

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2017-024

Referral from

Cape Breton Regional Police

August 27, 2017

John L. Scott
Interim Director
January 18, 2018

Facts

On August 27, 2017 SiRT was contacted by the Cape Breton Regional Police (CBRP) about a motor vehicle accident that occurred late the previous evening, August 26th, at approximately 10:20 p.m. on the Lingan Road in Sydney. The driver of one of the vehicles involved in the accident, the Affected Party (AP), suffered serious injuries; two broken knees, a collapsed lung, and a rod had to be placed in one of her legs for support. The driver of the other vehicle, which had previously been pursued by police, had a minor leg injury. Due to the fact of the very recent pursuit by a CBRP Officer, prior to the accident and the seriousness of the injuries, SiRT began an investigation on August 27th, 2017 and concluded it on November 21, 2017.

Evidence collected during the investigation included the following:

- 1) notes and reports from 6 CBRP Officers including the Subject Officer and an audio interview with a witness police officer;
- 2) copies of police radio transmissions;
- 3) interviews with 2 civilian witnesses, as well as verbal conversation with AP regarding the accident and her injuries;
- 4) photographs of the scene taken by civilian witness;
- 5) a copy of the CBRP Pursuit Policy.

The *Serious Incident Response Team Regulations* made under the *Police Act* state that a Subject Officer does not have to give a statement, or notes or reports, to SiRT. In this case, the Subject Officer, provided his complete written report about the incident.

The investigation showed that at approximately 10:00 p.m. on August 26, 2017 the CBRP received a complaint call from a woman who believed her ex-boyfriend was at the back door trying to get into her residence. Patrol was made to the residence and although the caller did not see the intruders face, she believed it to be her ex-boyfriend, who had done this in the past. A description of the vehicle was given out to the police in the area as well as the name of the ex-boyfriend, and his last known address. A vehicle matching the description was spotted by the Subject Officer in the area close to his residence. When a license check of the vehicle was done, it came back to a resident at the same residence of the ex-boyfriend, but the plates matched a different vehicle. The Subject Officer activated his emergency equipment (lights and siren) in an effort to pull this vehicle over, but it didn't stop.

The pursued vehicle was driving slowly, 15-20 kms an hour, through streets in the Whitney Pier area of Sydney, ignoring various stop signs as well as the efforts of police to pull the vehicle over. Another police vehicle joined in the pursuit behind the Subject Officer's vehicle with lights and sirens activated. The pursued vehicle went through a stop sign and onto the Lingan Road

with both police vehicles directly behind it. On the Lingan Road the vehicle being pursued increased its speed and the Subject Officer radioed his supervisor (Sgt of the CBRP) for instructions on what to do. The supervisor informed the Subject Officer that if he reached speeds in excess of 80 kms (posted speed limit) to shut the pursuit down. This transmission was also heard by the second officer who was immediately behind the Subject Officer's vehicle. The pursuit was abandoned near the Radar Base property on the Lingan Road, which would have been one km from where the vehicle came on the Lingan Road. This description of the pursuit was verified by a civilian witness who was forced to stop her vehicle when the pursued vehicle entered the Lingan Road with two police vehicles with emergency equipment activated directly behind.

When the police vehicles abandoned the pursuit by the Radar Base, the Subject Officer and the second officer began a conversation off to the side of the road from inside their vehicles. Approximately two minutes later, dispatch was receiving numerous calls of an accident that just occurred just over a kilometer down the Lingan Road from where the pursuit was abandoned. Both officers responded to the accident scene where they observed the pursued vehicle as one of the vehicles involved. The name of the ex-boyfriend originally given out on the complaint call was the driver of the pursued vehicle. The Subject Officer involved himself with this driver, who showed many signs of impairment by alcohol and was arrested at that time. Police and EHS were attending to the female driver of the other vehicle involved in the accident who was trapped in her vehicle with obvious leg injuries.

The pursued driver (ex-boyfriend) was taken to the hospital by police due to a minor leg injury that required stitches and was given a blood demand at this time. A records check done also revealed the pursued driver had no license to drive, was on probation with conditions to abstain from alcohol and have no contact with his ex-girlfriend, the original complaint caller. As a result of the events that evening, numerous charges were laid against the pursued driver, including impaired driving causing bodily harm, breaching probation, driving while disqualified, and resisting arrest.

A civilian witness who arrived within a minute after the accident, indicated in his statement to SiRT that the police arrived approximately five minutes after the accident. They were by no means in pursuit of the vehicle at the time of the accident.

Relevant Legal Issues and Conclusion

The purpose of a SiRT investigation is to determine whether the facts of a case justify any charges against a police officer. Typically, in cases of an attempted traffic stop or pursuit, the relevant offences under consideration would be:

1. Dangerous Driving under the *Criminal Code*.
2. Careless and Imprudent Driving under the *Motor Vehicle Act*.
3. Speeding under the *Motor Vehicle Act*.

In this case however, these offences are not relevant.

The Subject Officer had grounds to stop the ex-boyfriend's vehicle. The vehicle matched the description of a possible suspect in an attempted break and enter, and the license plate on the vehicle tied it to the address of the ex-boyfriend, but was not a plate assigned to the vehicle driven. The initial pursuit by the Subject Officer was directly behind the suspect vehicle and with the emergency lights and siren going. Speed was not a factor initially as the suspect vehicle was travelling in the 15-20 km an hour range. Although the suspect vehicle went through several stop signs, there is no question the suspect knew he was being closely pursued by the police. There was no intention on the part of the suspect to stop. Upon arriving at Lingan Road, the pursuit picked up speed, but on the orders of a supervisor, the pursuit was abandoned. There again, from a common-sense point of view, the suspect knew that the pursuit was over. Two police vehicles with lights and siren activated directly behind him, were no longer there. For a distance over a kilometer, the suspect knew there were no police chasing him. The accident, although caused by the suspect vehicle, was in no way connected to a pursuit by police. Factors found out later, which no doubt contributed to the suspect not pulling over initially to police were: 1) driving a vehicle while disqualified, 2) drinking and driving, and 3) being on probation with a condition to abstain from alcohol.

The Subject Officer followed the orders given him by his supervisor. The pursuit policy of the Cape Breton Regional Police was followed. The accident did not occur as a result of the Subject Officer's actions, but as a result of the choices and actions of the suspect.

The section of the *Police Act* relevant to SiRT state that the Interim Director has the sole authority to determine whether charges should be laid in any matter investigated by SiRT. In this case, there are no grounds to consider any charges against the Subject Officer.