

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2017-030

Referral from

RCMP – Halifax District

October 18, 2017

Felix Cacchione

Director

May 29, 2018

On the morning of October 18, 2017, the Lower Sackville RCMP received a call for service in relation to a male who had damaged merchandise at the Dollarama store on Sackville Drive. A few minutes later a second call was received from staff at Good Life Fitness, located in close proximity to the Dollarama store, about a male who was refused entry and then pulled a knife on one of the fitness club members in the parking lot. The male identified himself to the fitness club member and will now be referred to as the Affected Party (“AP”).

The police proceeded to an address associated with the AP where they engaged in conversations with him through the door of his apartment because he refused to open the door. As a result of various things said by the AP, the police became concerned that he would harm himself as a result of a mental disorder. The police negotiated with the AP for over one hour to have him leave the apartment for the purpose of a psychiatric assessment.

During the course of the hour long conversation, the AP was heard by various officers to say things such as: he would slit his throat if the police entered his apartment; the blade felt good against his throat; he had cut himself before; he would charge at police and force them to shoot him; he had Hepatitis C and had needles with him; he was using drugs as they spoke; he had a three pronged knife pointed to his stomach and a knife to his throat and that he had several razor blades. At one point the AP even put a razor blade under the door for the police to take. He told the police he had more razor blades.

During this time the Emergency Response Team (“ERT”) was called in to assist. The team stayed near the apartment door while negotiations were continuing. At some point the AP partially opened the door and the four-member team entered the apartment lead by a member carrying a shield.

The AP was pushed back into the apartment and taken to the ground. The ERT members yelled at the AP to show them his hands as they struggled to subdue and handcuff him. The AP was combative and a CEW was deployed but appeared to have minimal effect as the AP continued to be combative. One of the witness officers noticed blood coming from the AP before he was handcuffed. The AP did not comply with the command that he put his hands behind his back. Two members of the ERT were able to force his hands behind his back. It was at this point, as the AP’s head was held to the floor that blood was observed gushing from a laceration on the AP’s head. Once the AP was picked up from the floor, a box cutter blade was seen on the floor where AP had been. This entire interaction lasted some 30-60 seconds.

When police entered the apartment, they found many razor blades, some exacto knife blades, a three-pronged blade that the AP had described as holding to his stomach and a great deal of various drug paraphernalia. A hypodermic needle was later found on the AP's person which he stated he had used to shoot up while the police were outside his apartment.

A statement was taken from the AP in which he stated that he had been home for two to three hours before the police came to his door. This assertion is in direct conflict with the report of the Witness Officer who responded to the call for service at the Good Life Fitness. The Witness Officer was advised that the subject of the call for service had identified himself to the fitness club member. As a result of this information, he proceeded to the AP's grandmother's address where he was advised by a neighbour that she, the neighbour, had driven the AP to his residence. The AP also told this person the police would be coming to arrest him for incidents that occurred at the Dollarama store and at the Good Life Fitness. She also described him as acting weird in that he would be crying one minute and then spaced out the next.

The AP also stated that after the police used a Tazer on him, handcuffed him and despite not moving or being combative had grabbed his head, sliced it with a blade and held his head down into a pool of blood trying to drown him. He was unable to say what was used to cut his head. He also denied making any threats in the presence of police to harm himself or even having a blade in his hand.

The AP also admitted that he has been addicted and a daily user of dilaudid, crack cocaine, and hydromorphone. He also confirmed that he had injected hydromorphone on the morning of October 18, 2017 and also while the police were at the apartment door.

A consideration and assessment of the totality of information obtained during the investigation, which was completed on March 12, 2018, leads to the conclusion that no action be considered or taken by SiRT against the Subject Officers.

Relevant Legal Issues

1. Did the police have lawful authority to take AP into custody under the IPTA?

That Act allows the police to take a person into custody and then take them for a medical examination if it is not feasible in the circumstances to make application to a judge for an order for medical examination and if there are reasonable and probable grounds to believe the person has a mental disorder and as a result of which, the person is threatening or attempting to cause serious harm to himself or herself.

The police had a duty to seek out the AP as a result of the two initial complaints relating to damaging property and threatening an individual with a knife. Upon locating the AP at his residence, it became clear to the initial responding officers from the AP's erratic behaviour, his words and actions, that he might be a danger to himself as well as anyone else who may have been in the apartment. The duty of the officers at this point superseded their duty to investigate alleged crimes and became a duty to preserve life.

2. Did the police have lawful authority to enter the AP's premises?

In most circumstances, police must have a judicially authorized warrant to enter a residence. However, in circumstances where the police have grounds to be concerned about the health and welfare of a person and where waiting to obtain a warrant might result in harm to the person, they may enter a residence without a warrant. These "exigent circumstances" allow the police to fulfill their duty to protect life.

The circumstances known to the police officers on scene were such that exigent circumstances existed to enter the AP's residence without a warrant. The AP told the officers he had a blade against his throat and had attempted suicide before; together with comments pertaining to self harm and the present use of drugs were sufficient to cause the officers to conclude the AP was an immediate threat to himself and that waiting for the issuance of a warrant might result in the AP harming himself.

3. Was the use of the CEW justified or excessive force?

In performing an arrest, police are justified in using as much force as is necessary to arrest the person as long as the force used is not excessive.

The ERT members entered the AP's residence to prevent him from harming himself or anyone else who may have been in the residence. The AP was pushed back into the apartment. He struggled with the members who were attempting to subdue and handcuff him. The AP continued to be combative and a CEW was used but appeared to have little effect as the AP continued to be combative. The officers were able to get the AP to the ground. One of the officers while attempting to put the AP's left hand behind his back to be cuffed, noticed blood on the floor. One of the Subject Officers was holding the AP's head to the floor as the others were attempting to handcuff him. He as well noticed blood on the floor coming from the AP's head.

It is significant that no officer who provided a statement or report to this investigation was aware of the AP's allegations that his head was cut with a knife after he had been Tazered, subdued and in handcuffs.

It is also important to note that the AP's description of what occurred is inconsistent with numerous reports describing his comments and actions, both in real time as they were broadcast on police radios and in police reports. The AP's observations and recollection of the events was no doubt affected by his self-confessed ingestion of hydromorphone and other drugs both before and while speaking to the police.

While no definitive conclusion can be made with respect to the specific cause of the AP's injury, his allegation that he was subjected to a deliberate act by a police officer who sliced his head with a blade is not supported by the evidence.

It is also noteworthy that none of the ERT members who entered the apartment and subdued the AP had any previous dealings with him that might have been the basis of some animosity against him. The officer's actions were carried out in an attempt to prevent the AP from harming himself or others.

The totality of the evidence establishes that there are no grounds to believe an offense was committed.