

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2021-021

RCMP

August 10, 2021

Felix Cacchione  
Director  
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SiRT was contacted by both the RCMP and the Affected Person (AP) regarding an incident that occurred on August 6, 2021. The incident which led to this investigation was the arrest of the AP under the provisions of the Involuntary Psychiatric Treatment Act (IPTA) and injuries alleged to have been sustained during the arrest. The investigation began on August 10, 2021 and concluded on December 9, 2021.

The following evidence was obtained, reviewed, and considered in the preparation of this report: Police Reporting and Occurrence System report (PROS), the AP's audio video statement, audio video statement of a Civilian Witness (CW) the AP's common-law partner, audio video statement of a Witness Officer (WO1) present at the scene of the incident, notes of two Witness Officers (WO2 and WO3) not present at the scene, audio video statement of the Subject Officer (SO), audio transmissions of the call dispatch and the original call from Health Canada assistance program Crisis and Referral line, the AP's medical records from two hospitals, photographs of the AP's forearm and hand, RCMP threat assessment relating to the AP and an RCMP officer safety bulletin.

**Facts:**

On August 6, 2021 at approximately 5:30 PM, a staffer of Health Canada's Crisis and Referral line contacted emergency line 911. The caller advised 911 of the following: that the AP was threatening to harm himself, drive a car into the police station because he hated the cops and that he was angry at the Department of Community Services for not allowing him to see his children. The caller advised 911 that the AP would not provide his address, hung up on the crisis line worker and hung up again when the worker called back.

911 referred this call to the RCMP and three members attended the AP's residence. One of the officers who attended, WO1, had dealt with the AP on a previous occasion and was aware of how volatile and erratic the AP could be. Upon entering the AP's residence, WO1 spoke to the AP who was lying on a bed and told him the reason why the police were there. According to the CW, the demeanor of the officers was calm. The AP, using a series of expletives, told the police to get out. The AP was advised, why under the provisions of the IPTA, he had to go with the officers. The AP jumped up from the bed he was on, went toward the SO, swore at him and using expletives told him to get out of the house. The AP was then told by the SO that he was under arrest. A struggle ensued when the AP dropped to the ground on his stomach, put his arms underneath him and refused to provide his hands for handcuffing. WO1 told the other officers that the AP had a previous shoulder injury. As a result of this information, the AP's hands were handcuffed in front of as opposed to behind his back. The AP walked out of the residence on his own. The entire interaction lasted approximately six minutes.

The CW, AP's partner, offered to drive the AP to the hospital but this offer was denied for safety reasons by the SO. The AP was transported to the hospital and released after being examined both physically and mentally. While at the hospital the AP was asked several times by the officers if he wanted the handcuffs loosened or removed. The AP refused those offers. There were no physical injuries to the AP noted during this hospital visit. The only diagnosis made was that of Behavioral Dysfunction.

The AP attended the same hospital on August 8, 2021 and complained of numbness and tingling to his left hand. The AP became upset and aggressive after being told of the estimated wait times to see a doctor: The AP left without seeing the doctor.

On August 9, 2021 the AP went to the Bible Hill RCMP detachment and complained about an injury to his hand which he stated had occurred during his arrest on August 6, 2021. The AP refused to provide a statement, consent to the release of his medical records or to have photographs taken of his hand.

On August 9, 2021 the AP also attended another hospital regarding numbness and tingling in his index finger and weakness in his left thumb. The attending ER physician, after speaking by phone with a neurologist in Halifax, diagnosed neuropathy in the AP's left hand. The AP was told this condition should resolve itself in 1-16 weeks and that the condition should be observed for six weeks. If after six weeks of observation the numbness and tingling sensation persisted, the AP should return to the hospital where an electromyography EMG test could be done to assess whether the AP suffered nerve or muscle dysfunction from problems with nerve to muscle signal transmission.

The AP was asked on September 24, 2021 by the SiRT investigator to provide an update on his condition. The AP advised the investigator that he would get the information from the ER physician when he decided to get it or got the required information. The AP was contacted again on November 2, 2021 and asked whether he had been referred to a specialist. As of January 11, 2022, the AP had not sought or had any further contact with the attending ER physician nor had any referral to a neurologist been made.

**Legal issues:**

1. Did the SO have lawful authority to arrest the AP?

A peace officer has a lawful authority under section 14 of the IPTA to take a person into custody and take the person forthwith to a place to be examined by a physician if the officer has

reasonable and probable grounds to believe that the person has a mental disorder or that the person, as a result of a mental disorder, is threatening to or has recently attempted to cause serious harm to himself or another person.

2. Was the force used to effect the arrest excessive?

A police officer is entitled to apply as much force as is necessary to arrest a person providing the force used is not excessive.

**Conclusion:**

The police had authority under the IPTA to arrest the AP based on his comments to the Health Canada crisis line worker threatening to harm himself and wanting or wishing to drive a vehicle into a police station because he hated the police. The police attempted to de-escalate the situation by talking to the AP and requesting that he cooperate with them. The AP would not cooperate but rather actively resisted being taken into custody by putting his arms under his body thereby impeding the police in the execution of their duty.

The amount of force used in effecting the arrest was empty hand control which is classified as the least amount of force that can be applied other than officer presence and verbal commands.

The grounds for denying the request by the AP's partner that she drive the AP to the hospital were in the circumstances reasonable. The AP was in mental crisis, and it was unknown what the AP might do while in such a state.

Based on the totality of the evidence, there are no reasonable and probable grounds to believe that a criminal offence was committed by the SO. Therefore, no charges are warranted.