

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2019-015

Referral from

Amherst Police

June 29, 2019

Felix Cacchione
Director
September 26, 2019

SiRT was contacted on June 29, 2019 by the Deputy Chief of the Amherst Police Department and advised of the arrest and subsequent hospitalization of an elderly male, the Affected Party (AP) earlier that day. SiRT agreed to conduct an investigation in order to determine whether any criminal offence had been committed during the arrest and detention of the AP, leading to his hospitalization and subsequent death on June 30, 2019.

The investigation commenced on June 29, 2019 and was completed on August 29, 2019.

The investigation consisted of a review of the Amherst Police Department's Police Reporting and Occurrence System (PROS) file; Amherst Police radio communications; Amherst Police Department prisoner care facility video footage; medical reports of the AP; the Medical Examiner's Office preliminary cause of death report; a forensic toxicologist report; the statements of four civilian witnesses; statements provided by the two Subject Officers (SO1 and SO2) and a Witness Officer (WO).

Facts:

On June 29, 2019 at 3:29 AM the first SO (SO1) observed the AP on his hands and knees on the sidewalk. Prior to this the AP had been at a lounge where he consumed several bottles of beer. The AP was able to identify himself and say that he was sick but unable to indicate where he lived or with whom, if anyone. SO1 was subsequently joined by the second SO(SO2). After being assisted to his feet the AP began vomiting. The vomit had the smell of beer. After regaining his composure, the AP was driven to the police station. While on route to the police station the AP vomited again. SO1 advised to dispatch that she was returning to the police station with a very intoxicated male. SO1 arrived at the police station at 4:05 AM with the AP. Once at the police station the AP began to dry heave. Shortly after arriving SO1 spoke with the AP's daughter and was advised that the AP had not consumed alcohol for approximately 20 years but began to consume alcohol in excess again after a recent family tragedy.

The AP spoke with the officers and appeared to understand the questions and directives put to him. The AP was placed in a cell which was monitored by video camera and regular in person cell checks conducted by the guard on duty. The AP had further bouts of dry heaving while in the cell. Shortly after the last bout, the guard noticed what appeared to be discoloured vomit, EHS was contacted and the AP was transported to the hospital.

The AP was admitted to the emergency department of the hospital at approximately 5:45 AM and was diagnosed as having suffered a stroke. The AP died the following day. The Medical Examiner determined the cause of death to be a stroke and the manner of death was classified as natural.

Blood samples drawn from the AP at the hospital were analysed and indicated the presence of alcohol and cannabis THC. The forensic toxicology report determined the AP's blood alcohol concentration (BAC) at the time of his arrest to be between 68 and 100 mg/100 ml of blood.

A BAC in the range 50 to 100 mg/100ml of blood is associated with impairment. Individuals with this BAC may have decreases in attention, judgement, concentration, visual skills and overall loss of fine motor control and coordination. Some person at the higher end of this range may have problems with balance, coordination and have slight speech defects. The symptoms displayed could be affected by the individual's tolerance to alcohol. If an individual is unaccustomed to the effects of alcohol, they may display greater symptoms than the average person.

Relevant legal issues:

Was the arrest lawful?

Police have the right, under the Liquor Control Act, to arrest a person who is intoxicated in a public place.

Was force used to affect the arrest?

Police have the right to use reasonable force, if necessary, to arrest a person.

Did the police provide the necessities of life?

The Criminal Code requires that once a person is custody the police must provide that person with the necessities of life. This includes what is necessary to ensure the person remains healthy, and where relevant, providing medical attention as needed.

Conclusion:

The police found the AP on his hands and knees on sidewalk in the town of the Amherst. The AP became physically ill and began to vomit. The police detected a smell of beer emanating from the vomit. The AP was arrested under the provisions Liquor Control Act. No force was used to effect the arrest. The AP was able to answer questions and follow directives. The AP was transported to the police station where he continued to dry heave. The AP was unsteady on his feet and confused as to where he lived and with whom. The police were made aware that the AP had recently begun drinking alcohol after not having consumed alcohol for 20 years. The AP was placed in a cell where he was regularly monitored by a video camera in the cell and in person checks by the guard. The guard was also able to hear the AP. Upon noticing what appeared to be discoloured vomit the police contacted EHS and the AP was transported to the hospital where it was determined that he had suffered a stroke.

SO1 and SO2 only received basic first-aid training as part of the requirements needed to become police officers. Neither had any further medical training which would have enabled them to determine, when they dealt with the AP, that he was having or had had a stroke. SO1 and SO2 dealt with a person who was unsteady on his feet, sometimes confused, vomiting and smelling of beer but able to answer questions and follow directives. All these observations were consistent with SO1 and SO2's belief that the AP was intoxicated.

There is no evidence to indicate that the officers were negligent in discharging their professional duties and responsibilities. Accordingly, there are no grounds to consider any charges against either SO1 or SO2.