

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2017-002

Referral from

Halifax Regional Police

January 6, 2017

Ronald J. MacDonald, QC  
Director  
May 19, 2017

**Facts:**

At approximately 4:05 a.m., January 6, 2017, SiRT was contacted by Halifax Regional Police (HRP) and informed of a single vehicle crash that had occurred during an attempted traffic stop by an HRP officer, Officer 1. The crash took place at the corner of McCully and Agricola streets in Halifax. A short time later it was confirmed that a passenger in the back seat of that car, the Affected Party (AP), had suffered a concussion, a broken wrist and fractures to both of her legs. As those injuries met the definition of serious injury, SiRT assumed responsibility for investigating the circumstances surrounding the attempted traffic stop. The investigation was completed on February 23, 2017.

During the investigation, the primary SiRT investigator attended the scene early that morning, and subsequently took a statement from AP and male passenger who was in the front seat. SiRT also attempted to take a statement from the driver of the car. However, he was under investigation for criminal offences, including impaired driving causing bodily harm. He declined to provide any statement to SiRT.

In addition, SiRT did the following:

- Obtained AP's medical records and information from a medical specialist.
- Received notes from the collision analyst.
- Received photographs of the scene from HRP.
- Analyzed the GPS records of Officer 1's police vehicle.
- Reviewed the relevant police radio transmissions.
- Reviewed police files related to the criminal investigation of the driver of the car.

Under the Serious Incident Response Team regulations made under the *Police Act*, and consistent with the rights of a person who is the subject of a criminal investigation, a subject officer does not have to provide SiRT with a statement or notes or reports. In this case, Officer 1, the subject officer, agreed to provide SiRT with a statement.

The investigation demonstrated that shortly after 3:30 a.m., AP and a male friend were passengers in a small black car being driven from a downtown bar to a party.

AP remembers getting in the car and sitting in the back, but her next memory was waking up in the hospital. This is consistent with the concussion she suffered.

The male, who was seated in the front passenger seat, confirms they were being driven to a party at a friend's place. He met the driver of the car that evening. He indicated that he recalled the driver speeding up past the speed limit, and then seeing the lights of a police car. The male stated

he was not sure what was going through the driver's head. He remembers the driver sped up a little, made a few turns on the police, and then ran into the pole. The male stayed in the car, with AP, who was unconscious in the backseat. The driver exited the car and tried to run away. He was caught by police a short distance away and arrested.

In his statement, Officer 1 notes he was parked in O'Regan's car dealership parking lot on Robie Street monitoring traffic. He had his window down, and could hear a car approaching at what seemed like a high rate of speed. He then saw a small black car pass by well in excess of the speed limit, headed north. He pulled behind the car, activated his emergency equipment, and sped up to catch the car, which he did between Willow and North streets. Officer 1 said the vehicle started to slow down as it turned east on North Street. As he was about to radio the stop in to dispatch, the car made a quick left turn on Agricola Street. Officer 1 followed. The car again appeared to be pulling over, but then went left quickly onto the roadway and ran into the pole at the corner of McCully and Agricola streets. McCully is the next street when heading north on Agricola. Officer 1 indicated there was no other traffic at the time, and estimated the total incident lasted about 30 seconds.

After the driver ran and Officer 1 caught him, he was taken for breath tests. The driver's two blood alcohol readings were both 170, more than twice the legal limit.

The collision analyst noted that there was no evidence of braking by the car before it hit the pole. He also noted the total distance from where Officer 1 was stopped to where the accident occurred was 568 metres.

The GPS records of Officer 1's police vehicle show his top speed was 84.8 km/h on Robie Street just before the intersection with Willow Street. It next shows a speed of 36.9 km/h twenty seconds later on Agricola Street just north of North Street. The GPS readings are consistent with Officer 1's statements.

Radio transmissions captured Officer 1's communications with dispatch. They are also consistent with Officer 1's statement.

An analysis of the GPS and radio transmission together show the total time from Officer 1 pulling out to attempt to stop the car and the accident was just under 30 seconds.

### **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 a case involving an attempted traffic stop, the possible offences are:

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

The first component is whether Officer 1's driving was dangerous to the public. While Officer 1 did drive at almost 85 km/h on Robie St. the evidence shows that he was attempting to catch up the black car. Relevant considerations include that there was no other traffic, and very little would be expected at 3:30 in the morning. Taken together, the evidence does not show that Officer 1 was driving in a dangerous manner. Rather, it appears that once he was behind the black car neither car was driving very fast, as they both went around the corner at Robie and North streets, and then turned left onto Agricola. In fact, on two occasions, the black car briefly pulled to the side of the road and almost stopped.

As there is no evidence to suggest Officer 1 was driving in a manner that could have caused danger to the public, there is no reason to consider the second component required to prove the offence of Dangerous Driving. There are no grounds to consider a charge of Dangerous Driving under the *Criminal Code*.

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 equal to carelessness or imprudence. Like dangerous driving, this offence also requires that all

the circumstances of the incident be considered. Officer 1's driving in this case was intended to conduct a traffic stop. He had his car under proper control at all times. There is no evidence that he drove carelessly or imprudently.

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

The evidence demonstrates that Officer 1 exceeded the posted speed limit for a very short period of time. However, the *Motor Vehicle Act* contains specific provisions allowing police to exceed the speed limit if they are attempting to apprehend an offender and provided they are operating their siren, and are driving with sufficient care and attention. In this case, those exemptions apply and Officer 1 has not committed this 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. Officer 1 conducted himself appropriately throughout this matter. The accident was caused only by the poor decisions made by the driver of the black car.