

FINAL REPORT: IIU concludes investigation into allegations driving offences by on-duty BPS officer

On October 27, 2021, the Brandon Police Service (BPS) notified the Independent Investigation Unit of Manitoba (IIU) of a complaint received involving an allegation of improper driving of a police vehicle by an on-duty BPS officer.

According to the notification (excerpt as summarized):

On 2021-10-26 a complaint was posted on the BPS Facebook page and forwarded to management, which stated, in part:

“This is a copy of the e-mail I sent to the police front desk

At approximately 7:15 on Oct 23/21 on East bound highway #1 just before Headingly, traffic was light. As I approached a semi-truck, I signalled left to pass, I was well into the passing lane when a vehicle came speeding up behind me and followed at an extremely close distance, as I was passing the semi, I lit my brakes to indicate ‘you are to close’, at this point the vehicle behind me became more aggressive and followed extremely close. The vehicle then flashed a spot light at my mirrors. My fiancé commented ‘just pass the semi and pull over to let him pass, he might be an a-hole with a gun’.

I passed the semi and pulled into the right lane and as the vehicle passed me, another spot light straight into my car. This was when we realized it was a police SUV. It then sped off at a high rate of speed. At the first set of lights as you enter Headingly, the police SUV was stopped at a red light. I asked my fiancé to take a picture of the license plate. The SUV sped off on green and at the next set of red lights, it was stopped with all four wheels past the stop line. On next green, sped off again and I lost sight of the SUV. It was definitely a City of Brandon police SUV.”

A check on the BPS system showed that BPS police cruiser was transporting two prisoners to the Winnipeg Remand Center (WRC) at about the time that the complainant claims to have had the interaction with the marked vehicle. The license plate of the photographed matched the license plate of this vehicle.

As this notification concerned allegations of breaches of the Highway Traffic Act, discretionary matters under the Police Services Act, the civilian director determined that it was in the public interest for an independent investigation to be conducted and, accordingly, IIU assumed jurisdiction in this matter. A team of IIU investigators was assigned to investigate.

The IIU civilian director designated the BPS officer who was driving the police vehicle as the subject officer (SO). The BPS officer who was the passenger in the police vehicle was designated as a witness officer (WO). IIU investigators met with and interviewed four civilian witnesses, including the individual who filed the original complaint (CW1 - 4).

BPS information obtained by IIU investigators included:

- BPS vehicle GPS reports;
- Audio of dispatch calls;
- Dispatch report;
- BPS cell block video;
- Complaint to BPS;
- Copy of BPS service policy

Facts and Circumstances

Civilian Witnesses:

CW1, in the company of CW2, was driving his vehicle eastbound on the Trans Canada Highway. As they were approaching the outskirts of Headingly, CW1 stated that they were approaching a semi-trailer truck that was travelling *“below the speed limit”*. CW1 stated that he had looked at his rear view and noticed a vehicle some distance away. CW1 stated that he believed that his vehicle had *“...more than enough room to pass the semi”*. CW1 stated that traffic volume was light that night. CW1 stated that he believes his driving speed was 112 km per hour and that he does not use cruise control, particularly while travelling at night. CW1 stated that as he moved his vehicle into the passing lane to move around the semi trailer truck, the vehicle behind him suddenly sped up. CW1 stated that this vehicle *“raced up hard”* and was very close to him, *“within feet of the bumper”*. CW1 stated that, in his opinion, this was *“very aggressive, bullying type driving”*. CW1 stated that he lightly *“tapped his brakes”*, to signal to the driver of that vehicle, that they were following too close and should *“back off”*. CW1 stated that this action appeared to *“enrage”* the other driver. CW1 stated that CW2 told him to *“pass the semi, move over, and let the other vehicle pass by”*. CW1 stated that as he was moving his vehicle back into the right lane, a bright spotlight was shone from the rear vehicle and into his driver's side mirror. When CW1's vehicle was fully into the right lane, the rear vehicle came up beside him, with the spotlight now shining into their vehicle (*“aimed right at us”*) from the driver's side. At some point, the spotlight was turned off, when, CW1 stated, he could see that it was a BPS police vehicle. This BPS police vehicle immediately *“took off”* at high rate of speed. CW1 stated that when he arrived at the first set of traffic lights just outside Headingly, they were approached this Police vehicle. CW1 stated that he asked CW2 to take a picture of its licence plate. CW1 stated that when the traffic light turned green, the police vehicle *“roared off again”*. CW1 stated that when both vehicles stopped at the next set of traffic lights, the police vehicle came to a stop with all four of its wheels well past the stop line. CW1 stated that the police vehicle continued west bound into Winnipeg, on Portage Avenue. CW1 stated that he was quite upset by this experience, describing the actions of the police vehicle operator as *“very aggressive and bullying driving”*.

CW2 stated that she recalls that CW1 and she were driving eastbound on the Trans Canada Highway approaching Winnipeg. It was in the early morning hours of October 23. CW2 stated that they were travelling in the right lane when they came upon a semi trailer truck in the lane in front of them. CW2 stated that signalled that he was going to move into the passing lane. CW2 stated that it did not appear that CW1 was speeding and had set their vehicle's cruise control. CW2 stated that as they were passing the semi trailer truck, she noted a bright light was *“shining into her face”*, causing her to exclaim, *“...man, that guy is close”* to which CW1 had

responded, "...yeah, this guy is right on us". CW2 stated that as their vehicle moved to beside the semi trailer truck, she had told CW1 to "*tap his brakes*" to get the other driver to back off. CW2 stated that the other vehicle did back off as a result. CW2 stated that CW1 said, "...well, I guess I'll just drive beside the semi now the whole way in". CW2 stated that she told CW1 to pass the semi trailer truck because these days "*you never know*". CW2 stated that CW1 moved their vehicle back into the right lane and the rear vehicle came up beside them. CW2 stated that as they both looked at this vehicle as it passed them "*a bright light came shining in*". CW2 stated that when this bright light was turned off, she noticed that this was a police vehicle besides them. CW1 stated that "*if it was a police matter and they needed to get by, why didn't they just flash their red and blues?*" CW2 stated that the police vehicle then "*sped off*". CW2 stated that this incident was "*pretty weird*" and was "*pure intimidation*". CW2 stated that CW1 had asked her to take a photo of the police vehicle's licence plate. At one point, when both vehicles were stopped at a traffic light in Headingly, the police vehicle had stopped with its front tires "*way over the line... well into the intersection*".

CW3 was one of the two prisoners that were brought to the WRC on October 23 by BPS¹. CW3 stated that he had a limited recollection of the incident as he was sleeping for much of the trip from Brandon to Winnipeg. CW3 stated that there were two police officers in the police vehicle but he did not know their names. CW3 stated that he was awakened when he felt the police vehicle "*swerve a bit*" and they "*almost got into a crash*". CW3 stated that when he looked up, he saw that they were right behind a vehicle and had almost hit it. CW3 stated that the police officers were swearing and that they "*...ran the plate*" of the car in front. CW3 stated that the police vehicle was passing a semi trailer truck and was driving "*...normal, around 100*". CW3 stated that he did not see any police officer use a spotlight or any bright light. CW3 believed that this the incident happened near "*the first set of lights when you are coming into Winnipeg*".

In response to the issued IIU media release dated October 29, 2021, CW4 had contacted IIU investigators by telephone and advised that he had witnessed this incident and wished to provide information. CW4 stated that on October 23, he was driving back to Winnipeg from Saskatchewan and was travelling eastbound on the Trans Canada Highway. CW4 stated at the St. Francois Xavier turnoff, he was in the process of passing a semi trailer truck. CW4 stated that he noted another vehicle behind him as he was passing the semi trailer truck. CW4 stated that suddenly, he observed, in his rear view mirror, that another vehicle had passed in between his vehicle and that first vehicle that was moving "*quite slow*" and caused it to brake suddenly. CW4 stated that he recalled seeing bright lights that were headlights of that vehicle that braked and were "*being flashed*". CW4 stated that when he had completed his pass of the semi trailer truck, he was now in Headingly. CW4 stated that the original vehicle that was behind him (and had to brake for the other vehicle), now passed his vehicle. CW4 stated that he noted that it was a marked BPS police vehicle. CW4 stated that this part of the Trans Canada Highway was subject to a speed limit of 70 km/h and the BPS police vehicle appeared to be travelling faster than the posted limit, though not an "*excessive speed*". CW4 stated that in his opinion, he did not believe that the police vehicle was operating in an improper manner. If anything, CW4 stated that the police vehicle was "*cut off*" by the other vehicle that suddenly pulled into the passing lane and forcing the police vehicle to immediately brake to avoid a collision. CW4

¹ To date, despite numerous attempts, IIU investigators have been unable to locate or interview the other prisoner transported to WRC that night

stated that it was his opinion that the actions of the other vehicle and not the police vehicle, had created a dangerous situation.

Witness Officers:

WO stated that he was the passenger in a marked BPS police vehicle operated on October 23 by SO. WO stated that they were transporting two prisoners to WRC. WO stated that he recalled this incident occurred just west of Winnipeg as they were “*coming in to the city*”. WO stated that their vehicle was approaching a semi trailer truck and that there was another vehicle which was just behind the semi. WO stated that SO moved their police vehicle into the passing lane, when the vehicle that was immediately behind the semi trailer truck suddenly pulled out in front of them, about “*...a car length or less*” and “*cut them off*”. WO stated that SO had to brake suddenly to avoid a collision. WO stated that these actions jolted one of the prisoners from his sleep in the back seat. WO stated that SO then “*...flashed his lights*” at the vehicle ahead. WO stated that this vehicle hit its brakes which caused SO to brake their vehicle again. WO stated that he decided to “run the plate” on his police vehicle computer and took a screen shot of this query². WO stated that the lead vehicle passed the semi trailer truck and moved back to the right lane. When the police vehicle passed the semi trailer truck, WO stated that they came along the side of that vehicle. WO stated that he activated on his “*right scene light*” from the light bar on top of the police vehicle, doing so to see who the driver was. WO stated that it was not his intention to “*blind that driver*” and only turned on this scene light when they had passed that vehicle. WO stated that as they were transporting the two prisoners to WRC, he and SO decided they were not going to do anything about the incident described as “*poor driving*” on the part of the other driver.

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, the subject officer declined to attend for an interview but did provide IIU investigators with a prepared written statement. The statement is summarized as follows:

SO wrote that he and WO were assigned to transport two prisoners to the WRC. SO was the driver of the marked BPS police vehicle. The drive was uneventful for the most part and the prisoners were either silent or asleep. When they were in the vicinity of Headingly, they came up behind a semi trailer truck that was followed by another vehicle. The truck and vehicle were travelling at a slower speed than the police vehicle. SO wrote that he pulled his police vehicle into the passing lane when, suddenly, the other vehicle moved into that lane and “*cut them off*”. SO wrote that this action caused him to “*slam on the brakes*” to avoid a collision. SO wrote that he asked WO to scan the vehicle’s license plate. When that vehicle completed its passing of the semi trailer truck it returned to the right lane. SO wrote that WO briefly activated the side light from the police vehicle to illuminate the vehicle and observe its driver. SO wrote that they could not stop their police vehicle due to the presence of the prisoners on board. SO wrote that SO took a photo of the license plate of this vehicle. SO wrote that they decided not pursue an issuance of a ticket to the registered owner of that vehicle.

² A copy of the screen shot was provided to IIU investigators

Conclusion:

In consideration of all of the relevant evidence available and, in particular, the account of CW4 (an independent witness to these events), I am not satisfied that the necessary reasonable grounds exist to support the laying of any Criminal Code or Highway Traffic Act charges against SO.

This matter is now complete and the IIU will close its investigation.

Final report prepared by:

Zane Tessler, civilian director
Independent Investigation Unit
July 14, 2022

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