

FINAL REPORT: IIU concludes investigation into death while in police custody

On February 2, 2020, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit (IIU) of a death of a female (later identified as the affected person (AP)) who was in police custody.

The notification, provided to IIU (edited for clarity), read in part:

“On February 1, 2020, at 1941 hrs, Thompson RCMP were dispatches to a report that [AP] was intoxicated at the McDonald’s in Thompson, Manitoba. The complainant also suggested that the intoxicated person may require medical attendance. RCMP members attended. Thompson Fire and Emergency Services (TFES) assessed [AP] and cleared her to be lodged in police custody.

[AP] was arrested under the Intoxicated Persons Detention Act and was lodged into Thompson RCMP Cell "Tank 3" at approximately 2015 hrs.

At approximately 2249 hrs, [an RCMP member] conducted a physical review of the cell and observed that [AP] was conscious and breathing.

At approximately 2308 hrs, RCMP cell guard advised that [AP] was unresponsive and her lips were blue. RCMP and TFES conducted CPR, however [AP] was pronounced deceased at 2335 hrs.

Upon contacting the Thompson General Hospital (hospital) for Next of Contact information, police learned that two weeks prior [AP] has been med-evac'd to Winnipeg Health Science Centre for an intracranial brain bleed.

RCMP Major Crimes Service and Forensic Identification Services (FIS) have been dispatched. Cell and In-car video is being seized.

The Medical Officer's has been contacted and has arranged for an autopsy to take place in Winnipeg on Monday, February 3, 2020. RCMP will be involved in the escort of the deceased...”

As this matter concerned the death of a person that may have resulted from the actions of a police officer(s), IIU assumed responsibility for this mandatory investigation in accordance with section 66(4) of The Police Services Act (PSA). IIU investigators were assigned to this investigation.

Further, 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. IIU requested the Manitoba Police Commission to appoint a civilian monitor.

RCMP file material, and other information obtained by IIU investigators, included:

- RCMP occurrence summary
- officers' general reports, supplementary and notes
- in-custody death report
- scene photos
- video footage from McDonald's restaurant
- RCMP in-car and cell video footage
- FIS report
- consent for release of medical reports
- TFES Paramedic Reports
- medical reports respecting AP
- autopsy report
- pathologist report
- toxicology report

Due to the dearth of information at the outset of this investigation as to whether any actions by any RCMP member contributed to AP's death, it was decided that no subject officer designation could be made at this stage, pending receipt of more information. Four RCMP members were designated as witness officers (WO1-4). IIU investigators also interviewed four civilian witnesses (CW1- CW4). IIU investigators also interviewed two TFES members (PW1-2). Finally, IIU investigators consulted with the pathologist who conducted AP's autopsy.

IIU investigators obtained and reviewed a video surveillance recording from the McDonald's restaurant where AP was located and detained by RCMP. Additionally, IIU investigators received and reviewed video surveillance recordings from an RCMP cruiser car and from the cell where AP was lodged following arrival at the detachment office.

Facts and Circumstances

Civilian Witnesses:

CW1 is a community safety officer stationed in Thompson, Manitoba and was working that evening at the Thompson RCMP detachment, assigned to assist in the cells area. WO1 stated that CW2, a cell guard, asked her to check on AP, as she did not appear to be breathing and had soiled herself. CW1 stated that when she entered the cell, she rolled AP on her side to see if she was breathing. CW1 stated that AP did not respond, that her face was a pale blue colour, and that she was not breathing. RCMP members and TFES were immediately called to attend the cell. CW1 stated that RCMP members started CPR and also produced an automated external defibrillator (AED) to treat AP for a possible cardiac arrest. However, when the AED was applied, there was "no shock" detected, so CPR continued. When TFES personnel arrived, they assumed the treatment on AP. CW1 stated that approximately 30 minutes later, AP was pronounced deceased.

CW2 was a cell guard working at the Thompson RCMP detachment this evening. CW2 stated that AP was brought into the detachment by RCMP members, WO1 and WO2. AP was lodged in cells at 8:13 p.m., noted to be intoxicated and susceptible to seizures (confirmed by AP personally, during her search before placed in cells). CW2 stated that AP was checked and

cleared by TFES prior to arriving at the detachment. CW2 stated that he was familiar with AP from prior dealings. On this occasion, AP was in a good mood and did not appear to be in any distress. CW2 stated that AP had requested to be placed in “Tank 3” with another inmate, familiar to her. CW2 stated that he conducted regular checks on all prisoners in cells and all appeared normal and not in distress. CW2 stated that two of his regular checks on the prisoners in tank 3 were conducted by camera observations. CW2 stated that he also observed AP lay down on her side then stomach, remaining in that position for the next hour and a half. CW2 stated that he could observe AP’s stomach moving and was satisfied that she was breathing. At some point that evening, AP’s co-inmate was released from custody. CW2 stated that he attended to Tank 3 to clean out some debris and observed AP to be breathing and alive. CW2 stated that at approximately 11:05 p.m., he was outside of Tank 3 and in the company of CW1. CW2 stated that he observed that AP appeared to have soiled herself and did not see any movement by AP. At 11:08 p.m., CW2 entered Tank 3 to check on AP. CW2 stated that CW1 called AP by name, tried to shake her to awake and checked for a pulse. There was no response by AP. As a result, CW2 radioed for assistance and pushed an alarm button, resulting in several RCMP members rushing into the cell area. CW2 stated that CPR was commenced on AP and TFES was called. TFES personnel arrived at the detachment at 11:10 p.m. AP was pronounced deceased at 11:35 p.m.

CW3 is a member of TFES and had responded to a call for service at the McDonald’s restaurant in Thompson. On arrival, he found AP sitting at a table. RCMP members were also present. CW3 stated that AP walked to his ambulance on her own. AP was lucid and able to answer questions posed to her. CW3 stated that he smelled an odor of liquor on AP and in his opinion, she was intoxicated. CW3 stated that AP was assessed by him and it was determined that she was fit to be lodged in the RCMP cells. CW3 stated that he was among the paramedics who responded to the call for service at the Thompson RCMP detachment, later that night and assisted in the attempts to resuscitate AP.

CW4 is a director at the Thompson Homeless Shelter (shelter). CW4 is familiar with AP, stating that she was a frequent client at that shelter for over four years. CW4 stated that he last saw AP in the afternoon of January 31. CW4 stated that AP was intoxicated and was known as a heavy drinker. CW4 stated that AP remained at the shelter overnight. AP was not at the shelter for breakfast or lunch, but records noted that she was present for dinner. AP left the shelter at 5:47 p.m. CW4 stated that he was aware that AP was flown to Winnipeg in January 2021, to be treated for seizures and had been prescribed medication. The shelter staff would assist AP with dispensing her medication. When AP was drinking, no medication would be dispensed to her due to possible adverse effects with alcohol.

Witness Officers:

WO1 is an RCMP member who was on duty during the evening of February 1. He was training with WO2 when they were dispatched to McDonald’s in response to a report of an intoxicated patron who was falling down inside the restaurant. WO1 stated that he was further advised that TFES was also en route to McDonald’s. WO1 stated that upon arrival, they met with two other RCMP members and subsequently encountered AP inside the restaurant, sitting at a table. Based on observations of AP and information obtained, it was determined that AP would be detained under the provisions of the Intoxicated Persons Detention Act (IPDA). WO1 stated that AP was escorted to an ambulance where she was assessed by TFES personnel. WO1 stated that TFES

advised that while AP was intoxicated, she was medically fit to be lodged in cells. WO1 stated that AP had complained about having seizures in the past. WO1 stated that AP was transported to the Thompson RCMP detachment where she was placed in cells. WO1 stated that his next contact with AP was several hours later. WO1 stated that he and WO2 were dealing with another individual when he heard someone call for help from the cells area. WO1 stated that he ran to the area to find CW1 turning AP on to her back. WO1 stated that he immediately noticed that AP was not breathing nor responsive and he commenced CPR. He was relieved by another RCMP member until TFES arrived and took over treatment of AP.

WO2 is a member of the RCMP, who was on duty during the evening of February 1. WO2, who was also training WO1, stated that a call for service was received at 7:00 p.m. regarding an intoxicated female at McDonald's, who had fallen and staff wanted her removed. WO2 stated that they made their way to McDonald's. On arrival, two other RCMP members were already present as was an ambulance operated by TFES personnel. WO2 stated that TFES personnel were assessing AP's medical status in the ambulance. WO2 stated that AP had advised that she was subject to seizures and had hip pain. WO2 stated that TFES medically cleared AP to be taken to the detachment and lodged in cells as she was to be detained under IPDA. WO2 stated that AP was transported to the detachment and lodged in cells. WO2 states that she told the guard about AP's seizures. WO2 stated that her next involvement with AP was several hours later when she and WO1 were dealing with an unrelated individual. WO2 stated that she heard the cell area panic alarm activate and WO1 attended to the cells. WO2 stated that WO1 advised that he had to perform CPR on AP. WO2 stated that she had no direct contact with AP.

WO3 was one of two watch commanders on duty at the detachment during the evening of February 1. WO3 stated that at approximately 11:15 p.m. she heard the cell area alarm sound. WO3 stated that she immediately attended the cell area and entered Tank 3. WO3 stated that she recognized AP, having known her for several years of contact. WO3 stated that AP was laying down and face up as WO1 was performing CPR. WO3 stated that she has nursing experience and also works at the hospital's emergency department. WO3 stated that she checked AP for a pulse and could not deduct one. WO3 stated that she left the area to retrieve an AED and ensure that an ambulance was called. WO3 stated that she returned to Tank 3, attached the AED pads to AP and followed the AED prompts. WO3 stated that a heart rhythm check was conducted and that the AED returned a "*no shock advised*" message. Accordingly, WO1 resumed and continue to provide CPR to AP. TFES arrived a short time later and assumed the resuscitation efforts on AP. WO3 stated that AP was pronounced deceased at 11:35 p.m. AP never regained consciousness or a pulse. WO3 stated that she attended the hospital to obtain information on next of kin. While at the hospital, WO3 stated that she learned that AP had attended Health Science Centre (HSC) in Winnipeg approximately two to three weeks earlier for treatment of an aneurysm and had been discharged. WO3 stated that she learned that AP had a brain bleed, required surgery for her aneurysm and was to return to HSC but did not return at any subsequent time.

WO4 was the second watch commander on duty at the detachment during the evening of February 1. WO4 stated that she attended the cell area to release a prisoner who was lodged in Tank 3 with AP. WO4 stated that she had known AP for years and never had any issues with her. WO4 stated that AP was breathing and not in any distress at that time. WO4 stated she conducted another cell check on prisoner conditions at approximately 10:49 p.m. All prisoners, including AP, were noted to be breathing and not in distress. WO4 stated that she was sitting in her office

when she heard the cell area panic alarm activate. WO4 stated that she attended to the cells area and observed that the door to Tank 3 was open. AP was not conscious or moving and her skin was a grayish color. WO1 commenced CPR on AP as a call was made for an ambulance to attend immediately. WO4 stated that she recalls someone retrieving the AED but it was ineffective on AP. WO4 stated AP could not be revived and that attending TFES pronounced her deceased.

Review of Various Video Recordings:

Video surveillance footage was seized from McDonald's, from the police vehicle that transported AP to the detachment and from Tank 3. IIU investigators reviewed each video. The video surveillance footage from McDonald's showed that prior to the arrival of RCMP officers and TFES personnel, that on two occasions, AP had fallen off a stool she was sitting on, landing on the restaurant floor and appeared to strike the back of her head. The same video surveillance footage showed AP walking unassisted out of McDonald's and to an ambulance with RCMP members and TFES personnel. There was no physical interaction between police and AP on this video, on the in-car video nor on the cell area video while she was in custody.

Medical Information (including Autopsy and Toxicology Reports)

An autopsy was performed on AP on February 3, 2020. On April 24, 2021, a final autopsy report and toxicology report were received by IIU investigators.

AP's cause of death as noted as: **acute/subacute subdural hematoma¹ and acute alcohol intoxication²**. The toxicology report confirmed that AP's blood alcohol level was 372 mg/dl (or 372 mg %)³. According to the pathologist, the combined effects of the acute/subdural hematoma (including the pre-existing injury from January 2021, the falls and head strikes on February 1 at McDonald's and the lethal level of alcohol intoxication lead to AP's death.

Conclusion

This investigation must consider whether the actions of any or all of the police officers who were involved with AP during the evening of February 1, either at McDonald's, during transport to the detachment, or while detained in cells, caused, or in any way contributed, through action or inaction, to her death.

Based on the various witness accounts, the various video footages recovered and reviewed, and the medical information from the autopsy and toxicology results, the following determinations can be made:

- At all material times, the police officers were in the lawful execution of their duties;

¹ A subdural hematoma is a collection of blood outside the brain, usually caused by serious head injuries. Bleeding and added pressure on the brain from a subdural hematoma can be life-threatening. In a subdural hematoma, blood collects between the layers of tissue that surround the brain. The outermost layer is called the dura. In a subdural hematoma, bleeding occurs between the dura and the next layer, the arachnoid. The bleeding is under the skull and outside the brain, not in the brain itself. As blood pools, however, it puts more pressure on the brain. The pressure on the brain causes symptoms. If pressure inside the skull rises to a very high level, a subdural hematoma can lead to unconsciousness and death.

² Acute alcohol intoxication is a clinically harmful condition that usually follows the ingestion of a large amount of alcohol. Clinical manifestations are heterogeneous and involve different organs and apparatuses, with behavioral, cardiac, gastrointestinal, pulmonary, neurological, and metabolic effects.

³ For comparison purposes, it is an offence in Canada to operate a motor vehicle with a blood alcohol level in excess of 80 mg/dl (80 mg %). In essence, AP's blood alcohol levels were more than 4.5 times the legal limit and were, as described by the pathologist, in the lethal level zone.

- In Manitoba, under the provisions of the IPDA⁴, where a police officer finds a person who is intoxicated in a public place, he may take that person into custody and process him or her in accordance with legislation. I am satisfied that McDonald's meets the definition of public place for the purposes of IPDA, that the police assessment of AP's condition at the time met the necessary criteria to support an IPDA detention ;
- Video footage from McDonald's shows that AP fell and struck her head twice on the floor, prior to police arrival;
- AP was assessed by paramedics and was cleared for detention in RCMP cells;
- There was no physical interaction between police and AP at anytime from the arrival at McDonald's, transport to the detachment or while AP was in RCMP custody (other than the attempts to resuscitate and revive her when found unconscious and not breathing).
- AP had sustained a prior head injury a few weeks before the February 1 incident;
- AP is a known, heavy drinker and a frequent detainee at the RCMP detachment;
- At the time of her death, AP's blood alcohol level was in the lethal range and 4.5 times the legal driving limit;
- The cause of death was an acute subdural hematoma coupled with acute alcohol intoxication;
- The steps taken to resuscitate and revive AP in cells was reasonable and appropriate for the circumstances;

In conclusion, there is no evidence to support a finding that there is any level of contribution by any police officer, through action or inaction, to the cause of AP's death. There is no evidence in this matter that would justify the designation of any police officer as a subject officer. Although the death of AP is a tragedy on many levels, there is no further requirement or need by IIU to continue with this investigation.

⁴ Sections 2 and 3 of the IPDA (Manitoba):

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

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

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

(a) on his recovering sufficient capacity to remove himself without danger to himself or others and without causing a nuisance; or

(b) if an application is made sooner by a member of the person's family or by a person who appears to be suitable and capable of taking charge of the person, into the charge of that applicant; but in any case before the expiry of 24 hours after the person was taken into custody.

3(2) Where a person taken into custody under section 2 is in the custody of the person in charge of a detoxication centre, the person in custody may be allowed to remain in, and, with his consent, be cared for in the detoxication centre after the expiry of 24 hours after he was taken into custody.

The IIU investigation is complete and this file is closed.

Final report prepared by:

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Independent Investigation Unit
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