

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation
SiRT File # 2019-029
Referral from
Halifax Regional Police
September 3, 2019

Felix Cacchione
Director
June 16, 2020

SiRT was contacted on September 3, 2019 by Halifax Regional Police (HRP) and advised of an occurrence approximately one hour earlier involving the discharge of a firearm by the Subject Officer (SO). It was initially determined by the then Acting Director of SiRT that the matter would not be investigated as no injuries had been sustained, however, upon review by the Director on September 5, an investigation was commenced.

The investigation was completed on April 28, 2020.

The following items were obtained and reviewed during the investigation and in preparation of this report: police reports of the SO, his notes and the Subject Behaviour Officer Response report (SBOR), the police report, notes and SBOR of a Witness Officer (WO1), police reports and notes of seven WOs, statements from six civilian witnesses, audio/video recorded footage from a civilian's cellular phone, cautioned statements from the driver and passenger of the involved stolen vehicle and various photos of the scene, the stolen vehicle and the SO.

Facts:

Officers from two Quick Response Units were investigating two individuals responsible for recent thefts of various vehicles and numerous thefts from retail businesses. The officers knew the identity of both perpetrators and were aware of an RCMP officer being dragged and injured, by the actions of the same individuals the previous evening, while attempting to arrest the individuals in the same stolen vehicle.

The stolen vehicle was located parked on Brule Street in Dartmouth with both individuals in the vehicle. The vehicle was boxed in by three unmarked police vehicles with their emergency equipment activated. One police vehicle was stationed at the front of the stolen vehicle, another was along the driver's side and the SO's vehicle was behind the suspect vehicle. Several other police vehicles arrived and set up in different locations on the street. WO1 who was travelling with the SO exited the police vehicle and approached the passenger door. The SO and a second officer, WO2, approached the driver's side door.

The driver of the stolen vehicle then began ramming the police vehicles located in front and behind his vehicle in order to create space for an escape. Once enough space had been created the driver veered to the right and drove over the curb striking a tree. The vehicle then sped onto a small grassy area in front of the residences at 47 Brule Street where it collided with the front of a police vehicle. This caused the stolen vehicle to spin around and strike the vehicle of a delivery person parked in the driveway. The delivery person was at the front door of the residence when this occurred. The stolen vehicle accelerated from the grassy area heading toward the street in the direction of the SO, other officers and civilians in the area. The SO fired one round from his service weapon which shattered the driver's side window. The stolen vehicle then sped down the street, turned into an adjacent parking lot, and crashed through a fence to another street thereby successfully evading capture.

Relevant Legal Issues:

Was the SO justified in discharging his firearm to stop the threat posed by the actions of the driver of the stolen vehicle?

Section 25 of the Criminal Code of Canada deals with the protection of persons acting under authority. It allows a peace officer, acting on reasonable grounds, to use as much force as is necessary to enforce or administer the law. This section also states that a peace officer is not justified in using force that is intended or is likely to cause death or grievous bodily harm unless the person/peace officer believes on reasonable grounds that it is necessary for the self-preservation of the person or the preservation of anyone under that person's protection from death or grievous bodily harm.

More particularly, section 25(4)(d) states "a peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended to cause death or grievous bodily harm to a person to be arrested if; the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm.

Conclusion:

The totality of the information obtained from the SO, the WOs, and the civilian witnesses, establishes a set of the circumstances that show no internal inconsistencies.

Viewed objectively, in light of the protection afforded to peace officers under section 25 of the Criminal Code of Canada, an assessment of the use of force in the circumstances clearly establishes the SO was justified in discharging his firearm to protect himself and the civilians present from imminent or future death or grievous bodily harm.

Accordingly, no basis exists for bringing a criminal charge against the SO.