

FINAL REPORT: IIU concludes investigation into injury to youth during arrest by RCMP

On February 8, 2018, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit (IIU) about an incident which occurred the previous day, where a 14-year-old female suspect (later identified as the affected person (AP)) suffered a broken clavicle in the course of her apprehension and arrest by members of the RCMP Portage la Prairie detachment. According to the notification, members of Portage la Prairie RCMP were investigating a report of uttering threats and possession of a dangerous weapon that involved a 14-year-old female suspect. The suspect was located and was pursued on foot by two RCMP officers. She was tackled to the ground and arrested. Subsequently, it was learned that she had sustained a broken clavicle during this arrest.

Although the injury sustained by AP is not a serious injury as defined by IIU regulation 100/2015, based on the nature of the allegation included in this notification, the civilian director determined it was in the public interest for the IIU to investigate this complaint. IIU investigators were assigned to this investigation.

The IIU civilian director designated the RCMP member who chased and tackled AP as the subject officer (SO). The other RCMP member who was present during AP's arrest was designated as a witness officers (WO). IIU investigators also interviewed AP and three civilian witness (CW1 - CW3).

In the course of the investigation, IIU investigators received and reviewed:

- The RCMP agency file which included supplementary reports, notes of witness officer, cell block video and audio transmissions of radio broadcasts;
- AP's medical reports from Portage District General Hospital (PDGH).

AP

IIU investigators met and interviewed AP in the presence of her mother. It was noted that AP's right arm was immobilized in a fabric sling.

AP stated that on the evening of February 7, 2018, she and three friends had been at a swimming pool and hockey game. She said that when they were outside and walking, they were approached by two police officers who, she said, had dealt with her earlier that same day. She said the police called her by her identical twin sister's name and that she was under arrest. AP told the police officers that she was not her sister and ran from them. AP then stopped running as she felt that she was "not guilty" of anything. However, AP said that when she stopped running, she was immediately tackled by one of the officers. AP said she did not feel any pain at first

and said "one of those cops punched me twice." She told IIU investigators that one of the police officers then said to her, "How do you like this now, you f'n b***h?"

AP stated that the police officers then picked her up. AP stated that she was screaming and wanted to go to the hospital. AP stated that a police officer said to her: "F*** you, f*** you, you dumb b***h" and that she was then placed into the police vehicle. AP said she kept begging the police to take her to the hospital. AP stated that the officers said to her: "F*** you, you don't need to go to the hospital, you're lying."

AP advised that she was then taken to the police station where she was asked to place her hands on the wall. AP told police she could not do it and said a police officer then lifted her arm and said, "Do you want to go on the ground again?"

AP said she told her lawyer, by telephone, that she needed to go to the hospital and that she was then taken to the hospital by police. AP advised that she was allowed to speak with her mother while at the hospital.

Civilian Witnesses

CW1 was interviewed by IIU investigators in the presence of her mother. CW1 stated that she and her three friends were walking when a police car drove up, shone their spotlight and, someone stated, "Stop right there." CW1 said that two police officers exited the police car, approached her and her friends and asked what they were doing. CW1 advised that AP ran away and both police officers chased her. CW1 believed the police said something like "Stop" or "You're under arrest." CW1 advised that she, CW2 and CW3 began to walk in the opposite direction. CW1 said she heard AP screaming. CW1 did not hear any conversation between AP and the police but did hear AP say "Ow." CW1 did not see the arrest but she did see both police officers holding AP when they placed her into the police car.

IIU investigators interviewed CW2 in the presence of her guardian. CW2 was with CW1, CW3 and AP. They were walking when the police approached them, shone a spotlight on them and told them to stop. CW2 stated that they stopped and the police told them that they (the police) had been called about a "harassment or assault." CW2 advised that the police started talking to AP, who started running away. CW2 said "they chased her all the way to a fence where they held her to the ground." CW2 did not see how AP went to the ground nor could she see if there was an altercation while they were on the ground. CW2 stated that she, CW1 and CW3 started to walk away. She says she heard AP scream but did not hear any words or conversation between AP and the police.

IIU investigators interviewed CW3 in the presence of her grandmother and grandfather. CW3 recalled the incident, advising that she was with CW1, CW2 and AP. CW3 advised that she, CW1, CW2 and AP were walking when the police pulled up and told them to stop. The police got out of the car, said something (which she did not recall) and that AP started running. CW3 said she "just stood there" while CW1 and CW2 began to walk away. CW3 could not see AP but heard her scream. CW3 did not hear the police officers giving commands or orders to AP as she fled.

Witness Officers

WO provided background on the earlier incident that day when they had the first contact with AP. He had taken a call regarding AP's sister. He then stopped and arrested a girl who he thought was the sister. When he subsequently determined the girl was, in fact, AP and not her sister, he released her from his custody. WO stated that AP and her sister are identical twins and are very difficult to tell apart. Regarding the incident under investigation, WO advised that he and SO were dispatched regarding a threats and weapon complaint in which, AP and her sister were implicated and that both may be together.

WO advised that he saw three or four girls and he believed they were possibly the suspects for the threats and weapon call. WO said that he recognized one of the twins in the group. WO said he called to the girls as he exited his vehicle. He advised that one of the girls did not stop for police, but rather put her hands in her pockets and walked away. WO yelled to her to stop but she took off in full sprint. He and SO pursued her on foot. WO yelled, "Police, stop, you are under arrest." WO says that SO got behind the female, reached his arms out, wrapped them around her (in a "bear hug"), and both fell to the ground.

WO said AP held her arms under her body, so he and SO "yanked" them out and he handcuffed her. The female was saying, "You got the wrong girl" as she was escorted to the police car. The female told WO that her right shoulder was in pain.

Once at the detachment and after AP was given an opportunity to call counsel, she was taken to hospital where she was diagnosed with a broken collar bone.

WO denied that either he or SO punched or used any other force on AP. He advised that the entire incident from the stop to the pursuit through to the handcuffing lasted no more than 30 seconds.

Subject Officer

Under the provisions of *The Police Service Act*, a subject officer is not required to provide his notes, nor can he be compelled to be interviewed by IIU investigators in respect to an incident. In this investigation, SO agreed to provide IIU investigators a copy of his notes. However, he declined to meet with and be interviewed by them.

SO's notes were found to be consistent with his narrative report previously received by IIU investigators. There is no reference to either he or WO punching AP. The only use of force described in these notes is SO writing that he pursued AP on foot, that he tackled and "bear-hugged" her to the ground and that he and WO forcibly pulled her arms out from underneath her body to place handcuffs on her.

Medical Reports

IIU investigators received and reviewed AP's personal health information from PDGH. In that report, the attending physician noted that he examined and x-rayed AP. As a result, he confirmed she had sustained a broken right clavicle. AP had told hospital staff that she was chased by police because they thought she was her sister. However, it should be noted that while her file references her comments about being chased by police, there are no details regarding her interaction with them. For example, there is no reference by AP to being tackled; there is no reference to being subjected to being punched or subjected to any other force or verbal comment; there is no reference to or indication of any injury other than her right shoulder. Her arm was placed in a sling and she was prescribed naproxen for pain management.

Issue, Assessment and Conclusion

The relevant issues in this matter are whether, at any time, SO used unnecessary and/or excessive force on AP at anytime during their interaction

A peace officer is authorized to use force in the lawful execution of his duties and as much as necessary for that intended purpose. Moreover, a peace officer is authorized to use force to defend or protect himself from the use or threat of force by another person, provided it is reasonable in all of the circumstances (section 25, *Criminal Code of Canada*).

Where it is determined that reasonable and probable grounds exist to believe a criminal offence has been committed, the IIU civilian director may charge the subject officer accordingly. The determination whether reasonable and probable grounds exists is based on a careful assessment of all the available evidence.

The issue is whether AP suffered this injury due to the application of unnecessary and/or excessive force by SO. I am satisfied that AP suffered a broken right clavicle following the foot chase, tackle and arrest. However, the existence of the injury alone is not determinative whether unnecessary or excessive force was used by SO. All of the facts and circumstances surrounding the incident must be reviewed and considered in their entirety.

SO was in the lawful execution of his duties at the time he responded to the threat and weapon call; he was aware that both AP and her twin sister were possible suspects; he saw AP with her friends and knew that she was one of the sisters that was the subject of this call; AP ran from police; police had reasonable grounds to pursue and apprehend her because she ran. SO's actions of grabbing and tackling AP in order to arrest and detain her was, in my opinion, within the lawful execution of the police officers' powers and within the applicability of section 25.

There is a dearth of evidence respecting any verbal or physical mistreatment by either SO or WO towards AP that could be construed as an excessive and/or unnecessary use of force, except as alleged by AP. None of CW1, CW2 or CW3 recall or commented on any untoward act or statements by either officer directed to AP, save reference to the initial chase and detention. AP made no reference to hospital staff of any other acts or force applied to her. In my opinion, I am

not satisfied there is sufficient evidence to support a finding that requisite reasonable and probable grounds exist to believe that police punched AP.

Therefore, on careful review of the available evidence and material facts obtained in this investigation, I am not satisfied that the requisite reasonable and probable grounds exist to justify any *Criminal Code* or other charge against SO.

Accordingly, IIU has completed its investigation and this matter is now closed.

Final report prepared by:
Zane Tessler, civilian director
Independent Investigation Unit
July 16, 2018

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