



**IN THE MATTER OF AN INVESTIGATION INTO AN INCIDENT INVOLVING THE
DEPLOYMENT OF A LESS-LETHAL FIREARM BY WPS**

FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT

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Introduction

On July 12, 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 Tuesday, July 11, 2023, at approximately 23:57hrs, Tactical Support Team members (TST) along with Division 11 General patrol members responded to a 911 call to the front of the Shell gas station at 701 Portage Ave. for a male (AP) brandishing what was initially believed to be a knife. Further information received was that the (AP) was acting very erratically, and was possibly under the influence of alcohol and methamphetamine.

Upon arrival TST along with General Patrol members observed the (AP) screaming and running through traffic South across Portage Avenue with the (AP) pointing a weapon at random cars. TST members identified themselves as Police ordering the (AP) to stop. The (AP) adopted a fighting stance and was screaming “shoot me” extending his left hand out towards the TST members inside of a brown paper bag as if the (AP) had a pistol inside of it. The (AP) had a large chunk of glass wrapped in cloth in his right hand which he had pressed against his own neck.

Police repeatedly instructed the (AP) to drop the knife and to get on the ground, with the (AP) refusing to comply. As a result of the (AP) refusing to drop the weapon a TST member discharged a less than lethal .40mm bean bag round which struck the (AP) in the upper left leg. The (AP) moved into a bus shelter and crouched down with the glass in hand and proceeded to saw at his own neck. The (AP) was again challenged by Police to drop the weapon with the (AP) continuing to self-harm, as a result a TST member deployed a less than lethal .40mm bean bag round which struck the (AP) in the right forearm near the elbow, again the (AP) was challenged to drop the weapon at which time the (AP) complied and was then taken safely into police custody.

The (AP) received minor injuries and was medically cleared by paramedics at the scene as well as by the CPU paramedic where he was transported for disposition.”

As this matter concerned a serious injury as defined under Section 1(1)(f) of 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.

The civilian director designated one subject officer (SO) and three witness officers.

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

- Forensic Identification Report
- Narrative X 2
- Police officer notes
- Police report - AP
- Prisoner Log Sheet - AP
- 911 audio and radio transmission
- Call history

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- Use of Force report
- Photographs of exhibits

Facts and Circumstances

Canvass

On July 13, 2023, IIU investigators attended Portage Avenue, on the northside from Sherbrook Street to Huntleigh Street, and on the southside from Borrowman Place to Sherbrook Street. IIU investigators identified video cameras in the area.

Affected Person

On August 1, 2023, IIU investigators obtained a statement from the affected person (AP). AP stated he was lying in a bus shack when the police ordered him to come out. He complied by crawling out on his back. An ambulance arrived. AP stated that he wasn't cleared to go to the hospital, rather he was conveyed to WPS headquarters (HQ). At HQ, he was processed for fingerprinting and photographing of his injuries and was given medical treatment, which included cleaning and wrapping a wound on his arm. The next morning, he was released on bail. He did not go to the hospital.

AP stated the police shot him as he picked up a piece of glass. Despite being given commands to drop it, he didn't comply. He admitted facing the police with the glass, wanting them to shoot him or he would slit his throat. Apart from being shot with bean bag rounds, WPS didn't use any other force on him.

Civilian Witness

On July 13, 2023, IIU investigators interviewed a civilian witness (CW), who is a security guard. CW stated that he saw AP displaying erratic behaviour while holding a knife with a silver blade, which prompted him to call 911. Police intervention, including a less-lethal firearm, resulted in AP's arrest without physical altercation.

Witness Officers (WO1-3)

WO1

On November 1, 2023, IIU investigators obtained a statement from WO1. He was on general patrol with WO2, when they responded to a weapon call involving AP. WO1 observed AP's erratic behaviour, and they were alerted that AP may have been armed with a knife. Tactical Support Team (TST) members had already deployed a less-lethal firearm. They assisted with taking AP into custody. AP received a medical assessment from Winnipeg Fire Paramedic Service (WFPS) personnel and was cleared.

WO2

On November 1, 2023, IIU investigators obtained a statement from WO2. He and WO1 assisted TST. AP was non-compliant, which led a TST member to use a less-lethal firearm. WO2 and WO1 conducted the arrest. Paramedics assessed AP, confirming use of methamphetamine. AP was arrested and processed at WPS HQ.

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WO3

On November 24, 2023, IIU investigators obtained a statement from WO3. WO3 was a member of TST. They responded to a call regarding an armed male (AP). WO3 stated that SO used a less-lethal firearm while he drew his service pistol. An attempt to subdue AP was made with a Super-Sock bean bag round, which hit him in the leg. This less-lethal force was used after AP displayed threatening behaviour with a large piece of glass wrapped in cloth. SO and WO3 seized the weapon. AP was medically cleared by paramedics and taken into custody.

Subject Officer

On February 4, 2024, SO voluntarily sent the IIU a copy of his notes. On November 7, 2023, Tactical Support Team (TST) members responded to a 911 call at the Shell gas station in the 700 block of Portage Avenue. AP was wielding what initially appeared to be a knife, but was later identified to be a piece of glass. AP was acting erratically and potentially under the influence of alcohol and methamphetamine. AP was running through traffic, pointing the glass at random cars. Despite police giving him repeated commands to stop, AP adopted a fighting stance, urging the police to shoot him while holding a piece of glass against his own neck. SO discharged a less-lethal bean bag round, striking AP in the leg. However, AP continued to self-harm, prompting the deployment of a second bean bag round, which struck his forearm. Eventually complying, AP was safely taken into police custody. Paramedics cleared AP of minor injuries at the scene.

Summary of Other Evidence

Medical Information

AP consented to IIU accessing his personal health information regarding the incident. IIU investigators obtained a Patient Care Report (PCR) from WFPS. The PCR indicated methamphetamine intoxication and elevated blood pressure during police custody.

Shell Gas Station - Video

Video footage was obtained from the Shell gas station in the 700 block on Portage Avenue. AP enters view westbound on the sidewalk of Portage Avenue. AP is walking around pumps 5 and 6 with his left arm pointing straight out and a paper bag on his hand. A police SUV enters view westbound Portage Avenue. The SUV exits view westbound Portage Avenue and its brake lights illuminate. A TST vehicle enters view westbound Portage Avenue and TST officers exit the vehicle and walk westbound on Portage Avenue.

Pimicikamak Place - Video

Video footage was obtained from Pimicikamak Place. AP is in handcuffs with three police officers, who enter view walking westbound. A TST officer exits view walking eastbound. AP is placed in rear passenger side door of the police vehicle. A TST officer enters view walking westbound carrying a less-lethal shotgun. A second TST officer enters view walking westbound. A third TST officer enters view walking westbound. Three TST officers exit view walking eastbound. A WFPS firefighter enters view and police open the rear door of the police vehicle.

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AP is removed from the backseat and WFPS examines AP. A second WFPS person brings medical bags. A WFPS paramedic enters view and examines AP. AP was placed into the backseat of the police vehicle.

Winnipeg Transit - Video

Video footage was obtained from bus 457. A police SUV enters view travelling westbound on Portage Avenue. A second police vehicle exits view westbound Portage Avenue. The SUV enters view northbound Maryland Street. AP is running eastbound on Portage Avenue. A TST vehicle (TST1) enters view westbound Portage Avenue. AP is walking eastbound Portage Avenue as TST1 arrives. TST1 stops in the intersection; two TST officers exit and walk toward AP, who has stopped on the median of Portage Avenue. The first officer is approaching AP, who is backing up westbound Portage Avenue. The second officer is approaching AP westbound Portage Avenue. AP has his elbows raised as the officers approached. AP walks eastbound on Portage Avenue on the north sidewalk, with both officers following. A second TST vehicle (TST2) enters the view westbound Portage Avenue with emergency light activated. TST2 parks in the intersection and another police vehicle enters view travelling eastbound in the westbound Portage Avenue lanes with emergency lights activated. AP is in a bus shelter on the ground with five officers approaching. Two officers escort AP westbound Portage Avenue on the sidewalk.

New Directions for Children, Youth, Adults and Families - Video

Video footage was obtained from New Directions for Children, Youth, Adults and Families. A person is seen repeatedly traversing the Shell gas station lot near the pumps, eastbound on Portage Avenue and McGee Street. A police SUV is navigating through the same gas station parking lot. Another police vehicle with activated lights is observed progressing southbound on Maryland Street at the intersection of Portage Avenue. Further events captured include an ambulance travelling eastbound on Portage Avenue without emergency lights, followed by a police vehicle travelling westbound and executing a U-turn to proceed eastbound with activated emergency lights.

Applicable Law

Sections 25 and 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.

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

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 the subject officer's (SO) actions were reasonable.

The police attended a Shell gas station parking lot after receiving a 911 call regarding a male (AP) who was acting erratically, screaming, running through traffic and brandishing what initially appeared to be a knife and later found to be a piece of glass. AP was under the influence of methamphetamine. Police members attempted to arrest AP. Despite police giving him repeated commands to stop, AP adopted a fighting stance. AP held a piece of glass to his own neck. SO discharged a less-lethal firearm, striking AP in the leg. However, AP continued to self-harm, and SO deployed a second round. AP eventually complied and police were able to safely take him into custody. AP suffered minor injuries to his leg and forearm.

Given the totality of the circumstances, SO's use of force was reasonable and the AP was safely taken into custody. Therefore, no charges are recommended against the subject officer, and the IIU investigation is now completed and closed.