

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2018-013

Referral from

RCMP – Lower Sackville

May 8, 2018

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Director
September 10, 2018

SiRT was contacted on May 8, 2018 by the RCMP regarding allegations made by a young woman's mother on Facebook concerning injuries sustained by her daughter, the Affected Party (AP) when she was arrested in her residence by RCMP officers. Although the injuries sustained by the AP did not fall strictly within the definition of serious injury under the SiRT mandate, this investigation was commenced in the public interest.

Facts:

On May 5, 2018 two calls, in a little over one hour, were made by the AP's mother to 911. In the first call she reported the AP as incoherent and vomiting but otherwise calm. She indicated the AP had overdosed on an unknown drug and that this was the third time she had done so in a month and a half. An EHS ambulance and police were dispatched. The police entered the residence on the first occasion, but they did not interact with the AP. The paramedics were the only ones who dealt with the AP on this occasion.

The AP did not want to go to the hospital. She was described by one of the paramedics as being calm and cheerful. The paramedics determined that her mother was engaged and capable of providing a safe environment for the AP. The AP was, therefore, allowed to remain in the care of her mother. A piece of tinfoil containing a tablet of an unknown substance was found in the AP's wallet but disposed of, in the toilet, by her mother.

During the second call the AP was reported as becoming violent. She was cursing, yelling, kicking and hitting things and "freaking out bad". On this call the police took the lead because of the reported behavioural change. Upon their arrival and before they entered the residence both the Subject Officer (SO) and Witness Officer (WO) could hear the AP yelling and screaming from the upstairs of the residence. Both officers, followed by the AP's mother, proceeded to the AP's upstairs bedroom. The WO was the first to enter the bedroom. The AP was screaming and face down on her bed. She rolled over and upon seeing the WO she got up and kicked him in the chest. This caused him to fall backwards, trip over some clutter on the floor and land in the closet that had no door near the bed of the small bedroom. Most of the space in the bedroom was occupied by a queen-size bed, a TV and a dresser. The only space available to walk around in the bedroom was a narrow path on the side of the bed closest to the door and at the foot of the bed.

The SO attempted to gain control of the AP, but she continued kicking and flailing. The AP again attempted to kick the WO as she got up off the bed. The WO then used his Conducted Energy Device (taser). The two taser probes struck the AP in her midsection and leg. The AP was momentarily stunned before she removed one of the probes which eliminated the effect of the taser. The AP was only tasered once. She was not being held down by the SO nor was she facing away from the WO when she was tasered. The AP continued to advance toward the WO until she was kicked in the upper body by the SO.

Both officers grabbed the AP and attempted to restrain her as she continued to kick, grab and punch them. The WO put his weight on her head and shoulders while the SO attempted to gain control of her arms. Once the AP's hands were in restraints, the WO used restraints on her ankles. Despite having both ankles in restraints the AP continued kicking and was able to move the WO's body despite his weight on her legs. The officers' combined weight of 400 pounds was barely enough to gain control of the AP. Less than three minutes after arriving at the residence, the SO radioed for assistance from another officer. The third officer on scene observed the AP flailing and continuously struggling to free herself despite having the weight of the other officers and then his own weight on her body. The AP tried to bite the SO's fingers several times.

The AP's mother witnessed only bits and pieces of the entire interaction between her daughter and the two officers. This is evidenced by her statements that she kept closing her eyes or putting her head down during the times when she was in the doorway and at other times when she completely left the area and went to another bedroom, as well as her lack of recollection of the presence of a third officer in the bedroom.

Paramedics who dealt with the AP on this occasion described her as agitated, angry, belligerent and "really aggressive". The AP was already in handcuffs, on both her wrists and ankles, due to her degree of agitation when the paramedics first saw her. She, however, continued to challenge the restraints and thrash about. The AP was so agitated and aggressive that the paramedics were unable to take her vital signs. The paramedics noted that she, while in the bedroom, was consistently aggressive and violent and in a state of acute psychosis. It was only after the officers were able to gain control of the AP that the paramedics used an injected sedative to calm her aggressive behaviour. Paramedics removed only one taser probe from the AP's body, that being the one embedded in her leg.

The AP's medical records describe bruising on her knees, arms, wrists, right cheek and chin, a broken tooth, a bloody nose and tenderness to her ankles and sternum. A CT scan showed no evidence of intracranial hemorrhage or fractures of the facial bones or skull. The AP was diagnosed as having multiple contusions and a concussion. These records also indicate that the AP continued to hallucinate and be agitated while in the hospital. Approximately six hours after her arrival at the hospital, the AP pulled the IV out of her arm.

Relevant Legal Issues:

1. Did police have authority to take the AP into custody?
2. Did police use excessive force in effecting the arrest?

The police officers had lawful authority to take the AP into custody under *the Involuntary Psychiatric Treatment Act* ("IPTA") because of her irrational behaviour as described by her mother in the second 911 call. The police officers also had lawful authority to arrest AP because of her assault on a peace officer.

The IPTA allows the police to take a person into custody and then take them for medical evaluations if there are reasonable and probable grounds to believe the person has a mental disorder, is threatening to cause harm to themselves, is not consenting to go to a hospital and it is not feasible to seek a court order first. During that process, police are entitled to apply what reasonable force is necessary which may include force needed to ensure the person is kept under control while in custody.

Section 25 of the Criminal Code of Canada allows peace officers, acting on reasonable grounds to use as much force as necessary to administer or enforce the law.

Conclusion:

The AP was violent and suffering from a psychotic episode during her interaction with the police due to her ingestion of a psychoactive drug most likely lysergic acid diethylamide, also known as LSD or methylenedioxyamphetamine (MDMA), commonly known as ecstasy.

The allegations made by her mother that the SO and WO unjustifiably and unnecessarily beat the AP by repeatedly kicking and kneeling her in the head and using a taser multiple times are unsubstantiated. These allegations are not supported by the medical records, the taser records, the evidence of the paramedics and the officers involved. The dimensions and layout of the bedroom where the incident took place together with the location of the AP's body, as described by her mother, make it impossible to accept that the SO after repeatedly kneeling the AP in the head kept walking around her and kicking the front and back of her head. The allegations that the SO and WO beat the AP for 15 minutes and kicked or kneed her head approximately 20 times, all the while knowing that they were being observed by a civilian witness, the AP's mother, are unfounded and not supported by the medical evidence and the objective observations of the paramedics.

The SO and WO were lawfully in the residence and lawfully in the proper execution of their duty in attempting to take the AP into custody either under the Criminal Code or the Involuntary Psychiatric Treatment Act or both. The active resistance and assaultive behaviour to which they responded with an intermediate weapon, the taser, as well as hard and soft empty hand control techniques. Their actions were reasonable and necessary in the circumstances they encountered. The SO did not assault the AP as was described by her mother in an interview she gave to the Chronicle Herald newspaper or in her statements to the RCMP and SiRT.

Accordingly, there is no basis for any criminal charge against either the SO or the WO.