



Summary of Investigation

SiRT File # 2013-028

Referral from

Cape Breton Regional Police Service

October 13, 2013

Ronald J. MacDonald, QC
Director
December 18, 2013

Facts:

Just prior to 4 p.m., on October 13, 2013, Officer 1, a member of the Cape Breton Regional Police Service (CBRPS), attempted to conduct the traffic stop of a motorcycle on Reserve St., Glace Bay. The motorcycle sped off and collided with a motor vehicle. The 23 year old driver of the motorcycle, the Affected Person (AP), was very seriously injured. He was eventually flown to Halifax for treatment. He has returned to Cape Breton, and remains in hospital as of the date of this report.

As a result of AP's condition, in accordance with the requirements of the *Police Act*, CBRPS contacted SiRT later that afternoon. SiRT commenced an investigation on October 14, which concluded on December 6, 2013. The SiRT primary investigator and the Director attended the scene as part of the investigation. Sixteen civilian witnesses were interviewed, and reports were received from five police officers who attended the scene after the accident occurred. AP's father was spoken to by phone. AP indicated through his father that he did not wish to provide a statement to SiRT. An expert collision analyst prepared a report for SiRT, which included a computerized re-enactment of the accident, as well as complete video and photographs of the scene. GPS was obtained from the vehicle Officer 1 was driving, which was a large marked RCMP SUV. Officer 1 is a member of the RCMP/CBRPS Integrated Traffic Services.

The Serious Incident Response Team Regulations made under the *Police Act* do not require a subject officer to provide SiRT with a statement or notes about the matter. Nevertheless, Officer 1, who was the subject of the investigation, provided a complete statement to SiRT the day after the incident.

Officer 1 stated that between 3:30 and 4 p.m. on October 13, 2013, he was travelling east on Reserve Street, toward Glace Bay, in his patrol vehicle. A motorcycle pulled out in front of him from Haulage Road on his left. The speed limit at this point was 70 km/h. The motorcycle caught up to a short line of traffic ahead, and Officer 1 did as well. Officer 1 observed the motorcycle "pull a wheelie"; meaning AP pulled the front wheel of the motorcycle into the air. As this is a dangerous move while driving in traffic, Officer 1 decided to conduct a traffic stop of the motorcycle and turned on his vehicle's emergency lights. AP did not respond. At that point Officer 1 briefly turned on his vehicle siren, emitting a quick "yelp". The speed limit at this point was 50 km/h.

AP turned his head to look behind him. It would appear he did not previously realize a police vehicle was following. Almost immediately, he sped off, driving up the double centre line of the road, passing between vehicles travelling east and west. His speed increased greatly, estimated by Officer 1 to be at least 100 km/h. This section of Reserve Road is straight, and goes up to a small crest, which peaks just past McAdam Street. Within approximately 10 seconds of speeding off, Officer 1 saw the motorcycle go down on its side. As Officer 1 continued east he saw the accident scene. A small west bound car had attempted to make a left turn into a

residence on the south side of Reserve Street, just past McAdam Street. AP crashed into the passenger side of the car at a high rate of speed, after having braked and laid his motorcycle down on its side. Both AP and the motorcycle flew in the air after impact, coming to rest in the east bound lane, many metres past the car. AP suffered very serious injuries, including two broken ankles, a broken arm, broken hip, broken pelvis, and internal bleeding. EHS was called immediately and AP was flown to Halifax for treatment. The female driver of the small car suffered neck and back pain from the collision.

Officer 1 pointed out that he makes it a practice to not chase motorcycles when they speed off in this fashion. He says that from his 33 years of experience he considers it too dangerous. He indicated he did not pursue AP, and was still behind the other vehicles in the line of traffic when the accident occurred. He says he did not change his speed.

The evidence obtained from the 16 civilian witnesses completely corroborates the statement of Officer 1. Those witnesses included the driver of the car struck, drivers and passengers of vehicles travelling east and west, occupants of a car stopped waiting to enter Reserve Street, and persons who were in their homes at the time of the accident.

The 22 year old female driver of the car said she was driving to her grandmother's house for Thanksgiving dinner. She saw vehicles coming toward her, but had plenty of time to turn in. She did not see the motorcycle. As she had almost completed her turn, she was struck by something on the passenger side. She could not see what it was until she got out of her car. Her car was pushed in the air about a metre, and to the side of the road, by the force of the collision. It was severely damaged. The motorcycle was almost torn in two.

Evidence from other witnesses confirmed the following:

- a) AP was seen to "pull a wheelie", which was followed by Officer 1 activating his lights, and then sounding his siren briefly. At that point the motorcycle sped off.
- b) Officer 1 was still behind the several other vehicles heading east when the accident occurred, and he was not involved in a "chase" of the motorcycle. His speed was said to be normal.
- c) The motorcycle was travelling very fast, well in excess of the speed limit. AP's driving was referred to as being very reckless as he could have hurt other people.
- d) Vehicles coming toward the motorcycle, heading west, had to pull to the side to avoid AP. He was driving up the centre of the road passing vehicles in the east bound lane.
- e) Occupants of the lead vehicle heading east indicated that the small vehicle turning left in front of them, which the motorcycle struck, had plenty of time to complete the turn. The motorcycle was passing them on the left at that time, at a very high rate of speed.

AP's father indicated that AP had been driving this motorcycle for two months. A police search demonstrated he was not licenced to operate a motorcycle.

The collision analyst was able to determine the minimum speed of the motorcycle based on the tire skid and skidding of the motorcycle on its side. Those calculations show it was travelling, at a minimum, 76 km/h. However, those calculations can only determine speed based on skidding up to the point of impact. In other words, if at the beginning of the skidding the motorcycle had been travelling 76 km/h it would have been travelling at 0 km/h at the point of impact. Of course, the motorcycle was still travelling very fast when it hit the car given the force of the collision. It would seem the speed estimate of 100 km/h by Officer 1 for the motorcycle as it sped away is quite reasonable.

The GPS evidence demonstrated that the speed of Officer 1's car was 70 km/h in the 70 zone, 62 near the change to the 50 zone, and 45 as he approached the accident scene. The total distance from the point at which the motorcycle started to speed off to the accident scene was measured to be 450 metres.

Relevant Legal Issues and Conclusions:

The purpose of a SiRT investigation is to determine whether the facts of a case justify any charges against a police officer. Typically in a case involving an attempted traffic stop, or pursuit, the relevant possible offences would be:

1. Dangerous Driving under the *Criminal Code*.
2. Careless and Imprudent Driving under the *Motor Vehicle Act*.
3. Speeding under the *Motor Vehicle Act*.

However, in this case there is no evidence to suggest any offence occurred. While Officer 1 did intend on conducting a traffic stop of AP, he took no steps to follow up on that stop once AP sped off. The evidence available conclusively demonstrated that he remained in the line of traffic until the accident occurred, which was very quickly after the motorcycle sped away. He followed his own advice, that there is nothing to be gained by trying to chase a motorcycle in traffic.

Unfortunately the cause of the injuries in this case was AP's quick decision to speed away and not follow the legal requirement to pull over when you see the flashing lights of a police vehicle.

The sections of the *Police Act* relevant to SiRT state that the Director of SiRT has the sole authority to determine whether charges should be laid in any matter investigated by SiRT. In this case I have determined there are no grounds to consider any charges against Officer 1.