

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2014-035

Halifax Regional Police

August 22, 2014

Ronald J. MacDonald, QC

Director

February 18, 2015

Facts

On September 25, 2014, a 34-year-old male, the affected person (AP), made a complaint to the Office of the Police Complaints Commissioner regarding the actions of Cst. Derek Fish, a 45 year-old member of the HRP. The complaint was in relation to AP's arrest by Cst. Fish on August 22, 2014 at the Dairy Queen on Dutch Village Road in Halifax for theft from another store. That complaint was referred to the Professional Standards section of HRP. On October 17, 2014, they referred the matter to SiRT for investigation under the public interest component of SiRT's mandate.

SiRT began its investigation on October 17. It was concluded on February 13, 2015. During the investigation SiRT interviewed five witness police officers, as well as four civilian witnesses, including AP. Other evidence relevant to the matter was gathered and carefully reviewed.

On February 20, 2015, SiRT will lay one charge of assault against Cst. Fish, alleged to have occurred on August 22, 2014. Cst. Fish will be summoned to appear in Halifax Provincial Court on March 23, 2015.

Relevant Legal Issues

An assault is committed whenever a person intentionally applies force against another person without their consent. Police officers have the right to use reasonable force when arresting a person they have reasonable grounds to believe has committed a criminal offence. However, if the force used by the police officer is not reasonable, the actions of the officer can constitute the offence of assault. Where reasonable grounds exist to believe such an offence has been committed, the Director may charge the police officer. Any offence must be proven beyond a reasonable doubt before the accused can be found guilty.

Conclusion

This investigation has led to the conclusion that there are sufficient grounds to lay a charge of assault against Cst. Derek Fish. However, this matter is currently before the courts. In accordance with SiRT policy, this report will not discuss the facts of the matter in any further detail. To do otherwise might compromise the fair trial interests of the accused. The Serious Incident Response Team Regulations under the *Police Act* state that the Director may choose to provide a supplemental summary of the investigation at the conclusion of the prosecution.