

FINAL REPORT: IIU concludes investigation into alleged firearm offence in Altona

On November 12, 2018, Altona Police Service (APS) became aware that one of its officers was alleged to have pointed a firearm at a female youth during a transport to Winnipeg in December 2015. APS immediately contacted the IIU to advise of the allegation and, in consultation with the civilian director, gathered additional information on the matter. On November 26, the IIU received formal notification of the incident from APS.

Although this matter did not involve a serious injury to a person as defined by regulation nor a prescribed offence, IIU assumed responsibility for this incident in accordance with section 73(1) of *The Police Services Act (PSA)* as the civilian director determined it was in the public interest to conduct an independent investigation. A team of IIU investigators was assigned to this matter.

IIU investigators obtained and received:

- APS occurrence details, investigative reports, guard details and prisoner logs;
- APS members' general and supplementary reports;
- APS members' notes;
- APS work schedules for December 2015; and
- witness statements.

One member of APS was designated as a subject officer (SO) while three other members were designated as witness officers (WO1 - WO3). IIU investigators met with and interviewed the affected person (AP). IIU investigators also met with and interviewed a civilian witness (CW1). Two civilian witness (CW2-CW3) either did not respond to requests by IIU investigators for an interview or could not be located.

Under the provisions of the PSA, a subject officer cannot be compelled to provide his or her notes regarding an incident nor participate in any interview with IIU investigators. In this case, SO provided his notes and reports and did consent to be interviewed by IIU investigators.

Affected Person

AP was interviewed by IIU investigators.

In December 2015, AP was at a residence in Altona, Manitoba. AP was unsure of the exact date of the incident, though remembered that it occurred at night. SO had attended to this residence. He escorted AP from the residence and placed her in the back of a small, white, marked police vehicle. AP said they drove to the Altona police station (where SO entered momentarily) and then to a residence in south Altona. AP stated that while the police vehicle was stopped there, a male dressed in a black uniform marked "Security" (CW1) was picked up. AP stated she was not told where she was being taken and was crying the entire trip. In fact, according to AP, the two

men turned up the car radio to drown her out. About 45 minutes into the drive, AP saw a green sign for either Ste. Agathe or St. Adolphe. AP stated that approximately five or 10 minutes later, SO pulled the police vehicle to the side of the road. CW1 exited from the passenger side, walked around the back of the vehicle, opened the rear driver side passenger door, and grabbed AP by the left forearm, pulling her out and throwing her to the ground. According to AP, the security guard pulled out a gun and pointed it at her head. He asked AP if she was going to stop crying. AP stated that as she then cried louder, he pulled the trigger and she heard a “click” sound. CW1 then said “*oh, gotcha.*” AP said she was returned to the police vehicle. AP stated that SO remained in the police vehicle throughout and did not say or do anything. AP sat in the rear of the police vehicle, now on the passenger side, and SO continued on to Winnipeg. AP stated that, once in Winnipeg, they stopped at a McDonald’s restaurant located on Portage Avenue and Sherbrook Street, where SO and CW1 got coffee. AP stated she was then driven to her grandmother’s (CW2) home in Winnipeg, where AP was living at the time. AP went into the residence and straight upstairs. Approximately 10 minutes after arriving, AP called her friend (CW3) and told her about the incident.

Civilian Witnesses

CW1 did work with an Altona security firm for 10 years. Although he could not recall the exact date of the incident, he recalled the circumstances of his contact with AP. CW1 recalled receiving a call from his employer, requesting him to work. He drove himself into the Altona police station in his own vehicle, at which time he learned he would be travelling to Winnipeg while accompanying a police officer and prisoner. CW1 did not remember whether the police officer was SO. He said they transported a female teen from the Altona police station to her grandmother’s house in Winnipeg. CW1 described the girl as not very friendly at the police station but eventually quieted down. He said she asked question as to where she was going, but she was not a nuisance. CW1 said he is not allowed to talk to the prisoners as part of his duties but remembered the police officer answering her questions. CW1 recalled music playing quietly on the radio in the police vehicle.

CW1 said he has never stopped in a police vehicle when transporting a prisoner. He explained that in his experience when transporting a prisoner, the drive is directly to the destination and the prisoner is dropped off. On this specific trip, the police vehicle did not stop for any reason; it did not stop for bathroom breaks, nor did he, the police officer or the girl stop to get food or coffee.

CW1 stated he has never possessed any weapon of any kind during his work as a security guard in Manitoba and has never seen a gun pointed at any prisoner.

In 2015, CW1 was living in a townhouse in Winkler, Manitoba. He stated he has never been picked up or dropped off by a police officer for employment purposes.

Witness Officers

WO1 has worked for APS for 19 years. He is a shift supervisor. As part of his duties, if he receives a complaint he passes it forward to the sergeant.

Back on December 4, 2015, AP was subject to an undertaking which included a condition not to remain within the Town of Altona. On December 5, 2015, an incident occurred which involved AP being found within the Town of Altona, in violation of the undertaking. WO1 and SO located and arrested AP for breaching her conditions. A decision was made to transport her back to Winnipeg where she lived at the time. SO and CW1 drove AP to Winnipeg.

Later that evening, WO1 received a phone call from CW3. WO1 stated that though CW3 sounded intoxicated, she did relate that she had received a call or message from AP. According to WO1, CW3 said she knew that he and his partner had turned off onto a gravel road or the side of the road and had “...held your guns to her head” on the trip to Winnipeg. WO1 stated that CW3 did not identify SO or any other specific officer as his partner. WO1 said he told CW3 that he had not been on the trip to Winnipeg.

WO1 stated that, following that conversation, he called SO and directed him to make notes with regards to his trip to Winnipeg with AP. WO1 asked SO if he had held a gun to AP’s head, to which SO responded he had not.

WO1 stated that he then received a second call from CW3. During that conversation, WO1 recalled that CW3 said they were “...just trying to play a prank on you” and apologized. WO1 then telephoned SO and said not to worry about it, as CW3 had recanted.

WO1 does not have any entries in his notebook with regards to the calls from WO1 or to SO as he considered this an unremarkable event. In fact, he discounted the significance of CW3’s calls. WO1 stated that as the supervisor on shift, it was his opinion that there was nothing to investigate.

According to WO1, the civilian security guards are not allowed to touch or interact with the prisoners. Their role is to provide assistance with prisoners, if required. They are not armed, and have no access to police weapons. They do not have departmental jackets or stripes on their pants; most of them wear cargo pants. Once in a vehicle they would look like a regular citizen.

According to WO1, officers with APS use a Glock 22, .40 Caliber handgun. APS practices an administrative load procedure, meaning one round is in the chamber, ready to fire when the trigger is pulled. In order to pull the trigger and have the gun make a “click” sound, the magazine must be removed, the slide must be opened, the bullet in the chamber must be removed to make it safe and then the chamber must be closed. If the trigger was pulled at this point the gun would make a click sound.

WO2 is a member of APS. He advised IIU investigators that on November 2, 2018 at approximately 3:30 a.m., he and WO3 responded to a call for service at a residence in Altona at which time he had contact with AP and a male. WO2 dealt with the male while WO3 dealt with AP. WO2 stated that as he was placing the male into his police vehicle, he heard a commotion from WO3 and AP. WO2 attended to AP to assist WO3. AP began speaking of a past incident she had involving police. AP told WO2 of an incident where she was being transported to the provincial remand centre by SO and a guy in plain clothes AP further stated to WO2 that they pulled off the road and “...at some point along the way, SO, and a guy not dressed as a police officer, put a gun to her head.” She told WO2 they then got back into the vehicle and continued to drive to Winnipeg.

WO2 tried to clarify who the person in plain clothes may have been. WO2 believed it to be a security guard used by APS in prisoner transfers. According to WO2, AP stated that it was not a security guard but that person had a gun. WO2 said that AP identified SO by name and did not have a name or a description for the other individual.

WO3, a member of APS, told IIU investigators that on November 1, 2018, he and WO2 responded to a call concerning a possible domestic dispute. On arrival, they came in contact with AP and a male. AP and the male were very intoxicated and were detained under the *Intoxicated Persons Detention Act*. WO3 dealt with AP while WO2 dealt with the male. WO3 stated that AP began to yell, stating she was not going to get into the police vehicle. According to WO3, AP said someone had pointed a gun at her the last time she had dealings with APS. AP did not know when this had occurred and referred to that person as “*that cop.*”

She then stated SO had pulled her out of the car and pointed his gun at her, then corrected herself that it was not SO, but rather it was the man with him. She also stated she was unsure who was pointing the gun.

WO3 later told SO about AP’s statements. SO told WO3 there had been a prior complaint concerning a transport where AP was driven to her grandmother’s house in Winnipeg and that a security guard had been with him in the vehicle. SO was adamant that it was just a transport, that they made no stops, and no gun was produced or pointed at AP.

According to WO3, security guards are used to travel with the police when they are transporting people. They are unarmed and, specifically, APS does not arm them.

Subject Officer

SO provided IIU investigators with his notes for the arrest of AP just before midnight on December 4, 2015 and the travel from Altona to Winnipeg on December 5, 2015. According to SO, AP was living in Winnipeg at this time and it was decided that AP would be returned to Winnipeg for release. SO removed AP from cells and placed her in the back seat of a marked police vehicle. The camera in that police vehicle is non-functional. A security guard, CW1, accompanied them on the trip from Altona to Winnipeg. The security guard was unarmed and is not authorized to use force of any kind. At no time during the drive from Altona to Winnipeg did SO stop the police vehicle for food or coffee and, furthermore, neither SO nor CW1 exited the vehicle or had any physical contact with AP at anytime during the transport.

Additional Information

The police unit used to drive AP to Winnipeg was equipped with an in-car camera, but no video was recorded on the night in question.

APS did not have GPS on any units in 2015.

In December 2015, APS was "self dispatched," meaning that emergency line calls were call forwarded to the on-call officer’s cell phone and answered directly by the on-call officer. The on-call officer at the time of this incident was WO1. None of these calls were recorded.

Issues and conclusion

The allegations of AP, if proven, are extremely serious and troubling. The impugned conduct is criminal. There is no legal justification for the actions of the alleged perpetrator should the facts of this matter be established. The question that must be answered is whether there is sufficient evidence arising out of this investigation that satisfies the necessary standards to proceed with criminal code charges. The bare allegations on their own, without sufficient factual underpinning, cannot support criminal code proceedings. Where it is determined that reasonable grounds exist to believe a criminal offence has been committed, the IIU civilian director may charge a subject officer accordingly. The determination of whether reasonable and probable grounds exist is based on a careful assessment of all the available evidence.

The available evidence in the present matter is fraught with inconsistencies and discrepancies.

AP's own recollection of the circumstances surrounding her transport from Altona to Winnipeg in December 2015, the stopping of the police vehicle, her removal from the vehicle and the pointing (with the click sound) of a handgun has been consistent over the years. In fact, she has maintained that basic version three years later, in her subsequent dealings with APS and with IIU investigators. Furthermore, there is support for her contention that she told her friend, CW3, about the incident that same evening when reference is made to the interview of WO1. It is unfortunate that CW3 could not be located to confirm her own recollection.

However, there are major issues with AP's version of the events that raise significant concerns as to the sufficiency of this complaint:

- AP told WO2 that the incident occurred when she was being transported to the Provincial Remand Centre, while she told IIU investigators that the incident occurred while being transported to her grandmother's residence;
- AP told IIU investigators that before leaving Altona for Winnipeg, SO drove to a residential area of Altona to pick up the security guard. This would be contrary to APS procedures. CW1 stated that he drove himself to the Altona police station before accompanying AP and SO to Winnipeg. He resided in Winkler at the time of the transport--not in Altona;
- AP told IIU investigators that the security guard was the only individual who exited the police vehicle and pointed the handgun at her. According to AP, SO remained in the vehicle. However, AP at first told WO2 the security officer and SO exited the vehicle when she was confronted. According to WO3, AP said it was only SO who exited the vehicle to confront her, and then changed her story two times further.

Given the nature of the allegation in this matter, more is required for a sufficient factual foundation to be established. The mandate of IIU does not include authorizing criminal charges in the absence of cogent, trustworthy and sufficient evidence to support that decision. It would be wholly inappropriate to authorize the laying of criminal charges in absence of the required reasonable and probable grounds.

Following a careful review of the available evidence and material facts obtained in this investigation, and on considering the discrepancies in and differing recollections of the primary witnesses, I am not satisfied that the requisite reasonable and probable grounds exist to justify the laying of a criminal code charge or other offence against SO.

Accordingly, IIU has completed its investigation and this matter is now closed.

Final report prepared by:
Zane Tessler, civilian director
Independent Investigation Unit
June 05, 2019

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