

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2014-025

Referral from

Halifax Regional Police

August 6, 2014

Ronald J. MacDonald, QC  
Director  
March 12, 2015

**Facts:**

At approximately 7:30 p.m. on August 6, 2014, Halifax Regional Police (HRP) received a call from staff at the Dartmouth Crossing Walmart about a woman yelling and screaming without apparent cause in their parking lot. A male HRP officer, Officer 1, responded to the call and located the 51-year-old woman, the Affected Person (AP), outside of a nearby business. The woman was taken into custody under the Involuntary Psychiatric Treatment Act (IPTA), and brought to the QE II hospital without incident. While awaiting medical attention, a struggle with the woman occurred and her arm was broken. That occurred at approximately 12:45 a.m. on August 7.

Due to the serious injury, and in accordance with the requirements of the *Police Act*, HRP contacted SiRT to report the incident within a half hour. SiRT's investigation commenced at that time, with an investigator attending the hospital soon after. The investigation was completed on December 12, delayed by issues within the investigation discussed below.

During the investigation SiRT interviewed or spoke with seven civilian witnesses, three of whom were Walmart employees, two QE II security personnel, and two paramedics. AP's medical records were obtained and reviewed, as was video of the room within which the incident leading to the injury occurred.

SiRT was unable to obtain a formal statement from AP. In addition to the initial contact early on August 7 in person, several phone and in person contacts were made thereafter. At the outset she refused to consent to the release of her medical reports. It was not until October 2, 2014, when she attended the SiRT office, that she signed a consent. She had come to the office planning to give a statement but then changed her mind. Subsequent contacts with AP showed she continued to suffer from mental health issues. The last several attempts to make contact were unsuccessful.

Initially, the QE II refused to release the video of the incident without a court order or consent from AP. When the medical consent was obtained the video was released.

Under the Serious Incident Response Team Regulations made under the *Police Act*, a subject officer is not required to provide SiRT with his notes or a statement. In this case Officer 1, the subject officer, chose not to provide either. However, during an initial briefing with Officer 1's supervising officer on the night of the incident, Officer 1 sat in on the conversation and gave the SiRT investigator some verbal explanations about what had occurred.

Three Walmart employees gave statements to SiRT outlining their observations from the evening of August 6<sup>th</sup>. They described a woman walking around their parking lot yelling, talking to trees, waving her arms for no apparent reason, and standing in the roadway. Several customers had approached the staff with concerns for the woman's safety. As a result the police were contacted and the information was passed along.

When Officer 1 arrived, the woman had moved to the parking lot of a nearby business. The woman was AP. She was taken into custody under the IPTA, handcuffed, and brought to the hospital. Initially she was cooperative. She was placed in a small room in the psychiatric assessment unit, still in the custody of Officer, as she awaited medical attention. At one point she asked Officer 1 if she could go to the washroom. Officer 1 removed her handcuffs for that purpose. When she returned to the room he allowed her to remain out of handcuffs on the understanding that if she acted up she would have to be handcuffed again.

The room AP was in contained two video cameras, without audio. After midnight, AP was alone in the room, and began to become restless. Officer 1 was just outside the room. The video demonstrates that she began to pace, wave her arms, and aggressively yell repeatedly toward one of the video cameras. Officer 1 re-entered the room and in an attempt to control AP. He tried to reapply her handcuffs. She resisted, and kicked backward toward Officer 1. In response, Officer 1 pushed AP against the wall. He then tried to control her left arm to handcuff her. The video shows AP is actively resisting. Suddenly, she goes to the floor. This is when her left upper arm was broken. Officer 1 immediately seeks medical help for AP.

Only one person had witnessed the incident. It was the security guard working in the psychiatric assessment unit outside the room where AP was waiting. She confirmed AP had begun to yell and swear loudly, pacing around the room and acting out. She was able to observe her yelling at the video camera on the monitor. She noted that AP resisted and attempted to kick Officer 1 when he tried to re-handcuff her.

While AP did not give a statement, she did make verbal comments to the SiRT investigator on the night of the incident. She indicated that she had been living in Edmonton, but was originally from Halifax. She left Edmonton two months earlier, and drove to Ottawa to file a human rights complaint. She then drove to Halifax to visit her sister. She indicated that she was living in her truck in the Walmart parking lot.

**Relevant Legal Issue:**

Did Officer 1 have lawful authority to take AP into custody under the IPTA? That Act allows the police to take a person into custody and then take them for medical examination if there are reasonable and probable grounds to believe the person has a mental disorder, is threatening to cause harm to themselves, is not consenting to go to hospital, and it is not feasible to seek a court order first. During that process, police are entitled to apply what reasonable force is necessary. That may include force needed to ensure the person is kept under control while in custody.

**Conclusions:**

As Officer 1 did not provide a formal statement, conclusions about his intent must be drawn from the circumstances and his brief comments made at the outset of the investigation to the SiRT investigator.

Officer 1 indicated that AP was arrested under the provisions of the IPTA. Based on the observations of the various witnesses to AP's behaviour in the Walmart parking lot, there were reasonable grounds to believe she had a mental disorder, and indeed appeared to have put herself in danger by standing in driving lanes. There were ample grounds to take AP into custody at that time without seeking a court order first.

While AP awaited medical attention at the hospital, she was still in Officer 1's custody. He had a responsibility to control her behaviour should she become a danger or significant nuisance to herself or others, or should she possibly damage property. In so doing, he is entitled to take steps to prevent harm before it occurs. In that regard, just prior to his attempt to re-handcuff AP, the video demonstrates that she was becoming quite agitated and angry. Officer 1 had attempted to treat AP with some compassion, and had agreed to leave her out of the handcuffs after she used the washroom. However, with her change in demeanour, it was reasonable to re-handcuff her. When so doing, he is entitled to use reasonable force. The video demonstrates that the force used was not significant, and only increased when AP attempted to kick Officer 1 and actively resist the attempt to handcuff her. When Officer 1 tried to pull her arm down behind her back to apply the cuff, she tried to pull her arm the other way. It was at that time she suffered her broken arm. The injury was accidental, during the lawful application of force by Officer 1.

In these circumstances, there are no grounds to consider any charges against Officer 1.