

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2019-035

Referral from

Halifax Regional Police

October 21, 2019

Pat Curran
Interim Director
May 28, 2020

Facts:

About 1:40 am on October 21, 2019, a member of the Halifax Regional Police (HRP) in a patrol vehicle saw a small car on Victoria Road in Dartmouth go south through a red light at the Highfield Park Drive intersection. The officer followed the car and turned on his emergency lights and siren. The car did not pull over, but did not pick up speed at the time, either.

During the next twenty minutes the car made two full crossings of the MacDonald and MacKay bridges, some of the time with HRP vehicles following in slow pursuit. Along the way, the car went through red lights and stop signs and broke other driving laws, potentially endangering police and members of the public as well as the driver himself.

After the pursuit began on Victoria Road, the car travelled within the speed limit to the MacDonald Bridge, where two other police vehicles became involved. The officers driving the three police vehicles tried unsuccessfully to box in the car on the Bridge and bring it to a stop. At the Halifax end of the Bridge, the car veered into the oncoming lanes of North Street and proceeded up the hill. The car turned right at Agricola Street and continued through the North End of Halifax to the MacKay Bridge, with police vehicles following.

The car picked up speed as it headed towards Dartmouth on the MacKay. At first, the police vehicles did the same. To limit danger, HRP's watch commander called off the pursuit. There were workers on the MacKay Bridge that night and some lanes were closed. The officers who had been pursuing reduced speed and turned off their emergency lights and sirens.

Officers in vehicles at the Dartmouth end of the MacKay tried to slow down the car, but it went around them near the toll plaza. When it became clear the car was headed to the MacDonald Bridge a second time, the police did not have time to intercept it.

After crossing the MacDonald again, the car travelled once more through North End Halifax, by a somewhat different route than before. Attempting to disable and stop the car before it reached the MacKay Bridge again, HRP officers placed spike strips on Massachusetts Avenue, the approach road. The attempt failed when the car's driver avoided the strips by going into the Avenue's oncoming lanes. The car then crossed over a low concrete median to get back on its own side of the roadway and continued towards Dartmouth.

This time, HRP deployed a spike belt at the Dartmouth end of the MacKay and arranged for gates on the toll lanes to be closed. The car struck the belt, flattening a tire, but kept going on the rim and drove through a toll gate at 86 kph, snapping it off. There was a police vehicle blocking the Victoria Road ramp from Highway 111. The car grazed the police vehicle but got around it by going over the curb. The car kept on up the ramp and went out of sight.

For a few minutes police did not know where the car was, but thought it might be in the Highfield Park area and the driver might be on foot. The watch commander started driving to Dartmouth.

About 2:00 am, the car came onto the MacDonald Bridge for the third time in twenty minutes. Around the same time, the watch commander's vehicle came onto the Bridge from the Halifax end. Part way across the Bridge, the watch commander saw a car headed towards him with sparks coming from a front rim. The car came to a stop near mid-span on the bridge, somewhat closer to Halifax than Dartmouth.

Other police vehicles came onto the Bridge.

The adult male driver, the "Affected Party" (AP), got out of the car. He climbed over the railing between the roadway and the bicycle lane and ran along the bicycle lane in the direction of Halifax, jumping against the exterior barrier as he did so. The watch commander used his radio to inform other officers it was the suspect driver and he was attempting to jump from the Bridge. Officers ran to help.

AP climbed over the safety barrier. Part of his clothing got caught on it. A Halifax police officer, the "Subject Officer" (SO), ran up, reached through the barrier, grabbed AP's clothing and tried to hold him on the Bridge. AP resisted SO's attempts to hold him, broke his clothing free from the barrier and from SO's grip, and fell onto the roof of a DND building about 35 metres below.

Within five minutes, HRP officers entered the secure DND site below the Bridge and found AP. Medical personnel arrived minutes later. AP was pronounced dead at 2:20 am.

Police did not know AP's identity until after the incident ended. The officer who began the pursuit provided police dispatch with the alphanumeric "number" on the car's license plate. The address for the registered owner of the plate was a business location in downtown Halifax. The owner lived elsewhere. AP was not the owner. He had borrowed the car from the owner that evening.

SO had taken part in the pursuit of AP the first time he passed through the North End of Halifax. The second time AP came through the North End, SO and his partner used their vehicle to block a lane of traffic, but AP's vehicle drove around them. SO and his partner then drove to the MacDonald Bridge in case AP came across again. When SO heard the watch commander say AP was out of his vehicle and running along the bicycle lane, SO ran after him. SO caught up to AP just as he climbed over the safety barrier.

Just after 2:30 am, HRP informed SiRT of the incident and AP's death. The Primary Investigator assigned by SiRT reached the scene about 3:30 am and took charge of the investigation. SiRT investigated the interaction between HRP and AP during the incident. The ultimate question was whether SO, the only officer to come into physical contact with AP, bore any criminal responsibility for his death.

SiRT received information from two civilians who were on the MacDonald Bridge during the incident, a community contact of the AP, six witness officers (WO), and the Subject Officer

(SO). The investigation considered HRP radio communications, HRP General Occurrence reports, HRP police vehicle GPS records, HRP Forensic Investigation Section report and scene photos, medical reports and Halifax Harbour Bridges video footage and MacPass records.

SiRT learned during its investigation that AP had been dealing with significant mental health issues for some time before his death. Neither HRP in general, nor SO in particular, knew of those issues during the incident.

SiRT's investigation was completed on January 27, 2020.

Relevant Legal Issues:

The only legal issue in this case is whether SO was criminally negligent in relation to AP's death. There is no basis upon which to conclude that SO intended to cause harm to AP.

Criminal negligence is defined in s. 219(1) of the Criminal Code:

219 (1) Everyone is criminally negligent who

(a) in doing anything, or

(b) in omitting to do anything that it is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

The courts have said that to constitute criminal negligence a person's conduct must be a marked and substantial departure from that of a reasonable person in similar circumstances.

Conclusion:

Throughout his encounter with the police, AP drove illegally and at times dangerously. For the most part, police did not follow AP at high speed. They were not following him at all when his vehicle went onto the MacDonald Bridge the last time.

The watch commander and the officers on the road were fully engaged with AP's erratic driving. Dealing with the potential risk demanded all their attention. They did not know who they were dealing with or what his background was. Twenty busy minutes in the middle of the night was too little time for them to find out.

SO tried to prevent AP's death. He did what he could to hold him on the MacDonald Bridge. SO's actions were all that could be expected of a reasonable person in such circumstances.

There is no evidence that SO committed a criminal offence. There will be no charge laid.