



**IN THE MATTER OF AN INVESTIGATION INTO AN ALTERCATION
INVOLVING A MEMBER OF THE MANITOBA FIRST NATION POLICE SERVICE
ON JANUARY 21, 2023**

**FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT**

Civilian Director:	Roxanne M. Gagné
IIU File Number:	2023-0006
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Introduction:

On February 1, 2023, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit of Manitoba (IIU) of an incident involving an altercation between a member of the Manitoba First Nation Police Service (MFNPS) and a First Nation Safety Officer (FNSO) in Sioux Valley Dakota Nation (Sioux Valley).

The written notification disclosed the following information:

“On January 21, 2023, at 7:58 p.m., Westman Area RCMP responded to a call from Sioux Valley Security Officer affected person (AP) reporting a roll-over collision in Sioux Valley First Nation. Witness Officer (WO1) and witness officer (WO2) attended, AP advised member while on scene at the rollover there was an altercation with subject officer (SO) of Manitoba First Nation Police which ended with the SO pulling away and hitting the security vehicle with his work vehicle.

No damage was observed on the security vehicle.

Members spoke to the SO who advised that he was returning home from shift in his work vehicle and came across the collision. The SO stopped to investigate. The SO advised of the altercation with AP but denied any motor vehicle collision. No damage was observed on the MFNPS vehicle.”

As these allegations are considered discretionary matters under 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 conducted pursuant to s. 75 of the PSA. IIU investigators were assigned to this investigation.

The civilian director designated one subject officer (SO) and two witness officers (WO1-2).

IIU investigators obtained the following information from the RCMP, among other items:

- Computer Automated Dispatch (CAD) event for RCMP file;
- List of involved persons on RCMP file;
- Narrative Reports;
- Photographs of scene;
- Notes of WO1 and WO2;
- E-mail from WO1 to supervisor on January 25, 2023.

MFNPS also provided the following disclosure in this matter:

- Photographs of MFNPS vehicle 810, purportedly taken by SO;
- Unit history of MFNPS vehicle on January 21, 2023;

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- Audio recordings of SO communicating with MFNPS telecommunications center on January 21, 2023.

Background

The CAD event document supplied by the RCMP showed that the AP had called RCMP Telecoms at 7:58 p.m. on January 21, 2023, to report a single motor vehicle collision behind the school in Sioux Valley, and that "... also wants to report that MFNPS vehicle tried to hit him intentionally as he arrived on scene." There were no reports on the file however, it was later learned that WO1 had sent an e-mail to his supervisor about the matter on January 25, 2023, four days after the alleged incident, as follows:

"On January 21, 2023, AP with Sioux Valley Security told me and WO2 that an MFNP officer was at the location of a rollover and when AP went over to ask him if he had seen what had happened the MFNP officer started to tell him to F off and get out of his way. AP had parked next to him and when the MFNP guy left, AP said he hit his mirror and wheel. I noted no damage at all. We then went and spoke to the MFNP officer who said that AP had tried blocking him from leaving and did not hit him and showed there was no damage to his vehicle. Thinks AP is saying this as AP doesn't like him as he's arrested him in the past before. Just thought to let you know, I don't think that AP is telling the whole truth and I also don't think that any vehicles were hit. If they were it would've been AP's fault the way he parked and tried to make it so the MFNP guy couldn't leave. I need to ask WO2 what the other guys name is cause for the life of me I can't remember..."

The photographs supplied by MFNPS consisted of twelve photos of a Ford pickup truck, unit 810, allegedly obtained by the SO. The pictures, taken of multiple angles of the police vehicle, show no visible damage to the truck.

MFNPS supplied records showing that unit 810 was in the care of the SO on January 21, 2023.

Facts and Circumstances

Scene Examination

On February 7, 2023, IIU investigators attended the scene and obtained photographs of the area. As a result of the passage of time between the incident and when a notification was made to the IIU, no further analysis was conducted at the scene.

An examination was conducted of the front left corner of AP's vehicle. There was no damage noted. The AP claimed that the alignment of the tires on the truck was impacted by the alleged collision. In subsequent inquiries with AP, it was determined that no repair to the alignment was ever done.

Canvass

The scene is located in a remote location, and no homes were noted in close proximity to the area. As such, no canvass was conducted.

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Affected Person

On February 7, 2023, the AP provided a statement. He indicated that on January 21, 2023, he was fueling up his work truck at approximately 7:21 p.m. when he received a phone call from CW3 reporting that there was a vehicle rolled over in the ditch near the school in the community. Approximately ten minutes later, he arrived at the scene and saw SO, CW3 and CW4. SO, who is a resident of Sioux Valley, was in his MFNPS uniform and in a marked MFNPS pickup truck.

AP said there was a red Jeep in the ditch on its side, so he pulled up alongside SO's police vehicle, approximately five to six feet away, and shone his lights in the ditch on the Jeep, as he did not know what was going on and whether there were people inside. The AP got out of his truck and approached SO, who was in the driver's seat of his police truck, with the intention of asking the officer if he had seen anything related to the Jeep. However, SO spoke first and told AP to "*Fuck off.*" AP asked SO what was going on and SO again said, "*Fuck off,*" and "*move,*" referencing AP's vehicle.

The AP told SO he was not moving as he was working at the scene, and told the MFNPS officer he had lots of room to back up and drive off. SO responded by swearing again, and AP said he became angry and started swearing back. At that point, SO put his vehicle in gear, turned the wheel to the right and drove towards AP, who moved to get out of the way of the MFNPS truck. During this action, SO intermittently applied gas to his truck causing the police vehicle to jerk, stop and go, stop and go, all the while yelling that the FNSO program was a joke. AP said if he had not moved, SO would have run over his leg with the right front tire of the MFNPS vehicle. The AP added that SO's truck touched the left front corner of his truck, specifically the tire and edge of the left fender. The AP stated that the SO then backed up his police vehicle and as he did so, he turned his steering wheel to the right causing the front end of the MFNPS truck to swing towards AP. He believed this was an effort to try and hit him again. The SO then drove off. There were no blows exchanged or threats uttered between SO and AP during the verbal altercation. SO remained in the driver's seat of his police vehicle at all times.

AP acknowledged that he and SO have a contentious relationship from past dealings.

Summary of Witness Interviews

WO1

On February 14, 2023, IIU investigators interviewed WO1. He stated that he was partnered with WO2 working a night shift, when they received a call of a single vehicle rollover in Sioux Valley from RCMP Telecoms. Upon attending the scene, only two FNSO's were present, including one he knows as AP and CW3. AP told WO1 that when he arrived at the collision scene, SO was already there in a marked pickup truck. AP said he drove over to SO's vehicle and approached SO, asking him if he (SO) had seen anything or anyone at the scene when he arrived. SO became belligerent immediately, and began to swear at him (AP), telling him to "*F off, get out of here, get out of my way...*" The MFNPS officer then turned his vehicle wheels towards AP, at which point AP returned to his vehicle and SO drove off. WO1 said AP added that as SO was leaving,

he struck the wheel well above the front left tire and driver's side mirror of the FNSO vehicle AP was in. WO1 looked at the bumper and mirror and found no damage.

WO1 and WO2 then drove to SO's residence to speak with the SO about the incident. The SO brought the two RCMP officers to his truck and showed them the vehicle. WO1 said he observed no damage.

CW1

On May 17, 2023, IIU investigators obtained a statement from CW1. He stated that he attended the collision scene on Sioux Valley, where he observed SO stopped in his MFNPS police vehicle. CW1 had a brief conversation with the SO then returned to his own vehicle, when AP drove up quickly and parked very close to the passenger side of SO's truck, so close that SO could not drive forward without making contact with the AP's vehicle. CW1 stated he did not hear any conversation between SO and AP. The FNSO reversed his vehicle and allowed SO to drive forward. CW1 stated he did not see any contact between SO's truck and AP's vehicle.

CW2

IIU investigators attempted to obtain a statement from CW2 but were unsuccessful. They did however speak with him by telephone on April 12, 2023 and he stated that the AP arrived and parked behind SO's work vehicle, preventing the MFNPS officer from leaving. CW2 said he heard AP swearing at someone, but did not hear SO swearing. CW2 did not observe the SO's vehicle move as he was walking back to his own vehicle.

CW3

On February 7, 2023, IIU investigators obtained a statement from CW3 who stated that he came across an unoccupied vehicle rolled over in the ditch in Sioux Valley. Following his arrival, CW4, a local resident, and SO of MFNPS arrived on scene in separate vehicles. The AP drove up a short time later and parked his vehicle beside SO's vehicle. CW3 said AP's vehicle was one to two feet away from SO's truck.

According to CW3, AP and SO greeted each other initially. CW3 told AP that there was no one in the vehicle in the ditch, and that they should call a tow truck, and AP, who had not exited his truck, made the call. At this time SO, who was still in the driver's seat of his MFNPS vehicle, told AP to "*Get the fuck out of the way.*"

CW3 said he and CW4 were standing about ten to fifteen feet away from SO and AP, and could hear them swearing at each other. He heard SO say, "*Get the fuck out of the way,*" and AP reply that he was trying to get out of the way, then observed SO back up, then drive towards AP's vehicle in a jerky motion. SO repeated the actions a second time, and CW3 called out to them to stop what they were doing and SO ceased swearing, backed up and drove off quickly. After SO drove off, AP got out of his truck and said SO had hit him, although the witness said he did not see SO's truck contact AP's due to where he was standing. CW3 said he checked AP's truck and saw a rub mark on the front left tire. CW3 said there was nothing behind SO's vehicle that would have prevented him from simply backing up and driving away.

CW3 added that there is a conflict between AP and SO, and described SO as being unpleasant to many people in the community.

WO2

On February 14, 2023, IIU investigators interviewed WO2. He stated that he was partnered with WO1 on January 21, 2023. They were responding to an unrelated call in Sioux Valley when they received a dispatch about a single-vehicle rollover collision in the community. They arrived on scene shortly after 7 p.m. and observed two Sioux Valley security guards, CW3 and AP. WO2 said he went to the vehicle in the ditch, and then went to talk to CW3, while WO1 spoke with AP. He later learned AP had reported that SO had been at the scene earlier and had run AP off the road, hitting his security vehicle in the process. AP reportedly did not say if SO ran his vehicle off the road or if SO ran AP himself off the road.

WO2 and WO1 went to SO's residence, and spoke with SO about the matter. SO admitted to swearing at AP. He said AP and him were swearing at each other back and forth. He denied hitting AP's vehicle. SO showed the RCMP officers his police vehicle, a fully marked MFNPS Ford pickup truck, which was parked in his yard. They did not see any damage to it. SO added that he had arrested AP in the past and the AP held a grudge because of that, speculating that was why the complaint had been made.

WO2 stated they did not take any statements, as they wanted to consult with supervisors first to get guidance. WO2 did not make any notes about the incident at the time, and only did them on February 8, 2023.

Subject Officer

SO declined to be interviewed by IIU investigators in connection with this investigation. He did supply a prepared statement via legal counsel, which contained the following notation regarding his interactions with the AP at the scene:

"I observed a white Dodge Truck (Sioux Valley Security Truck) pull up to my front passenger side of my unit approximately one foot away from my front bumper. AP exited the truck. I asked him to move. AP asked why the Fuck I was parked like that? I stated I had a long day and I was leaving. I asked him to move again. We ended up swearing at each other. I matched AP's tone of voice, in terms of tone. I was essentially parked and boxed in. AP backed up and I drove around his front driver side."

The SO denied hitting the AP's vehicle.

Crown Opinion

On June 23, 2023, the civilian director sent a copy of the IIU investigative file to Manitoba Prosecution Services (MPS) requesting a Crown Opinion. On August 21, 2023, MPS provided their opinion stating that there isn't a reasonable likelihood of conviction in this matter:

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“Manitoba Prosecution Service (MPS) has reviewed the IIU investigation of (the 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 evidence, we have concluded that there isn’t a reasonable likelihood of conviction.”

Conclusion

In this investigation, the IIU’s mandate is to consider whether the SO committed an offence under the *Criminal Code* or other laws. The civilian director has thoroughly considered and reviewed all of the available evidence, as well as the Crown opinion received by MPS. The civilian director has concluded that given all of the evidence, there are no reasonable grounds to believe that the SO committed the alleged assault with weapon (his vehicle). None of the witnesses observed the alleged contact by the SO’s vehicle, there is no evidence of damage to the SO’s vehicle, nor is there any evidence of damage to the AP’s vehicle, as alleged. Further, given that MPS’s opinion is that they are not satisfied there is a reasonable likelihood of conviction, and therefore the standard for prosecuting charges has not been met, the civilian director will not consider authorizing any charges that will not lead to a prosecution before the courts.

This investigation is now completed and this matter is now closed.