



**Serious Incident Response Team**

Decision of the Civilian Director  
SIRT-NL File No. 2021-033

Michael NR King  
Director  
March 9, 2022



## Introduction

On November 8, 2021, the Royal Newfoundland Constabulary (RNC) notified the Serious Incident Response Team (SIRT-NL) of a serious incident involving several of its officers. The incident involved a civilian (the affected person) sustaining serious injury as a result of being shot by an RNC officer with a “less lethal” shotgun.

## 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 within matter involves an individual sustaining serious injury as a result of the actions of a police officer, it falls under SIRT-NL mandate. Consequently, I directed a SIRT-NL investigation into the incident.

## Overview

I have substituted “WO#” (or witness officer #) for the names of the police officers who provided relevant information, “W#” (or witness #) for the names of the civilian witnesses who provided relevant information, and “SO” (or subject officer) for the name of the police officer who discharged his weapon, causing the injury.

In August 2021, several RNC officers responded to a complaint of uttering threats at a residence in Mt. Pearl. It was reported the affected person had threatened his neighbour with a weapon. Upon the officers’ arrival, the affected person was inside the home. The officers had grounds to arrest AP as he was on conditions, which he allegedly breached. AP refused to comply and would not exit the home. The officers applied for, and were granted, a warrant to enter the home to affect an arrest.

The officers attempted, for several hours, to negotiate having AP surrender himself but he continued to refuse and would not exit the home. The RNC then breached the front entrance of the home. AP responded by throwing a construction stapler at the officers and struck one of them in the hand, causing minor injuries. Several officers entered the home, at which time, AP used a chair to keep them back. After the officers were able to get inside the home, they saw AP running toward the rear of the home. Fearing AP was going to get another weapon, one of the officers attempted to deploy his taser, but it malfunctioned (it had been struck by the aforementioned chair).

The subject officer then deployed his “less lethal” shotgun, which resulted in AP being struck in the left side of his head. The officers arrested AP, who was subsequently

medically treated at the scene. He was then transported to hospital and, eventually, the lock-up. While at the lock-up, AP made a complaint the RNC had assaulted him during the arrest.

## **SIRT-NL Investigation**

The SIRT-NL investigation began on November 17, 2021 and concluded on February 15, 2022.

During the course of the investigation, the following steps were taken:

- The SIRT-NL investigator obtained and reviewed the following materials:
  - RNC radio communications in relation to the incident;
  - Notes and reports from eight RNC officers and the mobile crisis nurse;
  - Scene photos;
  - Training material for the “less lethal” shotgun;
  - The affected person’s public complaint form;
  - The RNC operational file;
  - Medical records of the witness officer who was injured during the incident; and
  - The medical records of the affected person.
- The SIRT-NL investigator interviewed the affected person.
- The investigator interviewed all four police officers involved in the incident, including the subject officer.

## **The Affected Person**

The SIRT-NL investigator obtained an audio/video recorded statement from the affected person, in which AP stated the following:

He was at his home and got into a verbal altercation with his neighbor. The Police were called and attended his home. When the police came, AP knew he was going to be arrested and he refused to follow direction to leave his home. In his own words, AP described that he was “going off his head” and “having an episode”. He told the police to come in and get him. He had a construction stapler in his hand and described wanting to “blunder” one of the cops with it.

AP described that the cop screwing together the “less lethal” shotgun looked “really mad”, almost like he had steam coming out of his ears. AP stated the cop said to him “Remember me”. AP said when the police were in his doorway he wanted to throw the

stapler at one of them but did not. Then, he said, he did throw it but did not mean to strike the officer. AP advised if he knew he was going to take a charge for throwing the stapler, he would have taken the cop's eye out of his socket. After the cop was struck, AP ran into the house because he knew they were coming. He said they came in "guns blazing" and had things pointing at him from all angles.

AP described how he was shot in the head and fell to the floor. He thought he was shot with a real gun. He was taken care of by the paramedics and raced to the hospital. He had X-rays completed and stitches in his head. He said, after the hospital, he was thrown in the lock-up. He has had multiple hospital visits since the incident. He has issues with his jaw and headaches.

### **The Subject Officer**

The SIRT-NL investigator conducted an audio/video recorded interview with the subject officer. In this interview, the subject officer advised the following:

He was made aware of the call but was not there initially when police responded. He was directed to attend the scene because of his tactical training as a TRU team member. When SO arrived, AP was inside his home, refusing to leave. Multiple officers spent multiple hours trying to convince AP to come out of his house. One officer obtained a warrant to allow entry into the house and arrest AP. SO was aware AP had made threats to his neighbours and threats to harm the officers on scene. AP had a weapon in his possession - a construction stapler.

Witness Officer 1 breached the door but no officers entered. The officers planned to give AP an exit path to come out without resistance. They were talking with AP, who was in the doorway inside. He still had the stapler. AP threw the stapler and struck Witness Officer 2 in the hand. Witness Officer 3 and SO entered the porch. AP responded by attacking them with a wooden chair. The chair knocked the cartridge out of WO3's Taser (Conducted Energy Weapon). AP then retreated into his house and WO3 gave chase. WO3 attempted to deploy his Taser at AP, not realizing the cartridge had been knocked out, rendering it useless.

SO feared AP would run into the back room and retrieve an edged weapon or firearm. At this point, AP had already assaulted multiple police officers. SO took aim at AP's thigh with the "less lethal" shotgun. He deployed the shotgun but AP tripped over something in the living room at the same time. AP was struck in the head. The officers then had the paramedics treat AP.

SO spoke about qualifying on his intervention weapons every month and that he is an instructor on the "less lethal" shotgun. He also provided his notes and report during the interview.

## **Witness Officers**

### Witness Officer 1

WO1 provided an audio-recorded witness statement to the SIRT-NL investigator. In her statement, she advised the following:

She was the lead investigator of the file and took the initial complaint. She attended the residence of the complainant and spoke with him. The complainant stated AP had threatened him and his friend with a construction stapler, saying he would beat their heads in.

WO1 ran a database check on the suspect, AP. The check advised AP was “anti-police”, violent and was on conditions not to contact the complainant. WO1 knocked at AP’s front door. She saw him inside. He was holding something in his hand. He was irate and refused to come to the door. AP then closed his front curtains and would not communicate. The Mobile Crisis Team was called to the scene. WO1 went to obtain a warrant to enter the home and arrest AP.

WO1 kicked in the front door and could see that AP had a big stapler in his hands. He threw the stapler and struck WO2 in the hand, knocking the Taser out of his hand. SO and WO3 entered the front porch. WO1 went in behind them. AP attacked them with a chair, feet first. He then ran inside the house. WO3 chased him and deployed the Taser but it did not work. WO1 advised she feared AP was going to get another weapon. SO deployed the “less lethal” shotgun. WO1 believes AP tripped over the couch. AP went to the ground and the officers gained control over him.

The paramedics treated AP and he was brought to the hospital. WO1 stayed behind at the scene and took statements from the complainants.

### Witness Officer 2

WO2 provided an audio-recorded statement. In his interview, he advised the following:

He attended the scene on August 7, 2021. It was a call of a male who uttered threats and was on conditions. AP was inside his home and was refusing to come out and would not comply with police commands. AP was walking back and forth inside his house. He was amped up. WO2 told AP he was going to be arrested. AP told him to come inside and see what happens. AP threatened to hurt the officers.

The officers obtained a warrant. WO1 kicked in the door. The officers stacked outside and tried to communicate with AP to get him out. WO2 described that his perception and risk assessment of the situation was that AP could possibly cause serious bodily harm or death to the police.

AP threw a construction stapler out of the house and struck WO2 in the hand. The Taser WO2 was holding was knocked out of his hand and his hand was bleeding. SO and WO3 went into the porch. AP yelled that he would “fucking kill you”. WO2 saw AP attack the two officers with a chair.

WO2 went inside the house only after AP was in custody. WO2 was not present for the deployment of the “less lethal” shotgun. WO2 left the scene to go to the hospital and obtain treatment for his hand.

### Witness Officer 3

WO3 provided an audio-recorded interview to the SIRT-NL investigator. In his interview, WO3 advised the following:

He attended the scene on August 7, 2021. AP was irate and refusing to leave his house and comply with officers commands. AP knew he was going to be arrested. He talked about hurting himself. WO3 talked to AP numerous times, trying to calm him down and have him comply. A warrant was obtained. There was constant communication with AP. The Mobile Crisis Unit was also at the scene, speaking with AP.

AP was displaying assaultive behavior. He was saying he would tape the stapler to his hand and put a helmet on. AP was warned the police were going to come in and would use intervention weapons if they had to. SO came to the scene and also tried to speak with AP but could not get anywhere with him. AP’s behavior was up and down.

WO1 kicked in the front door. AP threw a stapler at them and it struck WO2 in the hand. It knocked the Taser out of WO2’s hand. AP was told the “less lethal” shotgun could be used on him. SO and WO3 went in the front porch. AP attacked them with a chair at head height. They pushed back on AP and AP retreated into the house. WO3 gave chase and attempted to use his Taser but realized, when he tried, the cartridge had been knocked out of it, rendering it useless. WO3 feared AP would go into the back room and get another weapon.

SO deployed the “less lethal” shotgun and, at that moment, WO3 and AP tripped over an ottoman and fell. The projectile struck AP in the head. WO3 got on top of AP, who was unconscious. The officers had called paramedics prior to entry with the forethought that someone might get hurt. The paramedics were brought into treat AP.

AP was brought to the hospital. WO3 sat with AP at the hospital. AP said he did not mean to hit the officer with the stapler but meant to hit the bald officer (SO). WO3 attempted to read AP his rights and caution, but AP would not listen.

## **Issues and Conclusion**

The issue for my consideration is whether there are grounds to believe the subject officer committed a criminal offence when he discharged his “less lethal” shotgun, causing serious injury to the affected person.

For the following reasons, I have not formed the requisite grounds to believe an offence occurred:

- Given the complaint, the officers had grounds to arrest the affected person.
- The officers first attempted de-escalation by communicating with the affected person for some time.
- The officers obtained a warrant to enter the home to affect the arrest.
- It is clear, even by AP’s own account, the officers had reason to believe AP posed a threat to them. He was volatile, had thrown a stapler at the officers, causing minor injuries, and used a chair to attack the officers. It is clear the officers were reasonable to believe, when AP retreated to the rear of the home, that he could obtain a weapon.
- The officers also attempted to use their conducted energy weapons but this, too, was unsuccessful. Only then did the subject officer deploy the “less lethal” shotgun.
- Given the above, the subject officer had reason to believe AP could cause the officers bodily harm or death. SO was justified in his actions.

In conclusion, as the civilian director of SIRT-NL, I do not consider there are reasonable grounds to believe the subject officer committed a criminal offence. Accordingly, no charge will be laid.

SIRT-NL recognizes the serious nature of these cases and is available to provide assistance by explaining our role, process and findings to the officers and affected person.

### **Final Report prepared by:**

Michael NR King, Director  
Serious Incident Response Team - Newfoundland and Labrador  
March 9, 2022  
File No. 2021-033



