patient Care Report
- Watchguard Video x4, Video cells 2 and 4, Video Secure Bay, Video Booking Area
- Dispatch and radio recordings
- Autopsy, Pathology and Toxicology reports
- RCMP policies regarding searches of prisoners

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Due to a dearth of information at the outset about whether any RCMP officers were directly or indirectly involved in the cause of AP's death, Civilian Director Zane Tessler, as he then was, did not designate a subject officer. This decision was later re-evaluated and no subject officers were ever designated. The civilian director designated twelve witness officers.

## **Facts and Circumstances**

### **Scene Examination**

Cell photographs were obtained from a Forensic Identification Services (FIS) FIS officer. The officer seized several exhibits from cell 2. No mention was made of white powder being observed on the floor of cell 2, and no mention was made by the officer regarding the paper-type material on the edge of the toilet bowl.

WO3 had indicated that she had observed both items when she was dealing with AP after finding him unresponsive.

Close-up/enlarged photos of the toilet in cell 2 visibly depicts a paper-type material on the edge of the toilet bowl along with a small amount of a brown-coloured substances.

### **Civilian Witnesses**

IIU investigators met with the adult male and the female victim who had been assaulted. They were not able to provide any information.

#### **CW1**

On December 19, 2022, IIU investigators obtained a statement from CW1, who was working as a cell guard at the Selkirk detachment on October 23, 2022. He stated that AP was brought in by WO1, WO3, WO4 and WO5. AP was searched when being booked, and his shoes and personal effects were taken. AP refused to drink or eat.

#### **CW2**

On December 19, 2022, IIU investigators obtained a statement from CW2, who was working as a cell guard. She took over from another guard, who indicated that AP had just eaten for the first time. CW2 indicated that WO1 and WO6 read AP his rights, as he was being re-arrested.

WO1 told her he was concerned AP may have drugs on him and requested he be monitored. CW2 watched AP and conducted checks every 15 minutes. AP asked for some toilet paper approximately within one hour of eating his meal; CW2 gave him some and he used the bathroom. When she saw AP going to the washroom, she yelled to WO1 and they watched AP on the monitor. She stated that you cannot see clearly on the video when someone is on the toilet, as the video is fogged out in that area. She stated that AP tossed and turned during the night.

AP was moved by WO1 and WO6 to a new cell. The officer conducted a second search on AP and moved him to cell 2 as they were concerned he had drugs on his body. After they moved him, they searched cell 4.

#### **CW3**

On December 20, 2022, IIU investigators obtained a statement from CW3, who was working as a cell guard. She advised that the guard who was working before her advised her to keep an eye on AP when he goes to the washroom. CW3 stated that AP did not want to eat but had some juice.

CW3 stated that WO1 checked AP's shoes, and when he lifted the sole portion of the shoe, she observed drugs. WO1 searched the other shoe and found more drugs. AP asked the officer when he was leaving and WO1 told him "*Sorry bud, you ain't going nowhere.*"

Near the end of CW3's shift, AP started acting fidgety. WO5 told AP he was not going to Stony Mountain Institution (Stony) and was going to the Winnipeg Remand Centre (WRC). AP became agitated. CW3 stated that AP requested more toilet paper, and she provided it to him. AP took the toilet paper and rolled it up. He used the toilet and then he turned his body as if he was washing his hands. A short time later she noticed he began acting "*silly.*" AP knocked on the cell door and said, "*I need to call my family.*" CW3 said that she would go get one of the officers for him. AP threw his T-shirt, as if he was "*ticked off.*" She told the officers that AP was requesting a call to his family. She said AP did not want to go to WRC.

CW3 said that she checked on AP; he was still moving and she went and sat down. When she checked again, she noticed that his hands were moving. The third time she checked on him, she noticed that he was not breathing well. She described his breathing as shallow. CW3 stated WO3 and WO7 attended to the cell and opened the door. They put him on the floor while she retrieved the automated external defibrillator (AED). WO5 came in and stated, "*I checked him, like 45 minutes ago he was fine.*" The paramedics attended and began working on AP.

## **Witness Officers**

### **WO1**

On March 7, 2023, IIU investigators obtained a statement from WO1. On the night in question, WO1 attended the scene of the collision. He found the vehicle; there was no one inside and there was no one around in the area. At approximately 3 a.m., a male came out of the bush screaming. He was intoxicated and appeared to be on a narcotic. There was a strong odour of liquor on him. He had dried blood on his hands and face. He told them that he had been involved in the collision. He identified himself (AP). WO1 arrested him under The Intoxicated Persons Detention Act (IPDA). Police checks were done. AP had an outstanding parole warrant and a WPS warrant. AP was then arrested for the outstanding warrants. WO1 did not recall any information suggesting AP had a drug history. AP was searched, handcuffed and transported to the detachment. WO1 assisted with searching and lodging him. AP was aggressive and was taken directly into a cell so he could be searched. During the search, AP's clothing was removed leaving him with just one layer. Nothing of interest was found during the search. Officers were questioning AP about the collision, and AP said that he hadn't done methamphetamine and slightly laughed.

### **WO9**

On March 2, 2023, IIU investigators interviewed WO9. He was working on October 23, 2022. He attended to the scene of the collision. WO9 stated that a male appeared, and he was yelling and acting erratically. The male immediately put himself in a position to be handcuffed. He was

taken into custody. WO9 noted that the male had a small cut on his lip. The male (AP) identified himself. AP had a previous criminal convictions. He also had an outstanding Canada-wide parole warrant. There was no information to suggest AP had a drug history.

WO9 turned on the recording equipment in the vehicle and transported AP back to the detachment with his partner. WO9 felt that AP was under the influence of drugs as he was not acting normal. A number of officers helped lodge AP. He was searched in the cell; his property was removed, logged and placed in a locker. He stated that typically prisoners are left with only one layer of clothing. Once the cell door was closed, he had no further dealings with AP.

## **WO10**

On April 3, 2023, IIU investigators obtained a statement from WO10. She was working with WO9 and her role was to transport AP to the detachment. She heard a person yelling and she saw a male running down the road towards her and WO9. The male stated he need help and had been in a collision. The male had dried blood around his mouth and smelled like alcohol. He was agitated and fidgety, but co-operative. She believed he was under the influence of drugs and alcohol. AP identified himself and said he had been in the car with his brother. They arrested him for being intoxicated in public. Before leaving the scene, they ran checks on AP and became aware that he had been convicted of manslaughter or murder, he had violated his parole conditions, and a warrant had been issued. When they arrived at the detachment, other officers were there to help them lodge AP. She identified WO9, WO1, WO11, WO8 and possibly WO12. AP was taken into a cell to be searched, given his attitude. She was standing outside of the cell and did not recall entering.

## **WO4**

On February 24, 2023, IIU investigators obtained a statement from WO4. He dealt with the victim and her boyfriend at the hospital on October 23 and obtained information about what had occurred. WO4 later attended to the detachment but had no contact with AP.

## **WO8**

On February 21, 2023, IIU investigators obtained a statement from WO8. On October 23, 2022, he attended to the scene of the collision. WO8 assisted with the transport of a male to the Selkirk detachment. He had no involvement with AP at the scene.

WO4 assisted with processing AP. He took photos of his face as he had an injury and blood around his mouth. He noted AP was intoxicated but did not smell alcohol. He described AP as having a thousand-yard stare and pinpoint pupils, and said he did not make sense. AP was moved to a cell for processing for safety reasons. WO4 took photos and swabs of AP's hands for potential DNA evidence. WO4 left the room and upon his return, AP was down to a single layer of clothing. AP was secured in the cell and WO4 did not have any further dealings with him.

## **WO5**

On February 28, 2023, IIU investigators obtained a statement from WO5. He advised that he started work at 7 a.m. on October 23, 2022 and AP was already in cells. WO5 was assisting

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WO2 to prepare to transport of AP to Stony. He advised that WO2 was aware that drugs had been located in another prisoner's shoes earlier; therefore, he was being very diligent. He removed AP's shoes from the locker and searched them thoroughly. He removed the insole and found drugs concealed in the soles. The drugs had been missed previously by the arresting members. The substance was tested and determined to be cocaine. There were 90 to 91 grams in total. Because AP was in possession of a controlled substance, he could no longer be returned to Stony.

WO5 became aware AP had changed cells when he came into work on October 24. He checked on him at the start of his shift and he last spoke with him around 6 p.m. AP seemed fine and was asking when he would be going to Stony. He told AP that he was not going back to Stony and that he would be going to the WRC. WO5 stated that AP seemed upset and disappointed by this news. WO5 stated that AP appeared sober during this conversation.

WO5 left the detachment to attend a call but a few hours into his shift, he was asked by WO3 to return to the detachment. He heard WO7 over the radio asking "201" to dispatch EMS to the cell block. At this point, he presumed there was a medical emergency. When he arrived, he went into the cellblock and CW3, WO3 and WO7 were there. WO3 was doing chest compressions. WO7 was applying the AED. AP looked nonresponsive. WO5 recalled that the AED was not recommending a shock, which he knew was not a good sign. WO3 continued to work on AP until EMS arrived and took over. WO5 contacted the supervisors. He indicated that he did not know what had happened to AP because an hour earlier he had been fine and now he was dead.

The paramedic mentioned to him that there was a white powder in the cell, but WO5 said he did not see any powder. He did not touch anything, and the cell was later secured for processing.

## **WO2**

On February 23, 2023, IIU investigators obtained a statement from WO2. He assisted WO6 with fingerprinting AP at approximately 9 a.m. AP was placed back in the cell; he was offered food but declined .

WO2 was getting AP ready for transport; he searched his belongings. The soles of both shoes were hollowed out and found to have cocaine, a cell phone charging cord and drug paraphernalia concealed with the drugs. The total weight for both packages was approximately 91 grams. One package was open and he suspected the contents might have been used earlier prior to AP's contact with police. WO2 advised AP of his arrest for trafficking. According to WO2, it seemed that AP's primary concern was getting to Stony, and when it was explained that this would delay the transport, he punched the cell door. WO2 advised that was the first time he had shown any aggression while he had been dealing with him. WO2 became concerned that AP may be in possession of other drugs or have concealed drugs within his person. He based his concerns on the fact that AP finally ate food once he believed he would be transported to Stony, but he had previously refused food throughout the day. As well, AP became very upset when he realized his transport to Stony was delayed.

At the time the drugs were found, CW3 was the cell guard that was looking after AP. She was aware that the drugs had been located in AP's shoes. When cell guard CW2 came on duty, he

asked her to closely monitor AP's behaviour. A short time later, he was told that AP had been sitting backward on the toilet and covering himself with a blanket. WO2 had written in his report that he believed AP may have taken a "*bowel movement and retained something in toilet paper*" after having observed his behaviour on the recorded video. WO2 explained that while on the toilet AP was doing something with his hands. He noted that a portion of the toilet area is "*blurred out*" so he could not see exactly what is going on.

There were no officers to assist WO2 in dealing with AP at this time, but he contacted a senior constable on another watch. During the conversation, a decision was made that they would move AP from cell 4 to cell 2. WO2 did a pat down search, but no strip search was done. He indicated he was not certain that AP had drugs in his possession. He only had concerns and that was not sufficient to warrant a strip search. WO2 explained that he did not find anything during the pat down search; he believed that it was possible AP had not retrieved anything from the toilet. According to WO2, after the move, WO11 searched cell 4 but nothing of significance was found. He added that the new cell (cell 2) would have been thoroughly cleaned between prisoners. AP was not allowed to take any items from cell 4 into cell 2.

The decision to move AP from cell 4 to cell 2 was made by himself and senior constables WO11 and WO12. He stated that when the events were unfolding there was no supervisor working in the Selkirk detachment and they decided not to contact an external supervisor for direction. WO2 stated that no consultation was done, in part, as there were no medical concerns and they did not have firm information to suggest he was in possession of drugs.

### **WO11**

On March 27, 2023, IIU investigators obtained a statement from WO11. He attended the scene of the collision; a male come out of nowhere and was standing on the road yelling. He was intoxicated and his speech was slurred. He had blood on him. WO11 did not have further dealings with AP at this point.

WO11 concluded his shift and returned to work at 5 p.m. on October 23, 2022. WO2 approached him and WO12 and told them that drugs had been found in AP's shoes. WO2 added that he had concerns because AP had been doing something suspicious over the toilet. He seemed to be on the toilet longer than normal and his hands were moving around. WO2 wanted to move AP out of the cell and pat him down to make sure he didn't have anything on him. WO11 said he didn't really feel there was a need to move him. WO11 said they did not discuss doing a strip search as they didn't feel they had enough suspicion or evidence to do so. They would also have to contact a supervisor to get approval. He and WO2 took AP out of the cell, and WO2 did a pat down search looking for drugs. They did not find anything, and AP was secured in the new cell.

WO11 stated that he did not remember searching the cell or finding anything of interest.

### **WO6**

On February 6, 2023, IIU investigators obtained a statement form WO6. He fingerprinted and photographed AP. He also read him his rights again as he was now sober. He noted that AP had an injury to his mouth, but he seemed fine. He could not recall what AP was wearing but he said



it is standard practice to house prisoners in only one layer of clothing, and they are not placed in cells with their shoes. WO6 never provided AP with anything to eat or drink.

## **WO12**

On March 27, 2023, IIU investigators obtained a statement from WO12. He could not recall having any contact with AP. He did, however, hear WO2 say over the radio that he was concerned AP may have more drugs on him in cells. WO12 stated that the decision to move AP was made before he returned to the detachment. WO2 again mentioned the issue with AP, and they went to the lunchroom and reviewed video of AP in cells. WO1 stated that the footage showed AP sitting on the toilet awkwardly in a backward manner, which seemed odd to him, but stated that this portion of the video is blurred out, therefore it was difficult to see what he was doing. It was his impression that AP may have been trying to conceal something or was removing something from his rectum. He believed that AP was trying to smuggle something in, but had removed it and likely flushed it.

## **WO3**

On March 8, 2023, IIU investigators obtained a statement from WO3. She performed CPR on AP. At approximately 7:05 p.m., CW3 came into the bullpen asking her and WO7 for assistance. She did not think AP was breathing. She looked at the TV screens in the bullpen and she could see an individual laying very still. She immediately went to the back with CW3. WO3 advised that when she had looked at the screens previously, AP had been pacing and moving around; she had also seen him sitting on the toilet, but that portion of the screen is pixelated so it was not possible to see what he was doing. She said he was also "*hiding under the blanket*" at times, but she did not see anything that concerned her. His behaviour seemed consistent with someone who was intoxicated. She had been made aware that he was very intoxicated and had been fighting with members when he was arrested.

WO3 opened the door and yelled his name but there was no response. She approached AP and thought he was likely deceased. She did a sternum rub in an effort to rouse him but there was no response. She took hold of his arm to check for a pulse and it felt limp. She believes that WO7 called out for EMS. WO3 left the cell briefly and radioed WO5 to return to the detachment. She returned to the cell to do chest compressions. CW3 brought in the AED. When the machine was activated, the instruction were not to apply a shock but to continue compressions, which she did.

WO5 returned to the detachment to help, and WO7 advised her that EMS was about 5 minutes away. Based on her experience doing CPR, she believed AP was deceased. While dealing with him she observed a crusty substance around his lips; she believed it could be a controlled drug. Based on what she had just read in the court package she was aware that AP had drug charges as over 90 grams of cocaine had been found in his property. CW3 had told her that AP had been moving around strangely under the blanket after he had been on the toilet. As well, she knew that he was originally going back to Stony and there had been issues with prisoners smuggling things into the jail. With all of this information, she was wondering if he had taken something from his rectum while he was on the toilet and then he went under the blanket and ingested it.

She also observed a small piece of beige packaging hanging on the inner rim of the toilet, which she thought was unusual. She described it as looking like a piece of a manila envelope that had been torn. It was not consistent with a meal box or something else that he would have been giving to him in cells.

EMS arrived and took over. One of the paramedics noticed a "weird" powder on the floor along the backbench. This was in the area where AP's feet had been. She thought it looked like approximately a teaspoon worth of powder scattered in that area. Other than the paper in the toilet and the powder on the floor, she did not notice anything else that was unusual in the cell.

She travelled with AP in the ambulance. He was pronounced deceased shortly after arrival.

## **WO7**

On February 20, 2023, IIU investigators obtained a statement from WO7. She was advised by the day shift members that AP waiting to be transported to the Winnipeg Remand Centre. AP not been eating and his behaviour seemed a bit erratic. She went the cell bay area to view AP's behaviour on the monitor. She watched him for approximately 10 to 15 minutes and did not recall hearing any noises coming from the cell. WO7 felt that AP looked like a person who was high on drugs as he was laying down tossing and turning; then he sat up and got off the bench, threw his hands up and was throwing punches at the wall. She did not feel he showed any signs of being in a medical emergency and there was no indication he had any health concerns. WO7 advised that she did not have any direct contact or communication with AP.

At approximately 7:15 p.m., CW3 came into the office and told her and WO3 that AP was not responsive. They immediately went to cell 2 and she observed AP "slouched" on the edge of the bench. He was not breathing and he was unresponsive. WO3 started CPR. WO7 left the cell to get a radio so she could request EMS via telecoms. She also contacted her supervisor, WO5, and requested his assistance. CW3 obtained the defibrillator. She and WO3 applied the pads and activated the machine but it instructed them not to administer a shock. She also did CPR. EMS arrived and took over CPR.

## **Summary of Other Evidence**

### **Emergency Visit Summary – Selkirk Regional Health Centre**

AP was found unconscious in cell prior. CPR. No cardiac activity. Pupils were dilated. Gave him 2mg of Narcan. Physical Exam – extremities were rigid, arms in the flexion position.

### **RCMP Policies – searches**

- RCMP policy indicates that a member must conduct a frisk search of a detainee before placing them in a cell.
- RCMP policy indicates that a strip search is only conducted when there are reasonable grounds to believe that a detainee is concealing evidence or any items that may cause a safety concern. A strip search must be authorized by a supervisor unless exigent circumstances exist. If a strip search is conducted, officers must take notes and include

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the grounds that articulate why a strip search was necessary (e.g., concern for the safety of the detainee or another person, or the discovery or preservation of evidence related to the reason for the arrest).

- RCMP policy indicates that internal searches are required to be authorized verbally or in writing by a supervisor or their delegate unless exigent circumstances exist. An internal search (which may include a visual inspection) to determine if evidence is concealed in a body cavity is only carried out where reasonable grounds exist. Unless there is a concern for safety, an internal search is conducted by a medical practitioner.

#### **Video from cell 4**

October 23, 2022, 3:38 a.m. AP kneels on the back bench. WO8 is seen removing AP's runners. WO8 is seen searching around AP's feet and pant legs. His socks were not removed. WO9 removed his belt. Another officer is seen picking up the belt and shoes and walking away.

#### **Video from cell 2**

On October 23, 2022, at 10:03 p.m. AP is seen walking in with officers. WO2 searches AP while WO12 and WO11 stay at the door. WO2 searched his feet but did not remove his socks.

On October 24<sup>th</sup> AP's behaviour in the cell was unusual at times; he laid with his head at the doorway, and he was doing something on the floor at the corner of the doorframe. He was also pulling threads from the blanket. At 5:54 p.m. AP received toilet paper and sat on the toilet. His pants were off his right leg. He stayed on the toilet until 6:04 p.m. and displayed very strange behaviour. This area of the video is pixilated; therefore, it is not possible to see exactly what AP was doing. At 6:34 p.m., he displayed strange movements and behaviour. AP is seen laying/sitting across the bench with his head pushed up against the wall, his feet on the floor and his lower back on the edge of the bench. He stayed in this state for approximately 18 minutes until the movements stopped at 6:52 p.m.

At 7:09 p.m., WO3 is seen entering the cell, and WO7 is in the doorway. WO3 did a sternum rub, with no response. She pulls AP onto the floor and starts CPR. WO7 and CW3 enter with the AED, then WO5 came into the cell. CPR was ongoing. Four paramedics arrived at 7:17 p.m.

#### **Cell photographs obtained by FIS**

Forensic Identification Services (FIS) processed cells 2 and 4. The FIS officer obtained photographs and seized several exhibits from cell 2. In his report, he did not mention white powder being observed on the floor of cell 2, nor did he comment on the paper-type material on the edge of the toilet bowl. It should be noted that WO3 indicated that she had observed both items when she was dealing with AP.

The photographs taken by FIS were viewed. The images taken of cell 2 showed various pieces of medical intervention waste, a white blanket, mattresses and two juice boxes. Close-up photos were obtained of the toilet, and a paper-type material is clearly visible on the edge of the bowl along with a small amount of brown matter. WO3 described the white powder as being on the floor by the bench located on the wall that is opposite the cell door. The only photos of this area

were overall images; however, upon zooming in on the floor in this area, it was possible to see a white substance.

### **Post Mortem Examination**

#### **Autopsy**

An autopsy was conducted on October 26, 2022. It was noted that AP was not wearing a shirt. Upon viewing his back, a piece of clear plastic wrap and a white substance was found fixed to his left mid-back area. This was photographed and collected. At the conclusion of the autopsy, the doctor advised that the cause of death was pending toxicology results.

#### **Toxicology Report**

The report indicated that the following drugs were present: methamphetamine, amphetamine and delta-THC carboxy. The report further stated that the reported concentration of methamphetamine is suggestive of excess intake, which may pose a threat to life.

#### **Autopsy Report**

A copy of the official autopsy report was received on March 6, 2023. It indicated that AP died of acute methamphetamine intoxication.

### **Crown Opinion**

On January 5, 2024, the IIU investigative file was forwarded to Manitoba Prosecution Services (MPS) for a Crown opinion.

Further to communications with MPS, it was determined that no Crown opinion would be sent to the IIU as the analysis would be better suited for a consideration of a breach of police internal policy.

### **Applicable Law**

Police officers must have more than suspicion or concerns to strip search a person. In *R. v. Golden*, 2001 SCC 83, the Supreme Court of Canada has stated that a police officer must have reasonable and probable grounds to strip search a detainee:

*“Strip searches are inherently humiliating and degrading for detainees regardless of the manner in which they are carried out and for this reason they cannot be carried out simply as a matter of routine policy. The fact that the police have reasonable and probable grounds to carry out an arrest does not confer upon them the automatic authority to carry out a strip search, even where the strip search meets the definition of being “incident to lawful arrest”. In light of the serious infringement of privacy and personal dignity that is an inevitable consequence of a strip search, such searches are only constitutionally valid at common law where they are conducted as an*

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*incident to a lawful arrest for the purpose of discovering weapons in the detainee's possession, in order to ensure the safety of the police, the detainee and other persons, or for the purpose of discovering evidence related to the reason for the arrest, in order to preserve it and prevent its disposal by the detainee. In addition to reasonable and probable grounds justifying the arrest, the police must establish reasonable and probable grounds justifying the strip search."*

### **Conclusion**

Following due consideration of all the circumstances of this matter and a careful, thorough review of all evidence and material facts obtained in this investigation, I am satisfied that:

- Initially AP was arrested under IPDA, as he appeared to be intoxicated. Then the police realized AP was wanted on a Canada-wide warrant for a parole violation, and he was arrested under the strength of the warrant and assault cause bodily harm.
- At the time of arrest, there was no information to suggest AP had a drug history.
- Upon searching AP at the detachment, WO2 located drugs in his shoes. AP was re-arrested with possession of drugs for the purpose of trafficking.
- Several witness officers and guards watched AP closely during his detention.
- WO2, WO11 and WO12 determined that AP should be transferred from cell 4 to cell 2.
- WO2 did not find anything during the pat down search and believed that it was possible AP had not retrieved anything from the toilet.
- Cell 4 was also searched and nothing was found.
- According to senior constable WO11, the officers did not feel they had sufficient grounds to strip search AP at the time they moved AP from cell 4 to cell 2.
- WO2 indicated he did not consult supervisors as there were no medical concerns with AP, and there was "no firm information" to suggest he was in possession of drugs.
- WO2 suspected AP might have drugs in him based on his desire to get out of the Selkirk detachment, that AP did not consume food throughout the day, and that AP was angry when he was advised that he would not go to Stony Mountain Institution. Therefore, WO2 asked the guards to monitor AP through the video cameras.
- WO11 said the officers did not discuss doing a strip search as they didn't feel they had enough suspicion or evidence to do so. Further, WO11 stated that they would have to contact a supervisor to get approval to do so.
- WO3 stated that AP was hiding under the blanket at times, but she did not see anything that concerned her. His behaviour seemed consistent with someone who was intoxicated.
- WO7 stated she did not feel AP showed any signs of being in a medical emergency, and there was no indication he had any health concerns.
- WO2 stated that when the events were unfolding there was no supervisor working in the detachment, and the officers decided not to contact an external supervisor for direction.
- As soon as the officers saw signs that AP was in medical distress, the officers provided the necessary medical attention.
- AP died of acute methamphetamine intoxication.

In this investigation, it is in the IIU's mandate to consider whether the death of AP may have resulted from the actions of the police officers who dealt with AP during his detention. In considering all the evidence, I am satisfied that the actions of the officers were reasonable in the circumstances, and no charges are recommended against the witness officers.

The witness officers mentioned they did not consult with a supervisor regarding doing a strip search as they felt they only had concerns/suspicion and would have required the approval of a supervisor to do so. They further mentioned there was no supervisor available at the detachment; therefore, no consultation was ever done. It is not in the IIU's mandate to consider whether there are any internal policies, procedures or conduct matters that may need to be reviewed.

The IIU investigation is now completed, and the matter is now closed.