

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2022-029

Referral from

Third Party

July 13, 2022

John L. Scott  
Interim Director  
January 9, 2023

On July 13, 2022, SiRT received a referral from a social worker from Family and Children's Services. The referral was concerning a 6-year-old boy and how his father disciplines him in his home (an allegation of assault). The young boy is hereinafter referred to as the Affected Party. The father, hereinafter referred to as the Subject Officer (SO), would spank the AP with his "wet" hand or with a spoon on the AP's bare buttocks. The AP disclosed that sometimes the SO would direct him to hit his head off the wall. SiRT's involvement was due to the father being a member of the RCMP. SiRT entered into the investigation immediately and concluded its investigation on October 18, 2022.

The following information was obtained, reviewed, and considered in the preparation of this report: the audio/video statement of the AP, the audio/video recording of the AP's brother, the audio statement of the wife of the SO and mother of the AP, and the case notes of the social worker from Family and Children's Services regarding the involvement with the family on this file. The SO did not wish to give a statement.

### **Background**

The SO and his wife wanted the AP assessed by a child psychologist for an assessment of a possible disorder. The disclosure about the discipline was made by the AP to a psychologist and the psychologist was under a duty to report such information to Family and Children Services.

### **Facts**

Upon receiving the psychologist's referral to Family and Children Services, the social worker involved with this file called the psychologist to ask some follow-up questions. The psychologist indicated to the social worker when the parents of the AP were notified of the referral to Family and Children Services, it was not made known to the parents about using a wet hand to spank, using a spoon to spank, or anything about telling his son to hit his head into the wall. The initial referral by the psychologist was on July 11, 2022. On July 13, 2022 interviews with the AP, his older brother (age 8), and wife of the SO were set up with the social worker and the SiRT investigator. All interviews were done individually.

During the interview with the AP, there was no mention by the AP of being spanked (with a wet hand or use of a spoon) nor was there any mention of the SO telling the AP to bang his head off the wall. The AP did say his dad sends him to his room when he pees his pants and his mother changes his clothes when he pees.

In the interview with the AP's older brother, he indicated he and his younger brother get spanked for bad behaviour, but it doesn't hurt. The older brother indicated his dad uses his open hand on his bare buttocks when he spanks him, and his mother has witnessed this happening, and was okay with how it was done. The older brother said he has only been spanked approximately five times and the last time was months ago.

The mother of the AP and wife of the SO was interviewed, and she indicated it was only a handful of times the kids were spanked, and it was only used as a last resort. The mother indicated the AP doesn't listen at times and has lied on occasion, but provided no examples. Regarding the allegation of telling the AP to hit his head against the wall, the mother can't explain why the AP would say this and it's not true. She would not allow this in her home.

The SiRT investigator contacted the SO to arrange an interview, but the SO declined to give a statement on the advice of his legal counsel. The SO did speak to the social worker with Family and Children Services about this referral. The SO admitted to spanking both his children on their bare buttocks. When he was asked about head banging concerns, the SO reported the AP used to get upset and bang his own head against the wall, but the SO denied telling the AP to do it harder.

### **Applicable Law**

#### Correction of Child by Force – Section 43 Criminal Code of Canada

Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

As stated, following the section in the Criminal Code, the force applied cannot exceed what is "reasonable in the circumstances". This would appear to be an objective standard, although the reference to "in the circumstances" permits some element of subjectivity to be considered.

#### Excessive Force – Section 26 Criminal Code of Canada

Everyone 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.

### **Conclusion:**

There is no question the SO has spanked both sons in disciplining them for bad behaviour. The disclosure made by the AP to the psychologist on July 11, 2022, could clearly be classified as "excessive" and invoke a charge of assault against the SO.

The interviews conducted by the SiRT investigator, and a social worker, on July 13, 2022, did not disclose anything that may be classified as "excessive force". The young AP made no mention of being spanked by the SO. The older boy and wife of the SO supported the discipline used by the SO, and was entirely appropriate. The SO and his wife indicated how the AP might have mistakenly told the psychologist how his father, the SO, was spanked by the SO's parents. Furthermore, the wife also indicated her son has lied on occasions.

In my assessment of the evidence gathered by SiRT in this investigation, there lacks the necessary factual foundation to lay charges in this matter, The required facts to say the discipline use by the SO on his 6-year-old son (AP) was excessive is not there. I commend Family and

Children Services for their role in this matter. There are no charges against the SO arising from this investigation.