

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2024-027

Referral from

Halifax Regional Police

June 13, 2024

Erin E. Nauss  
Director  
January 13, 2025

## **MANDATE OF THE SiRT**

The Serious Incident Response Team (“SiRT”) has a mandate to investigate all matters that involve death, serious injury, sexual assault, and intimate partner violence or other matters determined to be of a public interest to be investigated that may have arisen from the actions of any police officer in Nova Scotia and New Brunswick.

At the conclusion of every investigation, the SiRT Director must determine if criminal charges should result from the actions of the police officer. If no charges are warranted the Director will issue a public summary of the investigation which outlines the reasons for that decision, which must include the information set out by regulation. Public summaries are drafted with the goal of adequate information to allow the public to understand the Director’s rationale and conclusions.

**Mandate invoked:** This investigation was authorized under Section 26I of *Police Act* due to the alleged sexual assault of the Affected Party.

**Timeline:** SiRT commenced its investigation on June 13, 2024. The investigation concluded on December 6, 2024. There were some delays while waiting for video enhancement.

**Evidence:** The decision summarized in this report is based on evidence collected and analyzed during the investigation, including, but not limited to, the following:

1. Affected Party Statement
2. Medical Records of the Affected Party
3. Subject Officer Reports
4. Civilian Witness Statements (1)
5. Police Reports
6. Witness Officer Statements (6)
7. Police Radio Transmissions
8. CCTV footage from Halifax Ferry Terminal
9. Enhanced CCTV footage from Halifax Ferry Terminal
10. Video from HRP Prisoner Care Facility

## **INVESTIGATION SUMMARY**

On June 12, 2024, Halifax Regional Police (“HRP”) responded to a complaint from a security guard at the Purdy’s Wharf parking garage in Halifax regarding a male and female who were intoxicated and preparing to drive. The security guard (“Civilian Witness #1/CW1”) also stated he was assaulted by the male when he tried to stop them from driving.

The Subject Officer (“SO”) and Witness Officer #1 (“WO1”) responded to the call and observed the male and female walking away from the parking garage, towards Historic Properties. They caught up with the female, the Affected Party (“AP”), who was in the bushes near the Halifax Ferry Terminal. The AP was placed under arrest for public intoxication. She resisted arrest and bit WO1 on the arm very hard, which went through to muscle and required the officer to go to the hospital.

The AP was taken in a police vehicle to HRP. She was aggressive and hit her head on the inside of the police vehicle. She was later taken to hospital to be assessed and stated to hospital staff that she was physically assaulted and sexually assaulted by a police officer during her arrest.

*Affected Party (“AP”)*

The AP provided a statement to SiRT on June 18, 2024. She stated that she was leaving the casino with a male, and they were standing by their car smoking a joint in the parkade. A security guard arrived and the male became aggressive and “in his face”. She stated she tried to calm things down. Police were called and when they arrived, the AP started running. The AP stated she did not know why she ran, and that at the time she said to herself, “I don’t even know why I’m running right now.”

The AP stated the police brought her back to her car, and she told them she didn’t do anything wrong. Things escalated and she said an officer put her on the ground with a knee on the side of her head and a leg on her back. She stated her hands were behind her back, and that she bit the officer because she couldn’t breathe. The AP stated there was a “lady cop” present who should have pat her down, but a male officer pat her down, groped and digitally penetrated her.. The AP stated that a supervisor attended, and the female officer stated, “she’s barely wearing anything anyways”. She stated there were about five officers in attendance when this occurred. The AP stated she told the female officer that she was assaulted, and then drove to cells with the female officer, was there briefly, and then left with EHS.

*EHS & Medical Records of the AP*

On June 12th, 2024, at approximately 10:01pm, the AP was assessed by EHS at the HRP Prisoner Care Facility in Halifax. The AP told paramedics that she had been assaulted by the police officers who arrested her. She complained of a headache, pain on the right side of her head, and there was bruising noted near the right temple. She was then taken to the hospital. The AP was assessed in the emergency department at approximately 11:35pm. The AP stated to the Charge Nurse that she had been sexually assaulted. A Sexual Assault Nurse Examiner (“SANE”) Nurse was then called to conduct an assessment.

The record states the AP was intoxicated and that the SANE nurse would not see her until she was sober, and she was advised of this. At approximately 4:01am, the AP was transferred to the SANE nurse. Nursing notes state that the SANE exam was completed, and the AP stated she had been assaulted and sexually assaulted.

Civilian Witnesses

The security guard for Purdy's Wharf (CW1) was interviewed by SiRT as part of the investigation. CW1 was working in the parkade the night in question and heard a commotion. He observed a security guard from the Casino speaking to a male and female and went over to see what was going on. The Casino security guard told him that the couple was trying to drive drunk. CW1 asked the couple what was going on. The AP had started the car, and she said they were trying to leave but she wasn't sure if she could drive. The male stated he would drive and became aggressive with the guard. CW1 observed that both were extremely intoxicated. He advised that if they attempted to drive, he would call the police. The male chest bumped CW1 and threatened both guards. The AP attempted to convince him things were fine. When the police were called, CW1 observed the AP take a large bottle of wine from the car. The male and the AP took off running. The police arrived and the guards directed them where the two were headed.

CCTV footage from the Halifax Ferry Terminal shows a civilian witness present on the boardwalk directly across from the police interaction with the AP. SiRT identified and spoke to the witness, but he declined to provide a statement. He noted that he saw a woman approached by police, that she struggled and police did what they could to maintain control. He noted that more officers showed up and she continued to struggle. He walked away.

Witness Officers ("WO's")

The SiRT reviewed police notes and reports and interviewed six Witness Officers in the course of the investigation. The most relevant evidence is included in this report.

Witness Officer #1 ("WO1") explained that he and the SO responded to the call and observed a male and female leaving the Purdy's Wharf parking garage, towards Historic Properties. They followed them and saw the AP enter a restaurant, leave through the patio, and then caught up with the AP in the bushes near the Halifax Ferry Terminal. The bushes were near a retaining wall. He was aware the AP had attempted to drive intoxicated and there was a report she had assaulted a security guard. The AP appeared highly intoxicated, and they approached her to arrest her for public intoxication.

WO1 stated the AP sat down and started kicking WO1 in the chest. WO1 and the SO attempted to get her under control and took her to the ground. The AP then bit WO1's right forearm and broke

through the muscle layer. When he tried to pull away, the AP did not let go and was lifted in the air by WO1's forearm. The AP was very violent and swearing at the officers. WO1 stated this was one of the more violent individuals he has dealt with in his nine years of policing.

WO1 was clear that he and the SO did not search the AP, and the incident happened very quickly. He stated this was a typical arrest, where they were trying to get her hands the entire time. More officers arrived to assist. Witness Officer #2 ("WO2") arrived and took control of the situation, and the SO and WO1 had no further dealings with the AP. The SO and WO1 went to booking as it was their file, and WO1 then went to the hospital due to the bite.

WO2 attended the scene near the Ferry Terminal and witnessed the SO and WO1 dealing with the AP who was flailing her arms and kicking her legs. He ran over and assisted the officers in putting the AP into handcuffs. WO2 stated that as a female officer was coming to search the AP, she did a donkey kick and kicked the SO who was behind her. She continued to kick as officers placed her in a police vehicle, and once inside she kicked the door so hard the door and window were bowing. Although it is normal practice, WO2 did not think the AP was searched due to the situation.

Witness Officer #3 ("WO3") was the female officer who attended the scene. She and her partner were not dispatched to the call, but they heard on the radio that the AP was fighting, so they made their way there to assist. They arrived behind members of the emergency response team (ERT) team who also attended to assist. WO3 observed a female on the ground being placed in handcuffs. When the AP was brought to her feet she was trying to kick, and WO3 assisted by taking the AP's feet to help place her in WO3 and her partner's police vehicle to be transported to the HRP Prisoner Care Facility. WO3 stated that during the drive, the AP was yelling, slurring her words, and banged her head off the silent patrolman (the barrier between the front and back seats in a police vehicle) a couple of times. She then calmed down. On the ride and at the station, the AP complained she may be sick and was not feeling well.

When they arrived at the station, WO3 let the AP sit outside on some stairs to calm down and let her use her vape. WO3 explained to the AP that she was going to the hospital and had her sign medical release documents since she had bit WO1. WO3 stated that the AP did not want to leave her side, and then they both went with EHS. WO3 felt this was because she was being kind to the AP. WO3 stated she did not search the AP and did not witness any other officer search her. She did not notice anything unusual about the arrest, and when questioned, she stated that the AP did not mention anything about being assaulted or sexually assaulted. When questioned, WO3 was also clear that she did not make any comments about the AP's clothing.

WO3 assisted in locating the owner of the vehicle at the parkade. WO3 contacted the AP's father by telephone and determined he was the owner. The AP's father stated, "can you tell me something, why is my daughter calling me from the hospital stating that she's been sexually assaulted and assaulted by other officers?" WO3 stated she would have a supervisor call him.

Witness Officer #4 ("WO4") was the patrol supervisor on the evening in question. He was aware of the situation but was not immediately dispatched. As things escalated, he heard panic over the police radio, so he made his way to the scene. The AP was already in custody and he observed the difficulty officers had loading her into the police vehicle. He assisted WO1 with his injuries. As officers were trying to locate the male who was with the AP and the owner of the vehicle at the parkade, an officer advised him that they had reached someone claiming to be the AP's father ("Civilian Witness #2/CW2"). WO4 called CW2, who stated that his daughter claimed she was assaulted and groped. He was on the way to the hospital. WO4 arranged to meet him there, and later met with the AP and CW2 at the hospital. CW2 claimed the AP was groped prior to or during the arrest. WO4 explained the police complaints process and provided the names of the officers involved in the arrest.

Subject Officer ("SO")

The SO is not required by law to provide his notes or reports to SiRT, or to attend an interview. However, the SO agreed to provide his police reports to SiRT.

The SO's Initial Officer Report are relevant to assessing this incident. The notes state the AP was stumbling as she walked, and then "violently kicking toward [WO1]." The notes read:

"I approached and grabbed [the AP] by her left leg and pulled her onto the boardwalk, with [the AP] landing on her side. [The AP] did not brace her fall and struck her head on the ground."

"[The AP] was continually kicking her legs. I was holding her legs to attempt to gain control and then heard [WO1] yell that she had bit his arm."

"[The AP] was twisting her body and had grabbed my radio wire and was pulling it toward her. I placed my right knee on her back and left knee on her upper shoulder and head area to prevent her head from moving."

Video Footage

On June 14, 2024, Halifax Transit provided CCTV footage from the Halifax Ferry Terminal. The footage shows the AP running on the boardwalk, into the bushes, police following her, and the interaction that ensues. SiRT engaged Alberta RCMP to conduct an enhancement of the video, to

see if they could make it clearer. On December 5, 2024, the Alberta RCMP provided the enhancement. It did not provide any new evidence or information.

The video shows the AP jump up a retaining wall into the bushes. Two HRP officers appear in the frame and make contact with her. The AP steps out of the bushes, sits, and appears to be speaking with the officers. She stands up, then bends over the wall with a leg flailing. She is then on her back and kicks one of the officers. The other officer pulls her foot and the AP is taken to the ground on her stomach. One officer is on her back and the other on her legs. There is a struggle, and a third officer arrives, and the AP is about to be handcuffed. The video is then blocked by a vehicle. Other officers arrive and assist the AP to a police vehicle. She kicks at the SO and is leaned against a police vehicle. The AP then kicks the SO, is taken to the ground, and then into the police vehicle with some struggle.

## **RELEVANT LEGISLATION**

### ***Criminal Code:***

#### Assault

265 (1) A person commits an assault when

- (a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;
- (b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or
- (c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.

#### Application

(2) This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.

#### Sexual assault

271 Everyone who commits a sexual assault is guilty of

- (a) an indictable offence and is liable to imprisonment for a term of not more than 10 years or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or
- (b) an offence punishable on summary conviction and is liable to imprisonment for a term of not more than 18 months or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.

## **LEGAL ISSUES & ANALYSIS**

A sexual assault consists of an assault within any of its definitions in the *Criminal Code* that is sexual in nature and violates the sexual integrity of the victim. In reviewing the evidence collected in the course of the SiRT investigation related to this alleged incident, I cannot conclude a sexual assault occurred.

On the night of the alleged incident, the AP told a SANE nurse that she had been physically assaulted and sexually assaulted by police. When SiRT interviewed the AP, she confirmed this allegation. The investigation that ensued involved canvassing for witnesses, interviews, review of video footage, police reports and notes, and medical reports. The AP, who was highly intoxicated, had significant gaps in her memory and substantial inconsistencies in her statement. There was no evidence of a sexual assault in video, or witness accounts. There are many inconsistencies in the AP's account of events, and they differ considerably from the accounts of other witnesses interviewed and video footage. Of note, the AP stated multiple times that the police walked her back to the parkade, and her interaction with police took place in the parkade. However, video evidence and witness accounts make it clear that she interacted with police outside, near the Halifax Ferry Terminal. Police radio transmissions also confirm that the interaction took place near the Ferry Terminal. Other inconsistencies include:

- The AP stated she was patted down by a male officer on the ground, when a female officer present could have performed the pat down. However, video footage does not show a pat down and a female officer did not arrive until after the AP was brought to her feet.
- The AP stated she just got into the police car; however, it took at least three officers to place her in the police car since she was struggling and resisting.
- The AP stated she was not read her legal rights; however, this was done and confirmed by video footage from the HRP Prisoner Care Facility.

## **CONCLUSION**

I am mindful of the sensitivities and challenges related to reporting alleged incidents of sexual assault. Sexual assaults are generally under reported, and the release of detailed information related to the assaults or the fear of not being believed may prevent a person from reporting. These sensitivities have been considered when summarizing the evidence in this report.

After a careful review of the evidence and the law, I have determined that there are no reasonable grounds to lay a charge against the SO as I cannot conclude an offence has been committed.