

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2017-008

Referral from

Cape Breton Regional Police

March 1, 2017

Ronald J. MacDonald, QC  
Director  
September 22, 2017

**Facts:**

On March 1, 2017 SiRT was contacted by the Cape Breton Regional Police (CBRP) about a motor vehicle crash that had occurred the previous night, February 28<sup>th</sup>, shortly after 11 p.m. Officer 1, a member of CBRP, had attempted to make a traffic stop on King St. in North Sydney. The car failed to stop and was found a short time later overturned on Johnson Rd., about 1.7 km from the original encounter. The driver of the car, the Affected Person (AP), suffered serious injuries to his hand requiring the amputation of three fingers. SiRT assumed responsibility for the investigation into the crash on March 1<sup>st</sup>. That investigation was completed on August 14, 2017, shortly after the receipt of the accident reconstructionist report which was delayed until that time.

Evidence collected during the investigation included the following:

- 1) statements taken from three civilians: AP, and the two other passengers in the car;
- 2) copies of recorded police radio transmissions;
- 3) a copy of the CBRP file in relation to the matter;
- 4) photographs of the scene taken by forensic investigators; and
- 5) an accident reconstructionist report of the crash.

The *Serious Incident Response Team Regulations* made under the *Police Act* state that a subject officer does not have to give a statement, or notes or reports, to SiRT. In this case, Officer 1, the subject officer, provided his complete written report about the incident.

The investigation showed that at approximately 11:15 p.m. Officer 1 pulled onto King's St. just north of High St., and headed in a southerly direction, toward downtown North Sydney. At that time, he observed a small blue car driving toward him at a high rate of speed. The car almost lost control as it rounded the corner near the Petro-Can service station, before passing his vehicle.

Based on those observations, Officer 1 indicated in his report that he activated his roof lights and turned his vehicle around. His police vehicle was a full-size truck, and by the time he turned around, he was unable to see the blue vehicle. At that point, he radioed to other police officers that he was looking for a small blue vehicle, and described it travelling at a speed of "about 120". The speed limit at that point on King St. was 50 km/h. As one travels out of North Sydney on King St., the speed limit changes to 70 km/h just prior to the Highway #125 overpass, and remains at that limit until the site of the crash.

Officer 1 drove toward the highway on King St., attempting to see if the blue car had turned into any of the several commercial properties or driven down a side street. When he arrived at the

overpass, he slowed to see if he could see the car on the highway. At that point, he turned his roof lights off.

As he continued, King St. becomes Johnson Rd. That road turns to the right just past the Lakeside Cemetery. When Officer 1 approached that area, he saw three young males on the side of the road, waving his vehicle down. About 100 metres farther up the road was an overturned small blue car. At that point, Officer 1 radioed that he had located a car off the road and called for EHS to attend the scene.

The three young males were AP and the two passengers in the vehicle. AP provided a statement to SiRT. He acknowledged driving at a very high rate of speed just prior to the accident. He said he was not fleeing the police, as he only noticed police lights just prior to the accident. He had injured his hand very badly.

One of the passengers indicated that the car had fishtailed on King St., and then he saw the police vehicle with its lights activated. He said that at that point AP drove away very fast. His main recollection after that was that the car drove “really fast” and then flipped. He did not consider there to have been any “police pursuit” as the police never got anywhere near the blue car. After the crash, he was stuck upside down in his seatbelt in the rear seat of the car. He remained there until AP, who had exited the vehicle before him, came back and helped him. All three then ran up the road and were met by the police vehicle.

The other passenger stated he did not have any recollection of what occurred prior to the crash. He did say he was the in the front passenger’s seat. After the crash, he crawled out of the car and laid there for a bit until he saw the headlights of a vehicle approaching. He went toward the lights waving his arms. It was the police.

The distance from where Officer 1 first saw the blue car to the crash site was approximately 1.7 km. Evidence from the recorded police transmissions shows that about two minutes after Officer 1’s initial radio transmission about the blue car, he radioed that he had located the overturned car. Based on those times Officer 1’s average speed over that distance was likely no more than 50 km/h.

The accident reconstruction report stated that the Event Data Recorder in AP’s car showed it was travelling at a speed of 130 km/h five seconds prior to the crash. The report concluded the blue car lost control as it attempted to negotiate the turn in the road. It slid sideways, left the road, and hit a snowbank. This vaulted the car into the air. It landed on its roof and then slid a short distance, stopping in the middle of the road.

AP has pled guilty to driving while impaired by alcohol and flight from a police officer in relation to this matter.

**Relevant Legal Issues and Conclusions:**

The purpose of a SiRT investigation is to determine whether the facts of a case justify any charges against a police officer. Typically, in cases of an attempted traffic stop or pursuit the relevant offences under consideration would be:

1. Dangerous Driving under the *Criminal Code*.
2. Careless and Imprudent Driving under the *Motor Vehicle Act*.
3. Driving in excess of the speed limit under the *Motor Vehicle Act*.

In this case, however, those offences are not relevant.

Officer 1 had grounds to attempt to stop the blue car. However, there is no evidence of any significant speed by Officer 1. In fact, his average speed would have been at or below the speed limit. There is no suggestion his driving was in any way dangerous or imprudent. In fact, all the evidence supports Officer 1's report that he did not pursue the car, but rather drove along King St., and then onto Johnson Road, trying to find the blue car. He did not arrive at the site of the crash until after the three males had extracted themselves from the car, and had run about 100 m toward him. In addition, the passenger confirms there was no pursuit.

The evidence demonstrates that this was a situation where Officer 1 prudently attempted to locate a car he had observed driving in an erratic manner. That is his duty. The crash did not occur as the result of Officer 1's actions, but as a result of the choices made by AP.

The sections of the *Police Act* relevant to SiRT state that the Director of SiRT has the sole authority to determine whether charges should be laid in any matter investigated by SiRT. In this case, there are no grounds to consider any charges against Officer 1.