

FINAL REPORT: IIU investigation into allegations of criminal conduct by an off-duty RCMP member concludes

On February 10, 2021, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit of Manitoba (IIU) of allegations of criminal behaviour by an off-duty RCMP member in northern Manitoba.

This notification concerned allegations of an unauthorized use of a cellular phone, mischief and criminal harassment all occurring in and around December 26, 2020 and arising out of a failed relationship with the Affected Person (AP). An excerpt of the written version of this notification read, in part:

“On February 1, 2021, RCMP received a complaint...that the subject officer (SO)...had allegedly gained unauthorized access to the cell phone of his ex-girlfriend...[AP] had advised that SO...viewed messages...as well as other personal conversations back on December 26, 2020, from her personal phone...it was also alleged that SO has other people use the Find My Friend mobile phone tracking application to track [AP]’s physical location...furthermore, SO has other people drive by [AP]’s residence to check on whereabouts...”

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.

Among the information obtained and reviewed by IIU investigators, included:

- RCMP occurrence report
- CPIC license plate checks
- witness officer notes
- audio statements of witnesses taken by RCMP
- screenshots of iPad messages

The civilian director designated the involved officer as the subject officer (SO). Two RCMP members were designated as witness officers (WO1-2). IIU investigators also met with and interviewed AP. IIU investigators reviewed two witness interviews conducted by the RCMP (IIU investigators determined that neither of these witnesses offered any direct evidence in respect of the allegations). Another civilian witness declined to meet with IIU investigators.

Due to the nature of the relationship between SO and AP and the facts and circumstances of the evidence gathered in this matter, it was determined that privacy rights may be jeopardized by reporting specific details of this information. Accordingly, most of this information will be referenced in general terms.

AP

AP stated that she was previously in a relationship with SO for nine years and they have one child together. The relationship ended in or around September 2020. AP stated that she moved to a different location in Manitoba to live separate and apart from SO. Child visitation agreements were reached between AP and SO to allow him to maintain an ongoing relationship with the child. AP stated that she became involved in a new relationship in or around late December 2020. AP stated that on December 26, 2020, SO was at her residence to visit with their child. AP stated that she advised SO she was going out for a while (although she did not tell him where or with who, particularly as she did not believe she had to disclose that information). AP stated that she has an iPad at her home and left it there when she went out.

AP stated that she met with SO on January 28, 2021 at which time he confronted her about seeing someone else. SO then advised her that he had accessed her iPad and read her personal and private messages, particularly those concerning herself and her new “boyfriend”. AP stated that SO also advised that he had asked another individual to use the “Find My Friends” or “Find My iPhone”¹ application to track her whereabouts whenever she was out of the house. AP stated that SO had provided specific dates and locations where she had been located. AP stated that she believed that SO had enlisted the services of other persons to track and report the location of her vehicle or whether other vehicles were parked in her driveway.

Witness Officers

WO1 is the supervisor of SO. WO1 stated that she knows AP through SO. WO1 stated that sometime in late January or February 2021 she was speaking with SO where she asked him about him visiting his child. WO1 stated that SO disclosed that he knew that AP was involved in a new relationship and that he was “really happy for her”. WO1 stated that SO advised that on December 26, 2020, he was at AP’s home and while dealing with his child, saw a number of messages showing up on AP’s iPad. SO stated he started to read the message conversation, which included some disparaging remarks about himself. SO further stated that he also read messages that concerned AP’s new relationship. SO stated that AP had provided him with a passcode to unlock the iPad. SO also told WO1 that he was advised by another person that they had used the Find My Friend application (as they were given permission by AP on a prior occasion) and had tracked AP to a residence. WO1 stated that she asked SO if he was using this

¹ The “Find My Friends” application is a location sharing tool which allows people to locate persons using their iPhone or other Apple device. The App uses a device’s global positioning system (GPS) capabilities to find other persons using the application. The “Find My iPhone” application allows a user to track their lost iPhone, or other Apple devices. If one loses such a device, one can use the applications on another Apple device to see its last known location using GPS.

person to keep track of AP through that application. SO responded that he did not request that person to track AP on his behalf but did so for their own purposes.

Subsequent to this interview, WO1 contacted IIU investigators to advise that the conversation with SO occurred on December 31, 2020.

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 declined to attend for an interview but provided a prepared statement for review.

In that prepared statement, SO wrote:

I understand that the IIU is conducting an investigation into allegations...that I looked at private messages on an iPad belonging to [AP] without her consent and had persons check on [AP]'s whereabouts, which, if true, may be considered conduct that constitutes criminal harassment.

I can advise that access to the iPad had been granted by [AP] in order to use it to play soothing sounds...for our son who needs noise to help him fall asleep. I deny ever having committed an offence in relation to reading private messages on the iPad.

I can also advise that I have never directed any person to follow, visit, or in anyway check on the whereabouts of [AP].

Conclusion

The entire investigative file was referred to Manitoba Prosecution Service (MPS) with a request that a Crown opinion on whether criminal code charges would be authorized in this matter. MPS provided IIU with a Crown opinion in which it advised that it was not recommending any criminal charges against SO.

MPS stated the following:

“Manitoba Prosecution Service (MPS) has reviewed the IIU investigation of [SO]. While it is always in the public interest to hold police officers accountable, inclusive of off duty conduct, 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 a reasonable doubt exists as to whether the officer’s alleged off duty conduct could be proven beyond a reasonable doubt. In addition, some of the alleged off duty conduct has no basis for criminal liability.

When MPS is consulted for charge authorization in any criminal matter, we employ the same standard for proceeding with criminal charges.”

MPS has advised that they are not satisfied there is a reasonable likelihood of conviction of SO and therefore there are no grounds to justify any criminal code charges to be authorized against SO by MPS.

Accordingly, the IIU investigation and this file is closed.

Final report prepared by:

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Independent Investigation Unit
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