

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

Summary of Investigation  
SiRT File # 2020-010  
Referral from  
RCMP  
March 18, 2020

Felix Cacchione  
Director  
September 25, 2020

SiRT was contacted by the RCMP on March 18, 2020 regarding an incident that occurred in the early morning hours of February 22, 2020. The incident involved an injury caused by a Police Service Dog (PSD) during the arrest of the Affected Party (AP). The extent of the injury only became known on March 8, 2020. The reason for the subsequent delay in reporting this to SiRT remains unknown. An investigation was commenced on March 18, 2020 and concluded on June 25, 2020.

The following items were obtained, reviewed and considered in the preparation of this report: the Subject Officer's (SO) Police Dog Service Report, supplementary reports of three Witness Officers (WO), the AP's statement and medical records.

**Facts:**

On February 19, 2020 there was a minor physical altercation between the AP and his girlfriend. The parties resolved their dispute and remained together until the next morning when the AP's girlfriend advised him that she was returning to her home. The AP then became upset. He held a knife to his throat, threatened to kill himself and laid down in front of a vehicle that was there to take his girlfriend away. The AP also threatened to kill his girlfriend's mother and harm her stepfather. The AP's words and actions were reported to the RCMP by his girlfriend's mother and an investigation was commenced.

The police were unable to locate the AP at his residence but were, through the efforts of his mother, able to speak with him on the telephone. The AP refused to comply with a WO's request that he return home and stated that he would rather die before coming home. The AP told the officer that he had been considering suicide all day and would freeze to death. The outside temperature in the late hours of February 21 and early hours of February 22 was well below the freezing point.

The police determined the AP's location by pinging his cell phone. The SO and his Police Service Dog (PSD) were brought in to assist in the search for and arrest of the AP. The AP was seen running through some backyards and told several times to stop by the SO who identified himself as police. The AP continued running despite being aware of the SO's commands and the barking of the PSD. The SO then dropped the leash and directed his PSD stop the AP. The AP fell to the ground while running at which point the PSD grabbed the AP's left arm. The AP struggled with the PSD by pulling his arm away until he was placed in handcuffs by the SO and a WO.

Paramedics examined the AP at the scene and noted no open injuries but several abrasions and some bruising to his left arm. Paramedics determined that there was no need to transport the AP to the hospital. The AP was held in custody.

The following morning the AP was taken to the hospital after complaining of a sore left arm. The AP's physical injury was examined in the Emergency Room by a physician, but no x-ray was taken. The AP was questioned about his threats to self-harm but refused to speak with a mental health professional. An x-ray taken two weeks later revealed a fractured bone in the AP's left arm.

**Legal issue:**

Did the SO apply force to the AP? The least touching of another person without that person's consent constitutes an application of force.

Was the use of a PSD in apprehending the AP a use of force? The use by the police of a PSD in apprehending a suspect can constitute a lawful use of force.

Was the use of the PSD a justified use of force? The peace officer is justified in using as much force as is necessary to effect an arrest provided that the officer acts on reasonable grounds.

Was the force used excessive? The allowable degree of force is limited by the principles of proportionality, necessity, and reasonableness in the context of the totality of the circumstances faced by the officer.

**Conclusion:**

The SO was aware, before deploying the PSD, that the AP had assaulted his girlfriend, threatened to kill her mother, seriously harm her stepfather, and kill himself with the knife he carried on his person. The SO also knew that the AP was in breach of court ordered curfew conditions. The SO was mindful of the freezing outside temperature and the AP's suicidal ideation and comments. The PSD was used to apprehend the AP who was running away and not responding to the police commands to stop. The SO's use of the PSD in apprehending the AP was justified in order to prevent the AP from harming himself or others. The use of force was not excessive.

The use of a PSD to apprehend the AP was, in these circumstances, justified and not excessive. Accordingly, no charges are warranted against the SO.