

FINAL REPORT: IIU concludes investigation into allegation of use of excessive force during arrest of male by RCMP officers

On August 20, 2019, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit of Manitoba (IIU) of an allegation that on August 17, RCMP officers had used excessive force during the arrest of a male at The Pas, Manitoba.

According to the notification, it was reported that an intoxicated male was involved in an altercation with a store manager. The suspect (later identified, as the affected person (AP) was located in a town park. An RCMP officer approached AP and placed him under arrest to assault. AP immediately resisted his arrest and became combative with the RCMP officer. Backup was called for and a second RCMP officer attended to provide assistance. AP continued to fight with both officers and started to spit blood at them. AP was taken to the ground and the RCMP attempted to handcuff him. AP pulled his hands under his chest to prevent the handcuffing. It also appeared that he was reaching for something under his hoodie. The RCMP officers delivered strikes to AP's arms and upper body to have him give up his arms. Two independent witnesses each took videos of the arrest and struggle. Both of these videos were uploaded to Facebook.

Although this notification concerns a discretionary matter under The Police Services Act (PSA), based on the nature of the allegations, 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 information obtained by IIU investigators included:

- witness and subject officers' notes and reports
- supplemental reports and narratives of all officers
- niche report
- occurrence summary
- two videos taken by independent witnesses

The civilian director designated two RCMP officers as subject officers (SO1-2). Additionally, the civilian director designated one other RCMP officers as a witness officer (WO). IIU investigators attempted to interview AP and four additional civilian witnesses (CW1-4), without success.

AP

AP's last known address was a homeless shelter in The Pas. Numerous times between September 20 and October 7, 2019, IIU investigators either personally attended at or spoke with operators of the shelter and left messages for AP to contact them to arrange a date, time and place to meet and discuss the allegations. All of these attempts to meet or speak with AP proved fruitless and to date, IIU Investigators have never received a return call from AP.

It should be noted that AP has never personally alleged any injuries sustained, wrongdoing or excessive use of force by RCMP during his arrest. The RCMP's notification to IIU was prompted by the appearance of the two videos on Facebook.

Civilian Witness (CW):

Two males (CW1 and CW2) were sitting on a bench during AP's arrest. Both CW1 and CW2 were taken into custody briefly, but it was determined that neither were involved in the original assault. Numerous efforts were made by IIU investigators to locate these males and determine what, if anything, either witnessed during AP's arrest. Information had been provided to IIU investigators that both CW1 and CW2 were also residents of the homeless shelter. Between September 20 and October 7, 2019, IIU investigators either personally attended at or spoke with operators of the shelter and left messages for both CW1 and CW2 to contact them to arrange a date, time and place to meet and discuss the allegations. On October 6, 2019, IIU investigators were advised that CW1 had passed away as a result of a matter unrelated to this investigation. All attempts to meet or speak with CW2 proved fruitless and they have not been contacted by or on behalf of CW2 to date.

The RCMP provided IIU investigators with copies of two video recordings of AP's arrest. Neither of the persons who recorded the videos have not been located nor interviewed by police or by IIU Investigators.

The first video is eight seconds in duration and is attributed to CW3. A tree and a bench obstruct much of the view of this video. A male is sitting on the bench and one or two other males are on the ground. The video zooms to the back of an RCMP officer and to his front, there appears to be a male on the ground. The officer appears to punch three times with his right hand/arm. AP cannot be identified in the video. The video ends.

All attempts by IIU investigators to meet and interview CW3 proved fruitless. IIU investigators telephone calls and messages left with family members and on an answering machine were not returned. It would appear that CW3 is evading IIU investigators.

The second video is fifty seconds in length and is attributed to CW4. This video has audio, but neither the RCMP officers nor AP can be heard due to their distance from the microphone. The video does depict two RCMP officers standing over a male on the ground. One RCMP officer is seen kneeling down and punching the male one time on or near the head. The same officer is again seen punching and delivering a knee strike to the male's shoulder. The second RCMP officer is attempting to control the male's arm. The second RCMP officer accesses his handcuffs as the first RCMP officer delivers another punch to the head. By the end of the video, both RCMP officers are handcuffing the male. In total, the first RCMP officer delivers six punches and one knee strike to the male on the ground while the second RCMP officer is not seen delivering any blows at all.

IIU investigators took numerous steps to locate and contact CW4. However, all of their efforts were unsuccessful in locating CW4 and that witness has never met with, or been interviewed by, IIU investigators.

Witness Officer

WO and SO2 responded to assist SO1 with an arrest of a male. According to WO, SO1 and SO2 were trying to handcuff the male (later identified as AP) who was on the ground. One of AP's wrists was in a handcuff and the second hand was still free. WO stated that AP was trying to hit the RCMP officers with his loose hand. WO stated that he grabbed and controlled the loose arm and assisted SO2 in securing the handcuffs. WO was aware that someone had his or her cell phone aimed at this altercation. WO has seen a video and notes that it begins after AP is on the ground. It does not show that AP began fighting with SO1 when first placed under arrest. WO states that at the end of the video, AP is still on the ground as SO1 was trying to control his legs and SO2 was trying to place the handcuffs on his wrists. WO advised that AP was not injured as a result, nor did he complain of any injuries or poor treatment by police.

Subject Officers

Pursuant to the provisions of the PSA, a subject officer cannot be compelled to provide his or her notes regarding an incident, nor to participate in any interview with IIU investigators. In this case, SO1 and SO2 each provided their notes and reports to IIU investigators, but declined to participate in an interview.

SO1 wrote that he attended a grocery store in response to a call of an intoxicated male attempting to assault a store manager. The male had left the store, but SO1 was directed to a local park where he could be located. SO1 located the male (later identified as AP). AP was seated on a bench and in the company of CW1 and CW2. SO1 placed AP under arrest for assault and went to handcuff him. According to SO1, AP appeared confused and refused to comply, stating, "*For what?*"

SO1 then wrote:

"...attempted a wrist lock manipulation to gain compliance over AP, however it had no effect and he stood up and began to tense up and resisted as I continued attempting to place his hands behind his back. Blood, that was already on AP's face, splattered onto my face."

AP continued to resist all of SO1's attempts to handcuff him. SO1 wrote that he used closed hand strikes to AP's shoulders "*in an attempt to dislodge his arms from underneath him.*" However, these were ineffective and the resistance continued. SO1 drew out his CEW (Taser) but decided against firing it at AP as he "*...deemed that the incident did not merit the use of my CEW at that time.*" SO1 radioed that he required assistance, as he was able to get AP to the ground. AP was rolled onto his stomach but he continued to resist. SO1 delivered more closed hand strikes to AP's shoulders in an attempt to get his arms out from under him. SO1 then writes that SO2 arrived on scene and that he "*ran up to assist and delivered concussive strikes to AP's head using his foot, which were also ineffective.*" Furthermore, he wrote:

"...continued to struggle with AP to gain control over him and continued to give commands to place his hands behind his back and to stop resisting. Throughout the fight,

SO2 used closed handed strikes and knee jabs to AP's head to disorientate him, so that members would have a chance to place him in handcuffs."

SO1 records that WO arrived on scene shortly thereafter and that *"after a continued struggle, members were eventually able to get AP restrained."*

SO2 writes that he was dealing with an unrelated matter when he heard SO1 on the radio requesting assistance with an individual who was fighting as he attempted to arrest him for assault. On arrival, SO2 saw SO1 and AP on the ground and involved in a physical altercation. As SO2 approached the two, AP turned onto his back and spit blood at the RCMP officers. SO2 commanded AP to stop resisting and fighting with police. AP did not respond, so SO2 put his body weight on AP and tried to turn him onto his stomach to prevent him from spitting at them again. SO2 took hold of AP's left arm but he started to tuck it into his chest as if he was trying to reach for something hidden under his hoodie. SO2 struck AP's arms and upper body in an effort to get his arm from underneath his body and place him in handcuffs. AP kept fighting, tried to turn onto his back, and closed his hands into fists. WO arrived on scene and was able to get AP's arm under control. Police were able to place handcuffs on him. The altercation then ended. AP declined any medical attention.

Conclusion:

This investigation has determined:

- SO1 and SO2 were lawfully placed and acting in their capacity of a police officer at all material times, from first contact with AP through his arrest and detention.
- AP has never been located, nor has taken any steps to contact IIU investigators for an interview, despite numerous attempts to make contact with him. AP has never alleged improper or excessive use of force during his arrest.
- No other independent witness has been located or has come forward to offer any additional and relevant information respecting this incident.
- The two videos are inconclusive as to capturing unnecessary or excessive force on the part of either subject officer. The videos only capture a short portion of the incident. Neither of the individuals who shot the video have come forward to provide any further information surrounding the events captured.
- Force to restrain and detain AP was necessary, as he was resisting his lawful arrest and detention, and refused to comply with the police directions.
- All of the evidence and information gathered shows that SO1 and SO2 acted within their lawful authority, acted reasonably, and did not use unnecessary, improper or excessive force on AP.

In the final analysis, I am satisfied that IIU investigators proceeded to conduct a thorough investigation into the circumstances of this matter. The investigation was not aided by the absence of cooperation by AP and the civilian witnesses. There are no grounds to believe that any Criminal Code or other statutory offence occurred. Therefore, no criminal or other statutory offence should attach to either SO1 or SO2.

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

Final report prepared by:

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