

FINAL REPORT: IIU concludes investigation into injuries related to WPS arrest

On January 19, 2020, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit of Manitoba (IIU) of an incident around midnight on January 18 where a female suspect, the affected person (AP), suffered injuries following her arrest by WPS officers.

According to this notification:

“On Saturday January 18, 2020 at 11:59 p.m., the WPS Communication Center received a call from a witness who is an employee at Shoppers Drug Mart (SDM) at 2656 Pembina Highway. She reported that a female in the store, later identified as the affected person (AP) was threatening suicide to staff and other patrons. The witness further related that AP was quite distraught over a recent break up.

Police arrived on scene and observed AP to be in an intoxicated state. Because of the suicide threats, officers apprehended AP pursuant to the Mental Health Act at which time she became uncooperative and resisting to the application of handcuffs.

After being handcuffed, AP reported soreness to her left arm. She was taken to the Victoria Hospital Urgent Care (VGH) where she is being treated for two Distal Humeral fractures to the left arm. She was admitted for treatment”

A fractured left arm and an admission to hospital both constitute a serious injury pursuant to IIU regulation 99/2015. Accordingly, IIU is mandated to investigate the circumstances surrounding the arrest and resulting injury. IIU investigators were assigned to this investigation.

Information obtained by IIU investigators included:

- general, arrest and narrative reports of witness officer
- witness officer’s notes
- subject officer’s prepared statement
- audio recording of 911 call
- audio recording of WPS radio transmissions
- video surveillance footage
- call history
- medical reports related to AP

The civilian director designated the WPS officer who handcuffed AP as the subject officer (SO). Additionally, the civilian director designated the other WPS officer present at the arrest as a witness officer (WO). IIU investigators interviewed AP and two civilian witnesses (CW1-2).

The following facts and circumstances have been determined:

Affected Person (AP):

AP stated that she had left a friend's house when she got lost and did not have any bus fare. AP attended the SDM to use the phone. AP stated that she walked around the store crying. AP stated that she used the phone then walked out of the store. AP stated that she was waiting outside SDM for a ride to get home. AP stated that two police officers met her outside. AP stated that the police wanted to take her. AP stated that she gave one of the police officers a phone number to call to see if someone would pick her up. The person they contacted told the police officers that they could not pick her up. AP stated that WO was standing on her right side and SO stood on her left. She stated that she tried to walk away. AP stated that she did not want to go with the police. AP stated that the police officers were going to take her because she was intoxicated and talking crazy. AP stated she was also talking about suicide, that she did not want to be alive but she was not going to do anything, as all she wanted to do was go home. AP stated that the police officers grabbed her and told her to cooperate. AP stated that SO was the one who broke her arm. AP stated that SO put her arm "...way up, hard and high" then slammed her on the back of the police vehicle. AP stated that she heard a snap in her arm and felt immediate pain. AP stated that she told SO to stop however, he continued to hold on to her arm and put her in handcuffs. AP stated that she asked the police officers to take her to the hospital because it felt like SO broke her arm. AP stated she was driven to VGH. AP stated that she was advised her that her arm was dislocated or fractured.

Medical Information

The triage assessment noted that WPS were called by SDM as AP stated she was suicidal due to breaking up with her boyfriend. It was further noted that AP was handcuffed by WPS and brought to VGH. AP was unable to move her left arm. The initial assessment was that AP had sustained a distal humerus fracture of the left arm¹. AP was held overnight to speak with orthopedics and determine whether the injury required surgery. A further assessment determined that surgery was not necessary and the treatment prescribed was the application of a sugar tong splint and a cuff collar to the left arm. AP was asked to follow up within a week.

Civilian Witnesses (CW):

CW1 is a supervisor at SDM. At approximately 11:30 p.m., CW1 stated she was advised that a woman, later identified as AP, was in the waiting area of the pharmacy section and was crying. Based on information received and the way AP was acting, CW1 stated that she called a crisis line for assistance and was advised to call police, which she did. CW1 stated that she could hear AP say she wanted to die. CW1 stated that AP wanted to go outside however it was extremely cold. CW1 stated that the moment AP walked out of SDM, she called the police again. CW1 stated that AP stood at the corner of the building and was screaming, cussing and crying. CW1 stated that the police arrived within a minute of that call. CW1 did not see how the police handled AP. CW1 stated that she had not felt threatened by AP at any time but was concerned for her safety.

¹ A distal humerus fracture occurs when there is a break anywhere within the distal region (lower end) of the humerus. The bone can crack just slightly or break into many pieces (comminuted fracture).

CW2 is an employee at SDM. CW2 stated that at 11:30 p.m., a customer came to her and said there was a girl outside the store that was crying. CW2 stated that she went outside, got the girl (later identified as AP) and told her to come inside SDM. According to CW2, AP was upset about her boyfriend leaving her and that she wanted to kill herself. CW2 stated that AP went in and out of SDM a few times. CW2 was concerned about AP's well-being. CW2 stated that she was advised that her supervisor had called the police as SDM was closing and no one was coming to assist AP. CW2 stated that the police arrived approximately at 12:05 a.m. CW2 stated that she asked police to attend to AP as soon as possible. CW2 stated that she saw the interaction between AP and the police. CW2 stated that when the police officers were applying the handcuffs on AP, she observed a pushing and pulling struggle between them. CW2 stated that AP was screaming and crying.

Witness Officers (WO):

WO stated that he and his partner, SO, were in a marked police vehicle when they were dispatched to SDM. WO stated they arrived at 12:15 a.m., at which time they received a description of AP and noted that SDM staff were pointing towards her. WO stated that he asked SO (the driver) to position the police vehicle in front of AP to block her, as it appeared that she was trying to walk away from them. WO exited the vehicle and approached AP. WO stated that he introduced himself, that he was with the WPS, and that they wished to check on her wellbeing, as they were advised about a suicidal female in distress at SDM. WO stated that AP said she was fine, that her uncle was going to pick her up, and that she did not need his assistance. WO stated that he could smell a strong odor of liquor on her breath. WO stated he was concerned about AP's wellbeing outside and in the cold environment. WO stated that he took hold of her right arm asking AP to go to the police vehicle where it was warm. WO states that AP pulled away from him and fell to the ground. WO stated that he was joined by SO. WO stated that he asked AP to stand and assisted her by taking hold of her right arm. WO stated that SO was on AP's left side. WO stated that he and SO walked AP back to the police vehicle. AP started to pull away again so WO stated that he explained to her that because of her level of intoxication and concern for her and officers' safety and wellbeing, they were going to handcuff her. WO stated that SO offered to put the handcuffs on AP. WO stated that he heard the sound of a "pop" from AP's left shoulder. WO stated that AP was handcuffed and placed in the rear of the police vehicle. WO stated that AP mentioned that there was something wrong with her arm and she started to scream in pain. WO stated that he told SO that they should go directly to VGH. At the Triage Desk, WO removed the handcuffs from AP. WO stated that AP's pain increased and her mobility was not good. WO stated that AP was examined following which the police were advised that AP would be admitted to hospital due to the nature of her injury.

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 a prepared statement but did not agree to participate in an interview with IIU investigators.

The following is a summary of SO's prepared statement:

On January 18, SO was working with WO. They were dispatched to SDM in response to a report of a suicidal female. SO wrote that upon arrival an employee and a customer came outside to

point out the female, later identified as AP, who was in the parking lot on the south side of SDM. SO wrote that AP, seeing the police attempted to evade them by walking southbound through the parking lot. Both SO and WO gave repeated verbal directions to AP, "Winnipeg Police" "Please Stop", several times. SO wrote that he positioned the police vehicle in front of AP to impede. SO wrote that both officers exited the police vehicle, and attempted to engage AP in conversation asking her to "Stop!" SO wrote this was done for several reasons:

- It was snowing, windy, and the temperature was -17 Celsius;
- AP was not dressed adequately for the weather;
- AP appeared unsure where she was;
- Police were trying to determine if she needed help with her mental health due to the suicidal comments made at SDM.

SO wrote they tried to assure AP they were there to ensure her safety and asked her to have a seat in the rear of the cruiser. SO wrote that AP said, "leave me alone, just let me die" and tried to walk away. SO wrote that AP was intoxicated by liquor as he observed several signs of intoxication: unsteadiness on her feet, glassy eyes, and the strong smell of liquor coming from her. SO wrote that WO had determined that AP was unable to care for herself in her intoxicated state. SO wrote that AP dropped her body to the ground as WO tried to take a hold of her arm. SO wrote that he and WO assisted AP to her feet. WO informed AP that she was being detained in order to determine her mental well-being, as well as the belief that she was intoxicated and would be detained under the Intoxicated Peoples Detention Act. SO wrote that he took a hold of AP's left arm and WO took hold of her right arm. SO wrote that as he attempted to handcuff AP's left wrist, she pulled her arm away and suddenly went limp, dropping her weight to the ground. SO wrote that when AP went "dead weight" he heard a sound coming from her left shoulder or arm. AP was handcuffed and placed in the rear of the police vehicle. SO wrote that AP believed her left arm was dislocated. SO wrote that due to this comment and his hearing the "pop", it was prudent to have her medically assessed and they attended VGH.

Video Surveillance

The video surveillance footage collected from SDM corroborates observations by the civilian witnesses of AP's emotional state when she entered and exited. The footage, however, did not capture any police interaction with AP.

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 provided a written opinion, in which it was stated:

Manitoba Prosecution Service (MPS) has reviewed the IIU investigation of [SO]. While it is always in the public interest to hold police officers accountable, there must also be a reasonable likelihood of conviction for MPS to prosecute a matter. In this case, after considering all of the admissible evidence, we have concluded that a reasonable doubt

exists as to whether the officer's use of force was excessive. Consequently, we are not satisfied that there is a reasonable likelihood of conviction. When MPS is consulted for charge authorization in any criminal matter, we employ the same standard for proceeding with criminal charges.

Accordingly, MPS will not authorize any criminal code charges against SO as there is no reasonable likelihood of conviction in this matter.

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

Final report prepared by:

Zane Tessler, civilian director
Independent Investigation Unit
December 01, 2020

Ref 2020-001