

# ***FINAL REPORT: IIU concludes investigation into injury during arrest***

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On June 18, 2019, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit of Manitoba (IIU) of an incident where a male suspect sustained a broken arm during his arrest.

According to this notification, which read in part:

*“On Monday June 17th, 2019 at 8:01 p.m., a call was received from Winnipeg Fire and Paramedic Service (WFPS) personnel that a patient (later identified as the affected person (AP)) had become violent and combative in the rear of the ambulance.*

*Two WPS police officers were dispatched to meet the ambulance at the Main Street Project (MSP) located at 75 Martha Street. Officers observed AP to be extremely intoxicated and combative and subsequently arrested him under the Intoxicated Persons Detention Act. During the course of the arrest, AP, who was still combative, received a broken left forearm.*

*AP was conveyed to St. Boniface Hospital (St. B) where arm is placed in a cast. He was admitted to hospital for unrelated medical issues.”*

IIU was subsequently advised that surgery was required to repair AP’s arm. As a result, AP was admitted to Health Science Center (HSC) for this surgery.

As this notification alleges that AP sustained a serious injury (as defined by regulation) during an interaction with police officers and admitted to hospital, IIU was mandated to investigate in accordance with section 66(4) of the Police Services Act (PSA). IIU investigators were assigned to this investigation.

Information obtained by IIU investigators included:

- witness officers’ notes and reports
- incident history report
- arrest report
- audio of 911 telephone call
- audio of WPS radio communications
- MSP surveillance video
- WPS Use of Force report
- St. B. and HSC Medical records and reports respecting AP

The civilian director designated one WPS officer as the subject officer (SO) and one WPS officer as a witness officer (WO). IIU investigators interviewed AP, two civilian witnesses (CW1-2) and three WFPS personnel (PW1-3).

### **Facts and Circumstances:**

On June 17, 2019 at 6:57 p.m., a WFPS operator received a call from CW2, who reported an intoxicated male (later identified as AP) that had fallen out of a wheelchair and hit his hand. Paramedics were dispatched, arrived on scene and assessed AP's condition. Paramedics found AP did not suffer from any significant injuries, but was too intoxicated care for himself and was suitable for lodging at MSP. Due to AP's situation (poor medical condition and restricted to a wheelchair), paramedics transported him to MSP. When the ambulance arrived at MSP and while awaiting arrival of the WPS, AP became belligerent, sitting up on the stretcher, stating that he is "...leaving," and flailing his arms about to make the paramedics get out of his way. Paramedics requested the WPS to attend immediately. SO and WO then attend to the ambulance.

SO entered the ambulance through the side door, while WO remained outside at the opened rear doors. Police and paramedics were trying to get AP back onto the stretcher and buckle him in. SO asked AP to calm down. AP refused to comply, pulling his arms away, then flailed his arms around. SO used both hands and grabbed onto AP's left arm. AP tried to pull away and moved back a bit when the sound of a 'snap' was heard. AP's arm was fractured. SO continued to hold AP's arm, allowing paramedics to reassess the situation, and then placed a splint underneath AP's left arm. Paramedics transported AP to St. B. AP was subsequently transferred to HSC, where he received surgery to repair his fractured arm.

### **Affected Person (AP):**

AP was drinking alcohol since the previous day. AP states that he drank one bottle of alcohol. AP states that he was not bothering anyone, but people kept asking him for money and cigarettes. AP states he was tired of being bothered, so he left the place he was partying and went home. AP states he was mugged and attacked. AP believes workers at the building where he resides called the police or the ambulance after he was beaten. AP did not recall any dealings with police, ambulance attendants or fire department. AP does not recall how he arrived at St. B. AP states that he did not have any injuries prior to the assault, but believes he received his injuries from it. AP's states his injuries included: left arm broken into three pieces; a black eye and a few other scrapes. AP does not know who was responsible for the assault.

### **Medical Records:**

AP signed and authorized IIU investigators to access his medical records from St. B. and HSC.

### **St. B.:**

- AP arrived at the hospital at 8:28 p.m.
- AP presented as a 59-year-old male who fell from wheelchair, intoxicated. AP was brought to MSP, but was aggressive with staff and police. AP's left arm fractured by police while trying to subdue him, and the arm was obviously deformed. Fistula on left arm for Hemodialysis (HD). Wheelchair bound.
- AP had bruising around his right eye.
- AP had a "*deformity to his left mid-forearm, and a palpable crepitus (a grating sound or sensation produced by friction between fractured parts of bone). moves digits well*"
- Multiple fractures of the left radius and ulna were noted, and a back slab applied.
- AP was transferred to HSC for treatment.

**HSC:**

- AP was found to have a "*Comminuted left radius and ulna.*"
- AP was optimized for surgery and was taken to the operating room on June 21, 2019. The ulna fractures lined up and medical staff elected not to stabilize the ulnar fracture for fear AP would have soft-tissue complications due to the profound swelling that was already in the arm. Surgery was done and the remainder of his hospital stay was uncomplicated.
- AP had extreme osteopenia (reduced bone mass of lesser severity than osteoporosis) bone and comminuted (reduction of solid materials from average particle size to a smaller average particle size) fractures.

**Civilian Witnesses (CW):**

CW1 was present when AP fell out of his wheelchair. CW1 confirmed that a female called for an ambulance. CW1 was not pushing AP in the wheelchair at the time of the fall, but rather AP was propelling himself at the time. CW1 would not provide a recorded interview to IIU investigators.

CW2 heard a commotion, the sound of some kind of accident and two male voices. CW2 looked over her patio and saw a younger man with a wheelchair and an older male on the sidewalk. There seemed to be difficulty getting the man up off the sidewalk. CW2 went downstairs and met up with the male (later identified as AP). AP was face down on the sidewalk and his hands were bleeding. CW2 was concerned about AP's well-being and called 911 to request an ambulance. Paramedics arrived within minutes and assessed AP. According to CW2, both AP and the younger male were under the influence of alcohol. Paramedics checked AP's vitals while he was on the ground and then used a stretcher, placing him back in his wheelchair. AP was not compliant and was difficult to understand at times. The paramedics wanted to take AP to MSP to be monitored and detoxify. AP was reluctant to allow the ambulance to take him to MSP. Police officers then arrived on scene, and following a discussion with paramedics, determined that best place for AP was MSP. AP agreed to go to the ambulance and was moved from his wheelchair onto the stretcher, and then loaded into the ambulance. CW2 did not notice any deformities on either of AP's arms.

**Paramedics (PW):**

PW1 and PW2 were working together when they were dispatched to a male who fell down onto the street. PW1 and PW2 completed their assessment of AP. It was reported that AP tipped over in his wheelchair and fell onto the sidewalk. It was also determined AP was intoxicated and needed a safe place to stay. Neither PW1 nor PW2 found any injuries on AP, save a bruise on his forehead that according to AP, had occurred earlier. PW1 and PW2 both determined that AP met the IPDA protocol to be lodged at MSP. AP became belligerent with the paramedics.

Because AP was wheelchair bound, PW1 and PW2 agreed to escort him to MSP. They told AP they were taking him to MSP. The paramedics were able to calm AP down and get him onto the stretcher. On arrival at MSP, they waited 20 to 45 minutes for WPS police to arrive. PW3 was now present and told AP that he was coming to MSP to "*sleep it off.*" AP was trying to remove the seatbelt on the stretcher. AP was visibly uncooperative, combative and belligerent. AP stated that he was leaving, and flailed his arms about to make paramedics get out of his way. Paramedics called dispatch and requested that police attend. Two WPS officers arrived on

scene quickly. One officer went to the rear doors of the ambulance and the other officer went to the right side door, then both officers entered the ambulance.

The police officers told the AP to lay back on the stretcher in order to take him inside MSP, but AP was not listening to them. A police officer who stood near the head of the stretcher said, “*We have to get you down,*” then grabbed the AP’s left wrist. He asked AP to calm down, advising him they were trying to get him on the stretcher. The police officer had both hands on AP’s left arm. AP tried moving around and moved back a little bit, then a “*snap*” or “*pop*” sound, then the AP’s arm was broken. Immediately, PW1 knew AP suffered a fracture, just from the appearance of his arm. Both PW2 and PW3 felt that AP’s fragile medical condition was a primary cause for his injury. PW3 states that there was no excessive force and no force more than required

None of the paramedics could recall if police or anyone told AP he was under arrest or detained under the IPDA.

### **Witness Officers**

WO was working that evening with his partner, SO. WO and SO responded to a call for service at MSP regarding an intoxicated person and a turn over from an ambulance. They arrived on scene and the ambulance was in the parking lot or on the road. Both rear doors to the ambulance were open and WO could see into the rear of the ambulance as he approached. The paramedics advised WO of the circumstances leading to AP being in the ambulance. The paramedics advised AP was intoxicated, combative and wheelchair bound, so they could not walk him into MSP. Within 15 to 20 seconds of their arrival, SO entered the ambulance through the right side door, while WO stood at the back doors of the ambulance. AP was sitting sideways on the edge of the stretcher, near the foot end. WO states that SO explained they were trying to get AP to lay back on the stretcher, but AP kept pulling away saying, *No.*” The paramedics, SO and WO were trying to coax the AP to lay back on the stretcher so they could get him into MSP, lodge him and let him sleep. AP refused to comply, pulled his arms away and flailed his arms about. SO grabbed onto AP’s left arm. AP tried to pull away, trying to resist while SO was holding his arm. WO states he then heard a “*crack.*” WO states that he knew the arm was broken just by the “*pop*” sound. The paramedics said they would transport AP to the hospital now.

WO believed that AP was injured from pulling his arm away. AP was not handcuffed prior to his arm breaking. AP was “*super-intoxicated*” as he displayed unsteady balance when sitting, slurred speech, bloodshot eyes and he smelled heavily of liquor. WO states that AP was taken to MSP due to his level of intoxication and unable to care for himself.

### **Subject Officer**

Pursuant to the provisions of the PSA, a subject officer cannot be compelled to provide his or her notes regarding an incident, nor participate in any interview with IIU investigators. In this case, SO provided his notes, narrative and use of force reports to IIU investigators. SO did not agree to participate in an interview with IIU investigators. The notes, narrative and use of force reports are summarized as follows:

**Notes:**

- References to: “pulls his left hand from me & I reached in and grabbed it again fearing assaults”

**Narrative:**

- The narrative report contained call history information
- AP’s injuries included a contusion to his right eyebrow and eye, superficial scrapes to both hands, and a fractured left forearm
- Lights and sirens were activated, and arrived at MSP at about 8:07 p.m.
- two ambulance attendants were standing outside the rear doors and another paramedic from MSP was standing at the side door. SO entered via side door and WO attended to the back doors.
- advised that the male IPDA was not ambulatory and needed to get back onto the bed to be removed. The male was uncooperative and aggressive.
- The male was extremely intoxicated, moving off of the bed toward the rear doors, and refusing to listen or cooperate with directions. An attempt to lift and pull the intoxicated male back onto the gurney in assistance of the paramedics resulted in the male sustaining a fractured left forearm.
- First aid was administered and the male was restrained on the bed.

**Use of Force Report:**

- *The extremely intoxicated male, whose speech was slurred and mumbled, and was unfocused in his gaze, and unsteady even while seated, refused to comply, saying “No.” We told the male to “Get back on the bed so we can get you out of here,” and “Get back and lay down on the stretcher,” but he answered “No,” and scooted further down the gurney toward the rear door. The male wanted to get out, but paramedics stated he was not ambulatory and needed a wheelchair. The male was large in stature, approximately 260 pounds. The paramedics stepped into the ambulance and took hold of the male’s legs, and [SO] reached down and took hold of the male left hand and tried to pull him back toward the top of the stretcher saying “Come on, just lay down on the bed for us.” The subject stated “No” again, and pulled his hand away while pushing [SO]’s hands and flailing his arms (pulling away). [SO] grabbed the subject’s left hand again, and his left forearm with the other hand. The subject twisted his torso away quickly and attempted to free his arm (pulling away), at which point a “crack” sound was heard and [SO] felt movement under his hands.*
- [SO] advised paramedics that [AP] had broken his wrist while he continued to hold the AP’s arm for support.
- AP’s types of resistance included defensive resistance by pull away, psychological intimidation and verbal non-compliance.
- Types of force used by police officers included police officer presence, verbal direction and soft empty hand control, by a grab, described to have been used by both [SO] and [WO]
- The reasons for use of force included overcoming resistance to a lawful arrest; service being rendered: arrest/detain.

**Conclusion:**

Following the completion of this investigation, the civilian director forwarded the IIU investigative file to Manitoba Prosecution Service (MPS) and requested a review and opinion on whether any Criminal Code charges should be authorized against the subject officer.

Following the review of the IIU investigative file, MPS advised IIU that in this matter, the arrest was lawful, the use of force was reasonable and AP's physical condition resulted in the broken arm. The matter did not meet the prosecution-charging standard, in that there was no reasonable likelihood of conviction, and MPS will not recommend any charges against SO.

The IIU investigation is now complete and this file is closed.

**Final report prepared by:**

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Independent Investigation Unit

June 01, 2020

*Ref 2019-0036*