

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2016-010

Referral from

Halifax Regional Police

April 14, 2016

Ronald J. MacDonald, QC
Director
September 21, 2016

Facts:

Late on the evening of April 14, 2016, three members of the Halifax Regional Police (HRP), Officer 1, Officer 2, and Officer 3, went to an apartment on Galaxy Avenue in Dartmouth to attempt to arrest the Affected Person, (AP), a 32-year-old male wanted on a warrant. They met AP at the apartment where he lived with his girlfriend. They were also investigating a complaint of theft against the girlfriend. After speaking with AP, they waited outside the apartment for a few minutes. They then learned AP had jumped out of the apartment window, and soon found him hiding under a car in a nearby parking lot with a serious leg injury. EHS was immediately called, and AP was taken to hospital where a significant fracture to his tibia was confirmed. As a result of the injury, SiRT was called and assumed responsibility for the investigation of the injury that night. The investigation was completed on July 27, 2016.

During the investigation SiRT spoke with AP, his girlfriend, the superintendent responsible for the building and a person who lived there. In addition, reports were received from a witness police officer and from EHS personnel, and AP's medical records were obtained. The relevant police files and recordings of 911 and police communications were also obtained and analyzed.

Under the Serious Incident Response Team Regulations made under the provisions of the *Police Act* the three subject officers, Officers 1, 2, and 3, were not required to provide SiRT with a statement or written notes or reports. In this case all three subject officers did provide SiRT with their notes and reports relevant to the matter.

The evidence obtained from all Officers was consistent with that provided by the civilian witnesses. On the question of how AP suffered his injury, AP and his girlfriend also gave statements that agreed with all other evidence.

The investigation demonstrated that on April 14, 2016, Officers 1 and 2 were looking for AP to arrest him on the outstanding warrant, issued because of his failure to attend at the correctional centre to serve portions of his intermittent sentence. Those Officers had gone to the Galaxy Avenue apartment earlier in the evening. At that time no one appeared to be home.

Later that evening, Officer 3 was on his way to the same apartment to speak with AP's girlfriend as she was a suspect in a stolen cell phone complaint. The complainant in that matter told Officer 3 that if the phone was returned they were not seeking charges against the girlfriend. Officers 1 and 2 learned Officer 3 was going to the address, and joined him to again try to find AP.

The three Officers arrived at the apartment at approximately 11:25 p.m. While they initially heard a male voice in the apartment, when Officer 1 knocked at the door there was no response. Officer 2 knocked more loudly at the door, and when he kicked at the bottom of the door to be more noticeable, the door opened. The Officers then stepped into the apartment and announced their presence. At first there was no response, but soon AP appeared.

On this aspect of the evidence AP and the Officers differ somewhat, with AP suggesting the Officers were farther inside the apartment than as stated by the Officers. At first AP was quite upset, and called 911. However, when the Officers explained they were prepared to deal with the cell phone issue without arresting the girlfriend, and that they would not oppose AP's release after his arrest, he calmed down. He then asked to have a five minutes to discuss the matter with his girlfriend. At that point the Officers went back into the hallway and closed the door.

After several more minutes, the Officers received information that AP had jumped out of the apartment window and was under a car in a nearby parking lot.

All three Officers exited the building and found AP hiding under the car. He had to be dragged from underneath the vehicle, at which time he had blood on his face and was complaining about an injury to his leg. At that point EHS was called, and the Officers covered AP with a blanket while awaiting the paramedics' arrival. AP told the police he jumped from the apartment window because his girlfriend wanted him to draw police attention away from her. He said he agreed to do so as he loved her.

In their statements, both AP and his girlfriend indicated that after the Officers closed the door, it was agreed AP would jump from the window. The girlfriend said that although it was a third floor apartment, it did not seem as high at nighttime. Their statements made it clear the Officers did nothing to cause the injury.

AP suffered a serious injury to the lower part of his tibia, which was splintered by the impact with the ground.

Relevant Legal Issues:

There is no evidence suggesting any improper application of physical force in this matter. The only potential legal issue is whether the Officer's actions were lawful.

A police officer, under the *Criminal Code*, has the power to arrest a person where there is an outstanding arrest warrant.

Conclusions:

In this case, Officers 1, 2, and 3 were acting lawfully. They had a duty to arrest AP pursuant to the arrest warrant, and to follow up on the complaint about the phone allegedly stolen by AP's girlfriend. While the arrest warrant did not give police the right to enter AP's premises without his consent, any entry into the apartment in this case was minor, and was only part of their attempts to see if anyone was home. The fact they stepped back outside the apartment at the request of AP demonstrates they had no intent to enter the apartment to arrest AP. Importantly that action had nothing to do with AP's later injury.

The Officers' actions here were very reasonable. They indicated they were trying to resolve the stolen phone complaint without charge, and that they would tell the Crown they had no objection to AP's release. They quickly diffused any anger shown by AP, and then agreed to wait in the hallway while AP spoke to his girlfriend. The decision to jump from the window was AP's alone, done at the request of his girlfriend. Unfortunately, had he simply accompanied the police as required by the warrant he would have suffered no injury and resolved the matter quickly.

Under these circumstances Officers 1, 2, and 3 were performing their duties professionally, and there are no grounds for any charges.