

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

Director's Report

SiRT File # 2022-049

Referral from

Halifax Regional Police

December 19<sup>th</sup>, 2022

Alonzo Wright, KC

Director

July 25, 2023

## **INTRODUCTION**

On December 19, 2022, Halifax Regional Police Standards Unit made a referral to the Serious Incident Response Team (SiRT). The unit had received a complaint from the Police Complaints Commissioner regarding police interaction with the Affected Party (AP). The AP stated that they were detained by police at residence in Dartmouth on the evening of December 18, 2021. The AP claims that they were brought to the HRP Headquarters in Halifax and were escorted to the booking area by police officers. The AP said that they were struck multiple times in the back and in the back of the head by a baton, which rendered them unconscious. The AP said they were transported to the QEII with significant head injuries. The injury required stapling and stitching to stop the bleeding. The AP said they were diagnosed with a traumatic brain injury. The AP said that one officer was WO1, the other two officers are unknown.

As a result of these alleged serious injuries, SiRT commenced an investigation into the matter on December 19, 2022. The investigation was completed on June 2, 2023.

SiRT's mandate is to investigate all matters that involve death, serious injury, sexual assault and domestic violence or other matters of significant public interest that may have arisen from the actions of any police officer in Nova Scotia.

At the conclusion of every investigation, SiRT will determine whether or not criminal charges should result from the actions of the police officer. The Director will issue a public summary of the investigation which will outline the reasons for that decision.

The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

1. Statements
2. Police Incident Reports
3. Police Notes
4. Photographs
5. Cellblock Video
6. 911 calls
7. On-line News Article

## **NARRATIVE**

Halifax Regional Police received a 911 call from Civilian Witness 1 (CW1) at 12:55 a.m., on December 18th, 2021. CW1 wanted police to attend their residence located in Dartmouth, NS. CW1 wanted the AP removed from the hallway because they were drunk and pounding on doors

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and yelling. This was disrupting CW1's young family who were trying to sleep. CW1 also stated that the AP had fallen and hit their head but did not look as though they required medical assistance.

The call was dispatched to Witness Officer 1 (WO1) and Witness Officer 2 (WO2) at 01:05 a.m. Both officers were on patrol in the Dartmouth area at the time of the dispatch. They were operating a marked police vehicle and quickly attended CW1's residence. The officers quickly formulated grounds to arrest the AP for being intoxicated in a public place. The AP was slow to respond to officers' questions and smelled of a heavy odour of alcohol. It was clear that the AP was intoxicated. The AP gave no resistance to the arrest. The AP was placed in the rear of the police vehicle and transported to the Halifax cells without incident.

The AP stated that while at the police cells, they were struck multiple times in the back with a police baton. They also stated that they were struck in the head with the police baton which rendered them unconscious. The AP claimed they were transported to the hospital while hemorrhaging significantly and that their head was stapled and stitched closed. The AP said doctors diagnosed them with a traumatic brain injury. The AP filed a civil lawsuit against the officers before making this complaint and this lawsuit was published in a Halifax based online news source, naming one of the officers.

The Halifax Regional Police station cells has a surveillance system that monitors the area where the AP would have been housed and where the AP would have entered and exited the police station. The AP can be seen in the entirety of their presence at the police station in the videotapes. The AP can be seen banging on the windows and doors of the cell and can also be seen speaking and laughing with officers. The AP can also be seen on two occasions being assessed by EMT's. There is not one video showing the AP being struck with a police baton or showing the AP hemorrhaging significantly from the head area. The only evidence that the AP lost consciousness was when they are asleep on the bench in the cell area. The video is very clear. I see no wrongdoing, whatsoever by any officer or employee on the entirety of the video. To the contrary, the officers were very respectful for the duration. Therefore, I have identified no Subject Officers in this case and will refer to all of the officers as Witness Officers because no actions of any of these officers caused or contributed to any injury.

It is worth noting that this incident was claimed to have occurred one (1) year prior to the complaint being filed and just days prior to the AP filing a lawsuit against the Halifax Regional Police. This matter received one sided and biased press coverage that sensationalized the AP's allegations without any supporting documentation and essentially defamed one of the officers that caused serious financial obligations to that officer personally and was based on no evidence whatsoever.

**EVIDENCE**

***Civilian Witness 1***

CW1 called 911 on 2022-12-18 at 12:55 a.m. In the call CW1 spoke with a HRP Dispatcher and the following conversation was recorded.

*CW1: "Hi, I'm sorry, but I need the cops to come to my house, I have my best friends parent is here, they are acting crazy. (they) won't stop kicking on my door and stuff,...I just want the (them) to leave (Crying). (they) fell down my steps. Yeah, they have been drinking. They fell down my steps and they got blood and everything.*

*Dispatcher: Does (the AP) need an ambulance:*

*CW1: "I don't think they need an ambulance. They are in my hallway, kicking and banging on my door. (The AP Can be heard yelling in background). Can you hear them?"*

On March 6, 2023, CW1 spoke with the SiRT investor. CW1 said the "police didn't do anything to the AP and the AP is a liar". SiRT made arrangements to meet with CW1 on another occasion. However, all attempts to meet with CW1 were unsuccessful. The phone number provide was no longer in service.

***Cellblock Video***

The entire cellblock video was viewed and cataloged from several camera angles. The AP is seen exiting the police vehicle in view of the camera and is escorted into the cell block area by WO1. The AP does not exhibit any indication that they are in any type of medical distress after exiting the police vehicle. The AP appears alert and interacts with the officers.

At 01:27 in the booking area WO1 is seen examining the back of the head of the AP.

Once inside the cell block the AP's handcuffs are removed. The AP can once again be seen interacting with the officers. The AP sits on a bench and appears alert, engaging with the officers. The AP is placed in a telephone room and becomes upset, pounding the walls, and appears to be yelling and confronts an officer, striking them; however, the officer does not respond to being assaulted. They simply ignore it.

At 01:31:39 the AP is pounding on the cell walls.

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At 01:36 the AP is laying on a bench.

EHS arrives, after being asked to attend by police and assesses the AP after WO1's inspection of the back of the AP's head.

At 02:07 WO1, WO2, and one EHS personnel enter the holding room and examine the back of the AP's head.

The AP is taken to a washroom by a female booking officer and walks unaided (the washroom is not recorded; however, the AP enters alone and nobody else is inside). After coming from the washroom, the AP displays behaviour of being happy, smiling and positively interacting with the officers. The AP was clapping their hands and attempts a dance move by shuffling their feet. Additional paramedics arrive and the AP is escorted out to the parking lot. The AP went to the parking lot under their own power. At no point in the video is there any display of conflict by the officer toward the AP. All officers appear to act in a very professional manner with the AP during every interaction with the AP.

The only hostility or negative behaviour is when the AP is seen pounding on the walls and yelling at officers. It is apparent that no assault whatsoever or any wrongdoing took place during this video, which comprise the entirety of the AP's interaction with the officers after exiting the police vehicle. I also took particular interest in noting the AP's behavior when exiting the police vehicle and saw nothing that would indicate they were in any distress from a previous interaction, either while in the police vehicle or during the arrest.

### **AFFECTED PARTY**

The AP did not provide a statement in this investigation. The following are attempts made by the SiRT investigator to get the AP's version of events.

***2023-01-04***

***1450***

*Called all entity phone numbers for the AP all were out of order. \*\*\*-\*\*\*-\*\*\*\* rang without answer.*

***1500***

*Called counsel for the AP to explain the urgency of getting the material we requested (medical release), will speak with the assistant. I asked if he had a phone number for the AP and he looked through the file, he provided (\*\*\*) \*\*\*-\*\*\*\*.*

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*I called that number and a male answered, I asked for the AP, and he put the AP on the phone. I explained who I was and explained the urgency of speaking with the AP, given the seriousness of the allegations. The AP said they would be available to drop into the officer on Thursday.*

**2023-01-04**

**1:11**

*I was advised by the law firm representing the AP that they would not be coming in for interview at their direction.*

**2023-03-06**

**10:00**

*Called (\*\*\*) \*-\*\*\*\*, number for the AP. Went to VM.*

**2023-03-07**

**10:43**

*Called the AP and left a VM to call me back.*

**11:30**

*The AP called me back. I explained I spoke with them before and am investigating the actions of the officers and would like to speak with them because the lawyer reached out to say they were no longer representing them and that I would still like to get a statement. The AP said, “I was drunk and will talk to you as long as you don’t come after me”. I explained, based on the lawsuit, alleging that the officers beat them with batons in the cell block and that after watching the video, that did not happen. The AP said the lawyer watched it and said the same thing and the AP would like to ‘drop it’. The AP said they woke up the next day with their head split open and didn’t know what happened and went to the lawyer to try to find out what happened. I explained the lawsuit reads, “the officer beat the AP with batons over the head”. The AP said they “didn’t say that”.*

*The AP said they have a lot going on in life and can’t speak with me today. They said they are a “person of their word” and will call me in a few days. I asked when and the AP said by Friday.*

**2023-03-10**

*I called the AP, as the AP was supposed to contact me today, went to VM.*

**2023-03-15**

**15:31**

*I didn’t hear back from the AP and called again.*

**2023-03-24**

**1525**

*I called the AP; it went to voice mail. I left a detailed voice message.*

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***2023-05-17***

I called the AP from a blocked number. The AP answered. The AP promised to call me on Tuesday. They said they were out of town and had a personal issue to deal with and promised to meet call me on Tuesday.

***2023-05-25***

***13:20***

After not hearing back from the AP, I called from a blocked number, the AP answered. They said they just woke up and were at a friend's house. I told the AP I could give them time to get ready and the AP said, "No, you can come over now".

I immediately left and went to meet the AP. I called the AP, and it went to VM. I sent a text saying I was at the meeting spot and didn't receive a reply. I tried calling several other times, but they didn't answer. I saw a guy in the parking lot who appeared to be a resident and he confirmed he was. He said he didn't recognise the photo I showed him of the AP. I called the building manager and they said they didn't have anyone with the AP's name in the building. I randomly knocked on doors on each floor showing a photo of the AP and nobody recognised the AP as somebody who frequents the building.

### ***Witness Officer 1***

WO1 provided a statement to the SiRT investigator. WO1 says that they were the responding officer to the 911 call made by CW1 who was seeking the removal of the AP due to the AP being intoxicated. WO1 says that the grounds to arrest the AP were for public intoxication and causing a disturbance. WO1 was able to smell a strong odour of alcohol coming from the AP. WO1 was present when the AP was arrested by WO2. The AP was unsteady when walking to the police vehicle. WO2 placed the AP in the police vehicle and the AP was transported to the HRP prisoner facility in Halifax without incident.

WO1 says that upon arrival at HRP Cells it was determined that the AP had a cut near the back of their head. A decision was made to contact EHS to assess the AP's injury and ensure. Once EHS arrived and took the AP WO1 had no further dealing with the AP.

WO1 says that at no time did they have their baton out. At no time did WO1 strike the AP or see anyone strike the AP.

### ***Witness Officer 2***

WO2 was one of the two responding officers to the 911 call made by CW1 wanting the removal of the AP for public intoxication. WO2 arrested the AP and transported the AP to the HRP

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prisoner facility in Halifax without incident. WO2 stated that the AP smelled heavily of alcohol and was unsteady on their feet. The AP was not responding to WO2's questions.

WO2 was present when the AP was transported to HRP booking. At no time did WO2 see any baton being used to strike the AP.

### ***Witness Officer 3***

WO3 was the officer who took custody of the AP at the HRP prisoner facility. All contact WO3 had with the AP was recorded on video until the AP was turned over to paramedics.

WO3 says that the AP had glossy eyes and was slurring their speech when they arrived at booking. WO3 remembers that the AP's emotions to be erratic; one moment the AP was happy and the next moment they were angry and sad. WO3 also noted that the AP was unstable on their feet and clearly intoxicated.

WO3 says that at no time was the AP struck with a baton.

### **LAW**

The authority to arrest the AP comes from Section 87 of the Liquor Control Act:

*87 (1) No person shall be in an intoxicated condition in a public place.*

*(2) Where an officer has reasonable and probable grounds to believe a person is in an intoxicated condition in a public place, the officer may, instead of charging the person under the Act, take the person into custody to be dealt with in accordance with this Section.*

*(3) A person taken into custody pursuant to this Section may be taken by the officer to any available treatment service, hostel or facility for care.*

*(4) A person arrested or taken into custody pursuant to this Section shall not be held in custody in a jail or lock-up for more than twenty-four hours after being arrested or taken into custody.*

*(5) A person taken by an officer to any treatment service, hostel or facility for care shall not be detained there for more than twenty-four hours after he was taken into custody unless the person consents to remain for a longer period.*

*(6) A person taken into custody pursuant to this Section may be released from custody at any time if (a) the person in custody has recovered sufficient capacity that, if released, he is unlikely to cause injury to himself or be a danger, nuisance or a disturbance to others;*  
*or*

*(b) a person capable of doing so undertakes to take care of the person in custody upon his release.*



In addition, the AP was causing a disturbance, contrary to section 175(1) of the Criminal Code:

*175 (1) Everyone who*

*(a) not being in a dwelling-house, causes a disturbance in or near a public place,*

*(i) by fighting, screaming, shouting, swearing, singing or using insulting or obscene language,*

*(ii) by being drunk, or*

*(iii) by impeding or molesting other persons,*

*(b) openly exposes or exhibits an indecent exhibition in a public place,*

*(c) loiters in a public place and in any way obstructs persons who are in that place, or*

*(d) disturbs the peace and quiet of the occupants of a dwelling-house by discharging firearms or by other disorderly conduct in a public place or who, not being an occupant of a dwelling-house comprised in a particular building or structure, disturbs the peace and quiet of the occupants of a dwelling-house comprised in the building or structure by discharging firearms or by other disorderly conduct in any part of a building or structure to which, at the time of such conduct, the occupants of two or more dwelling-houses comprised in the building or structure have access as of right or by invitation, express or implied,*

*is guilty of an offence punishable on summary conviction.*

*Evidence of peace officer*

*(2) In the absence of other evidence, or by way of corroboration of other evidence, a summary conviction court may infer from the evidence of a peace officer relating to the conduct of a person or persons, whether ascertained or not, that a disturbance described in paragraph (1)(a) or (d) or an obstruction described in paragraph (1)(c) was caused or occurred.*

## **ANALYSIS**

The evidence gathered in this investigation shows that the arresting officers had very clear ground to arrest the AP. CW1's 911 call places the AP in a very intoxicated state and causing a disturbance outside of CW1's residence. This is verified by the 911 tape and WO1 and WO2 who arrive to find the AP highly intoxicated and in a residence they did not belong. The police had an obligation to remove the AP and due to the behaviour and level of intoxication, they were legally bound to effect an arrest.

The erratic behaviour of the AP at the police holding cells is very revealing. It is clear that the AP is exhibiting behaviour consistent with that of an intoxicated person. The strong odour of alcohol. Mood swings that take the AP from happy to angry in a short period of time. Acts of violent behaviour by pounding the walls and windows in the cells. Laughing and crying for no apparent reason. These are clear signs of significant intoxication.

The most compelling evidence is that of the videos. Not just for what the videos show but also for what these videos do not show. No where in any of the videos do I see any officer interact with the AP in an argumentative or aggressive manner, in fact, the officers were clearly very professional. It is the AP that is seen as the aggressor in the videos. The officer in fact only attempts to assess the AP to ensure they are healthy and safe.

The numerous attempts by SiRT investigator to interview the AP is not lost on me. The AP was given every opportunity to supply a statement. Each attempt was not followed through with by the AP, even though they said they would. It is an understatement to say that the AP was a reluctant witness. When the AP did speak with the investigator they said “I was drunk and will talk to you as long as you don’t ‘come after me’”. The AP also denied saying that they were hit with a baton. I can only take this as a retraction of the allegations the AP has made in this matter to SIRT and through the lawsuit they filed in the Supreme Court of Nova Scotia.

### **CONCLUSION**

The Serious Incident Response Team has been given the task of investigating any incident that occurs in the province in which an AP has alleged assault and there appears to be a connection to the actions (or sometimes inaction) of police. The aim is to provide assurance to the public that when the investigation is complete, they can trust the SiRT’s conclusions, because the investigation was conducted by an independent, unbiased, civilian-led agency.

In many cases, those conclusions are presented in a public report such as this one, which completes the SiRT’s mandate by explaining to the public what happened in the incident and how the AP came to suffer harm if such harm occurred. Such reports are generally intended to enhance public confidence in the police and in the justice system through a transparent and impartial evaluation of the incident and the police role in it.

In a smaller number of cases, the evidence gathered may give the Director reasonable grounds to believe that an officer has committed an offence in connection with the incident. In such a case, the *Police Act* gives the Director authority to lay charges and refer the file to Public Prosecution Service.

The purpose of this investigation was to determine if there are reasonable grounds to believe that the WOs had committed any wrongdoing in this investigation that led to AP suffering serious bodily harm.

The evidence gathered in the course of this investigation demonstrated that the AP, regrettably, may not have been fully aware of the gravity of their allegation.

The AP was heavily intoxicated on the night in question. The only injury I find is the one the AP inflicted on themselves while at the residence of CW1. I see not one scintilla of evidence that would remotely support the claims set out by the AP, which were entirely false and misleading. I find that WO1 and WO2 had the authority to detain the AP under the circumstances. I find that the officers had the authority to take the AP into custody for intoxication and causing a disturbance. I find that at no time did any officer strike the AP with a baton or anything else for that matter. The AP's allegations are not true on any level.

Accordingly, as the Director of the SiRT, I do not consider that there are reasonable grounds to believe that an offence has been committed by any officers dealing with AP. Therefore, I now consider this matter concluded.