



Summary of Investigation

SiRT File # 2014-011

Referral from

RCMP - Bridgewater

April 15, 2014

Ronald J. MacDonald, QC
Director
May 5, 2014

Facts:

On Tuesday, April 15, 2014, at approximately 6:30 p.m., the RCMP - Bridgewater Detachment received a complaint from a woman (AP) who alleged she had been assaulted by her husband, who is a member of the RCMP working out of that Detachment.

After taking an initial statement from AP, at 8:05 p.m., the RCMP contacted SiRT in accordance with the provisions of the *Police Act*. SiRT assumed responsibility of the matter at that point, and two investigators travelled to Bridgewater that evening to commence the investigation. The investigation was completed on April 29, 2014.

During the investigation SiRT obtained a second statement from AP and one other civilian. Under the Serious Incident Response Team Regulations made under the *Police Act* a subject officer is not required to give a statement or provide any notes or reports to SiRT. In this case Officer 1, the subject officer, was placed under arrest on the evening of April 15. When arrested he was informed of his rights to contact counsel and told he need not answer any questions. However, Officer 1 waived his right to counsel and indicated he wished to give a statement, which he did that evening. SiRT also received relevant file information from the RCMP. Prior to the conclusion of the investigation, the Public Prosecution Service was consulted.

The statements from AP and Officer 1 were very similar. They revealed that only AP and Officer 1 were immediately present during the alleged incident. The couple are in the midst of divorce proceedings. Officer 1 had been living away from the family home, but recently moved back to the residence pending the ongoing proceedings. This situation was very difficult for both parties.

On the evening of April 15 AP was upset about the circumstances, and she admitted that she “got in the face” of Officer 1 trying to convince him to stop living at the house. Officer 1 did not react to this, other than to sit at the kitchen table and compose a message on his phone to his lawyer. After a short period, AP decided to leave in her car to drive to a spot to go for a walk.

Both AP and Officer 1 had what were considered their “own” vehicles that they used. For example, Officer 1’s car was registered in only his name. On this evening Officer 1’s vehicle was behind AP’s in the driveway and would have to be moved for AP to leave in her car. AP did not ask Officer 1 to move his vehicle, but stated she went to the table where he was sitting and grabbed his keys saying “I’ll take your car.”

At this point the evidence of each party varies. AP says that Officer 1 grabbed her wrist and twisted. She said he did this to make her let go of the keys. She indicated when she dropped the keys he let go, but that he looked angry when he grabbed her. She described the action as

something akin to an “Indian rub” that kids would do to each other. She felt that he was trying to hurt her as he looked mad and he simply could have asked her to give him his keys back. She indicated that it hurt momentarily but did not cause any resulting injury or bruising. The grabbing lasted for a very short period of time.

Officer 1 describes the incident by saying that while seated at the table AP came over and grabbed his keys. He says he grabbed the keys out of her hand, but does not describe any grabbing of her wrist. He says he told her it was his car and he needed it. She acknowledged he had earlier said he would be going out.

After the incident, AP called the RCMP and was told to come to the Detachment to give them a statement. AP asked Officer 1 to move his car, which he did. AP then left in her car.

Relevant Legal Issues:

The purpose of this investigation was to determine whether the facts justify any charges against Officer 1. The one possible offence is assault. An assault is committed whenever a person intentionally applies force against another without their consent. To lay a charge there must be reasonable grounds to believe an offence has been committed.

This case also raises the possible application of the defence of property. This is similar to self-defence but relates to the steps one may take if they are attempting to protect their property. A person who reasonably believes they have lawful possession of property, and on reasonable grounds believes someone is going to take that property, may use force to prevent the property from being taken if the force is reasonable.

Conclusions:

The facts of this case are, for the most part, not in dispute. The difference relates to the actual physical act that might constitute an assault. Officer 1 states he did not grab AP’s wrist, but only grabbed his keys out of her hand. AP states Officer 1 grabbed and twisted her wrist to make her drop the keys.

If the facts were as Officer 1 stated them, there would be no grounds to lay a charge. However, even if the facts were as stated by AP, there would be no grounds as the defence of property applies to this case.

Officer 1 and AP were living separate lives, although at that point living in the same house. They each drove vehicles they considered to be their “own”. It was clearly reasonable for Officer 1 to consider the car in question as his own.

On this evening, the atmosphere was very tense in the home. AP had “gotten in the face” of Officer 1. It was reasonable for him to believe she was angry at him. Without any explanation, she told him that she was going to take his car, and grabbed his keys at the same time. It was clearly reasonable for him to believe she was going to take his car. He did not want that to happen. Even if Officer 1 applied force to AP’s wrist, there could be no dispute that the purpose for doing so was to retrieve his keys. The force was momentary, and ended when AP dropped the keys. While AP says it hurt at the time there was no marking or lasting injury. In those circumstances the force applied was reasonable.

For these reasons there are no reasonable grounds to lay a charge in the matter against Officer 1.