



**IN THE MATTER OF AN INVESTIGATION INTO AN INCIDENT INVOLVING
SERIOUS INJURIES DURING BRANDON POLICE SERVICE ARREST**

FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT

Acting Civilian Director:	Bruce M. Sychuk
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Introduction

On May 4, 2023, the Brandon Police Service (BPS) notified the Independent Investigation Unit of Manitoba (IIU) of an incident.

The written notification disclosed the following information:

Excerpt from Part 7 Notification received on May 4, 2023:

BPS were called by CW1 reporting that there is someone who locked themselves inside his building's storage and utilities room, and wont exit. BPS arrived on scene and noted AP exit the room. AP was armed with a metal crowbar, and a knife. AP was arrested after a brief struggle. BPS entered the storage room and located a second individual. Both were jointly charged with Break and Enter.

At 0820 hrs this date WO3 who was currently working in the cells area, received a complaint from AP in the cells on remand that he had been assaulted by a BPS member during his arrest.

As this matter concerned injuries during arrest, the IIU assumed responsibility for the investigation in accordance with Sec. 75(1) of The Police Services Act. IIU investigators were assigned to this investigation.

IIU investigators obtained the following information from the BPS, among other items:

- notes, narratives and reports of officers
- building video and photos of AP
- police vehicle video
- cell logs
- use of force report

The civilian director designated one subject officer (SO) and four witness officers (WO1 to WO4). IIU investigators also received information from AP and one civilian witness (CW1).

Facts and Circumstances

Scene Examination

IIU investigators attended the scene, however, they were unable to enter as the area was under construction. CW1 confirmed the area did not have any CCTV cameras. No canvass was required as the incident occurred inside the building.

Interviews

Affected Person

AP was interviewed by IIU investigators on Nov. 21, 2023, and provided the following information:

AP stated that a few weeks prior to the May 2023 incident, he was in custody at the BPS detachment and got into a verbal argument with SO. AP stated that SO was making derogatory

comments toward a female who had been arrested. This upset AP, so he started a verbal argument with SO. According to AP, SO was extremely upset with AP as a result.

On the date of the incident, AP confirmed that he and his girlfriend were squatting on CW1's property. AP heard a bang on the door and grabbed a long steel bar. AP observed the individuals to be cops and put the steel bar down. AP was then grabbed and thrown to the ground.

AP was handcuffed with his hands behind his back. At this point, AP was rolled to his side and given two hammer punches to his eye by SO. AP stated that another officer witnessed the assault but commented that it didn't matter as AP was going to jail.

IIU investigators made repeated attempts to obtain AP's medical records, but he declined.

Civilian Witness

CW1 was interviewed by IIU investigators on May 3, 2023, and provided the following information:

CW1 received a complaint from a tenant that their power was out. CW1 attended the building and tried to get into the utility room, but it was locked from inside. CW1 tried to open the door when he heard voices from inside saying that they were trying to sleep. CW1 contacted police as a result.

Two officers arrived on scene and AP emerged from the utility room holding a four-foot crowbar. AP was waiving the crowbar at the officers. CW1 said the officers were directing AP to drop the crowbar, but AP was initially refusing to do so. CW1 felt that AP was under the influence of either drugs or alcohol.

AP was still holding the crowbar as he started to climb up the stairs. CW1 observed a knife fall out of AP's pocket while he was climbing the stairs. AP dropped the crowbar and then lunged towards the officers. AP was resisting the arrest by the officers and a third officer came to assist in the arrest of AP. CW1 observed that the officers were having difficulty in handcuffing AP.

Once AP was handcuffed, CW1 heard AP start to make derogatory comments towards the police officers. CW1 did not feel the officers were acting excessively towards AP and were only defending themselves.

CW1 confirmed that a female was also arrested at the same time as AP. CW1 said that the female was cooperative with the officers during the arrest.

Witness Officers

Witness Officer 1 (WO1)

WO1 was interviewed by IIU investigators on July 31, 2023, and provided the following information:

WO1 was partnered with SO1 when they received a call from CW1 about an unwanted individual in his utility room. WO1 stated that they attended and observed AP carrying a prybar. WO1 stated that they directed AP to drop the prybar and then attempted to arrest him. WO1 said that there was a brief struggle with AP during the arrest and that he saw a knife fall to the ground. WO1 observed AP to be under the influence of either drugs or alcohol.

WO1 confirmed having arrested AP in the past and that AP is known to carry weapons on his person and be noncompliant with police directions. WO1 noted AP's eye to be swollen when he saw him later at the detachment.

Witness Officer 2 (WO2)

WO2 was interviewed by IIU investigators on July 31, 2023, and provided the following information:

WO2 was not involved in the arrest but was directed to take AP to the hospital. WO2 noticed that AP did have a black eye. AP was taken to the hospital and medically cleared and taken back to the detachment.

Witness Officer 3 (WO3)

WO3 was interviewed by IIU investigators on July 31, 2023, and provided the following information:

WO3's role that day was to assist individuals in custody and get them in contact with legal counsel. WO3 went to AP's cell and asked him if he had been able to contact his lawyer. AP informed WO3 that he had been assaulted by the arresting officers. WO3 followed protocol and reported the matter per policy.

Witness Officer 4 (WO4)

WO4 was interviewed by IIU investigators on Jan. 4, 2024, and provided the following information:

WO4 was not involved directly with the incident. His role was to review the use of force report, and identify trends and areas which require further training to members. WO4 confirmed that his members are trained to hit individuals in the head if necessary. WO4 thought that SO1's actions were justified in relation to AP's arrest.

Subject Officer

In accordance with his rights, SO was not interviewed by IIU investigators. SO did provide IIU investigators with his report, notes and a copy of the use of force report, which provided the following information:

SO confirmed that he attended to CW1's building to deal with a break and enter incident. SO1 stated that he immediately recognized AP as he had arrested AP on previous occasions. SO1 observed AP to be holding a prybar and he appeared to be agitated. Despite repeated requests to drop the prybar, AP refused to do so. SO drew his conducted energy weapon at this time, resulting in AP dropping the prybar.

AP started to walk up the stairs from the utility room when SO observed AP holding a dentist pick in his right hand. SO was worried that AP would use this weapon, so he immediately grabbed AP's right arm and threw him to the ground. AP was squirming on the ground, refusing to give up his hands. SO directed him to stop resisting and to give up his hands. SO and WO1 were able to pry AP's hands from under his body and place handcuffs on him. At this point, SO observed a large knife on the ground.

SO was placing his knee on AP's back left shoulder area while WO1 went to clear the utility room. AP became agitated at this point, kicking his legs and making derogatory comments. SO1 thought that AP was about to try and spit on him, so SO delivered two strikes to his face. AP became compliant afterwards.

SO confirmed that AP complained of pain to his eye after he was arrested. SO was not sure if AP became injured when he was taken to the ground or when he was punched. SO was aware that AP was taken to the hospital later on.

Other evidence

Injury Photos

In reviewing the photos taken of AP's injury, it is clear that AP's left eye is swollen shut.

Use of Force Report

It does not appear that the officer's were compliant with their policy in relation to the use of head strikes. According to the policy, the officers should have taken AP directly to the hospital. That did not occur in this incident.

Applicable Law

Criminal Code of Canada

All relevant sections of the Criminal Code of Canada were considered with respect to this incident. Sections 25(1), 25(3) and 25(4) of the Criminal Code of Canada have been emphasized here for consideration:

25 (1) Everyone who is required or authorized by law to do anything in the administration or enforcement of the law

- (a) as a private person
- (b) as a peace officer or public officer
- (c) in aid of a peace officer or public officer
- (d) by virtue of his office,

is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

(3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm.

(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if

- (a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested

- (b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant
- (c) the person to be arrested takes flight to avoid arrest
- (d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm
- (e) the flight cannot be prevented by reasonable means in a less violent manner

Crown Opinion

On June 26, 2024, the IIU investigative file was sent to Manitoba Prosecution Service to review the matter and determine whether any Criminal Code offences should be authorized against the subject officer.

On Jan. 27, 2025, a Crown opinion was provided to the IIU, advising that the Crown is not recommending charges against the subject officer, stating the following:

SO's use of force was subjectively reasonable given his stated belief that AP intended to assault him. When that belief is considered in light of the surrounding circumstances, it is also objectively reasonable. The use of force was not excessive.

Conclusion

Given that the Manitoba Prosecution Service's opinion is that the standard for prosecuting charges has not been met, the civilian director will not be authorizing charges. Therefore, no charges are recommended and the IIU investigation is now completed and closed.