



**IN THE MATTER OF AN INVESTIGATION INTO AN OFF-DUTY OFFICER
UTTERING THREATS**

FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT

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Introduction

On June 27, 2023, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit of Manitoba (IIU) of an incident regarding an off-duty Royal Canadian Mounted Police (RCMP) officer.

The written notification disclosed the following information:

“On June 17, 2023 at approximately 4:00 p.m., the AP (affected person) was travelling with his family in the area of Nairn Ave and Watt Street.

*While driving East on Nairn the AP observed a vehicle bearing Manitoba licence * brake behind him while he turned into the left lane. The lone occupant of the other vehicle then passed, rolled down his window and began yelling at the AP, swearing at him to pull over. The lone occupant then uttered threats and made racial annotations towards the AP. The other vehicle then left the area and the AP contacted 911.*

On June 22, 2023 an officer with the Winnipeg Police Service was assigned to this call and was able to contact the AP regarding this incident. The AP who was currently working out of province provided his version of events over the phone indicating that he wanted the incident documented.

*On the same date, Winnipeg police were able to identify the registered owner of Manitoba Licence * and learned his version of events were somewhat different, indicating he noticed the vehicle in front of him to be dragging a piece of metal. He motioned for the driver to pull over and swore at him when the driver ignored him. He denied making any threats or racial comments.*

Winnipeg Police then contacted the AP and advised him of the police action taken. AP indicated that he was satisfied with the police response.

*On June 27, 2023 members of the Winnipeg Police Service learned that the registered owner of Manitoba Licence * was an off-duty RCMP Officer. As a result, the Independent Investigation Unit was notified.”*

These allegations are considered as discretionary matters under the provisions of The Police Services Act (PSA). However, the civilian director determined that it was in the public interest for an independent investigation to be conducted pursuant to Section 75 of the PSA. IIU investigators were assigned to this investigation.

The civilian director designated one subject officer and one witness officer.

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

- 911 Call Audio
- WPS dispatch audio

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- CAD messaging
- Call history for occurrence
- Occurrence summary report
- Notes – witness officer (WO)
- Narrative – WO

Facts and Circumstances

Affected Person

On July 7, 2023, IIU investigators obtained a statement from AP. AP stated that on June 17, 2023, he picked up his wife (CW) from school and they were returning to their home. AP's mother-in-law and two children were also present in the vehicle. AP was driving a white Range Rover.

AP stated that he turned right onto the Nairn Avenue overpass from Watt Street. He was driving slowly as they made the right turn into the far-right lane. Suddenly, he noticed a grey Jeep brake hard directly behind him. AP noticed that the front end of the Jeep went down towards the ground when it braked. After one to two seconds, the grey Jeep moved to the left lane and came up beside AP's vehicle. The driver motioned at AP to pull over, but AP ignored him and just kept driving. The other driver continued to motion to AP, and he rolled down his window. The driver of the Jeep yelled at him: "You f* idiot, pull over, you f* idiot."

At this point, AP's spouse and mother-in-law became very scared and urged AP not to pull over as they had small children in the vehicle. He slowed down and let the Jeep pull away. AP stated that he felt insulted and upset that this person had done this in front of his family and made the decision to call 911. AP realized that he needed the licence plate of the Jeep and attempted to catch up so he could read it. As he got closer to the Jeep, the driver must have seen him approaching and stuck his arm out the window, giving AP the finger. The vehicles ended up becoming parallel again in traffic and the Jeep driver yelled "Pull over you Mother f*, I'll kill you." The Jeep driver continued to state, "I'll send you where you came from." According to AP, they were eastbound on Nairn Avenue one to two lights away from the intersection of Regent Avenue West and Panet Road when this happened.

As his cell phone was on his lap and he was waiting for the 911 operator, AP lifted his phone and held it up so the other driver could see. At this time, they were approaching the intersection of Nairn Avenue (where it becomes Regent Avenue West) and Panet Road. At Panet Road, the Jeep abruptly made a left turn and proceeded northbound on Panet Road. AP continued driving east and by this time was on the phone with the 911 operator and explained the situation. AP stated that he received a threat "I'll kill you," and was also the recipient of racist comments "I'll send you where you came from." AP and his family are visible minorities and he felt that this was a racist comment.

AP described the Jeep driver and also stated that the individual was not wearing a seat belt. AP described the other vehicle. AP stated that he did not make any statements or speak with the driver of the Jeep as he could not get any words in.

AP stated that when talked to police later, he had been told that the Jeep driver had told police that there was "something hanging from his vehicle." AP showed his vehicle to investigators. The Range Rover appeared to be in good condition and there was nothing visible hanging from the vehicle, nor was there any visible damage present.

Civilian Witness

On July 7, 2023, IIU investigators obtained a statement from CW. She stated that she is the spouse of AP and was present in the vehicle on the date of the incident. According to CW, she had been picked up from school by her husband AP. Also present in the vehicle were her two children and her mother-in-law.

CW recalled that they were travelling on the Nairn Avenue overpass when a grey Jeep pulled up alongside and the driver of that vehicle started yelling at them. At one point, the driver said "I'll kill you" and also stated that he would "Send us back from where we came from." CW recalled that she was frightened, especially since their small children were with them. She urged her husband not to engage and not to pull over for the driver of the Jeep. CW stated that she did not get a good look at the driver as she was sitting in the passenger seat and her husband had the clear view. Her husband telephoned 911 and later spoke to police.

Witness Officer

On August 24, 2023, IIU investigators interviewed WO. According to WO he was assigned to this matter on June 22. He is assigned to "report car" duties in Division 31, and he works as a one-person unit. The incident in question took place on June 17, 2023; however, WO was not assigned to look into the matter until June 22. WO received background details of the incident, specifically that AP had called 911 on June 17 and told the operator that a lone male in a grey Jeep drove up beside him while he was on the Nairn Avenue overpass and was yelling names and racial slurs at him and threatened to kill him. AP was travelling with his wife, mother-in-law and two small children at the time of the incident. AP called 911 and gave them the plate number of the Jeep; the male subject left the area.

WO Interview - AP

A review of WO's notes and narrative indicates that on June 22, 2023, WO contacted AP by phone and conducted a telephone interview. AP advised WO that on June 17, 2023, he was driving on Nairn Avenue with his wife, his mother-in-law and his two small children. As he was crossing the Nairn Avenue overpass, he moved into the left lane and there was a grey Jeep behind him who had to brake. WO stated the driver of the Jeep pulled into the lane beside him, yelled something at him and passed. AP rolled down his window and put both his arms up to gesture "what's wrong." The driver of the Jeep rolled down his window and yelled "Pull over

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you f* idiot." AP continued driving eastbound and the driver continued to yell, stating: "I'll kill you, you f* idiot and send you back where you came from." AP told WO that he called 911 at this time and he showed the other driver his phone through the window to show he called 911 and the other driver left the area. AP was not sure as to what had angered the other driver but thought it was because he had to brake.

WO Interview - SO

A review of WO's notes and narrative indicates that WO proceeded to the address of the registered owner of the grey Jeep in question. A male answered the door and identified himself as SO. WO informed SO that there had been a complaint in relation to uttering threats. WO did not provide SO with his Charter rights prior to speaking with him.

WO stated that SO was defensive and often interrupted him during their discussion. SO stated that while he was travelling on the Nairn Avenue overpass, a white SUV in front of him had a piece of metal that was being dragged underneath the vehicle. SO stated that he told the driver to pull over and the driver ignored him. SO then stated, "Pull over you f* idiot." SO denied that he stated any racial slur and that he had friends overseas in India and that he had lived overseas himself. SO stated that he thought the other driver was "white." SO denied that he uttered any threats and suggested to WO that the other driver should possibly be charged with public mischief in relation to this report.

WO returned to the police station and contacted AP. AP stated that nothing was wrong with his vehicle and was adamant that he had received a threat and slur from SO.

The next day, WO was able to access the Niche police records management system, and this is when he discovered that SO was an RCMP officer. As a result, WO referred the matter to his police supervisor.

Summary of Other Evidence

City of Winnipeg Traffic Video Footage

City of Winnipeg Traffic video footage for Nairn Avenue was requested; however, no footage was available due to a seven-day retention period. The incident occurred on June 17 but was not referred to the IIU until June 27.

City of Winnipeg Transit Camera Footage

The IIU requested transit video for buses travelling east or west on Nairn Avenue as well as any travelling south or north on Watt or Archibald streets. Winnipeg Transit provided footage for bus numbers 408, 427, 620, 766 and 875. The footage was reviewed for this time period; however, no footage of the vehicles in question was found.

Red River Co-op Gas Bar Footage

On July 7, 2023, IIU investigators obtained video from the Red River Co-op gas bar located on Regent Avenue West in Winnipeg, for the date in question. The video footage demonstrates that

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at 3:56:30, a grey Jeep Rubicon is seen turning left (north) onto Panet Road from the eastbound lanes of Regent Avenue West. This believed to be SO's vehicle. At 3:56:40, the eastbound traffic at the intersection gets a green light. The white Range Rover (AP's vehicle) comes into camera view. It is travelling eastbound on Regent Avenue West from the Panet Road intersection in the median lane. At 3:57:00, the Range Rover passes the front of the Co-op gas bar and is in full camera view. It continues eastbound in the median lane and out of camera view. Observation of the vehicle is that it is in normal condition. There is no visible external damage; nothing is observed dragging from the vehicle. The quality of the video does not permit to view the drivers of the vehicles.

Photo Pack Gallery

On July 24, 2023, IIU sent a request to WPS requesting access to their Niche police records management system in order to create a photo gallery pack. On September 27, 2023, a photo gallery was presented to AP for identification purposes. AP was unable to identify SO.

Applicable Law

Section 264.1 of the Criminal Code of Canada is applicable to this analysis:

Uttering threats

264.1 (1) Every one commits an offence who, in any manner, knowingly utters, conveys or causes any person to receive a threat

(a) to cause death or bodily harm to any person;

(b) to burn, destroy or damage real or personal property; or

(c) to kill, poison or injure an animal or bird that is the property of any person.

Crown Opinion

On February 1, 2024, the IIU sent the investigative file to Manitoba Prosecution Service (MPS) for a Crown opinion.

MPS advised the IIU that they will not be authorizing charges against SO. On August 13, 2024, they provided the following statement:

Manitoba Prosecution Service (MPS) has reviewed the IIU investigation of Officer 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 and issues of admissibility of Officer SO's statement, the Crown is not satisfied that it can prove beyond a reasonable doubt that Officer SO was the person who uttered the threats. Consequently, the Crown is not satisfied that there is a reasonable likelihood of conviction.

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Conclusion

In this investigation, it the IIU's mandate is to consider whether there are grounds to believe that the off-duty subject officer uttered threats to cause death or bodily harm to AP and or his family who were in the vehicle at the time of the incident. The identity of the SO must also be proven.

The civilian director considered all the circumstances, including: the opinion from MPS that there are issues of admissibility regarding SO's statement, that the standard for prosecuting charges has not been met, and that AP was not able to identify SO as the driver of the Jeep. Given these circumstances, no charges are recommended against SO. The IIU investigation is now completed and closed.