



Summary of Investigation

SiRT File # 2012-021

Referral from

Cape Breton Regional Police Service

December 9, 2012

Ronald J. MacDonald, QC  
Director  
May 15, 2013

**Facts:**

On Dec 9<sup>th</sup>, 2012, the Cape Breton Regional Police Service (CBRPS) received a Crime Stopper's tip stating that an SUV was going to board the ferry to Newfoundland-Labrador later that evening. The tip gave details which included a description of the SUV, its contents, and the male driver. It suggested there was a large quantity of marijuana in the vehicle.

At 7:55 p.m. CBRPS officers located a vehicle and driver matching the descriptions of the tip in the Marine Atlantic parking lot in North Sydney. As a result, at 8 p.m. Officer 2 led his police service dog along the line of vehicles in which the SUV was parked. As the dog walked by the passenger side of the SUV it indicated the presence of drugs within the vehicle. As the dog approached a second time the driver, the Affected Party (AP), exited the vehicle. The dog again indicated the presence of drugs in the vehicle. The decision was made by Officers 2 and 3 to arrest AP at this point, seize the vehicle, and seek a warrant to search the interior of the SUV. AP was arrested by Officer 3 and taken to Officer 1, who was standing beside his police vehicle a short distance away.

Officer 1 transported AP directly back to the CBRPS headquarters on Grand Lake Road in Sydney, where the police holding cells are located, a distance of almost 29 kilometres.

Upon arrival, Officer 1 noted that AP was unresponsive in the back of the car. He immediately had staff in the cell area summon Emergency Health Services (EHS). Officer 1, as well as Officer 4, a supervisor, and Officer 5, the guard on duty, then gave emergency first aid to AP prior to an ambulance arriving. They also used an automatic defibrillator, although it did not shock AP as his heart showed no rhythm. AP was transported by ambulance to hospital. Officer 1 accompanied him and continued CPR. AP was pronounced deceased almost immediately upon arrival at the hospital.

As a result of the death, CBRPS contacted SiRT who assumed responsibility for the investigation into the incident under the provisions of the *Police Act*. SiRT responded by sending one SiRT investigator and, given workload commitments existing at that time, a member seconded from the RCMP to assist with this initial part of this investigation.

The SiRT investigation commenced on December 10, 2012, and was completed on April 9, 2013. Interviews were conducted with two civilian witnesses and seven police witnesses. Other investigative steps included obtaining video of the parking lot outside of the police holding cells, as well as video of AP's entry into the Marine Atlantic parking lot. In addition, a study of the operation of the defibrillator was obtained, which showed it was functioning properly at the time.

An autopsy was conducted by the Nova Scotia Medical Examiner Service, with their final report confirming cause of death dated March 5, 2013. The report concludes that AP's death was caused by "Coronary artery atherosclerosis", or significant blockage of several of AP's coronary

arteries. His heart showed both recent and older damage. The autopsy showed evidence of CPR, but no other injuries to his body.

While the Serious Incident Response Team regulations made under the *Police Act* indicate that a Subject Officer is not required to provide a statement or notes regarding the incident, Officer 1, the Subject Officer, did provide both a statement and his written report.

Officer 1 indicated that for the first several minutes of the trip back to CBRPS cells he and AP spoke back and forth very amicably. For the last several minutes of the trip AP was quiet. When Officer 1 parked in the CBRPS parking lot and went to take AP from the car he noted AP was unresponsive.

After AP's death, CBRPS obtained a warrant to search his vehicle. That search was conducted at 12:30 a.m., December 10. It did not locate the presence of any drugs.

**Relevant Legal Issues and Conclusions:**

The purpose of a SiRT investigation is to determine whether the facts of a case justify any charges against a police officer or officers. In this case the following legal issues and possible charges were considered:

1. Was the arrest lawful? Police have the right to arrest a person if they have reasonable grounds to believe that person has committed or is committing an indictable offence.

In this case the police had the following information:

- a. Detailed Crime Stopper tip information describing AP and the vehicle he was driving.
- b. Information from the same tip that AP possessed a large amount of marijuana hidden in the truck.
- c. An SUV found which matched the detailed description given, on its way to Newfoundland-Labrador as suggested, with a driver matching the description given.
- d. A "dog-sniff" search which indicated the possible presence of drugs on two occasions.

In these circumstances, although a later search found no drugs within the vehicle, reasonable grounds to arrest existed at the time of the arrest. This is reinforced by the fact that the information used to support the arrest was, later in the evening, also accepted by a provincial court judge as disclosing reasonable grounds to support the issuance of the warrant for the search of the SUV.

2. Was the amount of force used by police appropriate? Police have the right to use reasonable force to arrest a person, if necessary. It does not appear any force was used to arrest AP as he seemed to be cooperative throughout. The Medical Examiner's report did not show any injuries other than evidence of CPR.
  
3. Did Officer 1 provide the Necessaries of Life? The *Criminal Code* requires that once a person is in custody the police must provide them with the necessaries of life. This includes what is necessary to ensure the person remains healthy, and where relevant, providing medical attention as needed. In this case, Officer 1 had EHS summoned as soon as he was aware that AP was unresponsive. He, along with assistance from others, gave emergency first aid, including an attempt to administer an automatic defibrillator. EHS arrived within eight minutes. Unfortunately, all medical attempts at resuscitation were unsuccessful.

In all these circumstances, there was nothing else that could be done by Officer 1, or any police officer, to change the outcome. Very unfortunately, AP became unresponsive and lost his life due to his severe heart disease.

There are no grounds to consider any charges against any police officer in this matter. The efforts by police personnel to save AP's life in this case were commendable.