

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2025-003

Referral from

Halifax Regional Police

January 5, 2025

Erin E. Nauss  
Director  
April 3, 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 serious injury of the Affected Party.

**Timeline:** SiRT commenced its investigation on January 5, 2025. The investigation concluded on February 10, 2025.

**Terminology:** This summary uses the following language in accordance with regulations made under the *Police Act* and to protect the privacy of those involved:

- **“Affected Party/AP”** means the person who died or was seriously injured in relation to a serious incident.
- **“Civilian Witness/CW”** means any non-police individual who is a witness to or has material information relating to a serious incident.
- **“Witness Officer/WO”** means any police officer who is a witness to or has material information relating to a serious incident.
- **“Subject Officer/SO”** means a police officer who is the subject of an investigation, or whose actions may have resulted in a serious incident.

**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 and Statements (2)
4. Witness Officer Reports and Statements (2)
5. Civilian Statements (2)
6. Police Radio Transmissions
7. Video Footage from Apartment Building
8. Photographs
9. Video from HRP Prisoner Care Facility
10. Initial Occurrence Police Report and Police Phone Call
11. Court documents of the Affected Party

## **INVESTIGATION SUMMARY**

### **Introduction**

On January 5, 2025, the Halifax Regional Police (“HRP”) were investigating a breach of a no-contact condition of a Court Order. At the time, the Affected Party (“AP”) was standing trial on a number of serious criminal charges where Civilian Witness #1/CW1 was the victim. CW1, who the AP was to have no-contact with, had contacted police earlier in the day advising them he had been knocking on her door on January 4, 2025. On the afternoon of January 5, police were looking for the AP and called CW1. They asked if she was ok, and she said “no.” Police asked if he was in her apartment and she whispered “yes”. Police responded immediately to CW1’s apartment. The AP was located inside the apartment and was placed under arrest. The AP resisted arrest and was taken to the ground in a controlled manner, handcuffed and escorted to the police vehicle. He was transported to HRP’s Prisoner Care Facility (PCF) and complained of pain in his elbow. Emergency Health Services (EHS) attended the PCF and transported the AP to hospital for low blood pressure. It was determined that the AP sustained a fractured/broken and dislocated elbow.

### **Affected Party**

Court documents show that at the time of the incident, the AP had been charged with a number of criminal offences where CW1 was the alleged victim and was standing trial. The criminal charges included sexual offences, criminal harassment, failing to comply with release conditions,

and intimidation of a justice participant. The AP was on court-ordered conditions to have no contact with CW1.

The AP provided a statement to SiRT on January 6, 2025. In his statement he admitted to going to CW1's apartment to provide her with an iPad so he could communicate with her. He knew he wasn't supposed to be there but stated he 'made a mistake'. He said he went to her door and knocked, heard the doorhandle click and went in. He stated the door was open a bit. The AP stated he called CW1's name and told her about the iPad. He indicated that he also was going to e-transfer her money. The AP told the SiRT investigator CW1 wasn't feeling well that day and went to the bathroom. (Note: The suggestion she was not feeling well was not substantiated in CW1's statement to SiRT). The AP stated he assumed CW1 called the police at that time, and that CW1 left the bathroom and was standing by the refrigerator. He said there was a knock at the door and suddenly 5-6 officers came running in yelling "get down, get down". He said there were 2 male officers and 3 female officers on scene. The AP stated he was standing in front of a table, looking at the iPad, when an officer started to push him on the table. The AP stated he said, "I can't get down" and the officer told him he was resisting. He recalled the officers pushed him away from the table and got him down to the floor. He stated that an officer was holding his shoulders and another put his leg on the AP's arm and pushed down. He said he could hear the bones break in his arm and told the officer he was breaking his arm, and that the officer responded by saying "I don't care, you're resisting arrest". The AP stated he had a visible displacement of his elbow and was unable to move it back and forth. The officer placed handcuffs on the AP and pushed him out the door. The AP stated he was trying to keep up, despite the pain in his arm. He stated they went down the elevator and out to the police vehicle. The AP couldn't recall what the officers were saying, but that he told the officers they were rough on his arm. The AP was taken to the police station and EHS was called to transport him to hospital.

The AP said he is 5ft and the officer was 6ft. and he further denied he was resisting arrest. The AP indicated that CW1 was present during the altercation with the police and was standing by the sink. The AP consented to have his medical records turned over to SiRT, which indicated he sustained a fracture/break to his right elbow.

### **Civilian Witness**

SiRT reviewed two statements CW1 provided to HRP. The first was prior to the incident that is the subject of this summary, and a second statement was provided to HRP after the AP was arrested. On January 7, 2025, CW1 provided a statement to SiRT.

On January 4, 2025, the AP began knocking at CW1's door at around 4:00 pm. She did not say anything or open the door. He knocked on the door, walked down the hall and returned. CW1 stated the AP did this every few minutes for about 30 minutes to an hour and then left. CW1 went to work on a night shift and told a co-worker, who advised her to call police. She called the HRP non-emergency line in the early morning hours, and police attended and took a statement from her. The police left CW1's apartment around 10:00 am on January 5, 2025. CW1 stated she forgot to lock her door when they left. At approximately 1:30 pm, CW1 was cleaning her apartment when she heard a knock at her door. It was the AP, and he came into the apartment, so CW1 went to the bathroom and locked the door. CW1 stated she asked the AP to leave several times, and he said he was not leaving. The AP indicated that he wanted to stay in contact with her and he had brought her a tablet. HRP then called, and the officer asked if she was alright. CW1 stated "no" and the officers said they would be right there. (Note: on January 5 HRP were attempting to locate the AP as they were investigating the breach of the release/no contact order).

CW1 stated that four officers attended CW1's apartment, which is approximately 300 sq. feet. They knocked loudly and entered, and did not wait. As the police entered the apartment, CW1 exited the bathroom. She stated the AP was sitting on the sofa and tried to run for the bathroom. She stated the officers grabbed the AP about 2 feet from the sofa and told him he was under arrest and to get down on the floor and not resist. The officers got the AP and put his hands behind his back to handcuff him. The AP was laying on his stomach. CW1 stated the officers grabbed the AP and the interaction happened quickly. While he was being handcuffed, the AP kept saying "I didn't do anything wrong, I am not doing anything wrong". CW1 heard the AP say the officers were hurting his arm. CW1 indicated she saw the entire interaction between the police and the AP. She did not see the officers stomp on the AP's arm and stated she was not aware the AP was injured during the arrest. Three officers walked the AP out and a female officer stayed with CW1.

A civilian witness who interacted with the AP in the apartment building lobby on January 4, 2025, provided a statement to HRP but his evidence was not necessary for this summary.

### ***Witness Officers***

Witness Officer #1 ("WO1") provided a statement to SiRT regarding the incident. He stated he heard the SOs air over the radio that they were responding to a domestic related breach and possible break and enter. WO1 could hear sirens in the background and the SOs asked for more units to attend. WO1 asked for information on the AP and learned he was arrestable for breaches of a court order. He was also provided a photo of the AP from dispatch. WO1 met the SOs at the residence and they entered the building together. The officers ran down the hallway toward the apartment unit. They knocked loudly on the door and opened it. There were two people inside –

CW1 and the AP. It was a small studio apartment, with a bathroom off the living room area. WO1 recognized the AP from the photo. He observed the SOs grab a hold of the AP and shout commands such as “give us your hands” and “you’re under arrest”. The AP was shouting back and actively resisting the officers by pulling his hands away. WO1 stated the SOs guided him to the ground in a controlled manner and the AP ended up facedown on his stomach. WO1 moved a small table out of the way so the AP did not hit his head. Once on the ground, the SOs each had one of the AP’s arms and pulled them back so WO1 could handcuff him. WO1 stated he was kneeling with his knees parallel to the AP’s shoulders.

WO1 recalled feeling some degree of resistance from the AP when applying handcuffs. Once handcuffs were applied, the SOs explained to the AP the reason for his arrest. The AP was ordered to get up, but he didn’t so he was helped up and promptly taken out of the apartment. WO1 followed the SOs and the AP down to the lobby. The AP was searched before being placed in the police vehicle. WO1 stated he did not see any strikes delivered to the AP and at no point did the AP complain of any pain to his arm. After the AP was arrested and taken from the apartment, WO1 was with the AP as they walked down the hall and down the elevator to get to the police vehicle. During this time there was no mention of any injury. The first information WO1 received of an injury was when he arrived at booking and learned the AP had an elevated heart rate. He learned the next day that the AP had sustained an injury to his arm. This surprised him as he didn’t know when or how this happened.

Witness Officer #2 (“WO2”) was working alone in her police vehicle when the SOs radioed they were seeking assistance as they believed the AP was at CW1’s residence. WO2 arrived at the same time as the SOs and WO1. As a result of the radio dispatch, WO2 knew this was a high-risk domestic situation. As they were going up the elevator, she was informed the AP could be in the hallway or in the apartment. She was not aware of the initial call that was being investigated. When they arrived at the apartment door, they knocked and entered immediately. The AP was standing close to CW1 and the SOs knew who he was. They grabbed a hold of him and told him he was under arrest. WO2 stated the AP was turning his body away from them and the SOs brought him down to the ground in a controlled manner. She noted he wasn’t thrown on the ground; they took him to his knees and then to the ground. While on the ground the AP was placed in handcuffs and brought to his feet. She stated she recalled one of the SOs telling the AP to stop resisting. While the SOs and WO1 were dealing with the AP, WO2 was standing to the side of the kitchen. She stated she did not see any of the officers deliver strikes to the AP and she did not hear the AP complain of any injuries. She learned the following day that the AP had sustained an injury during arrest. She stated she was surprised to hear that as she did not think the officers were aggressive with the AP. WO2 did not interact directly with the AP as she was dealing with CW1 while on scene.

**Subject Officer Statements, Notes and Reports**

While not legally obligated, both SOs in this case consented to SiRT receiving their notes and reports. They also agreed to provide statements regarding the incident.

Subject Officer #1 (“SO1”) provided a statement to SiRT on January 29, 2025. He stated that on the date of the incident, CW1 had contacted HRP to report a breach of court ordered conditions by the AP the previous day. SO1 contacted CW1 and he and Subject Officer #2 (“SO2”) met with her at her apartment. SO1 stated they learned the AP had been at her apartment door the day before and she saw him through the peep hole. He was pacing up and down the hallway. She didn’t open the door and didn’t say anything. She did not want to call police at that time because she didn’t want him to know she was inside. SO1 stated he believed CW1 was very fearful of the AP. After the statement, the Sos went to the AP’s residence. They knocked on his door but were unable to locate him. The Sos called CW1 to see if the AP had a vehicle. When she answered the phone, it was silent and SO1 believed something wasn’t right. SO1 stated he asked her if everything was okay, and CW1 replied “no”. WO1 asked her if the AP was there, and she replied “yes”. SO1 stated that he could tell over the phone that CW1 was afraid and something was off. SO2 was driving the police car and they made their way to CW1’s residence. They made the decision to use lights and sirens, as based on CW1’s responses on the phone, they believed she was in immediate danger and wanted to get to the residence as quickly as possible. They asked for other officers to respond and when they arrived, there were two other police cars.

All officers went upstairs to CW1’s apartment. They opened the door and saw the AP and CW1. CW1 was standing to the left, by a counter. The AP was standing close to a couch. SO1 stated when you first arrest someone, the first thing you look at is their hands. He recalled only seeing one hand and being concerned the AP had a knife or other weapon in his hand. They told the AP he was under arrest. SO2 grabbed the AP’s right side and SO1 grabbed the AP’s left side. The AP was pulling and was not compliant. SO1 stated that SO2 told the AP to get on the ground. SO1 wasn’t certain how the AP ended up on the ground but stated he had his arm and likely started escorting him and then swept his leg. He stated this was done in a controlled manner and the AP did not abruptly fall to the ground. Once the AP was on the ground he was still pulling. The AP had a cellphone in his hand that SO1 tossed. They handcuffed the AP and left the apartment. SO1 estimated the entire interaction took 30 seconds. Once the AP was near the police car, he mentioned his arm. At the time, SO1 did not believe there was any injury as he had no reason to believe he had been injured, and the AP didn’t mention any pain during the arrest. They drove directly to the PCF and called EHS. When the paramedics arrived, they assessed the AP and transported him to hospital due to other medical issues. It wasn’t until the following day that SO1 learned the AP sustained an injury to his arm.

SO1 indicated there were a lot of unknowns entering the apartment. He was aware of the serious nature of the charges before the Court where the AP was the accused and CW1 the victim. They knew CW1 was fearful, but due to the situation were unable to obtain more details from her. They did not know if the AP had a weapon and when they entered the apartment, the AP was close to the kitchen counter, where one could reasonably expect there could be a knife. SO1 stated they knew he had to be arrested and if he had access to weapons, the AP would be easier to control if he was taken to the ground.

Subject Officer #2 (“SO2”) provided a statement to SiRT on January 22, 2025. He stated on the day of the incident he had received a call for service from CW1, stating the AP (who was on court ordered conditions to have no contact with her) had knocked on the door of her residence around 4:00 pm the previous day. At approximately 10:00 am on the day of the incident, SO2 and SO1 met with CW1 to obtain a statement. Early that afternoon SO1 and SO2 went to the AP’s residence. They knocked on the door multiple times but there was no response. SO1 called CW1 to give her an update. SO1 asked if the AP was there and CW1 replied yes. Given the history of the file the SOs used lights and sirens to get to the residence quickly. SO2 noted that CW1 had expressed fear over the phone and when they met her in person. There was concern that if the police didn’t arrive immediately the AP could harm CW1. They arrived at the residence with two other officers. They knocked on CW1’s apartment door. SO2 noted it was unlocked so they entered. SO2 stated the CW1 had previously expressed fear that the AP would kill her, which led to the belief there were exigent circumstances to enter and arrest the AP. When they entered the residence, SO2 announced himself and saw the AP. He was standing approximately 1-2 feet from CW1. He had a cell phone in his right hand and his left hand was in his pocket. SO2 stated “police, you are under arrest” and grabbed his right wrist to put behind his back. SO2 could feel the AP pulling towards his left. The AP’s left hand was still concealed and there was concern he could have had a weapon. SO2 pulled the AP toward him and SO1 grabbed his left arm. SO2 swiped the AP’s right leg to get him down and stated he went down easily to his stomach. SO1 gained control of the AP’s left arm and he was placed in handcuffs. SO2 stated AP was taken to the ground for safety reasons. This position destabilizes a person and minimizes the ability to harm anyone. The officers brought him to his feet and he was escorted out of the apartment. SO2 stated that at no time did any officer strike or stomp on the AP. The only interaction with the AP while he was on the ground was pulling his arm behind his back. He stated this pull was very minimal, there was no struggle or leverage required to control his arm.

The AP was read his Charter rights and Police Caution. SO2 noted he was responsive but didn’t say anything about being injured. SO2 recalled asking the AP if he was hurt but he didn’t indicate he was. Once the AP was placed inside the police vehicle, he indicated he had chest pains and his arm was sore and possibly broken. Once they arrived at the PCF, the AP contacted



a lawyer and was placed in cells. EHS was contacted and decided to take the AP to hospital for other medical reasons. SO2 was informed the next day of the AP's injury to his arm.

### **Video Evidence**

There was video footage obtained from the apartment building, which depicts the AP being escorted by police into the elevator and out of the building. The AP is observed with his hands handcuffed behind his back.

There was also video footage obtained from the PCF. This footage shows the AP arriving at the PCF, being escorted inside. Once the handcuffs are removed the AP tells the officers "I think you hit my arm bad there". SO2 responds by telling the AP he was resisting and pulling away during the arrest. SO2 searches the AP and asks him to put his arms up. The AP is unable to do so. The AP also struggles to put his shoes back on following a search of his footwear. The AP asks to have his arm checked and says he knows it is broke. The AP is placed in a secure room to speak with legal counsel. The AP appears to be in distress. When EHS arrive, the AP is placed on a stretcher and complains of pain when he moves his right arm.

### **RELEVANT LEGISLATION**

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

#### **Protection of persons acting under authority**

25 (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law

- (a) as a private person,
- (b) as a peace officer or public officer,
- (c) in aid of a peace officer or public officer, or
- (d) by virtue of his office,

is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

#### **When not protected**

(3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self-preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm.

When protected

(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if

(a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested;

(b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant;

(c) the person to be arrested takes flight to avoid arrest;

(d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm; and

(e) the flight cannot be prevented by reasonable means in a less violent manner.

Excessive force

26 Every one who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.

**LEGAL ISSUES & ANALYSIS**

I must now assess the evidence to determine whether there are reasonable and probable grounds to believe a criminal offence has been committed. Reasonable and probable grounds is a standard lower than a balance of probabilities or beyond a reasonable doubt, and more than reasonable suspicion.

Police have a duty to preserve peace, prevent crime and protect life and property. Section 25 of the *Criminal Code* permits a peace officer, acting on reasonable grounds, to use as much force as is necessary to enforce or administer the law, provided that the force used is not excessive based on all the circumstances. The Supreme Court of Canada in *R v Nasogaluak* [2010] 1 S.C.R. 206, at paragraph 35 stated:

Police actions should not be judged against a standard of perfection. It must be remembered that the police engage in dangerous and demanding work and often have to react quickly to emergencies. Their actions should be judged in light of these exigent circumstances. As Anderson J.A. explained in *R. v. Bottrell* (1981), 60 C.C.C. (2d) 211 (B.C.C.A.):

In determining whether the amount of force used by the officer was necessary the jury must have regard to the circumstances as they existed at the time the force

was used. They should have been directed that the appellant could not be expected to measure the force used with exactitude.

The SO's were in the lawful execution of their duties when they attended CW1's apartment. They had grounds to arrest the AP for breach of his court order and had been advised by CW1 the AP was in her apartment. The SOs indicated there was an urgency to entering the apartment as they believed CW1 was in immediate danger.

When the officers entered the apartment, they located the AP and placed him under arrest. The SOs both noted they could not see one of the AP's hands and they were concerned he may have had a weapon or a knife. This concern was reasonable considering they knew the history of the AP, the fact he had attended CW1's apartment the day prior, and the fear displayed by CW1 regarding contact with the AP.

I am satisfied that when the officers tried to handcuff the AP, he resisted by pulling away. The three officers who were dealing with the AP (SO1, SO2, and WO1) all stated they felt the AP pull. WO2 also observed the AP while being arrested and stated he was turning his body away from the officers. The SO's brought the AP to the ground in a controlled manner, by bringing him to his knees and then his stomach, to be placed in handcuffs. Both SOs stated the action of bringing him to the ground was necessary because he would be easier to control. The SOs stated they were concerned about the safety of CW1 and whether the AP had access to a weapon. Considering these factors, I cannot conclude it was unreasonable for the SOs to take the AP to the ground to be handcuffed. I am further satisfied the SOs did not stomp or strike the AP during the arrest. The SOs, WOs, and CW1 all state they did not witness this behaviour.

It is clear the AP was injured during his interaction with police. The SOs and CW1 state the AP complained about injuries to his arm. Further, the video evidence suggests the AP struggled to move his arm once back at the PCF. The force used in this matter was not excessive and was necessary in the circumstances. To ensure the safety of CW1, there was urgency in gaining control of the AP and placing him in handcuffs. The actions of the SOs ensured the AP was quickly handcuffed and removed from the apartment. I cannot conclude that the force used by the SOs was unreasonable or criminal in nature.

## **CONCLUSION**

After a careful review of the evidence and the law, I have determined that there are no reasonable grounds to lay a charge against either of the SOs.