



Supplemental Summary of Investigation

SiRT File # 2013-009

Public Referral –

New Glasgow Police Service

April 26, 2013

Ronald J. MacDonald, QC  
Director  
November 28, 2014

This is a supplemental summary filed pursuant to subsection 9(5) of the Serious Incident Response Team Regulations made pursuant to the *Police Act*. In cases where SiRT lays a charge, that section provides that the Director may file a supplemental summary at the conclusion of the prosecution, setting out reasons why the charge was laid. SiRT is required to publish a public report at the conclusion of each investigation. Those reports are designed to ensure transparency regarding SiRT's investigations. Thus it is SiRT policy, in accordance with the Regulations, to publish a supplemental report in cases where the facts relevant to the charge decision were not originally made public and were not subsequently disclosed during court proceedings. The original summary for this matter is dated November 25, 2013, and can be found at [sirt.novascotia.ca](http://sirt.novascotia.ca). Court proceedings in this matter concluded on November 24, 2014.

### **Facts**

On April 29, 2013, SiRT received a complaint from a member of the public, the affected person in this matter (AP). AP's complaint related to a motor vehicle collision that occurred on the previous Friday night, April 26, when the car he was driving collided with a New Glasgow Police Service (NGPS) vehicle, which, along with two other police vehicles, conducted a traffic stop of AP's vehicle.

SiRT began an investigation the next day. That investigation concluded on October 23, 2013. Statements were taken from AP, another civilian witness, three EHS personnel, and seven police officers. A variety of forensic evidence in relation to the accident was obtained and analyzed. This included information from the crash data recorder in the police vehicle involved in the accident.

The Serious Incident Response Team Regulations made under the *Police Act* do not require any subject officer to give a statement to SiRT. The six officers who were in the three police vehicles, Officers 1 through 6, were considered subject officers. Officers 2 through 6 gave voluntary statements to SiRT.

The investigation showed that at about 9:20 pm on April 26, 2013, members of the Pictou County Integrated Street Crime Unit (consisting of New Glasgow Police Service and RCMP - Pictou County members), conducted a traffic stop of AP's vehicle at Exit 20 (Pleasant Valley) on Highway 104 in Pictou County, about nine kilometres west of New Glasgow. AP's vehicle collided with the back end of a police SUV, and AP suffered injuries and was taken to hospital.

The police intended to stop a vehicle being driven by a person who they understood was in possession of illegal substances.

AP was not the person the police were seeking, and his vehicle was mistakenly selected for the stop.

The technique used to stop AP's vehicle involved surrounding it with three unmarked police vehicles. The trail vehicle, driven by Officer 5 with Officer 6 as a passenger, was several car lengths behind AP. A second vehicle, driven by Officer 3 with Officer 4 as a passenger, was to the left of AP's vehicle in the outside lane of the eastbound side of the divided highway. The lead vehicle, driven by Officer 1, with Officer 2, the supervising officer, as a passenger, was, at the outset of the stop, approximately six to 10 car lengths in front. The technique for the stop was discussed beforehand. It was agreed that if the target vehicle failed to stop and attempted to "run", there would be no attempt to pursue it and it would be allowed to continue on.

All unmarked police vehicles turned on their lights and sirens at about the same time. The speed of all vehicles was estimated to be 110 km/h or more. The roadway was wet; it was raining, with dark, nighttime conditions.

Within approximately 10 seconds, the lead vehicle had slowed significantly. Its crash data recorder showed in the last two and a half seconds prior to the crash that the vehicle's speed dropped from 46 km/h to 21 km/h.

AP indicated in his statement that he looked at the side car when the lights were activated, and when he noticed the vehicle directly in front of him he tried to swerve to the left to miss it. However, the collision occurred. At that point, Officer 4, in the police vehicle to the side of AP's vehicle, indicated he had to look back to see the collision. Officers 5 and 6 in the trail vehicle noted they had to swerve to the right to avoid the collision. The momentum of that car carried it past AP's vehicle, up to and perhaps past the right hand side of the now stopped lead police vehicle.

On October 24, 2013, a charge of careless and imprudent driving under the Nova Scotia *Motor Vehicle Act* was laid by the SiRT Director against Officer 1, at that time a 29 year-old member of the New Glasgow Police Service.

### **Relevant Legal Issues**

The offence of careless and imprudent driving is committed when a person operates a motor vehicle without the due care and attention required in the particular circumstances of the incident. Section 100 of the *Motor Vehicle Act* states: "Every person driving or operating a motor vehicle on a highway or any place ordinarily accessible to the public shall drive or operate the same in a careful and prudent manner having regard to all the circumstances." Any such offence must be proven in Court beyond a reasonable doubt before the accused can be found guilty.

## **Conclusion**

Based on the facts of the incident, it was concluded that the lead police vehicle, driven by Officer 1, had slowed much more quickly than the two other police vehicles and AP's vehicle. The circumstances of the incident, including speed, darkness, wet roadway, and the potential for surprise to the driver of the target vehicle, suggested a need for all of the drivers of the police vehicles to exercise heightened care. However, Officer 1 slowed his vehicle significantly which lead to a collision with AP's vehicle, and almost caused the trailing police vehicle to strike AP's vehicle. As a result it was determined the facts justified the laying of a charge of careless and imprudent driving against Officer 1. That was done on October 24, 2013. The matter was originally set for trial on September 9 and 11, 2014, and then adjourned to March 23, 24, and 25, 2015. Subsequently the Crown made a determination to discontinue the prosecution, and on November 24, 2014 indicated to the Provincial Court it would be offering no evidence in the matter.