September 5, 2018

Dear [Name],

Re: Your requests for access to information under Part 2 of The Freedom of Information and Protection of Privacy Act;
Our file number: 18 06 562, 18 06 563

On June 15, 2018 the City Clerk’s Department received your requests for access to the following records:

18 06 562:

Please provide documentation of any emails between Independent Investigations Unit Civilian Director Zane Tessler and former Winnipeg Police Service Chief Devon Clunis from 2016.

18 06 563:

Please provide documentation of any emails between Independent Investigations Unit Civilian Director Zane Tessler and former Winnipeg Police Service Chief Devon Clunis from 2015.

Continued on page 2...
Access is partly granted. Copies of the requested documents are enclosed on one CD. However, portions were severed (edited) according to provisions of The Freedom of Information and Protection of Privacy Act, explained below. These clauses also appear on the records where applicable.

**Disclosure harmful to a third party’s privacy**

17(1) The head of a public body shall refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party’s privacy.

**Disclosures deemed to be an unreasonable invasion of privacy**

17(2) A disclosure of personal information about a third party is deemed to be an unreasonable invasion of the third party’s privacy if

(b) the personal information was compiled and is identifiable as part of an investigation into a possible violation of a law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation; or

(e) the personal information relates to the third party’s employment, occupational or educational history.

Subsection 17(1) is a general, mandatory clause meant to protect third party privacy. We defined ‘third party’ as anyone other than you and members of the Winnipeg Police Service. It is used in conjunction with s. 17(2)(b) or s. 17(2)(e) - which are more specific:

The personal information of others was gathered in relation to a police investigation; since disclosure is not required at present to further investigate or prosecute, we must remove it pursuant to s. 17(2)(b).

We severed the names of staff members of the Independent Investigation Unit of Manitoba and a former member of the Winnipeg Police Service per s. 17(2)(e). Disclosure is deemed unreasonable because the information pertains to their employment/occupational histories.

**Disclosure harmful to law enforcement or legal proceedings**

25(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to

(e) endanger the life or safety of a law enforcement officer or any other person;

We also severed our members’ names per s. 25(1)(e). Providing this information could compromise their personal safety.

**Disclosure harmful to security of property**

26 The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to harm or threaten the security of any property or system, including a building, a vehicle, an electronic information system or a communications system.

We chose to sever details specific to our electronic information and communications systems pursuant to s. 26, as its disclosure may harm their security.

Continued on page 3...
Subsection 59(1) of The Freedom of Information and Protection of Privacy Act provides that you may make a complaint about this decision to the Manitoba Ombudsman. You have 60 days from the receipt of this letter to make a complaint on the prescribed form to: Manitoba Ombudsman, 750 – 500 Portage Avenue, Winnipeg Manitoba, R3C 3X1; Telephone 204-982-9130 or 1-800-665-0531.

Sincerely,

Monica de Castro
Acting FIPPA Coordinator
Ph. (204) 986-4996
Email wps-fippa@winnipeg.ca

Alternate contact: Michele Trudel
FIPPA Coordinator
Ph. (204) 986-2101

(Enclosure)

cc Konrad Krahn, Corporate FIPPA Coordinator
Sent on behalf of Zane Tessler, Civilian Director, Independent Investigation Unit of Manitoba

Hard copy to follow in the mail.

Office Manager
Independent Investigation Unit
1802-155 Carlton Street
Winnipeg MB R3C 3H8
204-948-
July 20, 2015

Devon Clunis  
Chief of Police  
Winnipeg Police Service  
P.O. Box 1680  
Winnipeg MB R3C 2Z7

Dear Chief Clunis:

The Independent Investigation Unit of Manitoba (IIU) was proclaimed on June 19, 2015 and is fully operational. I am also in receipt of the Winnipeg Police Service Executive Officers identified by you to act as your designate in police officer involved incidents.

I am requesting a meeting with the Winnipeg Police Service Executive Officers (the designates), at their earliest convenience, to review the progress of this new system as of the 30 day mark. I would be happy to host this meeting at the IIU offices. I look forward to hearing from you if this is possible.

Should you wish to discuss further please feel free to contact me directly at 204-948-17(1) 17(2)(4)

Yours truly,

Zane Tessler  
Civilian Director
Subject: IIU
Location: Chief's Office Boardroom - 5th Floor - 151 Princess Street
Start: Fri 8/7/2015 8:30 AM
End: Fri 8/7/2015 9:30 AM
Recurrence: (none)
Meeting Status: Meeting organizer
Organizer: WPS-ExecutiveMeetings
Required Attendees: Clunis, Devon; Stannard, Art; Thorne, David; Smyth, Danny; zane.tessler@iuimanitoba.ca; glen.lewis@gov.mb.ca

Hello,

Please note the entire hour may not be required.

Thank you,
Hi,

Please see the attached letter — FYI.

Thanks!

Executive Assistant to
Devon Clunis, Chief of Police
Winnipeg Police Service

Phone Number: (204) 986-
Fax Number: (204) 986-6077

CONFIDENTIALITY CAUTION:

This communication is intended only for the person to whom it is addressed, and may contain information that is confidential. Any other use, distribution, copying or disclosure is strictly prohibited. If you have received this communication in error, please notify the sender immediately by phone (204) 986- or reply to the message and then delete and destroy any copies of it.

Good morning,

Attached please find a scanned copy of the Acknowledgment and Direction from Mr. Zane Tessler in the above-noted matter. The original letter will follow via mail.

Regards,
Information Administrator
Independent Investigation Unit
1802-155 Carlton Street
Winnipeg MB R3C 3H8
T: (204) 948
September 21, 2015

Chief of Police Devon Clunis
Winnipeg Police Service
P.O. Box 1680
Winnipeg MB R3C 2Z7

Dear Sir:

Re: IIU File # 2015-011

The Independent Investigation Unit (IIU) acknowledges receipt of the Part 7 Notification with respect to the incident detailed below:

<table>
<thead>
<tr>
<th>Incident Date:</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Part 7 Completed:</td>
<td>2015</td>
</tr>
<tr>
<td>Incident Location:</td>
<td></td>
</tr>
<tr>
<td>Brief Incident Description:</td>
<td></td>
</tr>
</tbody>
</table>

In accordance with Division 2, section 65(4) of the Police Services Act:

**Unit to assume conduct of investigation**

65(4) Upon arriving at the scene of the incident, a member or members of the independent investigation unit must assume conduct of the investigation of the incident.

Further, in accordance with section 70(1) of the Police Services Act, the IIU will be making a request to the Chair of the Manitoba Police Commission for the appointment of a civilian monitor:

**Request for civilian monitor**

70(1) The civilian director must ask the chair of the commission to assign a civilian monitor to monitor an investigation conducted under this Part if a police officer may have caused the death of a person or in any other case where the civilian director considers it to be in the public interest to involve a civilian monitor.
In accordance with the above-noted direction, I can advise that the IIU has assigned Senior Investigator as the Primary Investigator in regards to the above-noted investigation; he can be reached at 204-948-7000.

Yours truly,

Zane Tessler
Civilian Director
Good afternoon.

Attached please find a scanned copy of the Officer Status Notifications and accompanying letter from Mr. Zane Tessler in the above-noted matter. The original documents will be delivered today. A second email will follow as there are too many attachments to send in one email.

Regards,

Information Administrator
Independent Investigation Unit
1802-155 Carlton Street
Winnipeg MB R3C 3H8
T: (204) 948
September 25, 2015

Devon Clunis
Chief of Police
Winnipeg Police Service
P.O. Box 1680
Winnipeg, Manitoba R3C 2Z7

Dear Sir:

Re: IIU File # 2015-011

Pursuant to s. 14(1) of the Independent Investigations Regulation 99/2015, this will confirm that the Independent Investigation Unit (IIU) has made the following determination with respect to officer status in the above-noted investigation:

Subject Officers:

Witness Officers:

Attached are two copies of the Officer Status Notification. One copy is for your Police Service record and the other is to be served on your officers once they have returned to duty.

Yours truly,

[Signature]

[Name]
Civilian Director
/encl
OFFICER STATUS NOTIFICATION
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To:  [Police Officer]

Badge/Regimental #

Brief Description of Allegation

Incident Date

Incident Location

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a

Subject Officer

a police officer who, in the opinion of the civilian director, (a) may have caused a death or a serious injury to a person; (b) may have committed a designated offence; or (c) may have engaged in other conduct that is the subject of an investigation by the Independent Investigation Unit

Witness Officer

a police officer who, in the opinion of the civilian director, (a) witnessed, was present at, or was involved in a serious incident, or who has material information respecting a serious incident; or (b) witnessed or has material information respecting, any other conduct or alleged conduct or another police officer that is the subject of an investigation by the independent investigation unit.

A true copy of this Officer Status Notification was delivered to the named police officer, by the undersigned in the following manner:

☐ In-Person  ☐ Regular Mail  ☑ Other (Please Specify)  Deputy Chief D.C. Smyth.

Dated this 25 day of September 2015 at Winnipeg in the Province of Manitoba.

Print Name/Title

Independent Investigation Unit

Signature

Distribution: 1. Independent Investigation Unit (White)  2. Police Officer (Yellow)  3. Police Service (c/o Chief of Police/Commanding Officer) (Pink)
OFFICER STATUS NOTIFICATION  
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To: (Police Officer)  
Badge/Regimental #  

Brief Description of Allegation  

Incident Date  

Incident Location  

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a  

☐ Subject Officer  
☐ Witness Officer  

a police officer who, in the opinion of the civil director,  
(a) may have caused a death or a serious injury to a person;  
(b) may have committed a designated offence; or  
(c) may have engaged in other conduct that is the subject of an investigation by the Independent Investigation Unit  

a police officer who, in the opinion of the civil director,  
(a) witnessed, was present at, or was involved in a serious incident; or  
(b) witnessed or has material information respecting a serious incident; or  
(c) conducted or alleged conduct or another police officer that is the subject of an investigation by the Independent Investigation Unit  

A true copy of this Officer Status Notification was delivered to the named police officer, by the undersigned in the following manner:  
☐ In-Person  
☐ Regular Mail  
☒ Other (Please Specify)  

Dated this 25 day of September, 2015, at Winnipeg in the Province of Manitoba.

______________________________
Deputy Chief D.G. Smyth  

______________________________
Investigator  

Signature  

Distribution:  
1. Independent Investigation Unit (White)  
2. Police Officer (Yellow)  
3. Police Service (c/o Chief of Police/Commanding Officer) (Pink)
OFFICER STATUS NOTIFICATION
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To: (Police Officer)
Badge/Regimental #

Brief Description of Allegation

Incident Date

Incident Location

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a

X Subject Officer

- a police officer who, in the opinion of the civilian director,
  (a) may have caused a death or a serious injury to a person;
  (b) may have committed a designated offence; or
  (c) may have engaged in other conduct that is the subject of
    an investigation by the Independent Investigation Unit

☐ Witness Officer

- a police officer who, in the opinion of the civilian director,
  (a) witnessed, was present at, or was involved in a serious incident,
  or who has material information respecting a serious incident; or
  (b) witnessed or has material information respecting, any other
    conduct or alleged conduct by another police officer that is the
    subject of an investigation by the Independent Investigation Unit

A true copy of this Officer Status Notification was delivered to the named police officer, by the undersigned in the following manner:

☐ In-Person ☐ Regular Mail ☒ Other (Please Specify) Deputy Chief D.C. Smyth

Dated this 25th day of September, 2015 at Winnipeg in the Province of Manitoba.

Print Name / Title
Independent Investigation Unit

Distribution:
1. Independent Investigation Unit (White)
2. Police Officer (Yellow)
3. Police Service (c/o Chief of Police/Commanding Officer) (Pink)
OFFICER STATUS NOTIFICATION
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To: (Police Officer)

Badge/Regimental #

Police Service Winnipeg Police Service

Brief Description of Allegation

Incident Date 2017

Incident Location

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a

☐ Subject Officer a police officer who, in the opinion of the civilian director, (a) may have caused a death or a serious injury to a person; (b) may have committed a designated offence; or (c) may have engaged in other conduct that is the subject of an investigation by the Independent Investigation Unit

☐ Witness Officer a police officer who, in the opinion of the civilian director, (a) witnessed, was present at, or was involved in a serious incident, or who has material information respecting a serious incident; or (b) witnessed or has material information respecting, any other conduct or alleged conduct or another police officer that is the subject of an investigation by the Independent Investigation Unit

A true copy of this Officer Status Notification was delivered to the named police officer, by the undersigned in the following manner:

☐ In-Person ☐ Regular Mail ☑ Other (Please Specify) Deputy Chief D.G. Smyth

Dated this 25th day of September, 2015 at Winnipeg in the Province of Manitoba.

Print Name / Title

Independent Investigation Unit

Distribution: 1. Independent Investigation Unit 2. Police Officer 3. Police Service
(White) (Yellow) (c/o Chief of Police/Commanding Officer) (Pink)
OFFICER STATUS NOTIFICATION
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To: (Police Officer)

Badge/Regimental #

Brief Description of Allegation

Incident Date

Incident Location

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a

☑ Subject Officer

☑ Witness Officer

A true copy of this Officer Status Notification was delivered to the named police officer, by the undersigned in the following manner:

☐ In-Person  ☐ Regular Mail  ☑ Other (Please Specify)  Deputy Chief D.G. Smyth

Dated this 25 day of September 2015 at Winnipeg in the Province of Manitoba.

______________________________
[Signature]

Independent Investigation Unit

Distribution: 1. Independent Investigation Unit (White)  2. Police Officer (Yellow)  3. Police Service (c/o Chief of Police/Commanding Officer) (Pink)
OFFICER STATUS NOTIFICATION
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To: (Police Officer)_________________________________________________________

Badge/Regimental # _________________________________________________________

Police Service _______________________

Brief Description of Allegation

Incident Date 2015-09-25

Incident Location __________________________________________________________

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a

☐ Subject Officer

☐ Witness Officer

A true copy of this Officer Status Notification was delivered to the named police officer, by the undersigned in the following manner:

☐ In-Person  ☐ Regular Mail  ☑ Other (Please Specify) __________________________

Dated this 25th day of September, 2015 at Winnipeg in the Province of Manitoba.

Print Name / Title __________________________

Independent Investigation Unit

Signature _________________________________________________________________

Distribution: 1. Independent Investigation Unit (White) 2. Police Officer (Yellow) 3. Police Service (c/o Chief of Police/Commanding Officer) (Pink)
OFFICER STATUS NOTIFICATION
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To: (Police Officer)

Badge/Regimental #

Brief Description of Allegation

Incident Date

Incident Location

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a

☐ Subject Officer
☐ Witness Officer

A true copy of this Officer Status Notification was delivered to the named police officer, by the undersigned in the following manner:

☐ In-Person
☐ Regular Mail
☐ Other (Please Specify)

Dated this 25 day of September, 2015 at Winnipeg in the Province of Manitoba.

Print Name / Title

Independent Investigation Unit

Distribution:
1. Independent Investigation Unit (White)
2. Police Officer (Yellow)
3. Police Service (c/o Chief of Police/Commanding Officer) (Pink)

Signature
OFFICER STATUS NOTIFICATION
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To: (Police Officer)

Badge/Regimental #

Brief Description of Allegation

Incident Date

Incident Location

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a

☐ Subject Officer
  a police officer who, in the opinion of the civilian director,
  (a) may have caused a death or a serious injury to a person;
  (b) may have committed a designated offence; or
  (c) may have engaged in other conduct that is the subject of
  an investigation by the Independent Investigation Unit

☒ Witness Officer
  a police officer who, in the opinion of the civilian director,
  (a) witnessed, was present at, or was involved in a serious incident,
  or who has material information respecting a serious incident; or
  (b) witnessed or has material information respecting, any other
  conduct or alleged conduct or another police officer that is the
  subject of an investigation by the Independent Investigation Unit

A true copy of this Officer Status Notification was delivered to the named police officer, by the undersigned in the following manner:

☐ In-Person ☐ Regular Mail ☒ Other (Please Specify)

Dated this 25 day of September, 2015 at Winnipeg in the Province of Manitoba.

Print Name / Title

Independent Investigation Unit

Distribution:
1. Independent Investigation Unit (White)
2. Police Officer (Yellow)
3. Police Service (c/o Chief of Police/Commanding Officer) (Pink)
OFFICER STATUS NOTIFICATION
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To: (Police Officer)  
Badge/Regimental #:  
Police Service: WINNIPEG POLICE SERVICE

Brief Description of Allegation: OFFICER INVOLVED SHOOTING

Incident Date: 2015
Incident Location: 

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a

☐ Subject Officer  
☐ Witness Officer

☐ In-Person  ☐ Regular Mail  ☒ Other (Please Specify) Deputy Chief D.G. SMYTH

Dated this 25 day of September, 2011 at Winnipeg in the Province of Manitoba.

Print Name / Title  
Independent Investigation Unit

Distribution:  
1. Independent Investigation Unit  
2. Police Officer (White)  
3. Police Service (c/o Chief of Police/Commanding Officer) (Pink)
OFFICER STATUS NOTIFICATION
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To: (Police Officer)

Badge/Regimental #

Police Service Winnipeg Police Service

Brief Description of Allegation OFFICER INVOLVED SHOOTING

Incident Date 2015-

Incident Location

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a

☐ Subject Officer

☐ Witness Officer

A true copy of this Officer Status Notification was delivered to the named police officer, by the undersigned in the following manner:

☐ In-Person  ☐ Regular Mail  ☒ Other (Please Specify)

Dated this 25 day of September, 2015 at Winnipeg in the Province of Manitoba.

Print Name / Title

Independent Investigation Unit

Distribution: 1. Independent Investigation Unit (White)  2. Police Officer (Yellow)  3. Police Service (c/o Chief of Police/Commanding Officer) (Pink)
OFFICER STATUS NOTIFICATION
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To: (Police Officer)

Badge/Regimental #

Brief Description of Allegation

Incident Date

Incident Location

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a

☐ Subject Officer
   a police officer who, in the opinion of the civilian director, (a) may have caused a death or a serious injury to a person; (b) may have committed a designated offence; or (c) may have engaged in other conduct that is the subject of an investigation by the independent investigation unit.

☒ Witness Officer
   a police officer who, in the opinion of the civilian director, (a) witnessed, was present at, or was involved in a serious incident; or (b) witnessed or has material information respecting a serious incident; or (c) witnessed or has material information respecting any other conduct or alleged conduct or another police officer that is the subject of an investigation by the independent investigation unit.

A true copy of this Officer Status Notification was delivered to the named police officer, by the undersigned in the following manner:

☐ In-Person ☐ Regular Mail ☒ Other (Please Specify)

Dated this 25 day of September, 2015 at Winnipeg in the Province of Manitoba.

Print Name / Title

Signature

Independent Investigation Unit

Distribution: 1. Independent Investigation Unit (White) 2. Police Officer (Yellow) 3. Police Service (c/o Chief of Police/Commanding Officer) (Pink)
OFFICER STATUS NOTIFICATION
(pursuant to s.14(1) of the Independent Investigations Regulation 99/2015)

To: (Police Officer) 

Badge/Regimental # 

Police Service WINNIPEG POLICE SERVICE

Brief Description of Allegation 

Incident Date 2015-

 INCIDENT LOCATION 

The Civilian Director of the Independent Investigation Unit (IIU) has directed an investigation into this incident or complaint.

Pursuant to provisions of the Police Services Act and the Independent Investigations Regulation 99/2015, the Civilian Director is of the opinion in this investigation you are considered a

☐ Subject Officer
☐ Witness Officer

☐ In-Person ☐ Regular Mail ☒ Other (Please Specify) Deputy Chief D.C. SMYTH

Dated this 25 day of September, 2015 at WINNIPEG in the Province of Manitoba.

Print Name / Title

Signature

Distribution: 1. Independent Investigation Unit (White) 2. Police Officer (Yellow) 3. Police Service (c/o Chief of Police/Commanding Officer) (Pink)
Please find attached a letter from Mr. Zane Tessler with respect to the above-captioned. The original letter will be forwarded via regular mail.
March 2, 2016

Devon Clunis  
Chief of Police  
Winnipeg Police Service  
P.O. Box 1680  
Winnipeg MB R3C 2Z7

Dear Sir:

Re: Notifications to the IIU

A recent matter of allegations of Criminal Code conduct on behalf of a police officer has caused me to examine the threshold determination employed by the Winnipeg Police Service in providing formal notifications to the Independent Investigation Unit.

I am concerned that there may be internal criminal investigations of WPS members that are not brought to the attention of the IIU, as required by law. In that regard, the IIU is forestalled from discharging its legislative mandate of providing oversight and, when appropriate, undertaking independent investigations into such matters.

On the IIU received a telephone notification, through Superintendent J. Szyszkowski, advising that I advised him that on the information provided, this was a discretionary matter and that the IIU would assume a review and monitor role in these circumstances at this time. The investigation would remain in the hands of the WPS.

A formal notification pursuant to Part VII of the PSA was prepared and forwarded to my attention that same day. In this formal notification, it was stated.

I am very concerned over the timings of these forms of notifications to the IIU, specifically in relation to ongoing investigations conducted by the WPS Professional Standards Unit. More specifically, my focus is on mandatory investigations such as death, serious injury or
prescribed offences but rather the larger grouping of matters falling within the scope of s. 73 through 75 of the PSA. I am reproducing those provisions for your review (emphasis added by me):

DIVISION 3

INVESTIGATIONS BY POLICE SERVICES INTO POLICE OFFICER CONDUCT

73(1)  A police chief must, as soon as practicable, notify the independent investigation unit

(a) when the police service receives a formal complaint that a police officer has engaged in conduct that constitutes a contravention of the Criminal Code (Canada) or any another federal or provincial enactment, other than the provisions prescribed under clause 65(1)(c); or

(b) when the police service is conducting an investigation into the conduct of a police officer and there is evidence that the officer may have contravened the Criminal Code (Canada) or any another federal or provincial enactment, other than the provisions prescribed under clause 65(1)(c).

73(2)  At the request of the civilian director, the police chief must give the civilian director information about the complaint or investigation and the status of the police service's investigation.

73(3)  When an investigation into a matter referred to in subsection (1) has been completed, the police chief must provide the civilian director with the results of the investigation.

74  On request of the civilian director, the police chief of a police service must allow a civilian monitor or a member of the independent investigation unit to monitor the progress of an investigation by the police service into a matter referred to in subsection 73(1).

75(1)  The independent investigation unit may assume conduct of an investigation into a matter referred to in subsection 73(1) if the civilian director considers it to be in the public interest to have the unit conduct the investigation.

75(2)  The civilian director must notify the police chief of the police service if the independent investigation unit is assuming conduct of the investigation.

75(3)  Upon receiving notice from the civilian director, the police chief must turn over conduct of the investigation to the independent investigation unit.

75(4)  Division 2 applies, with necessary changes, to an investigation conducted by the independent investigation unit under this section.

I am puzzled by the timing of the notification in these circumstances. Of greater concern is the implication that PSU has been involved in this investigation for an unknown period of time prior to the notification to the IIU.

Whatever period of time PSU was involved in this investigation, it significantly exceeds what could be characterized “as soon as practicable” as set out in the PSA.
Notifying the IIU after a PSU investigation has determined there are sufficient grounds to arrest and charge a police officer with a Criminal Code or other statutory offence effectively renders the IIU's ability to exercise its legislative mandate to monitor and provide oversight to this process a nullity. The investigation has been completed before the IIU has been provided a single fact to consider.

Furthermore, it renders s. 75(1) a meaningless and powerless mechanism in light of the decision already made by the police service. Once again, the investigation has been substantially completed and a formal charge laid before the civilian director has considered whether the public interest requires independent investigation.

It would appear that the decision to notify the IIU is directly connected to the decision to arrest and charge the officer after a substantial portion of the investigation was undertaken.

This model of notifications being made on completion of an internal investigation is more troubling in those situations where investigations into alleged criminal or related conduct has been initiated by PSU and closed or concluded without charges or consequences arising. A notification will never be made and the IIU will never know of the existence of the complaint or investigation, thereby denying this office any opportunity to provide oversight or permitting the civilian director to exercise his legislated mandate to determine whether the public interest requires an independent investigation by the IIU.

This cannot and should not represent the interpretation to be prescribed for the notification process under the PSA.

In my opinion, the legislative scheme created by the PSA is clear – the IIU is to be notified at the earliest opportunity when a complaint is received or investigation into alleged criminal conduct is initiated and not at the conclusion of the police services’ internal processes. In accordance with the PSA, the Winnipeg Police Service, through its Chief or designate, is required to report all such matters as soon as practicable. The IIU has expected notifications of any Criminal Code or other statutory investigations undertaken since it became operational in June 2015.

This information is critical for the IIU to assess and determine which matters, if any, require oversight or independent investigation. Delaying the notification process beyond the stated deadline of "as soon as practicable" is counter intuitive, counter-productive and contrary to the legislative scheme.

It would be very helpful if the service would prepare and provide a list of all criminal or statutory investigations undertaken by the Professional Standards Unit since June 2015 and the status of all open matters at this time to my attention as soon as possible.
This matter needs an immediate and clear resolution. I want to meet at the earliest opportunity to discuss this important issue in detail.

Yours truly,

[Signature]

Zane Tessler
Civilian Director

cc: Deputy Chief D. Smyth