

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2025-005

Referral from

Halifax Regional Police

January 7, 2025

Erin E. Nauss
Director
April 15, 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(s). 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 & Delays: The incident in question occurred on December 4, 2024. SiRT was notified of the incident on January 7, 2025 and commenced its investigation that day. The investigation concluded on March 21, 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
4. Witness Officer Reports and Statement (1)
5. Civilian Witness Statement (1)
6. Calls to Police and Police Radio Transmissions
7. CCTV Footage
8. Photographs

INVESTIGATION SUMMARY

On December 4, 2024, Halifax Regional Police (“HRP”) responded to a call regarding an adult male who was not wearing any clothes walking in the downtown area of Dartmouth, Nova Scotia. HRP received a second call from a male identifying himself by name, who said he was naked and requested police right away (the “Affected Party”/ “AP”). He provided the address where he was located. Two officers arrived at the address, and were met by the AP, in the lobby of an apartment/condominium complex. The AP was completely unclothed and was asking to be taken to jail. When officers told him he would not be going to jail, the AP got upset and began swatting at Witness Officer #1 (“WO1”). The AP was placed in handcuffs. A short time later the AP started spitting at WO1, who moved out of the way, but the AP continued to spit at the officer. The Subject Officer (“SO”) placed his hand over the AP’s face and began to escort him to a chair. The AP and SO fell, resulting in the AP’s face hitting the tile floor. Police drove the AP to his residence where he lived with his mother, and he was assessed by EHS. He was transported to the hospital with his mother and the police left. He was diagnosed with a broken nose. He also lost a tooth as a result of the fall. HRP became aware of the seriousness of the AP’s injuries on January 7, 2025, and contacted SiRT that day. The AP is a 35-year-old male with a cognitive disability.

Calls to Police and Police Radio Transmissions

Police dispatch and radio recordings were obtained and reviewed by SiRT. At approximately 4:28 am on December 4, 2024 a female called HRP and stated that an adult male in his 30s or 40s was walking naked on Ochterloney Street in Dartmouth.

At approximately 4:50 am, a male called and identified himself by name and asked for police to come right away. He stated that he needed the police because he was naked.

Police radio transmission recordings confirm that the SO and WO1 responded, located the AP, and put him in handcuffs. Witness Officer #2 (“WO2”) responded and stayed in her police vehicle searching for information on police databases regarding the AP. At 4:58 am she identified over police radio that the AP had been flagged as being autistic and had a significant cognitive disability. At approximately 5:02 am officers stated the AP was spitting on them, and then at 5:12am that they had him in custody. At 5:17 am it was radioed that they were transporting the AP to his mother’s house.

Affected Party (“AP”)

The AP provided a statement to SiRT on January 9, 2025, with the assistance of his mother. He stated that police officers broke his nose because he wasn’t listening to the officer. When asked what the police were telling him to do, he said “Stop spitting.” The AP could not remember why he was spitting. He stated that the police handcuffed him and threw him on the ground. The AP noted that he wanted to go to jail, and was upset the police were bringing him home to his mother. The AP was forthcoming and apologetic in his statement.

Medical Records of the AP

EHS records confirm the AP was assessed at his home at 5:56 am on December 4, 2024, due to his abnormal behaviour and mental state. His mother advised EHS that his behaviour was very out of character. The AP was provided with medication to calm down. Paramedics applied pressure to a laceration on his nose and transported him to hospital for further assessment.

The AP was triaged at the hospital at 7:00 am. A CT scan in medical records shows the AP sustained comminuted fractures of the nasal bone and nasal septum. Dental records confirm the AP had an emergency appointment on December 10, 2024, for a missing and loose tooth.

Witness Officers (“WO”)

SiRT interviewed WO1 on January 30, 2025. When WO1 and the SO arrived at the apartment/condominium building, they saw a male with no clothing in the lobby. They knocked on the door, entered the secure lobby, and spoke with the AP. The AP repeatedly stated things like: “I wanna go to jail,” “Take me to jail,” “Arrest me.” WO1 stated they were having difficulty getting information from the AP other than his name. The AP swatted at WO1 and hit him in the vest a couple of times. They put the AP in handcuffs. WO1 stated it was pretty bizarre behaviour, and

also that it was cold that night, he estimated approximately -7 to -8 degrees Celsius. WO1 stated that he was not aware that the AP had cognitive issues. Due to his lack of clothing and behaviour he stated he assumed that the situation was drug or mental health related.

When the AP eventually provided his full name, the officers went through the complex directory as they assumed he lived in the building. WO1 estimated that the AP was about 10 feet from him when he began spitting. He spit on WO1's vest and left shoulder and arm. He stated he put his arm up and manoeuvred away. WO1 stated he did not want to be hit in the face or eye. The AP continued to spit and saliva landed on his face near his eye. WO1 stated the SO came to the left of the AP and took control of his arm to direct him. He stated he thought the SO was directing the AP to a chair so they could stand behind him to prevent being spit on. WO1 stated he thought the SO had control, but he then saw both men go to the ground, and the AP's face hit the tile floor. He stated it looked like the SO was trying to get them to the carpeted area but they hit the tile. He saw blood on the AP's face and gave him some time to rest. The AP provided an apartment number, but they discovered it did not exist in the building. WO1 stated they took the AP to the police vehicle, and WO2 found the AP's address where he lives with his mother. WO1 stated that WO2 told them the AP is on the autism spectrum with a mental capacity of an 8-year-old.

The officers brought the AP to his mother's residence, and he was still agitated. EHS attended. WO1 stated that when EHS arrived the AP's demeanour changed and he was saying how much he loves the police. WO1 stated that at that point you could tell the AP had a cognitive disability. The AP was then transported to the hospital by EHS.

Subject Officer ("SO")

Although not required by law, the SO provided his police reports, including his Subject Behaviour Officer Response report (also known as a Use of Force Report) to SiRT.

The SO's initial officer's report states that the AP identified himself and asked to be taken to jail. When he was told he would not be going to jail, he became agitated, screamed, and swung at WO1, striking him lightly. The officers handcuffed the AP. The report notes that the AP began spitting at WO1 and hit him in the face several times with spit, so the SO took physical control of the AP. The report states: "*[The SO] then took physical control of [the AP] in an attempt to sit him in one of the lobby chairs so that he would not be able to spit at police. When [the SO] took [the AP] to the ground he slipped and hit his nose on the ground causing a small cut and causing it to bleed.*"

Civilian Witness

A Civilian Witness (“CW”) was interviewed by SiRT on January 14, 2025. He heard a knock on the door of his condominium at approximately 4:30am on December 4, 2024. When he opened the door, he saw a naked male to the right of the door. He asked the AP what he was doing, and the AP responded, “I’m a naked man.” The AP said he came from home and told the CW where he lived. The AP asked to come in and for the CW to call the police. The CW told him he could not come in but that he would call the police. The CW called the police and explained the situation. He told the AP to meet the police in the lobby. The CW went to the lobby and told police he had called, and they told him they would take it from there. He did not witness any of the interaction between the AP and police.

CCTV Footage

On January 16th, 2024, CCTV footage was obtained from the complex where the interaction took place. The camera that captured the incident was located in the lobby, facing the main entrance.

The footage from the lobby on December 4th, 2024 shows the AP enter the lobby, and later the SO and WO1 enter the lobby. Video shows the AP swing his right arm at WO1 four times. WO1 appears to try to get him to stop by grabbing his wrist, but the AP continued to swing at him until officers placed him in handcuffs behind his back. Officers speak with the AP some more, and the SO appears to be on his radio and checking the resident registry in the foyer.

Video shows the AP spit at WO1, who puts his hand up to block and repositions himself. The AP spit at WO1 four more times. The SO came back into the lobby and covered the AP’s face with his hand. He began to move the AP using both hands on his head. The SO and AP go to the ground, just out of the sight of the camera. The officers help the AP get up and they eventually leave the building.

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.

When police officers use force in the administration or enforcement of the law, their legal constraints are articulated in the Criminal Code. Police forces have developed tools to assist officers in assessing risks and determining what type of intervention is consistent with the law. HRP follows the National Use of Force Framework. It is not law, but developed to help officers properly apply the law. The National Use of Force Framework instructs police officers to assess the situation, subject behaviour, situational and tactical considerations when determining what type of force to use.

The officers responded to a naked male who was demanding to be taken to jail. His behaviour was out of the ordinary, and when he swatted at WO1 followed by spitting, his behaviour was assaultive in nature. WO1 stated the officers were not aware if the behaviour was related to drugs or struggles with mental health. However, police radio transmissions recorded WO2 state that the AP was autistic with a significant cognitive disability. This was done before the interaction that resulted in his injury. It is not clear from the SO's reports if he heard this information over police radio.

The officers involved were lawfully in the course of their duties when they responded to the call. When WO1 was not able to tactically reposition to avoid being spit on, the SO determined that physical force was necessary. The use of force used was justified given the situation. Spitting has been found to be an intentional application of force against another person and meets the criteria for assault under the Criminal Code. It carries the risk of spreading a communicable disease or illness, especially when directed at a person's face. The SO used physical force by putting his

hands on the AP's head to bring him to the ground, which resulted in a broken nose and missing tooth.

CONCLUSION

This was an unfortunate situation that sadly resulted in injuries to the AP. However, after a careful review of the evidence and the law, I have determined that there are no reasonable grounds to lay a charge against the SO.