

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2016-019

Referral from

Halifax Regional Police

July 16, 2016

Ronald J. MacDonald, QC
Director
November 22, 2016

Facts:

SiRT was contacted by Halifax Regional Police (HRP) at 11 p.m. on July 16, 2016 to report a motorcycle crash that occurred shortly prior to 9 p.m. near the Waverly Road in Dartmouth. That crash followed an attempt by an HRP Officer, Officer 1, to conduct a traffic stop of the motorcycle. The Affected Person (AP), the 20-year-old male driver of the motorcycle, suffered two fractured ribs and other injuries, in the crash. SiRT commenced its investigation of the incident on that date, which was completed on October 18, 2016. The conclusion of the matter was delayed due to illness of the investigator.

During the investigation, SiRT obtained statements from AP, on the night of the crash, and from the doctor that treated him at the hospital. Statements were also obtained from three civilian witnesses who saw the crash. In addition, the relevant police files were read, the scene was examined and photographed, and copies of relevant police radio communications were obtained and reviewed.

The Serious Incident Response Team Regulations made under the *Police Act* provide that a subject officer does not have to provide SiRT with a statement. In this case, Officer 1, the subject officer, provided an oral statement to SiRT about the incident.

The investigation revealed that on July 16, 2016, police dispatch reported that there had been an assault in Dartmouth and that a suspect had left the scene on a motorcycle. A description of the motorcycle and driver was provided. Officer 1 was travelling south on Highway 111 toward the MicMac Parclo when he observed a motorcycle and driver he believed matched the description. He followed the motorcycle as it took the turn-off to Waverly Road. As both vehicles were on the off-ramp, Officer 1 activated his lights and siren in an effort to stop the motorcycle to determine if the driver was the suspect. At that point Officer 1 saw AP do a shoulder check, look at the police vehicle, and immediately speed off.

At that point AP was crossing a bridge over the Parclo heading toward Waverly Road. Two cars were stopped at a red light in an intersection just ahead of him, one in each of the two lanes of the road. AP sped between them at a very high rate of speed, and went through the intersection. By the time Officer 1 arrived at the back of the two motor vehicles, AP had lost control of his motorcycle as it attempted to negotiate the left hand turn in the road. He left the road, struck a guardrail, and eventually slid along the roadway, and wound up striking a retaining wall about 170 metres from the intersection.

Officer 1 then travelled between the two cars to AP's location. He estimated the time from when he first activated his emergency equipment until the crash was a matter of several seconds. When Officer 1 approached AP, who by that time was up on his feet, AP put his hands in the air. He

was cooperative as Officer 1 handcuffed him, and was later taken to hospital. (As it turns out, while AP had been at the location of the assault and left on the motorcycle, the actual suspect had left in another vehicle. When this was learned the handcuffs were removed from AP.)

AP told SiRT that he was driving his friend's motorcycle, which had flipped and injured the friend earlier in the day when it "over revved". AP said he never saw Officer 1 or his lights, and did not realize he was supposed to stop. Instead, he said that when he went to brake for the red light the throttle stuck wide open. That caused him to speed off, and he was unable to stop. He went through the intersection, and crashed as he couldn't negotiate the turn. According to him, his actions were completely unrelated to the actions of the police officer.

On the date of the crash AP was prohibited from driving. He was charged and subsequently pled guilty to the Criminal Code offence of driving while prohibited, as well as failing to stop at a red light and driving in a careless and imprudent manner under the *Motor Vehicle Act*.

Two of the civilian witnesses were drivers of the cars stopped at the red light, and one was driving on the approach from Main St. to the Waverly Rd. All described the incident consistently with Officer 1 and AP. They note the motorcycle was going very fast, and that the police vehicle was behind the cars stopped at the intersection at the time of the crash. The witnesses were surprised to see AP stand after the crash, worried that he had been hurt much more severely.

Relevant Legal Issues and Conclusions:

The purpose of a SiRT investigation is to determine whether the facts of a case involving police and serious injury justify any charges against a police officer. Investigations are carried out even where there is no complaint of wrongdoing, with the goal of providing the public an independent analysis of the facts.

Typically in cases of a crash during a pursuit the relevant possible offences would be Dangerous Driving under the *Criminal Code*, and Careless and Imprudent Driving or Speeding under the *Motor Vehicle Act*.

However, in this case the evidence shows the police vehicle did not pursue the motorcycle. Rather, the motorcycle sped off almost immediately. At that point, while Officer 1 continued to drive in the direction the motorcycle was travelling, there is no evidence of excessive speed or dangerousness in Officer 1's actions. Indeed, when the motorcycle crashed Officer 1 was still well behind it. The time from the activation of the police emergency equipment to the crash was very short.

Officer 1 had valid reasons to pull AP over, as AP was identified as a possible suspect in an assault. Thus the attempted traffic stop was lawful.

The crash occurred for one of two possible reasons: 1) the motorcycle's throttle stuck and it sped away on its own; or 2) AP knew it was illegal for him to be operating the motorcycle and he tried to speed away to avoid being caught. It is not necessary to determine which scenario is accurate, although from Officer 1's evidence it seems clear that AP saw Officer 1 before he sped off. In either event, it is clear that Officer 1 did nothing wrong that led to the accident.

Therefore, the facts of this case show conclusively that there are no grounds to consider any charges against Office 1.