



**IN THE MATTER OF AN INVESTIGATION INTO A DEATH FOLLOWING AN
INCIDENT WITH WINNIPEG POLICE SERVICE**

FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT

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| Civilian Director: | Roxanne M. Gagné |
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Introduction

On July 5, 2023, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit of Manitoba (IIU) of an incident.

The written notification disclosed the following information:

“On Friday, June 30th, 2023, at approximately 18:17hrs, a male attended to a car dealership located at 15 Stapleton Street, where he indicated he wished to purchase a used vehicle. This individual subsequently requested to test drive a 2006 Honda Civic, black in colour, bearing Manitoba license plate D67999. The owner of the business requested photo identification from the male, at which time a Manitoba Driver’s License photo was provided in the name of the Affected Person. The male then exited the lot in the vehicle and never returned. At approximately 20:00hrs on the same date, the owner of the car dealership contacted the Winnipeg Police Service and reported the vehicle as stolen.

On Wednesday, July 5th, 2023, at approximately 09:33hrs, East District General Patrol members located the stolen vehicle parked in the vicinity of 84 Robson Street with a lone male occupant. Officers attempted to effect the arrest of the occupant, at which time a use of force of encounter occurred which resulted in the deployment of a taser. The Affected Person became unresponsive, which resulted in the initiation of CPR and the administering of numerous doses of NARCAN.

The Affected Person was subsequently conveyed to the St. Boniface Hospital in critical condition, where he was pronounced deceased at approximately 10:35hrs.

It should be noted that drug paraphernalia was located in the stolen vehicle and there were a number of witnesses to the incident who have not been identified at the time of the submission of this report.”

As this matter concerned a serious injury as defined under the IIU regulations, the IIU assumed responsibility for this investigation in accordance with Section 66(4) of The Police Services Act (PSA). IIU investigators were assigned to this investigation.

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

- WPS audio files X3 and call history
- Exhibit Lists
- Police narratives X7
- Ident Report X2
- Officer Notes X7
- CEW analysis and Taser graphs
- Cell phone video from CW6

Due to a dearth of information at the outset about whether any officers were directly or indirectly

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involved in the cause of the AP's death, the civilian director did not designate a subject officer (SO). This decision was later re-evaluated and no subject officers were ever designated.

The civilian director designated nine witness officers.

Facts and Circumstances

Scene examination

The scene was in the parking lot of a Manitoba Housing complex. The vehicle operated by AP was a four-door Honda Civic bearing a Manitoba license plate. It was located parked in a parking stall near two dumpsters. Next to it was a parked Dodge minivan. The scene was processed by the WPS Forensic Identification Unit.

Canvass

IIU investigators conducted a canvass of the area. Witnesses were identified and interviewed. Cell phone video footage was collected from witnesses, and a timeline of the video footage was compiled.

Civilian Witnesses (CW1-CW7)

CW1

On July 5, 2023, IIU investigators a statement from WO1. CW1 advised that he heard yelling outside his residence. He looked outside his kitchen window at around 10 a.m. and observed two WPS officers — one male and one female — engaged in a struggle with a male. The male was seated in a black Honda Civic parked about 20 feet from CW1's window. The two officers opened the driver's door and passenger door of the car and were struggling to get the male out of the car. The officers grabbed him and pulled him out of the car between the car and a van parked next to it. The male from the car put up "... a huge, huge fight." The officers were trying to get the male on the ground, but he would not comply. He heard the female officer yell, "Let go of me!" He saw pushing and shoving, but he did not see police punch the male. The officers were using their forearms to try and push the male down during this time, the officers were saying "Stop resisting" and "Get on the ground." The female officer used a Taser on the male twice. The struggle lasted five to six minutes before another police vehicle arrived. He then saw four officers struggling to get the male on the ground between the two vehicles. CW1 moved away from the window for five to 10 minutes. He looked outside again and saw police doing CPR on the male.

CW2

On July 5, 2023, IIU investigators obtained a statement from CW2. He advised that he had returned home from grocery shopping when he noticed a small black car parked in his parking spot. He approached the male driver and asked him to move to the visitor bay. The male moved the vehicle as asked. The male then made comments to him as if he knew CW2 and said he would go and wash his car, then return to go see CW2. CW2 was confused as he did not know

the male. CW2 said the male seemed a bit hyper. CW2 went home and around half an hour later, he heard sirens and saw police doing CPR on the male. An ambulance arrived 10 minutes later.

CW3

On July 5, 2023, IIU investigators obtained a statement from CW3. He stated that he was walking outside just after 9 a.m. and observed a police vehicle pull up behind a black car which was parked in the visitor parking. Two police officers — one male and one female — walked up to the car and told the male driver to get out of the car, shut the car off and give them the keys. The male driver did not comply. The male was tall and heavysset with a whitish beard. The male officer went to the passenger side of the car, opened the door and removed the key from the ignition. The officers then tried to pull the male out of the car, but the male was resisting. The officers repeatedly told the male to get on the ground, but he refused.

The male was swinging his arm around and pushing police. He believed the male was overpowering the two officers. The male struck the female officer on the chin and pushed her up against the van that was parked next to his car. The female officer said, “you’re assaulting an officer.” He then heard the sound of a Taser. The officers could not get the male on the ground. About four or five minutes later, more officers arrived. They were finally able to get the male on the ground, but they couldn’t move around as they were between two parked vehicles. Another police car arrived and the officers dragged the male out from between the vehicles. CW3 heard a Taser go off four or five times. The Taser did not seem to bother the male at all. Officers were finally able to get the male to the ground. Then they were doing CPR on the male. The fight lasted for about 15 to 20 minutes.

CW4

On July 5, 2023, IIU investigators obtained a statement from CW4. CW4 advised that she was in the backyard of her residence at approximately 9:20 a.m. when she observed a police vehicle pull into the parking lot. This was when she saw that there was a male and female officer already in the parking lot near a parked black car. The male officer opened and closed the passenger door and was telling the driver to get out of the car. The male got out of the vehicle but would not allow the officers to arrest him and was fighting with them. This occurred at the driver’s side of the black car in a space between the car and the van that was parked beside it. CW4 said the officers tackled the driver at the front of the car first and then moved him to the back.

It took about six or seven officers to get him on the ground. It took a few minutes to get him down as he was resisting and would not let the officers put handcuffs on him. After the male was on the ground, officers started doing CPR. She believes hearing officers asking who his next of kin was. When the ambulance arrived, the male was put on a stretcher and quickly taken away. She estimated that the entire incident took 20 to 30 minutes.

CW5

On July 5, 2023, IIU investigators obtained a statement from CW5. She observed a police car and two officers arrive at approximately 9 a.m. to -9:30 a.m. The male was confronted by police. They were between a car and a van. CW5 stated that the male physically assaulted multiple officers, necessitating the arrival of additional units. She described the male as tall, around 6-4 to

6-6", with considerable strength. The police officers eventually restrained him after employing a Taser multiple times. She estimated that it took approximately eight to 10 officers to restrain the male. During the altercation, she observed a police officer possibly kicking a metallic object, potentially scissors or a knife. The male was eventually brought to the ground, and police performed CPR. Medical assistance arrived and administered naloxone.

CW5 expressed sympathy for one of the female officers who was struck multiple times by the male. CW5 believed that the police officers acted appropriately given the circumstances. She stated that the officers gave the male ample opportunities to comply before resorting to using force to take him into custody.

CW6

On July 6, 2023, IIU investigators obtained a statement from CW6. CW6 is the building superintendent at the complex for Manitoba Housing. At approximately 8:15 a.m. on July 5, he left his office to do a perimeter check around the property. He was alerted to the sound of a siren and saw a black Honda Civic parked in visitor parking with a police vehicle behind it. He heard officers tell the occupant of the vehicle to turn off the vehicle and to get out of the vehicle. There was a male and female officer. The male officer went to the passenger side of the Honda Civic and turned off the vehicle. There was a Dodge minivan beside the Honda Civic. They were between the vehicles and tried taking the person out of the vehicle. It turned into a bit of a tussle, which caught his attention. As it got more intense, he heard yelling, the female officer's face was being pushed back towards the Dodge minivan. CW6 started to record the incident on his cell phone from 10 to 15 feet away. He observed the officers breathing heavy and thought they were being overcome by the male. Officers then tasered the male as he was still not compliant. Officers were yelling and recalls the female officer yelling that they were police. More officers arrived. They struggled and were able to move the male from between the vehicles to a space where they could control him. The male was fair sized and was groaning. Officers moved the male to the back of vehicle, and he was still not compliant. Police tasered the male again. The police then had the male resting on the back of the Honda Civic. He could hear other sirens and waved the other police cars in. He then looked back and saw the male on the ground with four officers on him. He saw two other officers approach quickly.

CW6 described the male as having a lot of energy. He stated that he did not know if the officers' Tasers were working, and that they tasered him four to seven times; some bursts were short, and some were longer. He believes he heard the female officer say "I don't think it's working." When the officers told the male to get down on the ground he said "I can't." He described the force used by the officers as grappling and grabbing, and he believed the female officer punched the male four or five times.

CW7

On July 10, 2023, IIU investigators obtained a statement from CW7. On July 5, he was home and heard noises outside; he heard the sound of a Taser and voices saying "get on down on the ground." CW7 looked out the window and saw a male and a female police officer in uniform in between two vehicles. They were in an altercation with a large built man who was bigger than the officers and appeared to be very powerfully built. The officers appeared to be struggling with

the man. CW7 saw the female officer use a Taser and appeared to re-load it. The male was trying to stand up and the officers were telling him to get him on the ground. The man was saying "I can't." The man was resisting. CW7 believed he heard the Taser sound twice before he looked out his window and then heard the sound of the Taser again two to three times while he was watching. He believed the man's hands were behind his back during that interaction. Four minutes later, another male and female officer arrived. The female officer had orange-coloured hair and was using her baton on the male in a restraining motion, and was using her foot in a kicking, downward motion on the male, but CW7 could not see where on the man's body. CW7 heard "get down on your stomach." This was going on between the two vehicles. The man continued to try and get back up even with four police officers there. A few minutes later, two more police officers arrived. The officers managed to drag the male from between the two vehicles into the parking lot by using his arms and legs. CW7 stated that the male stood up and the officers were trying to get him on the ground. The man was resisting even more at that point. They got him on the ground, and CW7 heard comments about the man being limp and almost immediately officers did CPR.

CW7 did not see officers use a baton or stomping, nor any punches or kicking; it was a struggle between the officers and the man.

Witness Officers

WO1

On October 13, 2023, IIU investigators obtained a statement from WO1. Upon arrival at the scene at 9:42 a.m. on July 5, 2023, WO1 observed multiple patrol units present, including D402 and D405, who were assisting D408. WO1 witnessed AP being secured in handcuffs and positioned on the ground behind the stolen vehicle. Shortly after WO1's arrival, it was announced that AP was unresponsive and unconscious. The police officers on scene immediately took action by rolling AP onto his back, un-cuffing his hands, performing CPR, and requesting the Winnipeg Fire Paramedic Service (WFPS) urgently. While the officers attended to AP, WO1 conducted a search of the stolen vehicle and discovered methamphetamine residue and shards and a clear sandwich bag containing multiple unknown white pills.

WO1 informed the officers about his findings and notified them that naloxone was being administered to AP while they awaited the arrival of paramedics. Paramedics arrived shortly after and took control of the situation.

WO2

On October 13, 2023, IIU investigators obtained a statement from WO2. He stated that on the morning of July 5, 2023, while on regular patrol with WO8, they received a radio call from another unit informing them of a stolen vehicle with a male inside. As they approached the scene the call became urgent indicating a struggle with AP. Upon arrival, AP was on the ground between two parked vehicles. WO6 and WO9 were attempting to control him. WO2 assisted in restraining AP but did not use force. They decided to move AP into a larger space to gain better control. During this process, AP reached for WO2's Taser. Officers eventually managed to handcuff AP and gained control over him. At this point, AP was still breathing and responsive.

Shortly afterward, AP's condition deteriorated, and life-saving measures were administered. Paramedics arrived to provide further assistance. WO2 assisted in moving AP onto a stretcher and into the ambulance.

WO3

On October 13, 2023, IIU investigators obtained a statement from WO3. On July 5, 2023, he and his partner, WO4, were on general patrol in unit D407. They heard calls for assistance over the radio. Upon arrival, WO3 observed three police units and a male in handcuffs. WO3 assisted in taking over control from WO8. WO3 proceeded to apply a shin pin to AP's buttocks/thigh area. Shortly after, WO5 alerted that AP was not breathing, and CPR was initiated. Officers briefly thought AP had taken a breath and placed him in the recovery position, but soon realized he was still not breathing and resumed CPR. Someone administered naloxone. WO3 informed dispatch CPR was being conducted on AP at 9:43 a.m. He estimated that it took approximately nine to 10 minutes for the ambulance to arrive at the scene. He followed the ambulance in his police vehicle to St. Boniface Hospital and was later informed that AP had passed away.

WO4

On October 13, 2023, IIU investigators obtained a statement from WO4. At 9:33 a.m. on July 5, 2023, an event was created by D408 for a stolen vehicle on Robson Street. WO4 noticed panic in WO9's voice when she requested backup on the radio. WO4 and WO3 responded to the call and upon arrival, WO4 identified the officers at the scene as WO6, WO9, WO8, WO2, WO1, WO5, and WO7. The officers appeared tired and had detained a large male. WO3 had switched with another officer to take turns in restraining AP. WO3 and WO5 checked on AP and realized he was not breathing. They immediately began performing CPR. During this time, WO4 noticed several witnesses at the scene and spoke with CW6 who witnessed AP resisting the officers and striking WO9 in the head multiple times. WO4 briefly viewed the beginning of the video taken by CW6 and saw WO6 and WO9 fighting with AP while giving clear commands for him to stop. She also saw AP deliver a blow to WO9's head.

An ambulance arrived and WO4 accompanied AP inside, taking over CPR from a firefighter. Paramedics used a chest compression machine on AP, and he was transported to St. Boniface Hospital in critical condition.

WO5

On October 13, 2023, IIU investigators obtained a statement from WO5. On July 5, 2023, he and WO7 heard the voice of WO9 reporting a traffic stop and investigation of a stolen vehicle. Shortly after, WO9's tone changed from calm to panic and he reported a fight. WO7 immediately activated the lights and sirens, as they were five minutes away from the scene. Upon arrival, four police officers were restraining AP, a large, thick male, who was handcuffed and yelling. WO5 relieved WO2, who seemed exhausted. At that point, they were aware that a fight had taken place but did not know who was injured. WO5 took control of AP's right side by pinning him with his leg while keeping his head from thrashing around. He tried to calm AP down, telling him that everything was fine, but AP only grumbled in response. WO5 could hear AP's breathing. A fourth police unit arrived. WO5 noted that WO8 was across from him, and he could

feel her exhausted breath. WO3 took over from WO8. WO5 inquired if everyone was all right and noticed that WO9 was holding her face and WO6 had been punched. The other two officers said they were all right.

Shortly afterward, WO5 noticed a change in AP's breathing and brushed AP's hair away from his face. He noticed that his eyes were no longer moving but were open and focused. The officers immediately flipped him over and started CPR immediately. They removed the handcuffs from his back, and reapplied them to the front, ensuring good contact for chest compressions. Dispatch was informed that AP was not breathing, and chest compressions were continued. WO5 performed the first set of CPR on AP. Paramedics arrived at the scene at approximately 9:49 a.m. and took over from the officers.

WO6

On October 26, 2023, IIU investigators obtained a statement from WO6. On July 5, 2023, while on general patrol duty with WO9 in unit D408, they received information about a possible stolen vehicle in the Chief Peguis area. They arrived at the Robson Street complex, a known hotspot for stolen vehicles, and identified the stolen car that was listed on a stolen vehicle list on their laptop. As they confronted the suspect, he refused to comply with their orders, leading to a physical struggle. They attempted to use a conducted energy weapon (Taser) but with limited effectiveness. Additional units arrived to assist, and the struggle continued. Eventually, AP was handcuffed and placed on the ground. AP became unresponsive. Despite CPR and medical intervention, he was pronounced deceased upon arrival at the hospital.

WO7

On October 27, 2023, IIU investigators obtained a statement from WO7. She was working a day shift with WO5 on July 5, 2023, and they heard WO9 screaming for help on the radio. Upon arrival, they found a male suspect face down, handcuffed behind his back. The male was now compliant while on the ground, and officers on scene were visibly exhausted. WO7 took over assisting with the restraint, and applied a shin pin to the male's left leg and held onto his right leg, emphasizing that he was still moving despite her body weight. Additional officers joined, giving commands to stop resisting. After a moment, AP was longer moving and they realized he wasn't breathing. CPR was initiated by WO3 and WO5. WO7 removed the handcuffs and administering naloxone. WO7 continued CPR until the Winnipeg Fire Paramedic Service arrived.

WO8

On October 27, 2023, IIU investigators obtained a statement from WO8. On July 5, 2023, she and her partner, WO2, were dispatched to assist WO9 and WO6, who were dealing with a stolen vehicle and AP. While enroute, the matter became urgent. Upon arrival, officers were fighting with AP between a dark blue minivan and a black Honda Civic, with limited space between the vehicles. WO8 described AP as a large individual, approximately six feet tall and 250 pounds, actively resisting and attempting to grab WO6's CEW. A Taser had been deployed before her arrival but seemed ineffective. Despite their efforts, AP continued to resist, and WO8 believed he was under the influence of a substance. She recalled using her baton, but it was ineffective given

the cramped space. AP attempted to choke her, and she delivered a punch to his ribcage, but it had no effect. With the combined efforts of WO8, WO6, WO2 and WO9, they managed to get AP's right hand behind his back. WO9 took over the Taser. They decided to move AP from the small space. Although he continued to resist, they got him on his feet. WO9 deployed a Taser in his back, but it was ineffective. They eventually got his left hand behind his back and placed him on his stomach. At 9:43 a.m., AP became unresponsive, and they flipped him onto his back. AP was turning blue, and WO5 and WO3 began CPR. An ambulance was called urgently. WO8 administered one dose of naloxone to AP. He took one breath after the first dose but remained unresponsive. CPR continued, and WO8 administered three more doses of naloxone. The ambulance arrived shortly after.

WO9

On December 12, 2023, IIU investigators obtained a statement from WO9. She and WO6 responded to a stolen vehicle report. While patrolling, WO9 observed a stolen black Honda Civic on Robson Street. Despite verbal commands, AP resisted arrest, prompting WO9 to escalate force, deploying her conducted energy weapon (CEW) twice. However, due to the AP's size, the CEW proved ineffective. Additional officers arrived, and after a continued struggle, WO9 used another CEW to achieve neuromuscular incapacitation (NMI). AP was handcuffed, but later, officers discovered he was in medical distress. Emergency services were called, and despite efforts, AP's condition deteriorated. WO9 explained that she suffered injuries consisting of swelling and soreness to her face and bruising on her limbs and forearm.

Summary of other evidence

WPS Stolen Vehicle Occurrence

On June 30, 2023, an automotive company called WPS to report a male took one their vehicles for a test drive and did not return it. The male produced a Manitoba identification card bearing the name of AP. Checks revealed that AP is suspended from driving and his driver's licence expired on September 30, 1996.

CW6's cell phone videos

Video #1

This video is approximately one minute and 55 seconds in length. At the start of the video, two uniformed WPS officers (WO6 and WO9) are seen between a black Honda Civic and a dark blue Dodge minivan. Officers are struggling with a male (AP) between the vehicles. Officers can be heard giving verbal commands.

CW6 moves closer and they move to the front of the vehicles. The female officer who is identified as WO9 has a hold of AP by his hair. AP's arm can be seen around the back of WO9. WO6 is also struggling with AP. A short Taser burst is heard. CW6 moves again and positions himself in front of the two parked vehicles. AP is seated on the ground with the officers standing. The officers continue to give verbal direction to AP to get on the ground. WO9 deploys the Taser into the right side of AP. AP lays flat on the ground as the Taser cycles through. He then sits

back up. Another Taser cycle is heard; however, it has no effect on AP. The video comes to an end, with another vehicle arriving on scene.

Video #2

This video is approximately three minutes and 15 seconds in length. The video starts and CW6 moves to the front of the vehicle. WO8 and WO2 are between the two vehicles engaged in the struggle. The Taser is heard to cycle through; however, it cannot be seen if it is effective as three officers are between the vehicles and AP is not seen. The officers are still giving AP verbal directions to get onto his stomach. WO9 tears the Taser wires off of her Taser and appears to holster the CEW. WO8 then passes her Taser to WO9. WO9 moves from the front of the vehicles to the rear while the other three officers continue to struggle with AP.

The three officers are able to get AP to his feet and move him out from between the vehicles. Officers again tell AP to get down on the ground and he does not comply and continues to stand. At this point, AP clearly has enough room to comply with demands and does not wish to comply. WO9 deploys the Taser in the touch stun mode into the back of AP. AP yells out as the Taser cycles through. The officers push AP against the trunk of the Honda Civic. Officers take a pause momentarily, catching their breath. A siren is heard in the distance. AP is now handcuffed behind his back as the officers continue to struggle with him. CW6 pans to the street to capture a marked WPS unit slow down. Officers were finally able to get AP to the ground by tripping him (he did not get down on his own). WO5 and WO7 exit their vehicles and run to assist the other officers. WO5 positions himself at the head of AP while WO7 takes control of AP's legs. With AP under control, WO6 and WO2 step away from the AP. Both officers show signs of exhaustion.

CW6 Video Transcript

Law Reporting & Transcription Services transcribed the audio from the cell phone video taken by CW6 on July 5, 2023. The audio from the cell phone video captured the verbal exchange between the officers and AP. Police gave a total of 32 verbal commands during the struggle, including telling AP to get on the ground, to get on his stomach, to get on his knees and to stop resisting.

Civilian Witness Video

A video (13 minutes and 20 seconds) was taken from the second floor of one of the residences. WO6, WO9, WO8 and WO2 are struggling/fighting with AP who is resisting, between two vehicles. The officers give verbal commands to AP. Officers are able to get AP to his feet and move him from in between the vehicles. AP is in handcuffs. The officers tell AP to get on the ground. A Taser is heard with WO9 placing the Taser into AP's back. The officers push AP up against the Honda Civic; however, AP pushes himself away from the vehicle. AP is taken down to the ground. Another marked WPS unit (WO5 and WO7) arrive at the scene. They rush to assist the other officers to control AP, and WO6 and WO2 step away from AP. Both officers show signs of exhaustion. AP is face down on his stomach and is moving around on the ground. Another marked WPS unit (WO4 and WO3) arrive on scene. They walk to where AP is laying. WO3 relieves WO8. WO4 stands near AP and has a conversation with WO9 and WO7. WO5

taps WO3 to get his attention. AP is rolled onto his back. WO5 speaks into his portable radio. He and WO3 begin CPR and provide naloxone to AP. EMS arrives and deals AP.

Conducted Energy Weapon (CEW) Analysis

A Taser download analysis report completed by WPS master Taser instructor.

WO9 utilized her Taser (X300093DD) and WO8's Taser (X3000CNNH). The analysis indicated that Taser (X300093DD) was utilized 11 times. Only one of the deployments was partially effective for 3.5 seconds before dropping to zero. The remaining Taser deployments did not result in neuromuscular incapacitation (NMI). The second Taser (X3000CNNH) was deployed twice. The analysis indicated that both times the Taser had an intermittent connection and a partially effective deployment, however, there is no indication that the deployments were effective or if NMI occurred.

Winnipeg Fire Paramedic Service (WFPS) Incident Reports

WFPS personnel received a Priority 1 dispatch. WPS was on scene with a male patient in cardiac arrest with CPR in progress. Upon arrival, WPS officers were performing chest compressions on AP. WPS advised that AP was violent and resisted arrest. He was tasered twice and continued to resist. AP was physically restrained by officers then became unresponsive. WPS began chest compressions and administered naloxone.

Report of the Medical Examiner

Immediate cause of death: *Acute combined cocaine and methamphetamine intoxication.*

Other significant conditions contributing to the death but not causally related to the immediate cause above: *Dilated cardiomyopathy, physiologic stress during arrest and physical restraint.*

The report also indicates that AP is 6 feet tall and weighs 244 pounds.

Applicable Law

Criminal Code of Canada

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

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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.

Conclusion

The IIU's mandate is to consider whether the death of AP may have resulted from the actions of a police officer(s) and whether the use of force was reasonable.

I am satisfied that the officers were in lawful execution of their duties, as they found AP committing an offence. AP did not comply with numerous demands and was resisting arrest from the moment officers told him to get out of the vehicle. AP was a tall, heavy-sized man who had consumed cocaine and methamphetamine and had considerable strength. The officers had difficulty restraining and arresting him and a struggle ensued. The two initial officers on scene were obliged to call for backup. During the struggle, AP assaulted the arresting officers, including attempting to choke an officer who then delivered a punch to AP's ribcage. AP also tried to grab a CEW. A baton was used by an officer to try and disengage AP's arm, but the officer did not hit AP. A Taser was used to get AP to comply, but AP continued to resist. A civilian witness saw the struggle between police and AP and indicated that police did not use a baton, nor delivered punches, nor kicks.

With extra backup, officers were finally able to handcuff AP. Once handcuffed, he continued to resist arrest and would not get on his knees or lie down. Officers were finally able to get AP on the ground, at which time he was still moving. The events were captured on video.

Shortly thereafter, AP went unconscious. Medical assistance was immediately called, and naloxone was administered. Unfortunately, AP was pronounced deceased upon arrival at the

hospital. The medical examiner's report concluded that AP died of acute cocaine and methamphetamine intoxication. Two of the officers suffered injuries as result of the incident.

This is a tragic set of circumstances where AP had consumed cocaine and methamphetamine and would not comply with numerous police commands. A struggle ensued, and sadly the AP died shortly thereafter.

In considering all the circumstances, I am satisfied that the use of force in this case was reasonable. Therefore, no charges are recommended against the witness officers, and the IIU investigation is now completed and closed.