



Serious Incident Response Team

Civilian Director's Report
SIRT-NL File No. 2024-0003

Michael NR King
Director
May 15, 2024

Introduction

On January 4, 2024, the Royal Canadian Mounted Police (RCMP) notified the Serious Incident Response Team (SIRT-NL) of an incident in Gander during which an RCMP officer caused serious injury to an individual.

Mandate

SIRT-NL is a civilian led oversight agency that conducts its own investigations into serious incidents. Serious incidents within this context are those involving serious injury, death, sexual offence, domestic violence or any matter of significant public interest arising from the actions of a police officer in Newfoundland and Labrador. Because this matter involved a serious injury (as defined in the **Serious Incident Response Team Regulations**) caused by a police officer, it fell within SIRT-NL mandate.

Terminology

I have made the following substitutions to protect the privacy of those involved:

- “Affected person” or “AP” for the individual who sustained the injury;
- “Subject officer” or “SO” for the police officer who caused the injury and is the subject of this investigation; and
- “Witness #” or “W#” for any civilian who provided relevant information.

Investigation

The SIRT-NL investigation began on January 9, 2024 and concluded on March 8, 2024.

During the investigation, SIRT-NL took the following steps:

- Collected and reviewed the RCMP files in relation to the incident (with the subject officer’s notes redacted).
- Attempted to interview the affected person.
- Interviewed six civilian witnesses.
- Obtained, by consent, the notes and reports of the subject officer in relation to the incident.

Overview

On January 3, 2024, the RCMP received a call from staff at James Paton Memorial Hospital in Gander, reporting that a patient (the affected person) had fled the hospital. Staff requested that the RCMP apprehend the patient pursuant to the **Mental Health Care and Treatment Act**. Shortly thereafter, the responding officer (the subject officer) detained the affected person and brought him back to the hospital. After arriving at the hospital, a struggle occurred involving the affected person and the subject officer, during which the affected person sustained a broken arm.

The Affected Person (AP)

On January 22, 2024, the primary SIRT-NL investigator contacted AP via telephone to explain our role and that SIRT-NL would be investigating the incident in which he was involved. The investigator further advised AP she would contact him at a later date to arrange an interview with him.

AP had been a patient at the psychiatric unit at Grand Falls-Windsor Hospital since the subject incident. On February 19, 2024, the SIRT-NL investigator arranged an interview with AP for the following day. On February 20, 2024, two SIRT-NL investigators travelled to Grand Falls-Windsor to conduct the interview. AP was aware the investigators were coming to take his statement.

When the investigators arrived, AP was waiting in a meeting room. The nursing staff advised the investigators that AP was aware investigators were coming to see him and take his statement. When the investigators entered the meeting room, they introduced themselves, explained the interview process and asked AP to provide his account of what happened at the hospital in Gander when his arm was broken. In response, AP stated he was having a reaction to his medication and it was not a good day for him to talk to investigators.

After AP advised he had taken his medication that day, further clarifying questions revealed that AP received medication by injection every three weeks, on Fridays, which was four days prior February 20. In a follow-up conversation with his nurse, the nurse advised investigators that AP had not had any medication that would impair his ability to speak with investigators. The nurse confirmed AP received injections every three weeks, on Fridays. The nurse further stated AP would likely be released from hospital the following day, February 21. The nurse was of the opinion medication was not the reason AP was not willing to speak with investigators.

After leaving the room to speak with the nurse, AP stated he did not want to proceed with his complaint and wished to drop it. Based on the totality of interactions with AP, it

appeared he was refusing to speak with investigators. As a result, SIRT-NL investigators were not able to obtain a statement from him.

Civilian Witnesses

Witness 1 (W1)

On January 24, 2024, SIRT-NL obtained an audio-recorded statement from Witness 1. W1 provided the following information:

W1 is a travelling nurse and was working at the James Paton Memorial Hospital in Gander on January 3, 2024. AP was at the hospital for a mental health evaluation but was not certified initially. AP wanted to go outside repeatedly for a cigarette and was allowed to do so in the company of a nurse.

At one point, W1 brought AP for a cigarette and there were no issues. Later, when another nurse brought AP outside for a cigarette, AP took off. When the nurses advised the physician AP had left, the physician certified AP, which provided authority to bring AP back to the hospital. The physician instructed the nurses to call the RCMP, which they did.

Between 7:00am to 7:30am, an RCMP officer (SO) walked into the hospital with AP. W1 did not know the officer. Both the officer and AP were calm; however, AP became argumentative when he was told he was going to the “safe room”, at which point, AP dropped to the floor in a lunging fashion and wrapped his body around a stool.

The nurses and the officer were negotiating with AP to convince him to get back up on his feet. They told AP that, if he got up and went to the safe room, they would find him a cigarette. AP eventually got up and stood by the officer. When the officer attempted to bring AP to the safe room, AP responded by trying to renegotiate and said he would not go without first having several cigarettes. The officer then grabbed AP’s bicep to lead him to the safe room while telling AP clearly he was going to have to go.

Once the officer grabbed AP’s arm, AP responded by lunging away from the officer toward a small area a couple of feet away. The officer went after AP and both individuals fell to the ground, with the officer landing on top of AP. W1 was unsure whether the officer tripped AP, AP tripped on his own or the officer tripped and fell into AP. Once on the floor, AP was yelling and flailing his legs around. The officer was yelling, “Don’t bite me” and “Don’t kick me”. AP was laying on his belly as two security guards helped the officer get control of him. The officer had AP’s right arm behind AP’s back while the security guards were on AP’s left side, controlling his left arm and his torso.

At one point, AP said his arm hurt and it might be broke. He was taken to his feet after being handcuffed. Once all individuals were on their feet, the officer stated he might have broken AP's arm. The officer appeared to feel bad about it. AP was then escorted to the safe room.

In W1's opinion, the officer did his job properly.

Witness 2 (W2)

On February 20, 2024, the SIRT-NL investigator obtained an audio-recorded statement from Witness 2. W2 provided the following information:

W2 is a physician and works at the James Paton Memorial Hospital in Gander. He was working in the Emergency Department on the day of this incident. A patient (AP) was brought into the Emergency Department under the **Mental Health Care and Treatment Act**.

AP was initially cooperative but then left the department. Hospital staff called the RCMP to apprehend him and return him to hospital. When the officer and AP returned to the hospital, AP became quite agitated when he was told he had to go to the safe room. AP was yelling and being verbally aggressive. AP attempted to run from the police officers that were escorting him back into the department. AP then attempted to hide behind the nurses' station and knocked over a couple of chairs in the process. W2 witnessed one of the police officers pull AP out from behind the desk and tackle him to the ground to restrain him. It looked like the officer then fell on top of AP as he fell to the ground. The officer pinned AP down because AP was still fighting him.

In W2's opinion, AP would have been a danger to the nurses if he was left alone. He was showing signs of becoming aggressive. The nurses were trying to back away from him, but it was a confined space. After the incident, the police officer (SO) picked AP up from the floor and escorted him to the safe room. The officer stated he was sure he broke AP's arm as he heard a popping sound when he tackled AP to the floor. The police were calm and were talking calmly to AP. They were not aggressive. *

W2 does not know the police officers and did not recognize them. W2 felt the officers acted reasonably and took the appropriate action in the circumstances. There was potential for AP to become aggressive and the officers took the appropriate action to protect those individuals present.

*Note: It appears, from reviewing all the evidence gathered, that W2 mistook one of the uniformed security guards for an RCMP officer.

Witness 3 (W3)

On February 20, 2024, SIRT-NL obtained an audio-recorded statement from Witness 3. W3 provided the following information:

W3 is a travelling nurse and was working at the James Paton Memorial Hospital in Gander on January 3, 2024. He was present for the incident involving AP. W3 described AP as restless and agitated. AP kept asking to go outside for a cigarette and did not want to return to the safe room.

At one point, AP took off from the hospital and was later brought back to the hospital by an RCMP officer (SO). W3 described the officer as calm and composed. AP was being uncooperative, verbally aggressive and threatening the nurses. AP was ranting and yelling. At one point, AP got on the floor and grabbed a stool.

Staff were attempting to de-escalate the situation and managed to get AP back on his feet. AP, however, continued to refuse to go to the safe room. He lunged toward the nurses' station and got into a small alcove. A nurse got trapped with him. The RCMP officer then grabbed AP and took him to the ground. The officer was on top of AP and handcuffed him. The officer told staff he thought he broke AP's arm. This allowed the staff to address the arm properly and get AP off the floor without causing any further harm.

In W3's opinion, the officer's actions were reasonable as AP was dangerous.

Witness 4 (W4)

On February 20, 2024, W4 provided an audio-recorded interview to SIRT-NL. W4 stated as follows:

W4 is a security guard at the James Paton Memorial Hospital in Gander and was present for the subject incident. He was working at the hospital and recalled that, around 7:00am, there was a call for security from the Emergency Room. W4 and his partner [W5] responded. Upon their arrival, W4 saw an RCMP officer standing at the end of the ER counter. There was a person (AP) behind the desk/nurses' station.

The officer (SO) was attempting to de-escalate the situation but the patient was escalating. A nurse was engaged as well. W4 was unsure of the exact conversation but was under the impression AP was not getting what he wanted. AP was making threats, stating, "Everybody here is going to die". The officer asked AP if he was making threats, to which AP responded "Yes".

W4 recognized cues from the police officer and put his gloves on to get ready to help. The officer reached in and grabbed AP and W4 went to help. They were engaged for about three or four seconds, twisting and turning, before they dropped to the floor. AP was face-down on the floor. W4 was on the left side of AP while the RCMP officer was

on the right. W5 repositioned to hold AP's legs. AP was still fighting them, kicking and screaming.

Once AP was handcuffed, they walked him to the [safe room]. Once inside, the handcuffs were removed. W4 saw AP shake his arm. The officer said he thought he broke AP's arm in the process of trying to handcuff him.

W4 described the officer has having a normal demeanor. AP's demeanor was loud, aggressive and demanding. AP was shouting and screaming.

W4 felt the officer's actions were normal for the situation. The officer was trying to de-escalate. In W4's opinion, the response was appropriate. The patient was making threats, saying everyone was going to die. Everyone in the ER, at the time, felt threatened.

Witness 5 (W5)

On February 20, 2024, W5 provided an audio-recorded interview to SIRT-NL at the James Paton Memorial Hospital in Gander. The following is a synopsis of this interview:

W5 is a security guard at the James Paton Memorial Hospital in Gander and was working on January 3, 2024. W5 estimated the subject incident occurred around 6:00am or 6:30am. He and his co-worker [W4] walked into the emergency area and saw a patient (AP) standing with an RCMP officer (SO). AP was close to the nurses and was being loud and making aggressive hand motions. W5 described AP as "amped up". He had not seen AP prior to that moment. There was only one RCMP officer present. W5 did not know the patient's name, nor the officer's name.

AP wanted a cigarette and was threatening people. He said "I'm gonna die and you're gonna die". AP got in the face of the head nurse [W6]. When AP raised his hand toward W6, the police officer went toward AP to take him down. The police officer, W4 and W5 all took AP to the ground. AP was on the floor, face-down, behind the nurses' station. The officer had AP's right arm, W4 had his left arm, W5 had his upper legs and the nurse had his lower legs. AP continued to struggle while he was restrained on the ground. They were trying to get AP's hands behind his back. At that point, the officer said, "I think I broke his arm". AP was handcuffed while he was on the ground.

W4 and the officer then helped AP to his feet, after which, AP asked for a cigarette again. There was no indication from AP that his arm was broken. AP was brought into the [safe room] and the handcuffs were removed.

W5 estimated there were over a dozen employees present during the incident. He could not provide any names except for the head nurse.

Witness 6 (W6)

On February 26, 2024, W6 provided an audio-recorded interview to SIRT-NL. W6 stated as follows:

W6 is a registered nurse and works at the Emergency Department at the James Paton Memorial Hospital in Gander. W6 had no involvement with AP but witnessed the incident on January 3, 2024. There were several nurses sitting at the desk writing reports when an RCMP officer (SO) walked in with AP.

Other staff advised W6 that AP had been there earlier and had taken off from the hospital. As a result, AP was going to go into the safe room for his and staff's protection. When this was said, AP became aggravated and dove behind the desk, grabbing one of the chairs that a staff member was sitting on. AP was clenching onto the chair and saying he was not going in the room and they could not force him to do so.

Staff and the RCMP were trying to reason with him and attempting to get him up off the floor. AP let go of the chair and got up but did not want to go in the safe room. He then dove behind the desk. The RCMP officer reached out to stop him. AP was screaming and the officer was barely able to get a hold of him. Nursing staff were trying to move out of the way to avoid being injured. One of the nurses ran behind the desk to get away from AP as he frightened her. W6 backed off and let the RCMP officer handle it. From what she could see, the officer handled it well and kept the staff safe.

While W6 felt it was unfortunate AP got hurt, she was not surprised, considering how AP was resisting. W6 could remember AP saying he wanted to go out for a cigarette; however, he did not have any cigarettes. The RCMP officer told AP they would try and get him cigarettes but AP had to go into the safe room first. AP refused to go in the safe room without a cigarette. Nobody had any cigarettes to give him. AP was irate, screaming and yelling that he was not going into the room.

In W6's experience, the RCMP officers handled the situation properly. The officers were calm. They attempted to reason with AP for a long time, even after AP first dove for the chair. They used physical force only when AP went behind the desk again toward the staff. The force they used was only meant to grab AP and get him away from behind the desk, but AP almost took them with him. He put up a fight.

W6 believed, if the RCMP had not restrained AP, several of the staff there would have been hurt in the process. W6 stated that, during the struggle, AP was swinging and they ended up going to the floor. AP was still trying to get up and to push the officers off. W6 remembered the officers trying to get AP's arms behind his back to handcuff him.

W6 did not think the officers' original plan was to get AP to the floor. She thought they were just trying to get AP out from behind the desk. It took two officers and a security guard to get him restrained.

W6 noted she may be wrong about how many RCMP officers there were but she clarified they were wearing uniforms (note: it appears W6 mistook one of the security guards for an RCMP officer as the evidence gathered indicates only one RCMP officer, SO, was present).

W6 stated it was a very small area and many people were present. She was not familiar with the RCMP officer.

Subject Officer (SO)

SO consented to the release of his reports and notes to SIRT-NL. The following is an excerpt from SO's Use of Force Report:

While on my way to work I was dispatched by the OCC to respond to a report that a Mental Health patient had left the hospital when he was let out of the safe room to use the washroom. The male had been detained under the Mental Health Care and Treatment Act on the previous night by police. I logged on to a police car after attending the office and retrieving all my intervention options.

Having worked in a few smaller detachments I felt comfortable in trying to find him without backup. My thinking is I would gauge his response to me before calling for back up which were starting their shift in a few minutes.

I found a male matching the description walking on Airport blvd and I pulled in next to him and called out his name. He said "what" I told him that he had walked away from the hospital and that I was there to take him back. He asked "can I have a smoke first" This indicated to me that he was cooperative so far. I noted that he was a smaller man and I made the decision to deal with him myself. I told him that I would try and get him a cigarette as I did not smoke. I advised that he was detained under the Mental Health Care and Treatment Act. I searched him and put him in the police car.

On the way to the hospital I noted that the male was not angry or aggressive and was just pleading for a cigarette. My risk assessment remained the same. The male was taken to the hospital and the male continued to ask for a cigarette. I asked staff that I saw but no one smoked.

The male was escorted inside and we went to the ER desk. I asked which room he was going in and the nurses said the safe room. The male got upset and approached the desk quickly and hospital staff scattered. He stated that he did not want to go in. Then he turned to me and asked for a smoke. I asked the staff and they stated that they had none. I told the male that he had to go to the safe room. The male went into the fetal position on the floor and grabbed onto a stool that one of the nurses had gotten up from.

He was crying and yelling that he wasn't going into the safe room. One nurse stated that she would try and get a smoke if he went into the safe room. The hospital staff called for security guards and they arrived moments later. The male got up in response to what the nurse said. The nurse told him that she would have to go to the safe room first. I told the male that he would have to go to the safe room. He turned around and argued with me stating that this wasn't the deal. "The deal was smoke first room next." He turned around and argued with the nurse. He stated something that I didn't hear and the nurse replied "So you're threatening me now?"

He continued to argue with the nurse. I grasped his arm to lead him from the nurses station which he had gone into that area. I felt that this was an escalation in his aggression and I feared for the safety of the nurse he was arguing with. The male pulled away and I grabbed onto him and so did the two security guards. We struggled as he was pulling away and trying to escape my grip. The security guards had grabbed his body and legs.

We went to the floor and the male was on his stomach saying that he could not breathe. I had a hold of his right arm. He was pulling the arm away from me and telling me to let him go. I had a hold of his wrist and tried to bend his arm behind his back. I put my hand on his elbow to try and fold it behind his back and then I heard a snap. I told the staff that I think I broke his arm and that it should be checked. The male was handcuffed and taken to the saferoom. I again told the paramedics and the ER nurses that I think his arm was broken.

Issue and Conclusion

The issue for my consideration is whether there are grounds to believe SO assaulted AP. The **Criminal Code** authorizes a police officer, if he is acting on reasonable grounds, to use as much force as is necessary in doing what the officer is required to do for the purpose of the administration or enforcement of the law.

Here, AP was lawfully detained pursuant to **Mental Health Care and Treatment Act**. SO had legal authority to use as much force as was necessary to carry out this duty, which in this case was to prevent AP from harming those present and to get him in the safe room for AP's own protection and the protection of those around him. The issue is whether the force SO used was excessive.

As stated above, SIRT-NL was unable to obtain AP's version of events as he refused to speak with our investigators. SO provided SIRT-NL investigators with his reports in relation to the incident. In addition, SIRT-NL obtained statements from six civilian witnesses who were present during the incident. I have no concerns with the reliability or credibility of these civilian witnesses.

The evidence is clear that, when SO attempted to transfer AP to the safe room, AP resisted and became aggressive. SO, along with others, first made extensive efforts to reason with AP in order to de-escalate the situation. By all accounts, SO was calm and dealt with the matter properly. Despite this, AP continued to resist, was irate and posed a danger to staff. Only when AP dove into a nearby alcove, where nurses were present, did SO apply force by taking AP to the floor. I note it took several people to restrain AP while he was on the floor. At some point during the altercation, AP sustained a broken arm. This appears to have been accidental as there is no evidence to suggest the officer intended to cause this injury.

While it is unfortunate AP was injured during the incident, the evidence is clear that SO did what was necessary, and no more, to restrain AP. I do not view SO's use of force as excessive in the circumstances.

For these reasons, I have not formed reasonable grounds to believe the subject officer committed a criminal offence and I will not lay a charge in this matter.

SIRT-NL will now conclude this file.

Final Report prepared by:

Michael NR King, Director
Serious Incident Response Team - Newfoundland and Labrador
May 15, 2024
File No. 2024-0003