

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2019-014

Referral from

Bridgewater Police

June 28, 2019

Felix Cacchione  
Director  
October 15, 2019

On June 28, 2019 Chief Feener of the Bridgewater Police Service (BPS) contacted SiRT to advise of an allegation made by an adult male, the Affected Party (AP), on June 27, that he had suffered broken ribs and a broken collarbone as a result of an interaction with two officers from the BPS on June 23, 2019.

An investigation was commenced on June 28<sup>th</sup> as a result of this information and completed on October 7, 2019.

A statement from the AP together with his medical records from the Digby General Hospital were obtained on July 3, 2019. A police supplemental occurrence report prepared on June 24, 2019 and reports prepared by the two subject officers (SO1 and SO2) on June 23, 2019 were also acquired. Audio video footage from cameras in a civilian witness's motor vehicle, cameras in the police vehicle that stopped the AP and transported him to the police station, as well as cameras in the interview room where the AP was detained and his interaction with the SOs occurred were obtained. Audio recordings of all police communications relating to the AP together with calls made by two other civilians concerning the AP's behaviour and driving were also procured. All of this information was reviewed in detail in the preparation of this report.

**Facts:**

In the late morning of June 23, 2019, the BPS received calls from three different civilian witnesses about the AP's condition and his driving. One civilian witness observed the AP staggering, slurring his speech, and attempting to enter her vehicle before staggering to his vehicle and driving away. Another witness saw the AP driving through town on a flat tire and then entering the mall parking lot. The last of these calls was from a civilian who had both front and rear facing cameras in his vehicle. Footage from these cameras shows the AP stumbling as he exited the NSLC store located in the shopping mall; driving away and going over the curb on a flat tire and proceeding at a high rate of speed through both a commercial and residential area.

Footage from a camera in the police vehicle shows that when stopped by the police and asked to exit his vehicle the AP was unsteady on his feet and had a strong smell of alcohol coming from his breath. The AP was arrested, read his Charter rights, given the police caution and given a demand to provide a sample of his breath.

Audio and video footage from inside the police vehicle recorded the AP mumbling and slurring his speech when saying that he had just had a blown tire and was going home to change it. The AP was transported to the BPS station where he was placed in an interview room to await the arrival of a breathalyzer technician.

When asked if he wished to speak with a lawyer, the AP stated that he did but refused to provide the name of his lawyer. He said that his wife was his lawyer but would not provide a telephone

number for her. The AP was adamant that he wanted to make the call himself. His behaviour fluctuated from being calm to being agitated.

While in the interview room, the AP repeatedly punched and kicked the door yelling that he wanted to speak with counsel but refusing to identify who his counsel was or to speak with counsel from legal aid. The AP was told to calm down numerous times by an officer on the other side of the door, however he continued this behaviour for approximately 25 minutes. When one of the officers opened the interview room door the AP picked up the only chair in the room and threw it at SO1 and SO2, striking one of them. Both SO1 and SO2 charged at the AP and took him to the floor where he was handcuffed. The entire interaction from when the door was opened to the time when the AP was taken to the ground lasted 15 seconds.

The AP was then transported to cells at the RCMP detachment. Paramedics were called because of a small laceration noted near the AP's left eye. The AP was uncooperative with the paramedics. He refused to let them do a proper assessment (of him) despite telling the paramedics that he had a broken rib and collarbone. The AP was taken to the hospital where he refused both the assistance of the doctor who spoke with him or to have x-rays taken of his alleged injuries.

On June 24 the AP spoke by telephone with the BPS about his driver's license and how to retrieve his impounded vehicle. He made no mention of having broken ribs or any other injuries. The AP went to the Digby General Hospital on June 27 where x-rays were taken that revealed several fractured ribs and a fractured collarbone.

### **Legal issues:**

#### **Did the police officers involved have authority to arrest the AP?**

Peace officers are entitled to arrest a person they find committing an indictable offence or who they have reasonable and probable grounds to believe has committed an indictable offence.

#### **Were the officers authorized to use force to protect themselves?**

Peace officers are authorized to use force to protect themselves or others.

#### **Was the force used excessive?**

Peace officers acting on reasonable grounds are justified in using as much force as is necessary to do what they are required or authorized to do. The question of whether the use of force is justified requires an assessment of whether the application of force was objectively reasonable having regard to the circumstances and danger in which the peace officers find themselves. The degree of force used is constrained by the principles of

proportionality, necessity and reasonableness. Peace officers must use no more force than is necessary. In determining whether the force used was reasonable in all the circumstances one must consider the nature and extent of the assault or threat facing the officers and the nature and extent of force used by them.

**Conclusion:**

The SO who arrested the AP had, based on his own observations and those of the three civilians who had called the police and reported on the AP's behaviour and driving, reasonable and probable grounds to believe that the AP was committing an indictable offence. The AP had been observed driving through town on a flat tire, coming out of the NSLC store stumbling, slurring his speech, attempting to enter a vehicle that was not his, driving away over the curb on a flat tire which shortly thereafter fell off the rim and then speeding in his vehicle that had no tire on the rim of the front passenger wheel.

The AP's behaviour while in police custody fluctuated from calmness to agitation. He exhibited violent behaviour by repeatedly punching and kicking the interview room door. He also threw chair which struck one of the SOs entering the room.

The officers had reasonable grounds to use as much force as necessary to control the APs behaviour. The force used by the SOs was objectively reasonable having regard to the violence exhibited by the AP. The force used by the SOs was proportional, necessary, reasonable and no more than necessary in the circumstances. The officers were entitled to defend themselves against the violence exhibited toward them by the AP. The force used by the SOs was justified.

Accordingly, there is no basis to conclude that the SOs committed any criminal offence. Therefore, no charges are warranted against either SO1 or SO2.