

FINAL REPORT: IIU concludes investigation into death in police presence in Rural Municipality of Prairie Lakes

On July 23, 2022, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit (IIU) of an incident where a male died in police presence at a residence located near Killarney, Manitoba in the Rural Municipality of Prairie Lakes. Henrietta Street, in Winnipeg.

The written notification disclosed the following information (edited for clarity):

*“On July 20, 2022, Cornwallis Police Service (CPS) requested the assistance of the RCMP with the execution of an arrest warrant for a male, later identified as the Affected Person (AP), who resided in RCMP jurisdiction. On July 22, 2022 at approximately 09:50 PM four members of the RCMP attended to AP’s residence to execute the warrant for the offence of flight from police. The residence was gated and secured and police entered the property on foot. AP was in his yard and upon seeing police he yelled “f**k off” and turned towards his residence. A RCMP member verbally advised AP he was under arrest and police moved towards him to physically arrest. Before a physical arrest could be made, AP retrieved a long gun from the front of his residence and fired at police. Police discharged multiple rounds in return. AP retreated and barricaded himself inside the residence. Police repositioned to a point of cover to contain the scene from a distance and RCMP Critical Incident Command (CIC) was requested and engaged. Smoke was observed coming from the residence and the residence became engulfed in flames. On July 23, 2022 at approximately 7:00 a.m., a body was located in the residence. The scene has been secured...”*

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 65(4) of The Police Services Act (PSA). IIU Investigators were assigned to this investigation.

Among the agency information obtained by IIU Investigators included:

- Occurrence Summary and Report;
- Subject Behaviour Reports;
- Audio of RCMP radio transmissions;
- RCMP officers’ notes and narratives;
- Forensic Identification Service reports and photographs;
- Fire Investigation Report;

- Preliminary and Advance reports on death of AP

Due to the dearth of information at the outset of this investigation as to the level of involvement by any RCMP officer, the civilian director deferred a decision to designate any of them as a subject officer. The civilian director designated four RCMP officers as witness officers (WO1 - 4). The final autopsy report respecting the AP would not be available for approximately 11-12 months. However, IIU Investigators were able to consult with the attending pathologist and based on the information and medical opinions provided, the civilian director was satisfied that it would be sufficient to proceed with this final report on the conclusion of the investigation.

Facts and Circumstances

On July 20, 2022, CPS requested the assistance of the RCMP with the execution of an arrest warrant for AP who resided in RCMP jurisdiction.

On July 22, 2022 at approximately 9:50 PM, four members of the RCMP (WO1-4) attended to AP's residence to execute the warrant. It was the intention of police that the warrant would be executed but AP would not be taken into custody.

AP's residence is located in a rural and isolated setting. The back of the residence abuts onto a heavily wooded area. A lengthy driveway leads from the highway to the front of the residence. The front gate to the driveway was barred and chained. The RCMP officers were unable to drive their vehicles onto AP's property. The officers' parked their vehicles at the entrance of the long driveway and they started walking down the driveway to the residence. It was beginning to get dark outside. A truck was parked near the residence and AP was observed to the rear of this vehicle, standing in his yard. WO1 yelled out that AP that he was under arrest. AP ran to the front of his residence, retrieved a firearm and began shooting at the four officers as he entered his home.

The four officers fearing imminent death or grievous bodily harm, immediately sought out cover, with three of the officers returning gunfire. One of the officers was in possession of a carbine and two others were in possession of their respective service revolvers. The fourth police officer did not discharge his weapon as he had no proper view of the residence or AP. According to round counts conducted on each weapon, WO1 fired his service revolver x9 times. WO2 fired his service revolver x9 times. WO3 fired x23 rounds from his carbine. AP was firing at the police officers, from inside his residence, with both a high powered rifle and shotgun.. None of the police officers were struck with any of the gunshots.

The four police officers radioed for backup and were able to retreat, making their way off the property via the driveway and back to their vehicles. The sounds of "...hundreds" of gunshots continued to be heard by the police officers and it was believed that AP was still firing his weapons. The police officers ceased returning gunfire as they retreated back to their vehicles.

A short time later, AP's residence was observed to be on fire and flames were reaching the top of the tree line. The residence was soon engulfed in flames and subsequently burned completely to the ground. Due to the significant risk that AP posed, it was determined that the residence would not be approached.

The fire burned through the night and into the morning hours of July 23, authorities felt that it was safe to approach and were able to make their way into the smoldering remains of the residence. A badly burned body was located at the rear of the burned residence. The remains

were identified to be AP by way of his dental records. An excavation of the burned residence was conducted and resulted in the recovery of nine long barrelled firearms consisting of high powered rifles and shot guns. All of these firearms were heavily burned in the fire and were found to be inoperable. Various ammunition was found in the remains of the residence and were likely discharged due to the heat from the fire.

An investigator from the Office of the Fire Commissioner attended and examined the scene to determine if a cause of the fire could be ascertained. Flammable liquids and consumables were located in the truck parked near the front of the residence. It was also noted that no police officer fired any tear gas incendiary devices, into the residence that may have resulted in fire ignition.

According to the investigator's final report:

POSSIBLE CAUSES

After an exchange of gunfire, AP barricaded himself in the structure and RCMP retreated ... While waiting for additional RCMP resources, a fire and smoke was noticed coming from the dwelling on the property. Fire personnel were dispatched but could not enter the property due to the dangerous circumstances. The fire burned through the night with no fire suppression operations. The entire structure was consumed by fire, leaving interior contents and structural components with extensive damage.

Due to the length of time the fire was able to burn and the damage caused by the heat, an exact origin and cause of the fire could not be determined by the writer. Based on some of the observations and the information gathered on scene, the fire was possibly ignited by AP while inside the dwelling. The fact that there were several fuel containers and combustible items like paper towel and fabric located on the tailgate of the trucks appeared as though AP may have been soaking the items with fuel with the intention of igniting a fire. The writer was not able to locate any evidence on the interior of the dwelling indicating an incendiary fire.

AP was located within the dwelling, at the door opening on the north side. It appeared that his right leg was on the exterior with the rest of the body on the interior. His actions prior to, and during the fire are unknown but most likely ignited the fire to burn the dwelling. It is uncertain if AP intended to stay within the burning structure, or attempted to escape using the north door. Due to the extensive damage to the dwelling and the consumption of potential evidence, an exact origin and cause could not be determined by the writer.

Conclusion

As a result of all the information received to date and the evidence gathered at the scene, the writer is of the opinion the origin and cause fire could not be determined. This file is concluded as UNDETERMINED

IIU investigators did discuss the findings of AP's autopsy with the attending pathologist. Most of the remains of AP were consumed in the fire. Only AP's head, part of his torso and portions of his legs remained available for examination. According to the pathologist, he concluded that there was no obvious injury to AP, aside from damage caused by the fire. The pathologist further advised that AP probably died due to the fire as soot was noted in the airways. While no official

cause of death would be listed, the pathologist confirmed that there was no projectile damage or injury to AP.

Conclusion

The circumstances of this incident began in benign fashion as police officers, acting in their lawful authority, attended AP's residence to execute a warrant for arrest but were not seeking his detention. AP reacted to police presence by running to his house, arming himself with a high powered rifle and immediately shooting at the police officers. In response, the police officers immediately sought cover and returned gunfire in response to the life threatening actions of AP. The police officers were able to retreat from the front of the residence and back to their vehicles, where backup was called. AP continue to pose a significant risk to the lives and safety of the police and anyone else who would attend the residence. A fire started from inside the residence. AP, who perished in the fire, was located at the back of the residence. The ultimate cause of the fire was undetermined but likely the responsibility of AP. It is evident that the police officers were not responsible for the cause of the fire. Although the condition of AP's remains make the pathologist's findings less than 100% certain, he is satisfied that AP was not struck with any police gunshot projectile and that his likely cause of death was due to the fire to the residence.

Based on the circumstances and in consideration of the professional opinions provided, I am satisfied that the police response to being shot at was reasonable and necessary. There is nothing in the available evidence to support any finding that there is any level of contribution by any police officer to the cause of AP's death, either by action or inaction. Accordingly, there are no grounds in this matter that would justify the designation of any of police officer as a subject officer.

There is no further need for IIU to continue with this investigation into this tragic matter and this matter is now closed.

Final report prepared by:
Zane Tessler, civilian director
Independent Investigation Unit
February 17, 2023

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