



**IN THE MATTER OF AN INVESTIGATION INTO A CRIMINAL CODE OFFENCE BY
A WINNIPEG POLICE SERVICE OFFICER**

FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT

IIU File Number:	2019-0007
Final decision made by:	Zane Tessler, Civilian Director
Final report prepared by:	Roxanne M. Gagné, Civilian Director
Date of Release:	October 3, 2023

Introduction

This IIU investigation stems from file #2018-003, involving Winnipeg Police Service (WPS) officers and a use of force incident on February 2, 2018. The initial written notification was received on February 5, 2018, and disclosed the following information: *“Police responded to call in hallway at 694 Sherbrook Street- male banging on doors armed with weapons. Police met with a violent/aggressive male armed with a knife and scissors who was attempting to enter suites. Male refused to drop weapons and was fighting with officers. Restrained and transported to hospital. Appears to be high on drugs and may be experiencing excited delirium.”*

The original IIU investigation revealed new information indicating that the subject officer (SO) directed multiple officers to stop writing notes and/or reports as the matter was being referred to the IIU. No new formal notification was sent to the IIU. On January 29, 2019, the WPS acknowledged the concerns regarding the SO’s actions, which were discovered through IIU’s investigation of WPS use of force incident. On January 31, 2019, the IIU commenced a separate investigation into the actions of SO.

The allegation of obstruction of justice is a prescribed offence under IIU regulation 99/2015 and as such constitutes a mandatory investigation for IIU under the *Police Services Act* (PSA). A team of IIU investigators were assigned to this matter.

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

Facts and Circumstances

Witness Officers

On April 27, 2018, WO1 provided a prepared statement and explained the following during his interview with IIU investigators: He did not make any other notes or reports on this matter. He was in process of filing his arrest report prior to the end of his shift when they were told to stop. The desk supervisor (SO) on shift the night of the incident told him that the affected person (AP) was at hospital with injuries. The SO told him that due to the injuries the matter would be referred to the IIU and WO1 was told to not do anything until further directed, no notes, no narratives. WO1 noted that *“Upon the direction of SO we ceased all reports due the matter being referred to the IIU.”* Prior to this incident, WO1 had never heard of a Critical Incident Protocol but he was aware that the WPS Executive had deemed the matter a critical incident. He understood this to mean that he would be on administrative leave for 48 hours. He would then see the psychiatric doctor and once deemed fit, would then be permitted to be involved in an investigation which would allow him to make a statement. WO1 stated that a Use of Force report was not completed because he was told to stop; no reports.

On April 25, 2018, WO2 provided a prepared statement dated February 7, 2018, and explained the following during his interview with IIU investigators: He made no other notes or reports. He was told by the desk Sergeant, who was the SO, that the matter was going to be forwarded to

IIU. He was told to sit down, wait and not do anything. He did not have any recollection of anyone giving him direction to not make notes.

WO3 provided a prepared statement dated February 7, 2018, which he referenced as his notes. He wrote, *“Notes would have been completed upon return to duty later that day once I was aware of the results of the male.”*

WO4 provided a prepared statement dated February 9, 2018. It stated, *“Cst and I returned to Headquarters building where we briefed with SO at 8:30 a.m. who requested us await a decision from the IIU.”*

WO5 provided a prepared statement dated February 5, 2018. He stated that after the event, he directed WO1 and WO7 to attend headquarters to start paperwork. He briefed an acting sergeant and duty inspector of the events and AP’s condition. He does not brief the SO throughout the event.

WO6 provided an undated prepared statement on May 26, 2018, to IIU investigators. He stated that he actively assisted in handcuffing the AP, delivered knee strikes, closed fist strikes, and stood on the AP’s back to keep him down. He had been told/directed by the acting Sergeant not to make notes.

Subject Officer

The SO provide a copy of his notes and a prepared statement to IIU investigators. He stated that he believed the officers had already started their notes and reports and maybe even had completed them prior to his direction. He explained in his prepared statement that he gave direction to several officers to cease writing reports for the time being until a decision was made regarding the status of the incident by WPS Major Crimes Unit (MCU) or the IIU as they would be directing the officers on what documentation would be required. He did not mean for the officers not to do their notes at all. One unit told the SO that they were completing the arrest report and asked if they could continue. The SO initially confirmed with a supervisor that it was okay for the officer to continue writing the arrest report. Later on, WPS MCU, WO8 advised the SO to direct the officers to stop writing the arrest report. SO carried out the order and advised the officers to stop typing the arrest report.

Conclusion

Following completion of the investigation, the full and completed IIU investigation file was referred to Manitoba Prosecution Service (MPS) to seek an opinion on whether any *Criminal Code* charges would be authorized in respect to the subject officer. On November 13, 2019, MPS provided a thorough Crown opinion.

In summary, MPS has stated the following:

This document is the property of the IIU and is not to be distributed to any other party without the written consent of the IIU.

“The Crown reviewed this investigation to determine whether there was an obstruction of justice by a supervising officer of the WPS in providing guidance to two subject officers in a critical incident. The incident itself was not initially known to the subject officers to be a critical incident until later in their shift. When they became aware that the individual they arrested was injured in the course of the arrest, their supervising officer advised them to cease making notes about the incident subject to a potential IIU investigation.

To establish an obstruction of justice, there must be an intent to defeat the course of justice. The supervising officer consulted superiors and also advised others that he would contact the IIU and go from there. The supervising officer obviously did not understand the legislation and sought guidance. The advice he provided, while incorrect, was not designed to defeat the course of justice. As such, the Crown is not satisfied that there is a reasonable likelihood of conviction in this matter. There is also no public interest as the supervising officer’s misunderstanding is something that amounts to an error and not something that requires charges to be laid.”

Given that Manitoba Prosecution Service’s opinion is that there is no public interest and no reasonable likelihood of conviction, thus the standard for prosecuting charges has not been met, the IIU investigation is now completed and this matter is now closed.