

FINAL REPORT: IIU concludes investigation into alleged police assault in The Pas

On June 4, 2015, a complaint was made by Affected Person (AP) to the Civilian Review and Complaints Commission for the RCMP. She alleged, among other things that on May 16, 2015, at The Pas, Manitoba, the RCMP used unnecessary and excessive force on her, resulting in bruises, cuts and burns.

On July 15, 2015, “D” Division of the RCMP sent a *Police Services Act* Part 7 formal notification to the Independent Investigation Unit of Manitoba (IIU). AP did not suffer a serious injury as defined in IIU regulation 99/2015. However, the notification concerned a complaint that police officers had engaged in conduct that may constitute a contravention of the Criminal Code (Canada) or other federal or provincial enactment. IIU assumed jurisdiction over this investigation as it was considered by the civilian director to be in the public interest to do so-- primarily to determine whether AP was subjected to unnecessary and excessive force by members of the RCMP, whether at the time of her arrest or while in the care and custody of the police service. This decision is permitted by sections 73 and 74 of The Police Services Act. A team of IIU investigators was immediately assigned to this matter.

At the request of the IIU, RCMP provided the relevant arrest files from The Pas detachment and a copy of the RCMP complaint file. Also received were two DVDs containing The Pas detachment cell block CCTV and photographs depicting AP and her injuries. CCTV at the hotel premises (referenced below) for May 16, 2016 no longer existed due to footage being overwritten after one week.

Two RCMP officers having contact with AP at the scene of the incident were designated as Subject Officers (SO1 and SO2), and five other RCMP officers were designated as Witness Officers (WO1 through WO5).

Under *The Police Services Act*, subject officers are not compelled to provide their notes to, or attend for an interview with, IIU investigators. In this matter, each of the subject officers did voluntarily provide his notes but declined to participate in an interview.

Additionally, IIU investigators conducted interviews with all of the witness officers, eight civilian witnesses, and two female matrons present at the RCMP detachment on the evening in question.

The following facts were identified:

At approximately 10:30 p.m. on the evening of May 15, 2015, AP attended a hotel bar in The Pas (the hotel). She had consumed an unknown quantity of alcohol throughout the evening. Various accounts described her as drunk, aggressive and verbally abusive as the night went on. Shortly before 2:00 a.m., now May 16, AP became involved in a verbal altercation with a doorman and then in a physical altercation with a female patron, resulting in a fight outside the hotel. This fight included punches, kicks and knees about the face and body by and on each participant.

Police arrived at 1:59 a.m. and moved to break up the fight. AP was eventually arrested, handcuffed and escorted to a police cruiser. She was repeatedly pulling away from officers. She was placed into the back of a police cruiser and began to kick at the car doors and windows. AP was conveyed to The Pas RCMP detachment.

On arrival, a spit mask was placed over AP's head as she was spitting at officers. The officers were required to physically drag AP from the police car.

At 2:08 a.m., she was escorted through the cell block area and taken to cell #1. At the detachment she was described as "violent," "angry," "abusive" and "non-compliant." At one point, AP removed a bra she was wearing and wrapped it around her neck. It was forcibly removed to prevent harm to her. At 10:32 a.m. AP was escorted to hospital while in police custody to have a health assessment. On her return to the detachment AP was processed and released from police custody at 1:20 p.m.

AP alleges that, while in the cell with the officers, she received bodily injuries including a large horizontal abrasion across her abdomen.

IIU investigators received CCTV recordings of The Pas detachment cell block, including the booking-in area, patrol corridor and cell #1. AP's entire stay in custody was captured by CCTV recordings.

A review of the CCTV footage confirmed the aggressive mood, anger and acts of AP, including wrapping her bra around her neck. Throughout her time in custody, there was no evidence of excessive or unnecessary force on the part of any member of the RCMP in any dealings with her.

The relevant issue in this matter is whether, at any time, did either or both of the subject officers apply excessive or unnecessary force to AP, whether at the time of her arrest or while in the care and custody of the police service?

A police officer is entitled to arrest a person he finds committing, or has reasonable grounds to believe has committed, an indictable offence. They can also arrest anyone to prevent a breach of the public peace.

Furthermore, section 25 (1) of the Criminal Code of Canada, provides that:

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, or

(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.

That requirement or authorization extends from initial contact between the police and individual through arrest, transport and custody.

Any force in excess of what is necessary is not justified and can constitute an assault.

Following due consideration of all of the circumstances of this matter and a careful, thorough review of all evidence and material facts obtained in this investigation, I am not satisfied that any police officer used excessive or unnecessary force in any dealings with the AP. I am satisfied that the police officers employed necessary force to minimize and eliminate potential risks and harm to AP while in RCMP custody. There are no grounds to justify any charges against any police officer and this matter is now closed.

Other matters that are alleged by AP in her June 4, 2015 complaint to the Civilian Review and Complaints Commission, aside from the allegation of use of force, are outside the mandate of IIU and therefore cannot be considered by this office. Those other matters are to be dealt with by the Civilian Review and Complaints Commission.

Final report prepared by:

Zane Tessler, civilian director

Independent Investigation Unit

July 12, 2016