



**IN THE MATTER OF AN INVESTIGATION INTO A SERIOUS INJURY
RELATED TO A WPS ARREST ON APRIL 11, 2021**

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

IIU File Number:	2021-0012
Final decision made by:	Zane Tessler, Civilian Director
Report prepared by:	Roxanne M. Gagné, Civilian Director
Date of Release:	August 21, 2023

Introduction

On April 11, 2021, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit (IIU) of an incident.

The written notification disclosed the following information (excerpt):

On January 19, 2020, the AP was charged with Possession of a Weapon Dangerous to the Public Peace (to wit: a hatchet). On January 20, 2020, the AP was released by the judge on a release order, with conditions directing that he appear in court on February 10, 2020 and thereafter as required. One of the conditions of the release order instructed the AP to refrain from possessing or drinking any alcohol.

On August 25, 2020, the AP failed to attend court as directed and on September 3, 2020, a Warrant was issued for his arrest for Fail to Comply with the conditions of a release order.

On Sunday, April 11, 2021, the AP attended to a suite on Charles Street, the residence of his girlfriend in an intoxicated state. The AP's girlfriend refused to allow the AP entry into her residence as she was fearful for the safety of her four young children who were present inside the residence. The woman's unidentified brother, who was also present at the residence, intervened in an effort to protect her and her children at which time a physical altercation ensued between the woman's brother and the AP. This altercation escalated to the point where the glass window on the front entryway door was shattered and the AP was held face down in the debris by the woman's brother.

During this altercation, the AP's girlfriend contacted 911 and requested police attend the scene.

At approximately 12:34 a.m., members of the Winnipeg Police Service attended to 420 Charles Street and located the AP sitting on the front steps of the residence. Officers noted that the AP had sustained the following injuries upon their arrival:

- *Cut to right eyebrow that was discharging fresh blood*
- *Fresh blood running down the right side of head from unknown origin*

Officers noted the AP was clearly intoxicated at the time of police attendance. The AP's girlfriend advised officers that she was concerned for the AP's wellbeing as he had recently suffered a stroke and was prescribed blood thinners. She believed he should attend to the hospital to seek medical attention for the injuries he had suffered during the altercation with her brother. It should be noted that the girlfriend's brother had fled the scene prior to police attendance and that she refused to disclose his name to police.

As officers were attempting to interview the complainant, the AP suddenly attacked officers at which time a use of force encounter ensued which resulted in the arrest of the AP for Assault Peace Officer, Resist Arrest, warrant Fail to Appear and Fail to Comply release order.

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The AP was subsequently conveyed to the HSC by ambulance where he was treated for his injuries. The AP was found to have sustained three (3) fractured ribs and a possible hemothorax. It is unclear if these injuries were suffered during the physical altercation with the complainant's brother prior to police attendance or during the use of force encounter with attending officers.

At the time of the submission of this report, the AP is listed as being in stable condition at the hospital awaiting medical clearance by an attending physician.

As this matter concerned a serious injury as defined under the IIU regulations, the IIU assumed responsibility for this mandatory investigation in accordance with section 65(4) of the *Police Services Act* (PSA). IIU investigators were assigned to this investigation.

Background and circumstances

Between April 13, 2021 and June 2, 2021, IIU investigators received the following investigative materials:

- Winnipeg Police Dispatch call history;
- Audio recording of original 911 call;
- Unit E309 Computer-Aided Dispatching (CAD) history for April 11, 2021;
- Statement of AP's girlfriend;
- Officer's notes (5);
- Subject Officer's (SO) Use of Force Report;
- Prisoner Injury Report;
- Prisoner Log;
- Arrest Report of AP.

At the time of this incident, the Civilian Director designated one subject officer and six witness officers. The witness officers provided an interview. The AP and a civilian witness (the AP's girlfriend) declined to provide a statement.

On April 12, 2021, IIU investigators spoke with the AP's girlfriend at her residence, who gave minimal information. She did state that the AP had been pushed into a front porch door, causing the glass in it to break. The AP was later held down on the ground by her brother, near the broken glass, which caused cuts to his head. IIU investigators observed cracked and broken panes of glass in the door. There was, however, no broken glass observed on the ground as it had been cleaned up.

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On April 22, 2021, IIU investigators attended to the AP's residence. The AP was present at the residence but did not want to speak to investigators. He came to the door and informed the investigators that he "didn't have anything to say to you" and did not wish to provide any further information or cooperate in an investigation. He did not wish to provide a statement or audio recorded interview. The AP stated that he "doesn't remember anything" about the incident and just "woke up in the hospital". IIU investigator left his business card with the AP and asked him to contact investigators if he did wish to provide a statement in the future. IIU Investigators did not receive any consent for medical information, as the AP did not want to cooperate further.

The SO did not provide an interview, however, he provided his Use of Force Report. The report described how the injuries to the AP's ribs occurred. The SO stated that he was attempting to apply a "shin pin" to the left side of the AP's body in order to hold him down and gain control in order to apply a spit hood. The AP suddenly rolled to the right (as he was attempting to roll his body back and forth in order to evade control). At this time, the SO was continuing with a downward movement with his shin and made contact with the AP's ribs.

Conclusion

The IIU's mandate is to consider whether the serious injuries suffered by the AP may have resulted from the actions of the police officers and if so, whether the officer's actions were justified. Civilian Director Zane Tessler, assigned to this matter at the time, gave due consideration to all the circumstances and did a thorough review of all evidence and material facts obtained in this investigation, and determined that no criminal charges would be laid against the subject officer. He took into consideration the facts surrounding the use of force. The explanation of the SO was the only evidence regarding the use of force given the lack of cooperation of the AP. Further, the injury was not confirmed, as no medial records were obtained. Therefore, in consideration of all the evidence obtained in this matter, the Civilian Director determined that no charges would be laid against the subject officer.

The IIU investigation is now completed and this matter is now closed.