

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2017-027

Referral from the

Cape Breton Regional Police

September 14th, 2017

John L. Scott
Interim Director
January 22, 2018

Facts

On September 14, 2017, Cape Breton Regional Police received a call about two males fighting on the overpass on Highway 125 in Sydney. When a Cape Breton Regional Police (CBRP) Officer arrived on the scene, it was clear to him that one of the males, the Affected Party (AP), was suicidal and the other male was trying to prevent him from jumping over the side of the overpass. As the officer approached the middle of the overpass, AP tried to jump over the railing, but was brought back by the other male. When AP made a second attempt, the officer (subject officer) drew his CEW, commonly known as a Taser, and deployed it in an attempt to incapacitate AP, but it appeared to have no effect on AP as he climbed over the railing and jumped to the highway below.

Based on these events, CBRP immediately contacted SiRT. SiRT assumed responsibility for the investigation surrounding AP's fatal jump from the overpass. The investigation was concluded on November 17th, 2017.

Once CBRP contacted SiRT, three investigators were immediately sent to the scene to start the investigation. During the 4.5-hour drive to Sydney, communications with CBRP were ongoing as to what to do pending SiRT's arrival. Over the next couple of days, SiRT interviewed civilian witnesses and police officers, reviewed notes and supplementary reports, viewed photos from the scene and listened to police radio transmissions.

Evidence collected during the investigation included the following:

- 1) statements taken from 16 civilian witnesses;
- 2) notes and supplementary reports from 19 police officers including forensic identification;
- 3) copies of the CBRP radio transmissions, as well as copies of the 911 calls;
- 4) accident scene and autopsy photos;
- 5) Medical Examiner's Report;
- 6) Toxicology Report;
- 7) CBRP Taser Policy.

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, the subject officer, provided a prepared statement of his actions to SiRT.

The investigation showed that on the evening before, September 13, 2017, AP had been out drinking and returned home at approximately 4:30 a.m. When he and his wife talked later that same morning, she decided to leave the home with their young child and go stay with her parents and give AP a chance to reflect on his drinking habits and other issues he was experiencing during this time. Based on evidence obtained that morning, AP was argumentative in his conversation, saddened over his wife's departure, and verbalized suicidal ideation to others.

At approximately 4:25 p.m., AP called his brother and spoke to him regarding some personal issues. The brother felt like AP was saying good-bye and contacted his parents inquiring about AP. His parents confirmed that AP was troubled and depressed. The brother told his parents he was going to AP's home and the parents indicated they would meet him there. When the brother arrived at AP's home, he wasn't there. The brother drove around the neighbourhood in search of AP and subsequently located AP standing on the overpass where Cow Bay Road goes over Highway 125.

AP's brother drove his car onto the overpass and began talking to AP asking him to get into his car. AP refused, so the brother got out and proceeded to talk to AP for 30-45 minutes on the overpass. The brother was trying to de-escalate the situation, but AP wanted to end his life. At times, while they were talking, they became physical with AP pushing his brother away and fighting with him.

One of the civilian witnesses who lived nearby, called 911 to report that she could observe two men on the overpass who appeared to be fighting and she was concerned one of them would fall over the railing. As a result, CBRP were dispatched to the scene at 5:23 p.m. The subject officer arrived on scene at 5:26 p.m. with lights and siren activated. When AP and his brother heard the unmarked police vehicle approaching, AP thought that his brother had called them, which he had not, AP said to his brother "Are you serious?". When the subject officer arrived AP panicked, the brother could sense that AP could see that his window of opportunity to end his life was closing. AP ran toward the railing and tried to climb over the side, but his brother pulled him back down onto the roadway by his belt. This caused the end of the belt to break off.

When AP's brother saw the subject officer exiting his vehicle, he saw him drawing his Taser and understood exactly what he was attempting to do. The subject officer was using his Taser to try and immobilize AP and prevent him from jumping over the guardrail. Within 2-3 seconds of exiting his vehicle the officer fired the Taser at AP, but it was too late. AP succeeded in jumping off the overpass and onto the #125 Highway below, a drop of approximately 30 feet.

AP landed on the eastbound lane below, vehicles using this busy highway during the supper hour managed to avoid hitting AP's body. Most of the people driving these vehicles had observed AP jumping to his death from the overpass. One of the motorists who stopped to render assistance had medical training in the military and attended to AP within a minute or so of his jump. AP was still alive, but unconscious. AP died shortly before EHS arrived on scene, EHS conducted a vitals check and got no response.

The scene was secured to preserve evidence. The CBRP Identification Unit took photographs and a video of the scene; measurements of various locations were also taken. SiRT reviewed this information, as well as, several reports from various experts. The toxicology reports showed that

Ap's blood alcohol concentration was more than four times the legal limit for driving a vehicle. The CEW (Taser) used by the subject officer was found to be working properly on the date in question. Finally, the Medical Examiner's Report following the autopsy showed the cause of death was from blunt force injuries to the head, chest and abdomen of AP resulting from the 30-foot jump from the overpass to the highway below. The manner of death was ruled a suicide.

Relevant Legal Issues and Conclusion

The purpose of a SiRT investigation is to determine whether the facts of the case justify any charges against a police officer. Typically, in cases where police use a CEW (Taser), it is intended to control the actions of a person by immobilizing the person in an effort to gain control. In the present matter, this is exactly what the subject officer was intending to do. His assessment, done on the spur of the moment, was a correct one. A suicide attempt was occurring simultaneous with his arrival. His use of the Taser was entirely to prevent a tragedy from taking place. Unfortunately, AP was successful in jumping over the railing and despite the good aim by the subject officer (one of the probes entered the lower torso on the left side of AP's back, while the other probe entered the hem of the right leg of AP's shorts and did not penetrate the skin), it appeared to have no impact on AP. The subject officer's actions were done entirely to prevent a tragedy from occurring and not in anyway to harm AP. AP was thinking and talking about suicide that day and unfortunately was successful.

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