



**IN THE MATTER OF AN INVESTIGATION INTO OFF-DUTY INCIDENT
INVOLVING A DAKOTA OJIBWAY POLICE SERVICE OFFICER**

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

IIU File Number:	2017-0029
Decision made by:	Zane Tessler, Civilian Director
Report drafted by:	Roxanne M. Gagné
Date of Release:	January 9, 2024

Introduction

On July 5, 2017, Dakota Ojibway Police Service (DOPS) notified the IIU that it received information alleging that one of its officers was involved in an incident, several weeks earlier, where a weapon may have been brandished.

The written notification disclosed the following information:

“On July 5, 2017, at 10:30 a.m., an incident was brought to DOPS (supervisor) regarding subject officer (SO) and his off duty conduct that occurred proximately 3 weeks ago. DOPS supervisor advised that he spoke with one civilian witness (CW1), who indicated that he had heard SO while off duty was intoxicated at his Brother’s residence and had chased AP with a knife, several weeks ago. CW1 further indicated that affected person (AP) informed him what happened and that SO stated, “I can do what I want, I don’t work here anymore”. CW1 was unable to provide additional information regarding this incident.

At 12:00 p.m., DOPS supervisor located SO outside of the Waywayseecapo Food-Mart to discuss what he was informed of earlier in the morning. SO was hesitant to provide details of what transpired at the residence of CW3 approximately two weeks ago. AP stated, “One of your guys, had chased me with a knife”. He then informed DOPS supervisor that he did not wish to proceed with this matter.

At 12:10 pm, DOPS supervisor again spoke with AP who indicated that he was at the residence of a CW3 partying, and that he was intoxicated. Also in attendance was a CW (no last name provided) along with SO who was highly intoxicated according to AP. AP indicated that he was chased inside the residence and fled outside for his safety and stopped in an open area. He then stated to DOPS supervisor, “Fuck that, if I’m going to get stabbed up”. AP again advised DOPS that he did not wish to proceed with this matter, however upon further questioning by DOPS supervisor, AP divulged that a knife was produced by SO.”

These allegations are considered as discretionary matters under the provisions of The Police Services Act (PSA). Civilian Director Zane Tessler, as he then was, determined that it was in the public interest for an independent investigation to be conducted pursuant to Section 75 of the PSA. IIU investigators were assigned to this investigation. The civilian director designated one subject officer.

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

- DOPS agency information – email reporting incident;
- DOPS investigation sheets.

This document is the property of the IIU and is not to be distributed to any other party without the written consent of the IIU.

Facts and Circumstances

Affected Person

On July 12, 2017, IIU investigators interviewed AP. AP stated that he had been drinking on a weekend in June. He received a text in the early evening from his friend, SO's brother. SO's brother asked him to come over to his residence as he and his brother, the SO, were there drinking. They were drinking, talking for awhile. AP said that he (AP) "blacked out" (AP described the term "blacked out" as drinking too much and not remembering anything) for a bit and when he came out of it, he was being chased with a knife in the kitchen area by the SO. AP could not recall specifically what SO said when he grabbed the knife and does not recall SO threatening to stab him. AP recalled that he and SO had gotten into an argument beforehand but isn't sure what the argument was about. He did say that they were yelling and swearing at each other and that was when SO grabbed a knife. SO said he was going to beat up AP. AP stated he, "kind of remember him (SO) grabbing a knife and trying to stab me (AP) with it and we were running around inside the house." AP could not recall any specific motions that SO made with the knife. AP described it as possibly a black-handled kitchen knife and said that SO possibly got it from the sink or a drawer. AP said he had been near the stove initially and then went around the table so that SO couldn't catch him. AP said SO was yelling and trying to calm SO down. AP made it to the door when CW2 told him that they should leave, so they did. AP said it was dark outside when they left and recalled SO coming to the door after they were already outside and walking away. AP believed they were at the residence for two or three hours in total.

AP stated that the total time he was at the residence was less than five minutes. AP said that he drank three mixed vodka drinks. AP described himself as kind of drunk saying, "I was buzzed up pretty good." AP had not seen or talked to SO since this incident occurred. He does recall telling someone the following day that he and SO had an argument and that SO had pulled a knife and tried to stab him. SO also told the person that he barely remembered the incident and that CW2 had told him about it in the morning. SO's brother said he received a text from AP the morning after the incident saying that he didn't know what had happened but that he had no problem with AP and had only been trying to calm SO down. AP stated that he usually attends SO's brother's residence every other weekend as they are good friends. AP said he has never drank with SO before but knows that he was a police officer working with the DOPS at Waywayseecappo until recently transferring out. AP has not had any dealings with SO as a police officer and prior to seeing SO in March, he had not seen him in three or four years. AP knows SO well as they grew up playing hockey together when they were younger.

Civilian Witnesses

CW1

On July 12, 2017, IIU investigators interviewed CW1. CW1 stated that he was approached by AP who told him that he had been at a party where SO was also present and “partying.” AP told CW that he had got into an altercation with SO. AP said that SO pulled out a knife and he didn't know what to do so he took off running. AP stated to CW1 that SO followed him and then said that he could do whatever he wanted because he wasn't employed by the Band anymore. CW1 said that AP did not tell him the date or place of the party or who else was in attendance. CW1 reported the incident to DOPS supervising officer.

CW2

On July 12, 2017, IIU investigators obtained a statement for CW2. She was at the residence with the AP and SO. She said that AP may have had a drink but is she is not certain. She noticed that SO kept looking at AP and whispering in CW7's ear that he was going to stab SO and fight him. CW2 estimates that SO said he wanted to stab AP about six separate times. She recalled that AP didn't know what was being said by SO until they left and she told him about it. She believed that SO was "kind of drunk" because of the way he looked and recalled him drinking Budweiser beer. CW2 said as she and AP were leaving, AP and SO shook hands and as AP was walking out, she saw SO take a pocketknife out. She said that SO kept lifting the knife up then putting it back down and into his pocket. She described this action as SO opening the blade. CW2 said that as soon as she and AP had arrived at the residence, SO pulled a knife out of his right pants pocket. CW2 described the knife as a red- and black-coloured pocketknife with a blade approximately five or six inches long that folds into the handle. She never saw SO make any motion with the knife toward AP nor did she see him chase anyone with the knife.

CW3

On July 12, 2017, IIU investigators interviewed CW3 (SO's brother). CW3 stated that the incident was at his residence. He said AP and CW2 walked inside his residence without knocking and were only inside for approximately five or six minutes and is certain it was less than ten minutes in total. They didn't bring any liquor or anything else into the residence with them. CW3 said that AP and CW2 were drunk or maybe high and were both stumbling around inside his residence. He told them to leave within a minute or two of their arrival, but they didn't leave for another four or five minutes. CW3 said the only incident between SO and AP was a verbal argument about he and CW2 not leaving the residence. CW3 said no threats were made by SO. He recalled SO saying, "...my brother asked you to leave, please get out of his house..." and SO responding with words to the effect, "Come outside and say that then." CW3 did not overhear

SO say anything while CW2 and AP were in the house. CW3 said he did not see any weapons produced by anyone in the house that evening and said that no one was injured.

CW4

On July 12, 2017, IIU investigators obtained a statement from CW4. She stated that she he did not attend to CW3's residence on June 17, 2017 to pick up CW2 and AP and drive them home, as stated by CW2.

CW5

On July 12, 2017, IIU investigators obtained a statement from CW5. He recalled that SO and AP began to argue and CW5 told AP to leave. CW5 did not hear the reasons for the argument. He estimates that AP was at the home for five or 10 minutes before being asked to leave. He believed that AP left in the vehicle he came in. CW5 did not see anything physical occur between anyone in the house. He said that he did not see any weapons produced by anyone, including SO, in the home. He did not hear anyone making any threats toward anybody and did not witness any injuries to anyone in the house.

CW6

On July 13, 2017, IIU investigators obtained a statement from CW6. He stated that he knows CW3 and where he lives but said that he did not drive AP and CW2 from the Rossburn bar to CW3's residence in mid June, as he has never been to CW3's residence.

CW7

On July 13, 2017, IIU investigators obtained a statement from CW7. He stated that he drank his gluten free beer and believes the others with him may have drank beer in the residence as well. He said that there was also a bottle of Smirnoff vodka present. AP asked CW3 for money but was not given any. CW7 said that he never saw anyone, including SO, produce any type of weapon or knife and make any threats toward anyone with it. He said that he never saw anyone chasing AP around the island area in the kitchen and then out of the house. CW7 recalled that AP and his friends wouldn't leave while the others in the residence kept telling them they had to leave. CW7 said that they eventually left after being there for ten minutes and did not return.

CW8

This document is the property of the IIU and is not to be distributed to any other party without the written consent of the IIU.

On July 13, 2017, IIU investigators obtained a statement from CW8. She and her sister CW9 picked up their uncle (AP) and CW2 around 1 p.m. on a weekday in mid June. They all left AP's residence and both AP and CW2 had some Budweiser beer with them and were drinking in the vehicle. CW8 said they bought some gas, drove around for a while and then went to Rosburn so AP could buy some beer. She recalled that AP had been texting with CW3 while they were driving in the vehicle. AP said the nature of the texts were that CW3 was having some drinks and wanted AP to come over.

They went to CW3's residence around 3 p.m. She and CW9 were near the couch/hallway area by the kitchen island. They stayed at CW3's place for 15 to 20 minutes and she noted that those inside were drinking and were laughing/joking around. At one point CW8 saw AP move from where he was in the kitchen to the other side of the island to speak with CW3. She does not know what they were talking about and she said CW3 stayed there for about two minutes and then returned to his original place in the kitchen. CW8 said that she did not see any fighting or arguments while she was inside the residence and did not see or hear anyone making threats to anyone. CW8 overheard SO tell AP that they should leave and AP said that he was "chilling" with his buddy. She noted that AP was upset about something. She heard AP say that SO had a knife in his hand. This was the first time CW8 heard anything about a knife. AP and CW2 got into the vehicle and CW8 heard AP say that SO had tried to pull a pocketknife on him or words to that effect. She does not recall AP talking about the reason SO had a knife nor did he provide any description of the knife.

CW8 stated that she did not overhear anyone talking about a knife while in the residence. She recalled everyone getting along in the residence and there was no yelling or screaming. She said that SO was really quiet and not really saying anything, nor did he appear upset.

CW9

On July 13, 2017, IIU investigators obtained a statement from CW9. She stated that she and her sister (CW8) went to their grandmother's residence and while there, her uncle (AP) and her cousin (CW2) got into the vehicle. She stated that AP and CW3 were already drunk. AP wanted to bring liquor in the car but CW9 told him he couldn't, so AP opened the beer and drank it before he got in the car. They were there for less than five minutes and then drove to Rosburn. They later went to CW3's residence. CW9 noted that everyone was drinking except for her and CW8, who were sober. She said that AP and SO were looking at each other like they were mad but she didn't know what was going on because the music was loud. At one point, CW5 and CW3 started yelling at SO to settle down because he was arguing with AP about alcohol and who was stronger. She did not hear any threats made. CW9 saw SO exit the room and noticed that his left hand was behind his back. SO walked up to AP and said, "Well let's arm wrestle right here." She and her sister stood up and walked back toward the door. CW8 went out of the

door and CW9 turned around, looked up and saw SO rushing at AP and his right arm was waving in the air and it looked like he had a pocketknife. SO tried to swing the knife at AP. SO was holding the wall with his left hand and kind of stumbled trying to get at AP. AP said, "he has a knife. He's trying to stab me." She described the blade of the pocketknife as the length of a girl's pinkie finger and the handle was grey in color.

Subject Officer

On October 11, 2017, IIU investigators obtained an interview statement of the SO. He stated that the incident occurred at his brother's (CW3) residence situated in Waywayseecappo. SO was there with his brother, CW5 and CW10. He recalls they were playing video games or just hanging out and drinking on the deck. SO said he drank Budweiser beer that day and recalled they were all drinking beer around the island in the kitchen area. SO said that AP and CW2 attended to the residence by themselves around 6:45 or 7 p.m., uninvited, and walked inside, which SO didn't appreciate. SO believes he was on his third beer when AP arrived. SO stated that AP sat down and started talking to CW3 and CW2 stood next to AP. SO said that both AP and CW2 were highly intoxicated and started bugging CW3 for money. CW3 said no to their request and SO didn't appreciate that they kept asking his brother for money. SO didn't want the situation to get out of control so he asked them to leave. He said AP and CW3 went off on him and he doesn't know why. SO said that they didn't want to leave and he (SO) got into a verbal argument with AP. SO said that he stood up from his chair and said, "Get the fuck out of here." AP then got up and started swearing as well. CW10 and CW5 also told them to leave. SO stated that he believed his brother walked over on his crutches at one point, told them they had to leave and pointed at the door with his crutch. AP and CW2 exited the residence. SO stated that this incident happened in a matter of seven or eight minutes he believes. He is not certain if AP and CW2 had anything to drink while in the home, but said AP may have just grabbed a beer.

SO said that he is not certain if AP made any threats or gestures toward him while in the house. He is also not sure if AP said something like, "Let's go outside then" with SO responding, "Get the fuck out of here." SO said that he never uttered words to the effect, "I'm going to stab (AP)" or "I'm going to stab you up." He denied having a knife on his person while at CW3's residence.

Crown Opinion

The civilian director forwarded the IIU investigative file to Manitoba Prosecution Service (MPS) requesting an opinion. The IIU received a Crown opinion from MPS, which included the following:

Given the various versions of those in attendance there is clear conflict in the evidence of what unfolded, with some witnesses indicating nothing occurred at all. The lack of memory, drinking and inconsistencies between attendees would certainly raise a reasonable doubt. Therefore there is not a reasonable likelihood of conviction on the evidence gathered.

Conclusion

The civilian director gave due consideration to all the circumstances of this matter and did a careful, thorough review of all evidence and material facts obtained in this investigation. Given the conflict in the evidence, the lack of memory of the witnesses and MPS's opinion that the prosecution standard has not been met and that there is no likelihood of conviction, no charges are recommended against the subject officer. The IIU investigation is now completed and closed.