

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2015-016

Referral from

Halifax Regional Police

June 11, 2015

Ronald J. MacDonald, QC  
Director  
March 15, 2016

**Facts:**

At approximately 11:30 p.m., June 11, 2015, during an attempted traffic stop by a member of the Halifax Regional Police (HRP), (Officer 1), the pursued motor vehicle left the road in Herring Cove, flipping over onto its roof. The car contained five persons, and one, a 14 year old girl, the Affected Person (AP), was severely injured. She was transferred to the IWK Hospital for Children for treatment of her injuries. AP suffered rib, pelvis, and vertebrate fractures and required significant surgery. As a result of her injuries HRP contacted SiRT early the next morning to report the matter. Two investigators attended the scene at approximately 3 a.m., commencing the investigation at that time. The investigation was concluded on December 16, 2015.

During the investigation, SiRT received statements from seven civilian witnesses, including AP. There were no witness police officers. GPS readings from the police vehicle were obtained, as were recordings of police radio communications. In addition, SiRT received an accident reconstruction report and photographs of the scene and relevant police vehicle. AP's medical records were obtained as well. There was a delay of some months before those records became available.

The Serious Incident Response Team regulations made under the *Police Act* provide that a subject officer is not required to provide a statement or his notes or reports relevant to the matter. In this case Officer 1, the subject officer, did provide a statement to SiRT.

The investigation revealed that late on June 11 the vehicle that was eventually pursued was parked at the "look-off" located near John Brackett Drive in Herring Cove. Officer 1 observed the car parked in an unusual area. He stopped and then exited his car to check on the vehicle. When he did so, the car drove slowly over a rough area of road back toward the main road. Officer 1 returned to his car and pulled in behind the vehicle to check its licence plate. When he did that, the car pulled away very quickly on John Brackett Drive toward Herring Cove. Officer 1 pursued the vehicle with emergency equipment activated.

Unknown to Officer 1 at that point was that the car had been stolen from Antigonish a few days earlier. This would appear to explain the actions of the driver.

The pursued vehicle drove only a short distance, approximately 700 metres, before losing control and crashing into a ditch and striking a culvert near the intersection of John Brackett Drive and Dempsey Lane. The car flipped in the air and landed on its roof. Civilian witnesses driving in the other direction estimated the speed of the pursued vehicle to be at or over 100 km/h. The GPS of the police vehicle, seen to be closely following the pursued vehicle, demonstrated that at one point during the short pursuit it was travelling at 110 km/h. The posted speed limit in the area was 50 km/h. Officer 1 called for medical assistance immediately after the accident occurred.

The driver of the pursued vehicle eventually plead guilty to four charges: impaired driving causing bodily harm, dangerous driving, flight from a police officer, and possession of stolen property. He was sentenced to 196 days in custody, plus two years' probation.

**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*.
3. Driving in excess of the speed limit 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 persons who break the law. 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 had 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. Thus the test applied must consider what is reasonable for a police officer acting reasonably in the same circumstances, balancing the need to apprehend offenders with the duty to drive without causing unjustified risk to the public.

In this case Officer 1 observed suspicious behaviour of a vehicle which sped away from him in excess of the speed limit. This behaviour called for Officer 1 to stop the vehicle due to the speeding and to make inquiry into the cause for the vehicle's behaviour. He was therefore legally justified to pursue the vehicle. While speeds were relatively high, it was on a rural road late in the evening when little other traffic was present or expected. Had the driving continued in this fashion over a long distance consideration may have been given to discontinuing the pursuit. However, the pursuit was very brief. Officer 1

must be given some opportunity to determine whether the vehicle will stop in response to his emergency equipment. The actions of Officer 1 were justified and did not constitute 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.”

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, while the degree of fault required is lower, Officer 1’s driving was clearly sufficiently careful and prudent having regard to all the circumstances.

3. Exceeding the Posted Speed Limit under the *Motor Vehicle Act*:

The evidence demonstrates that Officer 1 exceeded the posted speed limit. However, the *Motor Vehicle Act* contains specific provisions allowing police to exceed the speed limit and not stop if they are attempting to apprehend an offender and are operating their siren, so long as they still drive with sufficient care and attention. In this case, those exemptions apply and Officer 1 has not committed either offence.

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.