



Summary of Investigation

SiRT File # 2013-014

Referral from

RCMP - Liverpool

June 2, 2013

Ronald J. MacDonald, QC
Director
October 7, 2013

Facts:

Late in the morning of Sunday June 2, 2013, a member (Officer 1) of the Royal Canadian Mounted Police – Liverpool (RCMP) was pursuing a small pickup southbound on Highway 103. The affected person, AP, was driving the truck. Officer 1 followed the vehicle for approximately 20 minutes. At 11:52 a.m., in Granite Village, Shelburne County, the truck drove left across the road, over a guardrail, flipped end over end, and came to rest on the opposite side of a brook on its wheels. It was extensively damaged. AP was eventually taken to the QEII hospital, where he was diagnosed with rib fractures, several spinal process fractures, and severe bruising. He was in hospital for an extended period, due to his injuries and mental state.

In accordance with the requirements of the *Police Act*, due to AP's serious injuries, SiRT was contacted at 4:00 p.m. on June 2 by the RCMP and made aware of the incident. The investigation commenced that day, and was completed on September 9, 2013. Interviews were conducted with four civilian witnesses, including AP. The investigation included reviewing AP's medical records, examining the scene and vehicles, obtaining a Forensic Collision Analyst Report, reviewing related RCMP files, a review of all police radio transmissions, and obtaining GPS data from Officer 1's police vehicle. The GPS information was received on September 5, 2013, shortly after which the investigation was concluded.

The Serious Incident Response Team Regulations made under the *Police Act* do not require a subject officer to provide SiRT with a statement or notes about the matter. In this case, Officer 1, who was the subject of the investigation, cooperated fully with SiRT and provided notes and a statement.

The investigation demonstrated that early on June 2, AP assaulted his wife at her home. The couple had been separated for some time. He left the home, and his wife called the RCMP. AP returned before the RCMP were able to respond. He entered the home, and broke open the bedroom door where his wife was hiding. He assaulted her again, and suggested he should kill both of them. The assault included AP holding a knife to his wife. He left the home again.

In his statement AP acknowledges the violence against his wife, and he says that when he left the home the second time his intent was to take his own life. He drove to Highway #103, and decided to travel south to a spot he had previously identified where he could drive his truck off the road. He still had the knife in his possession, best described as a kitchen "butcher" knife.

AP's wife reported the second assault. Officer 1 was on the lookout for AP's vehicle, and located him on Highway #103 around 11:30 a.m. Officer 1 utilized his lights and siren in an effort to pull the vehicle over. AP continued to drive, although his speed remained around the speed limit throughout. This continued for approximately 20 minutes. During the pursuit, on several occasions AP "flashed" the knife toward the officer in an effort to have him back off. While AP wanted to harm himself, he stated that he did not wish to hurt the officer or anyone

else, which is why he did not speed. For the majority of the pursuit Officer 1 maintained a safe distance behind AP's vehicle. Officer 1 was made aware over radio that AP might be considering suicide.

Shortly after crossing into Shelburne County, AP reached the location where he planned to drive off the road. He crossed the highway, and accelerated toward the guardrail, flipping his truck as described above. Officer 1 approached the vehicle with his gun drawn, given AP's possession of the knife. When Officer 1 confirmed AP posed no threat, he quickly called for assistance from EHS.

In his statement AP stated Officer 1 did nothing to cause him to crash. The decision to drive off the road was his alone. He says Officer 1 did nothing he would not have done in his place.

In the end, the presence of Officer 1 helped ensure AP received prompt medical attention on June 2.

Two of the civilian witnesses interviewed were co-workers of AP. They indicated that they each received text messages that morning from AP which suggested he may be considering taking his life. They spoke to each other, and agreed to contact police about their concern, which they did.

The other civilian witness passed by AP's vehicle on the highway as it was being followed by Officer 1. His description of the driving was consistent with what is described by both AP and Officer 1. He says Officer 1 was about one to two hundred yards behind AP.

The RCMP subsequently charged AP with flight from an officer, two counts of possession of a weapon for a dangerous purpose, two counts of assault, assault with a weapon, and uttering threats. His matters remain before the courts.

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. In this case the relevant possible offences would be:

1. Dangerous Driving under the *Criminal Code*.
2. Careless and Imprudent Driving under the *Motor Vehicle Act*.

Each is discussed below:

1. Dangerous Driving under the *Criminal Code*:

The offence of Dangerous Driving consists of two components: a) operating a motor vehicle in a dangerous manner, and b) a required degree of fault, which is a marked

departure from the standard of care that a reasonable person would observe in the same circumstances of the individual in question.

Cases such as this must consider that Officer 1 is a police officer, sworn to apprehend offenders. Whenever a pursuit is necessary, the officer must constantly analyze the circumstances of the driving, and weigh any risks to other persons against the need to apprehend those who are committing offences. The safest option would be for the police to never chase offenders. However, if they did that, offenders would know that all they have to do is speed off and they would be able to escape the law. On the other hand, if an officer is on a busy street with a great deal of traffic attempting to apprehend someone for a minor infraction, a pursuit may not be appropriate.

In this case, the pursuit took place on a highway where traffic was not heavy, at speeds at or near the speed limit, with no dangerous manoeuvres by either vehicle except when AP intentionally drove his truck off the road. In essence, the pursuit was similar to two cars driving down the highway in normal fashion. Officer 1 did an excellent job of maintaining contact with AP, which was necessary given the dangerousness of his assaults and the information he might harm himself, without escalating the situation in any way to make it dangerous for AP or anyone else. Indeed, his behaviour in the matter is commendable and contributed, in the end, to AP receiving prompt medical attention.

There is nothing about Officer 1's driving that indicates dangerous driving.

2. Careless and Imprudent Driving under the *Motor Vehicle Act*:

Section 100 the *Motor Vehicle Act* requires:

“100 (1) 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.
(2) Any person who fails to comply with this Section shall be guilty of an offence.”

The test that determines whether driving is careless or imprudent is similar to the test for dangerous driving under the *Criminal Code*, but requires a lower degree of fault. It also requires that all the circumstances of the incident be considered. In this case, for the same reasons as considered under Dangerous Driving, Officer 1's driving was careful and prudent having regard to all the circumstances.

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 I have determined there are no grounds to consider any charges against Officer 1.