



Serious Incident Response Team

Civilian Director's Report
SIRT-NL File No. 2023-0043

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Director
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Introduction

On December 25, 2023, the Royal Newfoundland Constabulary (RNC) notified the Serious Incident Response Team (SIRT-NL) of a serious incident in Corner Brook involving the death of a civilian in custody.

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 death of an individual after he had been taken into custody by a police officer, it fell within SIRT-NL mandate.

I note that this matter involves two simultaneous investigations. SIRT-NL is investigating the police officers involved. Because our mandate does not include correctional officers, the RNC is investigating their involvement in the matter. I will make no comment on whether any criminal liability rests on the correctional officers or any other civilian. Nothing positive or negative should be construed from that.

Terminology

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

- “Affected person” or “AP” for the deceased.
- “Subject officer #” or “SO#” for the police officers who are the subjects of this investigation.
- “Witness officer” for any police officer who provided relevant information.
- “Witness #” or “W#” for any civilian who provided relevant information.

Investigation

The SIRT-NL investigation began on December 25, 2023 and concluded on July 22, 2024.

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

- Collected and reviewed the following from the RNC in relation to the incident (with the subject officers' notes redacted):
 - RNC Investigative Files.
 - RNC CCTV recordings.
 - RNC comm. center recordings.
 - RNC vehicle AVL logs.
 - RNC policy.
- Collected and reviewed the following from the RCMP in relation to the incident:
 - CCTV from the HMP Corner Brook and Hotel Corner Brook.
 - Witness statements.
 - Photos of the HMP Corner Brook cell in which the affected person was held.
- Interviewed 17 Civilian Witnesses, including the affected person's friends and family, paramedics, taxi drivers, hotel employees, hospital staff and the Office of the Chief Medical Examiner (OCME), all of whom had information pertaining to the affected person.
- Interviewed five witness officers.
- Obtained and reviewed all related 911 recordings.
- Obtained and reviewed the medical records of the affected person.
- Obtained and reviewed the Toxicology Report and Autopsy Report from the Office of the Chief Medical Examiner.
- Obtained and reviewed the affected person's cell phone records.

Overview

On December 24, 2023, the affected person attended Hotel Corner Brook. Due to AP's level of intoxication, hotel staff called the RNC, who attended the hotel along with paramedics. The paramedics conveyed AP to hospital. While at the hospital, after being triaged, the affected person removed the intravenous tubes from his arms and walked out. One of the nurses called the RNC to apprehend AP as AP was too intoxicated to be out on his own. Shortly thereafter, the subject officers attended and found AP outside the hospital. They took him into custody without incident and conveyed him to HMP to

be held for the night and released in the morning. Hours later, while in his cell, AP became unresponsive. HMP staff called the paramedics, who attended and conveyed AP to hospital, where he was later pronounced dead.

Autopsy and Toxicology Reports

The SIRT-NL primary investigator attended the autopsy of AP on December 28, 2023.

- The following was located on the affected person:
 - Two blue pills and one white pill.
 - White powder wrapped in plastic.
 - A plastic pouch with the presence of white powder.
 - 10 various pills (four blue, one white and five yellow) in the right pants pocket of the affected person.
- AP tested positive for:
 - Cocaine.
 - TRICYCLIC (anti-depressant).
 - THC (the primary psychoactive component in marijuana, hashish, and other preparations derived from cannabis plants).
 - BENZODIAZEPINE (depressants that produce sedation and hypnosis, relief of anxiety and muscle spasms and reduce seizures).
- During the autopsy, the following injuries were observed and noted:
 - fracture to right rib cage (older injuries).
 - open fractures to left rib cage.
 - substantial amount of blood in the right body cavity.
 - hyper-extended fracture to top vertebrae.

The SIRT-NL investigator took possession of the loose pills and two pill bottles recovered from AP. The two pill bottles (recovered from AP when he was processed at HMP CB) consisted of:

- One pill bottle labelled PREGABALIN 75mg. 60 capsules - 2 capsules twice a day. Prescribed to AP on December 22, 2023. There were 58 pills in the bottle.
- One green unlabeled pill bottle, containing:
 - Seven white pills with no markings.
 - Three ALEVE blue pills.
 - Thirteen yellow pills marked "100".
 - Eight yellow pills marked "50".

- One and a half yellow pills with no markings.

The two packages containing white powder recovered from AP during the autopsy tested presumptively positive for cocaine.

The unknown pills recovered from AP (loose pills and the pills in the green pill bottle) were identified as follows:

- The white unmarked pills - Tylenol.
- The yellow pills – Dicetel (a stomach medication).

On February 7, 2024, the SIRT-NL investigator received the toxicology report for the affected person. The following was found in AP's system:

- Blood alcohol concentration was 147g / 100 ml.
- Benzoylgonine (a chemical breakdown product of cocaine).
- Cocaine.
- Cocaethylene (cocaine and ethanol by-product when cocaine and ethanol are in the system at the same time).
- Quetiapine (an antipsychotic drug).

On April 11, 2024, the SIRT-NL investigator received the Autopsy Report from the OCME. The report stated:

- The findings were that the affected person had:
 - “displaced fractures to the 10th and 11th ribs associated with laceration of the thoracic pleura, right lung, right diaphragm, contusion of the diaphragmatic surface of the right liver lobe and hemothorax.
 - “Thoracic vertebral body, incomplete, hyperextension-type fracture. No injury to the spinal cord or bleed in the spinal canal.”
 - “Fracture of the 3rd left rib side”
 - “Recent contusions of the back and both elbows”
 - 1100ml of blood in the right chest cavity
 - “There is no evidence of blunt force or penetrating injury to the abdominal region.”

In the opinion of the OCME, AP died at the HMP due to a blood loss resulting from the rib fractures. The OCME stated:

[I]t is most likely that a fall or multiple falls are responsible for his injuries. ... It is not possible to determine with a high degree of medical certainty, when the lethal

injury of the ribs occurred. ... The ribs could have been fractured the night before, as disclosed by [AP] to a bartender at the hotel. However, which particular subsequent fall on the previously fractured ribs resulted in the displaced rib fractures, tearing the inner lining of the chest wall and puncturing the lung, is not possible to say.

While the microscopical findings of the diaphragmatic injury shows features suggestive of the interval chest injury occurring within 24-48 hours, it is less likely that the amount of blood accumulated in the chest was over a more extended period, but rather more accurate, occurring on the night of his death.

Intoxication by alcohol, cocaine and cocaethylene may have masqueraded [AP's] symptoms, resulting in him not seeking medical intervention. The significant ischemic heart disease and intoxication by alcohol, cocaine and cocaethylene may have also contributed to his death.

The cause of death was listed as blunt force injury to the right chest. Other significant conditions contributing to the death but not related to the immediate cause were old myocardial infarcts and ethanol, cocaine and cocaethylene intoxication.

The manner of death was listed as accidental.

Upon reviewing all information provided by the OCME, I had further questions. In particular, I wanted to know, given the cause of death, if the affected person stayed at the hospital or was brought back to the hospital from the HMP CB, could the hospital have monitored, detected, and prevented AP's death.

On July 17, 2024, the SIRT-NL investigator obtained a statement from the Chief Medical Examiner. The following is a summary of that statement:

The OCME is of the opinion that, under absolutely ideal circumstances, if the affected person had been brought back to hospital and provided with the proper medical attention, his death may have been prevented. By "ideal circumstances", the OCME meant AP would have to agree to the treatment and the medical staff would have to complete the proper analysis and provide the proper treatment to identify the rib fractures and blood loss. The OCME reiterated his comments in the autopsy report that AP's intoxication from cocaine and alcohol use may have masqueraded his medical symptoms.

Medical Records

On January 3, 2024, the SIRT-NL investigator obtained AP's Western Memorial Regional Hospital medical records for the date of the incident. The records stated as follows:

- At 12:19am on December 24, 2023, paramedics were dispatched to Hotel Corner Brook for an intoxicated male. The paramedics arrived at 12:22am.
- AP advised the paramedics that he was at a bar drinking and had taken a valium at approximately 3 hours prior. AP's vitals were taken and he was then placed in an ambulance for transport to hospital. His pulse was 122 and his blood pressure was listed as 84/41; however, it improved after an intravenous was administered.
- At 1:11am, AP was triaged at hospital. He was described as being intoxicated and he advised the staff he had been drinking and had taken one valium. His pulse was 120 and his blood pressure was 116/57.
- At 1:12am, AP demanded to go outside for a cigarette. He was refusing care.
- At 1:20am, AP ripped his IV and left, refusing care. Hospital staff called the RNC to pick patient up to be brought to the lock up.
- At 1:25am, AP was picked up by police.
- The attending physician noted AP had left against medical advice and the police were called to look for him.
- The attending physician had ordered the following tests to be completed on AP prior to him leaving:
 - EKG
 - Urine toxicology
 - Blood alcohol level
 - Cardiac blood work
- At 6:47am, paramedics were dispatched to the HMP for an unresponsive male. From their arrival at HMP until care was transferred to hospital staff, the paramedics completed CPR on AP.
- At 7:11am, AP arrived at the hospital emergency room under cardiac arrest.
- CPR was administered to AP along with 5 doses of Epinephrine until 7:29am, at which time AP was pronounced dead.

On February 1, 2024, the SIRT-NL Investigator obtained the affected person's medical records from his family physician. The medical records revealed nothing of evidential significance other than AP was prescribed Lyrica, which is a name brand for Pregabalin.

This was the prescribed medication AP had in his possession when he was admitted into the HMP CB on December 25, 2023.

Dispatch Recordings

SIRT-NL obtained the relevant dispatch recordings from the RNC. The following is a transcript of the triage nurse's (W10) phone call to the RNC, which triggered the officers' response to the hospital:

“Hey it's [W1] callin' again. Ahm, can you ask the guys if they can probably come over a deal with [AP], [AP], they just went down to Hotel Corner Brook for him. He's over here, he's intoxicated, he's refusing to let us go near him. He got everything ripped out of him. He's being belligerent. He's too drunk, I can't really let him go. ... Yeah, well he ... I don't know where he just bolted out through our doors, but I don't even know where he's gone, he just bolted, but he's way too drunk to be out on the go, he's loaded.”

Civilian Witnesses

Witness 1 (W1)

On January 2, 2024, the SIRT-NL investigator obtained an audio-recorded statement from W1, who is a family member of AP. W1 provided the following information:

W1 last saw AP on Christmas Eve between 7:00pm and 7:30pm. He seemed fine at the time and was not drunk. W1 was aware AP had a bad fall in Nova Scotia whereby he injured his head. He also had a fall in Botwood when he fell after drinking. W1 was not aware of any medical issues other than AP was an alcoholic. W1 did not know AP to be a drug user.

Witness 2 (W2)

On January 10, 2024, the SIRT-NL investigator spoke with W2, who is a family member of AP. W2 provided the following information:

W2 confirmed that AP was at his residence on the evening of December 23, 2023. While there, AP was drinking alcohol and fell into a coffee table. W2 thought AP struck his head off the coffee table when he fell. AP fell due to his level of intoxication.

Witness 3 (W3)

On January 3, 2024, the SIRT-NL investigator obtained an audio statement from W3. The following is a summary of W3's interview:

W3 works as a bartender at AJ's Lounge in Corner Brook. On December 24, W3 worked a 12:00pm to 6:00pm shift. W3 is familiar with AP as AP is a regular customer at the lounge.

On December 24, AP arrived at the lounge sometime between 2:00pm to 3:00pm. He was alone and dressed in black. W3 asked AP if he was okay as he did not look well. AP told W3 he fell down the night before and broke a few ribs. W3 asked AP if he went to the hospital and he said no. W3 suggested that he should.

While at the lounge, AP had two beer and one vodka. He was at the lounge for about half an hour to an hour. He then asked W3 to call him a cab, which W3 did. AP left in the cab soon thereafter.

Witness 4 (W4)

On January 3, 2024, SIRT-NL obtained an audio statement from W4, who is a taxi driver in Corner Brook. W4 confirmed that, on December 24, he picked up AP at AJ's lounge and dropped him off at his parents' house.

Witness 5 (W5)

On January 3, 2024, the SIRT-NL investigator obtained a statement from W5, who is a taxi driver in Corner Brook. W5 confirmed that, on December 24, he picked up AP at AP's parents' house and dropped him off at AJ's Lounge in Corner Brook.

Witness 6 (W6)

On January 3, 2024, the SIRT-NL investigator obtained an audio statement from W6. The following is a summary of W6's interview:

W6 works as a bartender at AJ's Lounge in Corner Brook. On December 24, 2024, W6 started work at 6:00pm, relieving another bartender (W3). W6 is familiar with AP as AP is a regular customer of the lounge.

On December 24, AP arrived at the lounge sometime between 7:30pm and 9:00pm. He seemed fine when he arrived and was not intoxicated. AP told W6 he had sore ribs. He said he was at a family member's the night before, lost his balance and fell into a coffee table. AP said his ribs hurt when he coughed and laughed. He showed W6 pills he was taking for nerve damage.

AP sat at the bar alone and, throughout the night, consumed about seven or eight beer. After every second beer, he would have a shot of vodka. W6 eventually cut AP off as AP became drunk very quickly and was too intoxicated. AP then fell, hitting his head off the bar. W6 believed AP went unconscious for a few seconds. W6 then helped AP up on a stool. AP then fell a second time, hitting his back off the bar. W6 then placed him on a nearby couch.

AP told W6 he was staying in a hotel for the night. W6 called him a taxi. Later that evening, the cab driver came back to the lounge after dealing with AP. The cab driver told W6 he had brought AP to a hotel, but AP passed out and they had to call an ambulance for him.

Witness 7 (W7)

On January 3, 2024, SIRT-NL obtained an audio statement from W7, who is a taxi driver in Corner Brook.

On the evening of December 24, around midnight, W7 picked up AP at AJ's Lounge. He was familiar with AP as he had driven AP numerous times in the past. He waited outside the lounge without seeing AP. He looked through a window of the bar and saw several people holding AP, who was intoxicated. Some people helped AP to the taxi. AP wanted to go to the Corner Brook Hotel. While driving to the hotel, AP said he wanted to get some beer. They stopped at a store. W7 went inside the store for AP and got him three large cans of Bud Light. AP told him he had taken a valium.

When they got to the hotel, W7 went inside and spoke with the clerk. W7 told the clerk he had a good guy looking for a room but the guy was "in bad shape". The clerk agreed to rent AP a room. W7 and AP went into the hotel lobby. AP fell down a couple of times. W7 asked the clerk to call an ambulance. When the ambulance arrived, W7 left.

Witness 8 (W8)

On December 26, 2023, an audio statement was obtained from W8, an employee at Hotel Corner Brook. The following is a summary of W8's statement:

AP arrived at the hotel around midnight and was brought in by a cab driver. The cab driver asked if AP could stay at the hotel for the night. AP took beer cans out of his pocket, which the cab driver took from him. AP told W8 that a man had given him a pill. There was no other conversation. W8 called 911 because he was worried about AP's health, due to AP's level of impairment. While waiting for an ambulance, AP fell multiple times.

Witness 9 (W9)

On January 3, 2024, the SIRT-NL investigator obtained an audio statement from W9. The following is a summary of W9's interview:

W9 is a primary care paramedic with Western Health in Corner Brook, NL. On December 25, W9 and his partner were dispatched to a male (AP) who had potentially overdosed at the Hotel Corner Brook. Upon arriving at the Hotel, the male was conscious and alert. He said he was drinking all night and had taken one pill at a bar. The male agreed to be transported to the hospital. He was under the influence and seemed pale. His heart rate was above 100 and his blood pressure was low. A head-to-toe visual examination was completed, with no injuries noted.

At the hospital, the male took out his IV as he wanted to leave and have a cigarette. The triage nurse (W10) said he was free to go outside for a cigarette. W9 is not sure what medical treatment the male received at the hospital. At no time did the male express any pain that he was experiencing.

While outside, two RNC officers showed up. W9 was confused as to why they were there. AP told the officers he did not want to go to his parents' house. W9 did not see the RNC handcuff or search AP. The officers told AP they were going to give him a place to stay for the night.

To maintain a chronological summary of the evidence, I will return to the remainder of W9's statement below.

Witness 10 (W10)

On July 18, 2024, SIRT-NL obtained an audio-recorded statement from W10, the triage nurse who dealt with AP and called the RNC when AP departed the hospital. The following are the most salient portions of the statement:

- [AP] was gone. He was gone from the room. He had taken out his IV, which is the intravenous catheter that the paramedics had put in on scene. It was on the bed. His personal belongings were gone. And, ah, like there was a little bit of blood from where he had taken his IV out on his own and was just thrown down on the bed and his coat and everything were gone.
- ... We couldn't find him anywhere ... If somebody leaves our department and I'm concerned for their wellbeing, if they're under the influence, I us... I'll call the police. Ya know, I'll call them and I'll say, "You know what. The patient's not co-operating. They left. They've refused their care. Can you come over and see to

this patient?” And I do that because, number one, if they go out and anything happens, it’s a safety thing for me. Ahm, ya know, if they go out, ahm, something could happen, I always wanna make sure that the police come and see to them and do their safety check, take them to their cells, ya know, what they do on their end, then I know that I’ve covered myself in regards to that patient that’s left, that has been drinking.

- If the physician feels that the patient needs to be brought back, then we usually, like, will do a certification or apprehension order and give it to the police. But the physician that night was aware of the patient and I said to him, ya know, “are you...He’s gone” and he was like “Yup, that’s fine, he’s gone with, just call the cops and let them do their part. But there was no questioning of having to certifying him based on his, what he had told us he had taken or anything. So that’s, we didn’t feel that he needed to be certified at that point. So, we just wanted to make sure that he was going to be somewhere safe and wasn’t going to be out on the streets, like, clearly intoxicated”.
- What happened that night is a quite, ya know, a quite common occurrence. Ya know, again, that we have to call them to come and pick up patients and its not uncommon for them to not, ya know, not come back in and speak to us. Like that, that is, that does happen quite regularly. So ya know, again, that, to me, wasn’t an alarm of any sort.

Witness 11 (W11)

Statements were taken from both correctional officers involved in the incident. To avoid duplicity, I will summarize one of the statements, which was corroborated by the second statement.

On December 25, 2024, an audio-recorded statement was obtained from correctional officer Witness 11. The following is a summary of W11’s interview:

SO1 brought AP to HMP at approx. 1:40am under the **Detention of Intoxicated Persons Act**. AP was coherent and was walking unassisted. W11 described AP as a “normal drunk person”. AP was placed in cells. He laid down on the bunk after having some water. HMP staff conducted visual checks every half hour. Staff look for movement and breathing. When W11 conducted a check at approximately 6:00am, AP was sitting up in the bed with his back against the wall and his breathing was shallow. W11 thought he was sleeping. The second check at approximately 6:25-6:30am was the same. W11 thought they should move him so AP could lay down. W11, along with a fellow correctional officer entered the cell to re-position AP on his bed. W11 said AP’s name and shook him but AP was unresponsive. W11 checked for a pulse and then ran

out to call 911. W11 returned to the cell to perform CPR until the ambulance arrived. Paramedics arrived, took over and transported AP to hospital.

Witness 9 (W9) - Continued

W9 and his partner were dispatched to HMP CB, where a male (AP) was reported to be unresponsive and not breathing. Upon their arrival, an HMP guard was completing CPR on the. The male was checked and he had no pulse. W9 completed chest compressions on the male while his partner provided an airway. Two paramedics from Reliable Ambulance arrived to assist.

W9 completed a head-to-toe examination of the male and noted no injuries. W9 drove the ambulance from HMP to hospital. Two of the other paramedics treated the patient during the transport.

Witness 12 (W12)

On January 2, 2024, the SIRT-NL investigator obtained an audio statement from Witness 12. The following is a summary of W12's interview:

W12 is a primary care paramedic with Reliable Ambulance in Corner Brook, NL. On December 25, W12 and W12's partner responded to HMP CB in relation to an unresponsive male (AP). Upon arriving at HMP CB, they were met by an RNC officer, who brought them to the male in the last cell on the right. Two paramedics from Western Health were completing CPR on the male. W12 began to assist in providing air to the patient. The male was on his back on the bed. He was pale blue and lifeless, with no visible track marks or injuries.

They decided to transport the male to the hospital. W12 assisted Western Health paramedics with loading the patient into their ambulance. She rode with the ambulance, completing CPR and other live saving efforts. Upon arrival at the hospital, the male was placed in a crash room, at which point, hospital staff took over. The patient was pronounced dead at either 7:23am or 7:29am.

Subject Officers

SIRT-NL invited each subject officer to provide a statement. Both officers declined to do so, but voluntarily provided their reports in relation to the incident.

Subject Officer 1 (SO1)

The following is an excerpt from SO1's Report:

SO1: Police attended WMRH to respond to an intoxicated male that was brought in by ambulance and eventually refused treatment. Police were aware the male was transported to Western from Hotel Corner Brook due to a previous complaint of a possible overdose. When police assisted paramedics in this call, it was learned that the male took a valium along with the consumed alcohol.

Male was located outside the ambulance bay standing up and speaking to a paramedic. The male, [AP], displayed obvious signs of impairment, including slow slurred speech and difficulty walking. [AP] advised he had no where [sic] to stay as he lived with his elderly parents. Police were also aware his intentions were to stay at Hotel Corner Brook.

[AP] was advised he was being held under the DIP act and would be released in the morning without charge. He was read his R and C however he refused to provide police with an answer. He was transported to HMP where he was handed over to CO's.

When police arrived at WMRH, the male was located standing up at the ambulance entrance speaking to paramedic and was having a cigarette. The male was cooperative with all parties and even apologetic for having to get police involved. The male advised that he had nowhere to go as he usually lives with his very elderly parents and would not tell police of that location and police were aware of his original plan of staying at Hotel Corner Brook. The male walked to police unit 142 on his own accord albeit slowly and with effort to maintain some steadiness. The male was not handcuffed.

The male was advised of his detention of the DIP act and read his rights and caution but would not respond to police when asked if he understood. He was driven to Corner Brook Detention Centre where he was handed over to CO's and processed and placed in cells. At no point in time did the male show any signs of distress or tell police or CO's of any.

Police felt the need for detention of the male as a result of being unable to hand him over to a willing sober adult to care for him. The male showed signs of intoxication including the odor of alcohol coming off his body, slow deliberate speech and difficulty balancing. Given the circumstances of the previous call that

got the male to WMRH, the fact the original call was for a possible overdose, police determined that it was best that he be placed in a secure environment.

Subject Officer 2 (SO2)

The following is an excerpt from SO2's Report:

SO2: [SO2] was also dispatched to Western Memorial Hospital to a report of [AP] taking out his IV and monitors off and wouldn't allow Nurses see to him. Dispatch advised that [AP] had left the hospital, and they were concerned about his level of intoxication. Police responded and the writer attended with [SO1] in Unit 142. On arrival police observed [AP] smoking and speaking with a Paramedic outside Emergency Doors. I stood by as [SO1] spoke with [AP] who was still very clearly intoxicated. He slurred his words and had slow deliberate movements. [AP] walked to Unit 142 and placed in the back. [AP] was cooperative with police and was not placed in handcuffs.

Timeline

From reviewing the statements, the CCTV footage, the RNC AVL records, the 911 recordings and the RNC communication center recordings, SIRT-NL was able to generate the following timeline of relevant events.

December 25, 2023

- **12:11:05am** - A taxi driver and AP enter Hotel Corner Brook. While at the front desk, AP falls three times.
- **12:14am and 12:16am** - An employee at the hotel calls 911 to report there is an intoxicated male at the hotel who can barely stand up. The male told the employee that somebody had given him pills. The employee describes the situation as a possible drug overdose.
- **12:18am** - There are two calls to the RNC dispatch centre in Corner Brook regarding Hotel Corner Brook:
 - Call from 911, advising they received a call from Hotel Corner Brook of a possible drug overdose. An ambulance had been dispatched. The person is still breathing but they did not know the person's name.
 - Call from W10 at Hospital Emergency, requesting the RNC send somebody to Hotel Corner Brook. AP is at the hotel but they are not sure if he is intoxicated or has overdosed. AP said that somebody had given him pills.

- **12:19am** - SO2 is dispatched to Hotel Corner Brook to a possible drug overdose. SO1 advises RNC dispatch he would respond as well.
- **12:23am** - SO1 and SO2 arrive at Hotel Corner Brook.
- **12:26am** - Paramedics from WMRH begin treating AP inside Hotel Corner Brook.
- **12:30am** - Paramedics walk outside the hotel. Still inside, SO1 sits in the chair next to AP while SO2 stands across from AP. It appears from the video that AP is talking to the officers.
- **12:31am** - Paramedics return to AP. They assist AP in getting up from the chair and walking toward the main entrance. SO1 and SO2 follow them.
- **12:32:43am** - Paramedics exit the hotel with AP. One paramedic holds AP's right arm while the other paramedic holds AP's left arm. SO1 and SO2 follow them. Once outside the hotel, AP is placed on a stretcher.
- **1:21am** - RNC dispatch receives a call from hospital emergency nurse W10, who was requesting that the RNC send somebody along. W10 stated AP was intoxicated, refusing to allow hospital staff near him, ripped everything (presumably intravenous tubes) from him and has bolted out through the door. W10 states AP is too drunk to be out on his own.
- **1:21am** - RNC dispatches the two subject officers to WMRH. Dispatch relays to the officers the information given by W10.
- **1:26:22am** - The subject officers arrive at WMRH.
- **1:28am** - SO1 advises RNC dispatch they had AP in custody. RNC dispatch call HMP CB to advise that AP was coming to cells.
- **1:28am** - SO1 leaves WMRH in the police vehicle. The RNC vehicle arrives at the rear entrance of RNC headquarters. SO1 exits the driver's side and SO2 exits the front passenger side. AP exits the rear driver's side. He is wearing a black jacket, black shirt, black footwear and jeans. AP walks unassisted from the police vehicle to the steps of the entrance. At the base of the steps, he removes a can of beer from his inner jacket pocket and passes it to SO1. SO1 places his hand on AP's back while walking up the steps. At the top of the steps, SO1 searches the front jacket pocket of AP. SO1 and AP enter HMP lock up.
- **1:30am** - AP walks into the HMP lock up admissions area with SO1. AP is not handcuffed. Two correctional officers are present. Upon entering the lock up, SO1 puts on a pair of gloves, removes AP's jacket and searches same. SO1 locates a wallet, a cell phone, a pill bottle and cigarettes in the jacket, which he passes to one of the correctional officers. AP removes his footwear and belt.

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- **1:31am** - One of the correctional officers pats down AP but does not search AP's pockets.
 - **1:32am** - AP removes loose pills and a green pill bottle from his right front pants pocket. The correctional officer places the loose pills in the green pill bottle.
 - **1:34am** - AP is placed in the last cell to the right. He is the only person in the cell.
 - **1:40:50am** - AP gets up from the bunk and walks to the toilet area, where he falls. He then returns to the bunk and lays down.
 - **1:47:15am** - AP rubs the right side of his rib cage and places his hand inside his shirt, rubbing the same area. Over the next three minutes, he appears to be in some discomfort.
 - **5:59am** - AP sits up on the bunk, holding his chest.
 - **6:02:35am** - While sitting on the bunk, AP falls back and strikes his head off the wall. He rubs the back of his head with his left hand. He places his right hand by the side of his head.
 - **6:03:30am** - AP's left hand falls to his side. He then takes five deep breaths and goes motionless.
 - **6:45:51am** - The lights come on in AP's cell and two correctional officers enter. One officer shakes AP's right leg while the other places a hand on AP's left wrist. Both officers then leave the cell.
 - **6:47:43am** - One of the correctional officer re-enters the cell, places AP on his back and begins CPR.
 - **6:53am** - Two paramedics enter the cell and begin medical treatment on AP.
 - **6:56am** - Two additional paramedics arrive and assist in providing medical treatment.
 - **7:05am** - AP is removed from the cell on a stretcher. All paramedics leave with him.

Issue and Conclusion

The issue for my consideration is whether there are grounds to believe either or both of the subject officers committed a criminal offence. It bears repeating my focus is on the officers only. SIRT-NL's mandate does not include investigating civilians, such as correctional officers or hospital staff.

In this case, the possible applicable **Criminal Code** violations are criminal negligence causing death and failing to provide the necessities of life.

Criminal Negligence Causing Death

The following are the essential elements of criminal negligence, causing death, all of which must be present to establish the offence (*R. v. Plein*, [2018] O.J. No. 4688 (ONCA)):

1. The subject officer(s) engaged in unlawful act or omission;
2. The unlawful act or omission showed a wanton or reckless disregard for the affected person's life; and
3. The unlawful act or omission caused the affected person's death.

The evidence gathered does not support that either of these elements are present in this case.

Here, the RNC received a call that an individual – the affected person – had taken off from hospital and was too intoxicated to be out on his own. RNC dispatch relayed this information to the subject officers. We must remember this is the information on which the officers were acting when they responded and took AP into custody. While we have since learned from the autopsy that AP died of internal bleeding due to a broken rib, neither the officers, nor hospital staff were aware of that injury at the time. Moreover, the officers had been told AP was refusing medical treatment. Neither the officers nor hospital staff had authority to force treatment on AP against his will.

In terms of the officers' interaction with AP, they were acting under the valid authority of the **Detention of Intoxicated Persons Act**. There was no physical altercation. They inflicted no injury to AP. They did not arrest AP, who was co-operative throughout. As one of the officers indicated to AP, they were giving him a place to stay for the night (I note AP told the officers he did not want to go to his parents' house). The officers then transported AP to HMP, where they transferred custody of AP to the correctional officers.

In my opinion, the first essential element (the officers engaged in an unlawful act or omission) is not present. The inquiry, therefore, can end there. However, if I felt differently, as to the second essential element (the act or omission showed a wanton or reckless disregard for the affected person's life), I must determine whether the officers'

conduct, whether act or omission, met the “marked and substantial departure” standard (*R. v. M.R.*, [2011] O.J. No. 1017 (ONCA)). Given the circumstances, I do not believe this is the case here. Again, the subject officers, acting on the information they had at the time, at the request of a report from the triage nurse, were merely detaining the affected person for his own safety. The nurse, in her statement to SIRT-NL, indicated this type of scenario was a common occurrence. I have concluded this does not constitute a marked and substantial departure from the standard expected of police officers in the circumstances that existed at the time.

Finally, the third essential element is that the unlawful omission caused the affected person’s death. The legal test for “causation” is whether the acts of the officer(s) were “a significant contributing cause” to the affected person’s death (*R. v. Nette*, [2001] 3 S.C.R. 488 (SCC)).

It is with respect to this issue that SIRT-NL sought clarity from the OCME beyond the autopsy report. Were the acts of the officers – taking AP into custody, away from hospital – a significant contributing cause of AP’s death? To establish they were, we would require a definitive statement from the OCME that hospitalization would have prevented death. Otherwise, we cannot say the omission of the officers to bring AP to the hospital was a significant contributing cause of AP’s death.

The OCME’s opinion is, at best, equivocal. As outlined above, the OCME stated that, under absolutely ideal circumstances, if the affected person had been brought back to hospital and provided with the proper medical attention, his death may have been prevented. By ideal circumstances, the OCME meant AP would have to agree to the treatment and the medical staff would have to complete the proper analysis and provide the proper treatment to identify the rib fractures and blood loss. The CME reiterated his comments in the autopsy report that AP’s intoxication from cocaine and alcohol use may have masqueraded his medical symptoms.

In my opinion, the evidence is far from certain on this point. Accordingly, I do not believe the third essential element – that the officer’s omission was a significant contributing cause of AP’s death – is established.

Failing to Provide the Necessaries of Life

There is a legal duty to provide necessaries of life in certain circumstances – ie. when one person has another under their charge, who is unable, by reason of detention, or other cause, to withdraw himself from the charge and is unable to provide himself with such necessities.

The phrase “Necessaries of life” has been interpreted as such necessities as tend to preserve life. This includes medical attention necessary to sustain life, but also protection from harm (*R. v. Peterson*, [2005] O.J. No. 4450 (ONCA)).

The essential elements of the offence are as follows (*R. v. Goforth*, [2021] S.J. No. 40 (SKCA)):

1. SO owed one of the duties in s. 215(1);
2. SO failed to provide the necessities of life to AP;
3. SO’s failure to provide the necessities endangered AP’s life or caused or was likely to cause AP’s health to be endangered permanently;
4. A reasonable person in SO’s circumstances would have foreseen that the failure to provide the necessities would lead to a risk of danger to AP’s life, or of permanent endangerment to AP’s health; and
5. AP’s conduct represented a marked departure from the standard expected from a reasonable caregiver in equivalent circumstances.

In my opinion, neither (4) nor (5) above are present. First, a reasonable person in the position of the subject officers could not have foreseen that failure to provide necessities – in this case, bringing AP back to hospital instead of bringing him to HMP – would have risked danger to AP’s life. Again, we know now AP died of internal bleeding resulting from a broken rib. The officers were not aware of this injury at the time. Second, as stated above, I do not believe the officers’ conduct is a marked departure from the standard expected of a reasonable person in these specific circumstances.

In summary, the essential ingredients of the offences of criminal negligence causing death or failing to provide the necessities of life are not established here. For these reasons, I have not formed reasonable grounds to believe either of the subject officers committed a criminal offence and I will not lay a charge in this matter.

SIRT-NL recognizes the serious and tragic nature of these cases and how difficult they are for the family of the deceased. With this in mind, we are available to provide assistance by explaining our role, process and findings to the family.

SIRT-NL will now conclude this file.

Final Report prepared by:

Michael NR King, Director
Serious Incident Response Team - Newfoundland and Labrador
October 15, 2024
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