

FINAL REPORT: IIU concludes investigation into injuries during arrest by WPS officers

On August 11, 2021, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit of Manitoba (IIU) of an incident where a female sustained a broken arm during her arrest by WPS officers.

According to this notification, which read in part:

“On Wednesday, August 11, 2021, at approximately 8:49 a.m., East District General Patrol members attended to a residence on Forbes Road in regards to a report of family trouble that had been reported at 3:17 a.m. that morning. The initial call for service indicated that a female (later identified as the affected person (AP)), was refusing to leave the property.

Upon officer arrival, AP was located in a trailer on the property armed with a knife. A use of force encounter ensued which resulted in the subject sustaining an injury to her right arm. She was subsequently taken into custody and transported to the Victoria Hospital (VGH) where medical examination determined AP had sustained a fracture of the right humerus.

She was treated by medical staff and released from custody on a Promise to Appear.”

A fractured humerus falls within the definition of serious injury found in IIU regulation 99/2015. Accordingly, the IIU is mandated to investigate the conduct of the WPS officers pursuant to the Police Services Act (PSA). IIU investigators were assigned to this investigation.

Information obtained by IIU investigators included:

- officers’ notes and reports
- statements from civilian witnesses
- call history
- use of force report
- police radio broadcast audio
- WPS prisoner injury report

The civilian director designated a WPS officer as the subject officer (SO). In addition, four WPS officers were designated as witness officers (WO1-4). IIU investigators interviewed two civilian witnesses (CW1-2). AP refused to meet with investigators and refused to provide her consent to the release of her medical records to confirm the existence and extent of her injuries.

FACTS AND CIRCUMSTANCES:

AP:

Between August 19, 2021 and September 13, 2021, IIU investigators attempted on several occasions to meet with and interview AP without success. On September 13, IIU investigators became aware that AP had relocated to Calgary, Alberta. IIU investigators contacted the Alberta Serious Incident Response Team (ASIRT) and requested their assistance in locating and interviewing AP on behalf of IIU investigators. On September 22, 2021, IIU investigators were advised that an investigator with ASIRT had located AP and met with her in person. The ASIRT investigator advised that AP was uncooperative and did not wish to discuss this incident. Furthermore, AP refused to sign a consent form to release any medical information respecting her injuries arising out of this incident to either ASIRT investigators or IIU investigators.

Civilian Witnesses:

CW1 stated that approximately two months prior, AP had called her from Calgary, Alberta and asked for assistance. CW1 stated that she travelled to Calgary to bring AP back to Winnipeg and attempt to get her into a treatment program. CW1 stated that AP was provided with room and board in a camper trailer beside her and CW2's home on Forbes Road. CW1 stated that as time passed, she became concerned with AP's ever increasing drug use culminating with a meeting on August 10 where AP was told she could no longer stay in the trailer if she continued to use drugs. CW1 stated that AP advised that she was returning to Calgary and vacated that trailer. CW1 stated that at approximately 3:00 a.m. later that morning, AP returned to the residence, accompanied by an unknown male and asked to be let into the trailer to retrieve some items. CW1 stated that the trailer door was opened but AP and the male entered and locked the door, refusing to leave the trailer. CW1 stated that police were called for assistance. CW1 stated that two police officers attended the residence at approximately 9:00 a.m. CW1 stated that the police officers were asked if they could try to convince AP to exit the trailer and leave the property. The police officers agreed to speak with AP. CW1 stated that she was in her home when she heard screaming coming from outside. CW1 stated that one of the police officers came to the door and told her that AP had sustained an injured arm and they had called for an ambulance to attend. CW1 stated that the officer said that he had gone to the trailer, that AP "*...had come at him*", and in the effort to subdue her, AP's arm was broken. CW1 stated that she was advised that AP would be taken by ambulance to VGH. Later that evening, CW1 stated received a phone call from VGH and was informed that AP had left the hospital.

CW2, who lives with CW1, stated that at approximately 3:00 a.m. on August 11, AP showed up at their residence. According to CW2, AP said that she had some things in the trailer that she needed to retrieve. CW2 stated that he opened the trailer for her, told her to get her things and to then "*get out*". CW2 stated that AP and an unknown male entered the trailer and then refused to leave. CW2 stated that the trailer door was locked from the inside. CW2 stated that he spoke with CW1 and they called police. CW2 stated that the police arrived at their residence between 7:30 and 8:30 a.m. On their arrival, CW2 stated that AP unlocked the trailer door. The unknown male left the trailer and one of the police officers took him aside to talk to him. CW2 stated that the other police officer was at the trailer doorway, talking with AP. CW2 stated that he could not see into the trailer. CW2 stated that the officer told AP that she was not welcome at the trailer and that she had to leave. CW2 stated that he next recalled hearing AP screaming. CW2 stated

that the police officer exited the trailer and spoke with him, saying that AP had come after him and her arm may be broken. CW2 stated that other police officers and an ambulance arrived at their residence and that AP was taken to VGH. CW2 stated that he did not see any physical struggle between AP and the police officer but noted that the police officer “...felt quite bad” and had said that he had “...never seen anything like that before”, referring to AP’s poor physical and mental condition.

Witness Officers:

WO1 was partnered with SO on August 11, 2021. WO1 stated that their first call that day was to respond to a request for service of *‘family trouble’* at a residence on Forbes Road. WO1 stated that he reviewed the call history, noting that a recent call had come in at 3:00 a.m. that morning from CW2, who advised that AP had returned to the residence in company of an unknown male and had locked themselves inside a trailer. There was a request to remove to AP and the male from the trailer and residence. WO1 stated that upon arrival, they met with CW1 and CW2 and received more detailed background information concerning AP and reaffirmed that they wanted her removed from the property. WO1 stated that he and SO attended the trailer in the company of CW2. WO1 stated that AP opened the door and the unknown male exited the trailer. WO1 stated that CW2 left the area while he dealt with the unknown male. WO1 stated that SO spoke with AP at the trailer door. WO1 stated that he could hear SO speaking with AP and was trying to convince her to leave the trailer. SO repeatedly told AP “...two to three times” that she could leave now as CW1 and CW2 just wanted her “out”. In response, AP told SO that she “...knew her rights and...wasn't leaving”. WO1 stated that SO entered that trailer and that he went to assist his partner, believing that SO was “going to go hands on” with AP as attempts to reason with her to leave were not working. WO1 stated that when he arrived at the trailer door, he heard SO tell AP that she was under arrest. WO1 stated that he saw that SO had taken hold of AP’s right arm, at the wrist and elbow, and was trying to handcuff her. WO1 stated that AP, whom he described as of a very slight build, “maybe 110 pounds”, was actively resisting and “squirming”. WO1 stated that took hold of AP’s left arm to assist SO with the handcuffing. As he was doing this, WO1 stated that AP “...wedged” herself next to a couch. WO1 stated that as they got her hands behind her back, he heard a loud “snap” sound, coming from her right arm. WO1 stated that it was obvious to him that AP’s arm was broken. WO1 stated that SO immediately provided first aid to her and immobilized her arm. WO1 stated that he radioed for an ambulance and backup police officers. WO1 stated that he advised CW2 of what had transpired and that AP was in need of medical assistance. WO1 stated that he saw a butter knife on the floor and SO had advised that it was held by AP. WO1 did not see AP hold a knife when he took hold of her left arm. WO1 stated that throughout his contact with her, it was his opinion that AP appeared to be under the influence of drugs, possible methamphetamine.

WO2 and WO3 were partnered on August 11 and had responded to call to assist WO1 and SO at a residence on Forbes Road.

WO2 stated that he and WO3 were tasked to transport a male subject from the scene and drop him off in the Osborne Village area. Following their return to Forbes Road, they were requested to accompany AP to VGH, as she may have sustained a broken arm during her arrest. WO2 stated that he rode in the ambulance with AP, while WO3 followed in a police cruiser. WO2 stated that during the drive to the hospital, AP said, “You guys broke my arm”. At VGH, WO2

stated that AP was resisting treatment to her arm and that her behaviour there was consistent with drug use.

WO3 stated that they responded to a radio call to attend a residence on Forbes Road where a female subject had sustained a broken arm. On arrival, WO3 stated that he and his partner were asked to transport a male subject from the residence. WO3 stated that the male subject was dropped off in the Osborne Village area. WO3 stated that they returned to the residence and were directed to escort a female, later identified as AP, to VGH. WO3 stated that he had no direct contact with AP but recalls that she was reluctant to accept treatment for her injuries. WO3 stated that he had spoken with SO earlier at the residence and was advised of the circumstances of the attempt to handcuff and hearing the sound of a snap.

WO4 was a Street Supervisor on duty on August 11. WO4 stated that he heard a radio broadcast from WO1 and SO, requesting an ambulance, a supervisor and a second police unit. WO4 stated that in response, he attended to the residence on Forbes road and met up with SO, WO1, WO2 and WO3. WO4 stated that he was briefed by SO on the background of the original call for service for "*family trouble*" and upon arrival received further information from CW1 and CW2. WO4 stated that SO advised that when he first encountered AP, her behaviour was irrational. SO had further stated that AP was in possession of a butter knife in her hands which she was using to pry open a T.V. SO stated that he asked AP to drop the knife and leave the trailer which she refused to do. SO told WO4 that he entered the trailer and grabbed her by the arm to arrest her. SO had told him that WO1 also entered the trailer and that both officer were trying to get AP's arms behind her back, when they heard the sound of a "*snap*" and she screamed. SO stated that he believed that her arm may be broken.

Subject Officers:

Pursuant to 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 matter, SO provided IIU investigators with a use of force report, prepared on August 11, his notes and narrative report. SO did not participate in an in-person interview during this investigation.

Use of Force Report:

The first part of the use of force report details the call history at the residence on Forbes Road and the circumstances where AP had locked herself and a male subject in a trailer, refusing to leave the premises. Upon arrival, SO noted that they met with CW2 and the three of them went to the trailer. According to SO, CW2 opened the trailer door and the male stepped out. The male was spoken to by WO1 while he (SO) went to the trailer door and attempted to convince AP to leave. SO wrote that CW2 left the area. According to SO, AP repeatedly refused to leave the trailer, stating that she "*knew her rights*". SO wrote that AP was speaking nonsensically at times, that bugs were coming out of the ceiling and that she needed to "*get the motherboard*" out of a TV set. SO wrote that AP picked up a butter knife and was trying to remove the back of the TV. SO wrote that he noticed a container with a white substance in view that AP stated was "*probably Meth*". SO wrote that he informed AP that she was under arrest for unlawfully in a dwelling place and possession of Methamphetamine. SO wrote that AP faced him, still holding the knife in her hand, and said she was not leaving.

SO then wrote:

She approached me aggressively, knife in hand down at her waist level and pointing it towards me, yelling "I know my rights, you're just taking their side, I'm not going anywhere". I immediately used soft empty hand control and took hold of her right wrist to control the knife, as well as verbal direction to turn around and put her hands behind her back. [AP] was highly defensive resistant and pulled her arms to the front of her body and turtled her arms in front of her, turning to the side. She had a lot more strength than I was expecting, likely from being under the influence of Methamphetamine. [AP] continued to struggle and be defensive resistant and pulled me toward the couch area that is attached to the trailers dining table. She was extremely wiry and squirmy and I could not get her arm behind her back. I was able to pin her in a standing position against the couch arm rest.

My partner, [WO1], could hear me providing verbal direction and struggling with [AP] and came in to assist. He took hold of her left arm, which she still had turtled into her chest. I attempted to pull her right arm from her chest and around to her back for handcuffing she continued to be highly defensive resistant and pull away. As I was bringing her wrist up to her lower back to apply handcuffs, she again pulled hard and turned towards [WO1], at which time I heard a loud crack and her arm went limp and she began to cry in pain. We sat her down on the edge of the couch as it was believed she may have a fracture in her right arm. During this time AP dropped the knife onto the floor.

Notes and Narrative Report

IIU investigators reviewed SO's notes and narrative report that were provided. Both the notes and narrative report are consistent with the Use of Force Report.

Conclusion:

The following facts and circumstances are established:

1. Both SO and WO1 were lawfully placed and in lawful execution of their duties at all times during contact with AP
2. AP refused to cooperate with investigators and refused to provide any statement or information concerning her interaction with police
3. There were valid and lawful reasons for AP's detention and subsequent arrest on the basis of her unwelcomed occupation of the trailer and refusal to leave it on demand
4. AP was in possession of a knife and was facing SO with it in her hand
5. A substance identified by AP as methamphetamine was visible and in plain view
6. AP was informed of the reasons for her detention and arrest
7. AP's response to the lawful arrest was to refuse to submit and to physically resist her detention
8. The police officers actions to handcuff AP and gain control of her, were not in the circumstances, out of norm

9. AP refused to consent to the release of her medical records and IIU investigators are not able to confirm the extent or likely cause of her injury

In summary, this investigation has determined that due to an unfortunate series of events, leading to the arrest of AP and subsequent injury to her arm, there is nothing in the evidence gathered to support any contention that SO's actions support the allegation that the force used was excessive and unnecessary. There are no grounds to justify any charges against the subject officer.

The IIU investigation is complete and this file is closed.

Final report prepared by:

Zane Tessler, civilian director
Independent Investigation Unit
December 07, 2021

Ref 2021-0037