

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2014-031

Referral from

RCMP – Musquodoboit Harbour

October 11, 2014

Ronald J. MacDonald, QC
Director
March 10, 2015

Facts:

On October 11, 2014, SiRT received a referral from the RCMP in relation to the arrest of a 23-year-old male, the Affected Person (AP), made just before midnight the previous night, October 10, in Lower East Chezzetcook. That arrest was made by a male RCMP officer, Officer 1, from the Musquodoboit Harbour Detachment. He was responding to a 911 call reporting an impaired driver who had pulled a gun on a civilian. The RCMP learned late on the afternoon of October 11 that AP had suffered a fractured orbital bone during the course of the arrest. As a result SiRT was contacted, and began its investigation that day. The investigation was concluded on December 10, 2014.

During the investigation, SiRT interviewed or obtained statements from three civilian witnesses. A fourth refused to give a statement. AP consented to the release of his medical records, but did not give a statement, saying he did not wish to get the police officer in any trouble. The related RCMP file was also reviewed, as were AP's medical records, and the investigator attended the scene with the Subject officer.

Under the Serious Incident Response Team regulations made under the provisions of the *Police Act*, a subject officer is not required to provide a statement or their notes in relation to a matter. However, in this case, Officer 1, the subject officer, provided a statement and consented to the release of his notes.

The investigation demonstrated that just before midnight on October 10, 2014, a large pickup truck entered a residential street in Lower East Chezzetcook. A male resident of the street, Male 1, noted the vehicle being driven oddly. He saw AP, the driver, stop, then exit the vehicle and enter a neighbour's home. He appeared impaired. AP returned to the truck, which then drove away quickly and wound up in another neighbour's back yard. It appeared to strike something. Male 1 left his home and went to speak to AP. His wife was reporting the matter to 911 at the time. When Male 1 approached and spoke with AP he saw AP grab a firearm from the passenger side of the truck. He felt threatened by the gun and ran to the woods.

The female owner of this home exited her house and spoke with AP and another person she recognized as a neighbour. That person was trying to calm AP down, as was the woman. AP was threatening to shoot himself. The female returned to her home.

The wife of Male 1 called 911 again when she heard her husband yell AP had pulled a gun on him. That information was passed along to the police, along with the fact AP left the scene in the truck.

Officer 1 was responding to the incident. He was stopped on the Chezzetcook Road holding his position. He saw a vehicle approach from the other direction and turn into a driveway which matched the description of the vehicle given in the 911 call. Officer 1 approached in his vehicle,

activated his emergency lights and followed the truck into the driveway. The truck stopped, and AP exited the driver's side and ran behind a home. Officer 1 gave chase, yelling for AP to stop, telling him was under arrest for pointing a firearm. AP did not stop, and ran behind the house along a small path into the woods. Officer 1 saw AP suddenly stop and fall to the ground. AP had run into an uprooted tree stump, striking his face, and was knocked unconscious. EHS was called, and AP was taken for medical attention. On Saturday afternoon it was learned he had suffered the fractured orbital bone near his left eye.

Relevant Legal Issues:

As there is no evidence of the direct application of any force by Officer 1 to cause the injury, the sole 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 information from the 911 call that AP may be impaired and that he had pulled a gun on Male 1. They were also told AP drove off with the gun. Officer 1 had grounds to stop this vehicle and arrest AP because of the gun complaint as well as the possible impaired driving. He yelled to AP to stop, that he was under arrest for the gun matter, and gave chase when AP did not stop. All of these actions were amply justified on the facts of the case. Indeed, given the gun complaint, apprehending AP was very important.

AP's injury was caused solely by his decision to run from the police into a dark, wooded area. To his credit, AP does not suggest Officer 1 did anything wrong, as evidenced by his refusal to give a statement as he did not think the officer should be in any trouble.

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