



Summary of Investigation

SiRT File # 2012-019

Referral from Halifax Regional Police

November 27, 2012

Ronald J. MacDonald, QC
Director
March 8, 2013

Facts:

On Tuesday, November 27, 2012, the Serious Incident Response Team (SiRT) was contacted by the Halifax Regional Police (HRP) to investigate an incident where a male, the Affected Person (AP), suffered a broken leg as he ran from police in the Dartmouth Crossing shopping area. The SiRT investigation commenced that day and was completed on February 20, 2013.

The investigation revealed that at approximately 1:30 p.m. on November 27, HRP officers were contacted by security personnel at the Walmart store in Dartmouth Crossing. They were detaining one male and one female shoplifter. Officers 1 and 2 initially attended. Officer 2 was called away shortly after arrival and was replaced by Officer 3.

Security personnel provided information that the two individuals had stolen approximately \$300 of goods. AP originally provided a name to police which showed no criminal history. However, Officer 1 located paperwork in AP's car which confirmed his true identity, and also showed he was subject to three provincial court undertakings. AP was then arrested for giving a false name and breach of those undertakings.

The female suspect was given a notice to appear in court and was released. AP was taken outside to be transported to cells. He was not handcuffed as he used the store washroom prior to leaving the building. Once outside, near the police vehicle, as Officer 1 turned briefly to speak to Officer 3, AP ran off. Officer 1 gave chase on foot through the Walmart parking lot, across Lamont Terrace, through the Future Shop parking lot and across Gale Terrace. The suspect then ran down the embankment toward the JSYK parking lot. As he jumped off a rock wall onto the pavement he fell to the ground, breaking his leg. Officer 1 caught up to AP, handcuffed him and contacted EHS to attend the scene. He was taken to hospital where his broken leg was confirmed. AP was charged with theft and possession of stolen property, breach of undertakings, giving a false name, and resisting arrest. He was sentenced on December 6, 2012 to a total of 27 days for the theft, breach, and resisting arrest charges. The other charges were withdrawn. AP has 27 outstanding similar charges in Sydney, and a record of many similar offences.

SiRT obtained statements from two civilian witnesses, including AP. SiRT also obtained statements or reports from three police officers, including Officer 1 who was identified as the "subject officer" under the SiRT Regulations made under the *Police Act*. As such, Officer 1 was under no obligation to provide a statement or report to the SiRT. He nevertheless provided all his notes, written reports and a written statement to SiRT.

The statement taken from AP confirmed the facts relating to the foot chase, and he acknowledged the injury he suffered was his fault, saying Officer 1 was just doing his job. A statement taken from a civilian witness confirmed the same facts.

Relevant Legal Issues:

As there is no evidence of the application of any force by the police which caused the injury, the sole issue is whether Officer 1 was acting lawfully when he chased AP and yelled at him to stop.

Originally, AP was believed to have committed the offence of theft and possession of stolen property. Officer 1 had reasonable grounds to believe those offences were committed based on the information received from security personnel. Had those been the only relevant offences, with no other factors to require detention, AP likely would have been released by police (as the female companion was). However, in this case Officer 1 determined that AP had given police a false name and was subject to three different outstanding court undertakings. These additional offences gave Officer 1 the right to arrest AP and hold him for a bail hearing. Indeed, this was the appropriate course of action.

Therefore, when Officer 1 was intending to place AP in his police vehicle, he was acting lawfully and AP was under lawful arrest. When AP ran off, Officer 1 was fully justified to chase after him to prevent escape.

Conclusion:

The actions of Officer 1 in this case were appropriate. He was carrying out the duties required of him as a police officer. AP himself put it best: Officer 1 was simply doing his job.

I find there are no grounds to consider criminal charges in this matter against Officer 1.