

FINAL REPORT: IIU concludes investigation into death in St. Malo

On November 2, 2015, at 12:17 p.m., the Independent Investigation Unit (IIU) was formally notified by the Winnipeg Police Service (WPS) of an incident in which a male driver (the affected person – AP) discharged a firearm and may have shot himself inside a motor vehicle during the course of an attempted police traffic stop near St. Malo, Manitoba. At 3:22 p.m., the IIU received confirmation that the occupant of the vehicle was deceased.

As this notification involved a fatality, IIU assumed responsibility for this investigation in accordance with section 65(1) of the *Police Services Act* (PSA). IIU investigators were immediately deployed to the scene of the incident. 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 November 3, 2015 the IIU formally requested the Manitoba Police Commission to appoint a civilian monitor. The initial briefing with the civilian monitor took place on November 6, 2015 and the IIU conducted regular monthly briefings with the civilian monitor throughout the investigation.

The IIU civilian director designated the driver of the Team One police vehicle as a Subject Officer (SO) and the passenger as a Witness Officer (WO).

It was agreed that WPS forensic identification officers, under the IIU's direction, would assist in recording the death scene, making a positive identification of the deceased, and recovering evidence, as that work would also be instrumental in WPS's ongoing investigation of a related homicide.

IIU investigators received and reviewed:

- a complete file package from WPS including officers' notes and reports;
- a medical examiner's report and autopsy results respecting AP;
- all radio transmission recordings between the WPS Communication Centre and the unmarked Team One police vehicle
- access to AP's vehicle for physical examination;
- video surveillance footage from a residence near the Co-Op gas bar;
- the forensic investigation report.

As outlined under the PSA, a subject officer is not required to provide a statement or notes regarding the incident. SO declined to be interviewed by IIU investigators but he did provide IIU investigators with a copy of his notes and reports on the incident.

The IIU investigation has determined the following facts:

WPS was investigating the homicide of a woman, which had occurred on October 30, 2015, in Winnipeg. WPS investigators had identified the woman's estranged husband, AP, as a person of interest in her death. WPS investigators believed that AP was in possession of a firearm. AP was the registered owner of a black Volkswagen Golf hatchback.

On November 2, 2015, two teams of WPS investigators (each team comprised of two police officers) travelled to St. Malo to meet and speak with AP's father. The police officers were driving unmarked police vehicles, each equipped with a police radio, siren and emergency lighting.

At approximately 10:55 a.m., one team of investigators (Team One) had stopped at a Co-Op gas bar in St. Malo, when they observed a black Volkswagen Golf hatchback, matching the description of AP's car, drive by them. The police officers followed the vehicle and were able to confirm that the licence plate number matched AP's car.

The police officers decided to stop this vehicle and arrest AP for murder. The police officers activated their vehicle's emergency lights and siren in an attempt to stop AP's car. AP's car did not stop, slow down nor speed up. After 15 to 20 seconds, police turned off the siren but left emergency lights activated. AP's car did not stop for police.

The police officers continued to follow AP's car as it travelled and turned on a number of streets, when they suddenly noted that the driver of the Volkswagen "shuffled in the seat", his head sharply "snapped" towards the passenger seat and what appeared to be "spray"... "emitted from the driver's head." Neither police officer heard any gunshot sounds. AP's vehicle veered off the right side of the road, through the ditch, through a barbed wire fence, into a field and then came to rest in a wooded area.

From the time the police officers first saw AP's car to the point it left the road, it was not driven erratically. It drove at a speed between 40 to 50 km/h and the police officers followed at a distance of three to four car lengths and for a distance of 4.8 kms.

The police officers requested assistance from WPS Tactical Support Team (TST), the RCMP (St. Pierre Jolys detachment) and an ambulance. The second team of WPS investigators (Team Two) arrived at this scene within a few minutes and all police officers drew their service pistols and pointed them toward AP's car. All four police officers on scene called toward the vehicle and repeatedly identified themselves as police officers. They indicated they wanted to help and would provide medical assistance. No response was heard or seen from AP's car.

At 11:15 a.m., RCMP and WPS TST officers arrived on scene. At 11:41 a.m., an emergency response team (ERT) arrived on scene. At 2:50 p.m., RCMP officers approached AP's car and confirmed a male subject, later positively identified as AP, was deceased inside the vehicle. AP was seated in the driver's seat with a sawed-off Lakefield Mossberg 12 gauge pump action shotgun between his legs with the action open. One spent and one live 12 gauge shot shell were found on the driver's floor under AP's legs. His upper body was leaning over the passenger side

of the car, with his head resting on the front passenger seat. AP had suffered a head injury. All doors were closed, all windows rolled up and all doors were locked except the driver's door, which was wedged closed by a small tree. There were no signs of forced entry into the vehicle.

None of the police officers had any verbal or physical contact with AP at any time. None of the police vehicles made any physical contact with AP's car. None of the police officers approached AP's car until 2:50 p.m. None of the police officers discharged their firearms at AP or at his car. AP did not discharge a firearm toward the police officers or at their vehicles.

AP's car was examined and the interior surface of the roof directly above the driver's seat had a hole in the lining. The exterior dents and interior damage to the roof above the driver's seat were consistent with damage from the discharge of a shotgun.

An autopsy was conducted on November 3, 2015. The cause of death was determined to be an intraoral shotgun wound to the head. The exit wound showed massive irregular lacerated defects of the scalp with no fixed single exit point. The direction was upwards and backwards. There was no other evidence of illness or injury.

In these circumstances, SO and his partner were in the lawful execution of their duties when they spotted AP's car in St. Malo. Based on information in their possession, SO and WO had reasonable, probable and sufficient cause to detain the driver and occupant of AP's vehicle in the course of the ongoing homicide investigation.

I am satisfied that AP, operating his vehicle at this time, was unwilling to stop his vehicle in response to the emergency lights and siren activated by the police officers. AP was not operating his vehicle at excessive speeds or in an erratic manner. I am satisfied that AP discharged the shotgun in his possession while driving, causing a head injury that resulted in his death.

I am satisfied that the actions of SO--in attempting to stop and apprehend AP in relation to the ongoing homicide investigation, in initiating a brief attempt to stop AP, and in his operation of the unmarked police vehicle during the brief pursuit--were careful, prudent, justifiable and appropriate having regard to all of the circumstances. I am satisfied that the actions of SO did not play any role or contribute in any way or in any degree to the circumstances leading to the death of AP by a self-inflicted shotgun injury.

This matter is now completed and the IIU will close its investigation.

Final report prepared by:
Zane Tessler, civilian director
Independent Investigation Unit
August 23, 2016