



Summary of Investigation

SiRT File # 2014-004

Referral from

Halifax Regional Police Service

February 9, 2014

Ronald J. MacDonald, QC
Director
September 25, 2014

Facts:

Early on Sunday morning, February 9, 2014, at approximately 4:45 a.m., Officers 1, 2, and 3, all members of the Halifax Regional Police (HRP), were chasing a 25-year-old male, the Affected Person (AP), down Blowers Street and then south on Barrington Street in Halifax. The AP was a suspect in a report of a gunshot in the area less than 30 minutes earlier. As AP ran from the three officers, a gunshot was heard and AP dropped to the sidewalk. He had suffered what appeared to be a self-inflicted gunshot wound to his head. EHS was immediately called. They transported AP to hospital, where he was pronounced deceased.

At approximately 5 a.m., in accordance with the *Police Act*, HRP contacted SiRT to inform them of the incident. The Director and four SiRT investigators responded to the scene, arriving within 30 minutes of the call. SiRT assumed responsibility for the investigation surrounding the shooting death of AP.

The investigation was completed on September 10, 2014 after receipt of a video enhancement of the shooting, as well as the Medical Examiner's autopsy report, completed August 18, 2014. During the investigation SiRT took statements from seven civilian witnesses, three of whom had been with AP earlier in the evening. The other civilians were located following a canvass of buildings in the area of the shooting. No witness observed the shooting, but several heard the gunshot. SiRT also took statements from, or received notes or reports from, 24 police witness officers. In addition, SiRT investigators reviewed video from seven different locations. Four of those locations showed aspects of the foot pursuit and shooting. Three were from hotel lobbies and showed AP's movements in the half hour prior to the incident. Relevant police files were also reviewed, as were the autopsy report and photos, and photographic evidence of the scene. Importantly, the relevant firearm was also examined.

The Serious Incident Response Team Regulations made under the *Police Act* provide that subject officers do not have to provide a statement or any notes or reports. In this case, Officers 1, 2, and 3, all subject officers, did provide SiRT with copies of their notes in the matter. All of their dealings with AP were captured on video.

In the early hours of February 9, AP and three companions, two males and a female, were together at a downtown drinking establishment. When it closed for the evening, the group of four decided to "continue their party" and rent a hotel room for the remainder of the evening. At approximately 4:15a.m. they began their attempts to get a room in three downtown hotels but were unable to do so. Video from the lobbies of each shows AP eating a slice of pizza he carried with him. He was somewhat unsteady on his feet.

Shortly after the four left the first hotel, two other guests entered and indicated they just heard a gunshot. The clerk contacted the police to report the incident, and identified AP and his

companions as being responsible. Descriptions of these individuals were provided in the complaint.

One of the male companions and the female companion confirmed in their statements given to SiRT that as the four walked to another hotel AP took a large revolver from the waistband of his pants and fired a round in no particular direction. He was told to put the gun away by the others, which he did.

When the group left the third hotel, one of the males left to seek a cab, and eventually returned home on his own. The remaining three made their way toward Barrington Street.

During this time, two officers responding to the initial complaint were able to view video of the group at one of the hotels. They then broadcast the description of the parties to the several police officers working in the downtown core.

At approximately 4:45 a.m., the three remaining members of the group walked west, up Blowers St, and were seen by officers parked at “Pizza Corner”, the intersection of Blowers and Grafton Streets. The officers, including the three subject officers and a female officer, immediately noted the group matched the description of those involved with the gun complaint. The police approached the group in their police vehicle, exited, and told all three to get on the ground. The male and female immediately complied. However, AP, after handing his gloves and cell phone to the female as the police approached, began to walk backwards down the street, and then ran toward Barrington. Video shows that as he ran his left hand was free and his right hand was at his side, undoubtedly holding the revolver in his waistband.

Officer 1 ran behind AP down Blowers and onto Barrington. He then ran in the middle of the street as AP ran along the west sidewalk in a southern direction. Officer 2 ran about 15 to 20 metres behind AP on the sidewalk. Officer 3 was another 15 metres behind Officer 2. Throughout the chase, police say they were yelling for AP to stop and show his hands. This is consistent with what civilian witnesses heard.

After running about 40 metres along Barrington, the officers suddenly heard a gunshot, and AP fell to the ground. The video was enhanced to some extent. It does not clearly show AP’s gun, but does appear to show a brief flash of light to the right of AP’s head just prior to him falling to the ground.

Given the nature of the initial complaint, and the fact AP was running away, Officer 1 had his firearm drawn. However, given the chase, he did not have it aimed in AP’s direction until after AP goes down. The others also draw their guns, but are unable to point them in AP’s direction until after he falls.

When he falls, AP's revolver is seen by police near him. It is kicked several metres away by Officer 2, where it remains until SiRT arrives on scene. Officer 3 appears to check for a pulse. A supervising officer arrives within a minute. He is unable to detect a pulse.

When EHS arrives they detect a "radial pulse" but when AP arrives at hospital he is declared deceased.

At the scene, under SiRT direction, AP's firearm is seized by a forensic team member. It is a large and cumbersome .45 caliber revolver. It was examined on site and found to hold six rounds in the full cylinder: four unfired; two fired. This is consistent with the evidence of one shot fired earlier and the one fired on Barrington Street.

The Medical Examiner's autopsy report shows that AP was in good health but for the gunshot wound to the head. The entry wound is at the front of AP's right ear. The exit wound is near the top of the left side of his head, above his ear. The ME finds the wound to be a "contact wound", meaning the shot was fired from very close range to the head. Gunshot residue is found around and inside the wound site. The size of the wound is consistent with a round from AP's revolver. The path of the wound is in a right to left, and upwards, direction.

The firearms of all three subject officers were examined and found not to have been fired. That is consistent with only one shot being heard by any of the civilian witnesses.

The Medical Examiner's report also shows that AP had levels of alcohol, cocaine, marijuana, and other substances in his system at the time of his death. AP had no history of suicide attempts or desires.

AP was known to police, and had a short criminal record that included carrying a concealed weapon.

Relevant Legal Issues:

The sole issue is whether Officers 1, 2, and 3 were acting lawfully when they chased AP and yelled at him to stop, in an effort to arrest him.

A police officer, under the *Criminal Code*, has the power to arrest any person he or she finds committing an indictable offence, or where they have reasonable grounds to believe the person has committed an indictable offence. The police are also entitled to use reasonable force to arrest the person if necessary.

Conclusions:

The facts of this case demonstrate that on the morning of February 9, 2014, AP was out with friends. He was under the influence of alcohol and other drugs, but not excessively so. When he and two of his friends were seen on Blowers Street, he was carrying a large .45 caliber revolver concealed in his waistband, covered by a black hoodie. As the group matched the description of the gunshot suspects, the subject officers had reasonable grounds to believe these persons were responsible for the earlier gunshot, and were duty bound to stop the group. When AP began to run, it was very reasonable for officers to believe he may be responsible for or connected to the previous gunshot. That belief was heightened by the fact that while running he held one hand to his right side, as if holding on to a gun. That is exactly what he was doing.

While running on Barrington Street, AP pulled the gun from his pants. This led to the gun being fired directly into his right ear, killing him almost immediately. The evidence conclusively shows that the shot came from AP's own gun, fired by him at very close range. To that point in time, the police had no direct physical contact with AP. The only interaction was to yell commands to stop and show his hands, and to give chase when he ran. There is no evidence of any police firearms being fired.

In these circumstances, the police gave chase in a situation that put them at personal risk. They were fulfilling their duties as police officers and all their actions were justified. There are no grounds to consider any charges against any officer.

It is not possible to determine conclusively why AP fired the gun the way he did. The position of the gun suggests that he may have been attempting to fire a round in the air above his head in an attempt to have police stop their pursuit. Given that he was running with a heavy gun, together with his loose clothing and impaired state, such an attempt could have accidentally led to the gun being fired in the wrong direction.