

# ***FINAL REPORT: IIU concludes investigation into fatal WPS officer-involved shooting***

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On April 9, 2020, at 5:48 a.m., Winnipeg Police Service (WPS) notified the IIU of an officer-involved shooting. The shooting occurred a short time earlier that morning at a residence on Anderson Avenue between officers and a male (later identified as the Affected Person (AP)).

The salient portion of this notification read, in part:

*On April 9th, 2020, at approx. 04:34 hrs, Members of Winnipeg Police Service responded to a 911 call reported as a Domestic at a residence on Anderson Ave. The reporting female stated that the male has a gun...Upon arrival, officers heard a female screaming inside the residence and forced entry. Upon entering the residence, officers observed [AP] holding a firearm to his own head. Officers then retreated out of the residence and took a perimeter around the building, while attempting to communicate with [AP]. A 15-year-old female escaped out of the rear of the residence during this time. While officers were outside, [AP] exited the front door with a firearm and officers discharged their weapons striking [AP]. He was transported to Health Sciences Centre (HSC) and declared deceased. The adult female caller was treated for injuries, resulting from a domestic assault and was transported stable to Seven Oaks (SOGH) for treatment. Additional officers providing scene management will be provided directly to IIU investigators attending through briefing report.*

AP subsequently succumbed to his injuries and was pronounced deceased. As this matter concerned the death of a person, which resulted from the actions of a police officer and from a discharge of a firearm, the IIU assumed responsibility for this mandatory investigation, in accordance with section 65(1) of *The Police Services Act* (PSA). A team of IIU investigators was assigned to this investigation.

Furthermore, in accordance with section 70(1) of the PSA, the IIU was required to seek the appointment of a civilian monitor as this matter involved the death of a person. On April 9, IIU requested the Manitoba Police Commission to appoint a civilian monitor. The initial briefing with the civilian monitor took place on April 24, followed by regular monthly briefings thereafter.

Information obtained by IIU investigators included:

- WPS officers' notes and narrative reports
- Identification Unit report and photographs
- Video of Witness statement
- Physical evidence seizures
- Call history
- 911 audio recordings
- WPS radio/dispatch audio recordings

- CEW downloads
- Cell phone video from civilian witness
- Autopsy report respecting AP
- Toxicology report respecting AP

Two WPS officers, identified as those responsible for discharging their firearms, were designated as subject officers (SO1-SO2). Additionally, nineteen WPS officers were designated as witness officers. For the sake of brevity, summaries of only the most significant and revealing statements by fourteen witness officers (WO1-WO14) are included in this report. IIU investigators also received and reviewed statements from four civilian witnesses (CW1- CW4), which included two eyewitnesses (one of whom recorded cell phone video of the shooting) who were located through a canvass of homes in the vicinity.

The following facts and circumstances have been determined:

### **Scene**

Anderson Avenue is a roadway in north Winnipeg, running east and west. The residence is situated on the north side of Anderson Avenue, between Salter Street and Aikins Street. A chain link fence (with white privacy slats) surrounds the front yard on the south and east side. A wooden fence is along the west side of the front yard. There is a gate at the front, which opens inwards and to the east (right). The gate becomes hung up on the private walkway when in the open position. The house is a two storey, with blue siding, with the front door facing south into the front yard. There are steps at the front door and a private walkway, which links the front steps to the public sidewalk that runs along the north side of Anderson Avenue. A clear view of the steps, front door, and a private walk is afforded from the open gate. The front door could be seen if the gate was closed, but not the steps or walkway, unless standing right at the fence.

### **Civilian Witnesses**

**CW1**, 15 years of age, stated that she was at the residence on Anderson Avenue when, at approximately 2:00 a.m., she received a text message from CW3, the girlfriend of AP, inquiring if she wanted some food from McDonald's. CW1 stated that AP came home, brought food to her and returned downstairs to rejoin CW3.

CW1 stated that at approximately 2:40 a.m., she heard AP and CW3 arguing from their downstairs' bedroom. CW1 stated that she saw AP put his clothes on, grabbed belongings and start to pack. CW1 stated that AP left the residence for a couple of minutes but returned and the argument continued. CW1 stated that AP then came upstairs to her room and showed her his bloody wrists that he stated were caused when CW3 cut him.

CW1 stated that she grabbed her belongings and was going to go to her boyfriend's home. CW1 stated that as she was about to leave, AP stopped her and said he did not want her to go anywhere because it was cold. CW1 stated that AP then told her to wait until the police arrived, which surprised her as she did not know the police were called. CW1 stated that she then realized that AP had a gun in his hand and was punching, kicking and knocking things over while continuing to argue with CW3. CW1 stated that AP then hugged her and CW3 suddenly pushed them over. CW1 stated that AP became angry and kicked CW3. CW1 stated that both AP and CW3 were each on the phone with the police. Within minutes, she saw six police cars outside the

residence. CW1 stated that AP started to cry and yelled at CW3, asking her how she could do this to him. CW1 stated that WPS officers forced the front door open and entered the residence. CW1 stated that AP put the gun to his own head and yelled at the police to back off. CW1 stated that the police did retreat and left the residence.

CW1 stated that AP closed the door and hugged her again. CW1 stated that she decided to leave the residence and exited through the backdoor. CW1 stated that she went through the backyard and saw four police officers in the back lane. She said she tried to go over the fence but then went through the garage. She went into the police car where she sat for 30 minutes and then she heard gunshots. CW1 stated that she did not witness the shooting.

**CW2** resided next door to the residence on Anderson Avenue. CW2 stated that during the early morning hours of April 9, she heard some loud noises and people yelling outside. CW2 stated that she looked out of her front bedroom window and saw police cruiser cars on the street and police officers around the house next door. CW2 stated that the police officers had a sledgehammer and were trying to knock the door down. CW2 stated that she heard a male yelling and screaming from the inside of the house and then observed the police back away from the residence. CW2 stated that she then saw a young male, dressed in black, later identified as AP, exit from the front door of the residence. CW2 stated that she thought this was approximately fifteen minutes from the time the police were initially at the front door. Once AP came out the front door and was about a third of the way towards the front fenced gate, CW2 stated that she heard someone yelling “gun, gun, gun”. CW2 stated that AP had his hands straight out in front of him and appeared to be holding a handgun. CW2 stated that the police were yelling at AP but he kept walking towards the sidewalk. CW2 stated that she believed the police would shoot AP if he did not stop walking. CW2 stated that she heard the sounds of two gunshots, a brief pause, followed by the sound of three more gunshots. CW2 stated that AP fell to the ground and landed on his face. CW2 stated that police officers moved towards AP and one of the officers kicked something out of his hands. CW2 stated that she saw another officer checking AP, then rolled him over and started performing CPR until more officers arrived.

**CW3** resided at the residence with AP. CW3 stated that in the early morning of April 9, she went to McDonald’s and brought food back for everyone. CW3 stated that she and AP remained downstairs and watched television while CW1 was upstairs. CW3 stated that she was sober and awake, however she did not recall any of the events between arriving home from McDonald’s until she later woke up in hospital. CW3 stated that she did not know why she was in the hospital. CW3 does not know why the police came to the residence. CW3 stated that AP owned a black BB gun.

**CW4** resided across the street from the residence on Anderson Avenue. CW4 stated that he was awoken by the sounds of a commotion from outside. CW4 stated that he got up, looked out the living room window and saw numerous police officers in the yard across the street with their “Glocks” drawn. CW4 stated that the police were in a “*tactical stance*”, and appeared focused on the residence on Anderson Avenue. CW4 stated that he could not see what was happening from his living room, so he went to watch from his basement window. CW4 stated that he could see the police in the yard next door and were moving from the front to the back of the residence. CW4 stated that he heard the residence’s storm door open and heard police officers shouting. CW4 stated that he started to record the incident on his iPhone. CW4 stated that a few seconds later, he heard the sounds of three gunshots and watched the incident unfold through the view on

his cellphone. CW4 stated that he could not see AP and he did not hear anything AP may have said. CW4 stated that he could only see police on the east of the residence on Anderson Avenue as trees obstructed his view. CW4's cellphone video was obtained by IIU investigators and will be discussed in more detail later in this report.

### **Witness Officers**

**WO1** stated that he was the supervisor and one of the first police officers to arrive on scene at the residence. WO1 stated that as he was in command, he assigned tasks to other police officers. WO1 stated that a 911 call reporting a domestic incident was received from CW3. According to this call, CW3 reported that AP had assaulted her. It was also reported that a child was also on scene and that AP was in possession of a firearm. WO1 stated that upon arrival, he heard the sounds of a commotion and a female was screaming from within the residence. He immediately instructed SO1 to open the front door by force. When SO1 opened the front door, WO1 stated that AP appeared in the doorway. WO1 stated that he could see that AP was holding a firearm to his head and saying he was going to kill himself. WO1 stated that all police officers retreated from the residence as AP closed the door. WO1 stated that he was in the process of positioning police officers when AP then opened the front door, and began to approach the officers while pointing a black firearm at them. WO1 stated that AP refused to drop the firearm, despite officers yelling at him to do so. WO1 stated that he heard the sounds of three gunshots and saw AP fall to the ground. WO1 stated that SO1 and SO2 were identified as the police officers who discharged their respective firearms.

**WO2** stated he and WO3 arrived at the rear of the residence in their police car. WO2 stated that they positioned themselves at the rear of the residence and did not have a view of the front. WO2 stated that he heard the sound of someone breaching the front door of the residence. WO2 stated that he heard a WPS radio transmission that a male, in the residence, had a gun to his head. WO2 stated that a female, later identified as CW1, exited from the back of the residence, was escorted to the police car and remained with him. WO2 stated that CW1 told him that AP and CW3 were fighting, that there were firearms in the residence and that AP had an oversized handgun in his hand when she left the residence. WO2 stated that while he was in the police car speaking with CW1, he heard the sounds of several gunshots followed by a radio transmission broadcast that "*...shots were fired, male down, being secured and first aid administered*".

**WO3** stated that she and WO2 arrived at the rear of the residence and took up a position approximately two houses away, using a garage for cover. WO3 stated that they had a view of the rear of the residence but had no view of the front. WO3 stated that WO1 asked for the front door to be forcibly opened. WO3 stated that she then heard a radio transmission broadcast that a male, later identified as AP, had a gun to his head and was uncooperative. WO3 stated that a short time later, CW1 exited from the rear of the residence. WO3 stated that CW1 identified herself *as the child* involved in this matter. WO3 stated that CW1 was escorted to the police car and she stayed with WO2. WO3 stated that a short time later, a commotion was heard coming from the front of the residence and that SO2 was shouting commands at someone. WO3 stated that she heard the sounds of gunshots followed by directions from WO1 to handcuff with a request for medical aid.

**WO4** stated that he attended the residence in response to a reported domestic incident of a female who was assaulted by her boyfriend while he was armed with a firearm. WO4 stated that

multiple units arrived on scene and a decision was made to enter the home to check on the well-being of the residents. WO4 stated that he was assigned by WO1 to cover the east side of the residence. WO4 stated that he then heard the sound of a female screaming from the residence. WO4 stated that he then heard officers say “police”, followed by the sound of the front door being breached, and then police officers yelling to “drop the gun”. WO4 stated that he heard a male voice respond, “*I'll blow my f'ing head off*”. WO4 stated that he was then assigned to secure the back of the residence and took cover near the garage. WO4 stated that, moments later, he heard police officers yelling, “*Drop the gun, [AP] drop the gun*” followed by the sounds of three to four gunshots in short succession. WO4 stated that he went to the front yard and observed a male, later identified as AP, on the ground who was receiving first aid. WO4 stated that he also observed a handgun laying on the ground near the sidewalk. WO4 stated that the handgun was in pieces on the ground and a few feet from where AP was laying.

**WO5** stated he was partnered with WO4 when they responded to a domestic incident at the residence. At 4:47 a.m., he went to the front of the residence where WO1 advised that police would attempt to breach the front door and enter. WO5 stated that after the door was opened, he saw AP holding a handgun to his head and was threatening to commit suicide. WO5 stated that AP was given commands to drop the gun, however AP slammed the door shut. WO5 stated that he and other officers retreated and took cover. WO5 stated that he and other officers were assigned by WO1 to secure the back of the home. WO5 stated that he and the other officers took cover by the garage and put on their body armour. WO5 stated that a short time afterwards, he heard the sounds of loud voices and then two or three gunshots in succession. WO5 stated that he could not see what was happening in front of the residence; however, he could hear officers giving commands to someone to show his hands and get on the ground. WO5 stated that when he went to the front, he observed a male, later identified as AP, receiving first aid. WO5 stated that there was a dismantled firearm and casings were near AP.

**WO6** stated that he and WO7 arrived on scene and heard a female screaming from inside the residence. WO6 stated that he and WO7 were tasked by WO1 to watch the upper floors of the residence while a support team attempted to enter the house by breaching the front door. WO6 stated that when the door was breached, a male, later identified as AP, appeared at the front door holding a handgun to his head and was threatening to kill himself. WO6 stated that AP went back inside the residence and closed the door. WO6 stated that police officers retreated from the residence and secured the scene. WO6 stated that he was assigned by WO1 to gather information about the house and its residents. WO6 stated that as he was making computer inquiries in his police car, he heard the sounds of three gunshots in succession. WO6 stated that he joined WO1 near the front door and observed AP down on the ground. WO6 stated that other police officers continued giving commands to AP to show his hands. WO6 stated that he was directed to handcuff AP. WO6 stated that as he was putting the handcuffs on AP, he saw a handgun near the west of the front yard sidewalk.

**WO7** stated that he and WO6 attended the residence to provide assistance. WO7 stated that he was assigned to help SO1 to gain entry through the front door. WO7 stated that when they opened the door, he observed a male, later identified as AP, who was holding a handgun to his temple and in an agitated state. WO7 stated that the front door was shut and police officers retreated. WO7 stated that WO1 assigned him to secure the back of the residence. While he was

at the back of the residence, WO7 stated that he heard yelling from the front and then heard gunshots. WO7 stated that he did not know and did not witness who was firing their firearm.

**WO8** stated that he and WO9 were dispatched to the residence in response to a domestic incident call. While on their way to the call, WO8 states that they were informed that a female (later identified as CW3) had been assaulted and that a suicidal male (later identified as AP) was armed with a firearm, reportedly saying that police should shoot him. WO8 stated while on route to the residence, he heard WO1 broadcast to dispatch to relay a message to AP directing him to exit with his hands visible and follow officers' instructions. WO8 stated that he and WO9 were one of the first units to arrive on scene. WO8 stated that because of the information concerning the possible existence of a firearm, he had his own service firearm out at the "*low ready*" position and took cover at a blue Ford pick-up truck, parked to the east of the residence. WO8 stated that this position provided him with a visual to the front of the residence and he could see the front window and doorway. WO8 stated that he observed AP look out a window and heard a female screaming, moments later. WO8 stated that it was decided that SO1 would breach the front door. When the door was opened, WO8 stated that AP presented himself. WO8 stated he heard officers saying, "*he has a gun*". WO8 stated that the officers retreated and took cover. WO8 stated that he maintained his view of the front door as he was now positioned by WO1's police vehicle. WO8 stated that SO1 attempted to contact people inside the home, when AP exited the front door and walked briskly towards police officers. WO8 stated he heard three to four gunshots fired. WO8 stated that he had lost sight of AP. WO8 stated that he was assigned to secure the inside of the residence. WO8 stated that as he was walking to the front door, he passed by AP, who was on the ground. WO8 stated that he observed a black handgun, broken into two pieces and laying near AP. WO8 stated that he searched the residence and located another firearm in the basement. WO8 also met with CW3 in the living room. WO8 stated that CW3 was both intoxicated and injured.

**WO9** stated that he and WO8 were partners that night. WO9 stated that while on general patrol, they heard a radio dispatch concerning a call from the residence and that there was a firearm involved. WO9 stated that they were one of the first units to arrive on scene. WO9 stated that the call history was reviewed which stated that a female caller (later identified as CW3) said there was an intoxicated male (later identified as AP) in the residence and he had a gun in his hand. WO9 stated that further information was received from another police officer who had previous dealings with AP in a robbery investigation. WO9 said he was among a team of eight police officers who attended to the front door of the residence. SO1 had a "*battering ram*" that he used to hit the door. When the door opened, WO9 stated that he saw AP standing in the doorway and he had a gun pointed to his head. WO9 stated that AP was very agitated, appeared intoxicated and said, "*If you come closer, I'm going to f\*\*\*\*\* kill myself*". AP then closed the door. WO9 stated that AP did not point the gun at anyone other than himself. WO9 stated that he took cover behind a fence at the side of the house. WO9 stated that he heard that CW1 had exited from the rear of the residence. WO9 stated that he and another officer sprinted to the back to help and get CW1 to safety. While at the back of the residence, WO9 stated that he heard yelling coming from the front but could not make out what was being said. WO9 stated that he did hear SO2 say something to the effect of "...*show us your hands, cooperate and you're not going to get hurt*" then there was silence. WO9 stated that within moments, he heard three gunshots come from the front. WO9 stated that he made his way to the front and was assigned to deal with SO2 (to stay

with SO2, to ensure there was continuity of possession of SO2's firearm and that SO2 not wash his hands). This was done in accordance with WPS officer involved shooting protocols.

**WO10** was partnered with SO2 that night. WO10 stated that when they arrived on scene and briefed by WO1, he heard a female scream from within the residence. WO10 stated that WO1 instructed SO1 to breach the front door. WO10 stated that he took up a position near the front door as it was breached. WO10 stated that he then saw a male (later identified as AP) appear at the front door, who was armed with a handgun and was pointing it at his own head. WO10 stated AP said, "*if you f\*\*\*\*\* come in here, I'm going to f\*\*\*\* kill myself*". WO10 stated that police officers retreated from the residence and found cover positions. WO10 stated that he and SO2 were positioned at WO1's police vehicle, with partial cover, and near the front door. WO10 stated that CW1 came from the back of the residence and said that AP had a firearm. After a short time, WO10 stated that AP quickly exited the residence through the front door. WO10 stated that he could see that AP had a firearm in his right hand and was pointing and scanning it at police. WO10 stated that AP appeared to focus on both himself and SO2. WO10 stated that SO2 discharged his rifle, striking AP who fell to the ground in front of the residence. WO10 stated that he was assigned to search the residence and check on the well-being of anyone inside. WO10 stated that as he walked up the sidewalk to enter the residence, he observed AP on the ground and a black handgun was near him, a few inches off the sidewalk. WO10 stated that during his search of the residence, he found an intoxicated and injured female (later identified as CW3) who had reported she was assaulted.

**WO11** stated that he was dispatched to the residence in response to a report of a domestic incident. According to information received, a female caller (later identified as CW3) said that her boyfriend (later identified as AP) assaulted her, had a gun in his hands, and that there were children present in the residence. AP then took over the telephone call, said he did not have a gun and that CW3 was high on Xanax and Cocaine. Then AP said, "*Police can shoot me because I don't want her to ruin my life by making stuff up.*" WO11 stated that he arrived on scene along with multiple units and they all met at a house to the west of the residence. WO11 stated that he could hear the distress screams of a female coming from inside the residence. WO11 stated that WO1 directed officers to approach the residence. WO11 stated that as officers went to the front door, he positioned himself in the front yard just to the east of the door and covered the top window of the residence. WO11 stated that SO1 forced entry with a battering ram and heard him say, "*Winnipeg Police.*" WO11 stated that when the door opened, he saw AP, who appeared agitated, standing at the entrance. WO11 stated that AP was holding a black handgun, in his right hand, and was pointing to his head. AP was also pointing at police officers with his left hand and screaming at them. WO11 stated that he was unable to make out what AP was saying though he does recall police officers directing AP to "*drop the gun*". AP then went back into the residence and closed the door. WO11 stated that he was directed by WO1 to move away from the house and join with WO4, WO5 and WO7, to attend to the back of the property. WO11 stated that he retrieved his hard body armor from his police car and then made his way to the back of the property. WO11 stated that at approximately 5:10 a.m., he heard several loud voices coming from the front of the house saying, "*drop the gun*" and "*get on the ground*". WO11 stated that he then heard three to four gunshots followed by officers saying, "*show us your hands.*" WO11 stated that he remained at the back until he was summoned by WO1. WO11 stated that he was directed to assist in taping off the residence with police tape. On completion, WO11 stated that WO1 then directed him to attend inside the residence. WO11 stated that as he approached the

residence, he saw what appeared to be a firearm on the ground at the entranceway of the fence on the front of the property. WO11 described the firearm as black and split into two pieces. The slide of the firearm appeared broken off from the handle and a spring in the gun was visible. WO11 stated that he assisted in searching the top floor of the residence. Once it was cleared, WO11 stated that he returned to the main floor and observed CW3 laying on the couch and attended to by WO10. CW3 appeared disoriented and complained about pain in her right wrist.

**WO12** stated that he and WO13 attended to the residence. On arrival, WO12 stated that he heard a female screaming, in distress, from within the residence. WO12 stated that WO1 was tactically positioning police officers around the residence. WO12 stated that he and WO13 were directed to attend to the southeast corner of the residence. SO1 was directed to breach the front door accompanied by a team of officers. WO12 stated that when the door was breached, a male (later identified as AP) appeared at the front door, holding a black firearm and pointing it at his own head. AP was ordered to drop the firearm; however, he slammed the door and remained inside. WO12 stated that police officers withdrew, repositioned themselves, and put on body armour. WO12 stated that after a short time, AP exited through the front door and walked rapidly towards police officers and was pointing his firearm. WO12 stated that AP was ordered to “*drop the gun*”. WO12 stated that he heard two to three gunshots and saw that AP went down. WO12 stated that he and WO13 were directed to search inside the residence. WO12 stated that he found another firearm in the basement. WO12 stated that he also saw an intoxicated female (later identified as CW3) dealing with another officer. WO12 stated that when he exited the residence, he saw a firearm laying on the ground, in the front yard, near AP.

**WO13** stated that upon arrival at the residence, with other units, WO1 assigned positions and tasks. WO13 stated that he and WO14 were positioned in front of the residence, to cover the east windows. WO1 then directed SO1 to breach the front door. SO1 used the battering ram to breach the front door. There were several other police officers present on the front stairs. WO13 stated that after the door was breached, officers quickly retreated and took cover. WO13 stated that WO11 reported a male, later identified as AP, was in the residence and had a firearm pointed to his head. At 05:09 a.m., SO2 (who was now located on the front street) reported that he saw AP in the front doorway smoking. WO13 stated that he heard SO2 announce that police were there and for AP to exit with his hands visible. WO13 stated that suddenly he saw AP, in a black shirt, holding a black handgun and pointing it at officers as he walked south on the sidewalk directly towards them. WO13 stated that he had a poor target and poor backdrop so he did not discharge his firearm. Within a second or two later, WO13 stated that he heard four consecutive gunshots and saw AP fall forward and down near the fence line. WO13 stated that WO1 directed SO2 and WO6 to secure AP. WO13 stated that he and WO12 were assigned by WO1 to enter the residence with SO1.

**WO14** is a member of the WPS Canine Unit. In the early morning hours of this incident, WO14 and his police service dog (PSD) attended to the residence. Information had been relayed through 911 that there was a female victim (later identified as CW3) and a male/ boyfriend (later identified as AP) suspect. Furthermore, CW3 was possibly intoxicated and was with a female child. CW3 had reported that AP had a gun. AP also spoke to the 911 operator, denying to having weapons but was suicidal. AP believed that he would be arrested if he left the house. Prior to arriving, WO14 stated that he was also advised that AP was in the residence and had a

gun pointed to his head. WO14 stated that he arrived on scene at 4:54 a.m. and met with other officers on the street. WO14 stated that there were police officers at both the front and back of residence. WO14 stated that he was advised that AP was reportedly armed with a firearm when officers first entered the house and that a young female (later identified as CW1) had exited through the back of the residence. WO14 stated that at 5:10 a.m., AP exited the residence. AP was in possession of a black handgun. AP walked rapidly towards police officers who were stationed on the front street. WO14 stated that he was positioned behind officers near the front door. WO14 stated that police officers were commanding AP to drop the gun and to get on the ground. WO14 stated that he heard two gunshots then AP go down on the sidewalk, in the yard, near the fence. WO14 stated that police officers continued to issue commands for AP not to move and then moved towards him. WO14 stated that he took his PSD and went near AP until he was secured.

### **Subject Officers**

Pursuant to the provisions of the PSA, a subject officer cannot be compelled to provide his or her notes regarding an incident under investigation nor participate in any interview with IIU investigators. In this case, each of the subject officers declined to attend for an interview, however each provided a copy of their notes and written statements regarding their involvement in this incident. The following are summaries of those notes and statements.

**SO1** wrote that 911 operators received a domestic incident call. The caller (later identified as CW3) said her boyfriend (later identified as AP) assaulted her, was carrying a gun and there was a child present. While SO1 was on the way to the residence, AP called 911 to report he did not have a gun, CW3 was lying and police would have to shoot him because his life was ruined. AP refused the 911 operator's request to exit the home with his hands raised. When SO1 arrived at the residence, several crews were already present, including WO1. Screams could be heard from inside the home and WO1 quickly formed a plan for a team of officers to approach the front door, through the open gate of the chain link fence surrounding the yard, and enter the residence. SO1 wrote that WO1 asked him to get the battering ram. When the team of officers attended the front door, WO1 yelled "*Winnipeg Police!*", and SO1 struck the door twice. The door swung open and SO1 wrote that he was face to face with AP. SO1 described AP as having wide eyes with dilated pupils, an "*absolute crazed look*", he appeared to be sweating and was holding a black handgun to his own right temple. SO1 wrote that he was unarmed at this time as he was holding the ram with both hands. SO1 wrote that he threw the ram and moved out of the doorway. SO1 heard yelling between AP and other officers at the stairs. SO1 wrote that the door closed and the police officers moved to the outside of the fence. SO1 wrote that he was assigned, with WO6, to gather information on AP. SO1 wrote that he was advised that a child (later identified as CW1) had left the residence through the back door and had advised other police officers that there were two firearms in the home.

SO1 wrote that he stood near a large tree on the south boulevard of Anderson Avenue. SO1 wrote that he had a direct line of sight down the walking path to the front door and a view of the south side of the home. SO1 then wrote that AP "*burst*" out of the front door of the residence and other police officers yelled, "*drop the gun.*" AP walked quickly down the path, similar to a quick march, towards SO1 and other police officers. SO1 wrote that AP's right arm was locked and straight out as he was holding a black handgun with that hand. While AP had aimed his gun at the team, he now continued to move towards WO1 and SO2, all the while as officers ordered

him to drop the gun. SO1 wrote that he believed that AP's intent was to shoot and kill police officers. SO1 wrote that he believed that the lives and safety of police officers, including his own, and possibly nearby residents and members of the general public, were in "grave danger" and that he needed to act immediately. SO1 wrote that he drew out his service handgun and raised it. SO1 wrote that when he had a clear sight, he fired his service handgun. SO1 wrote that he was aware that someone else, to his left, had discharged their firearm just before him. SO1 wrote that AP went down and disappeared from his sight. SO1 formed a team and approached AP, while continuing to point his firearm at him, as he was unsure of AP's ability to shoot at police officers. WO1 asked AP to show his hands but it was evident that AP could not comply as he had been struck and needed medical assistance.

SO1 wrote that he and other officers attended into the residence through the front door. SO1 wrote that they found CW3, who was in distress and sitting on a couch. SO1 wrote that CW3 stated that AP had broke her arm. SO1 wrote that a search of the basement resulted in the discovery of a long gun. SO1 wrote that he advised WO1 that he had discharged his firearm.

**SO2** wrote that he and his partner, WO10, responded to a domestic incident report at the residence. SO2 wrote that he was advised that the caller, later identified as CW3, said her boyfriend, later identified as AP, had assaulted her and that he had a gun. SO2 wrote that on arrival, there were other units on scene and more were arriving. SO2 wrote that he armed himself with a WPS issued AR15. SO2 wrote that he heard a female screaming from inside the home, along with banging and screaming. SO2 wrote that WO1 assembled a team to enter the residence. SO2 wrote that he was assigned to secure the front living room window. SO2 wrote that the team of police moved slowly towards the front door as he could still hear a female screaming from inside. SO2 wrote that WO1 yelled, "*Winnipeg Police!*" and SO1 rammed the door open. Within seconds, SO2 wrote that he heard one of the team members yell, "*Gun!*" SO2 wrote that he saw AP holding a black handgun in his right hand, fully gripping the gun, with his index finger on the trigger and pressing the barrel directly against the right side of his own temple. AP then yelled, "*Back off or I will shoot myself.*" SO2 wrote that AP looked angry, "*crazed, and determined*". SO2 wrote that he considered AP an immediate threat and he had his rifle in a "*low ready*" position. SO2 wrote that he yelled, "*Winnipeg Police, drop your gun now!*" AP did not drop his gun but aggressively shut the door. WO1 directed the team back to cover and safety.

SO2 wrote that he took cover behind a marked police cruiser, using the vehicle's hood as a solid shooting platform and pointed his rifle at the front door of the residence. SO2 wrote that he heard a radio broadcast that a young female (later identified as CW1) had run out of the back door of the residence and stated that AP and CW3 were still inside. CW1 also confirmed that there were at least two firearms with AP. SO2 then wrote that, at 5:09 a.m., he saw the front door swing open and that AP was inside, pacing back and forth. SO2, believing that AP was getting ready to come outside, yelled, "*Contact at the front door!*" and then,

*"This is the Winnipeg Police Service! Your house is surrounded by police with numerous firearms pointing at your house. Come outside with your hands up and clearly visible and you will not be harmed! Listen to my direction and comply, this is the only way I can insure your safety!"*

Seconds later, the door swung open and AP aggressively walked out, with a black handgun in his right hand. SO2 wrote that AP was pointing the gun at himself and the other police officers, and began walking fast (almost running) towards them. AP did not say anything but had his right hand fully extended, with a “*full grip on the gun*” scanning it from right to left. SO2 wrote that AP looked determined and very angry. SO2 wrote that he believed that AP was looking for a police officer or an innocent person to shoot and kill. SO2 further wrote that he had no doubt that if he did not immediately act - AP would shoot and kill him or one of the officers standing close by. SO wrote that he disengaged the safety on his rifle, targeted AP’s upper torso, central mass area, and yelled “[AP] stop, drop the gun!” He also heard other officers yell at AP to drop the gun. AP did not respond nor did he drop the gun. AP continued to advance on SO2 while pointing his gun at him and the officers near him. SO2 wrote that, fearing for his life and the lives of the other police officers around him, he discharged his rifle, and firing two to three shots at AP. SO2 lost sight of AP once he dropped to the ground. Other officers continued to yell at AP for him to show his hands and not to reach for the gun. When it was noted that AP was no longer moving, WO1 called for medical services. SO2 wrote that he approached AP and saw that he was face down on the ground and unresponsive. Both of AP’s hands were under his chest and he did not appear to be breathing. For officer safety, WO6 was told to handcuff AP. Once AP was handcuffed, he was rolled onto his back and chest compressions began. SO2 wrote that he saw a black colour semi-automatic handgun, laying on the ground, about four to five feet from AP’s body. The slide portion and frame part of the handgun were apart and separated. SO2 wrote that he told WO1 that he had discharged his rifle.

### **Cell Phone Video and Analysis**

IIU investigators reviewed and analyzed the cellphone video recorded by CW4. The visual quality of the video was poor; however, the audio was of good quality. The supplied video clip began at time stamp 00:00:00 minutes and ending 00:02:26 minutes.

#### **Video Summary**

- 00:00:02 - voices were heard followed by three gunshots in quick succession and a person, off camera, saying, “*Oh sh\*t*”
- 00:00:04 – voices yelling, “*Drop the gun*” and a person, off camera, commenting, “*Oh sh\*t*”
- 00:00:11 – voices are heard commanding of “*Drop the gun*” and “*he’s on the ground*” followed by “*Don’t move, and keep eyes on him*”
- 00:00:17 - person yelling, “*I got eyes*”
- 00:00:20 - person yelling, “*Face down right now*”
- 00:00:25 – person yelling, “*Don’t move [AP]*”
- 00:00:33 - person commenting says, “[AP] got popped, whoever that is”
- 00:00:34 - inaudible command
- 00:00:36 - person says, “*I can’t see, he’s got his head out, don’t move put your hands up*”
- 00:00:42 – person yelling, “*Put your hands up*”
- 00:00:46 – person yelling, “*Show us your hands [AP]*”
- 00:00:47 – person yelling, “*Show us your hands*”
- 00:00:52 - person says, “*Okay guys, listen, do you guys got eyes on*”
- 00:00:55 - person says, “*Eyes on*”
- 00:00:57 - person says, “*Okay, light him up good okay*”

- 00:01:01 - person provided direction/instructions (inaudible)
- 00:01:14 - person commenting, "*F\*\*k, my hands are f\*\*\*\*n cold*"
- 00:01:15 - person says, "*We are pushing up, you guys understand?*" followed by "Yep, copy, yep, yep"
- 00:01:16 - person says, "*Okay, move up slowly*"
- 00:01:20 - person says, "*Do not move*"
- 00:01:25 - person says, "*Do not move, show me your hands*"
- 00:01:27 - person says, "*Show me you hands*"
- 00:01:29 - a dog is barking and a person speaking (inaudible)
- 00:01:38 - person says, "*[AP], show me your hands*"
- 00:01:43 - person says, "*Show me your hands*"
- From 00:01:43 until the recording ends at 00:02:26, there were people heard speaking but inaudible and a dog is heard barking.

### **Autopsy Report and Drug Analysis**

IIU investigators received and reviewed the autopsy report. According to the pathologist, the immediate cause of death was gunshot wounds to the torso. In total, AP sustained three gunshot wounds:

1. Right upper chest, front to back trajectory, with a deformed bullet recovered from AP's back;
2. Right upper abdomen, front to back trajectory, with a deformed bullet recovered from AP's back;
3. Through-and-through gunshot wound of left hand<sup>1</sup>

In addition, the pathologist also noted additional injuries: Contusion of knuckle of left hand, multiple superficial linear incisions of left wrist, consistent with self-injury and superficial abrasions and contusions about the knees anteriorly.

IIU investigators also received and reviewed a toxicology report concerning AP.

The following is a summary of the key findings of that report:

Cocaine, oxycodone, diphenhydramine, flualprazolam and a metabolite of delta-9-tetrahydrocannabinol (THC) were detected in the blood.

- The concentrations of cocaine and benzoylecgonine detected in the blood are within a range associated with recreational cocaine use. However, there is a large degree of overlap between concentrations of cocaine and benzoylecgonine that are associated with recreational use, and those associated with cardiotoxicity and death due to cocaine intoxication. Additionally, cocaine demonstrates instability in biological samples during storage. As such, the concentration of cocaine in the blood could have been higher at the time of death.

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<sup>1</sup> The front door of the residence was examined, where a hole that penetrated the storm door could be seen at the very bottom of the door. The hole is consistent with a bullet passing through the door. The hole penetrated the bottom portion of the door, caused some damage to the aluminum threshold and a bullet was located part way down the front entrance hallway. The fired bullet is consistent with a .40 calibre bullet (Glock handgun).

- The concentration of oxycodone detected in the blood is within a range associated with therapeutic use of oxycodone, but could cause adverse effects if sufficient tolerance to the drug has not been attained.
- The effects that the combination of drugs detected in blood would have on a person is dependent upon the individual's tolerance to these drugs, the dose of each drug, and the timing of their administration in relation to each other. It can be expected, however, that the combined use of multiple drugs that affect the CNS would result in greater impairment of mental and/or physical processes than would be expected following their individual use.

### **Subject Officers' Firearms**

SO1 possessed and discharged his service issued handgun, a Glock model 22, with a 15 round magazine of .40 calibre ammunition. SO2 possessed and discharged his service issued rifle, an AR15 style weapon, with a 28 round magazine of .223 calibre Remington rounds. No other police firearm was examined, as all evidence and the self-declaration by SO1 and SO2 confirmed that they were the only officers to discharge their respective service firearms that morning. Three spent shell casings were located at the scene of the shooting – two spent .223 calibre Remington shell casings found on the Anderson Avenue roadway and one spent .40 calibre shell casing found on the east side sidewalk of Anderson Avenue in direct line to the front door of the residence.

A round count of SO1's service issued Glock contained one chambered round and 13 rounds in the magazine seated in the firearm. SO also had in his possession two additional issued magazines, each loaded with 15 rounds of ammunition. Therefore, one round of ammunition is missing from SO1's firearm.

A round count of SO2's service issued AR15 style weapon contained one chambered round and 24 rounds in the magazine seated in the firearm. SO also had in his possession one additional issued magazine, loaded with 28 rounds of ammunition. Therefore, three rounds of ammunition are missing from SO2's firearm.

### **AP's Firearm**

IIU investigators received and reviewed the firearm that AP possessed and threatened to use on himself and pointed at police officers. The firearm, found broken and in two pieces, was determined to be a black, plastic BB gun '*Powerline by Daisy 340*', 177 caliber (4.5mm) BB gun (BRD18 JAHRE & ALTER). It was located on the yard sidewalk of the residence, near the front gate where AP was shot and fell to the ground.



Anderson Avenue is a roadway in Winnipeg that runs east and west. Sidewalks are located on the north and south sides of the Avenue. This is a view of the residence from the south sidewalk, looking north. Marker 4 represents the location of AP's firearm. Marker 6 represents a blood smear in the shape of a boot print.



This is a view from the front door of the residence looking south. Marker 4 represents the location of AP's firearm. Marker 5 was the location of AP's head, where he fell after being shot. Marker 6 represents a blood smear in the shape of a boot print.



This photograph represents a close up of Marker 4 and shows AP's firearm in two pieces on the ground.

### **Issues and Conclusion**

This investigation must consider whether the actions of the two subject officers to fire upon and cause the death of AP are justified at law. In this incident, police were required to prepare for all risks when they attended the domestic incident call at the residence. All police were aware that violence had taken place at the residence and specifically, it was reported that AP was in possession of a gun. It was also broadcast that AP wanted police to shoot him. These risks were exponentially ramped when police had their first direct contact with AP, who was in possession of a firearm and threatened to harm himself with it. AP posed a significant risk to both public and police safety. It made sense for all police officers to arm themselves as they exited their vehicles and confront AP.

### **Applicable Law:**

Sections 25 (1), (3), (4) and Section 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.*

*(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
- (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.

In addition, police officers are entitled to rely on the self-defence provisions of the Criminal Code under section 34:

34. (1) A person is not guilty of an offence if

- (a) they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person
- (b) the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force
- (c) the act committed is reasonable in the circumstances

Effectively, the question is whether the decisions of the subject officers to discharge their firearms at AP were reasonable in the given circumstances. The reasonableness of an officer's use of lethal force (force that is intended or likely to cause death or grievous bodily harm) must be assessed in regards to the circumstances, as they existed at the time the force was used and in light of the exigencies that were present. In particular, these actions are also to be considered in light of the dangerous and demanding work engaged in by police and the expectation that they react quickly to all emergencies.

Where lethal force is used, there must be a reasonable belief, held by the subject officer, that the use of lethal force was necessary for his or her own self-preservation or the preservation of any one under their protection, from death or grievous bodily harm. The allowable degree of force to be used remains constrained by the principles of *proportionality, necessity and reasonableness* (see *R. v. Nasogaluak, [2010] 1 S.C.R. 206*).

In that decision, the Supreme Court noted, at para. 35:

*"Police actions should not be judged against a standard of perfection. It must be remembered that the police engage in dangerous and demanding work and often have to*

*react quickly to emergencies. Their actions should be judged in light of these exigent circumstances.”*

Also see *R. v. Power* 476 Sask. R. 91 (CA), where at para. 35, the court notes:

*“On the basis of the foregoing, a determination of whether force is reasonable in all the circumstances involves consideration of three factors. First, a court must focus on an accused’s subjective perception of the degree of violence of the assault or the threatened assault against him or her. Second, a court must assess whether the accused’s belief is reasonable on the basis of the situation as he or she perceives it. Third, the accused’s response of force must be no more than necessary in the circumstances. This needs to be assessed using an objective test only, i.e. was the force reasonable given the nature and quality of the threat, the force used in response to it, and the characteristics of the parties involved in terms of size, strength, gender, age and other immutable characteristics.”*

Was it reasonable, in these circumstances, for the subject officers to fire at AP to prevent the injury or death of any of them or any other police officer or person, in the vicinity?

On this morning, it was alleged that AP was suspected to be involved in a violent domestic assault where it was also alleged that a firearm was present. When police arrived on scene, the sounds of distress screams were heard from within the residence. When police forcibly enter the residence, they are confronted with AP, who is holding a firearm to his own head and is threatening to harm himself. Police retreat and take up positions outside and around the house as next steps are considered. Without warning or provocation, AP suddenly exits the residence and, walks at a quick pace, with purpose and anger, towards the police. AP is holding his firearm in an outstretched arm, pointing at and scanning the police officers present in front of him. AP refuses to comply with every direction and command by police to drop his weapon and surrender. Cellphone video captures part of the interaction between police and AP. Loud orders to AP to drop his weapon are clearly heard. The sounds of three, rapid in succession, gunshots are heard. AP is shot as he is about to leave his property and directly interact with the police. All non-lethal options that may have been available to police were immediately eliminated by the actions of AP to walk at police with a pointed firearm in his outstretched arm. The available choices to police were now minimal. It was a reasonable and honest belief that a real likelihood that AP could have delivered a potentially lethal injury with his firearm. AP’s firearm, which turned out to be BB gun (though replica handgun) was found nearby where he fell after being shot.

This objective evidence materially corroborates the evidence of all the witnesses. Although no subject officer participated in full interviews with IIU investigators and instead provided prepared statements and notes, I am satisfied that the extensive evidence gathered from the referenced sources provides sufficient support for the conclusion that the decision by SO1 and SO2 to shoot AP was necessary in order to prevent the injury or death of any or all of them and all other police officers in the vicinity.

In this investigation, the IIU mandate was to determine whether consequences should flow from the actions of the subject officers, in light of all the circumstances and information known to them at that time. Following a detailed review of this comprehensive investigation, it is my view that the use of lethal force by the subject officers was justified and unavoidable. AP’s actions to

walk at police with a weapon pointed at them in an outstretched arm and scanning around, lends ample support to this conclusion.

In conclusion, there are no grounds to justify any charges against any or all of the subject officers.

As an aside, the BB gun possessed, held and pointed by AP looks like a firearm. I am satisfied that conclusion is a reasonable one that can be made in this and similar situations. I continue to question the social relevance, and practical purpose for the manufacturing, importation, sales and possession of replica firearms. In fact, in my view, I cannot find a single redeeming factor for the possession of a replica firearm.

The possession and production of a replica firearm by individuals, particularly during an interaction with police, inevitably and significantly raises the seriousness of the encounter and more often results in a conclusion reached that a potentially lethal situation exists followed thereafter by the use of lethal force to eliminate these presumed risks. More needs to be done with the existence and possession of replica firearms to properly and adequately deal with this issue.

Accordingly, IIU has completed its investigation and this matter is now closed.

**Final report prepared by:**

Zane Tessler, civilian director  
Independent Investigation Unit  
April 21, 2021

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