

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2014-039

Referral from

Royal Canadian Mounted Police

November 4, 2014

Ronald J. MacDonald, QC
Director
August 11, 2015

Facts:

On November 4, 2014, at approximately 9:24 p.m., a police service dog (PSD) working with a Halifax Regional Police (HRP) officer, Officer 1, made contact with a 48-year-old woman, the Affected Party (AP), as police were arresting her in relation to a complaint of a stabbing at a residence in Hammonds Plains. AP suffered severe lacerations to her leg, and as a result the RCMP contacted SiRT to report the incident shortly after 10 p.m. SiRT commenced an investigation into the matter the next day, upon confirmation of the seriousness of the injuries. The investigation was completed on May 25, 2015.

During the investigation SiRT obtained a statement from AP, as well statements or reports from three witness police officers. In addition, a copy of the relevant police file was reviewed, and a report from the Canadian Police Canine Association.

The Serious Incident Response Team regulations made under the *Police Act* provide that a subject officer is not required to provide a statement or report to SiRT. In this case, two subject officers, Officer 1 and Officer 2, provided written statements. Receipt of one of these reports was delayed somewhat, which added time to the completion of the investigation.

The investigation revealed that on the night of November 4, 2014, police received a complaint from a 51-year-old male living on Fisher Drive in Hammonds Plains that he had been stabbed in the chest by AP, his spouse. The male had left his home, with his children, and was calling from a neighbour's home.

Police responded quickly to the complaint. Those responding included Officer 1, a member of the HRP K-9 unit, working as part of the integrated K-9 unit with the RCMP; Officer 2, a supervisor; Officer 3, an RCMP member of the integrated K-9 unit; and two other RCMP officers, Officer 4 and 5.

The house where the stabbing is alleged to have occurred was first searched by police to attempt to locate AP and ensure no other persons were present and possibly injured. No one was found in the home. They also looked for the knife used in the alleged stabbing but did not find it. Police then decided to search for AP outside the home. They had information she was under the influence of alcohol, had stabbed her spouse, and had a knife. They considered her dangerous.

Officer 1 indicated that immediately upon leaving the residence the PSD picked up a track. Officer 1, along with Officers 2 and 3, followed that track behind the house. Officers 2 and 3 gave cover to Officer 1, one with a conducted energy weapon, the other with a firearm. The track led through the grass backyard, past an area of very dense woods, to a nearby lake. There the track ended. As a result, Officer 1 took the dog back along the track looking for any escape routes. As they neared the backyard, the dog picked up a track entering thick woods at the back of the yard.

AP states she was crouched down in these woods. In her statement she acknowledged that the woods were very thick. This made it difficult for police to see her and for her to see police, especially given it was nighttime. Officer 1 said the woods offered only about 1 metre of visibility.

The PSD entered the woods following the track, on an eight foot lead. A short distance into the woods the dog found AP and made a contact bite on her leg. Officer 1 did not see AP prior to this. AP screamed and said that she gave up. She was told by Officer 1 she was under arrest and that she should drop the knife and show her hands. At this point Officers 2 and 3 also moved in. They were unsure if AP still posed a threat. Soon both Officers 1 and 2 determined AP was not in possession of the knife. With this confirmed, Officer 1 ordered the PSD was to let go of its grip on AP, which it immediately did.

It should be noted that prior to contact with the PSD, AP did not surrender or make herself known to the police. When the police initially walked past her location following the PSD to the lake they were within a few metres of her.

Officer 2 indicates that when he got to AP the dog had already relinquished his grip and was being controlled by Officer 1. Officers 1, 2 and 3 indicate the PSD had hold of AP for a short time. Officer 3 estimated the time from when the PSD first went into the woods until it let go of AP to be 15 to 20 seconds.

AP indicates that it seemed like the dog was biting her for an hour, but she acknowledged it was less than that, somewhere in the range of two to four minutes.

Dispatch notes made on the police file indicate that the time from the start of the PSD beginning its track from the house, to when the suspect was eventually located and placed in custody was a total of about four minutes.

SiRT's experience with reports of PSD bites has shown that very few result in serious injury. Rather, most result in puncture wounds that can be treated in an outpatient fashion. Similarly, the report from Canadian Police Canine Association reports that most canine contacts that result in any injury are puncture wounds.

In this case, AP suffered significant, deep lacerations to her lower left leg that required hospital treatment. PSDs are trained to bite and hold until released. It is likely the lacerations were caused as AP struggled to pull her leg from the dog. The injury caused would appear to be very unusual.

Officer 1 and Officer 4, who came to assist in the arrest, then pulled AP by her shoulders from the wooded area, and once on clear ground handcuffed her. The injury to her leg was noted quickly and EHS was called for assistance. In the meantime officers gave AP first aid.

A knife, believed to be the weapon used earlier in the alleged stabbing, was later found stuck in the ground on the edge of the woods near where AP had been hiding.

Relevant Legal Issue:

The relevant legal issues in this matter are: 1) whether the officers had legal authority to arrest AP, and 2) whether the amount of force used, including the use of the PSD, was lawfully justified.

- 1) Legal authority: A police officer is entitled to arrest a person whom they find committing an indictable offence, or where they have reasonable grounds to believe the person has committed an indictable offence.
- 2) Use of Force: During an arrest, police are entitled to apply what reasonable force is necessary. That may include force necessary to both arrest a person and also to protect the officers in question.

Conclusions:

In this case police had received information that AP had stabbed her spouse in the chest. As the matter is still before the courts, this information at law must still be considered as unproven. However, on that night, the information received was more than sufficient to give the police reasonable grounds to believe the following:

- a) AP was dangerous. She had allegedly stabbed a person in the chest. When a person stabs another person in the chest it is reasonable to assume they made a decision to use lethal force against that person. A police officer responding to those circumstances must assume that same person may be prepared to use similar force against the police.
- b) AP was under the influence of alcohol. This can make the individual involved more unpredictable.
- c) AP was likely in possession of a knife. The weapon was not found in the search of the home. It was reasonable to believe she may have it in her possession, and as a result could pose a threat of harm to police.
- d) AP should be arrested for the alleged commission of a serious, indictable offence.

Police were faced with having to locate a possibly dangerous person in dark, thick woods. It was appropriate for them to take precautions for their safety. In this circumstance, the use of a PSD was appropriate. The dog is able to find people or things that humans cannot see, and do so safely. It also provides a measure of safety to the person being sought. If police are approaching

a person in possession of a knife, a potentially lethal weapon, they must be in a position to utilize potentially lethal force in response. When the encounter occurs in dark, thick woods, the risks increase. However, the PSD can incapacitate a dangerous person, usually in a relatively safe way, allowing police to take the person into custody without significant harm. While injury can be caused by the PSD, often it is not, and even where it is the injury is usually minor. In circumstances such as this the use of the PSD is a good choice.

Unfortunately, AP suffered serious injury. This was unexpected and unusual. While the decision to use the PSD is justified, with this injury the circumstances must be examined to determine if Officer 1 did anything inappropriate that may have led to the unexpected injury.

In this case, Officer 1 was using the PSD to locate a dangerous person. He was successful. He then ensured the person was safe for police to approach prior to ordering the dog to release its grip. This was also appropriate, as long as the time frame was as short as practicable. An analysis of the evidence of the police, and the record of the police transmissions relating to the capture of AP, suggests the period of time was very short and appropriate. This makes sense, as the police would want to act quickly to capture AP once they had located her. While AP suggests the dog was biting her for at least 2 minutes, her recollections of the night may have been impacted by alcohol and the emotion of the night. In addition, as bad as the lacerations were to the leg of AP, one would expect to see much worse had the dog been biting her for as long as she suggests.

In the end, the police were attempting to apprehend a person who they reasonably believed had committed a very serious offence and could be a danger to them. That person was hiding from them, in a dark and unknown location. The best tool at their disposal was the PSD, which was used in a reasonable manner. The injuries caused, while unfortunate, were unintended and not caused by improper actions of any officer.

In those circumstances there are no grounds to consider any charges against any police officer.