

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2012-011

Referral from

RCMP - Indian Brook

August 20, 2012

Ronald J. MacDonald, QC
Director
December 10, 2012

Facts:

On Monday, August 20, 2012, the Serious Incident Response Team (SiRT) was contacted by the Royal Canadian Mounted Police (RCMP) to investigate a complaint made by a female resident of Indian Brook. The Affected Party (AP) was alleging her arm had been broken by a male RCMP officer during an arrest on Saturday, August 18.

Two SiRT investigators were assigned to the investigation, and were assisted by two seconded members of the Halifax Regional Police for two days.

The investigation revealed that on August 18, at 5:44 p.m., the Indian Brook RCMP received a complaint from a female resident of Indian Brook that she had been punched in the head by another female (S). About 25 minutes later, two officers (Officers 1 and 2), saw a vehicle being driven by a male (M) with AP and S as passengers. The vehicle was stopped. M was found to be impaired. He was arrested for impaired driving, and S was arrested for the assault. All three persons were highly intoxicated and appeared to have been drinking alcohol in the car.

During the arrests, which were uneventful, AP exited the vehicle on the passenger side. As she did, she closed the passenger door on her hand. Officer 1 quickly opened the door freeing her hand. Once outside the vehicle, she was very unstable and unable to remain standing without assistance provided by Officer 1. Her clothes were very dirty and her legs were scratched, bloody and full of mud, suggesting she had fallen previously.

Given her state of intoxication, she was arrested for being intoxicated in public. When she was handcuffed she complained about her wrist being sore. While on route to cells at the Enfield RCMP Detachment, Emergency Health Services (EHS) were requested to meet police at cells to examine AP's arm. EHS attendants noted an injury but did not believe her arm was broken. However, they offered to take AP to the hospital. She refused and was lodged in the cells. Six hours later, after midnight, Officers 1 and 2 returned to cells. AP had sobered up significantly and was driven home by the officers. Because she was still complaining about her arm, they offered to take her to the hospital. She again refused, saying she would deal with it in the morning. During this encounter, the interactions between AP and the officers were very cordial.

AP went to see her doctor the next afternoon, and was sent for an x-ray that confirmed a bone in her arm was broken.

On Monday, August 20, AP went to the Indian Brook RCMP Detachment and made a complaint that Officer 2 broke her arm during the roadside encounter. However, in her statement she was clear that due to her level of intoxication she had no independent recollection of this occurring. She suggested Officer 1 told her this information when she was in cells.

During the investigation, the SiRT spoke with four police officers and 12 civilian witnesses. This included AP and Officer 1 and 2.

Officer 1 was originally considered a “witness officer”, as defined in the Serious Incident Response Team Regulations, made under the *Police Act*. Before he was interviewed, he volunteered that Officer 2, who was alleged to have caused the injury, had no direct contact with AP. He explained that only he had contact. He was therefore given notice that he was the “subject officer” in the matter, as defined in the SiRT Regulations. He still wanted to give a statement even though the SiRT regulations do not require a subject officer to do so. In his statement he explained many of the facts outlined above, and made it clear that Officer 2 had no contact with AP. His description of how AP caught her hand in the door suggested this was not how she broke the bone in her arm.

Officer 2 gave a consistent statement of the events, in particular noting that AP was highly intoxicated.

Video from the cell at Enfield RCMP Detachment confirmed AP’s level of intoxication, and that she had difficulty standing up. The matron working at the cells confirmed this as well.

The homes in the area near the roadside incident were canvassed for witnesses. Others who were known to have driven in the area at the time were asked for statements as well. While a few witnesses gave evidence about seeing portions of the arrests, no one witnessed the police do anything to cause the injury suffered by AP.

A second statement was taken from AP by SiRT investigators later in the investigation. She confirmed that she did not recall how she broke the bone in her arm, but she did believe Officer 1 told her that Officer 2 caused it. She also confirmed that she was highly intoxicated. She further stated that if Officer 1 said he did not tell her Officer 2 caused the break, that she would be satisfied with his recollection given her lack of sobriety. Subsequently, Officer 1 confirmed that he did not tell AP that Officer 2 broke her arm.

Relevant Legal Issues:

This matter involves an allegation of assault causing bodily harm. An assault is any touching without consent. An assault causing bodily harm is one where the person assaulted suffers bodily harm, which can be any injury that is more than merely transient or trifling.

The real issue is how the injury occurred and who caused it. In particular, in order for there to be reasonable and probable grounds to lay a charge, there must be legally admissible evidence to prove these matters.

Conclusion:

In this case, the only evidence that Officer 2 caused the injury was the statement by AP that Officer 1 told her that happened. At best, this hearsay evidence cannot be used to prove an offence.

Officer 1 indicates that he did not give AP this information. There is no other evidence to suggest that AP's injury happened in the way she thought.

No one is able to say what caused the arm injury here, including AP, the injured party. Therefore, one must examine the totality of the circumstances and draw a conclusion from the evidence available. In this case, the evidence strongly suggests that the injury to AP's arm occurred at some time earlier in the day before Officer 1 arrested her.

In all the circumstances, there are no grounds to consider charges against any police officer in this matter.