

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

Summary of Investigation  
SiRT File # 2021-024  
Referral from  
Halifax Regional Police  
August 13, 2021

Felix Cacchione  
Director  
December 06, 2021

This incident occurred in the early evening of August 13, 2021 and was referred to SiRT later that same evening by the Halifax Regional Police (HRP). The incident involved an interaction between the Affected Person (AP) and two Subject Officers (SOs) which resulted in lacerations to the AP's leg. An investigation was commenced that evening and concluded on October 7, 2021.

The following evidence was obtained, reviewed, and considered in the preparation of this report: audio/video statement and medical records of the AP, statements of two Civilian Witnesses (CW1+CW2), reports and notes of five Witness Officers (WOs), notes and report of the two SOs, photographs of the scene and injuries to the AP and the SOs.

**Facts:**

The AP was on court-imposed release conditions when this incident took place. Members of the police were aware that the AP was bound by conditions contained in a recognizance and had breached their release conditions the previous evening. HRP were called on August 13, 2021 by staff at the Atlantica Hotel and advised of the AP's presence there. SO1 and SO2, plainclothes officers wearing sidearms and displaying police badges hanging around their necks, attended the hotel. They were standing by the desk area in the lobby when a member of the hotel staff, who had escorted the AP from the third floor to the main level of the hotel, pointed out the AP to the SOs.

The AP walked through the doors from the hotel lobby to the foyer. SO1 and SO2 followed the AP into the foyer. The foyer is a floor to ceiling glass enclosed area. Normally this area is monitored around the clock by surveillance cameras. However, these cameras were removed during extensive renovations to the hotel. The new cameras, although ordered, had not yet arrived by the time of this incident.

The AP was calm when stopped and told twice by SO1 that they were under arrest for breaching their release conditions. When SO2 attempted to place handcuffs on the AP, the AP suddenly became agitated and began to actively avoid being arrested. The SOs attempted to control the AP but in their effort to do so both the AP and SO1 fell into and shattered a floor to ceiling glass wall into an office space.

The shattering glass caused a substantial laceration to the AP's leg which required multiple sutures to close. SO1 and SO2 suffered minor cuts which did not require sutures.

**Relevant legal issues:**

**Did the SOs have a lawful authority to arrest the AP?**

Police have lawful authority to arrest a person if they have reasonable and probable grounds to believe that a person has committed or is committing an indictable offence. Breach of a recognizance is an indictable offence.

**Was the force used in affecting the arrest excessive?**

A peace officer is entitled to use force to effect an arrest providing the force used is not excessive.

**Conclusion:**

The police were aware that the AP was bound by release conditions and arrestable for a breach of those conditions. The totality of the evidence including the SOs' notes and reports, which the officers are not required to provide, and the independent observations of two civilian witnesses establishes that the AP initially responded calmly when told they were under arrest but then actively resisted being placed in handcuffs. In attempting to restrain the AP both SO1 and AP fell through a floor to ceiling glass wall. The AP continued struggling even after falling through the glass wall.

The force used by the SOs was necessary, reasonable, and not excessive. The AP's injuries were caused by a secondary effect of the arrest i.e. the shattering and falling glass. The actions of SO1 and SO2 in arresting the AP were lawful and the force used was not excessive. Accordingly, criminal charges are not warranted against either officer.