

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2015-038

Referral from

RCMP – Bible Hill

December 23, 2015

Ronald J. MacDonald, QC

Director

April 18, 2016

**Facts:**

Shortly after 4 a.m., on August 21, 2015, a male member of the RCMP – Bible Hill (Officer 1) arrived at a residence on Highway 311 in Colchester County in response to a complaint of an unwanted male passed out on the lawn. The male, the Affected Person (AP), was arrested, and taken to police cells at the Truro Police Service. Later that morning he complained of chest pain and was taken to hospital, where he remained for several days. Due to oversight, the incident was not reported by the RCMP to SiRT at the time. During a file review in December, the matter was noted by a supervisor and SiRT was contacted on December 23, 2015. SiRT began its investigation on January 8, 2016. The investigation was concluded on January 26, 2016.

The investigation included the investigator speaking with AP and one civilian witness, as well as a review of the logs of the officers on duty at the Truro Police Service cells during the time AP was in custody, together with a review of the relevant RCMP file.

The Serious Incident Response Team Regulations made under the *Police Act* provide that a subject officer is not required to provide SiRT with a statement or his notes or reports. In this case Officer 1, the subject officer, agreed to provide a complete copy of his file reports as contained on the RCMP file.

It should be noted that while the matter was not reported to SiRT by the RCMP until December 23, in the meantime AP did not make any complaint about what occurred during his arrest.

The investigation showed that on the early morning of August 21 the RCMP received a complaint from the residence on Highway 311 about an unwelcome guest passed out on the caller's front lawn. Officer 1 responded on his own. When he arrived and exited his vehicle he observed a female lying on the lawn undressed from the waist up. Beside her lay AP who was almost completely unclothed. Both were highly intoxicated.

The caller, the female occupant of the home, exited the house and told the officer the male, her boyfriend, and the female had been sexually involved on her lawn. She was very upset. As Officer 1 attempted to calm her down AP stood and became confrontational with Officer 1, demanding to know why he was there.

Officer 1 then went into the home to gather information from the female complainant. As he did he heard AP say he was going to steal the police vehicle, and he opened the driver's side door. At that point Officer 1 exited the home and attempted to place AP under arrest. AP struggled with Officer 1 as he tried to handcuff him. To control him, Officer 1 tried to take AP to the ground. AP resisted this, and wound up going down on his back, pulling Officer 1 causing him to land hard on top of AP's abdomen. Officer 1 stood and was able to complete the handcuffing of AP, and got him off the ground. AP continued to resist, but eventually Officer 1 was able to place him into the police vehicle. Only then was Officer 1 able to call for back-up. That officer

arrived and dealt with the intoxicated female. Officer 1 then transported AP to Truro Police Service cells where he was lodged with the intention he be released once sober.

When AP first arrived at cells he made no complaints about any injuries. However, later in the morning he complained of chest pains. When first contacted by SiRT, AP indicated that he suffered internal injuries during the struggle and was required to spend several days in hospital. That contact was by phone, with an agreement that he would participate in an interview at a later date. However, when contacted to arrange that interview AP indicated he did not wish to participate any further in the investigation. In addition, he refused to provide contact information for the original female complainant, his current girlfriend.

Contact was made with the female found on the front lawn. She indicated she was unable to recall the incident due to her high level of intoxication at the time.

**Relevant Legal Issues:**

The relevant legal issues in this matter are:

- 1) Did Officer 1 have legal authority to arrest AP? A police officer is entitled to arrest a person they find committing or attempting to commit an indictable offence, or who they have reasonable grounds to believe has committed an indictable offence.
- 2) Did Officer 1 use excessive force during the arrest? Police are entitled to apply as much force as is necessary and is not excessive both to arrest a person and to protect themselves.

**Conclusions:**

The purpose of a SiRT investigation is to determine whether the facts of a case where the actions of police may have led to serious injury justify charges against a police officer. Investigations are carried out even where there is no complaint of wrongdoing, with the goal of providing the public an independent analysis of the facts. In this case, AP never made a complaint about the incident. It was referred by police as required under the *Police Act*.

AP did not cooperate with the investigation, and would not provide contact information for one of the witnesses, the original homeowner. The other witness present was unable to provide any information due to her level of intoxication.

Although the evidence from Officer 1's report is the only evidence available, it must still be examined carefully. It is consistent with the nature of the complaint made by the initial homeowner of an unwelcome person passed out on the lawn. He then discusses the rare sight of

two barely dressed persons lying on the ground when he arrived at the complainant's address. The description of the male then attempting to steal the police vehicle would normally be very odd, but in this case is consistent with the other observed behavior.

Based on these facts Officer 1 had clear grounds to arrest AP given the attempt to steal the car. The description of the arrest which led to Officer 1 accidentally falling on AP is again consistent with the intoxication and observed behaviour of AP.

Officer 1's evidence describes the event in a reasonable and credible way. It is clear Officer 1 was justified in his decision to arrest AP, a highly intoxicated male whose actions needed to be controlled. The force Officer 1 applied during the arrest was appropriate, being used only to control an uncooperative person. Had AP complied with Officer 1 there would have been no need for the use of any force. The injury occurred unintentionally. Therefore there are no grounds to consider any charges against Officer 1.