

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2014-021

Referral from

Cape Breton Regional Police Service

July 2, 2014

Ronald J. MacDonald, QC  
Director  
December 19, 2014

**Facts:**

Shortly after midnight on July 2, 2014, two members of the Cape Breton Regional Police Service (CBRPS), Officers 1 and 2, were seeking a suspect in a home invasion that was alleged to have occurred late on July 1 in Sydney. The suspect, a 27-year-old male, also the affected person (AP), was known to both officers. He was seen by the officers in downtown Sydney. When Officer 1 attempted to stop him AP ran off. He eventually jumped a fence in a residential backyard, and injured his ankle. He was soon surrounded by Officers 1, 2 and a third, Officer 3, and arrested. EHS attended and he was taken to hospital where his ankle was found to be broken.

As a result of the serious injury, and in accordance with the *Police Act*, the CBRPS contacted SiRT the morning of July 2, 2014. Two SiRT investigators travelled to Sydney and later that day assumed the investigation into the arrest of AP and his injuries. The investigation concluded on December 18, 2014. The matter had been substantially completed in early October, but was not finally concluded until AP was given another opportunity to provide a statement following the completion of charges in relation to the alleged home invasion. During that investigation, SiRT interviewed two civilian witnesses. Two witness officers were also interviewed. The CBRPS file in relation to the home invasion was reviewed, and video near the scene was obtained. In addition, relevant 911 and radio communications were reviewed. SiRT investigators also conducted a canvass for further witnesses, but none were identified. They also searched the chase route, which located evidence relevant to the home invasion. This was reported to CBRPS and seized by their forensic investigators.

The Serious Incident Response Team Regulations made under the *Police Act* provide that subject officers do not have to provide a statement or any notes or reports. In this case Officer 1, the subject officer, did provide SiRT with his reports about the matter.

A review of the 911 call gives evidence of an invasion of a home occupied by two civilians, a male and a female. The female caller was clearly upset about what had occurred, and was coughing frequently due to bear spray that had been sprayed by the intruder in her home. She indicated that the intruder held a knife to her throat and demanded money and drugs. The responding officers also noted significant bear spray in the home on arrival. The caller gave police information identifying AP as the person responsible for the alleged home invasion.

Officer 1 and 2 were on the lookout for AP, who was known to them. About 45 minutes after the initial complaint, they located him at the corner of Townsend and George streets in Sydney. Officer 1 left his vehicle and ordered AP to stop. However, he began to walk and then run away from police, attempting to escape by running behind a business and residences on George St. AP then went over a fence that was approximately 8 feet high. When he came down on the far side, it appeared to Officer 1 that he hurt his ankle. Officer 1 approached with his firearm drawn given an earlier report that AP reportedly had a knife. AP was now down on the ground, and

made a comment he hurt his ankle. Officer 1 told AP he was under arrest. Officers 2 and 3 arrived soon after, and EHS was called almost immediately.

While on the ground, AP was yelling “Stop beating me, stop beating me.” Each officer indicates that AP was doing this while he was on the ground awaiting the arrival of EHS and police were not in physical contact with him.

AP was noted to show signs of impairment from alcohol or drugs and smelled of alcohol.

One of the two civilian neighbours who observed the incident indicated his attention was drawn to his backyard from the sounds of a commotion. He saw AP as he was yelling in the yard complaining of having a broken ankle. The police were not there right away, but eventually Officer 1, and then Officers 2 and 3, arrived. Other than handcuffing him, they did not have any physical contact with AP. He heard AP claim the police had beaten him when EHS personnel arrived, but this witness said that was untrue.

A second neighbour was awakened and looked out at the time AP was being told he was under arrest by Officer 1. She watched until AP was taken by EHS. She saw little physical contact between police and AP, and nothing inappropriate. She felt the police did a “pretty good job.”

When SiRT investigators met with AP on July 3, they did not see any evidence which would suggest that AP had been beaten as he had claimed at the scene.

AP told investigators that a friend had video recorded the event. He refused to provide information about who that person was, and has not provided that person’s name or the video since that time.

AP initially declined to provide a statement about the incident to investigators. However, after his arrest and treatment at the hospital he made some comments to the police. He explained his presence on George St. by saying he had just left his apartment around midnight to go get milk and bread and was walking home. He denied involvement with the home invasion. After court proceedings in relation to the alleged home invasion were completed on December 8, 2014, AP indicated through his counsel he wished to give a statement. However, when investigators met with him a week later he again indicated he did not wish to provide a statement. As a result the matter was concluded.

**Relevant Legal Issues:**

The main legal issue is whether Officer 1 was acting lawfully when he chased AP and yelled at him to stop, in an effort to arrest him.

A police officer, under the *Criminal Code*, has the power to arrest any person he or she finds committing an indictable offence, or where they have reasonable grounds to believe the person

has committed an indictable offence. The police are also entitled to use reasonable force to arrest the person if necessary.

**Conclusions:**

In this case, the police had specific information that AP was the culprit in the home invasion, which is a serious indictable offence. They had reasonable grounds to arrest him should they see him. When they located him on the street they were duty bound to arrest him. When asked to stop by Officer 1, AP chose instead to run. It was appropriate for Officer 1 and the other officers to attempt to apprehend AP on foot. During the chase, AP made the decision to jump over a fence. It was that action that caused his broken ankle.

AP made claims of being beaten by police after he went down on the ground due to the ankle injury. All Officers denied this, and there was no evidence of physical contact observed by SiRT investigators. More importantly, the civilian witnesses, and one in particular who witnessed the entire encounter, saw no evidence of that whatsoever. These claims by AP are not supported by the available evidence.

In these circumstances, there are no grounds to consider any charges against Officer 1 or any officer.