

FINAL REPORT: IIU concludes investigation into serious injury during RCMP arrest

On March 31, 2022, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit (IIU) of a complaint that was made to the Civilian Review and Complaints Commission, in regards to an incident occurring on July 29, 2020 where the complainant (hereinafter referred to as the affected person (AP)) alleges that he was assaulted by police following his arrest and at the detachment wherein he sustained broken ribs and permanent scarring to his shoulder.

The notification, provided to IIU (edited for clarity), read in part:

“On July 29, 2020, at 01:48 am, Dauphin RCMP responded to a report of a male later identified as AP asking for a boost on Highway 20 and Rd 153 N, Rural Municipality of Dauphin, Manitoba. AP was not wearing any clothing.

At 2:10 am, RCMP members located a dark SUV parked in a driveway with headlights activated and a male and female seated inside...

AP exited the vehicle and informed that he was coming from the beach with his girlfriend when they had car trouble and his battery died. AP was observed to have scrapes to his knees and on his person. His eyes were bloodshot and he was slurring his words.

AP made multiple attempts to access his vehicle and was prevented from opening the door. An RCMP member assisted locating AP’s shorts in the back of the SUV. AP fell over while attempting to dress.

AP was provided an ASD demand stating “no” multiple times and moved toward his SUV opening the door. When an RCMP member closed the door...AP, with an angry expression, clenched his fist. AP was placed under arrest and ...was taken down onto the gravel roadway...AP was secured in handcuffs. AP was subsequently arrested for impaired operation of a motor vehicle. While secured inside the police vehicle, AP was hitting and kicking his feet at the doors.

AP was transported to Dauphin Detachment where he was removed from the back of the police vehicle. AP refused to provide breath samples to breath technician...AP was arrested for refusal and subsequently released from custody...on several criminal charges...At 9:00 pm, AP called the detachment to apologize...for his actions indicating he did not remember most of what happened...

On March 30, 2022, a complaint was made by AP through the Civilian Review and Complaints Commission (CRCC) that he was assaulted by officers during his arrest and sustained injuries. It is alleged the assault happened outside and inside the police station while in handcuffs and that he sustained broken ribs and permanent scarring on his

shoulder...AP indicates he does not recall who specifically did what to him and believes his injuries could not be attributed to one officer. Included were three photographs of injuries taken by AP after his release.

Efforts are being made to retain any recordings/CCTV video that may still exist ...”

An allegation of broken ribs meets the definition of serious injury as defined in IIU regulation 99/2015 and accordingly, IIU assumed responsibility for this mandatory investigation in accordance with The Police Services Act (PSA). IIU investigators were assigned to this investigation.

RCMP file information and other material, obtained by IIU investigators, included:

- use of force report
- occurrence summary reports
- officers’ notes and reports
- police vehicle video recording
- court package
- copy of CRCC complaint
- medical report of AP dated July 31, 2020
- court transcripts dated April 25, 2022

Based on the information provided, the civilian director designated the arresting RCMP member as the subject officer (SO). Three RCMP members were designated as witness officers (WO1-3). AP met with and was interviewed by IIU investigators. During the course of this investigation, several attempts to locate and contact the female passenger present in AP’s vehicle on the night of his arrest, were made but to no avail. According to information received, it was determined that the female was currently referenced as having no fixed address. AP had advised IIU investigators that he and the female passenger have not been in a relationship for some time and was unaware of her present whereabouts.

IIU investigators obtained the RCMP in-car video which captured the interaction between police and AP from the moment of his initial detention to the arrival at the RCMP detachment. However, due to the passage of time between the date of arrest and the date of AP’s complaint to CRCC (a period of approximately 20 months), video recordings from the RCMP detachment, including cell block video, on the date of AP’s arrival, detention and subsequent release, had been overwritten and were no longer available.

Facts and Circumstances

AP:

AP met with IIU investigators on May 10, 2022. According to AP, on July 29, 2020, he went with his then girlfriend to the beach. While at the beach, they were consuming alcohol and both became intoxicated. AP recalled that they left sometime around 8:00 p.m. AP stated that he fell asleep in the passenger seat of his vehicle while his girlfriend “...*must have been driving*”. AP stated that he recalls waking up “...*in the middle of nowhere*”. His vehicle was stopped and it would not run or start again. AP stated that he had gone to a nearby farmhouse to ask for help. AP stated that he does not dispute that he was naked. His bathing suit was wet and uncomfortable so he “...*must have taken it off*”. AP believes that the occupants of the farmhouse

must have called for police to attend. AP returned to his vehicle and that police did arrive a short time later. AP stated that SO approached him at the driver's side of his vehicle while another officer went to the passenger side to speak with his girlfriend. AP stated that SO asked where his clothes were. They found his bathing suit and, because he was intoxicated, he stumbled a number of times as he attempted to put it on. AP stated that it was at this time that SO arrested him for impaired driving. He was handcuffed behind the back and taken back to the RCMP vehicle. Moments later, the officers brought his girlfriend, who was also handcuffed, to the Police car where she was seated with AP. AP stated that the drive to the RCMP detachment was approximately ten minutes. AP stated that his "...behaviour was outrageous". AP "...threatened the officers" and was "...verbally assaultive...it was not pretty".

Upon arrival at the RCMP detachment, AP stated that his girlfriend was removed from the police vehicle and he remained alone, in the rear seat. AP stated that SO then opened the rear passenger door and there were "...three to four additional officers standing off to the side". AP stated that SO forcibly removed him from the cruiser car and threw him down to the concrete. AP stated that he "...blacked out" and when he came to, he was being dragged inside the RCMP detachment by SO and another officer and directly into a cell. AP stated that at the time of his arrest, he did not have any injuries. When he woke the next morning in the cell, he was covered in blood and had numerous scrapes and abrasions on his body. AP stated that he could barely move his ribs and his left side were sore. AP stated that he believes these injuries were caused when he was pulled out of the police vehicle by SO on arrival at the detachment. He states that he was dragged onto concrete, which he believes caused the abrasions on his body. Two days following his release from custody, AP stated that he went to the Dauphin Hospital Emergency Department where X-Rays were taken of his ribs. AP stated that he was advised that "...they did not see any breaks...that it was possible that the ribs could be broken but they just did not detect or see any breaks. AP stated he was "...bedridden for the next two weeks" and experienced prolonged pain and soreness on his side, his ribs and that he has a permanent scar from the incident on his left shoulder. AP stated that he attended to provincial court on April 25, 2022 and plead guilty to charges stemming from this incident. According to AP, the RCMP Police report noted that on his arrest he had "...made a fist... and was taken down to the ground" with SO falling on top of him. AP stated that this is incorrect and that his recollection, is he was not taken down to the ground and "...remained vertical the whole time". AP stated that he was handcuffed in a standing position and believes his injuries (scrapes and abrasions) are consistent with being thrown to the concrete at the RCMP detachment, and not from falling on gravel. AP stated that there was no physical altercation with police where he was arrested.

Medical Report:

According to the medical report from Prairie Mountain Health/Dauphin Hospital in relation to AP's visit and examination on July 31, 2020:

Patient stated that he was intoxicated on Wednesday and arrested by Police. Stated he does not remember what happened but is having pain to right ribs. Pain worse with deep breaths or coughing. Abrasions to left knee, left shoulder and left chest. Bruises and cuts to right side of ribs. Pain 4/10 at present, 10/10 with coughing

X-rays were conducted and were negative for any visible fractures to the ribs. The X-Ray notes were as follows:

Chest two views, right ribs

The heart is not enlarged. No pneumothorax or displaced right-sided rib fracture is identified.

Witness Officers:

On July 29, 2020, WO1 was working at the Dauphin RCMP detachment and was partnered with SO. At 1:48 a.m., they received a dispatch call to attend to a rural residence in the RM of Dauphin. The caller had stated that a male and a female were arguing on the roadway, the male was naked and had attended their residence requesting to use the phone as he had a vehicle breakdown. WO1 stated that he and SO proceeded to the rural location, in a marked police vehicle. On arrival, they located the suspect vehicle parked on a gravel road. The suspect vehicle's high beams flashed at them and then turned off. WO1 stated that he observed the driver's door open, a naked male exited and walked directly to the driver's side door of the Police vehicle. WO1 stated that he knew this male to be AP and that the suspect vehicle belonged to AP. SO exited the police vehicle and took AP back towards the suspect vehicle. WO1 stated that he noted a female in the passenger seat and went to deal with her. WO1 stated that the female was very intoxicated and was slurring her words. WO1 stated that he then observed that AP was becoming uncooperative with SO. WO1 stated that he heard AP tell SP that he had "...no right" to close his door and AP attempted to get back into the vehicle. WO1 heard SO state "You're under arrest". He observed AP trying to pull away from SO. WO1 stated that SO took AP to the ground using a "...straight-arm bar takedown". SO then started to handcuff AP at which point, WO1 joined to assist. Both AP and the female were placed in the rear of the police vehicle. WO1 stated that he noticed some mild scrapes around AP's knees after he had been brought down on a gravel road. From the moment AP was placed in the rear of the police vehicle, waiting for the suspect vehicle to be towed and during the transport to the RCMP detachment, AP was very aggressive and verbally abusive towards the police, swearing and threatening them and their family with violence. Upon arrival at the detachment, the female was the first to be removed from the police vehicle. When AP was taken out, he continued to be belligerent, insulting and abusive towards police officers.

WO2 was working the day shift at Dauphin RCMP detachment on July 30, 2020. WO2's role was to prepare AP for release from custody. WO2 stated that AP was co-operative with him, was now sober after a night in cells, was no longer naked, and was clothed. WO2 stated that he drove AP from the detachment to his home. During his time with AP, WO2 stated that he did not observe any injuries.

WO3 was the RCMP breathalyzer technician who dealt with AP on July 29, 2020. WO3 stated that he was called to the office to administer a breathalyzer test to AP. WO3 stated that he assisted in escorting AP from the police vehicle to a bench in the cellblock area. WO3 stated that he did not witness nor was involved in any altercation with AP when he was removed from the police vehicle. WO3 stated that there was no difficulty escorting AP into the detachment. WO3 did not observe any injuries on AP and did not recall AP complaining of any injuries. WO3 stated that he was present when SO made a formal demand for a breath sample by AP and that AP

refused to provide a sample of his breath. AP was then placed in a cell and ended his involvement.

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 participate in any interview with IIU investigators. In this case, SO provided his notes to IIU investigators. SO did not agree to participate in an interview with IIU investigators.

A summary of those notes is as follows,

SO was on duty in the early morning hours of July 29, 2020, when he and WO1 responded to a call for service and attended to a rural area, observing a parked suspect vehicle with two occupants. As the police vehicle came to a stop, the suspect vehicle turned on its high beam lights causing SO to activate the vehicle's emergency lights. A male exited from the driver's door and was noted to be naked. SO recognized this male as AP. SO exited the driver's side of the police vehicle to speak to AP while WO1 went to speak to a female passenger. SO noted that AP was slurring his words and that his eyes were blood shot. AP then attempted to return into his vehicle. SO stopped him from opening the car door, as he was not sure what was inside the vehicle and wanted to keep an eye on AP's hands. AP wanted to retrieve his swimsuit and then found attempted to put them, however, fell over as he tried to dress. Based on these observations, SO advised AP that he was going to give him an "...ASD demand" to which AP responded "No, no, no". AP moved away from SO and went to open his car door. SO moved to stop AP who turned at SO with a clenched fist and facial grimace. SO, fearing that AP was about to strike at him, placed him under arrest. AP pulled away from SO and SO took him down to the ground. SO was able to handcuff AP and placed him in the back of the police vehicle. AP repeatedly shouted expletives at SO. Once AP and the female were secured in the rear of the police vehicle, SOP and WO1 searched the suspect vehicle. As they conducted the search, AP was banging on the police vehicle door and shouting obscenities and threats at the police officers. Upon arrival at the Dauphin RCMP detachment, GARNETT was given a formal demand for a breath sample and refused to provide it. He also declined to speak to counsel. AP continued to be belligerent and threatening towards the police. When AP was removed from the police vehicle, SO noted multiple scrapes on his body. SO wrote that upon arrival at the Dauphin RCMP detachment, AP did not want to exit the police vehicle and had to be "*pulled out*" of the car.

Analysis of RCMP In-Car Video:

The RCMP in-car video captured AP's actions from the moment of the police attendance through to the transport to the Dauphin RCMP detachment. The video recording is approximately 90 minutes in duration and is dated July 29, 2020.

The video recording begins with a frontal view of the police vehicle travelling at night on the highway and coming upon AP's vehicle that is parked with its lights off. As soon as the Police arrive, AP's vehicle turns its high beam lights on. In response, the police activate their emergency lights. A male (later identified as AP) immediately exits the driver's door and is observed to be naked. AP walks to the police vehicle at which point both police officers exit. AP and SO speak to each other and after approximately a minute they walk back to the driver's side of AP's vehicle. AP is unsteady on his feet and does not walk a straight line. AP is clearly

impaired by alcohol or a drug. AP attempts to open his driver's side door but is prevented by SO. SO then opens the door and AP retrieves a pair of shorts from the back seat. As AP attempts to put on the shorts he has difficulty keeping his balance and falls. Once AP gets his shorts on he again attempts to open the driver's door and enter the vehicle. SO stops AP and pulls him away from the vehicle by the left arm. AP is resisting and uses his right arm to hang on to the door. SO is able to take AP to the ground with a straight arm bar technique. Both the AP and SO appear to slip on the gravel road and both fall to the ground, with SO on top of AP. A brief struggle ensues and SO is able to get AP on to his stomach and gets his arms behind his back. WO1 comes over from the passenger side of the vehicle to assist with the handcuffing of AP. The female passenger has now exited and appears to be yelling towards the officers from the front bumper area. The female is very unsteady on her feet and is barefoot. She is taken to the Police vehicle where she is placed in the back seat. The vehicle audio is now audible and the female can be heard stating that she is "*not under the influence of drugs*". She is slurring her words. The two police officers get AP off the ground, bring him to the vehicle, and place him in the back seat next to the female. The two officers leave the male and the female in the back seat while they go back to examine the vehicle. The male is talking to the female, slurring his words as well. AP is belligerent towards police and makes repeatedly vulgar comments towards them. In speaking to the female, AP makes several statements that he is going to cause violence to the police as he knows where they live. AP is seen spitting on the floor of the police vehicle and on the glass partitions. AP continually uses foul language and expletives directed towards the police officers. AP brags that he has been spitting all over the police vehicle. When AP is told that his vehicle will be towed, he continues to spew expletives towards the police officers. AP lays down on the back seat and kicks at the rear door windows.

During the transport to the Dauphin RCMP detachment, AP continues to be abusive towards the two officers in the vehicle. He repeatedly threatens sexual assaults and sexual acts towards the police officers, their spouses and children. Upon arrival at the secure bay area of the detachment, the female is the first to be removed from the police vehicle. AP continues to hurl threats at the police officers. A police officer opens the rear door and asks AP to exit. AP states that his "*...shorts are falling off*". The police officer tells him to come out or they will take him out of the vehicle. When there is no response from AP, an officer reaches in to pull him out and the recording ends.

Court Transcript – April 25, 2022:

AP appeared in Provincial Court in Dauphin, Manitoba on April 25, 2022. At that time, AP entered a guilty plea to a charge of operating a motor vehicle while impaired by alcohol. Submissions on sentencing were made to the presiding judge and AP himself addressed the court before he was sentenced. At no time during the submissions or AP's statement was there any mention of any injury being sustained by AP by the actions of police. AP appeared in court and was sentenced within one month of making the complaint to CRCC.

AP's statement to the court is:

Your Honour. I'm not contesting the facts read. Although there might be some details that are incorrect, the majority of the facts read are -- are correct.

I want to express how very sorry and remorseful I am of my actions that day. I've always been -- been against impaired driving and have been involved in MADD in the past, Mothers Against Drinking and Driving. I never thought in a million years this would happen to me. I'm extremely embarrassed and ashamed. I made a terrible mistake that has cost me thousands of dollars and the loss of my four-year-old -- and the loss of my four-year successful business and employees and the complete loss of my income.

This event has -- or these -- that night has ruined my life and has impacted others as well. And again, I realize the seriousness of my actions that day and I -- I am remorse, very remorseful and very apologetic to the officers involved and to the Court.

I thank God every day that I didn't hurt anyone or kill anyone and I ask for the Court's forgiveness in sentencing, forgiveness and lenience in sentencing. And I apologize and I'm very, very sorry for my actions. That is not me at all.

Conclusion

Based on the various witness accounts, the police in-car video footage, medical report and other information, the following determinations can be made:

- At all material times, SO was in the lawful execution of his duties
- SO had sufficient grounds to arrest AP for impaired operation of a motor vehicle
- AP was non-compliant with SO who had sufficient grounds to prevent AP from entering his vehicle
- SO and AP were involved in a struggle and both ended up on the ground on a gravel road – confirmed by the video recording
- AP's denial that he was taken or had fallen to the ground at the time of his arrest is incorrect and disproven
- The scratches and abrasions on AP's person are consistent with falling on the gravel road
- AP's allegation that he sustained broken ribs is refuted by the medical examination and diagnosis two days after the incident
- AP has stated that he blacked out when he was taken out of the police vehicle
- Within one month of filing his complaint with CRCC, AP, in court, makes no mention of any injury sustained or any assaultive acts by police

I find that there is no support for AP's allegations of assault by police that resulted in his sustaining broken ribs and other injuries. I am satisfied that that the RCMP in-car video footage resolves all disputed facts against AP. There is no evidence in this matter that would justify any charge against SO. As a result, there is no further requirement or need by IIU to continue with this investigation.

The IIU investigation is complete and this file is closed.

Final report prepared by:

Zane Tessler, civilian director
Independent Investigation Unit
October 19, 2022

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