



Serious Incident Response Team

Civilian Director's Report
SIRT-NL File No. 2020-018

Michael NR King
Director
November 1, 2023

Introduction

On December 10, 2020, the Royal Canadian Mounted Police (RCMP) notified the Serious Incident Response Team (SIRT-NL) of a potential serious incident involving use of force by RCMP officers in Natuashish. Initially, because the affected person did not sustain “serious injury” as defined in the Serious Incident Response Team Regulations, I determined the matter did not fall within SIRT-NL’s mandate.

Subsequent to making that decision, I became aware of a complaint made to the RCMP by Mushuau Innu First Nation Chief John Nui, alleging the incident was racially motivated. Although Chief Nui did not contact SIRT-NL, I revisited my initial decision and directed an investigation into the incident.

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 the subject incident involved an allegation of racism, it fell within the “significant public interest” component of SIRT-NL’s mandate.

I emphasize that SIRT-NL’s role is to investigate specific incidents to determine whether the involved officer(s) committed a criminal offense. SIRT-NL does not have authority to dictate police agency policy or determine whether police have the correct protocols in place when carrying out their policing duties. I say this because the majority of Chief Nui’s complaint was in relation to systemic issues with the RCMP policing the Innu people. Again, this is not the focus of a SIRT-NL investigation nor will this report make any comment on that subject.

Terminology

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

- “Affected person” or “AP” for the individual involved in the incident;
- “Officer #” or “O#” for any police officer involved in or present during the incident; and
- “Witness #” or “W#” for any civilian who provided relevant information.

Investigation

The SIRT-NL investigation began on January 4, 2021 and concluded on September 13, 2023.

Delay

Because this investigation took much longer than usual, I would like to explain the delay.

When the investigation began, SIRT-NL decided to first contact the local band to request preliminary information (witness contact information, etc.) and to arrange our entry into the community to conduct the investigation. For a variety of reasons, some of which were Covid-related, others related to events in the community, the investigation was not able to proceed for some time.

In addition to this, our investigators had difficulty locating and contacting witnesses. For example, our investigators placed nine phone calls to Witness 1 from 2021 to 2023, which went unanswered.

Third, SIRT-NL investigators, despite making considerable efforts to contact and interview the affected person, were not able to obtain a satisfactory statement from her in relation to the subject incident. Initially, in 2021, we learned AP was a patient at Labrador Health Centre. When investigators contacted AP's social worker, the worker advised AP was unpredictable, had "good days and bad days" and could become quite violent. The social worker advised she would speak with AP and assess whether AP was capable of speaking with us about the incident.

After numerous follow-ups by the investigators, the social worker advised AP had been transferred to the Waterford Hospital in St. John's. When investigators contacted the Waterford Hospital, AP's physician advised that, for a variety of reasons, he would not authorize a visit with AP. This caused significant delay.

It was not until late 2022 that SIRT-NL investigators were able to meet with AP. As I will explain below, investigators were not able to obtain a satisfactory statement from her in relation to the subject incident.

Following this, investigators attempted to locate and contact several other witnesses. Again, this proved difficult due to transience and unanswered phone calls. SIRT-NL was not able to complete the witness interviews until June-August 2023.

Overview

On December 3, 2020, the RCMP were transporting AP, via plane, from Natuashish to Happy Valley-Goose Bay, as AP was required to attend Provincial Court on outstanding charges. Before boarding the plane, an altercation occurred between AP and the officers involved, at which point, one of the officers struck AP in the head. AP did not sustain serious injury.

Affected Person (AP)

When SIRT-NL investigators were able to meet with AP, AP was committed to the Waterford Hospital. SIRT-NL investigators visited her there to assess whether she would be able to provide a statement with regard to the incident. During the conversation, AP appeared to speak about several different incidents. Her recollection of any specific event appeared to be a combination of many different events, some of which did not appear to be based in reality. In summary, investigators were not able to obtain a cohesive and coherent statement from AP.

Police Officers

Officer 1 (O1)

On December 3, 2020, O1 was scheduled to move his personal possessions to Hopedale, from his post in Happy Valley-Goose Bay, as part of his recent transfer. Air Services contacted O1 before noon that day and advised him the RCMP plane would fly him to Hopedale but would first be flying to Natuashish to transfer a prisoner. O1 would be the prisoner's escort to Hopedale where another officer would take over. O1's spouse and pets were with him on the plane.

Once they landed in Natuashish, the prisoner, AP, was in the back seat of the police car and was screaming and striking the vehicle windows. AP did not appear to be calming down and, at one point, was trying to kick out the rear window of the

police vehicle. One of AP's relatives approached the vehicle and began to assist with calming her down. Officers made arrangements with AP's family to ensure AP had cigarettes when she arrived in Happy Valley-Goose Bay. O1 identified himself as a police officer and began to assist with placing chains around AP's waist.

AP was instantly resistant and argued with the officers. She then went "dead weight" on the ground and refused to get up. O1 grabbed near her collar to assist with pulling her up, at which time, AP turned her head and bit down on O1's left hand. O1 immediately began yelling, "Let go" and gave AP strikes to her head with his palm to make her release her bite.

When AP released O1's hand from her mouth, O1 pulled away and saw that his hand was bleeding. The other officers then put AP to the ground. AP's family member, who was present (W1), and a Community Safety Officer, began yelling at O1. O1 could see they had their cell phones out, recording. They both yelled at O1 that he did not need to hit AP. Both individuals still had their cell phones out, recording. When O1 approached them to show them AP had bitten him, they both put their phones away and began to call him a racist.

AP then refused to use the stairs to enter the plane. One officer was at the top of the stairs. O1 picked up AP's feet and the officers carried her into the plane. Once inside the plane, AP refused to sit down. She thrashed around and attempted to kick O1. When AP eventually calmed down, the officers allowed her to sit up; however, AP then turned and spat on O1. O1 put AP back on the floor. As AP continued to thrash, O1 grabbed her shackles and chain to prevent her attempts to get up.

O1's spouse moved to the front of the plane for her safety and to make room for O5, who was contacted to escort AP with O1 to Hopedale. O3 took a photograph of the bite on O1's hand. AP continued to scream and struggle. She continued to ask to stand up and said she would not fight anymore; however, because her behaviour was unpredictable, O1 felt it was not safe to allow her any movement.

When O5 arrived, the plane left for Hopedale. During the flight, the officers continually checked on AP for breathing and provided her with water. She yelled and struggled a few more times but eventually calmed down. When the plane arrived in Hopedale, O5 adjusted AP's cuff and allowed her to exit the plane. O4 took over escort from Hopedale to Goose Bay.

Upon arrival in Hopedale, O1 attended a medical clinic, where his wound was cleaned and he was prescribed antibiotics.

Officer 2 (O2)

O2 is a special constable with RCMP Air Services in Goose Bay. He has been a pilot for the RCMP for 21 years. On the day of this incident, O2 arrived at the Natuashish airstrip to pick up a prisoner. O1 and his pregnant spouse were already on the aircraft. O1 was transferring from Happy Valley-Goose Bay to Hopedale and he agreed to transport a prisoner.

Two other RCMP officers arrived at the airstrip with AP. AP wanted to have a cigarette but the members would not allow her to do so. This caused issues. When the officers attempted to put AP on the plane, she resisted. O1 attempted to help the officers with AP. O1 was holding AP's arm and she was resisting quite strongly. AP then bit down on O1's hand and would not let go. O1 then struck AP in the face several times to get her to let go of his hand. O2 described the strikes as "palm strikes". O1 was yelling for AP to let go. O2 did not observe any injuries to AP.

At this point, O2 requested a second officer for the escort, as he did not think it was appropriate for O1 to do the escort alone with his pregnant spouse on the plane. Once inside the plane, the officers put AP prone on her stomach to get her to calm down. Once she calmed down enough, the officers put her into her seat and waited for the second officer to arrive. The second officer, O5, arrived and the trip continued. O2 did not hear any yelling from the officers. O5 was trying to get AP to calm down.

O2 was quite familiar with AP. He has transported AP several times and he stated things usually do not go smoothly.

Officer 3 (O3)

O3 and O6 transported AP from the Natuashish RCMP detachment cells to the airport, as AP was required to appear at Provincial Court in Happy Valley-Goose Bay on December 4, 2020. AP had been in custody since November 27, 2020. O3 requested two officers to transport AP from Natuashish to Happy Valley-Goose Bay, as AP's behaviour was unpredictable.

While travelling to the airport, AP stated she did not want to leave the community. Once at the airport, AP saw her aunt (W1) and began to yell that she wanted to talk to her and wanted a cigarette. O3 explained to AP several times that he did not have any cigarettes. AP began to strike the inside of the door of the vehicle as well as the divider between the front and rear seats. AP struck the door with enough force that a gap appeared between the door and the frame.

There were two Community Safety Officers at the airport. O3 told them to stay back as there was a prisoner in the police vehicle. The Community Safety Officers ignored these instructions and advanced toward the police vehicle. W1 asked O3 if she could speak with AP to try to calm her down. O3 agreed and told W1 she could speak with AP from outside the police vehicle. AP continued to yell that she wanted a cigarette. W1 asked if she could give AP a cigarette, to which O3 responded W1 could give AP a cigarette to take with her to Goose Bay. AP could have the cigarette there. W1 gave two cigarettes to AP. O3 informed AP she could have her cigarette when they arrived in Goose Bay.

O1 along with his wife and two dogs were on the plane. O1 was tasked to assist with the transport of AP to Hopedale. The plane was full of cargo and two large dog crates at the entrance of the plane.

O3 removed AP from the police vehicle and the officers began to place a chain around her, at which point, AP began to struggle and resist. O3 instructed AP to stop resisting. The officers began to move AP towards the airplane. AP continued to struggle and bit O1 on the left hand, causing a severe gash. O1 then struck AP in the face as she refused to release his hand from her clenched teeth. O3 took AP to the ground and she landed on her stomach and face. O1 instructed AP to calm down. AP ignored these instructions and continued to scream and struggle.

The officers lifted AP to her feet and attempted to have her walk up the stairs into the airplane. As the stairs were narrow, it was impossible to have two individuals walk up at the same time. O3 instructed AP numerous times to get into the airplane. AP refused. She grabbed onto the railing of the plane with both hands and refused to let go. O3 instructed AP several times to let go of the railing and get into the airplane. Again, AP refused. O3 physically pried AP's hands free from the railing. The officers attempted to lift her legs onto the stairs. AP continued to struggle and resist. O3 then climbed into the plane, pulled AP up the stairs and into the plane, while the other officers outside pushed AP inside.

Once inside the plane, AP continued to struggle and scream. She spit in O1's face and kicked him. AP was placed on the floor of the plane as she continued to struggle. O1 and O3 continued to instruct AP to calm down and comply with commands. AP refused. Once they were able to secure AP inside the plane, O3 requested that another officer attend the airport to assist with the transport of AP.

O3 spoke with W1, who wanted to know why O1 struck AP in the face. O3 explained that AP bit O1 on the hand and refused to let go.

O3 spoke with O5 by phone later that night and instructed him to arrest AP for assaulting a police officer, resisting/obstructing a peace officer, breach of release order and breach of recognizance.

Civilian Witnesses

Witness 1 (W1)

W1 was working on the day of the incident. She is a Community Safety Officer in Natuashish and the aunt of AP. W1 and her coworkers went to check up on the police plane, where AP was. W1 could hear AP screaming inside the plane, begging for help. W1 asked the police officers if AP was ok. They said she was.

AP was taken out of the plane. When AP was outside, W1 went to help her. AP wanted a cigarette but was not allowed to have one. AP became upset at this. The officers attempted to put AP in the plane. AP fought back and said she did not want to go inside. AP bit one of the officers' hand. The officer hit AP in the face. He punched her. AP's nose was bleeding.

The officers attempted to get AP inside the plane. They just grabbed her. AP kept telling them to stop and let her go. She was sad and scared.

W1 recorded the incident on video. She posted it on her Facebook page. W1 told her sister about it. They went to check up on AP in Happy Valley-Goose Bay. The police told her aunt that AP was doing ok, but they could not see her.

The SIRT-NL investigator questioned whether anyone else was present during the incident. W1 identified two other individuals, both of whom were co-workers.

Witness 2 (W2)

W2 is the airstrip operator. He could not recall much about the incident. He stated he only vaguely remembered it. W2 explained he had "a really hard time" while he worked in Natuashish. The stress level was high and his memory is poor. Because of this, and the fact there were so many incidents involving putting prisoners on planes, W2 indicated he would not be a credible witness.

Witness 3 (W3)

When SIRT-NL contacted W3, he indicated he did not want to get involved in the investigation and would not consent to SIRT-NL recording the interview. He did state that what he saw was disturbing and “not right”. W3 felt the officers physically handled AP and took it too far when they hit her. They hit her in the chest and ribs.

Photographs

SIRT-NL obtained two photographs taken by O3. The photographs depict a gash on O1’s left hand between his thumb and index finger.

Medical Records

The medical records confirm O1 attended the emergency department at Labrador-Grenfell Health on December 3, 2020 at 4:47pm, at which time he was treated for a laceration to his left hand. The laceration was measured at 15mm x 15mm.

Cell Phone Video

The video is two minutes and 33 seconds in duration and appears to have been taken with a cell phone. The video depicts four individuals and AP at the bottom of the stairs to the plane. The officers are attempting to put AP aboard the plane. AP is resisting, upset, screaming and crying. There is a voice, off camera, screaming at the officers, “Why did you f**kin’ punch her? That’s not right”. “F**kin’ a**hole, leave her alone”. The officers appear calm and eventually are able to put AP aboard the plane as one officer, atop the stairs, pulls her up the stairs while a second officer, at the bottom of the stairs, lifts AP’s legs. The video does not capture AP biting O1 nor O1 striking AP. It appears the recording commenced after those events.

Issue and Conclusion

The issue for my consideration is whether there are grounds to believe any of the officers involved in the incident committed a criminal offence.

S. 25(1)(b) of 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 in the RCMP's custody. The officers were required to transport her for a court appearance. They had legal authority to use as much force as was necessary to carry out this duty.

The evidence gathered indicates that, when the officers applied force to AP, they did so for no other purpose than to restrain her and get her aboard the plane, as she was refusing to comply.

I note that W3 stated the officers hit AP in the chest and ribs. Despite this, none of the evidence from anyone else present, including AP's aunt, W1, made reference to this. In addition, W3 stated he did not want to be involved with the investigation and would not consent to an interview. I therefore place minimal reliance on his evidence.

The most troubling aspect of the altercation was when O1 struck AP several times in the head. As O1 explained in his report, because AP bit him and would not let go, O1 delivered open palm strikes to AP's head to force her to release the bite. The evidence of the photograph, medical records and statements of the officers involved establishes that, during the altercation, AP bit down on O1's hand with enough force to break the skin. While it is unfortunate the incident escalated to this level, in the circumstances, O1 did what was necessary to force AP to release the bite.

In summary, it appears, from the evidence, the officers used no more force than was necessary. For these reasons, I have not formed grounds to believe any of the officers committed a criminal offense and I will not lay a charge.

This file is now concluded.

Final Report prepared by:

Michael NR King, Director
Serious Incident Response Team - Newfoundland and Labrador
November 1, 2023
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