

FINAL REPORT: IIU concludes investigation into allegations of operation of motor vehicle while impaired and Highway Traffic Act offences by RCMP officer

On June 12, 2019, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit of Manitoba (IIU) of an allegation that on June 9, an RCMP officer was alleged to have operated a motor vehicle while his ability to do so was impaired by alcohol, near Niverville, Manitoba.

According to the notification, it was reported, in part, that:

On June 9th, 2019, at approximately 0300hrs, a member (later identified as the subject officer (SO)) contacted a colleague via text message at the Ste. Pierre-Jolys RCMP detachment, requesting if an Approved Screening Device (ASD) could be brought to him in order to determine if SO was good to drive. SO had been at a fair in Niverville and was preparing to drive to his home. SO's colleague did not respond to the text message, but instead reported the incident to a member of the Steinbach RCMP. The Steinbach RCMP members attended to the intersection of Highway 206 and Highway 52 in an effort to intercept SO. A vehicle matching that operated by SO was observed travelling at a high rate of speed. This vehicle was followed for approximately 500 meters when a traffic stop was initiated. SO was noted to have slurred speech and appeared nervous. A roadside test was administered with the ASD and registered a "Warning." SO was served with a 72-hour Provincial Administrative Suspension and was provided a ride home from a friend. A short time later, SO contacted his supervisor and notified him of the circumstances that evening.

Although this notification concerns a discretionary matter under The Police Services Act (PSA), based on the nature of the allegations, the civilian director determined it was in the public interest for the IIU to investigate this complaint. IIU investigators were assigned to this investigation.

The information obtained by IIU investigators included:

- witness officers' notes
- general and supplemental reports and narratives
- occurrence summary of impaired driving allegation
- 72-hour suspension report
- photographs of the ASD
- audio recordings of dispatch
- screenshot of original text message sent by SO

The civilian director designated the RCMP officer who was driving and subsequently was issued the 72-hour driving suspension as the SO. Additionally, the civilian director designated seven RCMP members as witness officers (WO1-7). IIU investigators also attempted to interview SO's friend, who drove him home. This individual refused to cooperate with IIU investigators.

Witness Officers

WO1 was SO's supervisor for the previous four months. WO1 stated that at approximately 5:00 a.m., SO telephoned him at his home to advise that he had "*blown a warning on an Approved Screening Device (ASD).*" SO told WO1 that he was worried about his employment as he was still on probation. WO1 advised SO not to drink anymore, to stay home and they would discuss the matter when they were both back on duty. WO1 stated that SO did not sound "*Impaired*" during their phone conversation. WO1 stated that SO sounded "*as usual,*" that he was not slurring his speech, and was coherent.

WO2 was on routine night patrol when he received a telephone call from SO. According to WO2, SO had slurred speech. WO2 stated that SO reported he was with another male, who was intoxicated, and were at a grocery store in Niverville. WO2 made his way to the grocery store and located SO and another male. WO2 stated that he detected an odour of liquor in the air. Other RCMP members also arrived at the grocery store. WO2 said he was unsure if SO was going to drive from the grocery store. WO2 stated that he contacted WO4 to advise that:

- SO lives in that area.
- SO sounded "intoxicated."
- It was uncertain whether SO would be driving.

WO2 drove away from the scene. WO2 states that he saw SO's vehicle parked and observed SO walking towards it. WO2 states that he received a text message from SO asking him to bring him the ASD so he could make sure he was "*good to drive.*" WO2 stated that he was dispatched to a possible break and enter in progress in Niverville, so he made his way to that call. WO2 said he received another text message from SO and realized that he had been pulled over. WO2 sent the text message to WO4 for the file.

WO3 was with WO2 and others when a telephone call from SO was received. WO3 overheard the telephone conversation. WO3 states that SO asked them to attend to a grocery store in Niverville, to deal with an intoxicated male causing a disturbance. On arrival grocery store, they met up with SO. WO3 stated that he had a limited conversation with SO. WO3 stated that he did not recall if he could smell any liquor on SO. WO3 stated that SO did not "*look impaired.*" WO3 stated that SO normally has a slurred speech during a normal conversation.

WO4 stated that when she located SO's vehicle, she observed him driving at a high rate of speed and had driven by her "*super-fast.*" WO4 stated that she drove "*fast*" to catch up to SO and had activated her police cruiser emergency lights. After pulling SO over, she walked up to the vehicle and saw that SO had his badge out immediately. WO4 stated that SO was nervous, he was running his fingers through his hair, his hands were shaking, and he fiddled when he retrieved his registration from the glove box. WO4 stated that SO had slurred speech and his eyes were "*kind of*" bloodshot, all which were all signs of impairment to her. WO4 stated that SO staggered "*a little bit*" when walking to her police cruiser, but it was "*not an obvious stagger, a swaying motion.*" WO4 decided to administer the ASD roadside test, based on SO's

signs of impairment. SO “*blew a warning*” (which, according to WO4’s understanding of the ASD calibration and operation, would mean that SO’s blood alcohol level did not exceed the .08 limit). Because of the warning result, WO4 issued SO a 72-hour license suspension. SO was not charged with any offence. WO4 stated that she has never laid an “*impaired charge*” following an ASD demand and reading and did not know that she could do that. WO4 stated that if she had known that she was able to charge SO with impaired driving, she would have done so “*100 percent.*” WO4 added that when SO was in the back of her police cruiser, he “*...seemed to become more and more intoxicated.*”

WO5 is a RCMP member who, while off duty, attended the Niverville Fair with his wife. Before attending the fair, a number of people had gathered at a friend’s residence to have some drinks. SO was present as well. WO5 recalled that SO had a drink, but did not know what he was drinking or how many he had. WO5 does not remember if SO was drinking at the fairgrounds as well.

WO6 was conducting a foot patrol at the Niverville Fair when he bumped into SO. WO6 stated that they spoke briefly. They met up again, later in the evening, when WO6 was asked to give SO a lift back to WO5’s home. Later on, WO6 states he received a telephone call from SO telling him that he had custody of an intoxicated person at the Niverville grocery store and asked if they could pick up this person to lodge him. WO6 stated that SO’s speech was slurred. On arrival at the grocery store, WO6 states that SO’s speech had now improved, that SO was not stumbling but his eyes were bloodshot. WO6 states that he dealt with the other intoxicated male, but he would have demanded that SO provide a breath sample into an ASD.

WO7 states that at 3:30 a.m., he received a telephone call from WO4 and was asked to assist in her investigation of SO. WO7 stated he patrolled the area where SO resides, but he did not know what vehicle he was driving. WO7 stated that he heard WO4 radio that she had initiated a traffic stop. WO7 drove to her location and upon arrival, he saw WO4 speaking with SO. WO7 states that WO4 told him that SO “*blew a warn.*” To WO7, this means that the ASD assessed the subject’s blood alcohol level between .05 and .10. This reading would immediately result in the subject served with a three-day driver’s licence suspension. According to WO7, had SO “*blown a fail*” on the ASD, they would have had grounds to arrest him and take him back to the detachment. WO7 stated that based on his observations of SO, he would have handled this matter the same way as WO4. WO7 stated that SO was not staggering, he did not exhibit slurred speech, and he was walking “*...pretty normal.*” WO7 could not recall if SO had bloodshot eyes, nor whether he detected an odour of liquor on him.

Subject Officer

Pursuant to the provisions of the PSA, a subject officer cannot be compelled to provide his or her notes regarding an incident, nor to participate in any interview with IIU investigators. In this case, SO declined to participate in an interview.

Conclusion:

Following the completion of this investigation, the civilian director forwarded the IIU investigative file to Manitoba Prosecution Service (MPS) and requested a review and opinion on whether any Criminal Code or other provincial statutory offences would be authorized against the subject officer.

Following the review of the IIU investigative file, MPS advised that this matter did not meet the prosecution-charging standard, in that there is no reasonable likelihood of conviction against the subject officer. Accordingly, MPS will not authorize any Criminal Code or any provincial statutory offences against the Subject Officer.

The IIU investigation is now complete and this file is closed.

Final report prepared by:

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