

FINAL REPORT: IIU concludes investigation into allegation of assault by on-duty MFNPS police officer

On August 16, 2022, the Manitoba First Nations Police Service (MFNPS) notified the Independent Investigation Unit (IIU) of an incident where an alleged assault of a suspect by an on-duty officer occurred during an attempted lockup in cells.

The written notification disclosed the following information (edited for clarity):

“While lodging the affected person (AP) for mischief, AP aggressively attempted to come out of the cell while the cell door was being closed. The subject officer (SO) had to push her back into the cell as she was grabbing onto SO’s vest, tools and hands. In the process AP tripped over the toilet and fell. She clipped her head on the bench in the cell as she fell. No injury was apparent initially, but after speaking with AP once she calmed down she showed members a small cut on the top of her head. She was transported to Portage hospital emergency where she received 2 staples to close the small cut. She was cleared by the doctor and then brought back to cells for a sobering period. She was not admitted to the hospital”

As this notification concerns an allegation of assault, a discretionary matter under the provisions of the Police Services Act (PSA), the civilian director determined that, based on these circumstances, it was in the public interest for an independent investigation to be undertaken. Accordingly, pursuant to s. 75 of the PSA, IIU assumed conduct of this matter and commenced an investigation. IIU investigators were assigned to this matter.

Among the agency information obtained by IIU Investigators included:

- 911 telephone call history and audio;
- audio of MFNPS radio transmissions;
- occurrence summary;
- MFNPS officers’ notes and narratives;
- use of force report;
- use of force policy;
- cell block surveillance video

The civilian director designated the involved officer as SO. 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 her narrative and the use of force reports to IIU investigators. SO did not agree to participate in an interview with IIU investigators.

The civilian director designated a MFNPS officer as a witness officers (WO). IIU Investigators met with and interviewed AP and a civilian witness (CW), a cell guard on duty during the incident.

IIU investigators also reviewed a cell block surveillance video that captured the incident under investigation.

Facts and Circumstances

SO and WO were dispatched to a residence on Long Plain First Nation in response to a call for service concerning an intoxicated female. Once the female (later identified as AP) was located, it was determined that given her intoxicated state, she would be lodged at the MFNPS Long Plain Detachment (Detachment) for her own safety and until she was sober. AP was not compliant with MFNPS officers or their directions. AP attempted to put her arms around SO on several occasions to which SO advised AP not to touch her. AP was transported to the Detachment where she again attempted to put her hands around SO who again advised AP to stop. In her interview with investigators, AP stated that she was trying to “hug” SO because she did not want to be housed in cells.

Once AP was brought inside the Detachment, she was escorted down a hallway to a cell. The cell had a heavy metal sliding door that moved from the left to the right. There was a toilet on the inside to the left, positioned on an angle and slightly encroaching into the area where you enter, approximately 2.5 to 3 feet from the door. Along the left wall and the wall directly across from the doorway was an L-shaped bench, made of concrete and steel. A thin removable mattress covered the top of the bench. The end of the bench ran along the left wall and was quite close to the toilet. The entire cell was a small room and confined space.

Once AP was put into the cell, SO tried to close the sliding door. AP became upset and refused to enter the cell. SO attempted to push AP into the cell but AP began to flay, grabbing at SO’s vest and was successful in pulling her issued flashlight off of it. SO was concerned that AP would pull more items from the vest and potentially attack her so she pushed AP with both hands back into the cell. AP fell backwards and tripped over a toilet, with her head grazing the bench and causing a laceration. AP was taken to hospital where she received two staples to close the wound and was returned to custody. Witness interviews and a review of the cell video recording confirms this encounter.

By all accounts, SO was described as calm and polite during her dealings with AP. AP stated that she did not believe that SO acted out of anger or intent to injure but was just trying to get her to stay in the cell.

Conclusion:

During her interactions with AP, SO was in the lawful execution of her duties as a police officer. AP was in the lawful detention of police due to her public intoxicated state and non-compliant behaviour. AP was not justified in placing her hands on SO’s person. She was warned a number of times not to touch SO. AP’s actions at the cell door can best be described as an assault against SO. SO was justified in defending herself, using reasonable force to repel AP and use necessary force to secure her in the cell.

A review of all the evidence, including the interview with AP, confirms that SO did not apply excessive force or intended to cause harm or injury to AP. The unfortunate confined design of the cell contributed to the injury that resulted to AP.

I am satisfied that in the circumstances, SO did not commit an assault on AP during the course of the detention in cells. There are no reasonable grounds in this matter that would justify the laying of any charges against SO.

As a result, this matter is now closed.

Final report prepared by:

Zane Tessler, civilian director
Independent Investigation Unit
January 04, 2023

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