



**IN THE MATTER OF AN INVESTIGATION INTO AN INCIDENT INVOLVING AN  
IN-CUSTODY DEATH DURING WPS ARREST**

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

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## **Introduction**

On Jan. 27, 2024, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit of Manitoba (IIU) of an incident.

The written notification disclosed the following information:

Excerpt from Part 7 Notification received on Jan. 27, 2024:

*On January 27th, 2024, Winnipeg Police Service was notified of a disturbance (domestic) in the area of Fairlane Avenue. Multiple callers reported that AP was intoxicated, acting erratically, and assaulted a child. Further updates indicated that AP fell down a flight of stairs and was having difficulty getting up. Members arrived and found AP laying in the parking lot. A brief use of force encounter occurred while AP was being handcuffed. While conveying AP to the police cruiser, he became unresponsive. WPS members immediately began life saving measures through CPR while ambulance was notified.*

*AP was conveyed to the Grace Hospital and later transferred to the Health Sciences Centre. Medical staff advised that AP was suffering from a brain bleed which was causing brain swelling. Medical staff suggested the amount of brain swelling leads them to conclude this would have occurred prior to today's events. Medical staff did not detect drugs or alcohol at the time. Further, medical staff suggested the behavior presenting as intoxication can be consistent with brain swelling.*

As this matter concerned an in-custody death during an arrest, the IIU assumed responsibility for this investigation in accordance with Sec. 65(4) of The Police Services Act. IIU investigators were assigned to this investigation.

IIU investigators obtained the following information from WPS or of their own accord:

- notes, narratives and reports of officers
- audio transmissions
- civilian video footage
- use of force report
- medical reports
- taser report

The civilian director designated three subject officers (SO1 to SO3) and eight witness officers (WO1 to WO8). IIU investigators also received information from twelve civilian witnesses (CW1 to CW12).

## **Facts and Circumstances**

### **Scene Examination**

IIU investigators attended the scene and completed a detailed neighbourhood canvass of the area for eyewitnesses or video surveillance. IIU investigators identified several eyewitnesses and video footage of the incident.

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## **Interviews**

### **Civilian Witnesses**

#### **Civilian Witness 1 (CW1)**

CW1 was interviewed by IIU investigators on Feb. 2, 2024, and provided the following information:

CW1 stated that he was awoken by loud yelling and banging outside their suite. Someone was kicking their door and he thought they were trying to break in. CW1 looked out the window and saw AP on the ground, kicking the door, and heard him state, “call the cops.”

CW1 called 911, with police arriving a few minutes later. Police went to talk to the upstairs neighbour and then to CW1. CW1 advised that AP had had loud arguments in the past with his partner, and he assumed that this incident was just another one of those occasions. CW1 thought AP must be intoxicated based on his actions.

CW1 confirmed that he went outside to watch what the police were doing with AP. He saw police trying to control AP and did not see anything violent. CW1 did not see anything he would describe as a physical encounter or confrontation. CW1 confirmed that lighting in the area was of poor quality.

#### **Civilian Witness 2 (CW2)**

CW2 was interviewed by IIU investigators on Jan. 29, 2024, and provided the following information:

CW2 heard loud noises in the area and a male yelling something like “help me.” CW2 looked out the window and saw AP sitting on the ground with his legs outstretched in front of him and his arms flailing about. CW2 called 911 and was told police were already on their way.

Police arrived and went over to AP, who was on his back with his arms still flailing about. CW2 observed a struggle with AP, and it appeared as if AP was resisting the officers. CW2 observed an officer stand about three feet from AP and use his taser at least twice. CW2 observed wires from the taser. CW2 confirmed that he was inside his residence and could not hear any of the interaction between AP and the officers.

CW2 stated that he did not see an officer strike, punch, kick or hit AP. CW2 confirmed that he observed the police pick up AP and carry him to the police vehicle.

#### **Civilian Witness 3 (CW3)**

CW3 was interviewed by IIU investigators on Jan. 30, 2024, and provided the following information:

CW3 was awoken by a male yelling outside saying, “boys come out — come out.” CW3 observed an intoxicated male falling. CW3 observed the male screaming on the ground, and then it seemed as if he passed out. CW3 stated that if this male was at his house for a party, he would have cut him off from drinking because of his level of intoxication.

CW3 observed police arrive and go over to AP. CW3 stated that the officers kind of kicked AP to see if he was okay. AP put his hand up as if he wanted police to help him up, but he slipped as he did not have any footwear.

CW3 assumed the police thought AP was resisting, which result in the police beating AP by punching and kicking him. CW3 observed a female officer trying to hold AP's legs but she was kicked off. The female officer pulled out her baton and hit AP in the legs. CW3 felt the baton was bent as the female officer was having a difficult time collapsing the baton. CW3 saw one good punch to AP's head and a solid kick to his chest by the officers.

CW3 believed three more officers attended and pinned down AP with one of the officers stating that they would taser AP if he kept moving. CW3 observed AP get tasered by an officer and just kind of go limp. Police carried AP between the police cars. CW3 did not see any officer provide medical assistance to AP. An ambulance arrived and CW3 heard a paramedic say something about not giving NARCAN more than twice. CW3 felt that the paramedic was upset with the officers for providing medical assistance to AP.

#### Civilian Witness 4 (CW4)

CW4 was interviewed by IIU investigators on Jan. 29, 2024, and provided the following information:

CW4 heard some drunk outside yelling and did not think much of it as that was a regular occurrence in the area. CW4 observed police arrive and start yelling at AP to get up, but he was too intoxicated to get up and unable to comply with their directions. CW4 felt that because of AP's intoxication, he was not in any position to comply with officer directions. CW4 observed AP to be flailing his arms to defend himself from the police. CW4 heard a taser go off and called to his partner to come and watch what was going on outside.

CW4 observed a female officer running up to AP with her baton out and swinging it, as if AP was assaulting the officers. AP looked completely out of it as the officers struck his ribs, legs and arms with their knees. CW4 observed the female officer having trouble collapsing the baton. CW4 also observed the officers carrying AP in between the police vehicles. CW4 thought two officers were on the ground near AP, providing medical assistance, but his actual view was obstructed.

CW4 observed a bunch of officers talking to each other and he felt that they were trying to get their story straight. CW4 felt that this was wrong, so he went out and confronted them, asking for their names and badge numbers. The officers refused to answer his questions.

CW4 saw an ambulance attend the scene approximately fifteen minutes later. CW4 heard one of the paramedics talking about NARCAN and how you can only use it twice. CW4 did not see any officer administer NARCAN.

### Civilian Witness 5 (CW5)

CW5 was interviewed by IIU investigators on Feb. 2, 2024, and provided the following information:

CW5 was with AP prior to the incident. CW5 confirmed that they had been drinking and doing cocaine prior to the incident. CW5 stated that they both drank four Twisted Teas each and shared a mickey of vodka that evening. CW5 stated that AP had between eight to ten lines of cocaine and that she had four lines. CW5 confirmed that they would use cocaine approximately once a month. CW5 believed that AP was extremely intoxicated that evening.

A couple of hours later, AP started freaking out and was seeing things that were not there. AP stated that there was someone in the house and then grabbed a baby that was present in the house. AP was rolling around on the ground with the baby in his arms. The baby was crying uncontrollably while CW5 was pleading with AP to let go of the baby.

Another child entered the room and AP grabbed the child and started to roll around the ground with both children. AP was saying something like, "get out of my house". This child was also scared and started crying.

CW5 decided to call the police as no one could convince AP to let go of the children and stop what he was doing. CW5 called 911, and shortly after, AP let go of the children, but he was still rolling around on the ground and yelling. AP broke a window with his feet while he was rolling around. CW5 was scared that AP would grab her next, so she ran to a neighbouring suite seeking help. AP followed her out and she believed that he may have fallen down the stairs.

CW5 called 911 again while AP was banging and kicking on the door of another nearby suite. CW5 was really scared with the situation. CW5 was able to get into her suite without AP following her back inside. She thought AP was kicking and yelling at her suite door trying to get back in.

CW5 observed police arrive and thought they would grab AP and take him to the drunk tank. CW5 saw a neighbour record the police interaction with AP on their phone so she did the same thing. CW5 observed the police try to arrest AP but they could not detain him as he was still high and rolling around on the ground. CW5 did see an officer pull out their taser, but she did not know if it was actually used on AP. CW5 was telling AP to stop swinging his arms and rolling around and let police help him. CW5 believed that the officers who first arrived on the scene were trying to help AP, but he was not able to listen.

A second police vehicle arrived and directed CW5 to stop recording and to go back to the residence to take care of the children. CW5 stopped recording and went back to the residence. CW5 was scared of the police, locked her door and did not go outside again to see what was happening. CW5 still believed that AP would be taken to the drunk tank.

Approximately twenty minutes later, police came to her residence and asked her to tell them about what had happened earlier that evening. CW5 was advised by the police that AP was going to the hospital to be assessed because of the way he was acting and then taken to the drunk tank. CW5 did not provide police with a statement and did not receive an incident number.

### Civilian Witness 6 (CW6)

CW6 was interviewed by IIU investigators on Jan. 30, 2024, and provided the following information:

CW6 heard a male yelling outside. CW6 looked outside, saw AP lying on the ground, thought he was extremely drunk and just tried to ignore the noises.

CW6 observed the police arrive and approach AP, trying to get his attention. The two officers grabbed AP to assist him in standing, but he slipped because he did not have any shoes on. CW6 then heard an officer yelling, “stop resisting.” The officers tried to roll AP onto his stomach, she assumed, to handcuff him. The officer was still yelling at AP to stop resisting. CW6 heard one of the officers say that they were going to taser AP if he did not comply. CW6 confirmed that she did not see a taser but heard a taser go off. After AP was tasered and he stopped shaking, CW6 then saw three officers jump on AP. CW6 stated that the female officer was trying to hold AP’s legs, but she either slipped or was kicked off. The female officer pulled out her baton and struck AP a few times in the ankle area. The other two officers were holding down AP’s upper body while punching and kicking him.

More officers attended the scene and CW6 observed seven officers on top of AP. The entire time these officers were punching or kicking AP while he was not moving or resisting. After AP went limp, the officers stopped hitting him and carried him over in between two police vehicles. CW6 stated that AP was just lying on the ground before an ambulance attended to the scene, roughly ten minutes later.

CW6 heard a paramedic asking the officers about “what else did you do to him” and something about “you can only do that twice.” CW6 stated that AP’s face was totally swollen after the incident. CW6 did not hear at any time an officer identify themselves while interacting with AP.

### Civilian Witness 7 (CW7)

CW7 was interviewed by IIU investigators on Jan. 30, 2024, and provided the following information:

CW7 heard a knock on his window and saw CW5 standing outside. CW5 advised that AP was going crazy and not himself. CW7 looked out and saw AP coming down and then slipping on the stairs. He was yelling and screaming while rolling around in the snow. CW7 could hear AP kick something underneath the staircase.

AP stood up and came towards CW7 and CW5, so they closed the door, denying entry. AP was yelling for CW7 to exit, but she refused. AP went towards the parking lot and had fallen onto the ground. CW7 was on the phone with 911 while AP remained still on the ground.

CW7 saw police arrive and just start attacking AP. CW7 went back inside to grab his phone to record the incident. When CW7 went back outside to record the matter, he and CW5 were both told to stop recording and to go inside. The officer told CW5 that she should be watching the children.

CW7 observed two officers try and push AP onto his stomach while a female officer grabbed AP's legs. The female officer either fell off or was kicked by AP and that's when the other two officers started to aggressively beat AP. One officer was punching AP in the head, and another struck him at least four times in the legs with a baton. CW7 felt AP was trying to protect himself from the attack and observed AP being tasered.

CW7 observed one of the officers punch AP in the face a few times and knee him in the throat. AP was saying, "please leave me alone" and "fuck off" to the officers while they were responding by saying, "stop resisting" and "stop resisting or we will taser you."

CW7 confirmed later in the interview that he was not entirely sure if the officer tasered AP. CW7 was positive that the red dot from the taser was pointed at AP's body and then he saw a puff of smoke when he reviewed his video from his cell phone.

CW7 observed four officers carry AP towards the police vehicles. CW7 did not see any officers provide medical assistance to AP and they appeared to be just standing around in a circle. CW7 confirmed an ambulance attended to the scene and that one of the paramedics was asking the officers "what did you do to him?". CW7 was informed the next day that AP was in a coma and most likely going to die.

#### Civilian Witness 8 (CW8)

CW8 was interviewed by IIU investigators on Jan. 31, 2024, and provided the following information:

CW8 heard noises coming from outside his building, but did not think much about them, because this was a usual occurrence in the area. CW8 looked out his window and saw AP on the ground. He tried to get up but he just fell over and remained on his back.

Police arrived and were telling AP to "please roll over sir," but he could not roll over. AP was trying to cooperate, but he just could not follow the officer's instructions. CW8 stated the four officers just jumped AP and started beating on him when he didn't follow their instruction. CW8 stopped his phone call and started to record the police actions. CW8 heard the police tell AP to roll over and were pointing a taser at him. AP was trying to cooperate with the officers, but his arms went to his face to protect himself from the police beating him. CW8 stated that the police just started to beat AP a second time and used batons in this assault. AP was getting hit all over his body with closed fists and that the baton was hitting his feet. CW8 confirmed that AP was picked up after the assault and carried by four officers and placed near the police vehicles. CW8 observed some officers taking stuff out of the trunk of the vehicle after AP was near the vehicles, but he could not provide any details.

CW8 stated that AP was clearly intoxicated and that he already looked "gone" before the police carried him over to the police vehicles. An ambulance arrived and CW8 heard a paramedic asking the officers what they had done to AP. CW8 believed he heard a paramedic ask the officers why they did not initiate CPR on AP.

CW8 confirmed that he did not see the officers use a taser on AP and that it was only pointed at him. CW8 stated that when the officers first arrived, he did not have any concerns, because he

believed they were trying to help AP. CW8 heard one officer state, “hello sir, are you okay? Can we help you?”

#### Civilian Witness 9 (CW9)

CW9 was interviewed by IIU investigators on June 6, 2024, and provided the following information:

CW9 was not at the scene of the incident. CW9 had talked to AP on the phone prior to the incident. AP was difficult to understand, and the situation sounded chaotic, with children crying and someone yelling for AP to give them the baby. CW9 heard someone state, “Give me the baby! You’re going to kill him!” AP sounded like he was in pain and getting beaten up by someone. CW9 called 911 after someone hung up AP’s phone.

CW9 stated that it sounded like AP was quite intoxicated, making him difficult to understand. CW9 assumed that the police must have been beating up AP in the residence because they heard CW5 state, “Stop! You’re killing him!”.

#### Civilian Witness 10 (CW10)

CW10 was interviewed by IIU investigators on April 4, 2024, and provided the following information:

CW10 was tasked to attend the scene and provide medical assistance to AP. CW10 noted that police tape was already up when they arrived. CW10 observed AP on the ground and CPR being provided by two firefighters. CW10 approximated that a dozen police officers were on scene.

CW10 recalled two officers identifying themselves as the first two to arrive on scene. CW10 asked them to tell her what happened to AP. The officers started to provide her with a detailed version of what occurred which she was not concerned about. All she cared about was if there was a traumatic event that happened to AP. CW10 was told by the officers that AP had been punched in the head twice. CW10 did not believe that would make this a trauma event and stuck with the initial plan to have AP attend the Grace hospital.

CW10 was provided background information that police were called to the scene because of a child abuse incident with AP. The officers commented that AP was acting very bizarre when they were dealing with him. CW10 was not informed by any officer that a taser was deployed on AP and there were no obvious signs that a taser had been used in her assessment.

CW10 acknowledged that someone may have overheard her conversation with the officers. She was trying to get background information to assess AP’s well-being. She was not challenging the actions of the police because she was only concerned with assisting AP. CW10 confirmed that AP did have a heartbeat upon arrival at the Grace Hospital.

### Civilian Witness 11 (CW11)

CW11 was interviewed by IIU investigators on April 4, 2024, and provided the following information:

CW11 was partnered with CW10 on the date of the incident. CW11 recalled two firefighters providing CPR to AP as they arrived on scene. CW11 confirmed that they were asking officers to provide background information and whether NARCAN had been administered to AP. CW11 confirmed that they were advised by an officer that AP had been punched twice in the head. CW11 did not note any trauma or significant injuries to AP's facial area upon arrival. AP was not breathing or had no pulse at the time they arrived.

CW11 confirmed that it was approximately twelve minutes for the ambulance to arrive on the scene from the time they were contacted for assistance. CW11 confirmed that she did not speak directly with any officer at the scene of the incident. CW11 did not recall any civilian accusing the officers of not providing medical assistance to AP prior to arrival.

### Civilian Witness 12 (CW12)

CW12 was interviewed by IIU investigators on April 23, 2024, and provided the following information:

CW12 was one of the firefighters on scene. The call background was that there was a domestic situation where a young child may have been harmed and that AP may have been suffering from cardiac arrest. CW12 noted that they arrived on scene roughly six minutes after they were called to assist. CW12 noted that three officers were actively performing CPR on AP when they arrived.

CW12 confirmed that he was advised by the police officers that they had administered two cans of NARCAN prior to their arrival. CW12 did not observe any obvious injuries to AP, but he did acknowledge that the lighting in the area was quite poor. CW12 confirmed that the ambulance arrived shortly after they arrived and took over the lead care for AP.

CW12 confirmed that an officer advised him that AP had been involved in some kind of domestic incident and he was acting erratically before they attended. The officer confirmed that as police were trying to take him into custody, AP became unresponsive.

### **Witness Officers**

#### Witness Officer 1 (WO1)

WO1 was interviewed by IIU investigators on April 23, 2024, and provided the following information:

WO1 was tasked to assist at the scene with his partner. As he arrived, he observed AP being carried by four officers towards the police vehicles. WO1 went to speak with CW5 and the other adult resident present to find out what had happened earlier in the evening.

WO1 returned to the scene and observed that medical services had arrived and were providing care to AP. WO1 did not really get close to AP and was tasked to remain at the scene after AP left in the ambulance.

#### Witness Officer 2 (WO2)

WO2 was interviewed by IIU investigators on April 3, 2024, and provided the following information:

WO2 was tasked to assist at the scene with his partner. Background information was that AP was intoxicated, smashing windows and had choked a young child. AP was last seen in the nearby parking lot harassing other civilians in the area.

WO2 arrived on scene and observed that AP was already detained by three other officers. AP was handcuffed with his arms behind his back and placed on his stomach. The female officer was holding his legs while the two male officers were holding AP by his shoulders. WO2 assisted in searching AP for weapons and confirmed none were located on him.

WO2 confirmed that it was decided to move AP towards the police vehicle so he could be detained. The two male officers at the front instructed AP to stand up on his feet but he did not respond. WO2 stated that those two officers then assisted AP to stand by grabbing under his armpits. WO2 stated that AP attempted to walk but he could not do so because of his intoxication and that he did not have any shoes on. WO2 and his partner decided to assist AP and grab him by his legs and move him towards the police vehicle.

WO2 was instructed by one of the officers at the front to put AP down as there was a concern about his condition. WO2 looked at AP's face to see if he was breathing while another officer checked his pulse and they could not detect a pulse. One of the officers radioed for an ambulance while WO2 commenced CPR. Another officer suggested that they grab a blanket for AP while another officer administered NARCAN to AP. WO2 noted that it seemed as if AP was gasping for air, but he did not have a pulse. WO2 and another officer administered CPR until the ambulance arrived and took over. WO2 and WO8 remained on scene after AP left in the ambulance.

WO2 confirmed that when he searched AP for weapons, he was still twitching and moving. WO2 stated that when they initially picked AP up to move him towards the police vehicle, he was still moving around. WO2 did not recall AP saying anything or making noises as he was moving towards the police vehicle.

WO2 confirmed that he did not see any significant injuries to AP's face as he administered CPR. WO2 recalled a paramedic commenting that they were able to get a pulse for AP as he was about to be transferred to the hospital.

#### Witness Officer 3 (WO3)

WO3 was interviewed by IIU investigators on April 8, 2024, and provided the following information:

WO3 was partnered with WO4, and they were tasked to assist at the scene as AP had gone into distress. When they arrived at the scene medical staff were already assisting AP. WO3 observed numerous officers present at the scene. WO3 did not get very close to AP and did not observe any significant trauma to AP's face. WO3 did note some minor scratches to AP's knees and elbows.

WO3 and his partner were tasked to follow the ambulance to the hospital. WO3 drove behind the ambulance while WO4 was in the ambulance. WO3 recalled an emergency doctor stating that AP was in critical condition and could pass away at any time.

#### Witness Officer 4 (WO4)

WO4 was interviewed by IIU investigators on April 4, 2024, and provided the following information:

WO4 confirmed that he was partnered with WO3 and that they arrived on scene while paramedics were providing medical assistance to AP. WO4 was assigned to accompany the paramedics to the hospital. WO4 confirmed that medical care continued the entire time while on the way to the hospital. WO4 noted some minor abrasions to AP's knees and his left elbow.

WO4 recalled that a CT scan was ordered for AP and that a doctor noted AP to be unstable and unconscious.

#### Witness Officer 5 (WO5)

WO5 was interviewed by IIU investigators on May 2, 2024, and provided the following information:

WO5 confirmed that they were tasked to attend the scene. Background information was that AP was intoxicated and refusing to let go of a child. Another caller said that AP was smashing windows and might have fallen down a flight of stairs. More 911 calls came in about AP's actions while they were driving to the scene.

WO5 arrived on scene and observed AP on the ground and a female roughly fifteen feet away recording the event. WO5 confirmed the female was CW5 and instructed her to immediately leave the area and return to her residence. WO5 confirmed that he instructed CW5 to leave twice or she might need to be restrained by the police. WO5 eventually complied with the directions.

WO5 turned his attention back to AP and the officers who were trying to arrest him. WO5 recalled AP kicking his legs while officers were trying to restrain him. WO5 used one of his legs to stop AP from kicking and assaulting the other officers. WO5 immediately removed his foot once AP was handcuffed.

WO5 recalled that AP was rolling around on the ground, and he could not recall if AP was saying anything while he was present. WO5 stated that when they arrived, his attention was on directing CW5 back to her residence, so he did not observe any officers punching or kicking AP. WO5 believed that it only took seconds to detain AP and that the officers were using their body weight to restrain AP. WO5 stated that he was focused on keeping AP from kicking any officer while the three officers detained AP.

WO5 went with WO1 to CW5's residence to confirm the well-being of everyone involved in the initial incident. CW5 confirmed that AP did not hurt or threaten any of the children. CW5 stated that AP held the child in a bear hug which scared the child, so they started to cry. CW5 confirmed AP had consumed alcohol and cocaine. WO5 and WO1 then went to speak to another 911 caller in the area.

After meeting with the caller, WO5 was informed that he might become a subject officer and was separated from the other officers.

#### Witness Officer 6 (WO6)

WO6 was interviewed by IIU investigators on May 23, 2024, and provided the following information:

WO6 was the street supervisor for the incident. Background information was that there was a domestic call that resulted in an arrest of AP. WO6 recalled that NARCAN had been administered to AP as she was on route.

WO6 observed that police tape was already up when she arrived and that medical staff were providing care to AP. WO6 confirmed that two officers were instructed to speak with CW5 and get further information. WO6 noted that other officers on scene were waiting for further instructions.

SO3 advised WO6 that AP was lying on the ground, awake and conscious. SO3 stated that AP asked for help to stand up, but he couldn't stand. SO3 told her that AP started to turtle and that a use of force encounter occurred, resulting in AP being handcuffed. WO6 was informed that AP became unconscious and unresponsive as he was moved towards the police vehicles.

WO6 instructed two officers to go with medical staff to the hospital and then instructed the subject officers to be separated.

#### Witness Officer 7 (WO7)

WO7 was interviewed by IIU investigators on April 4, 2024, and provided the following information:

WO7 heard over the radio that SO1 was seeking assistance. WO7 was assigned to assist at the scene and arrived as four officers were carrying AP towards the police vehicle. WO7 observed that AP was not wearing a shirt and that he was wet. WO7 stated that AP was visibly hot. WO7 recalled that two cans of NARCAN were administered while they went and got blankets for AP.

WO7 noted two blood droplets and placed cones beside the droplets to preserve the scene for the identification unit. WO7 removed the handcuffs from AP as requested by the paramedics. WO7 did not observe any injuries on AP, but acknowledged the area was not very bright. WO7 did not provide CPR to AP and only retrieved blankets. WO7 did not recall if AP displayed any signs of life in his presence.

#### Witness Officer 8 (WO8)

WO8 was interviewed by IIU investigators on April 3, 2024, and provided the following information:

WO8 confirmed that he and his partner volunteered to attend and assist on the domestic call at the scene of the incident. When they arrived, AP was already in custody and handcuffed, with his arms behind his back and lying on his stomach. WO8 noted that AP was not combative with the officers at this point and no weapons were located when they searched him. WO8 noted two male officers were near AP's shoulders and a female officer was on his legs. WO8 did not see any use of force as AP was compliant once he arrived.

WO8 recalled that the officers asked AP to stand up, but he was not able to do so, which resulted in four officers carrying AP towards the police vehicle. At this point, AP was not responding to any commands and one of the officers checked for a pulse. WO2 initiated CPR on AP and WO8 went and got blankets from his vehicle. WO8 confirmed that two doses of NARCAN were administered to AP, but AP remained unconscious and without a pulse.

WO8 confirmed that the officers stopped providing CPR to AP once paramedics arrived and took over care. WO8 confirmed that AP was transported in an ambulance to the hospital because of his condition.

## **Subject Officers**

### Subject Officer 1 (SO1)

In accordance with his rights, SO1 declined to be interviewed by IIU investigators. SO1 provided a statement through his counsel, along with a copy of his notes. The following information was provided:

SO1 was partnered with SO3 on the date of the incident. SO1 was in full uniform and in a marked police vehicle. SO1 confirmed that they were dispatched to deal with a domestic incident at the scene of the incident. The background information was that AP was intoxicated and refusing to let go of a 2-year-old child. Further information received was that AP was now choking the child and that a window had been smashed. SO1 recalled being provided information from other 911 calls about the actions of AP while they were on route.

SO1 arrived on scene and observed AP on the ground in the parking lot lying on his back. SO1 informed AP that he was a police officer and directed him to stand up. AP responded and said, "pull me up". SO1 grabbed AP's left forearm while SO3 grabbed his right forearm and tried to assist AP in standing up. As AP was almost up to his feet, he began to act erratically and told SO1, "No, don't touch me" as he fell to the ground on his back. AP's arm was really wet and slippery making it difficult to hold onto his forearm. AP was now on the ground, kicking his legs and feet with his hands reaching towards the waistband area. AP did not make any contact with SO1 as he was kicking. SO1 and SO2 tried again to assist AP in standing up, but again he pulled away, fell to the ground and was kicking his legs.

SO1 stepped back and drew his taser and placed it in the "on" position, which activates the red dot aiming system. SO1 was aiming the dots at AP's torso and leg area, directing AP to roll onto his stomach. SO1 did advise AP that he would be tased if he did not comply. AP stopped kicking at SO1 while he was holding the taser. As more officers were arriving on scene, SO1 did not feel he would require the use of his taser and put it in the "off" position and back into its holster.

SO1 knelt down and told AP to roll onto his stomach when he began to thrash and kick, refusing to comply with directions. SO1 pinned AP's upper torso/shoulder area with his left knee to gain control. SO1 and the other officers were able to roll AP onto his stomach. SO1 stated that AP placed his hands under his body, refusing to provide them to the officers to be handcuffed. SO1 grabbed his left forearm and placed it behind AP's back while SO3 grabbed his right forearm and placed it behind his back, resulting in SO1 placing AP in handcuffs. The male was then searched for weapons, which was negative.

SO1 suggested to the other officers that they would need to carry AP to the police vehicle due to his uncooperative behaviour. SO1 grabbed AP under the armpit, and the officers carried him over to the police vehicle. SO1 noted that AP became less tense as they started to get close to the vehicle and became limp. An officer checked his pulse as AP was no longer breathing. SO1 requested an ambulance while other officers performed CPR until the paramedics arrived on scene.

#### Subject Officer 2 (SO2)

In accordance with her rights, SO2 declined to be interviewed by IIU investigators. SO2 provided a statement and her notes through her counsel. The following information was provided:

SO2 was partnered with WO5 on the date of the incident. SO2 confirmed that she was in full uniform and driving a marked police vehicle. SO2 and her partner volunteered to assist on a domestic call as other officers were already on scene.

SO2 advised that the background information was that AP was intoxicated and choking a 2-year-old child. Further information was that AP had broken a window and that the caller had fled the residence with AP following behind her. SO2 stated that the background information provided suggested that AP had fallen down a flight of stairs when he went to follow the caller. SO2 noted that numerous calls were made to 911 in relation to the actions of AP.

SO2 stated that as she was pulling up to the scene, SO1 and SO3 stated over the radio that they had located AP lying on the ground. SO2 exited the vehicle SO2 noted that neither officer was touching AP as she came over to assist them.

AP was on the ground yelling, screaming and flailing his limbs. SO1 and SO3 were directing AP to show his hands and to roll over onto his stomach, but he was not compliant. AP was rolling around and making incoherent comments. SO1 and SO3 went down on each side of AP to control his hands, but he was using his legs as momentum to resist the officers. SO2 went towards AP's legs and directed him to stop kicking while placing her full body weight against the legs. AP was able to kick SO2 off effortlessly and she fell into the snow.

SO2 again placed her body weight against AP's legs while SO1 and SO3 were attempting to handcuff AP. AP was kicking SO2 in her upper body and legs. SO2 assessed that she was not strong enough to physically hold AP's legs with just her bodyweight. SO2 reassessed the situation and extracted her baton. SO2 again attempted to pin AP's leg without success and then delivered four to six strikes to AP's calve area. SO2 stated that she was assessing the level of

resistance by AP as she struck him with the baton. AP stopped kicking, which allowed SO2 to kneel on his legs while SO1 and SO3 handcuffed AP.

SO2 was trying to collapse her baton by striking it into the hard snow. The snow was not hard enough and the baton only collapsed once it was able to hit the concrete. SO2 remained on AP's legs until it was apparent that SO1 and SO3 had complete control of AP. AP was placed on his side and searched for weapons. AP was instructed to stand up, and he did not cooperate, so he was carried to the police vehicle. SO3 stated that AP appeared to be unconscious and unresponsive. SO3 immediately initiated CPR.

SO2 administered NARCAN to AP while an ambulance was called. AP seemed to momentarily respond to the NARCAN, but he did not open his eyes or regain consciousness. SO2 provided CPR to AP while another officer administered a second dose of NARCAN to AP. SO2 checked AP's neck for a pulse, and noted it to be wet and sweaty, but without a pulse.

An ambulance arrived on scene, and the paramedics took over medical care of AP. SO2 provided her flashlight to a firefighter as the area was quite dark. AP was placed on a stretcher and transported to a hospital.

### Subject Officer 3 (SO3)

In accordance with his rights, SO3 declined to be interviewed by IIU investigators. SO3 provided a statement through his counsel, along with a copy of his notes. The following information was provided:

SO3 confirmed that he was partnered with SO1 and in full police uniform. SO3 confirmed that they were dispatched to attend the domestic call at the scene of the incident. The background information was that AP was intoxicated and choking a 2-year-old child. AP was also yelling, kicking and smashing windows.

SO3 activated the lights and sirens on the marked police vehicle and attended to the scene. SO3 recalled that while on route, they were advised that AP had fallen down some stairs and was now banging on doors and car doors in the area. SO3 confirmed that numerous 911 calls were being made in relation to the actions of AP.

SO3 arrived on scene and observed AP conscious and lying on his back in the parking lot. SO3 asked AP what was going on and AP responded "help me up," while motioning his arms upwards. SO3 and SO1 each tried to grab AP's arms to help him up when he straightened his legs and refused to get up. AP then began to thrash his body on the ground. SO3 took a hold of his hand again and instructed AP to roll over onto his stomach. AP responded "okay," but continued to thrash around on the ground, refusing all verbal commands. SO3 assessed that because of the seriousness of the call history, it was necessary to detain AP and then investigate the incident further.

SO3 and SO1 attempted numerous times to roll AP onto his stomach, but he would throw himself back, reach towards his waistband and scream. SO3 stated that due to the seriousness of the call and the possibility that AP was reaching for a weapon in his waistband in connection with his non-compliance, it was deemed necessary to detain AP. SO3 confirmed that while restraining AP, he sporadically punched AP in the face area. SO3 approximated that he punched AP between

two to four times. SO3 stated that his punches were not full power as his intent was not to hurt AP, but it was to gain compliance. SO3 noted that the punches were entirely ineffective as AP remained erratic and resistant.

SO1 drew his taser, which resulted in SO3 disengaging with AP. SO1 gave clear directions to AP to roll over and to give up his hands. AP was not compliant and continued to reach for his waistband. SO3 decided to re-engage AP, as SO1 had not used his taser and more officers were now on the scene to assist with detaining AP. SO3 directed AP to roll over and give up his hands, but he continued to thrash around. SO3 placed his bodyweight against AP's right shoulder to keep AP from rolling onto his back again. SO1 was able to place a handcuff on AP's left arm while AP continued to place his right hand under his body. SO3 reached under AP's body and grabbed his right hand and guided it to AP's back so SO1 could place the handcuff on. SO3 stated that AP was attempting to pull his hand away the entire time.

After AP was detained and SO3 was able to catch his breath, SO1 suggested that AP should be searched. AP was searched by SO3 while other officers helped roll AP onto his side. The search was negative for weapons. SO1 and SO3 directed AP to stand up so that he could be taken to the police vehicle. AP was able to get his knees under him, but not his feet, so it was decided that the officers would just carry him to the vehicle, as he had been non-compliant previously.

As they were carrying AP, SO3 noted that his head was bobbing in a manner that suggested he was unconscious. SO3 suggested that they place AP down and check his vitals. AP was unconscious and unresponsive. SO1 called for an ambulance while another officer administered CPR and SO3 grabbed blankets. Another officer administered NARCAN, which seemed to rouse AP a little bit, but he remained unconscious. SO3 administered a second dose of NARCAN and assisted in CPR while waiting for the ambulance to arrive. SO3 did not have any further involvement with AP once paramedics arrived.

## **Other evidence**

### **Taser Data Report**

IIU investigators were provided the tasers of the three subject officers along with the data readings for that evening. The data showed that none of the subject officer's tasers were fired or used in stun mode (taser against the body). The data also showed that SO1's taser was turned on for a brief period of time, which is why red dots could be seen by some of the witnesses.

As more than one witness was adamant that the subject officers deployed their tasers, the IIU sent the tasers to an expert to ensure the data was accurate and not altered in any fashion. The report confirmed that the tasers were not fired or used in stun mode. Further, the report confirmed that SO1's taser was turned on, which explains why some witnesses observed a red dot on AP's body.

The data suggests that no taser was used in this incident. Further, the chief medical examiner did not find any evidence of burns or injuries that would be produced by a taser if fired or used in stun mode.

### **Medical Reports**

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AP initially was transported to the Grace hospital and was attended to by the emergency doctor on-site. The doctor reached out to the Health Sciences Centre to discuss transferring AP as he was suffering from systolic cardiac arrest. A CT scan and x-ray were completed prior to AP's transfer. The x-ray did not show any significant concerns. The CT scan concluded no overt bleed or injury noted — no evidence of acute intracranial hemorrhage.

Medical staff at the Grace hospital noted minor abrasions to the knees and forehead in connection with early bruising to the upper back and left chest area.

The radiologist advised the emergency doctor at the Grace hospital that the findings were suggestive of diffuse cerebra edema which can be seen in the setting of global hypoxic insult.

Toxicology results were as follows:

<b>Ethanol:</b>	Antemortem Blood/01 - [Jan 27: no collection time]	none detected
	Antemortem Plasma/02 - [Jan 27:no collection time)	none detected
<b>Cocaine:</b>	Antemortem Blood/01 - [Jan 27: no collection time]	none detected
	Antemortem Plasma/02 - [Jan 27: no collection time)	none detected
<b>Benzoylcegonine</b>	Postmortem Blood/05	0.018 mg/I
	Antemortem Blood/01 - [Jan 27: no collection time)	2.30 mg/I
	Antemortem Plasma/02 - [Jan 27:no collection time)	1.49 mg/I
<b>Naloxone:</b>	Postmortem Blood/05	4.46 mg/I
	Antemortem Blood/01 - [Jan 27: no collection time]	detected
<b>Midazolam:</b>	Antemortem Plasma/02 - [Jan 27: no collection time]	detected

The toxicologist explained the results as follows:

After death, drugs may move from one area of the body to another, a process known as post-mortem redistribution. As a result of this redistribution, it is extremely difficult to interpret post-mortem drug concentrations and their possible significance as to behaviour and/or cause of death. For this reason, the concentrations of the drugs should be interpreted with a certain degree of caution, as they may not be representative of the concentrations of those drugs at the time of death. If blood is collected from an isolated (clamped) peripheral site, i.e., isolated femoral vein or artery, the likelihood of this redistribution is reduced.

Cocaine/Benzoylcegonine

Blood concentrations of cocaine resulting from non-fatal recreational abuse are generally less than 0.5 milligrams per liter (mg/l); concentrations greater than 1 mg/l are potentially life-

threatening. However, cocaine has a plasma half-life of 30 to 90 minutes, therefore low postmortem blood cocaine concentrations may not be a reliable indicator of the dose ingested/injected. Benzoyllecgonine is a chemical/metabolic breakdown product of cocaine.

Cocaine is a Schedule I drug under the Canadian Controlled Drugs and Substances Act; it is a drug of addiction, which is abused either by inhalator through the nose (snorting) or smoking the form of cocaine known as 'crack'.

Cocaine is rapidly and extensively metabolized in the human body, producing benzoyllecgonine as a major metabolite. The presence of unchanged cocaine in the blood of AP is therefore indicative of the recent use of this drug by him. NOTE: The absence of detectable cocaine in the ante-mortem samples may be due to sample degradation in-situ, considering these sample containers do not contain fluoride preservative.

Cocaine is a powerful stimulant drug that can produce hyperactivity and feelings of euphoria, self-confidence and strength. Larger doses may induce delusions, paranoia, acute anxiety and a tendency to become violent or aggressive. Persons under the influence of cocaine may experience blurred vision and demonstrate increased risk-taking behavior.

The stimulant effects of cocaine typically last for half an hour to one hour, after which time there may be a strong compulsion to take more of the drug. After the stimulant effects of the drug have worn off, the user may exhibit signs of irritability and drowsiness.

The autopsy results stated the cause of death as follows:

Immediate cause of death: Anoxic brain injury – Complication of cardiac arrest – Atherosclerotic coronary artery disease

Significant contributing cause(s) but not the immediate cause: Cocaine toxicity – physiologic stress of struggle and restraint

The autopsy findings were summarized as follows:

1. No evidence of significant acute traumatic injury
2. No evidence of neck compression or asphyxia
3. Severe atherosclerotic stenosis of the left anterior descending and circumflex coronary arteries
4. Pulmonary congestion and edema, with patchy acute bronchopneumonia in the right lower lobe
5. Fatty liver
6. High level of benzoyllecgonine in antemortem blood
7. No evidence of cutaneous burns or injuries produced by taser barbs

### 911 Calls

In reviewing the 911 calls in relation to this incident, the following comments can be made:

1. The initial calls were chaotic — a lot of screaming and child(ren) crying. The caller was extremely scared and thought that AP was going to seriously hurt the child(ren).
2. Some of the 911 callers were suggesting that AP was trying to break into their residences. 911 call takers could hear a man yelling in the background and a lot of banging noises.

3. Some calls focused on the erratic nature of AP and his well-being. Although these callers were concerned for their safety, they were balancing that with the well-being of AP.

### Video Footage

IIU investigators were able to obtain numerous videos in relation to the incident. Some videos were of good picture quality and sound, while others were grainy and without audio. Reviewing all available video footage, the following comments can be made:

1. Prior to police arrival, AP was acting erratic and appeared to be in distress. At times, he was standing and yelling in the area. In some videos, you could hear what AP was saying and sometimes it was incoherent.
2. AP was struggling to maintain balance at times, prior to police arrival. AP would be lying on the ground motionless and then would flail his arms or legs.
3. When police initially arrived on scene, you could hear officers giving directions to AP to roll onto his stomach. AP was unwilling or unable to comply with the directions and was seen rolling side to side with his legs kicking upwards.
4. One officer clearly pulled out his taser and pointed it at AP. There were two little red dots on AP's body. The officer instructed AP to roll over. The officer could be heard threatening to use the taser on AP if he did not comply. Again, it did not appear that AP was able to comply with the directions. This officer could be seen to re-holster the taser after a brief period of time.
5. The use of force encounter showed two officers at the upper part of AP's body, trying to control him on his stomach and restrain him. A third officer attempted to control AP's legs and was initially unsuccessful, as they either slipped or were kicked away by AP. That third officer stood up and deployed their baton, delivering strikes to AP's calf area, while the other two officers were trying to reach AP's arms to apply handcuffs. The two officers on AP's upper torso area could be seen kneeling on AP's back and neck area, while one of the officers delivered punches towards AP's face and head area.
6. After AP was detained, he was turned over onto to his side while officers searched his body. AP was still as he was searched.
7. AP was then carried at the front of his body by two officers — one on each side grabbing his arms. Shortly after, two officers grabbed AP's legs as he was unable to walk on his own. As AP was carried towards the police vehicles, his head was bobbing up and down and he appeared to be quite limp.
8. After AP was placed down in between two police vehicles, it was difficult to see what was exactly happening, but officers could be seen moving in between the vehicles.

Further, the trunk of a police vehicle was open and an officer was grabbing something from inside the trunk.

### Use of Force Report

The IIU retained the services of a use of force expert from out of province to review the actions of the subject officers during the arrest of AP. The author of the report reviewed all the evidence of the completed investigation by the IIU and deemed the subject officers' actions reasonable in the circumstances. The author reviewed the WPS policies in relation to use of force and deemed the subject officers' actions to be proportionate and aligned with the policy.

The author pointed out that it did not appear WPS provided officers with training with respect to carrying or lifting of an arrested individual. Without training, officers are left to make decisions on a best-efforts basis.

### Applicable Law

All relevant case law with respect to this incident has been reviewed and considered in relation to all the evidence available. All relevant sections of the Criminal Code of Canada were considered with respect to this incident. Sec. 25(1), 25(3) and 25(4) of the Criminal Code of Canada have been emphasized here for consideration:

*25 (1) Every one 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, or*

*(d) by virtue of his office,*

*is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.*

*(3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self-preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm.*

*(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if*

*(a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested;*

*(b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant;*

*(c) the person to be arrested takes flight to avoid arrest;*

*(d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm; and*

*(e) the flight cannot be prevented by reasonable means in a less violent manner.*

## **Conclusion**

This incident was chaotic from the first 911 call received, which was a factor in how WPS officers attended to the scene and assessed the risk associated with AP's actions. Officers react to the information provided to them on their way to the scene, which in this case, included the following:

1. AP was highly intoxicated and was alleged to have assaulted a child(ren).
2. Further calls suggested AP was attempting to either break into residences in the area or cause damage to the respective properties.
3. Screaming, crying, yelling and banging noises were part of the background in the 911 calls.

The information provided to the officers was a factor in the manner they arrived on scene to deal with AP. The priority objective was to arrest AP and ensure public safety based on the 911 calls.

AP, based on the video footage prior to police arrival, was clearly in some form of distress and in need of assistance. Officers attending to the scene did not have the benefit of reviewing the video footage at the time of the incident.

The end result is the tragic death of AP after a use of force incident with the subject officers. The autopsy noted the struggle with police may have been a contributing factor in the death of AP, but it was not deemed an immediate cause in the death of AP.

As noted on a previous report of a similar nature, I encouraged and invited the WPS to review their use of force policy to include cooperation in the continuum. The use of cooperation in the continuum can encourage a de-escalation of the situation which may result in less need for use of force. I again encourage WPS to consider a re-evaluation of their use of force policy to include cooperation in the continuum.

Taking into account all the evidence available in this incident, I accept that the subject officers' actions were reasonable in the circumstances. Therefore, no charges are recommended and the IIU investigation is now completed and closed.

