

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2015-033

Referral from

RCMP - PEI

October 30, 2015

Ronald J. MacDonald, QC

Director

March 24, 2016

**Facts:**

On October 30, 2015, SiRT received a request from the Prince Edward Island Department of Justice and Public Safety to investigate a complaint in relation to an incident that occurred on the evening of March 2, 2014 in Springhill, PEI. At approximately 9:30 p.m. an officer with the East Prince Detachment of the RCMP, Officer 1, arrested a 50-year-old woman, the Affected Person (AP), at a residence, under the provisions of the *Mental Health Act*. During the arrest AP suffered a non-displaced fracture of the top of her right arm. A complaint was not made about the incident until September of 2015 by AP's sister. SiRT agreed to assume responsibility for the investigation into the matter.

During the investigation SiRT spoke to AP, her sister, and the male and female civilian witnesses who owned the home where AP was arrested. Two witness police officers were also interviewed. In addition, AP's medical records were obtained and analyzed, and relevant police radio communications and the original police file were reviewed.

Officer 1, who was the subject of the investigation, agreed to the release of his file reports about the matter which detailed his actions during the arrest. He declined a request to be interviewed as he felt his reports accurately reflected what occurred. As he was the subject of the investigation, he was under no obligation to provide a statement.

The investigation demonstrated that AP has suffered from mental health issues for many years. Her condition was stable for a long period of time, but some months prior to this incident she discontinued her use of medications. This led to a worsening of her symptoms, and her family became concerned about her condition. The night before this incident she agreed to go to hospital with her sister to be seen by doctors. After being seen, she was released. She returned home that evening. However, the next day her sister brought AP to her home due to on-going concerns over AP's mental health. This included the fact AP indicated she had been speaking with deceased persons. When she was at her sister's home AP made comments she could not remain there because if she did she would die. As a result she left the home late in the evening, dressed in a coat and pyjamas. The sister felt her behaviour was out of control, and as a result called 911 seeking medical assistance. That call led to the police being notified. The information passed along to Officer 1 was that AP had left her sister's home in nightwear, that she was very paranoid, that she said she was going to die that night, and that she needed to be taken to the hospital.

AP walked down the dark rural road her sister lived on to another home, occupied by a male and female couple. The male observed her in the yard from inside the house, and motioned for AP to come to the door. AP asked to come into the home. She indicated that if she remained where she had been she would be dead by morning. She also told them: "Don't call the cops. I am going to die tonight". While AP was upset at first, the couple was able to calm her down by sitting her on their couch and getting her some coffee and a cigarette.

AP had called a friend asking her to pick her up at one point, and described the yard she was in. This person passed that information along to AP's sister, who recognized the property. The sister then informed the police where AP was. Officer 1 made his way to the couple's property. The male let him into the house.

Officer 1 quickly entered the home and found AP sitting on the living room couch. He told her she was under arrest under the Mental Health Act (MHA) and had to leave with him. In his report Officer 1 said that AP told him he had no right to be there, and that he was there to kill her. Officer 1 said that AP also threatened to throw her cup of coffee at him. At that point Officer 1 slapped the coffee out of AP's hand, and attempted to handcuff her. She resisted, and Officer 1 says she grabbed at his gun. At that point he put her to the floor, and with his knee on her right shoulder was able to handcuff her. Officer 1 then helped AP put her boots on and took her out to the police vehicle. She was taken to the Prince County Hospital where a doctor approved AP's admission to the QEII hospital in Charlottetown as an involuntary patient for mental health treatment. AP was taken there later the night of her arrest, where she remained for two and one half weeks to be treated for her mental health issues.

On admission to the Prince County Hospital AP complained of pain in her shoulder. However, the break to her right arm was not discovered until after she was released from the QEII hospital. She had suffered a non-displaced fracture which at that point was healing and did not need any surgical intervention. AP did not complain of being hurt when arrested. Research indicates the fracture was consistent with a fall to the floor.

The female in the home where AP was arrested was not able to see the physical confrontation between Officer 1 and AP. She did not hear AP make the threat to throw the coffee, and overall thought that Officer 1 acted too quickly and should have made more of an attempt to calm AP down before arresting her.

The male in the home saw the struggle, however says he did not hear AP make the comments Officer 1 related in his report. He also did not think that AP would have been able to grab for Officer 1's gun, but acknowledged everything happened very quickly. He too thought Officer 1 should have taken more time and been less aggressive with AP before arresting her, believing that such an approach would have gained more cooperation.

AP was interviewed regarding the incident. Her memory of what occurred in the home was not complete. She recalls that the coffee she had "went flying" and that she was handcuffed by the officer. She remembers there was a scuffle where she went down to the floor and that the officer had a hard time getting the second handcuff on her. She indicated that she did not notice the pain in her shoulder until three days later. However, on her admission to the hospital the file notes indicated that she spoke about shoulder pain at that time.

**Relevant Legal Issue:**

The issue in this matter is whether Officer 1 had lawful authority to take AP into custody under the provisions of the *Mental Health Act*. That Act allows a police officer to take a person into custody and then to a place for involuntary psychiatric treatment if they have reasonable grounds to believe: a) that the person is suffering from a mental disorder which requires hospitalization for their own or other's safety; b) that the person is refusing to consent to a psychiatric examination; and c) the urgency of the situation does not allow for a judicial order.

When taking a person into custody, police are entitled to apply what reasonable force is necessary. If the amount of force used is more than reasonable the use of force is not justified.

**Conclusions:**

Officer 1 had received information, before finding AP, which indicated she was suffering from significant mental health issues that required immediate attention. He knew that AP had left her sister's home in nightwear, that she was very paranoid, that she said she was going to die that night, and that AP's sister felt she needed to be taken to the hospital. This information alone gave Officer 1 sufficient grounds to conclude that AP was suffering from a mental disorder that required hospitalization for her own safety, and that the situation was an urgent one. A comment from a person that they are "going to die tonight" certainly raises a concern over a person taking their own life, and requires quick action.

Those grounds were strengthened once Officer 1 came into contact with AP. Her refusal to cooperate with him, the threat to throw coffee at him, and her statement that he was going to kill her was further evidence of her mental distress and gave him grounds to conclude she would not go to hospital by consent. As a result Officer 1 had ample grounds to take AP into custody under the provisions of the *Mental Health Act*.

The male and female witnesses were concerned about Officer 1's actions. Both suggest he acted too quickly, and neither heard AP make a threat about throwing the coffee. Given the fact the officer slapped the coffee out of AP's hand, as she effectively acknowledged in her statement, gives support that he was concerned about the coffee. Such a statement by her was also consistent with her mindset at the time.

During the arrest Officer 1 put AP onto the floor to control her. He noted that she attempted to reach for his gun, and told hospital staff about it that evening. While the male at the home said he did not think AP could have done that, he was not certain. In any event, it was clear that AP was actively resisting being taken into custody. She herself states the officer had a hard time getting the second cuff on her arm, meaning she was fighting his attempts to control her. In all the circumstances the actions taken by the officer to control AP were reasonable.

There is no evidence to suggest that Officer 1 wanted to injure AP. Rather, the injury suffered is not uncommon in situations where a person is struggling to avoid being arrested and falls on their shoulder. The injury was an accidental result of Officer 1's lawful efforts to take AP into custody to ensure she was taken for the immediate mental health help she clearly required.

Thus all of Officer 1's actions were justified at law. As a result there are no grounds to consider any charges against Officer 1.

The fact Officer 1's actions were lawfully justified does not mean the way he proceeded was the only way to handle this type of situation. Officer 1 acted quite quickly: he entered the home, told AP she had to go with him, struggled to cuff her, and took her from the home, all within only a few minutes. Others may have considered a more gradual approach, attempting to develop a relationship or rapport with AP before a discussion of having to take her to the hospital. There is no guarantee that approach would have been successful, but if possible such an approach should always be considered. Certainly the couple who witnessed the event felt that approach would have been more appropriate. However, Officer 1 made the decision to act quickly based on the circumstances he found himself in, which he notes included a threat received from AP. Quick action in such circumstances is sometimes necessary to prevent a greater escalation of aggressive behaviour.