

FINAL REPORT: IIU concludes investigation into death following arrest

On October 25, 2018, at 5:09 a.m., Winnipeg Police Service (WPS) notified the IIU that a male subject (later identified as the Affected Person (AP)) was at Concordia Hospital following an interaction with four WPS officers at the St. Boniface Industrial Park earlier that morning. WPS officers had been dispatched to a disturbance complaint along a rail line at the Park and during the arrest, AP engaged in a struggle with police. During the altercation, AP became unresponsive and was taken to hospital, where he was receiving treatment but was not expected to survive. The salient portion of this notification read, in part:

On October 25, 2018 at approximately 03:47 hrs, the Winnipeg Police Service Communications Center received a call...requesting police assistance for a male who was causing a disturbance at the intersection of Camiel Sys Street and De Baets Street.

Initial information received to the Center indicated that two males, who were acting irrational, had confronted two Canadian National Railway engineers as they dismounted their locomotive. The two males in question began to chase after the engineers who subsequently returned to their locomotive, locked themselves inside and called police.

Winnipeg Police Service East District Station Units...were subsequently dispatched to the scene. Prior to police arrival, further information received indicated that only one male, later identified as [AP], was at the scene and what appeared to be family members were trying to intervene to remove him from the locomotive.

All four WPS units arrived within minutes of each other and approached the locomotive together. After a brief negotiation, officers were able to convince [AP] to come down off of the locomotive. Once he was on the ground, he became very agitated and aggressive towards the WPS members. WPS members believed the male was suffering from excited delirium and requested an ambulance to attend. Officers then took hold of [AP], and placed him onto the ground.

Whilst in the process of handcuffing [AP], he became unresponsive (no pulse/not breathing). Officers turned [AP] over onto his back and commenced CPR. Members of the Winnipeg Fire Paramedic Service arrived approximately ten minutes later and conveyed him to Concordia Hospital. The original medical prognosis provided to WPS members was that he was not expected to survive.

Subsequently, IIU was advised that AP never regained consciousness and passed away on October 26.

As this matter concerned the death of a person which may have resulted from the actions of a police officer, IIU assumed responsibility for this mandatory investigation in accordance with section 66(4) of *The Police Services Act* (PSA). 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 October 30, IIU requested the Manitoba Police Commission to appoint a civilian

monitor. The initial briefing with the civilian monitor took place on November 21, 2018 and was followed by regular monthly briefings thereafter.

A team of IIU investigators was assigned to this investigation.

Information obtained by IIU investigators included:

- WPS officers' notes and narrative reports;
- Identification Unit photographs;
- Witness statements;
- Physical evidence seizures;
- CEW downloads;
- 911 call audio recordings;
- Autopsy and toxicology reports respecting AP.

Due to the circumstances of the interaction between AP and police, the four WPS officers who were dispatched to the call for service were all initially designated as witness officers (WO1-WO4), pending the receipt of more detailed forensic pathology reports respecting the cause of death.

IIU investigators also met with and interviewed six civilian witness (CW1- CW6). A canvass for witnesses and evidence was conducted of the area surrounding the train location, which was noted to consist of warehouses and large commercial buildings. No video footage or additional witnesses were located or identified.

Facts and Circumstances

CW1 stated she and AP were drinking beer and using marijuana the night of October 24 and into the early morning hours of October 25. At approximately 3:00 a.m., AP complained he was feeling unwell and began to act irrationally, accusing CW1 of drugging him. AP departed on foot heading towards the St. Boniface Industrial Park. CW1 called a friend, CW2, for assistance. Over the next several minutes, CW1 called CW2 for updates and eventually made her way to the railroad tracks at Camiel Sys Street. CW1 noted there were four to five police officers already on scene, and AP was on a locomotive stopped nearby. CW1 said officers got AP off the train and were hovering around him. CW1 did not see any use of force directed at AP by police.

CW2 was called by CW1 that morning and found AP on the train tracks at Camiel Sys Street. AP was behaving strangely and accused CW2 of drugging him. AP then climbed onto a locomotive stopped on the tracks, at which point a number of WPS officers arrived. Four officers then approached AP and walked him off the locomotive. CW2 recalls seeing police performing CPR on AP. CW2 stated he did not see any police strike AP or utilize any Conducted Energy Weapons (CEW).

CW3 arrived at the locomotive prior to police arrival and stated AP was behaving erratically, accusing both CW2 and CW3 of having knives and trying to harm him. CW3 stated AP appeared sweaty and hot despite the fact the night was cold. CW3 stated that approximately six police officers attended the location a short time later. AP was approached by two police officers, while two other police officers remained on the ground nearby. CW3 stated that AP came off the train and the next thing she knew police were performing CPR on him. CW3 did

not see police officers use any physical force on AP but did note that he had a bloody nose and bruising on his head later at hospital, something CW3 had not seen on him at the railway tracks.

CW4, CW5 and CW6 were CN Railway employees present during the interaction between AP and police. All three were interviewed during the course of the investigation and none observed any police officer deliver strikes or blows to AP. CW4 and CW5 saw police officers wrestling with AP beside the railway tracks and CW6 stated he saw what he believed may have been a CEW deployment.

WO1 arrived on scene to find AP on a locomotive north of Camiel Sys Street. WO1 said WO3 and WO4 climbed onto the locomotive and escorted AP off. Once on the ground, AP resisted attempts by police officers to take him into custody and he was taken to the ground. AP drew his arms under his body and would not release them. WO1 stated WO4 delivered two or three knee strikes to AP's left shoulder following which police were able to pull AP's arms out and handcuff him. WO1 said AP became unresponsive and police commenced CPR until the ambulance arrived and transported AP to hospital.

WO2 attended the scene and found AP on a locomotive north of Camiel Sys Street. AP was telling police he was scared and that he did not believe the attending officers were real. WO2 was concerned about AP's condition and called for an ambulance before any efforts were made to remove AP from the locomotive. WO2 stated that WO3 and WO4 climbed onto the locomotive and escorted AP off it. Once on the ground, AP began to resist police efforts to control him and he was moved into the ditch next to the train tracks where a struggle ensued. WO2 said he took up a position on the Affected Person's right leg. WO2 did not see any strikes or blows to AP and believed that WO1 and WO4 were able to gain control of AP's arms. WO2 stated that at this point AP became unresponsive. WO2 stated he feared this was a case of *excited delirium*¹ and called again for an ambulance while other officers performed CPR on AP.

WO3 stated that once AP was removed from the locomotive and was on the ground, he became resistant and was taken down where he pulled his arms under his body. AP would not surrender his arms to police, despite commands to do so. WO3, who was now positioned on AP's lower left side, observed WO4 deliver two knee strikes to AP's left upper arm. WO3 stated he pulled out his CEW and threatened to use it on AP, but did not deploy it. WO1 was able to pull out AP's right arm and handcuff it, followed by WO4 gaining control of AP's left arm and handcuffing it. WO3 stated AP stopped struggling and was checked for a pulse. When none was found, CPR was commenced by police.

WO4 stated that during the struggle in the ditch alongside the train tracks, AP was lying face down on the ground, struggling to keep his arms under his body, while police officers were trying to remove his arms for handcuffing. WO4, who was positioned on AP's upper left side, said he administered two to four knee strikes to AP's upper left arm before the police were able

¹ Excited delirium, as referenced by Manitoba's Chief Medical Examiner's office, is:

- 1) Acute onset of bizarre and violent behavior, including paranoia, aggression, incoherence, and extreme strength;
- 2) Severe hyperthermia, with body temperature often over 104 F;
- 3) Sudden cardiac arrest during or usually several minutes after vigorous physical activity (such as wrestling and restraint by police);
- 4) History of mental illness with psychotic episodes (eg schizophrenia) and/or chronic use of cocaine or methamphetamine;
- 5) Presence of cocaine or methamphetamine in toxicology testing, often at low levels. This may not be present in schizophrenics.

to gain control of AP's arms and secure them with handcuffs. At that time AP was noted to be unresponsive and CPR was commenced.

CEW Examination

IIU investigators determined that only two of the police officers, WO3 and WO4, were equipped with CEWs that night. IIU investigators also determined that neither CEW had been deployed against AP.

Autopsy and Pathologist Report

An autopsy was conducted on AP on October 29, 2018. A final report from the medical examiner was received by IIU investigators on August 20, 2019. Cause of death was noted as hypoxic-ischemic brain damage² brought on by cardiac arrest that was caused by excited delirium and cocaine use. Of particular note was the attending pathologist specific comment that there was nothing in the findings to suggest the actions of police caused or in any way contributed to AP's death.

Conclusion

This investigation must consider whether the actions of any or all of the police officers who responded to the call for service caused or in any way contributed to the death of AP. In this matter, a forensic pathologist examined AP post mortem and determined that AP's death was a result of cardiac arrest caused by excited delirium and cocaine use. No actions by any police officer were found to have caused or contributed to the cause of AP's death.

In conclusion, there are no grounds to justify the designation of any of the police officers as subject officers and there is no further requirement to continue with this investigation.

Accordingly, this matter is now closed.

Final report prepared by:

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² a condition that occurs when the entire brain is deprived of an adequate oxygen supply