

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2014-024

Referral from

RCMP - Enfield

July 7, 2014

Ronald J. MacDonald, QC  
Director  
October 30, 2014

**Facts:**

On July 4, 2014, at approximately 2 a.m., a female member of the Enfield RCMP (Officer 1) observed an intoxicated 45-year-old male, the affected person (AP), walking along the Old Enfield Road in Enfield. With the help of male member of the Enfield RCMP (Officer 2), AP was arrested and taken to the Enfield Detachment. While there, an altercation ensued and AP was injured. When taken to the Colchester Hospital later in the day it was determined he had suffered cracked or broken ribs.

As a result of the injury, and in accordance with the *Police Act*, the RCMP contacted SiRT on July 7 to report the incident. SiRT assumed responsibility for the investigation into how AP's injuries were caused. The investigation concluded on September 10, 2014. It included the interview of three witness police officers, and receipt of notes from a fourth. The relevant RCMP file was reviewed, as well as police radio transmissions and jail guard logs. Importantly, video from the booking and cell areas of the Enfield Detachment were obtained and studied, as were AP's medical records. AP also provided a statement in the matter.

Under the Serious Incident Response Team Regulations made under the *Police Act*, a subject officer is not required to provide SiRT with a statement or any notes or reports. In this case, Officers 1 and 2, both subject officers, agreed to be interviewed and provided SiRT with their notes and reports relevant to the matter.

The investigation disclosed that Officer 1 saw AP walking, with an open can of beer, along the Old Enfield Road, near 2 a.m. on July 4. He was clearly intoxicated. Officer 1 exited her vehicle after radioing for assistance from Officer 2, who arrived quickly. AP has a very long record, which includes violence against police. Officer 1 was aware that in May 2014 AP had been convicted of assaulting a peace officer. AP told the officers he was upset about his mother's illness and about his girlfriend. His mood swung from cooperative to aggressive. He would cry and plead for help, and later punch and kick the air around him. He also said he wanted to end his life. Eventually he was told he was under arrest for public intoxication. The officers allowed him to finish his beer to avoid confrontation, at which point he voluntarily put out his arms to be handcuffed and taken to the Detachment.

Once at the Detachment and in the booking area his mood swings continued. There is video footage of the booking area, but there is no audio. AP appears quite intoxicated. The officers indicate that at one point AP asked if he would be released the next day. Because the Officers thought he may be on probationary conditions which he might have breached, they told him they were uncertain. AP became upset as he did not want to go back to jail. (AP was in fact subject to a court condition to be in his residence between 9 p.m. and 7 a.m.) At this point he moved aggressively toward Officer 2. Officer 2 physically moved AP back toward the wall. The video then shows both Officers trying to calm AP down. He nevertheless kicks toward the abdomen of Officer 1, hitting her in the arm. She was able to take hold of his foot. Officer 2 immediately

grabs AP around his torso and pulls him to the floor. The takedown was controlled, although it appears Officer 2 winds up on top of AP.

At the time AP's hands were still handcuffed in front of him. When he landed on the floor he hit his chin, causing a cut. As a result EHS was contacted. AP was placed in the cell to await their arrival. When EHS arrived, AP was very verbally aggressive. EHS personnel felt the cut was not overly severe and left. They soon returned as AP began complaining of broken ribs. EHS personnel examined a calmer AP, but did not detect any indication of broken bones.

All available video demonstrates that the only time any force was applied to AP by the police was when he was taken to the floor.

The next morning AP continued to complain of rib pain. He was taken to hospital and diagnosed with cracked or fractured ribs, although no x-rays were taken.

AP was interviewed by the lead SiRT investigator on July 10. He could not recall what happened at the time of the injury. He remembered being arrested and taken to the Detachment, but his next memory was being in the cell with a cut to his chin, yelling at Officer 1. He has since learned what occurred. He does not know why he kicked Officer 1, and is very sorry for doing so. He has written a letter of apology to her. He does not have any hard feelings against the police and feels they were just doing their jobs

**Relevant Legal Issues:**

- 1) Did police have lawful grounds to arrest AP? Under the *Liquor Control Act*, police have the right to arrest an individual they have reasonable grounds to believe is intoxicated in public, and to hold them in custody for up to 24 hours without laying a charge.
- 2) Did police have the right to use force during the arrest of AP? The Criminal Code allows police to use as much force as is reasonably necessary to arrest a person.
- 3) Did police have a right to self-defence? If police officers are faced with an individual who gives them reasonable grounds to fear for their physical safety, they are justified in using reasonable force to protect themselves.

**Conclusions:**

Officer 1 was justified in stopping to arrest AP. He was in a public place, on the side of a road, in an intoxicated state. Both Officer 1 and Officer 2 tried to deal with AP using as little force as necessary. Their agreement to allow him to consume the remainder of his beer is a good example of that. The Detachment video confirms their continued efforts to use minimal force. However, AP became aggressive toward Officer 2 and violent toward Officer 1. He needed to be controlled. Officer 2 was fully justified to bring him to the floor to do so. The force he used was not excessive, and a very reasonable way to protect both Officers from further violence.

Unfortunately, when AP went down it appears that his ribs landed on the handcuffs, which likely contributed to his injuries. Any such injury was an unintended result of Officer 2's defensive actions.

Overall, the police attempted to calmly lodge AP in the cell for the night. However, AP chose a different course, which led to his injury. Since then, AP has quite appropriately apologized for his actions.

The sections of the *Police Act* relevant to SiRT state the Director has the sole authority to determine whether charges should be laid in any matter investigated by SiRT. In these circumstances, there are no grounds to consider any charges against either Officer 1 or 2.