

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2020-025

Cape Breton Regional Police

July 6, 2020

Felix Cacchione
Director
December 11, 2020

The Cape Breton Regional Police (CBRP) referred this incident to SiRT in the early morning hours of July 6, 2020. The incident involved the death of a passenger travelling in a vehicle that was being pursued by the Subject Officer (SO). The vehicle left the roadway and struck a house causing the death of the Affected Party (AP) and serious injury to one of the passengers. This investigation began within minutes of the referral and concluded on November 4, 2020.

The following information was obtained, reviewed and considered in the preparation of this report: police radio communications, videos of the subject vehicle and police vehicle travelling on George Street, forensic identification photographs of the scene and the AP in the vehicle at the scene, the Medical Examiner's preliminary, final and toxicology reports, crash data recorder of the subject vehicle, the collision analyst's report, the witness officer's (WOI) statement and report, police reports of three WOs who attended the scene after the incident, a portion of the Subject Officer's (SO) police report, civilian witnesses statements (CWs) from the driver and two passengers in the vehicle, occupants of the house struck by the vehicle, paramedics, a friend of the driver and pertinent medical records of one of the passengers in the vehicle.

Facts:

The AP was sitting in the rear passenger side seat of the subject vehicle. At approximately 1 a.m., WOI was travelling behind a white Pontiac Grand Am that was moving very slowly. WOI queried the license plate number and discovered that the license plate was registered to a red Honda Civic vehicle. WOI attempted to stop the subject vehicle by activating their emergency lights but it did not stop. The officer then activated their siren. Instead of stopping, the subject vehicle sped away. It was subsequently determined that there were drugs in the vehicle. WOI pursued the subject vehicle until it turned into a dead-end street and WOI was ordered, by their superior, to terminate the pursuit which they did. The subject vehicle then turned around and sped past WOI. All officers were advised by radio communications that the license plate on the subject vehicle had been reported stolen the night before.

WOI lost sight of the subject vehicle as it continued to accelerate and turned onto a nearby street. WOI broadcast the name of that street to other officers. The SO was driving an unmarked police vehicle, equipped with emergency lights in the grill, when they heard WOI's dispatch. The SO was in the vicinity of that street and activated their emergency lights. The subject vehicle almost struck the SO's vehicle head-on before passing it at a high rate of speed. The SO turned their vehicle and began pursuing the subject vehicle. The SO was approximately seven seconds behind the subject vehicle. The pursuit was not very long.

The subject vehicle was travelling on George Street at 125 km/h five seconds before the impact and 88 km/h at the time of impact. The subject vehicle was travelling on the wrong side of the road when it failed to negotiate a left curve in the road. The subject vehicle then skidded sideways across the road before the driver's side of the subject vehicle hit the cement foundation of a residence. The roof of the subject vehicle was crushed into the passenger side compartment indicating that the roof hit the foundation. A mechanical inspection of the subject vehicle noted some deficiencies but those did not cause or contribute to the collision.

Approximately five minutes elapsed from the time when WOI first observed the subject vehicle to the time of the collision.

Legal issue:

Was the SO criminally negligent in the operation of their vehicle?

Criminal negligence is the doing of anything or omitting to do anything that is their duty to do with a wanton or reckless disregard for the lives or safety of others. Criminal negligence in the context of operating a motor vehicle requires proof of a marked and substantial departure from the standard of a reasonable driver who either recognizes and runs an obvious and serious risk to the lives and safety of others or takes no notice of that risk.

Conclusion:

The AP was in the subject vehicle that was travelling with a stolen license plate and contained drugs which failed to stop on two occasions when the police were pursuing it with their emergency equipment activated. The subject vehicle almost hit one of the police vehicles head-on before continuing to speed off.

The SO pursued the subject vehicle for a brief period because there were reasonable grounds, based on the licence plate being registered to another vehicle, that the driver was committing a criminal offence of possession of a stolen vehicle. The SO also pursued the subject vehicle because they feared for the safety of other motorists and the public.

The SO was approximately seven seconds behind the subject vehicle when they lost sight of it as it rounded a curve to the left. The subject vehicle was being driven at an excessive speed on the wrong side of the road when the driver lost control of the vehicle and it struck the foundation of a residence on the opposite side of the road. The impact caused blunt force injuries to the AP which resulted in their death. The Medical Examiner found the manner of death to be an accident.

The SO's driving, in the circumstances they faced, did not amount to a wanton or reckless disregard for the lives or safety of others. It was not a marked and substantial departure from the standard of a reasonable driver. The SO's pursuit of the subject vehicle was based on a concern for the lives and safety of others because of how it was being driven and its excessive speed.

Accordingly, there are no reasonable grounds to believe that a criminal offence was committed, and no charges are warranted against the officer.