

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

On June 24, 2020, at 12:25 p.m., the Royal Canadian Mounted Police (RCMP) notified the IIU of an incident occurring on May 22, 2020 in Portage La Prairie, in which a suspect, later identified as the affected person (AP), sustained injuries during his arrest by RCMP members.

The salient portion of this notification read, in part:

On May 22, 2020, Portage La Prairie RCMP responded to a report of shots fired. Members attended to the residence and an investigation revealed that AP was alleged to have shot a 27-year-old female with a pellet gun. The female was located at the Portage Hospital and had received treatment for minor injuries as a result of the incident. The female identified AP as her assailant.

AP was located at his residence and verbally advised he was under arrest for discharge firearm with intent. AP advised Police he was not coming out of the residence until Police seek a warrant. Police commenced the process of obtaining a Feeny warrant however after further verbal persuasion AP turned himself in voluntarily.

Upon arrest, AP was asked if he had any medical issue to which he advised he had a sore shoulder. AP was handcuffed and placed into the back of the Police car without incident. AP immediately became limp in the back of the Police Vehicle and appeared to be in medical distress. Police immediately took him to the Portage Hospital for treatment.

While at the Portage Hospital AP advised Police that he could not move his leg or his wrist. He also complained that his left thumb hurt. A complete Medical exam was completed including blood work and x-rays. No medical concerns were located and AP was cleared for incarceration. AP was transported back to Portage Detachment cells and lodged without incident.

AP was released at 08:00 am on May 23rd, 2020. AP complained of a sore right wrist and was unable to use his hand to sign release documents.

AP contacted Portage RCMP on June 22, 2020, and advised that he was instructed by Manitoba IIU to initiate a call to report he had numbness and a loss of feeling in his wrists and hands due to improper cuffing on May 22, 2020.

AP is currently before the courts on outstanding charges.

As the allegations in the notification are discretionary matters pursuant to the provisions of The Police Services Act (PSA), the civilian director determined that it was in the public interest for an independent investigation to be undertaken by IIU. Accordingly, pursuant to s. 75 of the PSA, IIU assumed conduct of this matter and commenced an investigation. IIU investigators were assigned to this investigation.

Information obtained by IIU investigators included:

- RCMP members notes and narrative reports
- Identification Unit report and photographs
- cell block video
- physical evidence seizures
- prisoner log reports
- 911 audio recordings
- RCMP radio/dispatch audio recordings
- arrest processing audio recordings
- RCMP handcuffing training material
- RCMP handcuffing procedure policy
- AP medical report

Due to the dearth of information at the outset of this investigation as to whether any actions by any RCMP member contributed, to any degree, to AP's injuries, it was decided that no subject officer designation would be made at this stage, pending receipt of more facts and evidence. Four RCMP members, identified as involved in the arrest of AP, were designated as witness officers (WO1 – 4). IIU investigators interviewed AP and four medical personnel (CW1 – 4), who treated him at the Portage District General Hospital (PDGH).

The following facts and circumstances have been determined:

Affected Person

AP stated that on May 22, he encountered an intoxicated person in a back lane. A firearm was presented and pointed at him. A fight then ensued and AP stated that he disarmed the person. AP stated that he called 911. AP stated that when the RCMP arrived, the officers acted in a manner that he found unusual. AP stated that he was allowed to leave the scene even though there was blood on his arm and the firearm was laying on the ground. AP stated that as he was walking home, another officer, who was patrolling the area, drove up and spoke with him. AP stated that the officer commented, *"If you don't like the way we do things, why do you call us?"* AP stated that when he got home, he cleaned his injury to his elbow, laid down on a couch to relax and that his spouse left for work. AP stated that a few hours later, RCMP attended his home and advised they were there to arrest him. AP stated that he asked if they had a warrant for his arrest and an officer replied that they did not. AP stated that he told the police, *"I'm not coming outside and I'm not opening this door and you don't have a right to open this door without a warrant,"* to

which an officer replied, *“Well, we can get one if you want, if that's what you want.”* AP stated that he called his lawyer and after a consultation, he went outside and allowed himself to be arrested. AP stated that he had a single pill of seizure medication that he was supposed to take, in a plastic baggie with him. AP stated that he gave the baggie to an officer and explained that he needed the medication. AP stated that an officer said that they wanted to put handcuffs on him. AP stated that he was handcuffed to the rear. AP stated that he was taken to a police vehicle and was placed in the back. AP stated that he felt that the interior of the police vehicle was very hot, *“...at least 100 degrees Fahrenheit in here.”* AP stated that he asked the police officer if the air conditioning could be turned on or a window opened to which the officer replied, *“It's not hot up here,”* AP stated that he replied, *“Would you please open this window, you wouldn't put a dog back here,”* to which the officer responded, *“Well, you're not a dog.”* AP stated that, *“...things started to get glassy”* and that he must have passed out. AP stated that the next thing he remembered was someone *“...jerking on his hands and pulling on his head.”* AP stated that he was dragged from the police vehicle, placed in a wheelchair and rolled into the hospital. AP stated that he was in pain, unable to move his right hand, and that his left hip felt like it was out of joint. AP stated that a female doctor examined him. AP stated that he was advised that though there were no broken bones, the pain and swelling he was experiencing might be related to a crushed or pinched nerve from handcuffing. AP stated that he and the doctor both agreed that he did not have a seizure, but that the heat in the car caused him to pass out. AP stated that the doctor advised he would be released from hospital and that the same officer who had first applied the handcuffs wanted to put them back on again. AP stated that he said, *“Are you kidding, then I'm not leaving, I'll resist.”* AP stated that he asked the doctor, *“In your professional opinion, do you think they should be put back on me?”* AP stated that the original doctor did not answer, but a second doctor, standing nearby said, *“Only if they are applied correctly.”* AP stated that it was decided that he would not be handcuffed and was returned to the police vehicle. AP stated that when he was alone with the original officer who had handcuffed him previously, he asked, *“You didn't double-lock those handcuffs did you?”* to which the officer responded *“Nope.”* After he arrived at the detachment, AP stated he was placed in cells and spent much of his time *“...rolling on the floor”* from the pain. AP stated that he was released from custody the following morning.

Medical Report

AP provided IIU investigators with a consent form for the release of his medical records.

According to the records, AP complained of pain to his left hip, left thumb and right wrist. Furthermore, AP complained that he might have had an unknown seizure. According to the records, it was suggested that AP was being very dramatic in relation to his alleged injuries and was blaming police for them. Physicians requested that a series of tests, including x-rays, blood tests, physical and neurological examinations, be conducted on AP. None of these tests revealed any evidence in relation to the injuries that AP was claiming. There were no bone fractures detected nor was there any evidence that a seizure had occurred. AP was cleared for a discharge from hospital and would be returned to police custody.

Civilian Witnesses

CW1 is a nurse at PDGH. CW1 stated that she and CW2 were returning from their break when two police officers asked if they could have some assistance in getting someone out from their backseat. CW1 stated that a wheelchair was brought out when she observed a male, later identified as AP, laying down on the backseat. CW1 stated that AP was initially unresponsive. CW1 stated that AP was removed from the police vehicle, placed in the wheelchair and taken to the waiting room. CW1 stated that AP was now awake and talking and she commenced to triage him. CW1 stated that AP was talking loud, saying that the police had hurt him and that he had an event in the back of the police car. CW1 stated that AP said that the officers refused to remove his handcuffs and complained of various injuries, accusing the police as causing them. CW1 stated that when AP was brought to PDGH, he was not in handcuffs.

CW2, a nurse at PHC, stated that she and CW1 were returning from a break, when an RCMP vehicle pulled in front of the hospital and officers asked for help. CW2 stated that a wheelchair was retrieved. CW2 stated that when they returned to the vehicle, she observed a male, later identified as AP, on the driver's side backseat. CW2 stated that AP was refusing to get out and not wanting to help himself. CW2 stated that AP then "...slumped himself over" in the backseat and the RCMP officers gently guided him out of the vehicle. CW2 stated that AP was placed in the wheelchair and taken to the triage area, ending her interactions with him.

CW3 was the supervising physician at PDGH Emergency on May 22. CW3 stated that another physician examined AP but she reviewed the findings. CW3 stated that she found AP's medical complaints did not match what was found during his examination and medical history. Once AP was cleared to be released from PDGH, with police, he was not wearing handcuffs. CW3 recalls that there was a discussion with AP, at the end of the visit to the PDGH, as to whether or not handcuffs should be applied. CW3 stated that AP was concerned that he may have a wrist injury (or perceived injury according to CW3). CW3 stated that she reassured him several times that if handcuffs are used properly and he did not resist while in them, there should not be a problem with their use. CW3 stated that AP kept saying; "*Is that your medical opinion?*" CW3 stated that AP believed he had suffered an injury due to the handcuffs and complained that he may have had a seizure episode when he entered a hot police car. CW3 stated that AP claimed that his right wrist, left thumb and left hip were all sore, though AP was "...mixed up regarding which hip hurt," CW3 stated that there was no indication or evidence of any injury from a BB gun.

CW4 was a resident physician working PDGH Emergency and supervised by CW3. CW4 examined and assessed AP. CW4 stated that on arrival, AP was agitated, angry, and tearful. CW4 stated that AP blamed police for his injuries. CW4 stated that AP was inconsistent in describing his injuries to her. CW4 stated that she ordered a broad group of tests in order to cover all bases. AP became more cooperative as the examination continued. CW4 stated that, initially, AP appeared "...a bit off" but was able to answer all her questions. CW4 could not recall if AP was handcuffed when he was first brought into PDGH. CW4 stated that there were discussions about handcuffs and that AP claimed this was how the injury to his wrist occurred. CW4 stated that there was no medical evidence of any injury to AP caused by handcuff usage. She conducted a neuro-vascular examination and a neurological examination and could find no evidence of a nerve injury.

CW4 stated that the RCMP officers told her that AP had been complaining of it being very hot in the police car. CW4 stated that the RCMP officers said they had rolled down the window and turned up the air conditioning for AP. CW4 stated that AP's version was the exact opposite, claiming that the RCMP officers kept the vehicle hot on purpose. CW4 stated that there was no evidence that AP sustained a seizure, from her analysis of his bloodwork. CW4 stated that AP was not exhibiting any further symptoms to suggest a "*post-seizure*" condition. CW4 stated that she advised AP of her findings.

CW4 stated that she concluded that AP was "*safe to discharge.*" CW4 stated that AP became agitated when police wanted to place him in handcuffs at the end of the hospital visit. CW4 stated that AP referred to the RCMP as "*Cowboys*" and said, "*Let them do what they want with me.*" CW4 stated that AP requested a professional opinion from her regarding the use of handcuffs. CW3 stated that she contacted CW3 and together they attempted to reassure him that there was no medical reason why he could not be placed in handcuffs if they were used correctly and he did not resist. In the end, CW4 stated that the RCMP were satisfied that handcuffs were not necessary and escorted AP away.

Witness Officers

WO1 stated that a call for service regarding a possible shooting involving a pellet gun was received at 9:10 a.m. WO1 stated that members in the office immediately responded to the call. WO1 stated that within minutes, he arrived at the incident scene and immediately recognized AP. WO1 stated that AP immediately commented on how slow the police response was. WO1 stated that he asked if anyone was injured, to which AP responded that he was injured from a pellet gun but he did not require nor want help. AP then stated that police were not "*...doing anything*" and that they should be "*...looking for the girl who did this.*" WO1 stated that AP was asked to remain at the scene, but that he turned and walked away. WO1 stated that he observed a pellet gun laying on the ground and seized it as evidence. WO1 stated that WO2 went to look for the female. WO1 stated that he received a telephone call from a female who was being treated at PDGH. The female advised that she had sustained several pellet gunshot injuries and that AP had shot her with a pellet gun. WO1 stated that a decision was made to arrest AP. WO1 stated that he and other officers attended to AP's residence. WO1 stated that AP was advised that he would be arrested. WO1 stated that AP became abusive and refused to come out of his residence unless police produced an arrest warrant. WO1 stated that WO4 returned to the detachment to obtain the necessary warrants. WO1 stated that at 12:41 p.m., AP came out and surrendered. WO1 stated that AP was arrested, handcuffed and placed in the rear of WO2's police vehicle. WO1 stated that as he went to his own vehicle he observed shaking from WO2's vehicle. WO1 stated that he observed AP flailing in the back seat and heard WO2 say, "*he's freaking out...might be having a seizure,*" WO1 stated that he instructed WO2 to remove the handcuffs. AP was not responsive and he would not respond to verbal commands. WO1 stated that he did not believe this was a seizure as AP had gone limp. WO1 stated that it was decided that WO2 would take AP directly to PDGH. WO1 stated that AP was held in custody following his medical clearance. WO1 stated that police wanted to interview a potential eyewitness to the shooting. That witness was also in police custody, but was intoxicated, so officers needed to wait until he was sober in order to interview him. WO1 stated that AP was eventually released from custody.

WO2 was on duty at the detachment, when a call for service came in alerting that there had been a pellet gun shooting. WO2 stated that he and other members attended to the scene. WO2 stated

that WO1 spoke with a male, later identified as AP. Based on information received; WO2 stated that he went to look for a possible female suspect who had left the area on foot. While he was on patrol looking for the female, WO2 stated that WO1 had radioed that AP had been very angry, non co-operative and refused any medical assistance as he left the scene on foot. As WO2 continued his patrol, he came upon AP, who was walking in a back alley. WO2 stated that he stopped to speak with AP. WO2 stated that AP was upset and abusive, calling him names and stating that he would find the female himself as he “*didn't need Police,*” WO2 stated he then returned to the original scene and met up with WO1. WO2 stated that they began foot patrols in the immediate vicinity to see if they could locate the unknown female or any other evidence. WO2 stated that he received information from an individual who stated that an injured woman had asked for help and drove her to the hospital. WO2 stated that WO4 was directed to attend PDGH and locate the unknown female. WO2 stated that he made his way to PDGH and saw WO4 interviewing a female, who was suffering from pellet gunshot wounds. WO2 stated that they determined that this female was the person shot by the pellet gun and that AP was the shooter. WO2 stated that he, WO1 and WO4 attended AP’s residence, around noon, to arrest him for his involvement in the shooting. WO2 stated that AP refused to leave his residence unless there was a warrant. WO4 returned to the detachment to prepare the necessary warrants. WO2 stated that AP eventually came out after speaking to his lawyer. WO2 stated that AP was co-operative and had brought a plastic baggie, containing one pill, with him. He also advised of the time he was to take the medication. WO2 stated that he took the baggie for safekeeping. WO2 stated that AP was arrested and handcuffed. On the way to the vehicle, WO2 stated he noticed a bandage on AP’s elbow and adjusted his grip to avoid aggravating any injury. WO2 stated that AP was placed in the back seat of his police vehicle. AP began to complain about the heat. WO2 stated that the vehicle had been running for most of the day and the air conditioning was on. WO2 stated that AP had commented that it was not fit for a dog, so WO2 turned the air conditioning up and pulled the silent partner window back to provide better airflow. WO2 stated that within 30 to 35 seconds, AP started shaking and became unresponsive. WO1 came to assist and get him to respond. WO2 stated that he removed the handcuffs from AP. WO2 stated that he drove to PDGH as WO4 followed behind. WO2 stated that two nurses assisted in getting AP into a wheelchair. Once in the triage area, AP started coming to and was responsive. WO2 stated that AP started yelling and blamed police for “*beating him up.*” WO2 stated that AP made several comments that his handcuffs were not double locked and that is why he had an injured wrist. WO2 stated that he did not double lock the handcuffs. WO2 stated that upon clearance by medical staff, AP became upset that no injuries had been detected. AP did not want to be handcuffed again and demanded to speak to the doctor before leaving. WO2 stated that AP was returned to the detachment and placed in cells.

WO3 was aware that AP was to be arrested for possible firearms offences so she went to his residence to assist other officers. WO3 provided perimeter security with WO1 and WO2 until WO4 returned with an arrest warrant. WO3 stated that AP exited his residence. AP was subsequently arrested by WO2. AP had a baggie containing some medication and gave it to WO2 for safekeeping. WO2 handcuffed AP, escorted him to a police vehicle and placed him in the back. WO3 stated that as she was about to leave, she noticed several officers at the rear of WO2’s vehicle. AP was not responsive and may be having a seizure. WO3 stated that officers removed AP’s handcuffs and departed for PHC. That was her entire interaction with AP.

WO4 stated that a call for service regarding an altercation was received that morning. WO4 stated that that RCMP officer attended the location and encountered a male, later identified as AP. WO4 stated that AP said he had wrestled a gun away from an unknown female, there was an altercation and a pellet gun was fired. WO4 stated that he made efforts to locate this female and eventually she was found at PHC suffering pellet shot wounds. WO4 stated that it was soon determined that AP was the shooter. WO4 stated that he and other officers attended to AP's residence to arrest AP. AP refused to come out and demanded police produce a warrant to enter his residence. WO4 stated that he returned to the detachment to prepare a warrant to arrest and a warrant to enter a residence. WO4 stated that while at the detachment, a radio call was received alerting that AP was exiting his residence voluntarily and was giving himself up. WO4 stated that he returned to the residence. WO4 stated that upon arrival, AP was seated in the back of a police vehicle. WO4 stated that AP was "...having a seizure, or pretending to have a seizure, I'm not going to make that call." WO4 stated that WO2 drove AP to the hospital and that WO4 followed behind. WO4 stated that on arrival at PDGH, AP appeared unconscious but was resisting, as he would not move his feet from underneath. WO4 stated that two nurses assisted in getting AP into a wheelchair. WO4 stated that AP was taken to an examination room where he started to complain of several injuries including to his knee, wrist and thumb. WO4 stated that a doctor, who said to WO4, "*I've never seen somebody fake an injury so well,*" examined AP. When AP was medically cleared, he was transferred to RCMP cells. AP continued to complain of pain while in cells and officers continued to look into his condition.

911 Calls

There were two 911 calls related to this incident.

The first call was from AP in which he claimed that he has just been shot in the chest and that he wrestled the gun from an unknown female subject. AP is yelling at the 911 operator and demanding that police be sent immediately. AP states that the female is presently in front of him and that he was going to shoot her. The 911 operator asks that the caller not to shoot the person. The call is still live when the police arrive at the scene and AP is heard complaining about how long it took police to get there. He calls them "*useless*" and states that he is going to find the female himself.

The second 911 call was received from a female. During that call, she states that she saw a man and a woman fighting in a back lane. The male appeared to be holding something over his head. The caller stated that the male was saying that the female had shot him. It appeared to be a pellet gun. The caller stated that the male was actually holding the pellet handgun and had thrown it to the ground. The female that was involved in the fight was no longer at the scene. The 911 operator advised that police units were on the way.

Arrest/Processing Audio Recordings

During the AP's arrest and processing, audio was recorded by WO4. The recording begins at 12:03 p.m. and concludes at 4:44 p.m.

At the start of the recording, WO4 states that AP is "*known to complain against members*" and that is the reason for the recording. The audio starts with the arrest of AP and his demand that the RCMP obtain an arrest warrant. The audio continues with WO4 proceeding to obtain a warrant. The next audio segment begins with an entry from WO4, stating that handcuffs were removed at

approximately 12:48 p.m. and that they were driving to the hospital with AP. WO4 states that there may have been some type of seizure. At the hospital, WO4 is heard requesting help from nurses as AP is unresponsive. AP is transferred to an examination room where he becomes abusive towards the officers, blaming them for what has happened and asking what they have done to him. AP is heard complaining of several injuries, in particular his right wrist, right thumb, left hip and left ankle. AP believes he was mistreated by police. AP is heard that he believes he may have had a seizure in the police car. After all tests and consultations are concluded, the attending physician clears AP to leave the hospital. As the officers attempt to re-apply handcuffs, AP becomes agitated and demands that the doctor give her opinion if the handcuffs are appropriate, given his claimed injury. The doctor tries to calm AP down and states that as long as he does not resist while in handcuffs and the handcuffs are applied correctly, there should not be any issues. After several minutes of discussion, the RCMP officers decide not to handcuff AP. Prior to leaving the hospital, WO4 is heard speaking to nurses, suggesting that they keep some records on the matter, as *“he (AP) is a chronic complainer.”*

Upon review, the recordings are consistent with previous statements received from AP, nurses and doctors at PDGH.

Cell Video and Prisoner Logs

A review of cell video shows that AP arrives at the detachment at 4:16 p.m., processed, allowed to contact his lawyer, and is placed in cells at 4:43 p.m. Upon his entrance into the detachment, AP appears to be moving very slowly, continually wincing and exhibiting behaviour to suggest he is in pain. Prior to his placement in a cell, officers assist AP in taking off some jewellery. Throughout the recordings, AP appears to be experiencing personal discomfort. There are no indications that AP was mistreated during his time in RCMP cells.

RCMP Handcuffing Training Material and Handcuffing Procedure Policy

IIU investigators received and reviewed RCMP Handcuffing Training Material and Handcuffing Procedure Policy, which had been provided by the RCMP Training Branch.

Among the materials received, included the following instructional topics:

- Standing Speed Handcuffing
- Handcuffing from the Off-Set Mount
- Kneeling Speed Handcuffing
- Controlled Handcuffing
- Types of Searches, DARCS and ALPS, the "4 C's"

The material reviewed contained detailed procedures related to handcuffing, which covered the various scenarios that RCMP officers might find themselves in while applying handcuffs. In relation to the procedure of “Double Locking”, this is discussed in the document entitled "Types of Searches, DARCS and ALPS, the 4 "C's". DARCS is an acronym for "Double Lock, Arrest, Rights, Caution, and Search". These represent the steps that an RCMP officer must take after placing handcuffs on an individual.

The Training Manual provides two reasons why every handcuff should be "double-locked":

- Double-lock the hand cuffs to prevent them from tightening
- This also makes them harder to open and escape

This is the extent of any procedures related to "Double Locking" that were found in the materials provided. There is no discussion related to injuries or the potential for injuries in relation to handcuffing (or improper handcuffing).

Conclusion

AP has alleged that he was injured due to the improper usage of handcuffs during his arrest for a firearms offence. AP alleges that the excessive heat in the police vehicle caused him to pass out. The medical findings and assessments from PDGH coupled with the interviews of attending physicians do not support any of these allegations. There is no physical findings to suggest any such injury or injuries occurred. There was no evidence or medical findings to support the existence of a nerve injury, seizure or fractured bones.

I am not satisfied that any evidence exists to support the allegations that any actions of the RCMP were responsible for any injuries to AP. If anything has been established, it is that the RCMP revisit the appropriate use of handcuffs in assessing officer conduct and training. We leave that issue with the RCMP.

In conclusion, there is no evidence to support a finding that AP sustained any injury that may have resulted from any level of contribution by any police officer. Accordingly, there is no evidence in this matter that would justify the designation of any of police officer as a subject officer. As a result, there is no further requirement or need by IIU to continue with this investigation.

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

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