

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2018-015

Referral from

RCMP – Halifax District

May 26, 2018

Felix Cacchione  
Director  
November 19, 2018

SiRT was contacted by the RCMP on May 26, 2018, at 9:22 a.m. and advised of the fatal shooting of a civilian by police which occurred in Westphal, Nova Scotia earlier that morning. SiRT began its investigation at that time with the assistance of the Halifax Regional Police (HRP) Forensic Identification Unit. The investigation concluded on October 29, 2018.

Police reports provided by all officers who responded to the initial call for service, together with statements obtained from the two Subject Officers (SO1 and SO2), the Witness Officer (WO), twelve civilians and five EHS witnesses, were reviewed and analyzed during the investigation and in preparation of this report.

The investigation also examined the original occurrence and call history, 911 phone call transmissions and all police radio transmissions, as well as videos from a police vehicle and the exterior of the Titans Gymnastics building.

**Facts:**

At 7:48 a.m., a caller to 911 reported there was a male, the Affected Party (AP), in her home brandishing a firearm and threatening to kill her son. She also indicated that the AP was most likely suffering from some mental health issues. Police officers from the RCMP and HRP, together with a police service dog and handler, attended the location of the call. After being in the residence for eighteen minutes, the AP left the residence with his firearm and entered a wooded area behind the residence.

The AP's direction of travel was tracked by the police service dog and handler for approximately 25 minutes. Four live shotgun shells, a white rubber surgical glove, a black baseball cap and the stock of a firearm were found along the path that was tracked. The direction of travel was through both a populated and wooded area toward Highway # 7, a busy highway.

After he emerged from a wooded area, the AP, while still in possession of the firearm, was observed by the WO walking between the Titans Gymnastics building and the Mariner Auction and Liquidation Centre building on Broom Road. SO1 and SO2, armed with patrol carbines, were located at the intersection of Highway # 7 and Broom Road. The WO, armed with his drawn service pistol, yelled commands to the AP to stop and put the gun down. The AP did not stop or put the gun down. These commands were overheard by several civilian witnesses and SO1 and SO2. An employee of Mariner Auction and Liquidation, after hearing the commands to put the gun down, went to the entrance door located in an alcove to see what was going on. She saw the AP walking toward Highway #7. She immediately turned and ran from the door. A very short time later she heard shots fired.

The AP had a loaded and operable sawed-off shotgun pointed at his chin and his hand near the trigger after he walked away from the auction building door. The AP continued walking along the east side of the auction building toward Highway #7 with the gun still pointed at his chin.

SO1 and SO2 and the WO all continued yelling commands that he stop and drop the gun. These commands were also ignored.

The AP was faced with a rock wall in front of him to the north as he approached Highway #7, the Mariner Auction building on his left side to the west, SO1 and SO2 on his right side to the east and the WO to the south behind him. The AP was boxed in and stopped walking. All three officers continued yelling their commands that he drop the gun. The AP turned his head, looked at the WO and then looked at the SO1 and SO2. He lowered the gun from his chin to his waist level and pointed it in the direction of SO1 and SO2. All three officers fired their weapons at the AP.

A combined total of four shots in less than two seconds were fired by the three officers. Three of these shots struck the AP. SO1 fired two rounds from his patrol carbine and SO2 fired one round from his patrol carbine. The WO fired one round from his service pistol which did not strike the AP. Two bullets fired from SO1's patrol carbine appear to have struck the AP in the abdomen and the other bullet fired from SO2's patrol carbine struck him in the right leg.

First aid was administered immediately by responding police officers and the paramedics who had staged in the area. The AP died from his injuries shortly after first aid was begun.

A period of 41 seconds elapsed from when the AP was first seen by the WO and ordered him to drop his weapon to the time the shots were fired.

**Relevant legal issues:**

- (1) Did the police officers involved have legal authority to arrest the AP?

Police officers are entitled to arrest a person they find committing an indictable offence, or who they have reasonable grounds to believe has committed an indictable offence. In the present case the police were aware that the AP was in possession of a firearm and had threatened to kill a person he knew. The AP was armed and dangerous. Based on the called to 911 the police had reasonable grounds to believe that the AP had committed at least two indictable offences.

- (2) Were SO1 and SO2 entitled to apply force to protect themselves?

Police officers are entitled to apply force to protect themselves from force or threat of harm from an offender.

- (3) Was the force used excessive?

Police officers are only justified in using force that is intended or is likely to cause death or grievous bodily harm if they believe, on reasonable grounds, that the force used is necessary for the purpose of protecting themselves from imminent or future death or grievous bodily harm.

**Conclusion:**

The AP was obviously suffering from some serious mental health issues as evidenced by his actions and comments to family members of his intended victim on the morning of May 26, 2018. He accused their son, who had in the past rented an apartment from him and befriended him, of kidnapping his pregnant girlfriend and forcing her to have sex with all kinds of people. He believed this person had planted an audio chip in his head which enabled him to hear his girlfriend having sex with all kinds of different men. He stated that he could hear everything that was going on with her in his head and that he could not take it anymore. The AP did not have a girlfriend.

The AP assembled and pointed the sawed-off shotgun he had brought with him at the head of his intended victim and ordered him to release his girlfriend. He also accused him of being a mobster or a member of the Hell's Angels. He stated that he had killed before and would have no problem killing someone again. He also stated that he wanted to go to the hospital to have the listening device implanted in his head removed so that he would not have to listen to what was happening to his girlfriend. The intended victim convinced the AP that the microchip he had in his head was meant for someone else and that none of the audio that he had heard was meant for him. The AP indicated he would leave but would return in two hours and if his girlfriend was not there he would kill the entire family.

The AP's mental state fluctuated from homicidal to suicidal then back to homicidal ideation as shown by his words and actions. He threatened to kill members of the intended victim's family by pointing a loaded shotgun at them, then later pointing it at himself and finally pointing it at the police officers.

Under the policies and procedures of the RCMP a member may only discharge a firearm at a person to protect a person from grievous bodily harm or death.

Lethal force is used only when preventing death, or the threat of death, or grievous bodily harm to peace officers and the public and when no lesser means is appropriate.

The Criminal Code of Canada justifies a peace officer using force that is intended or is likely to cause death or grievous bodily harm if the peace officer believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer from imminent or future death or grievous bodily harm.

SO1 and SO2 reacted to the imminent threat of death or grievous bodily harm posed by the AP when he pointed his loaded shotgun at them by firing their weapons. They were forced to make a split-second decision when faced with the threat posed by the AP. They relied on their training and experience in making this decision. The officers had reasonable grounds to believe that they were in danger of imminent death or grievous bodily harm. SO1 and SO2 had no choice but to protect themselves and the public.

The actions of SO1 and SO2 were justified and appropriate considering the circumstances they faced. They complied with the policies and procedures of the RCMP and the authority of the Criminal Code of Canada.

Accordingly, there is no basis for any criminal charge against either SO1 or SO2.