



**IN THE MATTER OF AN INVESTIGATION INTO A SERIOUS INJURY RELATED
TO A MOTORCYCLE ACCIDENT INVOLVING WINNIPEG POLICE SERVICES**

FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT

Acting Civilian Director:	Bruce M. Sychuk
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Introduction

On April 7, 2024, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit of Manitoba (IIU) of an incident.

The written notification disclosed the following information:

Excerpt from Part 7 Notification received on April 8, 2024:

On Saturday, March 18th, 2024 WO3 and WO4 were in the area of Point Douglas when they observed a male operating a 2016 Hyundai Accent, black in colour to be registered to a rental company. Officers attempted to conduct a traffic stop on the vehicle. Officers approached the vehicle and requested the driver produce his driver's license, vehicle registration and a copy of the rental agreement. The driver provided his driver's license, identifying as AP, but refused to produce the vehicle registration or rental agreement. As officers returned to the cruiser car to conduct computer checks, AP suddenly fled from police in the vehicle at a high rate of speed. Multiple police units subsequently attempted to apprehend AP, but the pursuit was aborted. A warrant of arrest was subsequently issued for AP.

On Sunday, April 7th, 2024 WO3 and WO4 were patrolling in the Point Douglas area when they observed AP operating the same rental vehicle from the previous incident. Aware of the outstanding warrant of arrest, as well as the fact AP has a lifetime prohibition from driving, officers attempted to conduct a traffic stop on the vehicle. AP immediately fled from police north bound at a high rate of speed. Officers did not attempt to engage in a pursuit.

Officers located the rented vehicle and noted the engine was still hot. SO1 and WO1 observed a red motorcycle exit the rear lane believing the operator to be AP. Computer checks revealed the licence plate was registered to a different motorcycle and that it had expired. SO1 and WO1 attempted to conduct a traffic stop and AP immediately fled from police at a high rate of speed.

SO1 and WO1 did not attempt to pursue but voiced the location of the motorcycle to other units in the area. AP attempted to pass a civilian vehicle that was conducting a left-hand turn. AP struck the driver's side door of the vehicle, launching AP into the air, where he landed in the front yard of a nearby residence. As the civilian driver attended to aid AP, he got to his feet and attempted to hop away from the scene.

SO1 and WO1 came across the scene of the collision and observed AP hopping away. Officers gave chase and were able to apprehend AP after a brief use of force encounter.

Paramedics attended the scene and conveyed the AP to the HSC in unstable condition. A subsequent medical examination determined that the AP had suffered a number of bruises and lacerations, as well as a fractured right tibia. He was admitted to the hospital as he will require surgery for his injured leg.

As this matter concerned injuries during arrest, the IIU assumed responsibility for this investigation in accordance with Sec. 65(4) of The Police Services Act. IIU investigators were assigned to this investigation.

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

- notes, narratives and reports of officers
- radio transmissions

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- scene photos
- use of force report
- medical reports

The civilian director designated one subject officer (SO1) and seven witness officers (WO1 to WO7). IIU investigators also received information from AP and three civilian witnesses (CW1 to CW3).

Facts and Circumstances

Scene Examination

IIU investigators attended the scene and were provided scene photos by Forensic Identification Services. IIU investigators canvassed the area, which resulted in a further civilian witness. No CCTV cameras were located in the area.

Interviews

Affected Person

AP was interviewed by IIU investigators on April 9, 2024, and provided the following information:

AP confirmed he was driving his uninsured motorcycle when he observed officers turn on their lights. AP decided to flee the officers and confirmed that he was able to get away and tried hiding in his gym parking lot.

AP confirmed that in his efforts to flee the police, he was exceeding the speed limit and putting his and other lives in jeopardy due to his actions.

Officers attended to the gym parking lot and observed AP, at which point, AP attempted to flee again. As AP was driving, he attempted a lane change and struck the driver's side of a vehicle and flew over the vehicle, landing in the front yard of a residence. AP did not know what part of his body hit the ground first, but AP knew his leg was broken.

AP tried to get up and took three steps before he heard voices saying to lie down. AP did not know if that was officers or civilians who told him to lie down. AP confirmed officers were on scene in five to 10 seconds.

AP said he was handcuffed, and then officers removed his helmet and he was turned over. AP apologized to officers at this point for his actions. AP stated that there was a group of officers around him at this point and one of the officers started to punch him numerous times in the head. AP stated that the assault lasted for a minute and the other officers turned away while this was occurring.

AP stated that the punches injured his teeth and fractured his eye socket.

It should be noted that the civilian witnesses observed AP's helmet fall off immediately after the collision with the vehicle. Further, the civilian witnesses noted only two officers attending to AP's arrest.

Civilian Witnesses

Civilian Witness 1 (CW1)

CW1 was interviewed by IIU investigators on April 10, 2024, and provided the following information:

CW1 was driving her vehicle when AP collided with her driver's door and flew over the hood of her car, landing in the middle of the roadway. CW1 noted that AP's helmet came off after hitting her vehicle.

CW1 exited her vehicle to assist AP, asking if he was alright. CW1 noted blood coming out the top of AP's head. CW1 turned her head back towards her vehicle, at which point AP started to quickly walk away. AP was about to walk in between two houses when police arrived on scene. CW1 did not see AP after police arrived.

Civilian Witness 2 (CW2)

CW2 was interviewed by IIU investigators on April 11, 2024, and provided the following information:

CW2 was stopped behind CW1's vehicle as AP collided with it. CW2 did not see where AP landed. CW2 pulled her vehicle over and observed AP's leg was bloody. CW2 grabbed AP's helmet and threw it onto the sidewalk. CW2 observed AP hopping away and moving in between two houses before sitting on the ground. Police arrived shortly after and arrested AP. CW2 did not see any officer hit or strike AP. CW2 estimated the officers were with AP for less than a minute before his arrest.

Civilian Witness 3 (CW3)

CW3 was interviewed by IIU investigators on April 9, 2024, and provided the following information:

CW3 heard a noise and looked out her window, observing AP on the front of her lawn. CW3 saw AP try and hop away and noted he did not have a helmet on, as she noted blood on his face. CW3 recalled that police were on scene shortly after the accident, but she did not see AP's arrest.

Witness Officers

Witness Officer 1 (WO1)

WO1 was interviewed by IIU investigators on June 21, 2024, and provided the following information:

WO1 was partnered with SO1 at the time of the incident. WO3 had radioed that there had been a visual on AP in a black Hyundai accent, but it sped away. WO1 and SO1 went to the known address of AP and noticed a red motorcycle with AP driving. WO1 and SO1 activated their lights and followed AP, but he sped off. WO1 and SO1 were able to run the license plate, confirming it did not match AP's motorcycle. WO1 and SO1 lost sight of AP and radioed it in. WO2 advised that AP was spotted again and WO1 and SO1 drove to that area.

As they were driving near the area, WO1 noticed an individual in the distance hopping on a front lawn. As they came closer, WO1 recognized that it was AP and both exited the vehicle to advise AP that he was under arrest.

As AP continued to hop away from the officers, WO1 noted that AP's head was bloody, that his leg was injured and he was not wearing a helmet. WO1 and SO1 told AP to go to the ground, but they had to pull him down to the ground by his arms. AP was wearing a big backpack that they tried to remove so they could handcuff him. AP was not providing his arms to the officers and was apologising for his actions. AP would not give up his arms which resulted in SO1 punching AP approximately 4 to 5 times. AP became compliant after the punches. WO1 confirmed that at the time of the arrest, they were the only officers on scene. More officers attended shortly after. WO1 confirmed that the punches by SO1 were the only force used on AP.

Witness Officer 2 (WO2)

WO2 was interviewed by IIU investigators on June 27, 2024, and provided the following information:

WO2 was one of the officers in the area searching for AP on his motorcycle. WO2 gave directions to the other officers to not engage in a pursuit of AP. WO2 heard over the radio that AP had been located by WO1 and SO1 and that they were in foot pursuit. WO2 arrived shortly after and observed the motorcycle on the street and a helmet on the front lawn. AP was already in handcuffs by the time he arrived.

Witness Officer 3 (WO3)

WO3 was interviewed by IIU investigators on May 31, 2024, and provided the following information:

WO3 confirmed that he was partnered with WO4. WO3 and WO4 were both involved in the original pursuit of AP while he was driving the black Hyundai accent. WO3 and WO4 again recognized AP on the date of the incident, driving the Hyundai accent again. They tried to initiate a traffic stop, but AP drove away and they did not pursue. WO3 and WO4 heard on the radio that AP was now driving a red motorcycle. They continued to search for AP, following directions heard in the radio transmissions.

WO2 radioed that AP was involved in a collision and had been arrested. WO3 and WO4 attended the scene and observed that AP had an injured head and leg. WO3 confirmed AP was not wearing a helmet at this time.

Witness Officer 4 (WO4)

WO4 was interviewed by IIU investigators on June 21, 2024, and provided the following information:

WO4 confirmed that he and WO3 were involved in the original pursuit of AP in the car. WO4 also confirmed that they had observed AP driving the same vehicle earlier in the day when he fled from them. WO4 confirmed that they attended the scene after the arrest and observed that AP had injuries to his head and leg. WO4 confirmed that AP was not wearing a helmet.

Witness Officer 5 (WO5)

WO5 was interviewed by IIU investigators on June 21, 2024, and provided the following information:

WO5 confirmed that his unit was one of the vehicles involved in the search for AP. WO5 observed AP on his motorcycle, however, he fled the area and they did not pursue as directed. WO5 confirmed that he attended the scene after AP was arrested and noted injuries to his head and leg. WO5 did not see a helmet on AP and did not witness any officer use of force.

Witness Officer 6 (WO6)

WO6 was interviewed by IIU investigators on May 31, 2024, and provided the following information:

WO6 was partnered with WO5 and confirmed that they observed AP on his motorcycle, but AP fled the area. WO6 confirmed that they did not pursue as directed and arrived on the scene after the arrest.

WO6 observed that AP had been arrested and had injuries to his forehead and leg. WO6 did not observe any officer use of force on AP.

Witness Officer 7 (WO7)

WO7 was interviewed by IIU investigators on June 21, 2024, and provided the following information:

WO7 confirmed that he was partnered with WO6. WO7 stated that they observed AP on his motorcycle and that AP fled the area. WO7 confirmed they did not pursue AP as directed.

WO7 came upon the scene after AP was arrested and noted the injuries to the head and that AP was not wearing a helmet.

Subject Officer

In accordance with his rights, SO1 declined to be interviewed by IIU investigators. However, he did provide a narrative and use of force stating the following:

SO1 and WO1 attempted to stop AP on his motorcycle, however he fled. They continued to search the area and came upon the collision and observed AP hopping away. SO1 noted that AP had blood on his head and that his leg was injured.

SO1 and WO1 dragged AP to the ground where he turtled. SO1 and WO1 directed AP to give up his hands and AP did not comply. SO1 delivered four or five punches to AP's head, at which point AP complied.

SO1 noted that AP already had a goose egg on his forehead prior to the punches and that his head was bleeding.

Other evidence

Medical Reports

The medical report confirmed that AP had a broken leg, along with lacerations to his arm, head and knee. Further, it was noted that AP had a fracture to the orbital floor.

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Applicable Law

Criminal Code of Canada

All relevant sections of the Criminal Code of Canada were considered with respect to this incident. Secs. 25(1), 25(3) and 25(4) of the Criminal Code of Canada have been emphasized here for consideration:

25 (1) Everyone who is required or authorized by law to do anything in the administration or enforcement of the law

- (a) as a private person
- (b) as a peace officer or public officer
- (c) in aid of a peace officer or public officer
- (d) by virtue of his office,

is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

(3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm.

(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if

- (a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested
- (b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant
- (c) the person to be arrested takes flight to avoid arrest
- (d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm
- (e) the flight cannot be prevented by reasonable means in a less violent manner

Conclusion

In consideration of all the evidence provided, I am satisfied that the actions of the subject officer were reasonable. Therefore, no charges are recommended and the IIU investigation is now completed and closed.