

FINAL REPORT: IIU concludes investigation into serious injury during arrest

On November 1, 2021, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit of Manitoba (IIU) of an incident where a female suspect sustained a serious injury during the course of her arrest.

According to an excerpt of his notification:

On October 21, 2021, the affected person (AP) made a complaint to the Civilian Review and Complaints Commission (CRCC) for the RCMP. AP alleges that on September 17, 2021, she stopped for gas in Russell, Manitoba and the clerk at the gas station told her to put a mask on. AP stated that she had a medical exemption, put the gas money on the counter and left. AP returned to her vehicle where an RCMP member (later designated as the subject officer (SO)) appeared and asked for her driver's licence. AP wrote the following in the complaint to the CRCC:

“With no chance or warning, the RCMP officer opened my door and aggressively lunged inside, grabbed my left wrist and began [to] twist it with extreme force...The RCMP grabbed my right hand and bent it and twisted it UNTIL IT cracked.”

AP reported in the CRCC complaint that she suffered a broken wrist, specifically a distal radius fracture.

It was confirmed that on September 17, 2021, at 3:37 p.m., SO attended the gas station for a report of a female (AP) causing a disturbance in the store. SO approached AP, asked for identification and AP refused. AP was arrested for mischief/cause disturbance and then resisted arrest and was assaultive towards SO. During the course of SO's investigation, two independent witnesses were located and provided statements which speak to both SO's and AP's actions. Video surveillance is available from the gas station, AP's phone and from a witness's phone.

As the allegations in the notification concern the existence of a possible broken wrist, pursuant to the provisions of The Police Services Act (PSA), this is deemed a serious injury for which IIU is mandated to initiate an independent investigation. IIU investigators were assigned to this investigation.

Information obtained by IIU investigators included:

- RCMP dispatch radio communications
- officers' notes and reports
- occurrence summary
- cell block surveillance videos
- medical report concerning AP
- video footage from multiple sources

As noted above, the civilian director designated the involved RCMP member as SO. Pursuant to the provisions of the Police Services Act (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 but did not agree to participate in an interview with IIU investigators. In addition, the civilian director designated four other RCMP members as witness officers (WO1-4). IIU investigators met with and interviewed AP. IIU investigators also met with and interviewed four civilian witnesses (CW1-4). IIU investigators also received and reviewed video recordings taken by AP, by the store and gas bar surveillance camera, by a civilian witness and at the RCMP detachment and cell block.

Affected Person:

AP was travelling with CW1 to Saskatoon, Saskatchewan and stopped for fuel at a store and gas bar in Russell, Manitoba at approximately 3:00 p.m. on September 17. After filling up her car at the pump, she went inside the store to pay. AP was not wearing a face mask as she has a “*medical exemption*” and was wearing a button that pronounced that exemption. The clerk told AP that she was required to wear a mask to enter the store. AP retrieved her cell phone and started to record the events, “*...in order to protect myself*”. AP then told the clerk,

“...that under the Public Health of Manitoba, I am allowed to not wear a mask for medical reasons and that Dr. ROUSSIN has asked the public to be kind to those who cannot wear a mask”

The clerk continued to demand that AP wear a mask. AP produced a card from her purse that had contact information for the Province of Manitoba website and information on mask exemptions. A second individual waiting in line stated, “*If she has a medical exemption she should show you*”. AP stated that the exemption was in her car but that “*...was a matter of human rights and was between me and my Doctor.*”

AP stated that she heard the clerk ask that the police be called. AP stated that she was not causing a disturbance and just wanted to pay for her gas. AP placed \$35 in cash on the counter to pay for the gas and left the store to return to her car. When she entered her car, CW1 stated, “*He's coming at us*” and she noticed that an RCMP officer (later identified as SO) was walking to their vehicle. SO stated, “*Drivers, registration*” to which AP asked why. SO stated, “*Because you're behind the wheel*”. AP started to record her interaction with SO when he stated, “*Get out of the car. You are under arrest*”. AP stated that SO lunged into the vehicle, grabbed her arm and attempted to pull her out of the car. AP stated that SO was twisting her right arm when she heard the sound of a crack and yelled, “*You broke my wrist*”. AP stated that she told CW1 to, “*... phone the police, this man is assaulting me*”. AP stated that she was removed from her vehicle, handcuffed and “*half dragged*” to the police vehicle. AP stated that SO advised her that she was being charged with resisting arrest and assaulting a police officer and she was taken to the RCMP detachment.

AP's Medical Report:

AP provided IIU investigators with a written consent to obtain medical information pertaining to her injuries. The records indicate that on her initial examination, it was found that she had significant bruising and tenderness to her right hand and arm with corresponding pain. An X-Ray of the area was negative for any fractures. However, during a subsequent visit, additional x-rays of the area were taken and a distal radius fracture¹ (un-displaced) to the right wrist was found and diagnosed.

¹ A distal radius fracture is a break in the part of the bone closest to the wrist. It is regarded as the most common fracture of the wrist.

Civilian Witnesses:

CW1 was the passenger in a vehicle being driven by AP as they were travelling to Saskatoon. They stopped for gas in Russell, Manitoba. CW1 took the opportunity to use the facilities while AP was putting gas in the vehicle. When he returned to the vehicle, AP was not present and he assumed she was in the store to pay for the gas. Within moments, AP returned to the vehicle and told CW1 that the store employees did not want to serve her because she was not wearing a mask and that they were calling the police. Almost immediately, CW1 stated that he saw an RCMP officer arrive, park and walk towards their car. The police officer (later identified as SO) came to the driver's side and asked AP for her licence and registration. AP asked SO, "*Why*" and reached for her cell phone. CW1 stated that SO immediately opened the driver's door, lunged towards AP, and said, "*You're under arrest*". SO grabbed her arm and tried to pull her out of the vehicle, when CW1 heard a loud "*snap*". CW1 stated that AP was "*...dragged*" to the police vehicle. CW1 got a hotel room for the night. At approximately 10:00 p.m., AP was dropped off at the hotel room.

CW2 was the manager of the store and gas bar in Russell, Manitoba where AP had stopped to purchase gas for her vehicle on September 17. At approximately 3:30 p.m., CW2 had completed her shift and was making a purchase before leaving to go home. A female (later identified as AP) entered the store and was not wearing a mask. When CW2 asked AP if she had a mask, she replied that she did not need to wear a mask as she was "*...medically exempt*". AP was wearing a button on her shirt that stated she was medically exempt from wearing a mask. CW2 stated she advised AP that a mask had to be worn to enter the store. This back and forth exchange went on for several minutes. AP had produced her cell phone and was recording their interaction. Another customer in the store interjected and stated, "*If you are medically exempt, just show your paper*", to which AP replied that she did not have to produce any exemption documentation as that would be a violation of her human rights and then stated, "*What are you going to do? Call the Police?*" CW2 instructed another employee to call the RCMP. AP produced \$35 in cash to pay for her gas, left the money on the counter, exited the store and returned to her vehicle. The RCMP (later identified as SO) arrived within two to three minutes. AP remained in her vehicle and parked at the gas pumps. CW2 went outside the store and saw that SO attended to AP's vehicle. CW2 stated that AP appeared "*pretty resistant...loud...and was screaming, kicking and flailing*". CW2 stated that SO removed AP from her vehicle, handcuffed her and placed her into the police vehicle.

CW3 is an employee at the store and gas bar in Russell, Manitoba and was working there on September 17 when AP entered the store to pay for a gas purchase. CW2 was also present and had completed her shift, making a purchase before she was heading home. AP entered the store and was not wearing a mask. AP was asked to put a mask on as it was store policy to follow all prevailing health regulations. AP stated that she had a "*medical exemption*" and did not have to wear a mask. CW2 stated that, "*there is no such thing*" and told AP that she needed to wear a mask in order to be inside the store. CW3 stated that AP was "*filming the entire interaction between her and CW2 on her cell phone*". CW3 stated that AP repeatedly said that she had "*...human rights and a mask exemption*". CW3 stated that she was asked by CW2 to call the police, which she did as instructed. AP placed the cash for the gas purchase on the counter, left the store and returned to her vehicle. CW3 stated that she did not witness any interaction between police and AP.

CW4 was a customer at the store and gas bar in Russell, Manitoba on September 17. "*Sometime around noon*", he had followed a woman into the store who was not wearing a face mask. Immediately, one of the employees confronted the woman (later identified as AP) and told her that she needed to wear a mask in order to be in the store, AP replied that she "*...didn't have to wear a*

mask as she had a medical exemption". The matter went on for sometime in the store with AP repeatedly refusing to put on a mask. CW4 stated that AP was not allowed to pay for her gas and returned to her vehicle parked at one of the gas pumps. CW4 was aware that a store employee had called the police. CW4 saw police arrive shortly thereafter and a lone male police officer (later identified as AP) went to AP's vehicle. CW4 saw SO and AP talking at the driver's side. CW4 overheard SO ask AP to step out of the vehicle. However, AP refused to exit her vehicle and SO appeared to physically reach in to get her out. CW4 stated that he was recording the incident with his cell phone. When SO reached into the vehicle, CW4 stated that AP was attempting to "...lay down on her back" with her head towards the passenger door, she was screaming and was kicking at SO with her legs which were now towards the open driver's door. After several minutes, SO was able to get AP out of the vehicle, pulling her by one of her arms and handcuffing her once she was outside the vehicle.

Witness Officers:

WO1 was on duty, partnered with WO2, and in Roblin, Man on an unrelated call. At approximately 3:30 p.m., WO1 received a radio call from SO who was in Russell, Manitoba and was requesting back up assistance. SO had advised that he had responded to a "*COVID Mask Call*". WO1 and WO2 drove to Russell, Manitoba. While on route, SO advised that he had a female in custody and that they should proceed to the detachment. On arrival at the detachment, SO was waiting in the parking lot with AP secured in the back of the police vehicle. WO1 stated that they were briefed by SO and then proceeded to escort AP from the vehicle into the detachment. AP was crying and yelling something about "*Human rights and violations*".

WO2 was at Roblin RCMP detachment dealing with an unrelated matter when at 3:30 p.m., he heard SO broadcast that he had responded to a call for service involving non-compliance with the public health order to wear a mask and was requesting backup assistance. WO2 and his partner WO1 departed Roblin to head to Russell, Manitoba to provide back up for SO. On route, SO broadcast that he had a female in custody and asked to meet these members at the Russell RCMP detachment. On arrival at the detachment, WO2 stated that SO was already present and that AP was seated in the rear of the police vehicle. AP was complaining of a sore wrist though WO2 could not recall which wrist she was complaining about.

WO3 was on duty at the Russell RCMP detachment for the evening shift on September 17 that commenced at 6:00 p.m. On his arrival, he was briefed by SO concerning the incident involving AP. AP was now in custody in an RCMP cell. Her right arm, which appeared red and swollen, was photographed.

WO4 was on duty at the Russell RCMP detachment for the evening shift on September 17. On arrival at work, WO4 was briefed that AP was in a cell. AP complained of pain from an injury to her right arm that had happened during the confrontation with SO. WO4 took photographs of her arm. According to WO4, there was red bruising on AP's forearm.

Subject Officer:

As previously stated, 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 but did not agree to participate in an interview with IIU investigators.

According to his notes, SO responded to a call for service at the Russell store and gas bar in relation to a woman causing a disturbance, abusing staff and refusing to wear a mask in accordance with

Covid public health regulations. On arrival, SO observed a woman (later identified as AP) walking around the gas pumps and filming with her cell phone. AP then entered her vehicle and started it up. SO wrote that he approached the driver's side and knocked on the window. AP rolled down the window and demanded to know why he was stopping her. SO wrote that he asked for her driver's licence and registration to which AP blatantly refused to comply. SO wrote that he asked her several times for her identification and it was clear she was not going to comply. SO wrote that AP stated that she had a right to refuse and was quoting the Charter of Rights. SO wrote that he advised AP that she was under arrest. AP yelled that she was going to call 911 and to report him to Police. SO wrote that he heard AP state that she was "...filming this". SO leaned into the vehicle in an attempt to turn off the vehicle and retrieve the keys but AP pushed his hand away. Fearing that AP might drive away, SO wrote that he reached in, grabbed her left arm, and told her she was under arrest. AP continued to pull away and resist SO's efforts. SO wrote that he managed to place AP's left hand in a wrist hold while she attempted to push away with her right hand. SO was able to handcuff AP and remove her from the vehicle. SO had to physically lift AP into the back seat of the police vehicle.

Video Footage Review and Analysis:

IIU Investigators reviewed the video footage that captured the events of September 17, showing the interaction between SO and AP.

Store Video Surveillance Footage (no sound)

3:26 p.m. – AP's vehicle pulls up to the gas pumps.

3:27 p.m. – AP is pumping gas and CW1, wearing a mask, enters the store.

3:29 p.m. – CW1 exits the store.

3:30 p.m. - AP enters the store and is not wearing a mask. A female (later identified as CW2) speaks to AP.

3:31 p.m. - AP and CW2 are engaged in an animated discussion. AP appears to be reading something to CW2 from the screen of her cell phone. AP retrieves a card from her purse and is trying to hand it to CW2 but she will not take it.

3:32 p.m. - A store employee is on the telephone. AP appears to be recording with her cell phone.

3:33 p.m. - Another customer is speaking to AP as she is preparing to leave the store.

3:34 p.m. - AP puts the card on the counter.

3:35 p.m. - AP is counting out cash from a white envelope and places money on the counter. AP leaves the store.

3:36 p.m. - CW2 is watching clerks count the cash. AP has returned to her vehicle, still parked at the gas pump.

3:37:12 p.m. – AP is out of her vehicle, taking pictures of the gas pumps.

3:37:39 p.m. – An RCMP vehicle arrives. SO gets out and walks directly to AP's vehicle.

3:38 p.m. - SO is at AP's driver's side window.

3:39 p.m. – SO leans into the vehicle, pulls AP out of the car and is pulling/walking her to the RCMP vehicle. SO is handcuffing AP at the side of the police vehicle.

- 3:40 p.m. – CW1 is out of the vehicle, holding a cell phone towards the RCMP vehicle.
- 3:41 p.m. – As CW1 is recording with their cell phone, two bystanders, a male and female, are watching.
- 3:42 p.m. - AP is placed inside the RCMP vehicle. CW2 is talking with SO.
- 3:49 p.m. – CW1 returns to AP’s vehicle.
- 3:52 p.m. – AP’s vehicle is still at the gas pumps.
- 3:53 p.m. – SO speaks with CW1.
- 3:56 p.m. - RCMP vehicle leaves the gas station with AP.

Russell RCMP detachment video footage:

- 4:03 p.m. – At the detachment, AP exits the backseat of the RCMP vehicle. Three RCMP members are present. AP is handcuffed to the rear. The RCMP members and AP walk into the detachment.
- 4:04 p.m. - AP is seated on a bench in the cellblock corridor. She appears to be yelling, crying and sobbing.
- 4:13 p.m. - Handcuffs are removed and AP is placed in a cell.
- 4:14 to 8:42 p.m. - AP is in a cell. During this time, AP repeatedly rubs her right wrist, attempts to manipulate the wrist and runs water from the sink over her arm.

Video Footage from AP’s cell phone

The video footage is in two parts:

Section 1 is video taken from inside the store and gas bar and shows the interaction between AP and CW2.

Section 2 is from the inside of AP’s vehicle, following her return from the store and gas bar and shows SO’s interaction with and arrest of AP.

Section 1

AP is recording and facing CW2. AP asks for her name and where they are. AP states that she is “*filming this*”. AP states that she is “*...exercising her medical mask mandate*” and that she does not have to wear a mask because that is her medical mandate. AP refers CW2 to the Manitoba Health website and claims she has a “*...medical exemption*”. CW2 repeatedly tells AP that “*...in order for you to be in the store, you must wear a mask*”. AP states that she is “*...trying to pay for her gas*” but they will not let her because she is not wearing a mask. AP states that she has a “*...human right*” to be in the store without a mask. AP pulls out a white business card and tells CW2 to look up information on a website from Manitoba Public Health that states she has a medical mandate that allows her to not wear a medical mask. CW2 repeats that in order for AP to be in the store, she must be wearing a mask. AP states that she “*...is being held up*” and not being allowed to pay for her gas because she is not wearing a mask. A male customer is heard stating, “*You could have had your gas paid fifteen minutes ago*”. Another female voice is heard stating, “*Thank you [CW2] for protecting us*”. AP states, “*So where is this RCMP*” to which a female employee says, “*I’ve called them already*”. AP states that she is going to put her money down and the cost of the gas was 35 dollars. AP takes out a white envelope, counts 35 dollars out, and films herself putting the money down on the counter. AP states that she “*has just paid*” and leaves.

Section 2

AP is seated in the driver's seat and states, "Excuse me". The camera view then turns to the driver's window, focusing on SO. SO states "ok, get out of the car, you are under arrest." SO opens the driver's door. AP replies, "I'm not under arrest, you can't do this, you cannot arrest me, for what? What am I being arrested for?" SO responds, "For refusing to give me ID". SO takes out his handcuffs and uses his left hand to try to control AP. SO yells, "Get out of the car now!" AP then yells, "Stop, Stop, you are violating me right now, now stop. I will call the Police on you. Please phone 911, Please phone 911". SO states: "I am the Police". SO handcuffs AP's left wrist. The struggle between AP and SO continues as the cell phone falls and appears to be on the floor of the vehicle. Audio is still heard. CW1 is heard saying, "Hey! Hey!" SO is heard saying, "You're under arrest" and CW1 states, "For what? For what?" SO states, "For resisting arrest, now". AP is heard screaming and the horn of the vehicle sounds. AP then states, "You're breaking my wrist!" to which SO replies, "Well, then listen... Get out of the car!" AP continues to scream and repeatedly states, "Oh my God" and "stop, stop, please stop". AP then yells "let go of my wrist". SO asks CW1 to undo AP's seat belt. CW1 states, "[AP], you got to go, you're just going to make it worse". SO pulls AP out of the vehicle, as she tells CW1 to "keep recording". SO is attempting to get AP into the back seat of the police vehicle. SO states, "You're under arrest, let's go, get in the car" to which AP replies, "for what?" AP then yells, "Get his badge number!" SO states that she is being arrested for "...Causing a Disturbance". SO is telling AP to get into the police vehicle to which AP states, "You have arrested me for nothing and you broke my wrist". SO pushes AP into the police vehicle. AP continues to yell and demands SO's badge number to which SO states, "get in the car ma'am" and AP replies "No". AP states, "You have broken every rule of the police force and conduct".

Video Footage from CW4's cell phone

The video footage is grainy and of poor quality. The video footage shows SO reaching into a dark coloured sedan and is attempting to bring an individual out of the driver's seat. Screams can be heard from a female as well as the sound of the vehicle's horn. SO pulls a female (later identified as AP) out of the car by the right arm and is reaching for his handcuffs. AP is screaming loudly and says, "Oh my god, Oh my god...help!" SO appears to get a handcuff on her right arm.

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 charges should be authorized against SO.

Following the review of the IIU investigative file and other material, MPS provided a written opinion, in which it was stated:

"Manitoba Prosecution Service (MPS) has reviewed the IIU investigation of [SO]. While it is always in the public interest to hold police officers accountable, there must also be a reasonable likelihood of conviction for MPS to prosecute a matter. In this case, after considering all of the evidence, we have concluded that there is no basis to charge the subject officer with any offence"

Accordingly, given the decision by MPS that no criminal code charges will be authorized against SO, the IIU investigation is now complete and this file is closed.

Final report prepared by:

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Independent Investigation Unit
November 25, 2022

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