

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation
SiRT File # 2020-002
Referral from
Halifax Regional Police
January 23, 2020

Felix Cacchione
Director
June 29, 2020

This file was referred to SiRT by Halifax Regional Police (HRP) on January 23, 2020 at approximately 12:30 AM. The referral related to an interaction between a female youth, the Affected Party (AP) and the Subject Officer (SO) some 30 minutes earlier which caused the AP to suffer a broken arm.

The investigation commenced on January 23 and was completed on March 27, 2020.

The following items were obtained and reviewed in preparation of this report; statements taken from the AP's mother (W1), the mother's common-law husband (W2), two civilian witnesses who saw and heard parts of the interaction between the AP, W1 and the police, the report and notes of the initial officer on scene (WO), the notes and Subject Behaviour Occurrence Report prepared by the subject officer (SO), the police reports of three other officers who arrived at the scene after the AP's interaction with the SO and WO and medical records relating to the AP's injury. The AP did not provide a statement despite numerous requests and three separate dates set to do so.

Facts:

The police were called by W2 at W1's request to remove the AP from W1's residence. Upon arriving at the residence, the WO was outside speaking to W2 and could hear the AP shouting and screaming inside the residence. The shouting between the AP and W1 continued once the WO entered the residence. W1 wanted the AP to be arrested and the AP told the WO to arrest her and take her away from her mother.

The WO attempted, for approximately 20 minutes, to defuse the situation by calmly talking to the AP and asking her if she had any place where she could go for the night. The WO also indicated that he would contact different shelters where the AP could stay.

The AP did not calm down and continued cursing at W2. She then lunged forward towards W2. The WO reached around her waist, moved her away from W2 and then, fearing that the situation would escalate, radioed for assistance. The AP then threw and struck W2 with a TV remote control. The WO moved the AP to a different area and asked her to sit down. The AP refused and attempted to move past the WO by pushing at him with her outstretched arms on his chest.

The SO arrived at the residence as this was happening. The AP kept trying to go towards W2 and the WO tried to prevent her from reaching W2 by holding on to her arm. The SO held her other arm and advised her that she could be arrested if she continued such behaviour. The AP then began kicking various items in the kitchen area and pulling away from the WO and SO. The AP dropped herself to the floor and was released by the officers. The officers again tried to verbally calm the AP but were unsuccessful. The AP continued kicking at a kitchen table and was at that point told she was under arrest for breaching the peace.

The SO and WO each held one of the AP's arms and attempted to place handcuffs on her. The AP resisted, lunged forward, kicked at items in the kitchen and went towards W1 and W2. The

SO and WO attempted to put her arms behind her back to handcuff her, but the AP continued resisting. The SO pushed on her shoulder as he was trying to pull her arm behind her back. He heard a pop and immediately released the pressure on her arm.

EHS was called. The AP would not cooperate with the paramedics. She was taken to the hospital where x-rays showed that she had suffered a broken bone in her upper arm.

Legal issues:

Was the use of force justified and, if so, was it excessive?

The SO and WO witnessed an on-going breach of the peace by the AP and were therefore justified in arresting her. Section 25(1) of the Criminal Code justifies a peace officer, acting on reasonable grounds, to use as much force as necessary in enforcing the law.

Conclusion:

The civilian witnesses, who witnessed all or some of the interaction between the SO and WO, all described the officers as polite, patient, calm and understanding. The SO and WO were professional in their dealings with the AP and made repeated attempts to calm the AP's erratic, threatening and assaultive behaviour. Despite these attempts, the AP continued to kick at furniture and try to physically get at W2. The AP also assaulted the WO.

The force used by the SO and WO in the circumstances was justified and not excessive. Therefore, there are no grounds for any criminal charges against the SO.