

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2012-001

Referral from Halifax Regional Police

April 21, 2012

Ronald J. MacDonald, QC

Director

June 20, 2012

Facts

On April 21st, 2012, at 8:20 p.m. the Director received a referral from the Halifax Regional Police Service (“HRP”). This related to an incident occurring at approximately 7:40 p.m. near the intersections of Federal and McAlpine Avenues in Halifax. It involved two subject HRP officers and a 61 year old female injured party (referred to as “AB”).

The Serious Incident Response Team (“SiRT”) responded and commenced an investigation. This included interviews with sixteen civilian witnesses and receipt of police reports. The two subject officers are not legally required to provide any written notes or reports, but did consent to provide that information to the SiRT. The investigation concluded on June 12, 2012.

On the evening of April 21st, AB was seen by neighbours standing in the middle of the street holding an empty picture frame and dresser drawer, making motions at passing cars, stopping some, and attempting to grab at their door handles. The woman, described as usually a very nice lady, on this evening appeared to be acting in a mentally altered state. As a result, a 911 call was placed to the HRP by a neighbour.

Two (2) officers responded to the call, each in their own vehicle – one male and one female. The male officer arrived first. He attempted to calmly convince AB to leave the street. AB did not comply with the request, and as a result the male officer attempted to guide her from the street with his hands. In response, she resisted by pushing her body back against him. At this time the female officer, who had arrived about a minute later, reached out to place her hands on the woman’s arm to assist. AB suddenly became aggressive, continuing to push back against the male officer as well as bending forward with an open mouth in an attempt to bite the female officer. In response, the officers quickly placed the woman on the hood of the male officer’s vehicle, and pulled her right arm behind her back, to gain control and handcuff her. AB continued to resist, and attempted to kick the officers. During this very brief struggle, the officers heard a “pop” sound from AB’s right arm. It is at this point AB’s right upper arm was broken. The police quickly ceased the application of force, and medical assistance was called. AB was taken to the QE II Hospital. She remained in hospital for many days. Her treatment related primarily to her mental state, not to the treatment of her arm.

Many civilian witnesses observed the incident. Like the police, they describe the physical interactions between the police and AB up to the time that her arm was broken as occurring very quickly. They all confirm the altered mental state of the woman, many noting that on a relatively warm spring evening she was wearing a fur coat and knit wool cap. Some witnesses also confirmed the woman’s attempt to resist the actions of the police by pushing back against the male officer, attempting to bite the female officer, and kicking back at the officers when initially bent over the hood of the car.

Some of the civilian witnesses viewed the police actions as rough. However, they also described those actions as occurring quickly and lasting for a brief time. Some mention concern about AB's head hitting the car when bent over the hood.

Medical records confirm that AB suffered a broken upper right arm during the arrest. No other injuries were noted. In particular, no injuries were noted to her head or face area, nor observed by SiRT investigators who met with her the evening of the incident.

SiRT investigators conducted interviews with an acquaintance of AB. He lives in a community approximately one (1) hour from AB's home. AB had driven to see him earlier the same day. He describes her as wearing warm winter pants in spite of the warmth of the day. He suggested on this day that she was significantly altered mentally, and should not have been driving.

AB's son was interviewed. He noted his mother has suffered from significant mental difficulties for many years, and that when she is mentally unstable, she can be very physically and verbally abusive. Indeed, at 4 a.m. that same day, she was at his residence in a manic state – pounding on his doors, kicking his vehicles, yelling and screaming, breaking his outdoor lights, and throwing large boulders at his home. While police were called, she left before their arrival. He described her mental state as the worst state he has ever seen. When he gave his statement to the SiRT he said he did so out of concern for the officers who had to deal with his mother who can be very difficult to deal with.

AB's family doctor confirmed her long history of mental difficulties, and that he saw her on April 20th, 2012. He described her as being not well and argumentative. He noted that when she cuts back on her medications she becomes difficult to deal with.

The evidence from the acquaintance, son and doctor confirms AB's real potential for violence when in the type of mental state she was in on the day in question.

AB provided a statement to the SiRT. She confirmed that she was in a mentally altered state that day, and had reduced her medications. She admitted to being at her son's earlier that morning and smashing his lights, that she shouldn't have been in the street like she was that evening, and that she was likely difficult to deal with.

Relevant Legal Issues

- 1) The legal right and obligation of police to effect an arrest: AB's actions in the street created a danger to herself and others. The police officers had an obligation to remedy that situation. If cooperation of AB could not be gained by consent, they had the legal right, and in this case an obligation, to arrest. During an arrest police are entitled to apply

reasonable force. That includes the force needed for restraint, and to ensure the safety of the officers and others. This commonly includes utilizing handcuffs and placing the person in the secure back seat of a police vehicle.

- 2) Self Defence: Should police officers be faced with an individual who gives them reasonable grounds to fear for their physical safety, they are also entitled to use reasonable force to protect themselves.

Conclusion

In this case AB suffered a broken arm. As well, some civilian witnesses felt the police were rough with her. These factors caused SiRT to carefully consider the entirety of the evidence before reaching any conclusions.

The police had legal authority to arrest AB. Had she been cooperative, the reasonable force necessary may have been very minimal. AB's resistance required additional force, and her attempt to bite the female officer justified bringing AB under physical control to ensure officer safety. A bite can represent a dangerous physical attack, including the real possibility of disease. It was reasonable for the police to act quickly and decisively to prevent such action from occurring. In this case, that included a quick move to restrain and handcuff AB. This reaction by police was seen by some to be rough. The necessary application of force in these circumstances can indeed appear rough. The issue becomes whether it was excessive.

We have carefully considered how force was applied. While there is evidence of force used, it does not point to excessive force. Force was applied to bring AB under control and handcuff her. Witnesses state it was applied very quickly, only in response to resistance and threat of physical harm, and ceased as soon as resistance ended. While AB's arm was broken during the struggle to arrest her, there was no other evidence of injury anywhere else on her person. The break appears to have been the unfortunate unintended consequence of AB's resistance to the officer's actions.

Therefore, in this case the officers' actions were justified and there are no reasonable grounds to charge either officer.