

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2024-091

Referral from

Halifax Regional Police

December 11, 2024

Erin E. Nauss
Director
March 25, 2025

MANDATE OF THE SiRT

The Serious Incident Response Team (“SiRT”) has a mandate to investigate all matters that involve death, serious injury, sexual assault, and intimate partner violence or other matters determined to be of a public interest to be investigated that may have arisen from the actions of any police officer in Nova Scotia and New Brunswick.

At the conclusion of every investigation, the SiRT Director must determine if criminal charges should result from the actions of the police officer. If no charges are warranted the Director will issue a public summary of the investigation which outlines the reasons for that decision, which must include the information set out by regulation. Public summaries are drafted with the goal of adequate information to allow the public to understand the Director’s rationale and conclusions.

Mandate invoked: This investigation was authorized under Section 26I of *Police Act* due to the serious injury of the Affected Party.

Timeline & Delays: SiRT commenced its investigation on December 11, 2024. The investigation concluded on March 6, 2025.

Terminology: This summary uses the following language in accordance with regulations made under the *Police Act* and to protect the privacy of those involved:

- “**Affected Party/AP**” means the person who died or was seriously injured in relation to a serious incident.
- “**Civilian Witness/CW**” means any non-police individual who is a witness to or has material information relating to a serious incident.
- “**Witness Officer/WO**” means any police officer who is a witness to or has material information relating to a serious incident.
- “**Subject Officer/SO**” means a police officer who is the subject of an investigation, or whose actions may have resulted in a serious incident.

Evidence: The decision summarized in this report is based on evidence collected and analyzed during the investigation, including, but not limited to, the following:

1. Affected Party Statement
2. Medical Records of the Affected Party
3. Police Incident Reports
4. Subject Officer Report and Statement
5. Witness Officer Reports and Statements (3)
6. Police Radio Transmissions
7. CCTV Footage from HRP Prisoner Care Facility
8. Police vehicle GPS data

INVESTIGATION SUMMARY

In the days leading up to December 11, 2024, the Affected Party (“AP”), was arrestable (arrest authorized by law) for several *Criminal Code* offences including flight from police, possession of stolen property, and dangerous operation of a conveyance. He was also suspected of involvement in a stabbing. On December 11, 2024, Halifax Regional Police (“HRP”) received information that the AP was in the Wyse Road area of Dartmouth.

Officers attended the area, and the AP ran from the police. Officers caught up to the AP and he squared himself to fight. The Subject Officer (“SO”) brought him to the ground. The AP continued to be uncooperative and struggled to get away. The SO delivered several strikes to his face area. Other officers arrived and assisted with handcuffing and arresting the AP. He was assessed by EHS at the HRP Prisoner Care Facility and transported to hospital, where he was diagnosed with a broken collarbone.

Police Incident Reports

HRP Police Incident Reports and supporting material related to incidents leading up to December 11, 2024, were provided to SiRT. They outline the following incidents:

- December 7, 2024: A stolen black Toyota Corolla was reported. No suspects were identified.
- December 8, 2024: An assault in progress was reported. Police learned that two males attempted property theft, and when confronted by the owner, one of the males stabbed him twice. The males fled in a dark coloured vehicle with the same plate number as the vehicle stolen December 7, 2024.
- December 9, 2024, 9:22 am: HRP was dispatched to a hit and run/property damage complaint involving a black Toyota Corolla with the same plate number as the vehicle stolen December 7, 2024. The driver could not be identified.

- December 9, 2024, 10:15am: An HRP officer observed a black Toyota Corolla with the same plate number as the vehicle stolen December 7, 2024, and attempted a traffic stop by activating his emergency lights and siren. The vehicle took off, made no attempt to stop or pull over, turned onto another street and side swiped two vehicles. The vehicle was driving in a dangerous manner with speeds exceeding 100km/h, driving in the oncoming traffic lane, and swerving in and out of lanes. Due to the risk to public safety, the HRP officer terminated the pursuit.
- Several minutes later, a male called police reporting that a black vehicle with a cracked windshield left a Sobey's parking lot doing an illegal left turn, almost hit the caller, and went through a red light. Police reviewed camera footage and obtained images of the stolen black Toyota and of the suspect driving the vehicle. These images were circulated at HRP and the driver was identified as the AP.
- December 9, 2024, 3:05pm: HRP was dispatched to a property damage complaint in Dartmouth regarding a female smashing the windshield of a black vehicle with the same plate number as the vehicle stolen December 7, 2024. HRP attended and found the female, who is associated with the AP. Police seized the vehicle.
- December 9, 2024, 6:25pm, HRP circulated a report indicating the AP was the suspect in several *Criminal Code* investigations and may have been involved in the stabbing on December 8, 2024.
- December 11, 2024, 12:15 pm: HRP received a call that the AP was walking on Wyse Road in Dartmouth.

Affected Party ("AP")

A SiRT investigator met with the AP at the HRP Prisoner Care Facility on December 12, 2024. However, he was in significant pain and was not in a position to provide a statement. The AP provided a statement to SiRT from the Central Nova Scotia Correctional Facility on February 4, 2025.

In his statement the AP admitted that he ran from police when they tried to approach him. He acknowledged he was arrestable but said that whenever he sees the police approach him, he runs anyway. The AP stated that as he was running, he and the police ended up going to the ground, and that he was tackled to the ground. He stated: "...he grabbed my arm, and kind of pulled on it. I don't know how he pulled on it, but when he pulled on it like something really wrong happened and I was like, "Oww, stop, stop, stop"." He also told the investigator: "They didn't care. And they were punching me in the face. I got hit in the face about probably at least 5-6 times." He said he was not resisting arrest.

EHS & Medical Records of the AP

EHS records show that the AP was assessed on December 11, 2024, at approximately 1:14pm, complaining of shoulder pain. EHS suggested he be escorted to hospital to be assessed by a doctor.

Hospital records show that the AP was triaged at approximately 1:58pm, received an X-ray, and was diagnosed with an acute fracture of the left distal clavicle (collarbone).

Witness Officers (“WOs”)

SiRT obtained notes and interviewed three officers who witnessed some or all of the interaction with the AP.

Witness Officer #1 (“WO1”) was interviewed on December 19, 2024. She was working with her partner, the SO, when information came over police radio that the AP was spotted running in the area. She was aware of the AP from previous files. WO1 stated the AP is known to run, fight, and be violent. She is aware he potentially has needles, a knife, or other edged weapons on him when encountered.

WO1 was a passenger in a police vehicle driven by the SO. As they were driving, they saw Witness Officer #2 (“WO2”) on foot, starting to run. They saw the AP running from him, and the SO drove their vehicle into an adjacent graveyard and jumped out in a foot pursuit after the AP. WO1 put the vehicle in park. When she exited the vehicle, she saw that the SO had fallen or slipped. It was wet and rainy, and the area was grassy. WO1 started running to join the pursuit, but lost sight of the SO and AP. She saw WO3 and pointed in the direction to run, and they came upon the AP and SO. WO1 stated she could see the SO had the AP in custody and was kneeling beside him with a hand cuff on the AP’s right arm. WO3 assisted in bring the AP’s left arm behind his back and to handcuff that hand. WO1 did not assist in restraining or assisting with the arrest.

Witness Officer #2 (“WO2”) was interviewed on December 19, 2024. On December 11, 2024 he was on foot patrol at Alderney Landing in Dartmouth, N.S. when he heard radio transmission that the AP had been spotted on foot. He went to his police vehicle and radioed he would attend. WO2 was aware the AP is known for running and was involved in multiple offences. When he drove into the area, the AP saw his marked police vehicle and started running. WO2 got out and started running after the AP, to push him towards the area other officers would be. He lost sight of the AP, and a security guard from a nearby business motioned to him. He went in that direction and he observed the AP running, being pursued by the SO. He lost sight of them briefly, and he then saw the SO on top of the AP. WO2 stated the AP was wiggling around, trying to free himself from the SO. WO2 stated he heard the SO saying, “Give me your hands, show me your hands, give me your hands.”WO2 ran over, and observed the AP’s legs were moving around significantly, so he

took physical control of his legs. The SO stated his thumb was really sore and he was unable to apply the handcuffs. WO3 arrived and assisted. WO2 stated that throughout the entire interaction the AP was trying to get away and was not putting his hands behind his back. He stated the AP was actively resistant, bordering on combative.

Witness Officer #3 (“WO3”) was interviewed on December 16, 2024. On December 11, 2024 he received a call that the AP was leaving the No Frills area on Wyse Road, Dartmouth N.S. WO3 stated the AP is a dangerous person with a history. He radioed to officers for other units and made his way toward the area. WO3 spotted the AP but he does not think the AP saw him. The AP started to run, and WO3 thinks this must have been because he saw another officer. The AP doubled back. WO3 saw the SO and he heard WO1 on radio state “[The SO] is on foot pursuit”. WO3 lost sight of them briefly, and when he rounded a corner, he saw the SO on the ground trying to secure the AP. The SO stated “Can you handcuff him? I think my hand is broke.” WO3 stated that the AP said something to the effect of “I didn’t do anything. What are you doing?”. WO3 told him he was under arrest and set out the charges. WO3 stated the AP told them to take the handcuffs off and fight. WO3 patted the AP down according to procedure, and he was concerned the AP may have a knife or firearm.

Subject Officer (“SO”)

Although not required by law, the SO provided his reports and was interviewed by SiRT on January 20, 2025.

The SO stated that he was in the area and heard over police radio that the AP had been spotted and a unit was required. The AP was well known to the SO and is known to run from police. The SO had been involved with the AP in a previous file where the AP fought the SO when he attempted to arrest him. The SO was aware that on the date in question, the AP was arrestable for a stolen car and multiple vehicle pursuits, and possibly a stabbing. The SO stated his risk assessment was very high, as he knows the AP has no fear of police, had fought with him before, and he thinks he does not care what happens to members of the public or anyone else. He stated he was not aware if the AP was in possession of a knife, but that the AP is not afraid to attempt to kill someone.

The SO and WO1 headed in the direction where the AP was spotted and heard on radio that WO2 was also heading that way. They then heard WO3 on radio state the AP was running through the graveyard in the area.

The SO drove toward the graveyard and observed the AP running along a fence. The SO saw a hole in the fence, jumped out of his vehicle, and went through the hole. The AP turned around and doubled back, which resulted in the AP and SO colliding. The SO stated that he fell backwards

and injured his hand. The AP got up and kept running. The SO yelled “Taser, Taser, Taser” in an attempt to get the AP to stop, but this was unsuccessful.

The SO stated they ran through a garden and parking lot and onto the road, and the AP turned around, “ready to go”. The AP was in a fighting stance with his hands balled up. The SO stated he grabbed onto the AP, spun him around, and put him to the ground. He stated that AP continued to resist, and the SO was on top of him, trying to get his hands. The SO delivered what he thinks was three strikes to the AP’s face. Other officers arrived to assist. The SO realized when he took out handcuffs that his thumb was injured, as he was unable to put handcuffs on the AP. Other officers assisted in holding the AP’s legs and applying handcuffs. The AP was sat up, and was complaining his shoulder was sore. The SO stated the AP continued to challenge a fight, and made statements like “take the cuffs off, it will be a different story.”

RELEVANT LEGISLATION

Criminal Code:

Protection of persons acting under authority

25 (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law

- (a) as a private person,
- (b) as a peace officer or public officer,
- (c) in aid of a peace officer or public officer, or
- (d) by virtue of his office,

is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

When not protected

(3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self-preservation of the person or the preservation of any one under that person’s protection from death or grievous bodily harm.

When protected

(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if

- (a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested;

- (b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant;
- (c) the person to be arrested takes flight to avoid arrest;
- (d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm; and
- (e) the flight cannot be prevented by reasonable means in a less violent manner.

Excessive force

26 Every one who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.

LEGAL ISSUES & ANALYSIS

I must now assess the evidence to determine whether there are reasonable and probable grounds to believe a criminal offence has been committed. Reasonable and probable grounds is a standard lower than a balance of probabilities or beyond a reasonable doubt, and more than reasonable suspicion.

Police have a duty to preserve peace, prevent crime and protect life and property. Section 25 of the *Criminal Code* permits a peace officer, acting on reasonable grounds, to use as much force as is necessary to enforce or administer the law, provided that the force used is not excessive based on all the circumstances. The Supreme Court of Canada in *R v Nasogaluak* [2010] 1 S.C.R. 206, at paragraph 35 stated:

Police actions should not be judged against a standard of perfection. It must be remembered that the police engage in dangerous and demanding work and often have to react quickly to emergencies. Their actions should be judged in light of these exigent circumstances. As Anderson J.A. explained in *R. v. Bottrell* (1981), 60 C.C.C. (2d) 211 (B.C.C.A.):

In determining whether the amount of force used by the officer was necessary the jury must have regard to the circumstances as they existed at the time the force was used. They should have been directed that the appellant could not be expected to measure the force used with exactitude.

On the date of the incident, the police officers had clear legal authority to arrest the AP for multiple offences in the days leading up to the incident.

When police officers use force in the administration or enforcement of the law, their legal constraints are articulated in the Criminal Code. Police forces have developed tools to assist officers in assessing risks and determining what type of intervention is consistent with the law. HRP follows the National Use of Force Framework. It is not law, but developed to help officers properly apply the law. The National Use of Force Framework instructs police officers to assess the situation, subject behaviour, situational and tactical considerations when determining what type of force to use. The situation and the subject behaviour required police to respond, and it is clear that the decision to use physical force was based on their perception and tactical considerations.

The SO's decision to use physical force was not unreasonable in the circumstances. The AP admitted he was arrestable but decided to run from police. He made the decision not to stop despite multiple officers pursuing him on foot. The SO had used verbal commands, and when the AP finally stopped, he squared up and assumed a fighting stance. In previous interactions with police he has run, fought, and become violent. The SO was required to safely gain control of the AP to effect his arrest. The SO relied on physical control tactics to effect the arrest, first by tackling the AP to the ground. The AP would not provide his hands and was trying to get away so the SO struck him in the face to try to gain control. The AP continued to struggle, and multiple officers were required to apply handcuffs.

While it is unfortunate that the AP sustained a serious injury in the process, the SO's actions were reasonable in the circumstances.

CONCLUSION

After a careful review of the evidence and the law, I have determined that there are no reasonable grounds to lay a charge against the SO.