

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2020-022

RCMP

June 6, 2020

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Director
December 11, 2020

This incident, involving a collision between a utility terrain vehicle (UTV) driven by the Affected Party (AP) and a marked RCMP police vehicle driven by the Subject Officer (SO) which resulted in a fracture of the AP's left wrist, was referred to SiRT shortly after it occurred on June 6, 2020. The investigation began that day and concluded on November 13, 2020.

The following evidence was obtained, reviewed and considered in the preparation of this report: the AP's audio recorded statement of June 6, 2020, photographs and medical records of the AP's injury, the SO's notes, pursuit report and supplementary report, supplementary reports and or notes of seven witness officers (WO), statements provided by four civilian witnesses (CW) and a collision analysis and reconstruction investigation report.

Facts:

The AP escaped from the Northeast Nova Scotia Correctional Facility (NNSCF) in the morning of June 6, 2020. A Provincial Emergency Alert advising the public of the escape was broadcast that morning. Later that morning the AP was seen in a rural area, many kilometers away from the NNSCF, standing on the side of the road by a boom truck that was on fire. CW1, who was driving by, stopped to assist and told the AP that they should put the fire out. The AP retrieved a fire extinguisher from the boom truck, directed it at the fire and then told CW1 it was not working. CW1 went to his own truck to get a fire extinguisher. Once CW1 returned to the burning truck, the AP was gone. CW1 then saw the AP driving a UTV belonging to CW2 out of CW2's yard.

CW3 was driving on Highway 7 when they saw the AP driving the UTV on the highway and recognized the AP from a description of an escapee they had heard broadcast on a local radio station. CW3 kept driving and stopped when they saw WO1 to advise them of their sighting. CW4 observed the AP on a UTV swerving from side to side at a high rate of speed on Highway 7 and called the police to advise them.

Radio communications about various sightings of the AP, their direction of travel and method of driving were broadcast over two different police radio channels, Primary East channel and Guysborough RCMP, because the location of the sightings and complaints about the driving bordered two separate districts. WOs from the different districts were monitoring and using both channels however some communication reception problems occurred as a result.

WO2 was driving a police vehicle with its emergency equipment activated on Highway 7 when they were almost struck head-on by the UTV driven by the AP. WO2 turned their vehicle around and began pursuing the AP who was speeding down the centre of the road. The AP then circumvented a two-vehicle roadblock set up by the SO and WO3 before leaving Highway 7 and driving down the MacDonald Cove Road, an unpaved country road. The AP was pursued by the

SO down this country road which looped back to connect with Highway 7 while WO2 and WO3 proceeded down Highway 7 to the point where the MacDonald Cove Road reconnects with Highway 7. WO2 and WO3 set up another roadblock just off Highway 7 on the MacDonald Cove Road. The AP did not slow down as it approached this roadblock. The front bumper of the SO's police vehicle collided with the rear of the AP's UTV causing it to rotate clockwise, veer into the ditch and roll over. The AP's wrist was fractured when it was pinned under the rollbar of the UTV. The AP who was wearing a seat belt was otherwise unharmed.

Legal issues:

Did the police officers pursuing the AP have legal authority to arrest the AP?

Peace officers may arrest without warrant anyone who has committed, is about to commit or is committing a criminal offence. Escaping lawful custody, theft and possession of stolen property are all criminal offences.

Was the SO entitled to use force in affecting the arrest of the AP?

A peace officer, acting on reasonable grounds is justified in using as much force as is necessary to effect an arrest and it is justified in using force that is intended or likely to cause death or grievous bodily harm if the person to be arrested takes flight and the flight cannot be prevented by reasonable means in a less violent manner. A peace officer is justified in using such force if the peace officer believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer or others lawfully assisting the police officer from imminent or future death or grievous bodily harm.

Conclusion:

The AP escaped from the NNSCF where they had been remanded on charges of attempted murder and conspiracy to commit murder. The AP was the subject of a Provincial Emergency Alert and was seen by both civilian and police witnesses driving a stolen UTV in a reckless manner on a public highway. The AP actively evaded capture by driving around two police roadblocks and was speeding towards a third one before the front bumper of the SO's police vehicle made a contact with the UTV. This caused the UTV to stop and allowed the police to arrest the AP.

The SO had reasonable grounds to arrest the AP not only for the offences they had committed and was committing but also because the AP's actions in evading capture posed a significant immediate and continuing threat to the safety of the public and the officers involved. The action taken by the SO was necessary to bring the incident under control and to end the threat.

The SO was justified in using force to arrest the AP. Accordingly no criminal offence was committed, and no charges are warranted against the officer.