

# ***SIRT***

*Serious Incident Response Team*

## **Investigation Summary:**

Incident Type: In-Custody Death

SIRT File No.: 2023-05

Incident Date: April 1, 2023

Agency Involved: PAPS

Civilian Executive Director: Greg Gudelot

Date of Report: March 10, 2025

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## Introduction

On Saturday, April 1, 2023, at approximately 3:30 a.m., the Saskatchewan Serious Incident Response Team (SIRT) received a notification from the Prince Albert Police Service (PAPS) regarding an in-custody serious injury during a vehicle stop related to a stolen vehicle investigation. SIRT's Civilian Executive Director accepted the notification as within SIRT's mandate and directed an investigation by SIRT.

Earlier that evening, a black Dodge Avenger was reported stolen by its owner. That vehicle was subsequently located, and a member of PAPS executed a traffic stop on the vehicle. The vehicle was occupied by three individuals, including the vehicle's registered owner. Other PAPS patrol units attended the location of the traffic stop. During the interaction that followed, police attempted to take a 40-year-old man, subsequently referred to as the affected person, into custody and an altercation occurred.

During that altercation, the vehicle was put into motion, colliding with a marked PAPS vehicle, and several intermediate weapons were used by police, including conducted energy weapons (CEWs), collapsible batons, and Oleoresin Capsicum (OC) spray.

Once the affected person had been taken into custody, EMS attended the scene, and the affected person was observed to be in medical distress. EMS provided care and the affected person was transported to hospital in serious condition, and subsequently transferred to hospital in Saskatoon.

On April 26, 2023, the affected person passed away in hospital.

## Timeline

SIRT was notified of the incident on April 1, 2023, at approximately 3:30 a.m. A SIRT team consisting of the Civilian Executive Director and four SIRT investigators was immediately deployed to Prince Albert to begin the investigation. On December 23, 2024, the completed investigation was submitted to the Civilian Executive Director for review.

## The Investigation

SIRT's investigation was comprehensive and thorough, conducted using current investigative protocols, and in accordance with the principles of Major Case Management (MCM). During the course of the investigation, all relevant police and civilian witnesses were interviewed, a scene examination was conducted of the incident location, all relevant audio, video, and documentary evidence was seized, along with several physical exhibits. Pursuant to a judicial authorization, the contents of a cellular phone possessed by the affected person at the time of the incident were downloaded and analyzed, and the affected person's medical records from multiple hospitals, as well as the involved ambulance service, were obtained.

A significant amount of video footage was obtained from various sources during the course of SIRT's investigation. Shortly after the incident, civilian-recorded video began circulating on social media. This footage was obtained, along with CCTV footage from the area. The police vehicles and ambulance that attended the

scene were equipped with in-car digital video (ICDV) systems, which provided footage of the incident from multiple angles, and provided comprehensive coverage of most aspects of the incident. This footage was seized and analyzed to provide a detailed breakdown of the relevant events during the incident and their timing. In addition to the audio accompanying the various pieces of video evidence, audio recordings relevant to the investigation were obtained from numerous sources during the investigation, including the initial 911 call reporting the Dodge Avenger as stolen, police radio transmissions and dispatch recordings.

Documentary evidence confirmed the timing and occurrence of various police events, as well as relevant PAPS policies and recertifications. The affected person's background information, as described by the involved members following the event, was also obtained and verified. This information confirmed the existence of several outstanding warrants, as well as relevant cautions for violence and firearms. At the time of the incident, in addition to the various arrest warrants, the affected person was bound by several relevant court-ordered conditions including a curfew and prohibition on the possession and consumption of alcohol or drugs. The affected person was also bound by a lifetime firearms prohibition as a result of a prior conviction.

Nine police officers were designated as Subject Officers in SIRT's investigation. Despite being under no legal obligation to do so, eight of the Subject Officers voluntarily provided statements to SIRT for use in the investigation, along with access to their notes made at the time of the incident. No Witness Officers were designated during the course of this investigation, however one police officer with minor involvement was interviewed, and relevant notes were obtained from other police officers not directly involved in the incident.

Numerous civilian witnesses with varying degrees of involvement were identified and interviewed during the course of SIRT's investigation. These witnesses included the other occupants of the vehicle occupied by the affected person, several bystanders, EMS personnel who attended the scene, a civilian staff dispatcher employed by PAPS, and several associates of the affected person.

The evidence provided by these civilian witnesses provided both context to and corroboration of several critical details regarding the incident. The registered owner of the vehicle occupied by the affected person (later referred to as CW1) confirmed that she had reported the vehicle stolen earlier that night when the affected person had taken the vehicle without her knowledge. She estimated that she had retrieved the vehicle from the affected person approximately three-to-four minutes prior to the traffic stop. The status of the vehicle as stolen was the subject of some speculation due to the registered owner's comments to both media and members of the community denying that she had made such a report. While her admission during the interview with SIRT investigators confirms the report and provides her explanation for the earlier denials, namely a fear of reprisal in the community, the fact remains that regardless of this later admission, the call reporting the vehicle stolen was recorded and was independently verifiable early in the investigation. The registered owner further confirmed that the vehicle was in park before she exited the vehicle during the incident. Both the registered owner and the rear seat passenger of the vehicle (later referred to as CW2) confirmed that the affected person had provided police with a false name upon initial contact. The passenger described the affected person as calm during the encounter until police were aware of his real name and ordered him out of the car, stating that he did not want to get out. Bystanders interviewed by SIRT investigators confirmed the affected person's resistance to being removed from the vehicle, and removal of taser probes after deployment. EMS staff interviewed during the investigation described the affected person as resistant and struggling up to the point of EMS contact.

Several physical exhibits were seized during the course of SIRT's investigation, including a handgun recovered from the affected person during the incident as well as a number of the intervention options used by police during the incident. The handgun was submitted for analysis during the investigation. The handgun was determined to be a Smith and Wesson M&P 9mm pistol, classified at the time of the incident as a restricted firearm within the meaning of the *Criminal Code*. At the time of incident, the firearm was loaded with five rounds and was in proper operating condition when examined. Of note, an electrical probe discharged by a conducted energy weapon (CEW) during the incident was lodged in the magazine well of the firearm. This probe did not interfere with the device's function during testing, but does confirm the placement of the item on the affected person's body at the time of the incident. The firearm in question had been reported lost or stolen from an owner in British Columbia approximately a year prior to the incident.

As identifiable on the video footage obtained during the investigation, conducted energy weapons (CEW), colloquially referred to as tasers, were deployed several times during the incident. CEWs are an intermediate use of force option provided to police, and are intended to produce a result in several different ways. A warning arc is a visible and audible spark from the CEW, and is intended to obtain compliance without any actual use of force or physical effect on the subject. A drive stun (also referred to as a dry stun) is a contact deployment of the CEW, where the CEW is placed directly in contact with the subject. A drive stun is intended to produce a pain compliance response, but does not physically incapacitate the subject. A probe mode or cartridge deployment involves the discharge of the CEW's probes at a subject. When both probes connect with the subject to a sufficient degree to allow the flow of electrical current through the body, they are intended to produce a condition referred to as neuromuscular incapacitation (NMI). An NMI result is intended to physically incapacitate the subject for a short period of time. As stated, this result requires sufficient electrical connection through at least two points of contact, with sufficient spread distance between the two connections over the subject's body. Insufficient electrical flow or insufficient spread may result in localized pain, but would generally fail to result in NMI. In addition to the discharge of additional probes, it is also possible for a user to re-energize previously deployed probes through an additional pull of the CEW's trigger.

During SIRT's investigation, all CEW devices used during the incident were seized, and the internal usage data from each device downloaded. Usage data is recorded on each individual device every time it is tested or used and includes the type and duration of each usage along with other associated information. As the incident involved the use of multiple CEW devices in the various modes described above, an expert was engaged to analyze the downloaded CEW data and determine how each device had been deployed during the incident. Based on the download data and analysis, five CEWs were used in some manner during the incident, with a total of 15 individual usages. Of those 15 uses, four were warning arcs and 11 were trigger presses. These trigger presses resulted in the discharge of nine sets of probes, with the remaining events representing use of the CEW in drive stun mode or the reactivation of previously deployed probes. Of these deployments, based on the download data, NMI was possible in four instances, though it is impossible to confirm whether NMI actually occurred based on the download data alone.

An autopsy was conducted following the death of the affected person. The report resulting from that examination concluded that the cause of the affected person's death was cardiac arrest, caused by positional asphyxia and cocaine intoxication. In the report, the forensic pathologist notes that while it is possible that the prior deployment of the CEW may have sensitized the affected person's heart to some degree, making it easier for the heart to go into sudden cardiac arrest, this possibility was identified as being unlikely.

A toxicology report assessed the blood samples drawn from the affected person upon his initial admission to hospital and identified the presence of cocaine and its metabolite within the affected person's body. The levels observed, according to the toxicology report, are consistent with the ingestion of a large amount of cocaine prior to the collection of the samples.

At the outset of the investigation, as required by S.91.12(1) of *The Police Act, 1990*, a Community Liaison was appointed to assist the investigation. The liaison was provided with regular updates on the investigation, and at the conclusion of the investigation, was provided the opportunity to review the investigation in its entirety, and to make comments and recommendations as necessary. As the investigation continued, a second Community Liaison was appointed for the purpose of facilitating contact with the affected person's family.

## Summary

On April 1, 2023, at approximately 1:54 a.m., PAPS received a 911 call from an individual (CW1) reporting that she had left her vehicle running outside of an address in Prince Albert, and that it had been stolen at approximately 12:45 a.m. CW1 advised that she had purchased the vehicle that day and did not know the license number, but described the vehicle as a 2010 Dodge Avenger. The 911 call was dropped, and the operator was unable to reach the caller on attempts to call back. The operator queried the caller and determined that the caller had indeed registered the same vehicle that day and was able to obtain a license number for the vehicle. The matter was dispatched over the radio to a member of PAPS (SO1) who, due to the lack of a specific location to attend as a result of the dropped call, attended to the address of the registered owner. After receiving no answer at the door of the registered owner's residence, SO1 contacted dispatch at approximately 2:17 a.m., and asked that the matter be returned to the queue for follow up later.

At approximately 2:20 a.m., another member of PAPS, operating a marked patrol vehicle (SO2) observed a black Dodge Avenger on 13<sup>th</sup> St W in Prince Albert and, as the vehicle matched the description of the earlier report of a stolen vehicle, contacted dispatch to obtain the license number of the stolen vehicle. SO2 asked the dispatcher to re-attempt contact with the registered owner and confirmed that the vehicle he was following matched the license number of the vehicle reported stolen. The vehicle pulled into an alley and stopped. Having confirmed the vehicle he was following matched the description and license plate of the vehicle earlier reported stolen, SO2 pulled behind the stopped vehicle, activated the emergency equipment on his patrol vehicle, and announced over the radio his location and that he had located the black Avenger.

SO2 approached the stopped vehicle and confirmed that it was occupied by three individuals—a female driver (CW1), a male front-seat passenger, subsequently determined to be the affected person, and a female rear seat passenger (CW2). SO2 obtained photo identification from CW1 and asked for the names and dates of birth of the two passengers. The affected person provided SO2 with a name, later determined to be false, but was unable to provide a date of birth. SO2 returned to his patrol vehicle to query the names provided.

At approximately 2:23 a.m., SO1 arrived at the scene of the vehicle stop to assist SO2, parking approximately five meters in front of the stopped Dodge Avenger. SO1 approached the passenger side of the Avenger and observed an open alcoholic beverage in the vehicle's centre console, another open container at the affected person's feet, and a case of beverages on the floor of the vehicle. SO1 observed the affected person reaching

for his waistband, and asked the affected person to show his hands, with the affected person complying with this request.

At approximately 2:24 a.m., another PAPS vehicle, occupied by two PAPS members (SO3 and SO4) arrived at the vehicle stop and parked beside SO1's vehicle, facing the Avenger. At approximately 2:25 a.m., a PAPS K9 handler (SO5) and another PAPS member (SO6) arrived at the scene in separate vehicles. While SO5 was accompanied by a police service dog (PSD), which was later removed from his vehicle, it was not deployed at any point during the incident and did not make contact with the affected person. SO2 advised SO6 that the affected person had provided a name, but was unable to provide a date of birth, and asked SO6 to assist in identifying the affected person. SO6 recognized the affected person from previous contact and was able to provide the affected person's real name, at the same time noting that the affected person's face appeared to have a greyish colour. SO2 advised that upon learning the affected person's name, he was familiar with the affected person's history and aware that he may have active warrants, as well as a previous history with firearms.

SO4 contacted dispatch at approximately 2:27 a.m. with the affected person's real name and asked that dispatch query the name. SO4 observed the affected person reach into his clothing and toward his waistband and gave a verbal command for the affected person to show his hands, but the affected person did not comply with this request. SO4 was aware that the affected person had outstanding warrants for his arrest and asked the affected person to step out of the vehicle, advising that he was under arrest for the outstanding warrants. SO1 leaned into the passenger side of the vehicle in an attempt to remove the affected person, with the assistance of the other members present, but the affected person braced himself within the vehicle and remained inside.

SO6 drew his CEW and twice activated the warning arc function, resulting in an audible spark sound, but not contacting the affected person. Various members gave verbal commands for the affected person to exit the vehicle, which were loud enough to be captured on the internal microphones of the police vehicles present, despite the fact the doors were closed. SO1 drew her service pistol from its holster, but re-holstered the pistol a short time later, and at no point during the incident was a firearm discharged. The driver of the Avenger, CW1, exited the vehicle, and SO2 approached the driver's side of the vehicle, drawing his CEW from its holster and activating a warning arc. Various members shouted verbal warnings to the affected person that a CEW would be deployed, but the affected person did not respond to these warnings, and continued to resist the efforts of the members to remove him from the vehicle, swinging his arms and reaching into his clothing, causing one member to shout a warning to the others present to watch the affected person's hands. SO6 discharged the probes on his CEW, with only one connecting with the affected person and not resulting in NMI. SO2 discharged his CEW a short time later, with both probes connecting, creating only an intermittent connection with the affected person, potentially resulting in a brief (1-2 second), but ultimately ineffective, period of NMI, as the affected person pulled the probe wires from his clothing.

At approximately 2:28 a.m., the affected person attempted to close the passenger side door of the vehicle, and SO5 delivered four strikes from a collapsible baton. While it is unclear whether any of these strikes contacted the affected person, based on the sound corresponding with the strikes, two of the attempted baton strikes may have contacted the vehicle. SO4 deployed Oleoresin Capsicum (OC) spray to the passenger side of the vehicle, which had no effect on the affected person. The rear seat passenger (CW2) was removed

from the rear of the vehicle and SO5 delivered three additional baton strikes, however it is unclear if any of the attempted strikes contacted the affected person.

The affected person moved across the centre console and into the driver's seat of the vehicle, and several of the members present repositioned to the other side of the vehicle to continue the attempt to remove him. SO2 attempted to pull the affected person from the vehicle, and discharged his CEW a second time, again resulting in an intermittent connection and no NMI. SO5, still located on the passenger side of the vehicle, and SO3, located on the driver's side of the vehicle, both discharged their CEWs in close succession on two occasions, with only intermittent connections, with no or only partial NMI resulting from the deployments. SO4, standing near the front of the Avenger, discharged his CEW for the first time, however the spread between the probes was too narrow and no NMI resulted. This discharge was deactivated partway through the cycle due to the safety on the CEW being activated. Despite the deployment of several CEWs, the affected person, still in the driver's seat of the Avenger, was able to shift the vehicle out of park and into gear, then revved the engine, causing the vehicle's wheels to spin. The members surrounding the vehicle jumped back as the Avenger moved forward, colliding with the police vehicle parked by SO1. As soon as the vehicle stopped moving, the affected person closed the driver's side door.

The members ran to the side of the Avenger and attempted to open the door. SO3's CEW was re-activated, but it is unclear if any probes remained in contact with the affected person following the vehicle's motion, and no NMI was achieved. Through the open driver's side window, SO2 physically struck the affected person's head with his hand, still holding the CEW. At approximately 2:29 a.m., SO4 deployed his CEW a second time, with a connection sufficient to cause NMI, though it is unclear if the result was achieved, but at this point SO2 was able to open the driver's door of the vehicle and deliver two strikes to the affected person's head. SO5, standing at the passenger side, discharged OC spray within the vehicle. The members continued their attempts to pull the affected person from the vehicle, but the affected person maintained control of the vehicle, shifting it into reverse and turning the vehicle's wheels as he revved the engine. The vehicle's wheels spun in reverse, but either due to the snow and ice conditions on the road or the Avenger having become stuck to the police vehicle following the collision, it did not come into motion. SO2 delivered strikes to the affected person from the driver's side of the vehicle, and SO4 struck the vehicle with his collapsible baton, and struck the affected person through the gap between the vehicle's A-pillar and the driver's door. Reaching from the passenger side of the vehicle, SO5 deployed his CEW twice in drive stun mode, which did not cause NMI, but stiffened or distracted the affected person sufficiently that members were able to pull him from the driver's side of the vehicle. At this point, CW1 and CW2 departed the scene of the vehicle stop on foot.

At approximately 2:30 a.m., the affected person had been removed from the vehicle and was taken to the ground next to the driver's side of the vehicle but continued to resist the member's attempts to place him in handcuffs. At this point, SO5 stated words to the effect of "got a gun," and removed a handgun contained within a holster from the affected person and handed it to SO4. Although there had been an earlier comment over the radio regarding an ambulance, SO2 clearly restated a request over the radio for an ambulance to attend. At approximately 2:31 a.m., SO4 cleared the firearm by removing it from the holster, removing the magazine and locking back the slide. SO1 removed a knife that was strapped to the affected person's chest and delivered several knee strikes as the affected person struggled against attempts to place him in handcuffs. At this point, still at 2:31 a.m., two additional PAPS members (SO7 and SO8) arrived in separate vehicles.



At approximately 2:32 a.m., the affected person was rolled to his right side as members applied handcuffs in front of his body, with his hands in a raised position above his head. The affected person was rolled to his left side, as members continued to search him. At this point, the affected person was observed to be breathing hard, and stated words to the effect of “I can’t breathe.” SO6 looked to confirm that no members were restricting the affected person’s breathing, and made a comment to that effect to the affected person, who continued to attempt to free himself. At approximately 2:33 a.m., the affected person was rolled to his front, and at approximately 2:34 a.m., a restraint strap was applied to the affected person’s legs and SO9 arrived at the scene. At approximately 2:35 a.m., the affected person continued to yell and struggle as members removed the handcuffs from his front and attempted to re-handcuff him behind his back. During this process, at approximately 2:36 a.m., SO4 delivered several strikes to the affected person’s torso, and at approximately 2:37 a.m., a member announced “one in custody” over the radio, and several of the members restraining the affected person stood up.

At approximately 2:38 a.m., EMS arrived at the scene and two paramedics approached the affected person and asked if he would stand and walk to the ambulance, but the affected person continued to struggle. The paramedics returned to the ambulance to retrieve a stretcher to transport the affected person, returning at approximately 2:41 a.m., at which time the affected person was placed on the stretcher.

As the affected person was transported on a stretcher from the area of the vehicle stop to the ambulance parked nearby, the paramedics observed that his breathing had become shallow, and stopped as they neared the ambulance. The affected person was loaded onto the ambulance and assessed, at which time it was determined that his heart had stopped. SO7, who had accompanied the affected person to the ambulance, commenced chest compressions, while the paramedics intubated the affected person to provide oxygen.

Chest compressions continued on the affected person, with SO7 and SO4 alternating, while a second ambulance, with specialized equipment for mechanically providing chest compressions was requested to attend the scene. When the second ambulance arrived, chest compressions were performed by the machine, and at approximately 2:55 a.m., the ambulance transporting the affected person departed the scene. During transport to the hospital, it was noted that the affected person’s pulse had returned, however it had ceased again by the time the ambulance arrived at hospital at approximately 3:01 a.m.

On April 2, 2023, the affected person was transported to hospital in Saskatoon, where he remained on life support with no brain activity and unable to breathe on his own until April 24, when he was removed from life support. On April 26, 2023, the affected person passed away in hospital.

## **Analysis**

As outlined in the autopsy report discussed above, the cause of the affected person’s death was determined to be cardiac arrest brought on by positional asphyxia and cocaine intoxication, with the involvement of a CEW identified as only a possible, but unlikely contributing factor. That said, regardless of this finding as regards the relationship between the use of force and the affected person’s cause of death, the nature and scope of the force employed during the incident warrant analysis.

At the time of the incident, all of the involved police officers were on duty, in full uniform, and clearly identifiable as police. The affected person's awareness during the incident that he was dealing with police is not in serious dispute, and that fact was evident to numerous civilian witnesses interviewed during the course of the investigation. At the outset of the incident, one of the Subject Officers executed a traffic stop on a vehicle that had been reported stolen. Again, despite CW1's prior comments outside of the investigation, the status of the vehicle as having been reported stolen earlier that evening is clearly established by the recorded 911 call and associated dispatch records and recordings and confirmed through the later admission by CW1. Police, with the knowledge that the vehicle they had encountered had recently been reported as stolen, were lawfully entitled to stop the vehicle for the purposes of that investigation. The discovery of the registered owner within the vehicle early in the encounter does not automatically eliminate the necessity of further investigation, as there are numerous scenarios, both lawful and unlawful under which that situation may occur, and therefore, additional information gathering was warranted. During the process of gathering that information, the use of a false name by the affected person, as described by police, and confirmed by both civilian witnesses present in the vehicle, provided an additional reason for investigation. The circumstances in which this name was provided, with the affected person unable to provide a birthdate, would objectively raise questions as to its validity and provide legal justification for the continued detention of the affected person for the purpose of investigation. These valid grounds for detention are in addition to those observable by police upon initial contact with the affected person, including open alcohol clearly visible within the vehicle.

With the arrival of additional police officers, and the confirmation of the affected person's true identity, these grounds for detention were replaced by grounds for arrest, under several different heads of authority, including the provision of the false name, and the various outstanding warrants for the affected person's arrest that were active at the time of the incident. The recognition of the affected person's actual identity by attending members was confirmed by civilian witness evidence, as well as audio/video evidence prior to any use of force by police during the incident. Outside of database information regarding the affected person, which may not have been received by police prior to the encounter, pre-existing knowledge of the affected person's criminal history, caution flags, and arrest warrants is both reasonable, based on the nature and extent of the affected person's past dealings with police, and confirmed by civilian witness evidence obtained during the investigation, suggesting that such recognition was commonplace. Based upon all of these factors, police dealing with the affected person at the time of the incident would have a reasonable and lawful basis to place him under arrest, and to take action, including the use of force, in furtherance of that authority.

Under S. 25 of the *Criminal Code*, a police officer is authorized to use as much force as necessary in the lawful execution of their duties. This can include force that is intended or likely to cause death or grievous bodily harm, when the officer reasonably believes that such force is necessary to defend themselves or someone under their protection from death or grievous bodily harm. Further, under S. 34 of the *Criminal Code*, any person, including a police officer, is entitled to the use of reasonable force in defence of themselves or another. Factors in assessing the reasonableness of force used can include the use or threatened use of a weapon, the imminence of the threat, other options available, and the nature of the force or threat of force itself.

The force employed in this case consisted exclusively of intermediate use of force options, namely CEWs, collapsible batons, and OC spray, as well as empty hand force, such as physical strikes. Despite the eventual result of this incident, none of these categories of force can be said to fall within the category of force that is likely or intended to cause grievous bodily harm or death. The force employed can be described as

purposeful, to the extent that it was clearly employed in furtherance of removing the affected person from the vehicle to effect an arrest that was lawful based on the grounds available. The level of force was reactive to the continued resistance offered by the affected person throughout the incident, if not objectively effective for that purpose when viewed in hindsight. Courts, however, have repeatedly cautioned that the evaluation of force after the fact must not be done through a lens of hindsight, and that such after the fact reflection must recognize the realities faced by police in stressful and dangerous situations.

As the affected person moved from the passenger seat of the vehicle into the driver's seat and shifted the vehicle into gear, and ultimately put it into motion, the danger of the situation shifted dramatically. With the vehicle put into motion, first forward, then an attempt to reverse, the situation presented significant danger to police located in close proximity to the vehicle. Considering the placement of those members, which at various points in the incident was in front of the vehicle, behind the vehicle, and contained within the open doors of the vehicle, viewed objectively, the circumstances gave rise to a real risk of bodily harm to those members, both during the time when the vehicle first went into motion, and again as the affected person worked to free the vehicle and put it back into motion. As this risk escalated, continued use of force was justified, no longer exclusively for the purpose of effecting the arrest of the affected person, but in response to the risk to the members created by the affected person's attempts to flee that arrest.

When, following the application of force, the affected person was successfully removed from the vehicle, the level of force employed to complete the arrest of the affected person was, observably, of a lesser degree than was used to remove him from the vehicle. Although the perception of the risk posed by the affected person was significantly reduced following his removal from the vehicle, it was not eliminated, and the affected person remained actively resistant to the attempts to lawfully take him into custody. Indeed, the subsequent discovery of a loaded firearm in the possession of the affected person serves both to highlight this potential risk and to provide context to the affected person's actions. While the discovery of a firearm during the course of the incident cannot justify force previously employed, it does add context to the examination of the incident as a whole. It also provides some explanation for the affected person's prolonged and significant attempts to flee what initially appeared to be a less serious legal matter, and is at least arguably consistent with the descriptions by police of the affected person repeatedly reaching for the area of his body where the firearm was ultimately discovered.

While the levels of force employed following the removal of the affected person from the vehicle were reduced, being mindful of the finding at autopsy as regard the cause of the affected person's death, this lesser force nevertheless warrants similar analysis, examining both the force and restraint employed during that portion of the incident.

As described by police, and confirmed through the evidence of civilian witnesses, the affected person continued to resist the attempts of police to place him in handcuffs. This occurred first when the handcuffs were applied in front of his body, and the affected person was also resistant throughout the process of removing the handcuffs and replacing them behind his body. Based on the accounts of EMS personnel interviewed during the course of the investigation, the affected person's resistance and struggle against his restraint continued up until the point EMS initially had contact with him, and they were required to withdraw to retrieve a stretcher to transport him to the waiting ambulance.

As the reasonableness of both force and restraint must be continuously re-evaluated in light of the changing realities of any given situation, the affected person's persistent struggle, even after being handcuffed, factors into the analysis of police actions, as it served to preclude a lesser degree of restraint as his detention continued. While the level of restraint employed to contain the affected person after his arrest was not significantly altered or reduced, the evidence does establish that police were cognizant of his condition and medical needs. To this point specifically, upon observing that the affected person was breathing hard after having been handcuffed, one of the Subject Officers ensured that neither he nor other members present were interfering with the affected person's ability to breathe. Moreover, even prior to the affected person having been successfully handcuffed, police requested the attendance of an ambulance, in advance of any indication that the affected person was in medical distress.

The affected person's cause of death, as determined at autopsy, was cardiac arrest, brought on by positional asphyxia and cocaine intoxication. While the affected person's positioning and restraint were within the control of the police present, at least to the extent permitted by the affected person's persistent struggle, the cocaine intoxication was not. Messages retrieved from the affected person's phone during the investigation are consistent with the meeting between the affected person and CW2, and the reason that CW1's car was taken, being for the purpose of a drug transaction between the affected person and CW2. While the timing of these messages confirms the likely possession of cocaine by the affected person prior to encountering police, the toxicology finding regarding the levels of cocaine within his body at the time of admission to hospital, and the observation of SO6 early in the encounter with police of the affected person's grey coloring, raise the possibility that immediately prior to contact with police, the cocaine was ingested to avoid detection. While such action would be at least arguably consistent with the affected person's overall attempts to avoid arrest, the results of the toxicology analysis alone confirm the consumption of the substance prior to the affected person's medical distress.

While the ultimate outcome of this incident, namely the death of the affected person, was both tragic and unintended, it cannot be said to be criminal on the part of the involved Subject Officers. The force used to remove the affected person from the vehicle was employed in circumstances under which police were lawfully placed to carry out his arrest, and was employed for that purpose. The level of force was reflective first of the level of resistance offered and later to the level of threat presented by the affected person during the incident. Following the affected person's removal from the vehicle, the level of force employed was markedly reduced, reflecting a response to the changed dynamics of the incident at that point. The finding at autopsy of a possible, though unlikely, role of CEW usage in the affected person's later cardiac arrest falls far short of the legal standard required to establish causation within the context of a *Criminal Code* investigation.

A further analysis and assessment of legal jeopardy on the part of the Subject Officers based on reasonableness of the affected person's restraint and the reasonableness of the police response to the affected person's medical distress leads to a similar conclusion. The restraint of the affected person occurred within the context of a lawful arrest, and was responsive to the level of resistance offered, both to that arrest and to the subsequent detention. As regards the response to the medical distress, it is significant that EMS personnel were contacted prior to the onset of medical distress, and EMS personnel were present at the scene of the incident prior to the affected person's distress. As confirmed by civilian evidence, the affected person's resistance continued up until first contact with EMS personnel, and unfortunately served to delay the ability of EMS personnel to assess, and likely treat, his forthcoming medical distress at an earlier point in the incident.

In this case, following the application of the facts established by the evidence to the standards established by law, both the force employed by the Subject Officers in effecting the arrest of the affected person, and the restraint and response that followed that arrest, fall within the ranges that are protected by law. Accordingly, there are no grounds to believe that any Subject Officer committed any *Criminal Code* offence during the course of this incident. As a result, no charges will be laid.

## Decision

There being no grounds to believe an offence was committed by any Subject Officer, SIRT's involvement with this matter is concluded without referral to the Attorney General for Saskatchewan in accordance with S.91.08(10)(a) of *The Police Act, 1990*.

Original Signed

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Greg Gudelot  
Civilian Executive Director  
Serious Incident Response Team (SIRT)

March 10, 2025

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Date of Report