



**IN THE MATTER OF AN INVESTIGATION INTO A DEATH FOLLOWING A  
DETENTION AT THE FISHER BRANCH RCMP DETACHMENT**

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

Civilian Director:	Roxanne M. Gagné
IIU File Number:	2023-0042
Date of Release:	October 28, 2024

## **Introduction**

On July 28, 2023, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit of Manitoba (IIU) of an incident.

The written notification disclosed the following information:

*“At approximately 0815 hours on July 28th, 2023, Cpl. \* was notified by Medical Examiner (ME) that (affected person) (AP) was pronounced deceased on July 27th, 2023 at 2345 hours at Health Sciences Center in Winnipeg.*

*(AP) was arrested by First Nation Safety Officers (FNSO) on July 26th, 2023, at approximately 0032 hours in Peguis, MB. He was located incapacitated on a road and was arrested under the Intoxicated Persons Detention Act, transported to Fisher Branch detachment and lodged in cell #3 by WO2 at 0119 hours.*

*At 0215 hours (AP) notified the guard (CW2) that he was having difficulty breathing, EMS was contacted. At 0245 hours Peguis EMS attended the Fisher Branch detachment, assessed (AP) and indicated that his vitals were good.*

*At 0332 hours (AP) was released from custody into the care of EMS for further medical assessment as a precautionary measure. He was transported by Peguis EMS to Gimli Hospital and subsequently HSC.*

*ME \* advised (AP) 's death is not suspicious.*

*CCTV footage of (AP) 's lodging, detention and release are being collected. The prisoner log book will also be seized.”*

As this matter concerned a death, the IIU assumed responsibility for this investigation in accordance with Section 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:

- Cellblock video from the Fisher Branch RCMP detachment
- Notes and reports from CW1
- Notes and narrative report of WO2
- Prisoner form and guard logs for the affected person (AP)
- Audio files of police radio transmissions
- RCMP Forensic Identification Services (FIS) records pertaining to the autopsy of AP

Due to a dearth of information at the outset about whether any police officers were directly or indirectly involved in the cause of 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.

*This document is the property of the IIU and is not to be distributed to any other party without the written consent of the IIU.*

## **Facts and Circumstances**

### **Scene Examination**

No scene analysis was done in this investigation, as there was a delay of two days between the time AP spent at Fisher Branch RCMP cells and his death.

## **Summary of Witness Interviews**

### **Witness Officers (WO)**

#### **WO1**

On September 6, 2023, IIU investigators obtained a statement from WO1. He was working the night shift with WO2 when they received a call from CW1 in the early morning hours of July 26, 2023, regarding an intoxicated person (AP) on Peguis First Nation. CW1 brought AP to the Fisher Branch detachment where the two RCMP officers lodged him in a cell without incident. At the time he was lodged, AP complained that he was in pain. WO1 thought this was related to an illness AP had. WO2 offered to call EMS for AP, but AP declined the service.

WO1 had no further contact with AP. He departed the detachment at the conclusion of his shift (at 2 a.m.) and remembered receiving a telephone call from WO2 shortly thereafter indicating that AP was having difficulty breathing. WO1 stated he told WO2 to call EMS at that point. He was unaware what happened after that, until he was notified of AP's death on July 28, 2023.

#### **WO2**

On September 6, 2023, IIU investigators obtained a statement from WO2. He stated that at approximately 1:19 a.m. on July 26, 2023, CW1 brought an intoxicated person (AP) to the Fisher Branch detachment to be lodged in cells. AP exited CW1's truck by himself and walked into the secure bay on his own. He was lodged in a cell with no incident. WO2 believed that AP said his chest hurt at the time, but he declined EMS when offered.

At 2:15 a.m., the guard on duty (CW2) approached WO2 and suggested that EMS be contacted for AP, as he reported he was having difficulty breathing. WO2 went to the cell and had a conversation with AP, who said he wanted medical attention. WO2 then arranged for EMS to attend the detachment. They arrived at 2:45 a.m. and took AP to the hospital in Gimli at 3:32 a.m.

### **Civilian Witnesses (CW)**

#### **CW1**

On September 6, 2023, IIU investigators obtained a statement from a First Nations Safety Officer (FNSO), CW1. He stated that he detained AP under *The Intoxicated Persons Detention Act* (IPDA) after finding him in a ditch on Peguis First Nation. CW1 asked AP if he needed medical attention and he answered no. CW1 asked AP if he could take him to a family member's place or a friend's place, and AP answered that he was staying at the motel. CW1 called the motel to confirm if AP had a room there and he was told that AP was not staying there. CW1 stated that

AP was slurring his words and making hand movements as though he was taking pills. CW1 thought he had either consumed alcohol or drugs. AP was co-operative and CW1 asked him again where he wanted to go and AP asked CW1 to take him to the Fisher Branch detachment. CW1 then transported AP to the Fisher Branch RCMP detachment where he was lodged in a cell. There was no physical force required to lodge AP. According to CW1, AP had some discomfort while in his care and he asked AP several times if he required medical assistance. AP accepted the offer only once but then changed his mind a few minutes later.

The police officers lodged AP once at the detachment.

## **CW2**

On September 6, 2023, IIU investigators obtained a statement from CW2. He stated that he had been called to guard at Fisher Branch detachment on July 26, 2023. He attended the detachment and waited outside for the officers to arrive. While waiting, a First Nation Security Officer, CW1, drove up with AP in the truck. The security officer told CW2 that AP was being taken into custody and that he had offered to drive him to the hospital, but AP said he didn't want to go.

The RCMP officers arrived at the detachment with another prisoner and lodged that person. They then they went outside and assisted CW1 with AP. While he was being processed in the secure bay, CW2 said he heard one of the RCMP officers offer the AP medical assistance; he did not hear AP's response. They then lodged the prisoner in a cell, and one officer told CW2, "He had a rough night, keep an eye on him." There was no physical force used on AP at any time.

After lodging, CW2 said he was watching AP on the video camera and noted the prisoner was restless, having a little bit of trouble breathing, and lying down. Other than that, AP appeared to be fine (using the washroom and drinking water).

At 2:30 a.m., CW2 approached WO2 and informed him of his observations of AP and suggested calling EMS. CW2 stated that WO2 went to the cell and spoke with AP, then came back and told CW2 "Give him a little bit more time." CW2 said he approached officers again at approximately 2:45 a.m., suggesting that EMS be contacted, at which point an ambulance subsequently attended and removed AP from the cell.

CW2 stated he did not have any contact or conversations with AP that night, other than what he saw on video.

*(Note, the video footage demonstrates that CW2 attended AP's cell at 1:25 a.m. and 1:37 a.m.)*

## **Other evidence**

### **Prisoner log**

The prisoner form pertaining to AP, completed by WO2, indicated that AP was complaining of pain at the time of lodging, but that he declined medical attention at that time.

### **Cell video**

The video footage supplied by RCMP showed AP entering the detachment cell bay at 1:16 a.m. on July 26, 2023, in the presence of WO2 and WO1. AP was searched and then led by the two

officers into the cell area, where he walked into a cell and was secured at 1:18 a.m. There was no physical contact between AP and police, other than when he was searched prior to lodging. The cell guard, CW2, went to the cell door twice and appeared to speak with the prisoner, at 1:25 a.m. and 1:37 a.m. Between 1:50 a.m. and 2:13 a.m., AP appeared to have trouble breathing on five occasions, as he can be seen attempting to breathe heavily. WO2 also went to the cell door and engaged in conversation with AP at 2:13 a.m.

### **Radio communication**

Radio logs indicate that WO2 called for EMS to attend the detachment to assess AP at 2:16 a.m. Ambulance personnel attended to AP at 2:46 a.m., and after approximately 45 minutes of treating him in the cell, they removed him from the detachment on a stretcher and departed.

### **Autopsy report**

On July 4, 2024, IIU investigators obtained an autopsy report from the medical examiner's office. AP's cause of death is noted as *multi-organ system failure, fulminant hepatic necrosis and acetaminophen toxicity*. Other significant conditions contributing to the death is noted as *chronic alcohol abuse*. It is noted on the report there was *no evidence of significant acute traumatic injury*.

### **Applicable Law**

The Intoxicated Persons Detention Act, C.C.S.M. c. I90 (IPDA):

*2(1) Where a peace officer finds in a place to which the public has access a person who is intoxicated, he may take that person into custody.*

*2(2) Where a peace officer takes a person into custody under subsection (1), if there is a detoxication centre in the community, the peace officer may take the person to the detoxication centre and deliver him into the custody of the person in charge of the detoxication centre.*

*3(1) Where a person is taken into custody under section 2, the person having custody of him shall release him*

- (a) on his recovering sufficient capacity to remove himself without danger to himself or others and without causing a nuisance; or*
- (b) if an application is made sooner by a member of the person's family or by a person who appears to be suitable and capable of taking charge of the person, into the charge of that applicant;*

*but in any case before the expiry of 24 hours after the person was taken into custody.*

Under the provisions of the IPDA, where a police officer finds a person who is intoxicated in a public place, he may take that person and process them in accordance with legislation. IIU investigators confirmed that on July 26, 2023, no designated community detoxication center

*This document is the property of the IIU and is not to be distributed to any other party without the written consent of the IIU.*

existed or was approved for Fisher Branch, Manitoba. The only facility capable of providing a safe setting for an intoxicated person was the RCMP detachment.

Duty of persons to provide necessities

*215 (1) Every one is under a legal duty*

*(a) as a parent, foster parent, guardian or head of a family, to provide necessities of life for a child under the age of sixteen years;*

*(b) to provide necessities of life to their spouse or common-law partner; and*

*(c) to provide necessities of life to a person under his charge if that person*

*(i) is unable, by reason of detention, age, illness, mental disorder or other cause, to withdraw himself from that charge, and*

*(ii) is unable to provide himself with necessities of life.*

*(2) Every person commits an offence who, being under a legal duty within the meaning of subsection (1), fails without lawful excuse to perform that duty, if*

*(a) with respect to a duty imposed by paragraph (1)(a) or (b),*

*(i) the person to whom the duty is owed is in destitute or necessitous circumstances, or*

*(ii) the failure to perform the duty endangers the life of the person to whom the duty is owed, or causes or is likely to cause the health of that person to be endangered permanently; or*

*(b) with respect to a duty imposed by paragraph (1)(c), the failure to perform the duty endangers the life of the person to whom the duty is owed or causes or is likely to cause the health of that person to be injured permanently.*

(emphasis added)

Police officers are subject to a statutory duty of care to provide a detained intoxicated person with the necessities of life; this includes the duty to provide necessary medical attention when required. A failure or refusal to discharge this statutory duty of care may result in an offence under the Criminal Code of Canada.

## **Conclusion**

The IIU's mandate is to determine whether any police officer, by action or inaction, contributed in any way to the death of AP. Based on the circumstances and in consideration of all of the available information, including the eyewitness accounts, video footage and the medical report,

*This document is the property of the IIU and is not to be distributed to any other party without the written consent of the IIU.*

there is nothing to support a conclusion that there is any level of contribution by any police officer to cause AP's death, either by action or inaction.

The First Nations Safety Officer (who does not fall under the IIU jurisdiction) detained AP, and the RCMP took charge over AP. The facility offered for this purpose was the cell area of the detachment. This is a custody environment, and a cell is primarily used to house individuals accused of committing offences. A person found intoxicated in public is detained for their own safety and is provided a safe environment to sober up; they have not committed a crime. At the time of this incident, there was no designated community detoxication center in Fisher Branch, Manitoba. The only facility capable of providing a safe setting for an intoxicated person was the RCMP detachment. It is outside the IIU's mandate to address the question of whether the continued use of police facilities to provide safe harbouring for intoxicated individuals is an appropriate setting. Therefore, I am satisfied that AP was lawfully detained under the authority of the IPDA.

I am also satisfied that the officers met and exercised their statutory duty of care in their dealings with AP. The RCMP officers and the FNSO questioned whether AP wanted medical assistance on more than one occasion. The AP appeared to be having difficulty breathing and the officers called EMS and AP was transported to the hospital. Sadly, AP died at the hospital two days later.

Accordingly, there are no grounds that would justify the designation of any of police officer as a subject officer. Therefore, no charges are recommended, and the IIU investigation is now completed and closed.