

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2015-022

Referral from

Cape Breton Regional Police

July 13, 2015

Ronald J. MacDonald, QC

Director

February 9, 2016

Facts:

On July 13th, 2015, at approximately 4:30 p.m. the Cape Breton Regional Police (CBRP) received information that a truck being driven by an unlicensed driver was travelling toward Sydney on the Mira Road. About five minutes later the vehicle was spotted by a CBRP police vehicle driven by a regular member (Officer 1) who was accompanied by a Cadet (Officer 2). A traffic stop was initiated. Just before the truck stopped, a passenger, the Affected Person (AP), jumped from the vehicle. He suffered a serious fracture to his lower leg. EHS was immediately called. As a result of the injury CBRP contacted SiRT about an hour later. SiRT assumed responsibility for the investigation at that time. The investigation was completed on November 27, 2015 after receipt of an animated depiction of the accident prepared by traffic analyst.

During the investigation SiRT interviewed three civilian witnesses, including AP, and received reports from four police witnesses. In addition, AP's medical and EHS records were obtained, relevant police radio transmissions were analyzed, maps were prepared portraying the area of the stop, pictures were taken and the animation prepared by the traffic analyst was reviewed.

The Serious Incident Response Team Regulations made under the *Police Act* state that a subject officer is not required to provide a statement or notes. However, Officer 1, the subject officer, provided his written report in the matter.

The investigation revealed that Officer 1 and 2 patrolled to George St. in Sydney after receiving a report from dispatch of a Ford pickup truck, described as green and muddy, being driven by an unlicensed driver toward Sydney from the Mira Road. Once Officer 1 saw a truck closely matching that description, he engaged his emergency equipment, passed several other vehicles, and pulled in behind the truck.

The truck then turned right off of George St., onto Edgar St, and then right again onto Donna Drive. The police vehicle lost sight of the truck briefly as it made the second turn. Throughout the brief pursuit, which covered just over 500 metres, the speed of the vehicles did not exceed the speed limit. The truck had an extended cab, with four doors, and its suspension was altered to raise the truck from its normal height. The floor of the cab was measured to be 79 centimetres from the ground.

Shortly after the truck turned onto Donna Drive it appeared to be slowing down and pulling over. The officers were able to observe the front passenger door open and AP jump from the vehicle. AP immediately went down to the ground. When Officer 1 and 2 arrived he was complaining that he broke his leg. EHS was called at that point.

Officer 1 and 2 both confirmed the above facts in their reports. One of the two backseat passengers in the truck gave a statement and confirmed that as the truck was pulling over AP decided to jump from the truck. He did not know AP and did not know why he jumped. The witness confirmed the police did nothing to injure AP.

AP was interviewed while he was recovering in hospital. He too confirmed the above facts. He had been at the beach and while there asked the driver of the truck for a drive into Sydney. He noted that he was on a court order that required that he be in his residence at all times, and thus was in breach by being at the beach and in the truck. He jumped in an effort to escape police, and he candidly admitted that it was his decision alone to jump.

The driver of the truck was charged and found guilty of driving the truck without insurance and while his licence was suspended. The vehicle was also not registered nor was it inspected.

Relevant Legal Issue:

As there is no evidence of the application of any force by the police which caused the injury, and no evidence of excessive speed or dangerous driving, the only legal issue is whether the traffic stop conducted by the police was lawful. Police are entitled to conduct traffic stops for a variety of reasons, including in some cases on a random basis. Where they have grounds to suspect a violation of the *Motor Vehicle Act*, a traffic stop is justified.

Conclusions:

Officer 1 had received information from his dispatcher to be on the lookout for a Ford truck which was green and muddy, on the Mira Road, and being driven by an unlicensed driver. The vehicle AP was a passenger in was a Ford, was green and muddy, and was coming from the Mira Road. Officer 1 had ample grounds to conduct a traffic stop given this information. The attempt to stop was routine. Officer 1 activated his emergency equipment, and followed the suspect for a short distance onto Donna Drive. The speed of the vehicles was moderate, and there was no driving by either the driver of the truck or the police that was at all dangerous. AP decided to jump from the truck in an obvious attempt to get away before the police could catch him for breaching his court order. All witnesses, including himself, agree that decision was his alone and the police did nothing wrong.

Therefore, there are clearly no grounds to consider any charges against Officer 1. His actions were consistent with proper police procedure, and aimed at attempting to catch a person driving illegally. After the injury, he and Officer 2 acted quickly to obtain medical help for AP. This unfortunately is yet another situation where the decision to flee police, in this case on foot, leads to unnecessary injury.